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F. No. 6/15/2021-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi -110001

Date: 30th June, 2022

Case No. ADD (O.I.) 15/2021

NOTIFICATION

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning imports of "Ursodeoxycholic Acid (UDCA)" originating in or exported from China PR and Korea RP

A. BACKGROUND OF THE CASE

1. M/s Arch Pharmalabs Limited (hereinafter referred to as the “Domestic Industry” or “Petitioner”) filed an application before the Designated Authority (hereinafter referred to as the "Authority") in accordance with Customs Tariff Act, 1975 (hereinafter referred to as the “Act”) as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Anti-Dumping Rules” or “Rules”) for initiation of an Anti-dumping investigation and imposition of Anti-dumping Duty on imports of "Ursodeoxycholic Acid” also known as UDCA (hereinafter referred to as the “product under consideration” or “PUC” or the “subject goods”) from China PR and Korea RP (hereinafter referred to as the “subject countries”).

2. The Authority on the basis of sufficient prima facie evidence submitted by the domestic industry, issued a public notice vide Notification No. 6/15/2021-DGTR dated 24th January 2022 in the Gazette of India Extraordinary initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed with regard to the investigation:

a. The Authority notified the Embassies of the subject countries/territories in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

b. The Authority issued a public notice dated 24th January 2022 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning the import of the subject goods from the subject countries.

c. The Authority sent a copy of the initiation notification to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers/users and the domestic industry as well as per the available information. The interested parties were advised to provide relevant information in the form and manner prescribed and to make their submissions known in writing within the prescribed time-limit.

d. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Anti-Dumping Rules.

e. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent along with the names and addresses of the known producers/exporters from the subject countries.

f. The Authority sent exporter's questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules: -

   i. Farmasino Pharmaceuticals (Jiangsu) Co., Ltd., China PR.
   ii. Zhongshan Belling Biotechnology Co. Ltd., China PR.
   iii. Sinobright Import and Export Co., Ltd, China PR.
   iv. SDART International Inc., China PR.
   v. Meishan Xingong Bio Co, Ltd., China PR.
   vi. Daewoong Bio Inc., Korea RP

g. In response to the above notification, following producers/exporters have submitted the exporter questionnaire responses:

   i. Zhongshan Belling Biotechnology, China PR.
   ii. Sichuan Xieli, China PR.
   iii. Sinobright Import and Export Co., Ltd., China PR.
   iv. Farmasino Co., Ltd, China PR

v. Hangzhou Dawn Ray Pharmaceutical Co., Ltd, China PR
vi. Suzhou Tianlu Bio-pharmaceutical Co., Ltd, China PR
vii. Daewoong Bio Incorporated, Korea RP

h. The Authority sent questionnaires to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules: -

i. DPB Antibiotics Limited
ii. Medreich Limited
iii. Sun Pharma Laboratories Limited.
iv. Win-Medicare Private Limited.
v. Ind-Swift Limited.
vi. Knowell Pharma Solutions LLP
vii. Cadila Healthcare Limited.
viii. Strides Pharma Science Limited.
ix. Eastern Chemicals (Mumbai) Private Limited.
x. Par Formulations Private Limited.
xi. Watson Pharma Private Limited.
xii. Glenmark Pharmaceuticals Limited.
xiii. Amneal Pharmaceuticals Private Limited.
xiv. Abbott India Limited.

i. Sun Pharmaceutical Industries Limited has filed importer questionnaire response.

j. Additionally, China Chamber of Commerce for Import and Export of Medicines and Health Product have filed preliminary submissions.

k. Extension was granted to the interested parties to file questionnaire response upon request made. The first extension was granted upto 9th March 2022 and thereafter upto 23rd March 2022.

l. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of an e-file through e-mail for the interested parties.

m. Since the transaction-wise details of import data was not provided by Directorate General of Commercial Intelligence and Statistics (DGCI&S), the Authority called upon DG Systems to provide transaction-wise details of imports of the subject goods for the injury period. The Authority has relied upon DG Systems data for computation of the volume of imports and its analysis after due examination of the transactions.

n. Non-Injurious Price (hereinafter referred to as 'NIP') has been determined based on the cost of production and reasonable profits of the subject goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

o. The information/data submitted by the domestic industry has been verified to the extent deemed necessary and relied upon for the purpose of these preliminary findings. Information was sought from the domestic industry and the other interested parties to the extent deemed necessary.

p. The period of investigation for the purpose of present investigation is 1st October 2020 to 30th September 2021 (12 months). The injury examination period has been considered as the period from 2018-19, 2019-20, 2020-21 and the period of investigation.

q. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

r. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present preliminary findings on the basis of the facts available.

s. The Authority has considered all the arguments raised and information provided by all the interested parties to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority will further examine the evidentiary documents submitted by the interested parties subsequent to preliminary findings, which will form the basis for conclusions at the time of final findings.

t. '***' in this finding notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

u. The exchange rate adopted by the Authority for the subject investigation is 1 US $= Rs 74.53.

C. <u>PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE</u>

4. The product under consideration was defined at the time of initiation of the investigation was: -

> *"The product under consideration in the present investigation is Ursodeoxycholic Acid Ursodeoxycholic Acid is also known as Ursodiol or UDCA.*
>
> *UDCA is used as medical therapy in gallstone disease (cholelithiasis) and for biliary sludge. It may be given after bariatric surgery to prevent cholelithiasis.*

UDCA is also used as a therapy in primary biliary cholangitis where it can produce an improvement in biomarkers. It is also used to treat primary sclerosing cholangitis. Intrahepatic cholestasis of pregnancy, bile reflux gastritis, etc.

The product is classified under the Chapter 29 of the Customs Tariff Act, 1975 (51 of 1975) under various subheadings of the tariff custom classification such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990. The customs classification is only indicative and is not binding on the scope of the product under consideration."

C.1. Submissions made by the other interested parties

5. The other interested parties have not made any submission with regard to the product under consideration.

C.2 Submissions made by the domestic industry

6. The submissions made by the domestic industry in regard to the product under consideration are as follows: -
   i. Ursodeoxycholic Acid also known as ursodiol, is a naturally occurring bile acid. Ursodeoxycholic Acid has molecular formula $C24H40O4$.
   ii. The product under consideration is imported under Chapter 29 of the Customs Tariff Act, 1975 under various subheading such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942 of the Tariff Classification. However, the product is majorly imported under 29181690 and 29181990.
   iii. UDCA is produced by transformation of Cholic Acid (CA) or Chenodeoxycholic acid (CDCA), which is derived from processing Bovine Origin Bile (Ox Bile) or Porcine Origin Bile (Pig Bile) or Avian Bile (Bird Bile).
   iv. The Product manufactured by the domestic industry is commercially and technically substitutable for the alleged dumped goods and is a like article to the imported product.

C.3 Examination by the Authority

7. The submissions made by the interested parties and the domestic industry with regard to the product under consideration are examined and addressed hereunder.

8. The product under consideration in the present investigation is Ursodeoxycholic Acid. Ursodeoxycholic Acid is also known as Ursodiol or UDCA. UDCA is produced using Cholic Acid as the raw material which is oxidized to convert into Chenodeoxycholic acid.

The Chenodeoxycholic acid so formed is then through enzymatic oxidation transformed into Lithocholic acid. By bio-catalytic reduction, it gets reduced to Ursodeoxycholic acid Crude and which when further treated forms Ursodeoxycholic acid.

9. Ursodeoxycholic Acid is an active pharmaceutical ingredient. UDCA is used as medical therapy in gallstone disease (cholelithiasis) and for biliary sludge. It may be given after bariatric surgery to prevent cholelithiasis. UDCA is also used as a therapy in primary biliary cholangitis where it can produce an improvement in biomarkers. It's not a widely used medicine. UDCA is not a raw material or intermediate for the medicines required for the above treatment but is the ingredient for the medicines for the treatments.

10. The product is classified under the Chapter 29 of the Customs Tariff Act, 1975 (51 of 1975) under various subheadings of the tariff custom classification such as 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990. The customs classification is only indicative and is not binding on the scope of the product under consideration.

