

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan

NOTIFICATION

Final Findings

New Delhi, the 27th June 2005

Subject : Anti-dumping investigation concerning imports of Gypsum Plaster Board originating in or exported from Indonesia and Thailand – Final Findings.

No. 14/29/2003-DGAD – Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.

A. PROCEDURE:

2. The procedure described below has been followed with regard to the investigations:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from M/s India Gypsum Ltd. alleging dumping of Gypsum Plaster Board (hereinafter referred to as subject goods) originating in and exported from Indonesia and Thailand (hereinafter referred to as subject countries);
- ii. Preliminary scrutiny of the application revealed certain deficiencies, which were rectified by the applicants;
- iii. The Authority notified the Embassies of subject countries in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- iv. The Authority issued a Public Notice dated 28 June 2004 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning imports of Gypsum Plaster Board from subject countries generally covered under heading/subheading 6809.11 of Schedule I of the Customs Tariff Act;

- v. The Authority forwarded copy of the said public notice to the known exporters, importers and to the complainant and gave them an opportunity to make their views known in writing;
- vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the application to the following known exporters and Embassies of subject countries in India;

1. Siam Cement Trading
1 Siam Cement Road,
Bangsue, Bangkok –10800
Thailand
2. Thai Gypsum Products Pcl
Gypsum Metropolitan Tower,
539/2 Si Ayutthaya Road,
Ratchathewi, Bangkok -10400,
Thailand
3. Petrojaya Boral Plasterboard, PT
Jl, Prof. Dr. Moch Yamin Lingkungan
Industri Kecil (LIK) Desa Roomo,
Kecamatan Manyar,
Gresik –61151, Indonesia.
4. PT Knauf Indonesia (TGSI)
Harmoni Plaza Block,
B-22-24, Jl, Suryopranoto No.2,
Jakarta -10160, Indonesia.
5. PT Siamindo Gypsum Industry
Jl. Inspeksi, Kalimalang km. 2,
Besaganda Mekar,
Citi Tung Bekasi, Indonesia.
6. PT Petrojaya Boral Plasterboard,
Graha Mobisel 4th fl,
Mampang Prapatan Raya 139
Jakarta 17790, INDONESIA
7. M/s SCT Co. Ltd.
1 Siam Cement Road, Bangsue,
Bangkok, 10800,
G.P.O. Box 1557,
Thailand
8. M/s The Siam Gypsum Industry (Saraburi) Co. Ltd.
1 Siam Cement Road, Bangsue,

Bangkok, 10800
Thailand

- vii. Request was made to the Central Board of Excise and Customs (CBEC) and Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods;
- viii. The Embassies of the subject countries were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to them;
- ix. A questionnaire was sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4);

M/s Unidus Associates

1/101-B, WHS, Kirti Nagar,
New Delhi-110015.

M/s Shapoorji Pallonji & Company Ltd.

New India Centre, 10th Floor
Opp. Oval Maidan,
17, Cooperage Road,
Cooperage, Mumbai – 400 001.

M/s Aakar Associates

Nehra Timber Market No.4,
Sattana Naicken Street,
Chennai-600 012.

M/s Vikas Trading Co.

No. 99 Surya Complex, 2nd Floor,
R. V. Road, Near Lalbagh West Gate,
Basvanagudi,
Bangalore-560 004.

Regent Plasterboards & Products Pvt.Ltd.

303, Uma Towers,
Sidhi Colony,
Secundrabad - 500 003.

Metal Worth Industries Ltd.,

703, Shivalaya Building,

Ethiraj Salai, Egmore,
Chennai - 600 105.

Ebeneze Trading House Pvt.Ltd.
1020, Mettupalayam Road,
R.S. Puram, Coimbatore - 641 002.

Sri Venkateswara Enterprises
3-5-141/1, Eden Bagh, Ramkote,
Hyderabad - 500 001.

M/s. Odd Jobs
6-3-350, 1ST Floor, Road No. 1,
Banjara Hills,
Hyderabad - 500 034.

DLF Universal Ltd.
Shopping Mall Complex
Arjun Marg, DLF Qutub Enclave,
Phase-I, Gurgaon, Haryana.

H.P. Invent
3, Creator, ITPO,
Bangalore - 560 066.

Infosys Technologies Ltd
Electronics City,
Bangalore - 560 229.

Honey Well Technologies Solution Lab
151/1, Darai Sami Palia
Bannarghatta Road,
Bangalore - 560 076.

Sykes Enterprises (I) P. Ltd
23/5, Le Galleria,
Airport Road,
Bangalore - 560 008.

- x. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 28th March, 2005. All parties presenting views were requested to file written submissions of their views

- expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- xi. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);
 - xii. Arguments made by the interested parties after initiation of the investigation, subsequent to the public hearing and in response to the disclosure statement have been dealt with in these findings;
 - xiii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on 7th June 2005 vide a disclosure statement and comments received on the same have also been duly considered in these findings;
 - xiv. Cost investigations including spot verification (as deemed necessary) of the domestic industry were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the domestic industry;
 - xv. *** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;
 - xvi. The investigation covered the period from 1st January 2003 – 31st December, 2003. The injury analysis covered the three preceding years 2000-01, 2001-02 and 2002-03 and the POI.
 - xvii. Copies of the Initiation Notice was also sent to FICCI, CII, ASSOCHAM etc. for wider circulation.

B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.

3. Responses were received from the following:

Exporters:

M/s PT. Petrojaya Boral Plasterboard, Indonesia.

M/s The Siam Gypsum Industry (Saraburi) Co. Ltd. & M/s SCT Co. Ltd. Thailand.

