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F. No.15/02/2016-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 23rd May, 2017

(Final Findings)

Subject: Sunset Review of anti-dumping duty investigation concerning imports of Sewing Machine Needles originating in or exported from China PR.

1. M/s Altek Beissel Ltd. (hereinafter referred to as petitioner or the applicant) had filed an application (also referred to as petition) before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter referred to as the AD Rules) for initiation of Anti-Dumping Duty investigation concerning imports of Sewing Machine Needle (hereinafter also referred to as subject goods) originating in or exported from China PR (hereinafter also referred to as subject country).
2. Whereas, the original investigation concerning imports of the subject goods from China PR, was initiated by the Authority vide notification No.14/10/2010-DGAD dated 19th May, 2010 and the Authority had notified final findings on 6th May, 2011 recommending definitive antidumping duty on the imports of Sewing Machine Needles originating in or exported from China. The definitive antidumping duty was imposed on the subject goods by Ministry of Finance vide Customs Notification No. 50/2011-Customs, dated 22nd June, 2011.
3. Whereas, the Authority, on the basis of the application with sufficient evidence filed by the applicant, issued a Notification No.15/02/2016-DGAD dated 10th June, 2016, published in the Gazette of India, initiating a sunset review investigation in accordance with section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, to review the need for continued imposition of the duties in respect of the subject goods, originating in or exported from, and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry. The validity of the anti-dumping duty on the imports of the subject goods from the subject country

was extended by the Central Government up to 21st June, 2017, vide Notification No.37/2016-Customs (ADD) dated 4th August 2016.

4. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from the subject country.

A. PROCEDURE

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

- i. The Designated Authority, under the above Rules, received a written application from the Applicant on behalf of the domestic industries, alleging continuation of dumping of "Sewing Machine Needles from China PR".
- ii. The Authority notified the Embassy of China in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- iii. The Authority issued a public notice dated 10th June, 2016 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
- iv. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from China PR, known importers/users and the Domestic Industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
- v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules:
 1. Haimen City Meitu Needle Making Co. Ltd
 2. Jiangsu Mais Sewing Machine Needles Co Ltd
 3. Haimen Dali Sewing Machine Needles Co Ltd
 4. Sword Machine Needle Co Ltd
 5. Flying Tiger Needles Co Ltd
 6. Nan Fang Needle Co Ltd
- vi. Market Economy Treatment (MET) questionnaire was also forwarded to the known producers/exporters in China PR and the Embassy of China PR in India with the request to provide relevant information to the Authority within the prescribed time limit.

- vii. However, in response to the above notification, none of the exporters have filed response to the exporter's questionnaire.
- viii. The Authority forwarded a copy of the Initiation Notification along with Importer's Questionnaires to the following known importers/users/user associations (whose names and addresses were made available to the Authority) of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4).:
1. Madura Coats Private Ltd
 2. Aswin Intercontinental
 3. Groz Beckert Asia Private Ltd
 4. Kohinoor Impex
 5. Sunny International
 6. Paul Bros Company Pvt Ltd
 7. Sleek Corporation
 8. Needle Industries (India) Private Limited
- ix. However, no questionnaire response has been received from any importer of the subject goods. But one of the importers namely, Embroidery Card Creator has filed representation opposing imposition of duty on quilting machine needles.
- x. China Chamber of Commerce for Import & Export of Machinery & Electronic Products, an association of exporters from the subject country, has also only filed submissions though without a detailed Questionnaire response. Submissions made by them have also been taken into account in the present determination.
- xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).
- xii. The Authority has examined the information furnished by the domestic producer to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xiii. Period of Investigation in the instant investigation is from January, 2015 to December, 2015. The injury investigation period covered is 2012-13, 2013-14, 2014-15 and the Period of Investigation (POI).
- xiv. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the

Domestic Industry was conducted to the extent considered necessary for the purpose of the investigation.

- xv. Non-injurious price has been determined based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the Domestic Industry on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. Transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted in this notification for determination of volume and value of imports of the product concerned in India. The data has also been called from DG-Systems. The petitioner has relied upon the export data from China Customs for injury analysis, the same source which was used at the time of filing the petition. The Authority also relied on China Customs data at the time of initiation as given by the petitioner, however on receipt of detailed transaction by transaction data from DGCIS during the investigations; the same has been relied upon for analysis for this final finding.
- xvii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, the party providing information on confidential basis was directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
- xviii. The Authority held an oral hearing on 20th February, 2017 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6). The interested parties who had presented their views in the oral hearing were advised to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties. The Authority has considered submissions received from the interested parties appropriately.
- xix. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xx. A Disclosure Statement was issued on 30.03.2017 containing essential facts under consideration of the Designated Authority, giving time up to 06.04.2017

to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.

- xxi. ***in this Final Findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority for the subject investigation is 1 US \$ = Rs. 64.60.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 6. The product under consideration is “Sewing Machine Needles” originating in or exported from China PR.

B.1 Submissions by the Domestic Industries

- 7. The submissions made by Domestic Industry are as follows: :
 - i. The scope of the product under consideration, under the present investigation includes sewing machine needles meant for both household and industrial purposes. These are of various sizes, and point style (normal, ball point, leather point etc.). There are many types of needles, which are used for sewing woven, knit garment, leather, embroidery etc. The different needles are known by “Systems”. Within each System, there are many sizes of needles. For each size there could be many point styles.
 - ii. Sewing machine needle manufacturing is a closely held technology. Manufacture of a needle involves more than 100 steps with 12 major steps. Sewing machine needle is a very precise tool manufactured to micron accuracy. However sophisticated the sewing machine may be, a needle determines the performance of sewing productivity and aesthetic finish of the sewn product.
 - iii. Machines required for manufacture of needles are Special Purpose Machines designed by needle manufacturers themselves and are not available elsewhere. The machinery used for manufacture of Household needles can also be used for manufacturing Industrial Sewing Machine needles of basic Systems. In the past years, the demand for Household needles has been decreasing and shifting to Industrial Needles because the professional tailors have now switched over to Industrial machines from Household machines. The prices of basic Systems of Industrial needles are also same as Household needles.
 - iv. Sewing Machine Needle is fitted into a sewing machine and used for sewing a number of products. Needles are used for a large variety of applications, important among them being sewing of woven garments, knit garments,

embroidery, and leather. Besides, there are a number of other applications such as furnishings, doll making, book sewing, vehicle seat covers etc. Sewing Machine Needle is normally produced and sold in numbers. However, the import information reflects volumes in weight (Kgs). The industrial norm for conversion of weight to numbers is: 1 Kg = 1,667 needles. Sewing Machine Needles are normally packed in small boxes, each box containing ten needles. This is the standardized packing both in the domestic and international market.