11. No party has contended that there is any difference in the product under consideration and the like article produced by the domestic industry. It is seen from the information on record that the subject goods produced by the domestic industry is like article to the product under consideration imported from the subject countries. The subject goods produced by the domestic industry and the product under consideration imported from the subject countries are comparable in terms of physical & chemical properties, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The end product has comparable specifications and is used interchangeably. It is further noted that the imported and the domestically sold products are technically and commercially substitutable, and the consumers are using the two interchangeably. Thus, the Authority provisionally holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject countries within the scope and meaning of Rule 2(d) of the Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the domestic industry

12. The submissions made by the domestic industry in regard to the domestic industry and standing are as follows: -
    i. Arch Pharmalabs Limited is the only existing producer of UDCA API in India.
    ii. Shilpa Medicare Limited entered into a joint venture agreement with ICE S.P.A, Italy and formed a new company namely Raichem Medicare (P) Limited.

iii. Raichem Medicare Private Limited manufactures 3A-7B – Dihydroxy -5 B-Cholan-24-OIC Acid, which is an advanced intermediate of UDCA API.
iv. IOL Chemicals Limited had the plan to produce UDCA on a campaign basis, but their current status is unknown.
v. The domestic industry has not imported the subject goods from the subject countries.
vi. The domestic industry is not related to either exporter of the subject goods from the subject countries or importers in India.

D.2 Submissions made by the other interested parties

13. The submissions made by the other interested parties in regard to the domestic industry and standing are as follows: -
i. The domestic industry has not accounted production by Shilpa Medicare Ltd, Raichem Medicare Pvt. Ltd and IOL Chemicals Limited, in ascertaining the standing.
ii. As per annual report of Shilpa Medicare Ltd., the company is also engaged in the production of Ursodeoxycholic acid in India.
iii. Raichem Medicare Ltd. is also engaged in production of Ursodeoxycholic Acid (UDCA) in India.
iv. There is no basis to exclude production and sales of the three producers for determination of standing and assessment of demand.

D.3. Examination by the Authority

14. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

> "*(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers*".

15. With regards to the submissions made by the other interested parties, on other companies also undertaking production of UDCA, the Authority had sent communication to Raichem Medicare Private Limited and IOL Chemicals Limited for ascertaining their status of production. However, no response has been received from Raichem Medicare Private Limited. As per information available with the Authority, Shilpa Medicare Limited has entered into a joint venture with ICE S.P.A, Italy and formed a new company Raichem

Medicare Private Limited. The product manufactured and sold by Raichem Medicare Private Limited is an advanced intermediate of UDCA API which is not a like article to the product under investigation. IOL Chemicals and Pharmaceuticals Limited has provided the production and sales data, which has been taken into account for the purpose of ascertaining the total Indian production and Indian demand.

16. The application has been filed by Arch Pharmalabs Limited. The petitioner has not imported the subject goods in the period of investigation and is not related to any exporter in the subject countries or importer in India. The production of the petitioner accounts for majority i.e., more than 80% of the total production in India. Accordingly, the Authority holds that the petitioner constitutes domestic industry under Rule 2(b) of the Anti-Dumping Rules, and the application meets the requirements of 'standing' under Rule 5(3).

E. MISCLEANOUS SUBMISSIONS

E.1 Submissions made by the other interested parties

17. The miscellaneous submissions made by the interested parties are as follows: -
    a. The domestic industry has relied upon secondary import data as against DGCI&S import data and claimed the same as confidential. Further, the domestic industry has not provided the source of the import data. The Authority is requested to share non-confidential import data with the respondents.
    b. The non-confidential version of the petition fails to meet the standards laid down in Rule-7 of the Rules and Trade Notice No 1/2013 dated December 09, 2013 issued by the Director General. Format VI (Costing Information) has been claimed completely confidential.
    c. The initiation of the present investigation is totally baseless, and the investigating Authority ought to terminate the current investigation.
    d. Initiation notification does not reflect that the adjusted data has been considered for prima-facie evaluation of injury.
    e. Adjusted data filed by the domestic industry does not provide an "objective examination" of injury.
    f. Special Economic Zone (SEZ) units are outside the Indian Customs Territories and imports into SEZ should not be considered.
    g. The Authority in various past investigations such as anti-dumping investigation concerning imports of non-woven fabric and safeguard investigation of electrical insulators did not consider import data concerning SEZ.
    h. The Authority has also noted in the past that SEZ units do not compete with other domestic units and such imports within SEZ do not cause any injury.
    i. The domestic industry has failed to disclose its computation of NIP or injury margin range.

j. The Authority is requested to impose anti-dumping duty based on reference price.

E.2 Submissions made by the domestic industry

18. The miscellaneous submissions made by the domestic industry are as follows: -
    i. Consumption of porcine bile can lead to transfer of H1N1 virus from pigs to humans. Ministry of Health and Family Welfare has declared imports of Ursodeoxycholic acid extracted and prepared from porcine sources as a prohibited drug.

E.3 Examination by the Authority

19. The present investigation was initiated by the Authority based on the data and information provided by the domestic industry, after prima facie satisfying itself that there is sufficient evidence of the dumping, injury and the causal link. Further, subsequent to the initiation, information has been sought from the domestic industry to the extent deemed necessary and the same has been provided by the domestic industry.

20. On confidentiality of information, Rule 7 of the AD Rules provides as follows:

> *"Confidential information: (1) Notwithstanding anything contained in subrules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.*
> *(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*
> *(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such information."*

21. The Authority made available non-confidential versions of the information provided by various interested parties to all the interested parties.

22. The Authority examined the information provided by the domestic industry and other interested parties on a confidential basis for sufficiency of such claims in accordance with Rule 7 of the AD Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential.

F. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

F.1 Submissions made by the other interested parties

23. The submissions made by the interested parties with regard to normal value, export price and dumping margin are as follows:
    i. China Protocol of Accession was only valid for 15 years. After 11th December 2016 no matter how, China PR is classified under the domestic law of a particular WTO Member, normal value must be determined based on Chinese prices and costs.
    ii. As proposed by the domestic industry, normal value cannot be determined based on the import price from European Union (Italy) as level of development in Italy and China PR are not comparable.
    iii. There is no dedicated code available to ascertain export price from Europe to India.

F.2 Submissions made by the domestic industry

24. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:
    i. China PR should be treated as a non-market economy in accordance with Article 15(a)(i) of China's Accession Protocol and the normal value should be determined in terms of Annexure I, Rule 7 of the Rules.
    ii. On 11th December 2016, only the provisions of Article 15(a)(ii) of China's Accession Protocol expired but that of Article l5(a)(i) continue to remain in force, which require the producers to show that they are operating under the market economy conditions. The Authority has considered China PR as a nonmarket economy in all the recent investigations unless the producers/exporters demonstrate that they are operating under the market economy conditions.
    iii. Chinese producers must establish that the elements of costs referred to in the context of determination of normal value are appropriately and completely reflected in the records kept by the exporter or producer under investigation.
    iv. The price lists or commercial invoices for sales in the local market of the country are commercially sensitive information and therefore not available in the public domain.

v. The product under consideration does not have dedicated HS code and is imported and exported under various HS codes.
vi. The normal value may be determined on the basis of the estimates of the raw material and other conversion costs of the domestic industry and reasonable profits.

F.3 Examination by the Authority

25. Under section 9A (1) (c), normal value in relation to an article means:

i) The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or

ii) When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:

a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or

b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

26. The Authority notes that the following producers and exporters of the subject goods have filed exporter's questionnaire response: -
i. Zhongshan Belling Biotechnology, China PR.("Belling")
ii. Sichuan Xieli, China PR.("Xieli")
iii. Sinobright Import and Export Co., Limited., China PR.
iv. Farmasino Co., Limited, China PR ("Farmasino").
v. Hangzhou Dawn Ray Pharmaceutical Co., Limited, China PR ("Dawn Ray")
vi. Suzhou Tianlu Bio-pharmaceutical Co., Limited, China PR ("Tianlu")
vii. Daewoong Bio Incorporated, Korea RP ("Daewoong").

<u>F.3.1 Normal Value and Export price for China PR</u>

<u>Normal value for China PR</u>

Market Economy Status for Chinese Producers

27. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

> *"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*
>
> > *(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
> > *(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
>
> *(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
>
> *(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
>
> *(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be*

terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

28. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status.

29. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under.

"In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."

30. Para 7 of Annexure I to the AD Rules lays down the hierarchy for determination of normal value and provides that the normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin. The Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Para 7.

31. The petitioner has claimed normal value on the basis of the export price of the subject goods from European Union to India. The Authority, at the stage of initiation of the investigation, had considered the constructed the normal value for China PR.

32. The Authority notes the existing jurisprudence on determination of normal value in case of non-market economy, and decision of the Hon'ble Supreme Court in Shenyang Mastsushita S. Battery Co. Ltd. vs. M/s Exide Industries Ltd. (Civil Appeal No. 61711/2003 dated 23/12/2005), Guwahati High Court in M/s Century Plyboards (I) Ltd &Anr. Vs. Union of India & Anr. (W.P No. 6568/2017 dated 4/0l/20l8) and CESTAT, Principal Bench, New Delhi in Apollo Tyres Ltd. vs Union of India (Appeal Nos. C1768,600,601,773,769/2005-AD-dated 09/09/2005), Kuitun Jinjiang Chemical Industry Co. Ltd. vs Union of India (Appeal no. 52291 of 2019 dated 5th August 2020). These judgements provide directions regarding implementation of Para 7 of Annexure 1 to AD Rules with respect to the choice of an appropriate option, and associated obligations thereof.

