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**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**

NOTIFICATION

New Delhi
Dated the 3rd July, 2014

Final Finding

Subject: Sunset Review of Anti-dumping duties imposed on imports of Sulphur Black originating in or exported from China PR.

No.15/18/2012-DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the 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 also referred to as the Rules) thereof;

A. Background of the Case

2. WHEREAS, the original investigation concerning imports of Sulphur Black (herein after referred to as the subject goods), originating in or exported from China PR (hereinafter referred to as the subject country), was initiated by the Designated Authority (hereinafter referred to as the Authority) vide Notification No. 14/16/2006-DGAD dated 26th June 2007. The Preliminary Finding was issued by the Authority vide Notification No. 14/16/2006-DGAD dated 10th March 2008 and the provisional anti-dumping duty was imposed by the Department of Revenue vide Notification No. 48/2008 Customs dated 11th April 2008. The Final Findings Notification was issued by the Authority vide notification No. 14/16/2006-DGAD dated 24th September 2008 recommending imposition of definitive duty. The Final Finding Notification was further amended by the Authority vide Corrigendum notification dated 22nd October, 2008. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Department of Revenue vide Notifications No. 127/2008-Customs dated

03rd December 2008 on the imports of the subject goods, originating in or exported from the subject country.

3. Whereas, M/s Atul Ltd. and M/s Bhanu Dyes Pvt. Ltd., filed a duly substantiated application before the Authority, on behalf of the domestic industry, in accordance with the Act and the Rules, alleging continued dumping of the subject goods from the subject country despite the anti-dumping measures and likelihood of intensified dumping and consequent injury to the domestic industry in the event of revocation of the anti-dumping duty and have requested for review, continuation and enhancement of the anti-dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject country.
4. In view of the duly substantiated application filed on behalf of the domestic industry and in accordance with section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a Sunset review investigation vide Notification dated 4th April 2013 to review the need for continued imposition of the duties in respect of the subject goods originating in or exported from the subject country 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 has been extended up to 10.04.2014 by the Central Government vide Notification No.05/2013-Customs (ADD) dated 10.04.2013.
5. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject country.

B. Procedure

6. The procedure described below has been followed with regard to the subject investigation:
 - i. The embassy of the subject country in New Delhi was informed about the initiation of the investigations in accordance with Rule 6(2).
 - ii. The Authority provided copies of the non-confidential version of the application to the known exporters and the embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was

also made available in the public file and provided to other interested parties, wherever requested.

- iii. The Authority forwarded a copy of the public notice to the known producers/exporters in China PR (whose names and addresses were made available to the Authority) as follows and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4):
 - a. Shanxi Linfen Chemicals Dyeing Co. Ltd.
 - b. Shaoxing Sunday Textile & Chemical Co. Ltd.
 - c. Dalian Dyechem International Corporation
 - d. Afine Chemicals Ltd.
 - e. Tianjin Kaiyi Chemical Factory
 - f. Dalian Huacheng Fine Chemical Co. Ltd.
 - g. Hangzhou Ruijiang Chemical Co. Ltd.
 - h. Tianjin Tiger International Co. Ltd.
 - i. Zhengding Shengguo Chemical Factory
 - j. Tangshan C&M Trading Co. Ltd
 - k. Tianjin Xibeier International Co. Ltd.
- iv. However, response to the exporter's questionnaire was received only from Tongliao Haiyu Chemical Technology Co., Ltd. (Producer) and Dalian Dye Chem International Corporation (Exporter).
- v. A Market Economy Treatment (MET) questionnaire was also forwarded to all the known producers/exporters and the Embassy of China PR with the request to provide relevant information to the Authority within the prescribed time. While for the purpose of initiation the normal value in China PR was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed the known producers/exporters from China PR that it proposes to examine the claim of the applicant in the light of para 7 and para 8 of Annexure I of Anti-dumping Rules, as amended. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in subparagraph (3) of paragraph 8 to enable the Authority to

consider whether market economy treatment can be granted to cooperative exporters/producers. However, none of the Chinese producers/exporters, including Tongliao Haiyu Chemical Technology Co., Ltd. (producer) and Dalian Dye Chem International Corporation (exporter), have filed MET response and claimed market economy treatment