- v. The subject goods fall under Chapter 84 and are imported under HS code subheading 8452 30 besides many other subheadings.
- vi. There is no difference in the technology employed and the quality of the domestic and imported product. The petitioner is producing and selling the product under consideration to several consumers in India and internationally (in developed and developing markets).
- vii. The petitioner has stated that they are manufacturing all kinds of sewing machine needles from the beginning of their manufacturing activity. On a specific query the petitioner stated that quilting machine needles are also manufactured by them and they were manufacturing the same even during the original investigation. The petitioner has supported his claim with product catalogue for all kinds of needles which also includes quilting machine needles.

B.2 Submissions by the other interested parties

- 8. The Embroidery Card Creator has stated that ‘Quilting Machine Needle’ should not be considered as the product under consideration. The word Sewing Machine Needle should refer to those needles which are used only in sewing and which are being manufactured in India and import could cause injury to the Domestic Industry. ECC further stated that there is no domestic manufacturer of Quilting Machine Needles in India and quantum of imports of the item is very limited. Their representation is to exclude quilting machine needles from the definition of Product under Consideration from the current investigation as well as clarify the same for the previous duty notification also.

B.3 Examination by the Authority

- 9. The Product under Consideration in the present investigation is “Sewing Machine Needles”. The scope of the product under consideration includes sewing machine needles meant for both household and industrial purposes in various sizes and point style (normal, ball point, leather point, etc.). Sewing Machine Needle is fitted into a sewing machine and used for sewing a number of products. Needles are used for a large variety of applications, important among them being sewing of garments, embroidery and leather. Besides, there are a number of other applications such as furnishings, doll making, book sewing, vehicle seat covers, etc.

10. The Authority notes that one importer namely Embroidery Card Creator, has contested the meaning and scope of the product under consideration as defined by the Authority on the grounds that the item namely quilting machine needles is neither covered under the scope of sewing machine needles nor manufactured by the Domestic Industry. However, examination of the facts of the case has revealed otherwise. The authority noted the claim of the Domestic Industry that they are manufacturing the quilting machine needles. The Authority therefore holds that there is no merit in the claim of ECC for excluding quilting needles from the scope of the subject goods.
11. The product under consideration remains the same as in the original investigation. The product is classified under Chapter 84 of the Customs Tariff Act under HS code 8452 30. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.

B.4 LIKE ARTICLES

12. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:-

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;
13. The Domestic Industry has claimed that the subject goods produced by the Domestic Industry are identical to the product under consideration being imported into India. The Domestic Industry has claimed that there is no known difference in applicant's product and product under consideration exported from the subject country and the two are comparable in terms of characteristics such as physical characteristics, technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the applicant and those exported from the subject country and both are technically and commercially substitutable.
14. The Authority further notes from the information available on record that the product under consideration produced by the Domestic Industry is like article to the goods imported from the subject country. Product under consideration produced by the Domestic Industry and imported from the subject country are comparable in terms of physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. It is further noted that the Designated Authority had examined the issue of product under consideration and like article in the previous investigation, which mutatis mutandis is relied upon in the present review investigation. The goods produced by the Domestic Industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably and are like article within the meaning and scope of Rule 2(d) of the Anti-dumping Rules.

15. Thus, the Authority holds that product under consideration produced by the applicant Domestic Industry is a like article to the subject product under consideration imported from subject country in accordance with the AD Rules.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

C.1 Submissions by the Domestic Industry

16. Following submissions have been made by the Domestic Industry with regard to scope and standing of the Domestic Industry:

- i. The petition has been filed by M/s Altek Beissel Ltd., Kelambakkam. There are three more producers of the product under consideration in India. M/s. TVS Sewing Needles Limited has suspended operations, allegedly as a result of continued dumping. The other two producers, M/s. Schmetz India Private Ltd. and M/s. Groz Beckert Asia Private Ltd., are not eligible because they are 100% subsidiaries of a Germany company existing in EOU which are importing various needles from their respective German parent companies for resale in India and are also exporting their entire production to their parent company in Germany.
- ii. M/s Altek Beissel Ltd. is the only eligible domestic producer of the subject goods in India and constitutes Domestic Industry under Rule 2(b) of the Rules, 1995.
- iii. Petitioner has not imported the subject goods. Petitioner is not related, either directly or indirectly, to any exporter or importer of product under consideration in the subject country. Thus the petitioner is eligible Domestic Industry under Rules 2(b) and 5(3) of the AD Rules.

C.2 Submissions by other interested parties

17. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

C.3 Examination by the Authority

18. Rule 2 (b) of the AD 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”

19. The application has been filed by M/s Altek Beissel Ltd., Kelambakkam. Other known producer, M/s. TVS Sewing Needles Limited has suspended operations. M/s. Schmetz India Private Ltd. and M/s. Groz Beckert Asia Private Ltd. which are 100% subsidiaries of their parent company in Germany, export their entire production to their parent company, and also import various kinds of needles from their respective German parent companies for re-sale in India. Accordingly, the authority holds that that the petitioner satisfied the requirement of standing under Rule 5(3) and constitutes Domestic Industry within the meaning of Rule 2(b).