33. As the first requirement, the Authority is required to consider normal value on the basis of the price or constructed value in a market economy third country. However, neither the petitioner nor any interested party has provided any information on costs or prices in any market economy third country. Further, no information in this regard is available in public domain. Therefore, normal value could not be determined on the basis of the price or constructed value in a market economy third country. The next option is to consider normal value on the basis of price from such a third country to other countries, including India. It is seen that the product under consideration does not have dedicated customs HS code. Therefore, the normal value could not be determined on the basis of export price from market economy third country to other countries. The Authority has information available with regard to imports into India. The Authority examined the transaction wise import data and found that there are significant imports from European Union to India. It is seen that around 47% of imports of the subject goods are from European Union, and there is no anti-dumping measure in force. Imports from European Union have not been considered as dumped imports in the present investigation. The Authority also notes in this regard, the decision of the Hon'ble CESTAT in the case of Kuitun Jinjiang Chemical Industry Co. Ltd. vs. Union of India, wherein it was held that when normal value is determined based on exports from a market economy third country to India, the relevant criteria for determining appropriate market economy third country is the volume of exports from such country and that the country should not be dumping during the period of investigation.

34. Therefore, the Authority considers that the export price from European Union to India can be considered for determination of normal value for China PR. The Authority has

considered CIF price from European Union to India, and adjusted the same to arrive at ex-factory level. The normal value so determined has been disclosed in the dumping margin table.

<u>Determination of export price</u>

a. <u>Zhongshan Belling Biotechnology Co., Ltd, China PR</u>

35. Zhongshan Belling Biotechnology Co., Ltd who is a producer and exporter of the subject goods in China PR, has filed questionnaire response. During the period of investigation, the producer has exported ***** KG** of the subject goods for *****USD$** directly to unrelated customers in India. The producer has provided relevant information in the form and manner required, and has claimed adjustment on account of ocean freight, marine insurance, inland transportation, bank charges, port and other expenses, and credit cost and the same is provisionally allowed by the Authority subject to detailed verification and examination. Accordingly, the net export price at ex-factory level for Zhongshan Belling Biotechnology Co., Ltd has been provisionally determined after allowing the adjustments claimed, and the same is shown in the dumping margin table below.

b. <u>Sichuan Xieli Pharmaceutical Co., Ltd. (Producer) and Sinobright Export and Import Co., Limited (Exporter)</u>

36. Sichuan Xieli Pharmaceutical Co., Ltd who is a producer of the subject goods in China PR has filed questionnaire response. The producer does not directly export to India. During the period of investigation, the producer has exported through Sinobright Export and Import Co., Limited. The exporters have exported *****KG of** goods for *****USD$** directly to unrelated customers in India. The producer and exporters have provided all the relevant information in the form and manner required and have claimed adjustment on account of ocean freight, marine insurance, inland transportation, and bank charges, and the same is provisionally allowed by the Authority, subject to detailed verification and examination. Accordingly, the net export price at ex-factory level for Sichuan Xieli Pharmaceutical Co., Ltd has been provisionally determined after allowing the adjustments claimed, and the same is shown in the dumping margin table below.

c. <u>Suzhou Tianlu Bio-pharmaceutical Co., Ltd, China PR</u>

37. Suzhou Tianlu Bio-pharmaceutical Co., Ltd who is a producer of the subject goods in China PR has filed the questionnaire response. The producer does not directly export to India. During the period of investigation, the producer has exported through Hangzhou Dawn Ray Pharmaceutical Co., Ltd ("Dawn Ray") and Farmasino Pharmaceuticals

(Jiangsu) ("Farmasino"). M/s Tianlu has exported *****KG** of goods for *****USD$** directly to unrelated customers in India through both the exporters i.e., M/s Dawn Ray and M/s Farmasino. The producer and exporters have provided all the relevant information in the form and manner required and have claimed adjustment on account of ocean freight, marine insurance, inland transportation, and bank charges, and the same is provisionally allowed by the Authority subject to detailed verification and examination. Accordingly, the net export price at ex-factory level for Sichuan Xieli Pharmaceutical Co., Ltd has been provisionally determined after allowing the adjustments claimed, and the same is shown in the dumping margin table below.

d. <u>Other producers</u>

38. The export price for all other producers and exporters who have not participated in the present investigation has been provisionally determined based on the facts available and the same has been mentioned in the dumping margin table below.

<u>F.3.2 Normal value and export price for Korea RP.</u>

<u>Normal value</u>

a. <u>Daewoong Bio Incorporated, Korea RP</u>

39. Daewoong Bio Incorporated who is a producer of the subject goods in Korea RP has filed the questionnaire response. The producer has directly sold ******* kg of goods at **USD *****to the end consumers in Korea RP. The domestic sales of Daewoong Bio Incorporated are in sufficient volumes when compared with exports to India.

40. Based on their response, it is noted that their sales are in sufficient quantity in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of the subject goods. In case profit making transactions are more than 80% then the Authority has considered all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value. Based on the ordinary course of trade test, all sales have been taken into account for determination of normal value, since the profitable sales were more than 80%. Daewoong Bio Incorporated has claimed adjustment of on account of inland transportation, insurance, credit cost and bank charges, which have been provisionally allowed subject to detailed verification and examination.

41. Accordingly, normal value at ex-factory level for Daewoong Bio Incorporated, Korea RP, has been provisionally determined and the same is shown in the Dumping Margin Table below.

b. <u>Other producers</u>

42. The normal value for all other non-cooperating producers and exporters of Korea RP has been provisionally determined based on facts available and the same is mentioned in the dumping margin table below.

<u>Export price</u>

a. <u>Daewoong Bio Incorporated, Korea RP</u>

43. The producer has directly exported to India. During the period of investigation, the producer has exported ***** KG** of goods for *****USD$** directly to unrelated customers in India. The producer has provided all the relevant information in the form and manner required and have claimed adjustment on account of ocean freight, commission, packaging cost, duty drawback, marine insurance, inland transportation, and bank charges, and the same is provisionally allowed by the Authority subject to detailed verification and examination.

44. Accordingly, the net export price at ex-factory level for Daewoong Bio Incorporated has been provisionally determined after allowing the adjustments claimed, and the same is shown in the dumping margin table below.

b. <u>Other producers</u>

45. The export price for all other producers and exporters who have not participated in the present investigation has been provisionally determined based on facts available and the same has been mentioned in the dumping margin table below.

F.5 Dumping margin

46. Considering the normal value and export price for the subject goods, the dumping margins for the subject goods from the subject countries have been provisionally determined as follows:

<u>Dumping Margin</u>

SN	Particulars	Normal value USD/KG	Export price USD/KG	Dumping margin		
				USD/KG	%	Range
1	**China PR**					
a	Zhongshan Belling Biotechnology Co., Ltd	***	***	***	***	130-140
b	Sichuan Xieli Pharmaceutical Co., Ltd.	***	***	***	***	110-120
c	Suzhou Tianlu Bio-pharmaceutical Co., Ltd	***	***	***	***	130-140
d	Others	***	***	***	***	210-220
2	**Korea RP**					
a	Daewoong Bio Incorporated	***	***	***	***	50-60
b	Others	***	***	***	***	70-80

G. EXAMINATION OF INJURY AND CAUSAL LINK

G.1 Submissions made by the other interested parties

47. Following submissions have been made by the other interested parties with regard to injury and causal link:

    i. The domestic industry had amassed huge amounts of debt and was declared a sick industrial company vide BIFR order. Due to various instances such as CDR, BIFR and winding up petition, there was total stoppage of the business between 2013-2016.

    ii. Company entered into a restructuring agreement with M/s JM Financial Asset Reconstruction Company Ltd which has been approved till the period 31.03.2024.

    iii. Data on change in productivity, employment, and wages has not been provided on the premise that there is no injury claimed. The application is deficient.

    iv. The domestic industry produced only for 2 months in the year 2017-18 and sold only in 1 month.

    v. Out of total injury period of four years and three months (a total of 51 months), domestic industry produced goods only for 26 months.

vi. In 15 months of period of investigation, domestic industry did not produce for 7 months. The domestic industry has not provided any suitable reasons for the suspension of production.

vii. The domestic industry has filed optimised data but injury should be examined as it exists and not on optimised basis. In the recent findings of the Melamine, the Authority held that the domestic industry is required to be seen as it exists.