Importers:

M/s Shapoorji Pallonji & Co. Ltd. Mumbai.

M/s Vikash Trading Company, Bangalore.

4. The views expressed by various interested parties have been discussed in the disclosure statement. The views which have not been discussed earlier in the disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paragraphs herein below.

5. Arguments raised by interested parties on issues other than dumping and injury:

(i) Confidentiality of information:

It has been argued by the exporter M/s Siam Gypsum Industry (Saraburi) Co Ltd (SGISB) and importer M/s Vikash Trading Company that the domestic industry has resorted to excessive confidentiality. Further, entire information in the petition is either not disclosed or indexed regardless of whether or not the information is publicly available. The Authority has examined these arguments. The domestic industry had provided non-confidential version of application which, inter *alia*, contain information regarding imports from subject countries, other countries, interest rates in Indonesia and Thailand, ocean freight rates, IBIS import data, DGCI&S import data, annual reports of India Gypsum Ltd. (IGL). The application contained indexed information about installed capacity, production, captive consumption, sales, opening and closing stock, cost of sales, profits/loss, capital employed, employment and demand. Actual capacity utilization percentage and share in market share (%) was also given in the application. The Authority also noted that the exporter/importer was made available the annual reports of IGL, based on which the exporter/importer made detailed arguments on various injury parameters. The Authority found that the domestic industry had provided sufficient information relating to injury through their annual reports and the non-confidential application. The arguments of exporter, SGISB and of Vikas Trading Co. regarding non-supply of adequate non-confidential information of domestic industry were not found sustainable.

The domestic industry also made arguments that response furnished by exporters PT Petrojaya Boral Plaster Board (PJPB) and SCT/SGISB, Thailand were grossly deficient and did not provide sufficient non-confidential information. The Authority had written to both the exporters to show good cause for claiming confidentiality of information. While M/s SCT/M/s SGISB replied stating that the information has been claimed confidential which is confidential in nature and its disclosures would have significant adverse impact on Siam Gypsum and its customers. As regards indexed and summarized information, they sought further guidelines from the

authorities. The NCV of SGISB contained information in the Section relating to the information about the company, its shareholders, location of factory offices etc., sales, channel of distribution, accounting systems and policies, production process etc. The information relating to cost of production, actual sales and adjustments had been claimed confidential and the Authority is of the view that this information may be treated as confidential. They had also provided the annual reports of the company. The Authority is of the view that the exporter had provided non-confidential information to other interested parties to offer their comments.

As regards PJPB, their response was deficient and the company did not respond to the letter sent by the authority. The NCV of the company contained information in the section relating to the information about the company, its shareholders, location of factory offices etc., sales, channel of distribution, accounting systems and policies, production process etc. The information relating to cost of production, actual sales and adjustments had been claimed confidential, which the Authority considers as confidential. The Authority is of the view that the exporter provided non-confidential information to other interested parties to offer their comments. However, the company did not make full co-operation to Authority by giving adequate response to the communication sent to them.

In response to the Disclosures, it has been argued by the domestic industry that the Authority may consider the exporters who have not supplied the complete details, as non-cooperative. The Authority considers that the information furnished by the exporters to the extent it can be used in the investigation without undue difficulty can be used by the Authority in accordance with para 3 of Annex II of the Anti Dumping Agreement. The Authority has therefore, used the information submitted by the exporters to the extent it can be used in the investigation.

(ii) Back to back investigation

SGISB and Vikas Trading Co. argued that present investigation were back to back when previous investigation on the same product was terminated by the authority on 2.9.2003. The domestic industry has opposed these arguments stating that the earlier investigations were terminated as the domestic industry has withdrawn the application on their own initiative. The Authority examined the arguments and found that these were not relevant to the present investigation.

(iii) Violation of Article 5.2, 5.3, 6.1.3 and 6.5:

SGISB and Vikas Trading Co. argued that present investigations are in violation of Article 5.2, 5.3, 6.1.3 and 6.5. However, they did not elaborate how the investigation violated the above articles of the agreement. The Authority noted that these interested

parties had merely made statements regarding the alleged violation of these articles. However, the Authority had examined the adequacy and accuracy of the information before initiation of an investigation. All the known exporters and the Governments of subject countries had been provided with the full text of the written application in accordance with Article 6.1.3. The arguments as regards confidentiality of information has been dealt with separately. The Authority, therefore, did not find any merit in the arguments advanced by these interested parties.

(iv) Contradictory claims on normal value:

SGISB and Vikas Trading Co have also argued that the applicant made contradictory claims on normal value in the application. Opposing this argument, the domestic industry has claimed that all the mandatory requirements as per Rule 5 have been complied with. Further, they have provided information on normal value in Thailand as regards the domestic price of one of the manufacturers. However, for the reasons of maintaining consistency, they had given estimates of constructed normal value for both the countries. The Authority has examined these arguments and has found that IGL, the petitioner had given constructed normal value estimate for both the countries and there was no contradictory claim made by them in the application as regards normal value.

C. Product under Consideration, Like Article and Domestic Industry:

6. Product under Consideration :

The product under consideration is Gypsum Plaster Board of all types and sizes. Gypsum Plaster Board is generally manufactured and supplied in different dimensions and sizes having thickness 6-16 mm, width 600-1250 mm and length 1800-3200 mm. Gypsum Plaster Board is mainly used as partitions and false ceilings for interiors of buildings. Besides providing décor it is a fireproof product. The product is classified under sub-heading 6809.11 of Customs Tariff Act. However, the product has also been imported under customs sub headings 6809 1900, 6809 9000 and 6811 9000 of the Customs Tariff Act. These Classifications are, however, indicative only and are in no way binding on the scope of the present investigation. There are no arguments as regards the product under consideration. The Authority holds that the scope of the product under consideration is Gypsum Plaster Board of all types and sizes as described in the initiation notification.