D. ISSUES RELATING TO CONFIDENTIALITY

D.1 Submissions by the Domestic Industry

20. The views of the Domestic Industry are as follows:

- i. No response has been submitted by any exporter of the subject goods from the subject country. The only submission is made by China Chamber of Commerce for Import & Export of Machinery & Electronic Products (“CCCME”). There is no exporter questionnaire response submitted either.
- ii. The Authority may kindly direct these interested parties to provide such information (in the form of exporters’ questionnaire, details of CCCME, and list of members of CCCME) or at least the non-confidential summarization of the information, so that the Domestic Industry would be able to defend its interests.
- iii. As per the anti-dumping law and rules, the exporters should file the questionnaire response and should provide a non-confidential version of the same to the other interested parties. However, in the present investigation, no such information is provided by the exporters and as a result, the Domestic Industry is not able to exercise its right to defend itself against the allegations put forward by the exporters’ association.
- iv. The Domestic Industry has not claimed any information as confidential which is available in public domain. In fact, if the information were available in public domain, nothing would have prevented these interested parties from procuring it. As a matter of fact, CCCME have claimed that they have collected the audited accounts of the petitioner from the website of Ministry of Corporate Affairs (“MCA”). CCCME can claim access to only such information which is available with MCA.
- v. Proforma IV A has been provided by the Domestic Industry with duly indexed figures and the same is as per the established practice.

D.2 Submissions by the other interested parties

21. The sole responding exporters' association, China Chamber of Commerce for Import & Export of Machinery & Electronic Products has in their submissions stated as follows.
- i. The purpose of Rule 7 is to enable all interested parties in an anti-dumping investigation to have a sufficient understanding of the information provided on confidential basis to the Authority. The non-confidential version of the petition should allow parties to exercise their rights of defence throughout the investigation.
 - ii. The non-confidential version of the present petition failed to meet the standards laid down in Rule 7.
 - iii. The Domestic Industry has claimed excessive confidentiality and filed an incomplete petition.
 - iv. The Authority should direct the Domestic Industry to immediately provide an updated Proforma IVA to the other interested parties with the indexed figures.

D.3 Examination of the Authority

22. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
23. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

“Confidential information. (1) Notwithstanding anything contained in sub-rules (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, 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.”

24. The WTO Agreement on Anti-Dumping provides as follows with regard to confidentiality of information-

“Article-6.5 Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it.

Article-6.5.1 The authorities shall require interested parties providing confidential information to furnish non confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided.

Article-6.5.2 If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

Footnote to Article 6.5.2 (footnote 18 of the WTO Agreement on Anti-Dumping) provides as follows:– Members agree that requests for confidentiality should not be arbitrarily rejected.”

25. It is thus evident that the public notices issued by the authorities are directly subjected to confidentiality provisions and should protect confidentiality of information provided by an interested party. Further, a conclusion drawn by the Authority based on confidential information also becomes confidential, if disclosure of such conclusion can in any way effectively lead to disclosure of information provided on confidential basis.
26. The provision for disclosure of essential facts before giving final findings has been laid down at Rule 16 of the Anti-dumping Rules. Even under Rule 16, the confidential facts are required to be disclosed to “respective interested parties”, while non-confidential facts are required to be disclosed to all interested parties. At no stage the Designated Authority is empowered to disclose the confidential information to the parties with competing and conflicting interests.
27. Disclosure of the commercially sensitive and confidential information, provided by the interested parties to the Designated Authority, by reposing trust and confidence, to

facilitate the investigation, will completely vitiate the market atmosphere both in the domestic as well as international fronts. The disclosure of confidential information relating to the cost of production, non-injurious price etc. of the Domestic Industry will provide undue advantage to its domestic as well as overseas competitors and place them in a disadvantageous position before the consumers.

28. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims in terms of the provisions contained in antidumping rules and WTO Agreement. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.
29. In view of the above, the Authority notes that confidential information cannot be disclosed to the interested parties with competing and conflicting interests. However the non – confidential information has been disclosed to the interested parties.

E. Miscellaneous Submissions

E.1 Submissions by the Domestic Industry

30. Following miscellaneous submissions have been made by Domestic Industry:

- i. Domestic Industry continued to suffer even after imposition of Anti-Dumping Duty due to multiple reasons – (a) circumvention of existing ADD by Chinese exporters, (b) evasion of existing ADD by Indian importers and (c) inadequate quantum of ADD earlier imposed leading to landed price of imports remaining below cost of production of the Domestic Industry.
- ii. Import data shows significantly high imports of subject goods from Malaysia, Singapore, UAE, Sri Lanka, Vietnam, Switzerland, and UK at extremely low prices. As per the petitioner’s independent research the manufacturing facilities to that extent do not exist in these countries leading to an understanding that these are not imports of the product under consideration produced in these countries and these goods have actually been produced in China and exported through these countries.
- iii. It would also be seen that imports from other countries such as Korea, Germany, Japan, Czech Republic are at prices materially higher than Chinese prices which happen to have their own manufacturing facilities.
- iv. The petitioner adopted China customs for volume and value of imports from China as there exists significant difference between the data procured from DGCI&S and China Customs suggesting that DGCI&S has not captured the entire data.

- v. There have been past cases wherein the DGAD has not adopted information published by DGCI&S and has instead adopted information from other sources, including questionnaire responses of the exporters, customs data of the exporting country or secondary sources in India.
- vi. The gaps in China export data and DGCIS import data could be more appropriately answered by CCCME, however, CCCME has chosen to conveniently ignore to address the issue of disappearance of 9310 lacs pieces reported in China customs as exports to India.
- vii. Further, the less data would indicate that the demand for the product under consideration in India has declined to such levels but there is no information – public or otherwise – to show that there is severe decline in demand thus pointing to inaccuracy of data reported by DGCI&S.
- viii. The imposition of ADD will not stop the imports but only create a level playing field for the Domestic Industry vis a vis alleged dumped imports.
- ix. The claim of CCCME that major producers of needles in China have gone bankrupt is not correct as there is no such dramatic decline in exports of needles from China indicating closure of manufacturing units.
- x. Goods have been exported from China at an average price of 0.42 per needle as against export from other countries which is at a price in the range of Rs. 2.45-8.08 per piece. Therefore, exports from China are definitely being dumped into India.
- xi. There is no question of price undertaking between Chinese enterprises and the petitioner.