viii. The domestic industry has not provided updated information with regard to demand and imports.

ix. The domestic industry does not have sufficient capacity to meet the demand of the Indian market and thereby creating a huge demand-supply gap. The imports from China PR are necessary to meet the gap between demand and supply.

x. The domestic industry has claimed increase in inventory despite offering goods at the lowest price. This demonstrates that the consumers are not buying the product under consideration from the domestic industry despite being offered at lowest price. Primary reason for decline in sales volume and increased inventory is none other than the inferior quality of the product offered by the domestic industry.

xi. Price undercutting in respect of imports from Korea RP is negative.

xii. Product is being used for medicinal purposes and has a limited shelf life. The pipe-up inventory of product has adversely impacted the selling efficacy.

xiii. Exports from China PR remained in line with demand in India. Compared to 2019-20, import volume from China PR has declined during the period of investigation.

xiv. Increase in import volume from China PR is negligible as compared to the increase in domestic industry's production and sales of the product throughout the injury period.

xv. Decline in selling price is less than the decline in cost of sales which shows that there is no price depression or price suppression on account of imports.

xvi. Negative price undercutting implies that domestic industry is offering goods below the lowest import price and it is causing price injury to the foreign exporters.

xvii. Production, capacity utilization, and sales have increased during the base year as well as the injury period.

xviii. The domestic industry started production in February 2018 only and is a new nascent industry. Injury to the domestic industry, if any, is on account of start-up difficulties that are common during the initial gestation period.

xix. The domestic industry's market share has increased remarkably which shows that there is no adverse impact.

xx. The volume of exports from Korea RP has declined sharply during the POI, whereas the same have increased significantly from China PR. Similarly, goods from Korea RP are being exported into India at a price almost 30% higher than the prices of the subject goods from China PR.

xxi. COVID-19 pandemic is the major cause for injury to the domestic industry.

xxii. Any injury allegedly suffered by the domestic industry is due to factors other than imports from the country concerned.

xxiii. Imposition of anti-dumping duty on imports of the subject goods is not desirable because the product is an essential pharmaceutical product and a life-saving drug.

xxiv. The domestic industry is in a monopolistic position and has no competition except from imports.

xxv. Imports from European Union are increasing despite prices being higher. This shows that there are some other factors which influence the decisions of the customers.

xxvi. Production was suspended because of poor offtake and higher inventory volumes.

xxvii. The domestic industry has a history of losses as it suffered losses even when there were no dumped imports. Current losses cannot be attributed to imports.

G.2 Submissions made by the domestic industry

48. The submissions made by the domestic industry with regard to injury are as follows:

i. Imports from the subject countries declined in the year 2018-19 due to commencement of production by the domestic industry in 2017-18 and the increase in imports from European Union.

ii. Imports have increased thereafter in the year 2019-20 and further increased in the period of investigation.

iii. Imports from the subject countries have increased over the injury period.

iv. There has been a sharp increase in the volume of imports in the period of investigation with a steep decline in the landed price of imports.

v. Market share of the domestic industry is significantly below the share that it is capable of catering.

vi. Sales volumes, output/production, or utilisation of capacity have all increased over the injury period. The increase was natural as the domestic industry commenced production in the year 2017-18 only.

vii. The domestic industry has not been able to utilize even ***% of its capacity annually over the injury period because of dumped imports.

viii. Marginal increase in production and sales is also due to the fact that the domestic industry is selling at prices matching the lowest price in the market.

ix. Even at optimum cost of production, domestic industry earned profits in the base year which increased in 2018-19. However, with increase in imports from the subject countries, the domestic industry was forced to reduce its prices and suffered in the period of investigation.

x. Cash profits and return on capital employed increased in the year 2018-19 but turned negative in the year 2019-20 and have further declined in the period of investigation.

xi. Contribution earned by the domestic industry was positive upto 2018-19 but turned negative in the year 2019-20 and even in the period of investigation.

xii. Average inventory has increased sharply over the injury period. The closing inventory in the proposed period of investigation was almost 40% of annual domestic sales.

xiii. The domestic industry recorded a positive growth in the volume parameters, whereas its growth has been negative in price parameters.

xiv. Price undercutting is positive for China PR and negative for Korea RP. Price undercutting for China PR in some of the month is as high as 26%.

xv. Price undercutting is marginally negative for the subject countries as the domestic industry has been forced to match prices with the imported product to sell in the market.

xvi. There are significant imports below the selling price of the domestic industry.

xvii. Price underselling is positive.

xviii. Landed prices of imports are below the cost of sales of the domestic industry.

xix. Barring imports from the subject countries, imports from European Union are above de-minimis limits but their landed price of imports are significantly higher than the selling price of the domestic industry as well as the landed price of imports from the subject countries.

xx. Demand has increased over the injury period and any possible decline in demand is not a cause of injury to the domestic industry.

xxi. The domestic industry has not faced any constraints relating to raw materials shortage, power shortage, impact of any tax differential, lack of adequate capacity or investment constraints, etc. in relation to the production or sales of the subject goods.

G.3 Examination by the Authority

49. The Authority has taken note of the various submissions made by the interested parties including the domestic industry and has analyzed the same considering the facts available on record and the applicable laws. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.

Cumulative assessment

50. Article 3 of Anti-Dumping Agreement and Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and

b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

51. The Authority notes that:

a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.

b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.

c. Cumulative assessment of the effects of import is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

d. The examination of the parameters mentioned above reveal that there is competition between the imported article and the domestic like article.

52. In view of the above, the Authority considers it appropriate to cumulatively assess the effects of dumped imports of the subject goods from China PR and Korea RP.

53. Rule 11 of Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, ".... taking into account all relevant facts, including the volume of dumped imports, their effects on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude, and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

54. The Authority has taken note of various submissions made by the domestic industry and other interested parties on injury and causal link and has analyzed the same considering the facts available on record in light of applicable laws. The injury analysis made by the

Authority in the succeeding paras addresses the submissions made by the domestic industry and other interested parties.

55. It has been contended that the domestic industry was declared a sick unit and there was total stoppage of the business between 2013-2016. The Authority notes that the information provided pertains to the period which was prior to the injury period. It is noted that the Sick Industrial Companies (Special Provisions) Act, 1985, was repealed in 2016 and on the basis of information on record, the petitioner came out of the purview of the Act. Further, all the winding up petitions against the petitioner were withdrawn by 2018. Further, no evidence has been submitted that the production and sale of the domestic like product suffered due to the past sickness of the domestic industry. The Authority is required to examine if the product under consideration is being dumped and the domestic industry has suffered material injury because of it. In order to examine the same, the Authority has considered data for product under consideration, only during the injury period. It is also noted that one of the reasons for the intermittent production of the domestic like product during the injury period, was due to the dumping of the product under consideration in the country, and not due to sickness of the domestic industry in the past.

56. On the submission raised by the other interested parties with regard to the increase in petitioner's inventory due to inferior quality of product supplied, the Authority notes that the interested parties have not quantified how the product produced and supplied by the domestic industry was inferior. The interested parties have not demonstrated any possible difference in the production process or specifications of the product which could have led to an increase in the inventory. The interested parties have not addressed the steep decline in the prices over the injury period. If the quality of the domestic product was inferior, the foreign producers would have rather received a better price and would have not required to steeply reduce the prices. It is however seen that there was a steep decline in the prices. The interested parties have, therefore, not established that it was quality of the product that has prevented the domestic industry from selling the product in the market. Further, none of the interested party has brought forward any evidence to show that the product supplied by the petitioner is of inferior quality.

57. It has been contended that the product has a limited shelf life which is impacting selling price of petitioner. The Authority notes that the reason the petitioner has been forced to pile up the inventories is the dumped price of imports.

58. The Authority notes that it is not necessary that all parameters of injury must show deterioration. Some parameters may show deterioration, while some others may not. The

Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties.