7. Like Article :

The petitioner has claimed that there is no difference between the product manufactured by them and the imported product. There are no arguments to oppose the claim. The authority found that Gypsum Plaster Board produced and sold by domestic producer M/s India Gypsum Ltd. (IGL) is sold in the same market to the contractors/ distributors who are also importing the subject goods from subject countries. The product specification of the imported product and the domestically produced Gypsum Boards are the same. The Authority found the domestically produced Gypsum Boards as commercial substitute of the imported product. These were comparable in terms of characteristics such as physical and chemical characteristics, functions and uses, distribution and marketing and tariff classification. The Authority, therefore, holds the product manufactured by the domestic industry as like article to the subject goods being imported from subject countries.

8. Domestic Industry :

M/s India Gypsum Ltd. Mumbai having plants at Jind (Haryana) and Tiruvallur (Tamil Nadu) is the sole domestic producer of the subject goods in India. They represent the hundred per cent domestic production of subject goods in India and therefore are to be treated as the domestic industry within the meaning of the Rules. They also had the requisite standing to file the application on behalf of the domestic industry.

D. EXAMINATION OF CLAIMS REGARDING NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN.

9. Copy of Initiation Notice was sent to the Embassies of subject countries, the exporters, importers and domestic industry. In response to the Disclosures, it has been argued by the domestic industry that both the exporters have supplied domestic sales information on a selected basis and they have failed to fulfill their obligation. They cannot be considered as partially co-operating with the investigation and the Authority may treat them as non-cooperative. The Authority considers that the information furnished by the exporters to the extent it can be used in the investigation without undue difficulty can be used by the Authority in accordance with para 3 of Annex II of the Anti Dumping Agreement. The Authority has therefore, used the information submitted by the exporters to the extent it can be used in the investigation.

10. Normal value for Indonesia-M/s PT Petrojaya Boral Plasterboard:

In response to the initiation notification M/s M/s PT. Petrojaya Boral Plasterboard, Indonesia furnished questionnaire response. They furnished information about domestic sales, exports to India, cost of production etc. However, the response was grossly deficient, which was informed to the exporter. The exporter however, did not respond to the letter sent by the Authority. The Authority notes that the exporter has partially cooperated in the investigation. The exporter gave information about the domestic sales to some select customers. It did not give information about all the transaction-wise home market sales. It also did not give response to authority's letter wherein other information was also called for. In the circumstances, the Authority could not come to conclusion as to how many sales in the home market were in the ordinary course of trade in terms of price. The exporter gave information about cost of production and profits in the different appendices of the questionnaire. The Authority has considered it appropriate to use the information submitted by the exporter for normal value determination to the extent it can reasonably be relied upon. The authority has considered the cost of production, selling, general, administrative expenses and profitability for determining constructed normal value for the exporter. The normal value has been determined as US\$*** /sq mtr.

11. Export Price for M/s PT Petrojaya Boral Plasterboard Indonesia:

During the POI, the company made exports of Gypsum Plaster Board of *** sq mtr to India. The company had given sales price structure for export sales in Appendix 3A showing adjustments on account of ocean freight, cost of payment terms, trucking, THC and other shipping charges. After making these adjustments, the net export price at ex-factory level has been determined as US\$ *** per sq mtr.

12. Other Exporter from Indonesia:

There was no response from other exporter from Indonesia. The authority has considered the information of M/s PT Petrojaya and after making adjustments has adopted the normal value for other exporters from Indonesia. The normal value has been determined as US\$ *** sq. meter. The export price data furnished by PT Petrojaya has been considered for determining export price for other exporters and the export price has been determined as US\$ *** per sq. meter.

13. Normal Value for M/s The Siam Gypsum Industry (Saraburi) Co. Ltd. (SGISB) and M/s SCT Co. Ltd. (SCT), Thailand:

In response to the initiation notification, M/s The Siam Gypsum Industry (Saraburi) Co. Ltd. (SGISB) and M/s SCT Co. Ltd. (SCT), Thailand furnished response. SGISB is the producer of the subject goods. Domestic sales are made by another group company M/s Cemethai Sales & Marketing Co. Ltd. (CSM) and export sales are

made by SCT. The Authority had sent detailed letter to the SGISB seeking more information and clarifications. The company provided some information but not fully. In the circumstances, the authority has considered that exporter has partially cooperated in the investigation. The company had domestic sales of *** Sq Mtr whereas they gave information about home market sales to some select customers. It did not give information about all the transaction-wise home market sales. In the circumstances, the Authority could not come to conclusion as to how many sales in the home market were in the ordinary course of trade in terms of price. The exporter gave information about cost of production and profits in the different appendices of the questionnaire. The Authority has considered it appropriate to use the information submitted by the producer for normal value determination to the extent it can reasonably be relied upon. The authority has considered the cost of production, selling, general, administrative expenses and profitability for determining constructed normal value for the exporter. In response to the Disclosure, the consultant on behalf of M/s Siam Gypsum Industries (SGISB) contended that detailed disclosure has not been made to M/s Siam Gypsum or M/s Lafarge. The Authority had given the detailed methodology of determination of normal value in the Disclosure Statement. The actual numbers of normal value had also been conveyed to the exporter through the confidential disclosure sent to them. The normal value has been determined as US\$*** /sq mtr at ex-factory level.