- vi. The Authority forwarded a copy of the public notice to the following known importers(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 forty days from the date of issue of the letter in accordance with the Rule 6(4):
 - i. Ganga International
 - ii. Haryana Rang Udyog Pvt. Ltd.
 - iii. Parth Enterprises
 - iv. Khanna Dye Industry
 - v. Natali Dyechem Pvt. Ltd.
 - vi. Globe Polymers & Chemicals
- vii. Post exporters verification, importers questionnaire responses were filed by Haryana Rang Udyog Pvt. Ltd and Aayushi Enterprise.
- viii. Authority had also forwarded a copy of the initiation notification to Sulphur Black Manufacturers Association and following other known producers of subject goods in India:
 - i. Apco Dyechem Pvt Ltd
 - ii. Rajasthan Dye and Chemicals
 - iii. Khekra Chemicals
 - iv. Mahadev Dye &Chem (P) Ltd
 - v. Maulick Dyechem
 - vi. Nitin Industries
 - vii. SF Dyes Pvt. Ltd
- ix. However, no response was received from the other known producers either in support or in opposition to the petition.
- x. The Period of Investigation (POI) for the purpose of the

present review was 1st January, 2012 to 31st December, 2012 (POI). The examination of trends in the context of injury analysis covered the periods 2009-10, 2010-11, 2011-12 and the POI.

- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the injury period including the POI. The domestic industry submitted that volume of imports as per China Customs data should be adopted as it reports higher volume. The Authority has however relied upon the DGCI&S data in the present investigation.
- xii. 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.
- xiii. 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).
- xiv. The Authority has examined the information furnished by the domestic producers 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.
- xv. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 3rd December, 2013 which, was attended by the domestic industry and their representatives and representatives of Tongliao Haiyu Chemical Technology Co., Ltd and Dalian Dye Chem International Corporation. The parties which presented their views in the oral hearing were requested to file written

submissions of the views expressed orally. Tongliao Haiyu Chemical Technology Co., Ltd. and Dalian Dye Chem International Corporation did not file any written submission, but filed rejoinder to the written submissions made by the domestic industry.

- xvi. The Department of Revenue vide their letter No.354/39/2008-TRU (Pt-1) dated 30.04.2014 extended the time period to complete the investigations up to 03.07.2014.
- xvii. The Authority provided another opportunity of oral hearing to the interested parties on 12th June, 2014 consequent upon change in the incumbent Designated Authority and in line with the judgment dated 7th January, 2011 of the Hon'ble Supreme Court in the Automotive Tyre Manufacturers Association (ATMA) Case vide Civil Appeal No. 949 of 2006. Except representatives of the domestic industry and an importer namely Aayushi Enterprise, no other interested parties attended the 2nd oral hearing.
- xviii. The submissions made by the domestic industry and other interested parties during the course of the investigation and considered relevant by the Authority have been examined and addressed in this final finding.
- xix. On the spot verification of the information and data submitted by the domestic industry and other interested parties was carried out to the extent deemed necessary.
- xx. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the

course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these essential facts on the basis of the 'facts available' and treated such parties as non-cooperative.

- xxii. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority to the known interested parties vide a disclosure statement issued on 28th June, 2014 and comments received on the same, to the extent considered relevant by the Authority, have been examined and addressed in this finding.
- xxiii. ***in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiv. The exchange rate for the POI has been taken by the Authority as Rs.53.69 = 1 US\$.

C. Scope of Product under consideration and like article

Submissions made by the Domestic Industry

7. Following are the submissions made by the domestic industry with regard to product under consideration and like article:
- i. The product under consideration in the present investigation is Sulphur Black. The product under consideration is same as defined in the original investigation.
 - ii. Sulphur Black is mainly used for dyeing cellulose fiber. Sulphur Black is also useful for dyeing viscose staple fiber and yarn.
 - iii. The product is sold in several concentrations, which may vary from as low as 20% to as high as 100%, most popular being 80%. These are described as BR 100, BR 200, BR 240, etc. BR 240 represents 100% concentration. Though the product is produced in various concentrations they can be interchangeably used.
 - iv. There is no known difference in the subject goods produced by the Indian industry and exported from subject country. Subject goods produced by the petitioners and imported from the subject country

are comparable in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. There is no known difference in the subject goods produced by the Indian industry and exported from subject country and hence are like articles.

Submissions made by the producers/exporters/other interested parties

8. No submission has been made by the respondent producer/exporter/ other interested parties with regard to the scope of the product under consideration (PUC) and like article.