G.3.1. Volume effect of dumped imports on the domestic industry

a. Assessment of demand/ apparent consumption

59. For the purpose of the present investigation, demand or apparent consumption of the product in India has been defined as the sum of domestic sales of the domestic industry in India and imports from all sources. The demand so assessed is given in the table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Sales of domestic industry	KG	***	***	***	***
	Trend	Indexed	100	89	91	123
2	Sales of other Indian producers	KG	***	***	***	***
	Trend	Indexed	100	464	188	48
3	Imports from Subject Countries	KG	38,982	46,320	69,720	53,940
	Trend	Indexed	100	119	179	138
4	Import from other countries	KG	37,298	44,060	47,866	47,650
	Trend	Indexed	100	118	128	128
5	Total demand/ consumption	KG	***	***	***	***
	Trend	Indexed	100	122	148	130

60. It is seen that the demand for the product under consideration has increased consistently over the first three years of the injury period, with a marginal decline in the period of investigation, as compared to the immediately preceding period. Overall, the demand has increased over the injury period.

b. Import volumes from the subject countries

61. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports from the subject countries, either in absolute terms or relative to production or consumption in India. The same is analyzed as follows:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Subject countries	KG	38,982	46,320	69,720	53,940
i	China PR	KG	35,520	37,198	59,860	43,865

ii	Korea RP	KG	3,462	9,122	9,860	10,075
2	Other countries	KG	37,298	44,060	47,866	47,650
3	Total	KG	76,280	90,380	1,17,586	1,01,591
4	Subject countries import in relation to -					
i	Indian production	%	***	***	***	***
	Trend	Indexed	100	199	142	154
ii	Demand	%	***	***	***	***
	Trend	Indexed	100	98	121	106
iii	Total imports	%	51.10%	51.25%	59.29%	53.10%

62. It is seen that: -

    i. The volume of imports from the subject countries have increased till the year 2020-21 but declined in the period of investigation.

    ii. While the imports in the period of investigation have declined as compared to the year 2020-21, the imports have increased as compared to the base year. Overall, the subject imports from the subject countries have increased during the injury period.

    iii. Despite the decline in the period of investigation, the imports from the subject countries continue to hold a significant share in demand.

    iv. The imports from the subject countries have increased consistently and significantly over the injury period in relation to total imports in India, demand in India and production in India.

G.3.2 Price effect of the dumped imports on the domestic industry

63. With regard to the effect of the dumped imports on the prices of the domestic industry, it is required to be examined whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries has been examined through price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, and net sales realization (NSR) of the domestic industry have been compared with landed price of imports of the subject goods from the subject countries.

a. Evolution of price

64. The Authority has examined the trend of import prices and raw material cost over the injury period and is shown below.

SN	Period	Raw material cost – Rs/KG	Trend	Landed price Rs/KG	Trend
1	2018-19	***	100	24,136	100
2	2019-20	***	90	19,519	81
3	2020-21	***	93	16,581	69
4	POI	***	89	15,518	64

65. It is seen that the raw material cost has decreased by 11 index points over the injury period. However, the landed price has declined by 36 index points. The landed price in the period of investigation is below the raw material cost of the domestic industry.

66. It is seen that prior to the commencement of production by the applicant, imports from subject countries were priced in the range of 330-340 USD / MT. however, post the commencement of production by the applicant, import prices have started declining and are in the range 210-220 USD/MT.

b. Price undercutting

67. For the purpose of price undercutting analysis, the net sales realization of the domestic industry has been compared with the landed value of imports from each of the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries work out as follows:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Net Sales Realisation	Rs/Kg	***	***	***	***
2	Subject Countries as a whole					
i	Landed Price	Rs/Kg	24,136	19,519	16,581	15,518
ii	Price Undercutting	Rs/Kg	***	***	***	***
iii	Price Undercutting	%	***	***	***	***
iv	Price Undercutting	Range %	(0-10)	(20-30)	(0-10)	(0-10)
3	China PR					
i	Landed Price	Rs/Kg	24,146	19,554	16,129	14,785
ii	Price Undercutting	Rs/Kg	***	***	***	***
iii	Price Undercutting	%	***	***	***	***
iv	Price Undercutting	Range %	(0-10)	(20-30)	0-10	(0-10)
4	Korea RP					
i	Landed Price	Rs/Kg	24,040	19,375	19,320	18,710
ii	Price Undercutting	Rs/Kg	***	***	***	***
iii	Price Undercutting	%	***	***	***	***

iv	Price Undercutting	Range %	(0-10)	(10-20)	(10-20)	(20-30)

68. The Authority notes that the price undercutting is marginally negative in case of China PR which shows that the domestic industry's and Chinese prices move in tandem. However, the price undercutting is significantly negative in case of Korea RP. The overall price undercutting is also negative. It is also noted that the low-priced imports has forced the domestic industry to reduce their selling prices in competition to the landed price of the imports. However, such competition has forced the domestic industry to produce and sell in lower quantity in the market in order to reduce losses. Therefore, when the price of the domestic industry is suppressed/ depressed to such a significant extent that it is unable to earn even a positive contribution, then price undercutting may not be a relevant factor.

c. Price Suppression and Depression

69. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, are examined as below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of Sales	Rs/Kg	***	***	***	***
	Trend	*Indexed*	100	102	127	96
2	Selling Price	Rs/Kg	***	***	***	***
	Trend	*Indexed*	*100*	*65*	*68*	*62*
3	Landed Price	Rs/Kg	24,136	19,519	16,581	15,518
	Trend	*Indexed*	*100*	*81*	*69*	*64*
4	Cost of raw material	Rs/Kg	***	***	***	***
	Trend	*Indexed*	100	90	93	89

70. It is seen that the landed price of imports from the subject countries has declined over the injury period and is much below the cost of sales of the domestic industry. It is also seen that the landed price of imports is in fact lower than the cost of raw material of the domestic industry. While the cost of sales of the domestic industry has increased upto 2020-21 and decreased in POI, the selling price has declined consistently during the injury period. Resultantly, the domestic industry been unable to sell even at its variable cost, and earn profits and suffered losses. The significantly low import price has prevented the price increase of the domestic industry. Therefore, the Authority provisionally holds that the

imports have suppressed the prices of the domestic industry. Further, the domestic industry has also suffered price depression.

G.3.3. Economic Parameters of the domestic Industry

71. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

a. Capacity, production, capacity utilization and domestic sale

72. Capacity, production, capacity utilization and domestic sales of the domestic industry over the injury period is given in the table below: -

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Capacity	KG	***	***	***	***
	Trend	*Indexed*	*100*	*100*	*100*	*100*
2	Production	KG	***	***	***	***
	Trend	*Indexed*	*100*	*60*	*126*	*72*
3	Capacity Utilisation	%	***	***	***	***
	Trend	*Indexed*	*100*	*60*	*126*	*72*
4	Domestic Sales	KG	***	***	***	***
	Trend	*Indexed*	*100*	*89*	*91*	*123*

73. It is seen that-
   i. The domestic industry started production in February 2018. Thereafter, the capacity of the domestic industry has remained constant.
   ii. The production and capacity utilization declined in the year 2019-20, increased thereafter in the year 2020-21 but has declined again in the period of investigation. The production and capacity utilization have declined over the injury period.
   iii. The production and the capacity utilization undertaken by the domestic industry are significantly low.

iv. The domestic industry submitted that it could not undertake production in 8 months of the period of investigation. Further, it could not undertake production in 5 months of the last 6 months of the period of investigation.

v. The domestic sales of the domestic industry declined in the year 2019-20 but have increased thereafter. Overall, the domestic sales have increased during the injury period.

b. Market share

74. Market share of the domestic industry over the injury period is shown in table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Share of domestic industry	%	***	***	***	***
	Trend	Indexed	100	73	62	95
2	Share of other producers	%	***	***	***	***
	Trend	Indexed	100	381	127	37
3	Share of subject countries	%	44%	43%	54%	47%
	Trend	Indexed	100	98	121	106
4	Share of other countries	%	42%	41%	37%	42%
	Trend	Indexed	100	97	87	98

75. The market share of the domestic industry declined till the year 2010-20 but has increased thereafter. While the market share shows an increasing trend, it is also seen that the market share of the domestic industry is significantly low. It is seen that the market share of the dumped imports has increased marginally as compared to the base year, but it continues to remain significant.