14. Export Price for M/s SCT, Thailand:

M/s SCT gave information about their exports to India During the POI, the company made exports of Gypsum Plaster Board of *** sq mtr to India. The company had given sales price structure for export sales in Appendix 3A showing adjustments on account of Inland freight, terminal handling charges, customs clearance and other port charges. After making these adjustments, the net export price at ex-factory level has been determined as US\$ *** per sq mtr.

15. Other exporters from Thailand:

There was no response from other exporters from Thailand. The authority has considered the information of the exporter, M/s SGISB and M/s SCT and after making adjustments has adopted the normal value for other exporters from Thailand. The normal value has been determined as US\$ *** sq. meter. The export price data furnished by M/s SCT has been considered for determining export price for other exporters. The export price has been determined as US\$ *** per sq. meter.

16. Dumping Margin :

The Authority followed the consistent practice of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I to the anti-dumping rules. Dumping margins have been determined on the basis of a fair comparison of Export Price with the Normal Value in pursuance of the principle laid down in Para 6 of Annexure-1 to the Rules. The comparison is at the same level of trade, i.e. Ex-factory level. Normal Value at ex-factory level has been compared with the export price at ex-factory level of relevant comparable type of Gypsum Plaster Board. Based on the Normal Value and export price as determined above, the Authority has determined the following dumping margins (%):

\$ per sq. mtr.	Indonesia-PT Petrojaya Boral	Indonesia-Other Exporters	Thailand- SCT Co. Ltd.	Thailand-Other Exporters
Normal Value	***	***	***	***
Export Price	***	***	***	***
Dumping Margin	****	***	***	***
Dumping Margin %	45.01	61.87	34.04	106.56

E. INJURY TO THE DOMESTIC INDUSTRY

17. Rule 11 of Anti Dumping Rules reads as follows:

“Determination of Injury:

1. In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;
2. The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules.”

18. Issues raised by the domestic industry :

The domestic industry has furnished information in the application regarding injury in respect of all the parameters. The domestic industry made following claims regarding injury:

(i) Imports :

Imports from subject countries have increased more than three and half times of the imports during 2001-02. Further, imports from subject countries in comparison to the total demand have increased by more than two times of the level during 2001-02. Imports from subject countries have also increased in relation to the domestic production of subject goods.

(ii) Effect of dumped imports on domestic prices:

The landed price from subject countries have declined drastically from Rs.69459/- per 1000 sq. meter in the year April- March 2002 to Rs.55294/- per 1000 sq. meter during the POI. The price of the dumped imports are very low as against the price offered by the domestic industry during POI, forcing the domestic industry to reduce its prices directly affecting their profits.

(iii) Changes in market share held by the Indian producer:

The share of the domestic industry has declined from 97.49% in 2001-02 to 93.95% during POI. The loss of market share of domestic industry has directly been taken over by the dumped import from the subject countries. Besides the loss of market share, the domestic industry is getting severely affected due to the low price offered by the exporters from the subject countries.

(iv) Evidence of loss of contracts:

The domestic industry claimed that due to the dumped imports, it had lost sales and provided evidence regarding loss of contracts/projects.

(v) Production, capacity utilization:

The demand for the subject goods has been growing in the country. Capacity utilization increased from 45.58% during 2001-02 to 62.16% during POI. The industry made conscious attempts to keep the production and capacity utilization at high levels to ensure that it does not suffer further injury on account of increasing per unit cost. The increase in production was on account of increase in demand.

(vi) Sales volume and value:

The sales of the petitioner went up during POI in comparison to the year 2000-01. The increase in sales is on account of increase in demand. While the sales volume has gone up, the sales realization per unit has drastically come down during

the POI. The domestic industry is not able to realize a fair price or a reasonable rate of return because of the pressure on prices from imports from subject countries as shown by the following table (indexed):

Year	Sales Volume (SQM)	Sale Value (Rs./Lakh)	Unit Price (Rs./1000 sqm)
2000-01	100	100	100
2001-02	108	104	97
2002--03	109	91	84
Jan'03-Dec'03 (POI)	147	130	89

(vii) Profits:

Dumping of subject goods from Indonesia and Thailand had a significant impact on the net sales realization by the domestic industry. The net sales realization declined during POI in comparison to the year 2000-01 and 2001-02. The domestic industry had to compete with the aggressive low price imports from subject countries. The profit declined from Rs.*** per 1000 sq. meter to Rs.*** per 1000 sq. meter during the POI. The domestic industry remained profitable due to significant cost cutting exercise. The domestic industry will soon slip into red if it is forced to match the low and dumped prices of imports. Despite best efforts, the industry is not able to realize the desired profits due to the dumped imports.

(viii) Productivity:

The productivity per employee has improved. This indicates that decline in productivity is not a cause of injury to the domestic industry.

(ix) Employment:

There has been a serious impact on employment position as the number of employees reduced during the POI as compared to the year 2001-02. All bonuses other than the statutory bonus have been reduced substantially in the POI. Due to the pressure on prices, the Company had to reduce its work force and also re-organize by transferring some of the workers at Jind Plant to Chennai Plant. This resulted in a strike at the Jind Plant during March 2002 to August 2002. Thus dumping from subject countries has resulted not only in decline in market share of domestic industry, lower net sales realization, decreased profitability and employment but has also affected the efficient and smooth working of the company.

(x) Price Undercutting:

The landed value of dumped imports has been significantly below the selling price of the domestic industry causing price undercutting.

(xi) Price Underselling:

The landed value of the dumped imports from subject countries has been much lower than the price the domestic industry ought to have realized on the sales of subject goods. Despite best efforts to cut cost and streamline the operation, the industry is not in a position to realize a reasonable price for their product.