E.2 Views of the opposing interested parties

31. The views of the opposing interested parties are as follows:

- i. During the Public Hearing it was argued by the Domestic Industry that imports from China PR is only 72 lac pcs against total imports of around 3469 lac pcs. This means that imports from China PR constitutes only 2% of the total imports. This decline in imports is on account of high anti-dumping duty to the tune of 2151% making imports impossible.
- ii. Even if Domestic Industry operates at 100% capacity, it will not be able to meet more than 23% of the total demand. And even after the imposition of unheard 2125% anti-dumping duty to Chinese products, the Petitioner had only operated at 53% capacity at most.
- iii. Some big exporters in China which were mentioned in the original anti-dumping investigation, including Haimen Meitu Needles Co., HaimenLida

Needles Co., Sword Needles Co. and the Southern Needles Co., have gone bankrupt after imposition of ADD. Now, the Chinese sewing needle industry has only less than ten enterprises, all of which confront capacity slash. There are only three Chinese enterprises participating in this present sunset review investigation.

- iv. The three Chinese enterprises who are participating in defense of SSR investigation are actually not eligible to respond to the exporter questionnaire as they have no export record during the period of sunset review investigation, and thus have no choice but to partially give up defense for the dumping part of this investigation.
- v. Products from China are meant for the low-end market and household users in India. Thereupon, the major competitors of the Petitioner are Korea RP and Taiwan companies, and not Chinese producers.
- vi. The Chinese enterprises are seeking price undertaking with the Petitioner in order to limit the export volume and price to India. Throughout this, the demand of Indian downstream customers will be catered, and the Petitioner may not be too concerned about the import of Chinese products.

E.3 Examination of the Authority

- 32. As regards the argument of the interested parties that there is a demand supply gap, the Authority notes that it is a well settled principle of law that the Domestic Industry is not obliged to fulfil the entire demand in the domestic market. Since imposition of antidumping duties do not prevent import and its intent is only to rectify an unfair position due to dumping, the user sector can always import and fulfil their extra demand.
- 33. As regards the argument regarding circumvention; the Authority notes that this is a sunset review investigation of anti-dumping duty and not an anti-circumvention proceeding. Therefore, the examination of this aspect is beyond the scope of this investigation.
- 34. As regards the argument that DGCI&S data has not captured the entire imports from China, the Authority notes that there exists a vast difference in imports as per China Customs and imports as per DGCI&S. The Difference is alarming but still it cannot be held that the goods destined for Indian market has been diverted to third countries because total import figures are also not reflective of this allegation. The Authority thereafter widened the scope of search and called import data for the PUC under various other HS codes from DGCI&S and also procured data from DG Systems. The additional import data furnished by DGCI&S compiled on transaction wise basis has now been considered for injury analysis.
- 35. As regards the argument that the producers in subject country wishes to undertake price undertaking with the Domestic Industry, the Authority notes that the price undertaking

can only be between the Authority and the exporters and that also when the exporters from the subject country has cooperated with the Authority. None of the exporter from the subject country has cooperated with the Authority and thus question of price undertaking does not arise.

F. Market Economy Treatment, Normal Value, Export Price and Determination of Dumping Margin

F.1 Submissions by the Domestic Industry

36. Following submissions have been made by Domestic Industry: :

- i. China is a non-market economy country. Further none of the exporters satisfy each and every condition developed from jurisprudence to qualify for grant of market economy status. Thus, the Chinese producers' cost and price cannot be relied upon for determination of normal value.
- ii. India is an appropriate surrogate county for China as it would result in access to accurate and adequate information. Further, India has been considered as an appropriate surrogate country by other investigation authorities too.
- iii. The normal value has been determined accordingly on the basis of cost of production in India, duly adjusted, in view of the fact that the selling price is a loss making price.
- iv. The petitioner has relied upon transaction wise import data provided by China Customs for calculation of export price.
- v. In view of significant difference in the cost of and price of various product types, petitioner have determined separate export price for each product type.
- vi. EU and USA have held India as an appropriate market economy third country in a number of cases. There is no reason to reject the observations and determinations of the EC merely because margins determined by them are higher than the margins determined by India. Even though the export price of the product from China to Europe is higher than that to India, the dumping margin in India is lower compared to dumping margin determined by Europe.
- vii. Petitioner has given detailed information on consumption of raw materials, conversion cost and other relevant pricing data to the Designated Authority as per the prescribed formats.

F.2 Submissions by the interested parties

37. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to dumping margin.

F.3 Examination By The Authority

38. At the stage of initiation, the Authority proceeded with the presumption that China PR is a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/exporters for rebutting presumption of non-market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in China to provide the relevant information.
39. The Authority notes that the known Chinese producers/exporters and the Government of China have been adequately notified about the requirement of submission of information in the form and manner prescribed and adequate opportunity was also granted to them to make their submissions in this regard. None of the exporters/producers from China PR have cooperated with the Authority and responded to the present investigation. Further, none of the interested parties have provided any other alternative basis, as defined in the Rules, on which normal value can be determined.
40. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proceeds with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR. Para 7 of Annexure I of the Anti-dumping Rules provide that:
- “In case of imports from non-market economy countries, normal value shall be determined on the basis of 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.”*
41. As per the above provisions normal value in China is required to be determined based on domestic selling prices in a market economy third country, or the constructed value in a market economy third country, or the export prices from such a third country to any other country, including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal

value on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted to include reasonable profit margin.

42. Thus, in the absence of any reliable price and cost details for the subject goods in any market economy third country the Designated Authority has constructed the normal value in China on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin. Accordingly, the Authority has determined the Normal Value for the subject goods exported by all exporters in China by considering the optimum cost of Domestic Industry and after providing profit at 5% of cost of sales excluding interest.