Examination by the Authority

9. The Product under Consideration (PUC) in the original as well as present SSR investigation is “Sulphur Black”, originating in or exported from China PR. Sulphur black is produced either in grain/flake form or in liquid form. Sulphur Black in grain form is a lustrous grain, imparts full black shade with a slight reddish or greenish tone. Sulphur Black is mainly used for dyeing cellulose fiber. Sulphur Black is also used for dyeing viscose staple fiber and yarn, paper and leather. The present investigation being a sun set review; the PUC remains the same as in the original investigation.
10. Sulphur Black is classified in Chapter 32 of the Customs Tariff Act, 1975 under subheading 3204. However, the above classification is indicative only and is no way binding on the scope of this investigation.

D. Domestic Industry and Standing

Submissions by the Domestic Industry

11. The following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:
- i. The petition has been filed on behalf of the two major domestic producers of Sulphur Black, i.e. M/s Atul Ltd. and M/s Bhanu Dyes Pvt. Ltd constituting domestic industry.

- ii. As per the information provided by the domestic industry, there are eight other domestic producers of the subject goods as follows:

ApcoDyechemPvt. Ltd.,	Mahadev Dyes & Chem I. (P) Ltd.
Rajsthan Dye and Chemicals	MaulickDyechem
S.M. Chemicals	Nitin Industries
Khekra Chemicals	SF Dyes P Ltd.

- iii. One of the petitioner companies has imported the subject goods from subject country under duty exemption scheme of the Govt. of India for production of downstream product for exports. However, none of the petitioner companies are related to producers-exporters or importers of the subject goods either directly or indirectly. It has been requested that the Designated Authority may consider both the domestic producers as eligible domestic industry.
- iv. Petitioners' production constitutes 77% of the total domestic production and therefore forms a major proportion of the total Indian production, and constitutes domestic industry and has the standing to file and maintain the present petition as a domestic industry in terms of AD Rules.

Submissions made by the producers/exporters/other interested parties

12. No submission has been made by the respondent producer/ exporter/ other interested parties with regard to the standing and scope of the domestic industry.

Examination by the Authority

13. The Authority notes that Rule 2(b) of the Anti-dumping Rules provides as follows:

“(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 relate 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”

14. The Authority notes that the application has been filed by Atul Ltd and Bhanu Dyes Pvt. Ltd, which together constitute a major proportion of the total Indian production. The Authority further notes that Bhanu Dyes Pvt. Ltd. has imported some quantity of Sulphur Black during the POI under duty exemption schemes. The duty free imports made under duty exemption are meant for manufacturing goods for export purpose and such duty free imports cannot be traded in the domestic market affecting the interest of the domestic producers. Moreover, none of the other interested parties have raised any objection in this regard.
15. In view of the above position and having regard to the Anti-dumping Rules, the Authority determines that M/s Atul Ltd and M/s Bhanu Dyes Pvt. Ltd account for a major proportion of the total domestic production of the subject goods during the POI and constitute domestic industry within the meaning of the Rule 2 (b) and satisfies the criteria of standing in terms of Rule 5 (3) of the Anti- dumping Rules.

E. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Submissions by the domestic industry

16. Following are the submissions made by the domestic industry with regard to normal value, export and dumping margin:
- i. None of the WTO Member countries have granted market economy status to Chinese producers on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph 8(3). China is a non-market economy. None of the Chinese producers can satisfy market economy status.
 - ii. The producers and exporters in the subject country have continued to export the material at dumping price even after imposition of the anti-dumping duty. The volume of dumped

imports and dumping margin are significant even with the anti - dumping duty.

- iii. Dalian Dyechem has concealed the fact of having a related company, i.e., Dalian Green Peak Chemicals Co. Ltd, who is the producer of the subject goods and which had participated in the original investigation. Therefore, the exporter questionnaire response filed by the respondent companies is liable to be rejected and the responding parties should be treated as non cooperative.