76. It is seen that there are significant imports from other countries at prices materially higher as compared to the imports from subject countries. As per the information provided by the applicant, these imports are for exports of formulations and not meant for consumption in the domestic market. It has been stated that these imports are undertaken in SEZ areas or under advance authorization scheme for by consumers who take duty draw back benefit. The applicant further submitted that these imports are being made as their customers have approved supplier of UDCA.

c. Profitability, return on investment and cash profits

77. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of Sales	Rs/Kg	***	***	***	***

	Trend	Indexed	100	102	127	96
2	Selling Price	Rs/Kg	***	***	***	***
	Trend	Indexed	100	65	68	62
3	Profit / Loss	Rs/Kg	***	***	***	***
	Trend	Indexed	(100)	(154)	(211)	(145)
4	Profit / Loss	Rs Lacs	***	***	***	***
	Trend	Indexed	(100)	(136)	(193)	(179)
5	Cash Profit	Rs Lacs	***	***	***	***
	Trend	Indexed	(100)	(153)	(237)	(220)
6	Profit before Interest & Tax (PBIT)	Rs Lacs	***	***	***	***
	Trend	Indexed	(100)	(157)	(224)	(160)
7	Return on Capital Employed (ROCE)	%	***	***	***	***
	Trend	Indexed	(100)	(196)	(305)	(371)

78. It is seen that-
    a. The domestic industry has been in continuous losses over the injury period.
    b. The loss per unit and losses before tax suffered by the domestic industry has increased over the injury period.
    c. Cash loss and losses before interest have increased over the injury period.
    d. The return earned by the domestic industry is materially negative.

d. Inventories

79. Inventory position with the domestic industry over the injury period is given in the table below:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Opening Inventory	KG	***	***	***	***
	Trend	Indexed	100	80,953	38,617	1,63,106
2	Closing Inventory	KG	***	***	***	***
	Trend	Indexed	100	48	306	77
3	Average Inventory	KG	***	***	***	***
	Trend	Indexed	100	148	354	278

80. It is noted that that as compared to the base year, average inventory held by the domestic industry increased in the year 2019-20 and further increased sharply in the year 2020-21. However, the average inventory of the domestic industry for the period of investigation has declined. The domestic industry has submitted that the decline in the average

inventory is due to the fact that it had not undertaken production in the 5 months of the last 6 months of the period of investigation. However, the average inventory held by the domestic industry continues to remain significant.

e. Employment, wages and productivity

81. Employment, wages, and productivity of the domestic industry over the injury period is given in the table below.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	No of Employees	Nos	***	***	***	***
	Trend	Indexed	100	76	117	93
2	Salary & Wages	Rs Lacs	***	***	***	***
	Trend	Indexed	100	46	132	104
3	Productivity per day	KG/Day	***	***	***	***
	Trend	Indexed	100	60	126	72
4	Productivity per employee	KG/Nos	***	***	***	***
	Trend	Indexed	100	79	107	78

82. The number of employees and the salary paid by the domestic industry shows a fluctuating trend and has moved in line with the production. Similarly, the productivity per day and per employee have also moved in tandem with the production.

f. Growth

83. The growth in terms of production, capacity utilization, domestic sales volume, inventories, profits, cash profits and return on investment is as per below table:

SN	Particulars	UOM	2019-20	2020-21	POI
1	Production	Y/Y	-40%	111%	-42%
2	Sales	Y/Y	-11%	3%	35%
3	Profit/(Loss) per unit	Y/Y	-54%	-37%	31%
4	Inventory	Y/Y	48%	140%	-21%
5	Market share	Y/Y	-23%	-19%	53%
6	Profit before tax	Y/Y	-36%	-42%	7%
7	Cash profit	Y/Y	-53%	-55%	7%
8	Profit before Interest & Tax (PBIT)	Y/Y	-57%	-43%	-28%
9	Return on Interest (ROI)	Y/Y	-96%	-55%	-20%

84. The Authority notes that the growth of the domestic industry in terms of production, inventory, PBIT and ROI has been negative. However, the growth in terms of sales, profit, market share, profit before tax and cash profit has been positive for the domestic industry.

g. Magnitude of dumping

85. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The data shows that the dumping margin determined against the subject countries are above de minims and significant. The Authority has provisionally determined, as a part of this preliminary findings that the dumping margin of the cooperating exporters is significant during the period of investigation.

h. Ability to raise capital investment

86. The domestic industry is suffering financial losses and has been unable to earn a positive contribution. With the competition being faced by the domestic industry because of the dumped imports, the operations of the industry have been adversely impacted. The Authority provisionally concludes that dumped imports have affected the ability of the domestic industry to raise capital investment.

i. Factors affecting domestic prices

87. It is seen that the landed price of dumped imports is lower than the raw material cost of the domestic industry. The domestic industry competes with the imports on the basis of price and therefore, there is a negative price undercutting. The low import price has prevented the domestic industry from charging profitable prices. The domestic industry’s prices have been suppressed due to imports. In view thereof, it is provisionally concluded that the principal factor impacting the domestic prices is the price of dumped imports of the subject goods from the subject countries.

88. It has been contended that the domestic industry was declared a sick unit and there was total stoppage of the business between 2013-2016. The Authority notes that the information provided pertains to the period which was prior to the injury period. It is noted by the Authority that the Sick Industrial Companies (Special Provisions) Act, 1985, was repealed in 2016 and on the basis of information on record, the petitioner came out of the purview of the Act. Further, all the winding up petitions against the petitioners were withdrawn by 2018. Further, no evidence has been submitted that the production and sale of the domestic like product suffered due to the past sickness of the domestic industry. It is also noted that one of the reasons for the intermittent production of the domestic like product during the present injury period, was due to dumping of the product under consideration in the country, and not due to sickness of the domestic industry in the past. However, the Authority in its earlier investigations has even considered the sick units as part of domestic industry

89. On the submission raised by the other interested parties on increase in domestic industry's inventory due to inferior quality of the product supplied, the Authority notes that the interested parties have not quantified how the product produced and supplied by the domestic industry was inferior. The interested parties have not demonstrated any possible difference in the production process or specifications of the product which could have led to increase in inventory. The interested parties have not addressed the steep decline in the prices over the injury period. If the quality of the domestic product was inferior, the foreign producers would have rather received a better price and would have not required to so steeply reduce the prices. It is however seen that there was a steep decline in the prices. The interested parties have therefore not established that it was quality of the product that has prevented the domestic industry from selling the product in the market. Further, none of the interested party has brought forward any evidence to show that the product supplied by the domestic industry is of inferior quality.

90. It has been contended that the product has a limited shelf life which is impacting selling price of domestic industry. The Authority notes that the reason the domestic industry has been forced to pile up inventories is due to the dumped imports. Even in months when the domestic industry produced, it was forced to sell at losses. The issue of shelf life of the product is not peculiar to the domestic industry alone, and would arise in case of imports as well. However, none of the exporters have claimed it. Low shelf life does not justify dumping of the product in the Country.

91. With regard to the contention that COVID-19 pandemic is a major cause for the injury to the domestic industry, the Authority notes on the perusal of annual report 2020-21 that the domestic industry has stated that there has been no major impact of Covid on its operations. Further, it is also seen that when country wide lockdown was imposed due to the Covid outbreak, the domestic industry being engaged in the pharmaceutical sector, which forms part of essential services, was allowed to undertake production. The interested parties have not shown how Covid pandemic impacted its performance. Therefore, the Authority finds no merit in this claim.

92. The Authority notes that the product under consideration in the present investigation is an active pharma ingredient (API) used in medical therapy in gallstone disease (cholelithiasis) and for biliary sludge. It is essential but not widely used drug. The product has low shelf life being an active pharma ingredient.

93. With regard to issues raised by the interested parties on the intermittent production of domestic like product by the domestic industry, and low-capacity utilization, the Authority notes that since the product has low shelf life and the sales volumes of the

domestic industry remained materially below the production volume, the domestic industry was forced to undertake production intermittently. It was produced in some months, and led to piled up inventory, and consequently thereafter the stoppage of the production. It was submitted by the domestic industry that when the production volumes were kept low initially, the production was more regular. It has also been claimed that in the investigation period, when petitioner undertook significant reduction to the extent of capacity, it was faced with so significant piled up inventory that it had to stop production and remain out of production for quite a long period. However, while production was stopped, the sales continued from stocks.

94. The Authority considers that the low production by the domestic industry is not due to factors other than dumping and therefore it would be appropriate to consider actual cost of the production of the domestic industry for the purpose of determination of profit, cash profit and return on investment. Therefore, the Authority has considered the actual cost of production during the period for the purpose of determination of profit, cash profit and return on investment.

SN	Period	Capacity	Opening Stock	Production	Domestic Sales	Closing stock	Capacity Utilisation
		KG	**KG**	**KG**	**KG**	**KG**	**%**
1	Oct-20	***	***	***	***	***	***
2	Nov-20	***	***	***	***	***	***
3	Dec-20	***	***	***	***	***	***
4	Jan-21	***	***	***	***	***	***
5	Feb-21	***	***	***	***	***	***
6	Mar-21	***	***	***	***	***	***
7	Apr-21	***	***	***	***	***	***
8	May-21	***	***	***	***	***	***
9	Jun-21	***	***	***	***	***	***
10	Jul-21	***	***	***	***	***	***
11	Aug-21	***	***	***	***	***	***
12	Sep-21	***	***	***	***	***	***
	Total	***	***	***	***	***	***

SN	Period	Capacity	Opening Stock	Production	Domestic Sales	Closing stock	Capacity Utilisation
		KG-Trend	**KG- Trend**	**KG-Trend**	**KG- Trend**	**KG-Trend**	**%- Trend**
1	Oct-20	100	100	-	100	100	-
2	Nov-20	100	50-70	-	60-80	40-60	-
3	Dec-20	100	20-40	-	10-30	30-50	-
4	Jan-21	100	20-40	100	20-40	170-190	100
5	Feb-21	100	100-120	10-30	10-30	200-220	10-30
6	Mar-21	100	120-140	30-50	20-40	250-270	30-50
7	Apr-21	100	140-160	-	60-80	190-210	-

8	May-21	100	110-130	-	110-130	120-140	-
9	Jun-21	100	70-80	-	0-20	110-130	-
10	Jul-21	100	70-80	-	-	110-130	-
11	Aug-21	100	70-80	10-30	70-90	80-100	10-30
12	Sep-21	100	50-60	-	40-60	60-80	-
13	Total	***	***	***	***	***	***

95. As regards the absence of injury by imports from Korea RP or decline in imports from Korea RP in relation to demand or much higher import price from Korea RP as compared to China PR, the Authority notes that the Authority is required to undertake cumulative assessment of injury to the domestic industry once it is established that the parameters laid down under the law in this regard are met. It is not the contention of the interested parties that parameter relating to cumulative assessment of injury are not met in the present case.