(xii) Return on investment (capital employed):

The ROCE before interest is very low, which cannot be considered as adequate for this industry. The domestic industry had earned profits in the past and the ROCE was to the extent of ***% in 1997-98 and ***% in 1998-99 which is normal for the industry. The domestic industry has been able to remain profitable primarily on account of significant cost cutting and there is no scope to further reduce the cost. The loss or decline in profit is a clear indication of injury as the domestic industry is being forced to continuously reduce its price due to massive dumping.

(xiii) Magnitude of margin of dumping:

As per the estimates made by the domestic industry, the margin of dumping from subject countries is quite high.

(xiv) Actual and potential negative effects on Cash Flow:

The cash flow position of the company has improved which is only due to the huge cost cutting exercise.

(xv) Growth:

Due to rise in the market demand, the sales volume of the domestic industry is showing growth. However, the industry will not be able to maintain the growth in sales volume in the face of the dumped imports. Increase in sales was possible due to reduction in domestic industry's selling price.

(xvi) Threat of injury:

In addition to the material injury being caused by the dumped imports, the threat of material injury to the domestic industry is also imminent. The domestic industry provided information as per para (vii) of Annexure II of Anti Dumping Rules as

regards significant rate of increase in dumped imports, sufficient freely disposable capacities of the exporters, evidence of imposition of anti dumping duty on exports from Thailand and Indonesia by other countries, imports coming at dumped prices to have depressing or suppressing effect on domestic prices.

19. Arguments raised by M/s Siam Gypsum Industries (Saraburi) Co. Ltd. (SGISB) – Exporter and M/s Vikas Trading Co. - Importer:

It has been argued by above interested parties that India Gypsum has suffered no injury as a result of alleged dumping. On the contrary, their performance has improved over the period under consideration in terms of each of the parameters.

- The capacity utilization was 62% during POI. India Gypsum produced and sold to the extent of available demand and could not have produced and sold more because of insufficient demand in India.
- Imports have declined after showing an increase in 2002-03. Market share of domestic industry has increased during POI after declining in 2002-03.
- India Gypsum is having plans to add new capacity. The company has been adding capacities far disproportionate to the demand of the product in the country. Given the present demand of the product in the country and the capacity installed by the company, it is evident that the company would be able to utilize present capacity fully only by 2009-10. At present the Company cannot expect optimum plant utilization. Therefore, any injury on account of excess capacity cannot be attributed to dumped imports.
- Production of IGL is showing impressive growth and future production will also be higher. Therefore, there can be no injury on account of actual or potential decline in production.
- Sales volumes have shown significant increase. It cannot be argued that the company was prevented from selling more.
- Selling price of IGL has declined during 2001-02 to 2002-03 but increased thereafter. There was also significant decline in cost of production resulting in profits.
- Profits of IGL have increased more than the increase in production and sales volume.
- Inventories with IGL have fallen both in volume and value terms.
- India Gypsum had admitted that productivity has improved and therefore, this cannot be a cause of injury.
- Though IGL claims that it has faced decline in return on investment, the fact is that the same has improved over the injury period. The company has shown higher capital employed during the POI. The capital employed should be correctly assessed to examine the return on capital employed.

- The domestic industry was able to realize better prices and profitability in spite of alleged price undercutting. Therefore, existence of price undercutting, per se, may not be sufficient to hold that the domestic industry has suffered material injury. The comparison of price for price undercutting may be done at the level of consumer in view of involvement of transportation cost.
- Cash flow position of the company improved and no injury can be claimed on this account.
- IGL had undertaken substantial reduction in employment. The company is able to produce higher volumes with low manpower which clearly implies that the company was overstaffed.
- Company's profits would have been higher if the wages would not have increased so disproportionate to production. Such injury cannot be passed to the alleged dumping.
- India Gypsum has posted positive growth in respect of all parameters relating to its performance. The company cannot claim any deterioration in performance.
- As regards claim of threat of injury, the same cannot be sustained as the rate of increase in imports is not so high. As regards the freely disposable capacities with the exporters, there is no new capacity being developed by these foreign producers. There is nothing new or alarming happened which would have implied surge in imports. As regards anti dumping duty imposed by other countries on the exporters from subject countries, some of these actions are old. It is an assumption of the domestic industry that with the imposition of anti dumping duty by other countries, foreign producers would look for Indian market. There is no adverse impact of imports on the domestic prices.

20. Arguments made by M/s M/s Shapoorji Pallonji & Co. Ltd. Mumbai

- India Gypsum is the only company manufacturing Gypsum Boards in India and has a market share of 95%.
- The quantity being imported from other countries is very nominal compared to the quantity being sold by the domestic industry.
- The price at which Gypsum Board are sold in India by IGL are much less than the price at which imported boards are being sold in India The petition filed by IGL for imposing of Anti Dumping Duty is aimed at creating monopoly which can result in increase in prices to the customer.

21. Rejoinders made by the domestic industry and other interested parties on the various arguments made by the interested parties after public hearing.

The domestic industry claimed that it had supplied the correct figures for computation of capital employed and correctly computed the return on investment. They submitted

detailed rejoinders on the arguments made by the exporters/importer. The exporter M/s Siam Gypsum and M/s Vikash Trading Company also filed rejoinder on the submissions made by the domestic industry. The Authority has considered these arguments while analyzing the essential facts for these disclosures statement.