Normal value and Export price for all exporters in China

43. As none of the producers/ exporters from China have participated / cooperated in this investigation, the Authority has determined the normal value on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The net export price at ex-factory level, in respect of all exporters from China PR, is determined after making the due adjustments for Ocean Freight, Marine Insurance, FOB Price, Port Expenses and Freight Expenses. The constructed normal value, net export price and dumping margin in respect of producers/exporters of the subject goods so determined is as mentioned in the table below.

Dumping Margin

44. Considering the constructed normal value and ex-factory export price as proposed above, the dumping margin for all exporters of the subject goods from the subject country is calculated as below:

Constructed Normal Value		Net Export Price		Dumping Margin		Dumping Margin	
Rs/Lac Pieces	US \$ / Lac Pieces	Rs/Lac Pieces	US \$ / Lac Pieces	Rs/Lac Pieces	US \$ / Lac Pieces	%	%
***	***	***	***	***	***	***	950-1000

G. Injury Determination and Examination of Injury and Causal Link

G.1 Views of Domestic Industry

45. Following submissions have been made by the Domestic Industry with regard to injury, likelihood of injury and causal link::
- i. There is continued dumping of the product under consideration from China.
 - ii. Dumping of the product under consideration is likely to intensify from the subject country should the current anti-dumping duty cease to exist.

- iii. The performance of the Domestic Industry has improved in terms of various economic parameters.
- iv. The domestic sales have steadily gone up in the least three years and have now reached break-even. At any point of time, there are at least a billion needles in stock inside the country because various dealers around the world keep importing containers full of needles. China does not have a system of sole distributor and sells directly as well as through dealers. Therefore, each one acts independently with no coherent plan. Therefore, it takes time for anti-dumping duty to make necessary impact.
- v. Demand for petitioner's needles has gone up and as a result, the petitioner has decided to make investment to modernize and upgrade production to improve productivity, safety and automate operations and this leads to huge capital investment by the petitioner. The overall impact of this investment can be seen on the profitability in due course.

G.2 Views of other interested parties

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

- i. Even if the Domestic Industry operated at 100% capacity, it will only meet 15% of the total demand in India. In such situation, imports in India are imperative and bound to come. Even after imposition of 2000% duty, 94% of demand is met by imports.
- ii. Even after getting protection of 2000% in the form of anti-dumping duty, the overall profitability of the Domestic Industry deteriorated further. During the POI in the original investigation, Cash profit was (10) and has become (175) during the POI of present SSR. If existing duty level is insufficient and has not yielded positive results, then with a claim of almost 100-600% dumping margins in the present review investigation will surely not help the Domestic Industry to improve its profitability.
- iii. Cost data of Altek (the P& L accounts submitted by ALTEK with the MCA) as mentioned on the website of Ministry of Company Affairs, Government of India, does not match with the profit claimed by the Domestic Industry in its petition. does not match with the.
- iv. The petition is silent about impact of dumping on employment. Despite reduction in installed capacity, the Domestic Industry has increased the number of employees and wages. DI's employment and productivity per days has increased.

- v. Trend of Cost of Production (COP) claimed by Domestic Industry is not matching with the information contained in the Audit Reports submitted to the Ministry of Corporate Affairs and the claims made in the petition are not matching.
- vi. Injury suffered by Domestic Industry is caused by factors other than imports from China. The petitioner fails to address a number of crucial issues which had an impact on the Domestic Industry.

G.3 Examination by the Authority

47. The Authority has taken note of various submissions of the interested parties on and has analysed injury to the Domestic Industry considering the facts available on record and applicable laws.

- i. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.
- ii. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
- iii. As regards the impact of the dumped imports on the Domestic Industry, Para (iv) of Annexure-II of the Anti-dumping Rules states as follows.
“The examination of the impact of the dumped imports on the Domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”
- iv. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to

continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

- v. For the examination of the impact of imports on the Domestic Industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Demand and Market Share

48. The Authority has defined demand or apparent consumption of the subject goods in India as the sum of imports from all sources and domestic sales of the Indian producer/s. The demand so assessed, based on DGCI&S data and also on China Customs data (as given by the petitioner) is as below: -

i. AS PER DGCI&S DATA

Demand	Unit	2012-13	2013-14	2014-15	POI
Subject Country	Lac Pcs	41	11	12	151
Other Countries	Lac Pcs	1,491	1,156	1,194	1,126
Sales of Domestic Industry	Lac Pcs	274	327	355	366
Total Demand	Lac Pcs	1,805	1,495	1,560	1,642
Market share in Demand					
Subject country	%	2%	1%	1%	9%
Other Countries	%	83%	77%	76%	69%
DI domestic Sales	%	15%	22%	23%	22%
Total		100%	100%	100%	100%

49. The demand over the injury period and POI has increased. The base year is showing a slightly high level of demand. The share of subject country has increased during the entire period as against the share of other countries. The sale of Domestic Industry has increased as compared to base year and they have been able to hold the market during the rest of the injury period.

ii. AS PER CHINA CUSTOMS DATA

Demand	Unit	2012-13	2013-14	2014-15	POI
Subject Country	Lac Pcs	3,288	2,553	1,853	1,849
Other Countries	Lac Pcs	3,717	3,941	3,223	3,469
Sales of DI	Lac Pcs	274	327	355	366
Total Demand	Lac Pcs	7,279	6,821	5,431	5,683
Market share in Demand					
Subject country	%	45.17%	37.43%	34.12%	32.53%
Other Countries	%	51.06%	57.77%	59.34%	61.04%
DI domestic Sales	%	4%	5%	7%	6.43%
Total		100%	100%	100%	100%

50. The petitioner has submitted that the demand for the product under consideration has declined over the injury period. The share of subject country in demand has also declined, however remains significant whereas the share of the Domestic Industry has barely increased by 2.43% over the injury period and remains at low level.