96. As regards the injury to the domestic industry due to possible other factors, the Authority provisionally holds that the injury to the domestic industry considered in the present investigation has not been caused due to possible other factors. The Authority has already examined and found that the listed known other factors could not have caused injury to the domestic industry. None of the interested parties have identified any other possible factor which could have caused injury to the domestic industry.

97. As regards the reference price form of measures, the Authority has considered the same as appropriate for the purpose of the present determination, pending further investigation. The Authority considers that this shall allow the domestic industry a reasonable price and at the same time allow importers to import the product at fair price and prices comparable to imports from non-subject countries.

Injury margin/Price underselling for cooperative producers/exporters

98. The Authority has provisionally determined Non-Injurious Price (NIP) for the domestic industry on the basis of the principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data relating to the cost of production for the period of investigation. The NIP of the domestic industry has been worked out and it has been compared with the landed price from each of the subject countries for calculating injury margin.

SN	**Particulars**	**NIP USD/KG**	**Landed price USD/KG**	**Injury margin**		
				USD/KG	**%**	**Range**
1	**China PR**					

a	Zhongshan Belling Biotechnology Co., Ltd	***	***	***	***	150-160
b	Sichuan Xieli Pharmaceutical Co., Ltd.	***	***	***	***	130-140
c	Suzhou Tianlu Bio-pharmaceutical Co., Ltd	***	***	***	***	130-140
d	Others	***	***	***	***	170-180
2	**Korea RP**					
a	Daewoong Bio Incorporated	***	***	***	***	90-100
b	Others	***	***	***	***	110-120

j. Overall assessment of Injury

99. On the basis of the above, the following conclusions have been made provisionally:

a. The volume of imports from the subject countries have increased till the year 2020-21 but declined in the period of investigation. Overall, the volume of dumped imports from the subject countries has increased in absolute terms during the injury period. It has also increased in relation to total consumption, and production of the domestic industry.

b. Price undercutting is negative.

c. The dumped imports are significantly low priced and are much below the cost of sales of the domestic industry.

d. The domestic industry has been unable to increase its price as the imports of the subject goods have suppressed the domestic selling price, and has not allowed to increase.

e. The domestic industry has suffered price depression, as selling price has declined significantly over the injury period.

f. The domestic industry has been operating at low-capacity utilization.

g. The market share of the domestic industry is very low.

h. The domestic industry has suffered losses over the injury period. Further, the losses suffered have intensified in the period of investigation.

i. The domestic industry has suffered cash losses and a negative return on the capital employed.

j. The dumping margin and injury margin are significantly positive.

H. <u>NON-ATTRIBUTION ANALYSIS</u>

100. The Authority is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by

these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and the domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether the above said factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and prices of imports from third countries

101. Barring the subject countries, 47% of the imports are from the non-subject countries and are particularly from European Union. However, the landed price of imports from European Union are significantly higher than landed price of imports from the subject countries. Therefore, these imports are not a cause of injury to the domestic industry.

b. Contraction in Demand

102. It is seen that the demand of the subject goods has increased over the injury period with marginal decline in the period of investigation as compared to the immediately preceding year. However, the demand of the subject goods is comparatively higher than the capacity of the domestic industry. Further, the domestic industry has operated at only ***% capacity utilization in the injury period. Therefore, the Authority provisionally concludes that a decline in demand cannot be a cause of injury to the domestic industry.

c. Changes in the pattern of consumption

103. No interested party has produced any evidence relating to any known material changes in the pattern of consumption of the product under consideration. Therefore, the Authority provisionally concludes that changes in the pattern of consumption have not caused injury to the domestic industry.

d. Trade restrictive practices

104. No interested party has produced any evidence relating to any known trade restrictive practice, which could have caused injury to the domestic industry. Hence, the Authority provisionally concludes that trade restrictive practices have not caused injury to the domestic industry.

e. Development in technology

105. No evidence has been brought before to the Authority by any interested party concerning any known and material changes in the technology that could have caused injury to the domestic industry. Hence, the Authority provisionally concludes that development in technology has not caused injury to the domestic industry.

f. Export performance of the domestic industry

106. The domestic industry is not engaged in export operations. Therefore, export performance is not a cause of injury.

g. Performance of other products of domestic industry

107. The domestic industry has provided the data for the product under consideration performance and the same has been adopted by the Authority for the purpose of injury analysis. Therefore, performance of other products produced and sold by the domestic industry is not a possible cause of the injury.

h. Productivity of the domestic industry

108. The domestic industry has provided the data relating to their productivity. It is seen that the productivity per day has moved in tandem of the production. Therefore, productivity of the domestic industry is not a possible cause of the injury.

109. On the basis of the above, the Authority provisionally concludes that the listed known factors have not caused injury to the domestic industry and there seems to be no other reason besides the dumped imports from the subject countries which could have impacted the performance of the domestic industry.

I. <u>CONCLUSION ON INJURY & CAUSAL LINK</u>

110. The Authority provisionally concludes as under:

a. Imports of the subject goods from the subject countries are entering India at a price lower than its associated normal value, resulting in dumping.

b. Overall, the volume of dumped imports of the subject goods from the subject countries has increased in absolute terms during the injury period. It has also increased in relation to total consumption, and production of the domestic industry.

c. There has been a significant decline in the import prices in the period of investigation. The landed price is below cost of sales of the domestic industry which has prevented the domestic industry from selling at profitable prices. The subject imports have depressed the prices of the domestic industry.

d. The capacity utilization of the domestic industry is very low as they have not been able to sell desirable quantities in the market due to the low-priced dumped imports in the market.

e. The dumping margin is above de-minimis and very significant.

f. Because of the increasing dumped imports from the subject countries, the domestic industry has sold the subject goods at losses.

g. The contribution earned by the domestic industry is also negative in the period of investigation.

h. The Performance of the domestic industry has steeply deteriorated in respect of profits, cash profits and return on capital employed as a result of volume and price effect to such an extent that the domestic industry suffered financial losses, cash losses and negative return on capital employed in the period of investigation.

J. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

J.1 Submissions by the other interested parties

111. No submissions have been made by the other interested parties with regard to the Indian industry's interest.

J.2 Submissions by the domestic industry

112. The submissions made by the domestic industry with regard to the Indian industry's interest are as follows:

a. Imposition of the anti-dumping duty will allow the domestic industry to compete with the dumped imports and would be in the interests of the domestic manufacturers.

b. The consumers will have to maintain higher degree of inventory if they have to depend on imported material. However, in case of procurement from the domestic industry, inventory holding can be kept at much lower levels.

c. Prices in the market will remain fair and competitive only in presence of the domestic production.

d. Arch Pharma is a major producer in India. Continued dumping in significant quantities can lead to stoppage of production completely.

e. The current prices of Ursodeoxycholic acid in the domestic market are not viable for any producer. Therefore, the domestic industry has been time and again forced to curtail or suspend production.

f. The expression public interest does not limit itself to the consumer industry alone and is, in fact, a much wider term which covers the domestic industry as well.

g. The domestic industry a capacity of *******KG and has an existing share of only ***%. If the measures are imposed on the imports from China PR and Korea RP, then the domestic industry will be able to cater to 55-60% of the demand (not considering the imports from the non-subject countries).

h. With very minor modifications in its plant, domestic industry can expand its capacity to *******KG which does not require major investment. The Indian industry is committed to making further investments in India.

i. The increase in the price of Ursodeoxycholic acid is not going to have a significant impact in the cost of treatment for excess cholesterol in bile primary biliary. It is not a widely used medicine.

j. Reliance on imported API for such a rare disease medicine is not in the interest of public at large.