Submissions made by the producers/exporters/other interested parties

17. Following are the submissions made by the respondent producer and exporter:

- i. Dalian Green Peak Chemical Co Ltd, which had participated in the original investigation, has stopped production of subject goods during the POI. Therefore, there is no requirement to file exporter's questionnaire response.
- ii. Tongliao Haiyu Chemical Technology Co. Ltd. (Producer) and Dalian Dyechem International Corporation (Exporter) have fully cooperated with the Designated Authority.
- iii. Invoice value as reported by Dalian Dyechem International Corporation (exporter) in Appendix-2 is as per actual invoice value, as reported to the Chinese Customs Authority. Therefore, the Authority is required to adopt the actual invoice value as reported by the exporter and not what has been reported by the Indian Customs Authority. Dalian Dyechem International Corporation cannot provide reasons for any discrepancy between the sales data reported by the DG, Systems and as reported by them.

Examination by the Authority

18. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Anti-dumping Rules.

19. As per Paragraph 8 of Annexure I of the Anti-dumping Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d) The exchange rate conversions are carried out at the market rate.

20. The Authority notes that none of the respondent Chinese companies in the present investigation have filed market economy treatment (MET) response and did not rebut non-market economy presumption. Therefore, the Authority does not grant MET status to any Chinese company in the present investigation.

21. As regards the issue concerning non-participation by Dalian Green Peak Chemicals Co. Ltd in the present SSR investigation, which had participated in the original investigation as a producer of subject goods, from the information available in the exporters questionnaire response (EQR) filed by Dalian Dyechem International Corporation, China PR, it is acknowledged that Dalian Dyechem International Corporation, China PR and Dalian Green Peak Chemicals Co. Ltd are related companies. On the basis of information

furnished by Dalian Dyechem International Corporation, the Authority notes that Dalian Green Peak Chemicals Co. Ltd has stopped production of sulphur black during the POI.

22. As regards the issue concerning discrepancy between the export value as claimed by the concerned Chinese exporter and the import value as reported in the data base of Indian Customs Authority (DG, Systems), the Authority notes that during the course of the investigation gross variation was noted between the export value declared by the concerned Chinese exporter and the import value declared by the concerned Indian importers. The concerned Chinese exporter was given adequate opportunity to explain and justify the discrepancy, but, no satisfactory explanation with documentary evidence was provided. Thus, the Authority notes that there exists an unexplained discrepancy between the exports data furnished by the concerned Chinese exporter vis-à-vis the imports data furnished by the concerned Indian importers.

F. Determination of Normal Value

23. The Authority notes that none of the producers/exporters from China PR have filed market economy treatment (MET) response. Under the circumstances, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the above named Chinese companies and the Authority has to proceed in accordance with Para 7 of Annexure - I to the Rules.

24. Paragraph-7 of the Annexure-1 to the Anti-dumping Rules provides as follows:

“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”.

25. According to these Rules, the normal value in China PR can be determined on any of the following basis:
- a) On the basis of the price in a market economy third country, or
 - b) The constructed value in a market economy third country, or
 - c) The price from such a third country to other countries, including India.

d) 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.

26. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country. Accordingly, the Authority proceeds to construct the normal value based on any other reasonable basis.

27. In view of the above stated position, the Authority proceeds to determine the Normal value for China PR on available facts basis in terms of second proviso of Para 7 of Annexure 1 to the Anti-dumping Rules. Accordingly, the ex-works Normal Value of the product under consideration has been determined based on constructed costs of production, duly adjusted to include selling, general & administrative costs and profits. Accordingly, the constructed normal value for Chinese exporters has been determined as given below.

G. Determination of Export Price

Tongliao Haiyu Chemical Technology Co., Ltd (producer) along with Dalian Dye Chem International Corporation (exporter)

28. The Authority notes that Tongliao Haiyu Chemical Technology Co. Ltd., China PR (producer) along with Dalian Dye Chem International Corporation, China PR (exporter) filed exporters questionnaire response in the present investigation claiming individual margins. During the course of the investigation, gross variation was noted between the export value declared by the concerned Chinese exporter and the import value declared by the concerned Indian importers. Adequate opportunity was provided by the Authority to the concerned exporter to explain this discrepancy, but no satisfactory explanation with documentary evidence was provided by the concerned exporter. In view of this gross unexplained discrepancy between the exports data furnished by the concerned Chinese exporter and the

imports data furnished by the concerned Indian importers vis-à-vis the information reported by the Indian Customs Authority (DG, Systems), the Authority does not consider the data/information furnished by Dalian Dyechem International Corporation, China PR (Exporter) as reliable and therefore does not consider the exports of the subject goods made by Dalian Dye Chem International Corporation, China PR produced by Tongliao Haiyu Chemical Technology Co. Ltd., China PR for determination of export price as well as individual margins.