22. Comments subsequent to Disclosures

In response to the Disclosures, the domestic industry has argued that the legal position is clear that injury can be established if one of the two effects i.e. volume effect or the price effect is there. Further, as per Article 3.2 of the Agreement, no one or several of these factors can necessarily give decisive guidance. The domestic industry is suffering injury on account of extremely significant volume effect in terms of loss of market share of the domestic industry. The increase in capacity utilization may be seen with respect to increase in demand and the declining market share of the domestic industry. Likewise the increase in sales volume must also be seen in the light of the fact of increase in demand and declining market share of the domestic industry. The determination of non-injurious price by the Authority is incorrect. Even with the incorrect determination of NIP, the Authority has found significant price underselling. As regards factors affecting domestic price and price depression, the domestic industry has reiterated that the cost of the domestic industry has declined largely on account of interest cost. The domestic industry is forced to reduce its prices due to dumped imports. As regards profitability, the Authority may consider the analysis of profit before interest. The marginal increase in profits after interest cannot be seen in isolation. Even the present low level of profitability is not maintainable unless the anti dumping duty is imposed. As regards return on investment, it has been claimed by the domestic industry that working capital is an important ingredient and cannot be ignored. It has been claimed by the domestic industry that analysis of injury factors as explained by them will indicate that the domestic industry has suffered material injury.

23. Cumulative assessment of injury:

As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports 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 article. The Authority has found that the margin of dumping in respect of each of the subject

country is more than 2% and the volume of imports from each country is also more than 3%.

With a view to assess the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority's views are that:

- i. The subject goods have been imported from the subject countries under the same tariff classification;
- ii. The Authority has found that the imported subject goods are commercial substitutes of the domestically produced Gypsum Plaster Board.
- iii. The information furnished by the importers gives a reasonable indication that the exports made from the subject countries compete in the same market as these are similar products.
- iv. Therefore, the Authority finds it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product.

24. Examination by the Authority :

The authority has considered various arguments made by the interested parties as regards the injury claimed to have been suffered by the domestic industry. The Authority has also conducted verification of information furnished by the domestic industry. The information regarding the various injury parameters has been examined and analyzed by the Authority as under:

25. Volume of Imports:

The Authority has taken note of information regarding imports of subject goods as reflected by the official statistics published by the DGCI&S, information furnished in application based on secondary sources, the responses of the exporter and some importers. There is no dedicated classification for Gypsum Plaster Board. After examination of the information available from different sources, Authority considered it appropriate to make analysis of volume of imports on the basis of import data as per secondary source as under:

Country/Imports Sq Mtr.	2000-2001	2001-2002	2002-2003	Jan-Dec 2003 POI
Indonesia	107609	97970	245995	204227
Thailand	32893	22898	412587	231561
Total imports from subject countries	140502	120868	658582	435788

Other countries	4686	8953	669	6824
Total imports	145188	129821	659251	442612

The total imports of subject goods from subject countries increased from 140502 sq mtr in 2000-01 to 435788 sq. mtr. in POI. The increase in imports from subject countries was 210 % during the POI over the year 2000-01. These imports represented about 98.45 % of total imports. Authority noted that there was an increase in imports of subject goods from subject countries in absolute terms.

26. Market share:

The Authority finds that the market share of the domestic industry and the imports from the subject countries in the demand of subject goods has been as under:

Quantity-sq. mtr.	2000-2001	2001-2002	2002-2003	POI
Imports-total	145188	129821	659251	442612
Sales of domestic industry	4674000	5033791	5071958	6868345
Demand	4819188	5163612	5731209	7310957
Imports from subject countries	140502	120868	658582	435788
Imports from other countries	4686	8953	669	6824
Share in demand-imports from subject countries (%)	2.91	2.34	11.49	5.96
Share in demand-domestic industry (%)	96.98	97.49	88.5	93.95
Share in demand- imports from other countries (%)	0.10	0.17	0.01	0.09

The Authority finds that the share of imports of subject goods from subject countries has risen from 2.91 % during 2000-01 to 5.96% during POI. There is thus an increase in the dumped imports from subject countries in relation to the demand of the product in the country. The share of domestic industry in total demand has gone down from 96.98% in 2000-01 to 93.95 % during the POI.

27. Production and Capacity Utilisation:

The production and capacity utilization of the domestic industry has been as under :

	2000-2001	2001-2002	2002-2003	POI
Capacity (sq. meter) (indexed)	100	100	100	100
Production (sq. mtr) (indexed)	100	104	111	141
Capacity Utilization %	44	45.58	48.83	62.16

The Authority finds that there has been improvement in the capacity utilization of the domestic industry during the period of investigation in comparison to the earlier years. The capacity utilization increased to 62.16% during POI from 44% during 2000-01.

28. Sales Volume:

Sales volumes of domestic industry increased from *** sq. meter during 2000-01 to *** sq. meter during POI. The sales during injury period were as under:

	2000-2001	2001-2002	2002-2003	POI
Sales (sq. meter)	***	***	***	***
Indexed	100	108	109	147

29. Inventory :

Indexed

	2000-2001	2001-2002	2002-2003	POI
Sq. Meter (indexed)	*** (100)	*** (65)	*** (95)	*** (88)
% of sales	***	***	***	***

The inventory of finished stock of the domestic industry as a percentage of sales has declined during the POI in comparison to the year 2000-01. However, it had increased in the previous year.

30. Price Undercutting

The Authority finds that the price undercutting due to the dumped imports has been as under:

	Indonesia-	Thailand
Average NSR	***	***
Landed Value	***	***
Price Undercutting	***	***
%age Price Undercutting	***	***
Price under-cutting range	25-35%	35-40%

The Authority has taken note of the arguments of some interested parties about the price undercutting methodology and that the prices of the imported boards being sold are higher than the domestic product. The Authority has used the consistent method of comparison of weighted average net sales realization of the domestic industry with the landed value of the dumped imports. The value of the sales realization considered is net of discounts, commission, and handling/ freight charges. The comparison of domestic price with the imported product is thus at the same level. The authority finds that the price under cutting as a result of dumped imports has been significant.