k. Treatment of excess cholesterol requires a patient to take Ursocol 150 Mg Tablet and Novastat TG 10 both for 15 days and Azithral 250 mg for 5 days. Approximate total cost of the full treatment, including fees of a doctor, cost of other medicines required to be taken along with this medicine would be hardly in the region of Rs 1500. The entire increase in cost of treatment shall be in the region of Rs. 25-30 for a 15-day treatment course.

l. The impact of anti-dumping duty on a single capsule of Ursocol ranges from Rs. 2.39 to Rs. 7.17, depending on the UDCA content of the capsule.

m. Imposition of anti-dumping duty will not restrict the imports. Imports will continue to happen from all the sources. The objective of anti-dumping duty is to ensure just and fair price competition in the market and not the prevention of imports. There are significant imports happening from Europe.

n. India has long been dependent on China PR for APIs. The Chinese producers have offered product at very low prices which had impacted the Indian industry. Once the Indian industry is wiped out, the Chinese producers have increased their prices sharply which has impacted the users.

o. Chinese producers supplied Penicillin-G at a price Rs 562 per KG and the Indian industry was unable to compete with these prices. As the industry wiped out, the Chinese producers increased their prices. The prices for the year 2020-21 were in the range of Rs 1,262 per KG. Similar situation is going to happen if the Indian industry is wiped out for UDCA.

p. COVID-19 has significantly disrupted the global supply chain. Many organizations suffered due to travel and trade restrictions. In such situation, it is in interest of all stakeholders that dependence on imports is reduced. Imposition of duty would significantly help in achieving that objective

q. Impact of anti-dumping duties will not be significant on the end products is also established by the fact that while two consumers have participated, none questionnaire response.

r. Viability of consumers cannot be dependent on access to raw material at unfair and dumped prices. The consumers have set up their plants considering fair market conditions.

s. Anti-dumping duty is not a protection to the industry, but rather a tool to bring fair market competition in the country.

t. The purpose of anti-dumping law was well recognised, appreciated and stated by the Hon'ble Supreme Court in the matter of Reliance Industries Ltd. Versus Designated Authority 2006 (202) E.L.T. 23 (S.C.).

u. The consumers are already enjoying concessional duty on the imports of the subject goods from Korea RP, by virtue of India Korea Free Trade Agreement. Currently, imports of UDCA from Korea RP attract nil rate of duty.

J.3 Examination by the Authority

113. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping duties. On the contrary, imposition of the antidumping duties would remove the unfair advantages gained by the dumping practices,

prevent the decline of the domestic industry and help maintain the availability of wider choice to the consumers of the subject goods. The purpose of anti -dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping duty would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

114. The Authority has considered whether the imposition of anti-dumping duty shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.

115. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of anti-dumping duty on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the consumers to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.

116. With regard to the operations of the domestic industry, the Authority notes that the domestic industry in the current case has been suffering due to dumped imports. The domestic industry has been unable to sell in the market even at prices enough to earn a positive contribution. It needs to earn adequate profits in order to recover its investment and plan for further investment. However, at present the performance is not adequate and the domestic industry has been forced to suspend the production. To ensure continued availability of the domestic product, it is necessary that the domestic producers remain viable at fair prices, failing which the users would become increasingly dependent on the dumped imports.

117. The Authority notes that the participation of users enables them to provide information with regard to the impact of duties on their operations. The Authority can analyse and determine impact of proposed measures on the consumers and public at large, based on the information placed on record by various interested parties during the course of the

investigation. Despite providing all format for users to quantify the impact of anti-dumping duty and to elaborate on how imposition of anti-dumping duty will adversely impact them, none of the users have provided relevant information on adverse impact of the anti-dumping duty.

118. It is also seen that the imposition of duty will not lead to non-availability of products for the consumers. The imposition of duty will not restrict imports from the subject countries. Further, there are significant imports happening from all the non-subject countries. The domestic industry has a capacity of ***KG which can cater ***% of the total demand and ***% of the demand (excluding demand being met by imports from the non-subject countries). Further, the domestic industry has provided the information that the investment required to expand its capacity to ***KG is not significant and will be sufficient to cater to the entire demand being met by the dumped imports.

119. Therefore, the Authority provisionally concludes that the imposition of anti-dumping duty will not have any adverse impact on public interest.

K. CONCLUSION & RECOMMENDATIONS

120. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority provisionally concludes the following:

    a. The petitioner is an eligible domestic industry within the meaning of Rule 2(b) of the AD Rules, 1995. The application satisfies the criteria of standing in terms of Rule 5(3) of the AD Rules, 1995.

    b. The product produced by the domestic industry is like article to the product under consideration imported from the subject countries.

    c. The application contained all information relevant for the purpose of initiation of the investigation and also contained evidence to justify initiation of the present investigation.

    d. Considering the normal value and export price for the subject goods, dumping margin for the subject goods from the subject countries has been determined, and the margin is positive and significant.

    e. The domestic industry has suffered material injury in view of the following:

        i. The volume of dumped imports from the subject countries have increased over the injury period.

        ii. It has also increased in relation to the total consumption, and production of the domestic industry.

        iii. With an increase in the volume of imports, the landed price of the imports from the subject countries has significantly declined.

        iv. The imports have suppressed the prices of the domestic industry.

v. The domestic industry has been unable to produce and sell in the domestic market.
vi. The domestic industry's market share is significantly low.
vii. The domestic industry has suffered losses in its domestic operations.
viii. The domestic industry has suffered cash losses and a negative return on capital employed.
ix. There are no other factors which could have caused injury to the domestic industry.

f. The material injury suffered has been caused by the dumped imports of the subject goods from the subject countries.
g. Imposition of anti-dumping duty will not have any significant adverse public interest.

121. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. After conducting the preliminary investigation into dumping, injury and causal link as per the information/ data submitted by the interested parties and in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that imposition of provisional antidumping duty is necessary to offset dumping and consequent injury, pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on the imports of the subject goods from the subject countries.

122. In terms of provision contained in Rule 12 and Rule 13 read with Rule 4(d) of the Rules, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Taking into account the factual matrix of the case, and having regard to the information provided, and submissions made by the interested parties, it is considered appropriate to recommend benchmark/reference form of anti-dumping duties. The Authority recommends imposition of provisional anti-dumping duties on import of the subject goods originating in or exported from the subject countries, from the date of notification to be issued in this regard by the Central government as the difference between the landed value of subject goods and the reference price indicated in column 7 of the table below, provided the landed value is less than the value indicated in column 7.

123. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 8B, 9, 9A of the Customs Tariff Act, 1975.

<u>Duty Table</u>

SN	Heading	Description of goods	Country of origin	Country of exports	Producer	Reference Price	Unit	Currency
1	2	3	4	5	6	7	8	9
1	29*	Ursodeoxycholic Acid	China PR	Any country including China PR	Zhongshan Belling Biotechnology Co., Ltd.	424.17	KG	USD
2	-do-	-do-	China PR	Any country including China PR	Sichuan Xieli Pharmaceutical Co., Ltd.	429.33	KG	USD
3	-do-	-do-	China PR	Any country including China PR	Suzhou Tianlu Bio-pharmaceutical Co., Ltd.	439.47	KG	USD
4	-do-	-do-	China PR	Any country including China PR	Any other producer	455.01	KG	USD
5	-do-	-do-	Any country other than China PR and Korea RP	China PR	Any	455.01	KG	USD
6	-do-	-do-	Korea RP	Any Country including Korea RP	Daewoong Bio Incorporated	371.18	KG	USD
7	-do-	-do-	Korea RP	Any Country including Korea RP	Any other producer	374.45	KG	USD
8	-do-	-do-	Any country other than	Korea RP	Any	374.45	KG	USD

			China PR and Korea RP					

* 2915, 2916, 2918, 2922, 2924, 2931, 2933, 2934, 2939, 2941 and 2942. However, the product is majorly imported under 29181690 and 29181990. The customs classification is only indicative.

L. FURTHER PROCEDURE

124. The procedure as below would be followed subsequent to notifying the preliminary findings:

   a. The Authority invites comments on these provisional findings from all interested parties within 30 days from the publication of these findings, and the same, to the extent considered relevant by the Authority, would be considered in the final findings.

   b. The Authority would conduct oral hearing in terms of rule 6(6) to give an opportunity to all interested parties to present their views relevant to the investigation. Issues and concerns raised during oral hearing will be examined in the final findings.

   c. The date of the oral hearing would be announced on the DGTR website (dgtr.gov.in).

   d. The Authority would conduct further verification to the extent deemed necessary.

   e. The Authority would disclose the essential facts as per the Rules before announcing the final findings.

Anant Swarup
Designated Authority