29. Therefore, the Authority has determined the net export price for all the exporters from China PR as per facts available basis in terms of Rule 6(8) of the Rules as given below.

H. Determination of Dumping Margin

30. Comparing the normal value and export price at ex-factory level as determined above, the dumping margin for the producers/exporters of the subject country has been determined as below:

Particulars	Unit	Amount
Normal Value	US\$/Mt	***
Export price	US\$/Mt	***
Dumping Margin	US\$/Mt	***
Dumping Margin %	%	***
Dumping Margin Range %	Range %	70-80

I. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions of Domestic Industry

31. The Domestic Industry has made the following submissions with regard to the injury and causal link:

- i. Landed Price of Imports is lower than Selling Price and Cost of Sales of Domestic Industry.
- ii. Demand marginally declined due to decline in demand for black denim, one of the primary uses of sulphur black. Demand shows positive growth in the POI as compared to 2011-12.
- iii. Imports from subject countries have declined, however remained significant.

- iv. Market Share of subject country has remained significant. Resultantly, domestic industry has not been able to improve its market share.
- v. Sales, production and capacity utilization have decreased from the base year to 2011-12 with improvement in POI. Productivity has also shown some decline.
- vi. Domestic industry is suffering losses due to dumping of subject goods which have increased in the current POI, which has led to decline in cash profits and return on investment.
- vii. Domestic industry has registered a negative growth in terms of both volume and price parameters
- viii. Price undercutting is significant without ADD. Subject goods likely to cause severe price suppression and depression once duties are revoked.
- ix. Performance of the Domestic Industry in terms of production, capacity utilization, domestic sales, market share, profits, return on investments, cash flow, etc. has deteriorated.

Submissions made by the producers/exporters/other interested parties

32. No submission has been made by the respondent producer/exporter/other interested parties with regard to the injury and causal link.

Examination by the Authority

33. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
34. Rule 11 of Antidumping Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles..." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

35. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
36. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from China PR are required to be considered while examining injury to the domestic industry. The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.
37. 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.
38. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Atul Ltd. and M/s Bhanu Dyes Pvt. Ltd., constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:

J. VOLUME EFFECT: Volume effect of dumped imports and impact on domestic industry:

Demand and Market Share

39. The Authority has determined demand or apparent consumption of the product in the Country as the sum of domestic sales of the Indian Producers

and imports from all sources. The demand so assessed can be seen in the table below. It is seen that demand of the product under consideration in the country has declined during the POI as compared to the base year. Similarly, the sales of the domestic industry and the imports of the subject goods from the subject country also show decline during the POI as compared to the base year.

Particulars		2009-10	2010-11	2011-12	POI
Sales of domestic industry	MT	5,148	5,173	4,891	4,911
Sales of other Indian producer	MT	1,903	1,790	1,701	1,702
China - Imports	MT	1,190	757	697	939
Other Countries - Imports	MT	0	4	112	24
Total Demand	MT	8,241	7,724	7,400	7,577
Market Share					
Domestic Industry	%	62	67	66	65
Other Producers	%	23	23	23	22
Subject Country	%	14	10	9	12
Other Countries	%	0	0	2	0
Total	%	100	100	100	100

Import Volume & market share

40. With regard to volume of the 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.

Particulars	UOM	2009-10	2010-11	2011-12	POI
Subject Country	MT	1,190	757	697	939
Other Countries	MT	0	4	112	24
Total Imports	MT	1,190	761	808	963
Market Share in Imports					
Subject Country	%	99.99	99.53	86.19	97.52
Other Countries	%	0.01	0.47	13.81	2.48
Imports from subject country in relation to consumption in India	%	14.44	9.80	9.42	12.40
Imports from subject countries in relation to Production in India	%	14.30	9.64	9.44	12.39

41. The Authority notes that imports from subject country declined till 2011-12 and thereafter increased in the POI. It is further noted that imports of subject goods from subject country remains significant in relation to production in India.