H. Volume Effects of Dumped Imports

Import volumes and market share in imports

51. With regard to the volume of the alleged dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCIS. The data as per China customs given by petitioner is also tabulated below.

i. AS PER DGCI&S

Imports Volume	UOM	2012-13	2013-14	2014-15	POI
China	Lac Pcs	41	11	12	151
Other Countries	Lac Pcs	1,491	1,156	1,194	1,126
Total Imports	Lac Pcs	1,531	1,168	1,205	1,276
Subject Imports in relation to					
Consumption	%	2%	1%	1%	9%
Production	%	10%	3%	2%	31%

52. The Authority notes that imports of the subject goods from subject country have declined during POI as compared to base year, however, the imports are still significant. Imports in relation to production and consumption have increased and are still hurting the Domestic Industry.

ii. AS PER CHINA CUSTOMS DATA

Imports Volume	UOM	2012-13	2013-14	2014-15	POI
China	Lac Pcs	3,288	2,553	1,853	1,849
Other Countries	Lac Pcs	3,717	3,941	3,223	3,469
Total Imports	Lac Pcs	7,005	6,494	5,076	5,318
Subject Imports in relation to					
Consumption	%	45	37	34	33
Production	%	1417	555	387	386

53. The petitioner has submitted that imports of the subject goods from subject country have declined during POI as compared to base year, however, the imports are still significant. Imports in relation to production and consumption has also declined, however remains significant. The petitioner further submitted that in case the duty is revoked, the imports from China will re-capture the market.

I. Price Effect of the Dumped imports on the Domestic Industry

54. . With regard to the price effect, the Designated Authority is required to consider whether there has been a significant price undercutting by the alleged dumped imports 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. The impact on the prices of the Domestic Industry on account of the dumped imports from the subject country has been examined with respect to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the cost of production, Net Sales Realization (NSR) and the Non Injurious Price (NIP) of the Domestic Industry have been compared with the landed cost of imports from the subject country on the basis of transaction wise data obtained from DGCI&S.

i. Price Undercutting

55. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods during the period of investigation as shown in the following table:

Particulars	Unit	2012-13	2013-14	2014-15	POI
Landed price of imports	Rs/Lac piece	***	***	***	***
Landed price of imports	Trend	100	367	200	50
Net Sales Realisation	Rs/Lac piece	***	***	***	***
Net Sales Realisation	Trend	100	99	102	103
Price Undercutting	Rs/Lac piece	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	Range %	70-80	20-30	50-60	80-90

56. Authority notes that the landed price of the subject goods is significantly lower than the selling prices of the Domestic Industry, resulting in significant price undercutting.

ii. Price suppression/depression

57. The price suppression and price depression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values of the subject goods from the subject country, as detailed below:

Parameters	UOM	2012-13	2013-14	2014-15	POI
Landed Price of Imports	Rs/Lac pcs	37,696	1,38,361	75,404	18,861
Trend	Indexed	100	367	200	50
Cost of sales	Rs/Lac pcs	***	***	****	***
		100	112	101	109
Selling price	Rs/Lac pcs	***	***	****	***
<i>Index</i>		100	99	102	103

58. The Authority notes that both, cost of sales as well as selling price has increased during the POI as against the base year, however, increase in selling price is less than the increase in costs of sales. It is further noted that the landed price of imports is below the selling price as well as the cost of sales of the Domestic Industry. The imports are thus depressing the domestic prices in the domestic market.

iii. Price Underselling

59. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the Domestic Industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis shows that the landed value of subject imports was much below the non-injurious price as can be seen from the table below.

NIP		Landed price		Injury Margin		Injury Margin	
Rs/ lac Piece	US\$/Lac Pieces	Rs/ lac Piece	US\$/Lac Pieces	Rs/ac Piece	US\$/Lac Pieces	%	%
***	***	***	***	***	***	900-950	900-950

60. It is noted from the above table that import price from the subject country is having underselling effect on the prices of Domestic Industry.

J. Economic parameters of the Domestic Industry

i. Production, Capacity, Capacity Utilization & Sale Volume

61. The Production, Capacity and Capacity Utilization details are as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Capacity	Lac Pcs	900	900	900	900
<i>Trend</i>	<i>Indexed</i>	100	100	100	100
Production	Lac Pcs	395	419	479	479
<i>Trend</i>	<i>Indexed</i>	100	106	121	121
Capacity Utilization	%	44%	47%	53%	53%
<i>Trend</i>	<i>Indexed</i>	100	106	121	121
Domestic Sales	Lac Pcs	274	327	355	366
<i>Trend</i>	<i>Indexed</i>	100	119	130	133

62. From the above information, the Authority notes that the capacity of production of the Domestic Industry has remained constant during the injury period. Production and sales of the Domestic Industry have increased over the injury period. However, capacity utilisation has remained at low level despite sufficient demand in the country.

ii. Profit/Loss, Return of Investment

63. The profitability of the Domestic Industry is given in the table below:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Cost of sales	Rs/Lac Pcs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	112	101	109
Selling price	Rs/Lac Pcs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	99	102	103
Profit/(Loss)	Rs/Lac Pcs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	(100)	(193)	(95)	(146)
Profit/(Loss)	Rs. Lacs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	(100)	(231)	(123)	(195)
Profit before interest	Rs. Lacs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	(100)	(231)	(123)	(195)
Cash Profit	Rs. Lacs	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Indexed</i>	(100)	(292)	(87)	(223)
Return on Capital Employed-NFA	%	(***)	(***)	(***)	(***)
<i>Trend</i>	<i>Range</i>	(0-10)	(15-25)	(0-10)	(10-20)

64. The Authority notes that both, cost of sales and selling price has increased over the injury period. However, the increase in cost of sales is much more than the increase in selling price. It is noted that the selling price has all along been lower than the cost of sales resulting in continued losses being suffered by the Domestic Industry. Consequently, profit before interest, cash profit and return on investment have also remained negative throughout the injury period. The petitioner has claimed that continued presence of dumped imports in the Indian market from the subject country is preventing the Domestic Industry from raising its prices in proportion to increase in costs.

iii. Inventories

65. The data relating to inventory of the subject goods is shown in the following table:

Particulars	UOM	2012-13	2013-14	2014-15	POI
Average Inventory	Lac Pcs	17	19	28	32
<i>Trend</i>	<i>Indexed</i>	100	115	168	189

66. It is noted that inventories with the Domestic Industry have increased over the injury period.

iv. Productivity

67. From the information given below, the Authority notes that Productivity in terms of productivity per day as well as per employee has increased, which is commensurate with the level of production.