31. Price underselling

The Authority finds the price underselling as a result of dumped imports as under:

	Indonesia	Thailand
Non-Injurious Price (NIP)	***	***
Landed Value	***	***
Price Underselling	***	***
%age Price Underselling	***	***
Price under-selling range	20 - 30%	30 – 40%

The authority finds that the extent of price underselling has been significant as the landed value of imports of subject goods of subject countries has been significantly lower than the non-injurious price of the domestic industry.

32. Factors affecting domestic prices:

The Authority notes that the level of price undercutting is significant as a result of dumped imports. Further, price under selling is also evident as the landed value of imports is significantly lower than the non-injurious price of the domestic industry. However, the sales realization of the domestic industry is higher than the non-injurious price determined for the domestic industry. The domestic industry took steps to reduce its cost of production. Cost of production of domestic industry has been declining. The sales realization has also declined. There is no clear evidence of price depression as a result of dumped imports. As the cost of production of the domestic industry has been declining during the POI, there was no price suppression. The information regarding the development of sales realization and cost of production of the domestic industry was found to be as under (indexed):

	2000-2001	2001-2002	2002-2003	POI
Cost of production per 1000 sq. meter	*** (100)	*** (94.57)	*** (92.84)	*** (86.80)
Selling price per 1000 sq. meter	*** (100)	*** (96.53)	*** (84.28)	*** (88.78)

33. Magnitude of the margin of dumping :

The Authority finds that the magnitude of the margin of dumping of subject goods from the subject countries has been in the range of 34 % to 45 % in respect of exporters who had responded, which is considered significant.

34. Employment :

The employment level of the company has been as under :

Indexed

2000-2001	2001-2002	2002-2003	POI
*** (100)	*** (90)	*** (80.52)	*** (84.42)

The authority finds that the number of employees employed by the domestic industry has reduced. The reduction in the number of employees can also be attributed to the cost cutting measures taken by the company.

35. Wages :

The authority found that the payment of wages to employees was as under:

Indexed

	2000-2001	2001-2002	2002-2003	POI
Wages paid (Rs/lakh)	*** (100)	*** (85.43)	*** (82)	*** (119.42)
Wages per employee	*** (100)	*** (94.88)	*** (101.77)	*** (141.64)

The authority notes that the increase in payment of wages / salary to the employees has shown the normal trend. With the reduction of number of employees, the wages per employee have also shown an increase.

36. Profitability:

Year	Net Sales Realization (Rs./000 sq. m)	Cost of Production (Rs./000 sq. m)	Profit/Loss per 1000 sq. m Indexed
2000-01	***	***	***
Indexed	100	100	100
2001-02	***	***	***
Indexed	96.53	94.36	162.75
2002-03	***	***	(-) ***
Indexed	84.28	92.84	(-) 277.79
Jan-Dec 2003 (POI)	***	***	***
Indexed	88.78	86.80	149.33

The Authority finds that the profitability on per unit sale of subject goods of domestic industry has shown improvement in the POI in comparison to the year 2000-01. Though in the year 2002-03, the company suffered losses on the sale of subject goods. The sales realization came down in comparison to the years 2000-01 and 2001-02. However, the cost of production also declined significantly.

37. Return on Investment:

	2000-2001	2001-2002	2002-2003	POI
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Capital employed	***	***	***	***
Profit before interest	***	***	(***)	***
ROCE (%)	100	131.95	(-)153.56	123.92

It has been argued by the exporter and the importer that the company has shown higher capital employed during the POI and that is why ROCE is showing declining trend during POI. The Authority has taken note that the annual report of the company for year 2003-04 shows significantly higher cash and bank balances under Schedule 7 of the Balance Sheet. This can also be one of the reasons for a low return on the capital employed as claimed by the company. For this analysis, the Authority has excluded the fixed deposit from the working capital, as it is not related to the production of subject goods. It is found that the ROCE has improved during the POI. This ROCE is before interest.

38. Actual and potential negative effect on cash flows

The figure of cash profit in respect of subject goods has been found as under (Indexed):

Rs./Lacs

2000-2001	2001-2002	2002-2003	POI
***	***	***	***
100	126	12	98

The Authority notes that the cash profit of the company had declined marginally during POI.

39. Growth:

	2000-2001	2001-2002	2002-2003	POI
Growth in demand (%)	-	7.15	10.99	41.59
Domestic Sales Value	955.75	1538.73	1694.16	996.04
Growth in Sales Volume (%)	-	7.70	0.76	35.41

40. Productivity :

The productivity has been as under :

	2000-2001	2001-2002	2002-2003	POI
Production per employee	***	***	***	***
Indexed	100	115	137.73	167.55

The authority finds that there is a significant improvement in productivity during the POI. This is largely attributed to the increased in production and reduction in number of employees during the POI.

41. Non-Injurious Price (NIP)

The domestic industry had raised certain issues regarding the computation of NIP. They had been allowed an opportunity to discuss these issues before the Authority's office. It had been explained to them that the determination of NIP by the Authority had taken into account, *inter-alia*, the following:

- a. Exclusion of fixed deposits while arriving at the working capital has been done as these did not appear to be related to the product concerned and production activity. The company had also not claimed the interest income from these deposits as related to the subject goods.
- b. Normative capacity determination is based on the consistent practice of DGAD.
- c. Stock write-off has not been allowed during the period of investigation as this was an abnormal feature during the period of investigation and pertained to earlier period.