K. PRICE EFFECT

Price effect of dumped imports and impact on domestic industry

42. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of subject goods of the domestic industry have been compared with landed value of imports from the subject country. A comparison for subject goods during the period of investigation was made between the landed value of dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission offered by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry by appropriately considering the cost of production for the product under consideration during the POI. The position is as follows:

Price Undercutting and Underselling:

43. The price undercutting/underselling effects are examined below:

Price Undercutting

Particulars	UOM	2009-10	2010-11	2011-12	POI
Net Sales Realization	Rs./Mt	***	***	***	***
Trend	Index	100	95	99	103
Landed Price of Imports without ADD	Rs./Mt	61,460	74,470	68,180	79,430
Trend	Index	100	121	111	129
Price Undercutting without ADD	Rs./Mt	***	***	***	***
Trend	Index	100	59	81	66
Price Undercutting without ADD	%	***	***	***	***
Range	%	30-50%	20-40%	30-50%	20-40%
Landed Price of Imports with ADD	Rs./Mt	84,567	1,02,468	93,813	1,09,292
Trend	Index	100	121	111	129
Price Undercutting with ADD	Rs./Mt	***	***	***	***

Particulars	UOM	2009-10	2010-11	2011-12	POI
Trend	Index	100	(11)	48	(5)
Price Undercutting	%	***	***	***	***
Range	%	15-25	Negative	5-15	Negative

Price Underselling

Particulars	UOM	POI
Non-Injurious Price of DI	Rs/Mt.	***
Landed value without ADD	Rs/Mt.	79,430
Landed value with ADD	Rs/Mt.	1,09,292
Price Underselling without	Rs/Mt.	***
Price Underselling with ADD	Rs/Mt.	***
Price Underselling without	%	***
Price Underselling with ADD	%	***
Range		
Price Underselling without		50-60
Price Underselling with ADD		5-15

44. The Authority notes that without ADD, the landed price of imports is far below the selling price of the domestic industry, thus resulting in significant price undercutting. However, both with and without ADD, the landed price of imports is substantially less than the non-injurious price of the domestic industry, thereby resulting in significant price underselling effect.

Price Suppression and Depression

45. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales. The given data shows that the domestic industry's selling price has remained below its cost of sales throughout the injury period except in 2009-10, signifying existence of price suppression effect.

Particulars	UOM	2009-10	2010-11	2011-12	POI
Cost of Sales	Rs./Mt	***	***	***	***
Trend	Index	100	112	118	116
Net Selling price	Rs./Mt	***	***	***	***
Trend	Index	100	95	99	103
Profit/loss	Rs./Mt	***	***	***	***

Trend	Index	100	(1,333)	(1,565)	(1,047)
Landed Price	Rs./Mt	61,460	74,470	68,180	79,430
Trend	Index	100	121	111	129

Impact on the Domestic Industry

Production, capacity and capacity utilization

46. The Authority notes that capacity for the product under consideration was enhanced by the domestic industry. Despite significant demand in the domestic market, production and capacity utilization of the Domestic Industry declined during the POI as compared to the base year.

Particulars	UOM	2009-10	2010-11	2011-12	POI
Capacity	MT	7,100	8,325	8,884	8,979
Domestic Production	MT	6,422	6,068	5,681	5,882
Capacity Utilization	MT	90%	73%	64%	66%
Trend		100	81	71	72

Sales of the domestic industry

47. Sales volume of domestic industry are given in the following table:

Particulars		2009-10	2010-11	2011-12	POI
Domestic Sales	MT	5,148	5,173	4,891	4,911
Trend		100	100	95	95
Demand	MT	8,241	7,724	7,400	7,577
Trend		100	94	90	92

The Authority notes that the sales volume of the domestic industry declined during the POI as compared to the base year.

Profit/loss, return on investment and cash flow

48. The return on investment, profit/loss before and after interest and cash profit are as shown in the table below:

Particulars	UOM	2009-10	2010-11	2011-12	POI
Cost of Production	Rs./Mt	***	***	***	***
Trend	Index	100	112	118	116
Net Selling price	Rs./Mt	***	***	***	***
Trend	Index	100	95	99	103
Profit/loss	Rs./Mt	***	***	***	***

Particulars	UOM	2009-10	2010-11	2011-12	POI
Trend	Index	100	(1,333)	(1,565)	(1,047)
Profit/loss	Rs./Lakh	***	***	***	***
Trend	Index	100	(1,339)	(1,487)	(999)
Profit/loss before interest	Rs./Lakh	***	***	***	***
Trend	Index	100	(282)	(332)	(213)
Cash Profit	Rs./Lakh	***	***	***	***
Trend	Index	100	(529)	(578)	(374)
capital Employed	Rs./Lakh	***	***	***	***
Trend	Index	100	111	87	90
Return on capital Employed	%	***	***	***	***
Trend	Index	100	(254)	(380)	(236)

49. The Authority notes that profit, cash profit and return on investment have declined and the domestic industry started suffering losses from 2010-11 onwards.