Particulars	UOM	2012-13	2013-14	2014-15	POI
Productivity Per Employee	Lac Pcs	3	3	4	3
<i>Trend</i>	<i>Indexed</i>	100	100	118	113
Productivity Per Day	Lac Pcs	1.08	1.15	1.31	1.31
<i>Trend</i>	<i>Indexed</i>	100	106	121	121

v. Employment and Wages

68. The data relating to employment, wages and productivity show as follows:

Particulars	UOM	2012-13	2013-14	2014-15	POI
No of Employees	No	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	106	103	108
Wages	Rs/lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	124	139	138
Wages Per Employee	Rs in Lacs per employee	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	117	135	128

69. It is noted from the table above that the Employment and wages paid have increased over the injury period.

vi. Magnitude of Dumping

70. The dumping margin determined in respect of the producers/exporters from the subject country is significant.

vii. Growth

71. The Authority notes from the table below that the Domestic Industry has registered positive growth in terms of production and sales volume. However, the performance of the Domestic Industry in terms of price parameters such as profits, cash profits and return on investment has been adverse.

Growth	UOM	2012-13	2013-14	2014-15	POI
Production	%	--	6%	14%	0%
Domestic Sales Volume	%	--	19%	9%	3%
Capacity Utilization	%	--	3%	7%	0%
Profit	%	--	***	(***)	***
Cash Profit	%	--	***	(***)	***
Return on Capital Employed	%	--	(10-20)%	10-20	(0-5)

viii. Ability to raise capital investment

72. The future investment in the sector is marred by the presence of dumped imports from subject country. The negative profitability, return on investment along with abysmal market share indicates that the ability of the Domestic Industry to raise capital investments for the sector is seriously affected due to the dumped imports from the subject country.

ix. Factors Affecting Domestic Prices

73. The examination indicates that there is a healthy demand in India for the subject goods. The dumped import prices from subject countries are directly affecting the prices of the Domestic Industry in the domestic market. It is also noted that the landed value of subject

goods from subject countries are far below the non-injurious price of the Domestic Industry. Further, landed value from subject countries had suppressed / depressed the prices of the Domestic Industry causing financial losses to them. The imports of the product under consideration from countries other than subject countries are not injuring the Domestic Industry or are at non-dumped prices as the prices offered by these countries are significantly higher. Demand for the product is showing an increase trend and, therefore, could not have been a factor responsible for price depression and suppression faced by the Domestic Industry. It is thus evident that the dumped goods from subject countries are responsible for the depressed and suppressed prices of the Domestic Industry.

x. Overall assessment of Injury

74. After examining and analysing the facts and figures concerning injury to the Domestic Industry, the Authority concludes that despite the presence of anti-dumping duties, significant imports from China are entering at dumped prices. Dumped imports are significantly undercutting the prices of the Domestic Industry. The landed price of imports is not only below selling price of the Domestic Industry but also below cost of production and non-injurious price of the Domestic Industry. Both dumping margin and injury margin in the POI are positive and significant. Dumped imports from the subject country are depressing the prices of the Domestic Industry and preventing the price increases that would have occurred in the absence of dumping. Performance of the Domestic Industry has shown improvement in terms of production and sales volumes. However, the Domestic Industry the performance remained negative in respect of profit and return on investment and continues to suffer losses due to its inability to increase prices in the presence of dumped imports. Thus, the Authority concludes that the Domestic Industry has continued to suffer material injury during the period of investigation.

K. Other Known Factors & Causal Link

75. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the Domestic Industry, in terms of its price undercutting, underselling and price suppression; other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined by the Authority to see whether any other factor, other than the dumped imports could have contributed to injury to the Domestic Industry.

i. Volume and prices of imports from third countries

76. The petitioner has submitted that after imposition of antidumping duties on the subject country, significant volumes of the subject goods originating in China are allegedly being transshipped through other countries to circumvent the duties. The Authority however notes that that this being a sunset review investigation of anti-dumping duty and not an anti-circumvention proceeding, the examination of this aspect in detail is beyond the

scope of this investigation. It is noted that the imports from other countries are at higher prices or are negligible in terms of volume.

ii. **Contraction in demand:**

77. The demand of the product under consideration has declined in the POI. However, Domestic Industry has not been able to utilize its capacity to the optimum level. Thus, contraction in demand is not a possible reason for the injury suffered by the Domestic Industry.

iii. **Changes in the pattern of consumption: -**

78. The pattern of consumption with regard to the product under consideration has not undergone material change and therefore could not have been the cause for the material injury suffered by the Domestic Industry.

iv. **Trade restrictive practices of and competition between the foreign and domestic producers: -**

79. The Authority notes that there is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.

v. **Developments in technology: -**

80. The Authority also notes that technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.

vi. **Export performance:**

81. The petitioner has exported the product under consideration. However, the export profitability has been segregated. Further, claimed injury to the Domestic Industry is on account of domestic operations only. Hence, claimed injury to Domestic Industry cannot be attributed to exports.

vii. **Performance of other products being produced and sold by the Domestic Industry:**

82. The Authority also notes that the petitioner is a single product company. Claimed injury to the Domestic Industry is only on account of product under consideration.