42. Conclusions on injury:

The Authority notes that volume of dumped imports have increased during POI in absolute terms as well as in relation to the demand of the product in India. The share of the dumped imports has gone up from 2.91 % to 5.96%. The share of domestic industry in total demand has come down from 96.98 % to 93.95%. Factors such as production, capacity utilization, sales, have shown improvement and do not signify injury. However as the demand for the product is increasing, the domestic industry had shown improvements on these factors. The inventory of finished goods has also declined and does not show injury.

The magnitude of the margin of dumping has been found to be in the range of 34% to 45% based on the data of exporters who have partially cooperated. The dumping margin is significant. The price undercutting is also evident as a result of dumped imports. However, the net sales realization of the domestic industry is above the Non-Injurious Price of the like domestic product. Though the domestic industry may have been required to lower selling prices, yet they have been able to realize selling price above the Non-Injurious Price. Factors such as wages and employment do not give any decisive guidance. The profitability of the industry in per unit sale of the subject goods has shown improvement. This is largely due to the cost reduction by the company on account of lower finance cost. The return on capital employed has shown improvement. The cash profit has marginally declined during the POI in

comparison to the year 2000-01. Productivity of the company has shown significant improvement.

On an overall assessment, the Authority found that the domestic industry showed improved performance on factors such as production, capacity utilization, sales and inventory of finished goods. The productivity of the industry has also improved. The return on capital employed also improved despite the decline in the net sales realization. The industry was able to achieve net sales realization above the non-injurious price determined for the period of investigation. Though the margin of dumping from subject countries and price undercutting was found to be significant, yet the overall performance of the industry showed improvement. There was a small decline in the market share of the domestic industry, however, this did not manifest in the overall decline in their performance on various parameters. The dumped imports did not cause an effect on the domestic industry, which can be termed as a material injury. The authority thus concludes that the domestic industry did not suffer material injury.

43. Threat of Material Injury:

As per para (vii) of the Rules, a determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as:

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- d. inventories of the article being investigated.”

44. An analysis of the above factors for the purpose of examining the existence of threat of material injury is as under:

- a. **Significant Rate of Increase in Dumped Imports:** The imports from the subject countries have shown a significant increase during the period of

investigation as compared to the preceding period. The imports have gone up from 140502 Sq mtr in April 2000-March 2001 to 435788 Sq mtr during the POI. The increase in imports during the period of investigation is more than 210% of the imports of the year April 2000-March 2001.

- b. **Sufficient Freely Disposable Capacities of the Exporters:** As per the information made available during the investigation it has been claimed by the domestic industry that the capacities in Thailand and Indonesia are about 114 Million Sq mtr and 47 Million Sq mtr. respectively. As against this, the demand or apparent consumption in these two countries is only to the extent of 43 Million Sq mtr and 18 Million Sq mtr. as seen from the following table:

	Capacity (In Million SQM)	Domestic Sale (In Million SQM)	Surplus Capacity (In Million SQM)
Thailand			
A) Thai Gypsum	34	20	14
B) Lafarge	80	23	57
Total Thailand	114	43	71
Indonesia	47	18	29
Grand Total	161	61	100

Whereas M/s Thai Gypsum Products is a related company, the capacity of the other producer M/s Siam Gypsum of Lafarge group is less than what has been indicated in the above claim, though the concerned exporter has not contested the above figure in their rejoinders. However from the response of the Thai exporter M/s Siam Gypsum Ltd. it is evident that less than 50% is sold in the domestic market and rest is exported to other countries and India. It has also been brought to the notice of the Authority that anti dumping duty has been imposed on exports of the subject goods from Thailand by other countries viz. Malaysia and South Africa.

- c. **Effect of Dumped Prices:** The imports from subject countries during the investigation period were found to be at dumped prices. However, there was no clear indication as regards the effect of depression of the domestic prices of subject goods.
- d. As regards the inventory of subject goods with the foreign producers/ exporters, no clear information had been furnished to the Authority to take a view.

In response to the Disclosures, it has been argued by the domestic industry that there is positive information with regard to the threat of injury to the domestic industry. Further, it has been argued that it is a settled law that it is not necessary for a positive determination of threat of injury that each and every factory should show positive injury more so when there is a clear indication of material injury as well.

The Authority has examined the arguments of the domestic industry as regards threat of material injury. The Authority has not made an affirmative determination on material injury. The authority has taken note of the increase in the dumped imports from subject countries. These have not resulted in material injury to the domestic industry. As provided under the Rules, a determination of threat of material injury is to be based on facts and not merely on allegation, conjecture or remote possibility. The authority is not convinced to conclude that threat is held out of the available capacities in subject countries that would be targeted to India alone. The authority does not find the claim of threat of material injury of domestic industry as sustainable.

45. Causal Link

The domestic industry has claimed that material injury has been caused by the dumped import and that there is a threat of material injury. They have advanced arguments in support of claim of causal link between dumped imports and the injury suffered by them. The exporter M/s Siam and importer M/s Vikash Trading have argued that the domestic industry has failed to bring in parameters/evidence showing causal link as per article 3.5 of the Agreement.

In view of Authority's negative determination on material injury and threat of material injury, the Authority does not consider it necessary to record its findings on causal link.

F. CONCLUSIONS

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

- i. Gypsum Plaster Board has been exported to India from subject countries below the normal value;
- ii. However, the domestic industry has not suffered material injury. Further there is no threat of material injury from the imports of subject goods from subject countries.

47. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Christy L. Fernandez
Designated Authority