L. Likelihood of continuation or recurrence of dumping and injury

83. The Authority has examined the contention of the Domestic Industry to examine likelihood of continuation or recurrence of dumping and injury. The following analysis shows that there is likelihood of continuation or recurrence of dumping and injury to the Domestic Industry in the event of revocation of antidumping duties:

i. Level of current and past dumping margin

84. It is noted that the level of dumping margin both in the original as well as present investigation is significant. Despite significant demand in the country, the Domestic Industry could not utilize its full capacity. Further, the import of the subject goods from the subject country still continues to be at dumped prices. Given the level of price undercutting, price underselling and price suppression and considering the capacity in China and demand in India, the volume of dumped import is likely to increase further in the event of cessation of anti-dumping duty.

ii. Volume of Imports during post POI

85. It is noted from the DGCI&S data that the imports from China have continued even during the post investigation period, at the same level in spite of anti-dumping duty being in force, indicating further that cessation of duties may lead to an increase in intensity of imports.

iii. Price attractiveness of Indian market

86. The price, at which the subject goods are being exported by China PR to India, is an indicator of the likelihood of continuation of dumping. Subject imports are undercutting the prices of the Domestic Industry. It is therefore noted that with the cessation of anti-dumping duty, the Indian prices would be too attractive for the Chinese producers. Therefore, in case of expiry of duty, it is likely that exporters from subject country would further channelize their output in the Indian market in view of the significant capacity with it.

iv. Huge Production Capacity in China

87. As per the information furnished by the Domestic Industry, the producers of subject goods in the subject country maintain huge capacities. Domestic Industry has provided evidence of following production capacities with various manufacturers in China. They have further stated that cessation of the present duty would result in diversion of this excess quantities to India intensifying the injury to the Domestic Industry.

SN	Company Name	Capacity (Lac Pieces)
1	Jiangsu Flying Tiger Needles Co. Ltd.	7000
2	Nantong Zhongde Making Needle Co. Ltd.	4000
3	Nantong White Crane Needles Co. Ltd.	200

x

v. Export orientation of Chinese producers

88. The petitioner has analyzed the exports from China to third countries as per China customs. It is seen that exports to the tune of 83,426 Lac Pieces, were made by China to third countries, at dumped prices, over the injury period, which is more than the total demand in India. Further, dumped exports by China are significant in relation to

production, sales and consumption in India. It clearly indicates that the Chinese producers are intensely focused on exports. In the event of cessation of duty, these exporters are likely to divert their exports to India at dumped prices.

vi. Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market

89. The Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of such low priced imports from the subject country in the market would cause an adverse impact on the Domestic Industry. This is further established by the long term dumping practice by the subject country. Given the facts of the instant case, and considering the above discussed current dumping and likelihood of dumping and injury parameters, it is submitted that dumping and consequent injury to the Domestic Industry is likely to recur in the event of cessation of anti dumping duty.

M. Magnitude of Injury and injury margin

90. The non-injurious price of the subject goods produced by the Domestic Industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under:

Non Injurious Price		Landed price		Injury Margin		Injury Margin	
Rs/ lac Piece	US\$/Lac Pieces	Rs/ lac Piece	US\$/Lac Pieces	Rs/ac Piece	US\$/Lac Pieces	%	%
***	***	***	***	***	***	900-950	900-950

N. Post Disclosure Comments

91. The post disclosure submissions have been received only from Domestic Industry. The issues raised therein have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties are being examined as below:

- i. With respect to volume and value of imports, DI has submitted that the volume of imports considered by the Authority is far below than the volume of imports reported in China customs data, thus requested the Authority to directly verify the China customs data.
- ii. DI submits that the NIP has been determined. The basic objective of Annexure III is to determine the amount of anti-dumping that would remove injury to Domestic Industry & the text of Annexure III should be interpreted as given without being clouded by the prior practices. It states that there has to be a harmonious construction between Rule 3 (which talks about determination of NIP during POI) & Rule 4 (which talks about best utilization of raw

materials/utility/production capacities over last 3 years and POI to nullify the injury) since there is a conflict between both the rules with respect to selection of period for purpose of assessment of injury. Rule 3 must be followed by DGAD and NIP should be determined by considering the data relating to cost of production for POI only.

- iii. The currency of ADD is required to be kept as US\$ since the value of Rupee is depreciated significantly.

N.1 Examination by the Authority

92. The issues raised at post disclosure stage have been examined and are addressed as below:

- i. The Authority has relied upon DGCI&S import data. The data was also called from DG Systems, which is matching with the DGCI&S data. The volume of imports as per DGCI&S is much less than the quantity reported by petitioner in their petition which is from China Customs data. The Government of China, exporters from China or the importers have not given any response with respect to the data or the difference between the Indian import data & China Customs data. The quantities reported in DGCI&S are sufficient for reasonable comparison and analysis, therefore, the Authority considered it appropriate to rely upon DGCI&S import data as was done during the original investigation resulting in the final finding.
- ii. Annexure III of Custom Notification No. 15/2011-customs (N.T) dated 1st March 2011 laid down the principles for determination of Non-injurious Price. The NIP for the instant case has been determined following the said Rule. The contention of the DI is contrary to the *ibid* Rule and not acceptable.
- iii. The duties in the original Final Finding were imposed in Rupee term and the Authority decided to follow the same suit.

O. CONCLUSION

93. The Authority has, after considering the foregoing, come to the conclusion that:

- i. The subject goods have been exported to India from the subject country below its associated normal value;
- ii. The Domestic Industry has suffered material injury;
- iii. The material injury has been caused by the dumped imports of the subject goods from subject country.
- iv. In case of revocation of existing duties, the injury to the Domestic Industry will intensify and there is sufficient cause for the continuation of anti-dumping duties.

Indian Industry's Interest And Other Issues

94. The Authority recognizes that imposition of antidumping duties might affect the price level of product in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the Domestic Industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.
95. The Authority notes that the purpose of antidumping duties, in general, is to eliminate injury caused to the Domestic Industry by unfair trade practices of dumping so as to re-establish a situation of open and fair competition in Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the products to the consumers.

P. RECOMMENDATIONS

96. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the Domestic Industry caused by such dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
97. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the Domestic Industry. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject country.

Duty Table									
Sl. No	Tariff Item *	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in Rs)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	8452 30	Sewing Machine Needles	Any specification	China PR	China PR	Any	Any	1,54,732	Lac pieces
2	8452 30	Sewing Machine Needles	Any specification	China PR	Any	Any	Any	1,54,732	Lac pieces
3	8452 30	Sewing Machine Needles	Any specification	Any	China PR	Any	Any	1,54,732	Lac pieces

*Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC.

98. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
99. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Dr. Inder Jit Singh
Additional Secretary & Designated Authority