Inventories:

50. Inventories with the domestic industry have been as under. The Authority notes that average inventories with the domestic industry have increased substantially during the POI in comparison to base year.

Particulars	UOM	2009-10	2010-11	2011-12	POI
Average Stock	MT	***	***	***	***
Trend	Index	100	119	91	108

Employment, wages and Productivity

51. The employment and wages position of the domestic industry are as follows:

Particulars	UOM	2009-10	2010-11	2011-12	POI
Employment	NO	***	***	***	***
Trend	Index	100	94	91	88
Wages	Rs. Lakh	***	***	***	***
Trend	Index	100	144	146	121
Productivity per day	MT	***	***	***	***
Trend	Index	100	94	88	92

Productivity per Employee	MT	***	***	***	***
Trend	Index	100	100	97	104

52. The Authority notes that employment level has declined and wages paid have increased during the POI as compared to base year. The Authority notes that productivity per day has decreased with decline in production.

L. Magnitude of Dumping Margin

53. The Authority notes that the dumping margin of the exports of the subject goods from the subject country is positive and above de-minimis.

M. Growth

54. The Authority notes that the domestic industry has shown negative growth in terms of profit and return on capital employed despite of Anti-Dumping Duty in force.

Particulars	Unit	2010-11	2011-12	POI
Production	%	-5.51	-6.37	3.53
Profit	%	-1433	17	-33
ROI	%	-354	50	-38

Factors Affecting Domestic Prices

55. The examination of the import prices from the subject country and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc shows that without the anti-dumping duty the landed value of imported material from the subject country is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price under selling, both with and without anti-dumping duty, in the Indian market. It is also noted that the demand for the subject goods was showing significant increase during the POI and therefore it could not have been a factor affecting domestic prices. Thus, the principal factor affecting the domestic prices is landed value of subject goods from subject countries.

Ability to raise Capital Investment

56. The ability to raise capital investment in the event of dumping is not relevant since the domestic industry is a multi-product industry.

N. Other Known Factors & Causal Link

57. The Authority has examined whether other known factors could have caused injury to the domestic industry as follows:

Volume and Prices of imports not sold at dumped prices

58. The Authority notes that Imports of product under consideration from other countries are either negligible or the export prices are higher.

Trade restrictive practice and competition between the foreign and domestic producers

59. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. Further there is no perceptible competition among the domestic producers, except that is obvious of a market economy.

Contraction of demand or Changes in the pattern of consumption

60. The Authority notes that there is some decline in the demand of the subject goods over the investigation period. However, it is noted that the domestic industry is not able to sell even to the extent of existing demand.

Export performance

61. As per the information given in table below, export sales of the domestic industry have substantially increased during POI as compared to the base year. Therefore, trend in exports is not a possible cause of injury to the domestic industry. However, the data with respect to domestic sales has been examined separately.

Particulars	UOM	2009-10	2010-11	2011-12	POI
Exports	MT	***	***	***	***
Trend	Index	100	131	92	121

O. Likelihood of continuation/recurrence of dumping and injury

Submissions by Domestic Industry

62. The domestic industry has made the following submissions with regard to likelihood of continuation/recurrence of dumping and injury:-

- i. There is continued dumping of the product under consideration from China. Dumping of the product under consideration is likely to

- intensify from the subject country should the current anti-dumping duty be revoked;
- ii. The landed price of Chinese imports is lower than the selling price, and even cost of sales, of the Domestic Industry. The Chinese producers would therefore aggressively target Indian market in the event of cessation of duty.
 - iii. Exporters in the subject country have capacities far in excess of Indian demand. The Chinese capacity for subject goods are as follows:

S. N.	Producers In China	Supply ability (MT/Year)
1	Shanxi Linfen Chemicals Dyeing Co. Ltd	30,000
2	Dalian Dyechem International Corporation	12,000
3	Tianjin Kaiyi Chemical Factory	36,000
4	Hangzhou Ruijiang Chemical Co. Ltd	60,000
5	Zhengding Shengguo Chemical factory	9,600
6	Tianjin Xibeier International Co. Ltd	6,000
7	Tangshan C&M Trading Co. Ltd	30,000
8	Shaoxing Sunday Textile & Chemical Co. Ltd	1,200
9	Afine Chemicals Ltd	5,000
10	Dalian Huacheng Fine Chemical Co. Ltd	5,000
11	Tianjin Tiger International Co. Ltd	12,000

- iv. The sole responding producer has itself claimed that they are further expanding their capacity by around 3000MT. Considering the known capacities available with some of the Chinese producers, as seen in the table above, the Indian demand of less than 8,000 MT can be easily met entirely by dumped imports. Once the anti-dumping duty is revoked, there is a strong likelihood that the entire Indian demand may be catered by the Chinese producers. Further, the intensity of dumping is likely increase in the event of revocation of anti-dumping duties.
- v. Chinese suppliers are faced with sluggish domestic demand of the subject goods. Therefore given a situation when there is a significant demand supply gap in China, the producers from China are looking for market opportunities to utilize their capacities. Therefore, with such massive capacity and sluggish domestic demand, the Indian market of mere demand 7270 MT could be entirely eaten up by the subject country, in the event of revocation of anti-dumping duty.

- vi. Chinese exports to third countries have declined in last few years. Therefore, cessation of present anti-dumping duty shall imply significant opportunity to the Chinese producers.
- vii. Considering the known capacities available with some of the Chinese producers, the Indian demand of less than 8,000 MT can be easily met entirely by dumped imports. Once the anti-dumping duty is revoked there is a strong likelihood that the entire Indian demand may be catered by the Chinese producers.
- viii. The exporters from China have very high export orientation worldwide. Hence, the dumping and injury is likely to occur at aggravated level in case the existing anti-dumping duties are revoked.
- ix. In the current Period of Investigation, the volume of dumped imports has remained significant, and the dumping margin is also quite significant. This clearly establishes that the dumping is likely to continue and indeed intensify in the event of revocation of present anti-dumping duty. Significant current dumping margin in the presence of anti-dumping duty is a strong indication of likelihood of dumping.
- x. The information on exports from China to global markets shows that Chinese exports to third countries have declined in last few years, thus increasing unutilized capacities with the Chinese producers. Therefore, cessation of present anti dumping duty shall imply significant opportunity to the Chinese producers.
- xi. Dumped imports from the subject country have remained significant and continue to hold significant market share. Further, there has been a significant price undercutting by the dumped imports from the subject country. Thus, cessation of anti-dumping duty shall cause significant price suppressing and depressing effect.
- xii. The Domestic Industry has suffered continued injury from the dumped imports. Domestic Industry is vulnerable to injury from dumped imports. Current levels of import volumes and dumping margin from the subject country creates great possibility that expiry of duty will result in intensified dumping of subject goods from the subject country in the Indian market given the fact that subject country holds excessive capacities.

Examination by the Authority

63. The present investigation is a sun set review of anti-dumping duties earlier imposed on imports of Sulphur Black from China PR. Under the Rules, the

Authority is required to determine whether continued imposition of anti-dumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In this case, as there are continued dumped imports, the Authority is required to examine whether revocation of duty is likely to lead to continued dumping of the product. Exporters and producers from the subject country are exporting the subject goods at dumped prices. In the original investigation also dumping margin was significant. In such a situation, the Authority has no reason to believe that dumping will not intensify if the duty is revoked.

Level of current and past dumping margin

64. Considering the dumping margin determined by the Authority in the original investigation and the dumping margin now assessed, it is quite evident that the exports continued to be made at dumped prices and is likely to continue with revocation of anti dumping duties. Volume of imports declined in 2010-11 and has thereafter increased and has remained significant throughout the injury period even after imposition of anti-dumping duties. Further, the volume of imports is likely to increase further in the event of revocation of anti-dumping duties, given the significant price undercutting without the anti-dumping duty and underselling effects both with and without the anti-dumping duty during the POI.

Price attractiveness of Indian market

65. 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. At the landed price in India, there is significant undercutting without anti dumping duty. Thus, with the revocation of anti-dumping duties, the Indian prices would be too attractive to the Chinese exporters and there is strong likelihood that Indian consumers would import substantially due to increasing demand.

Significant capacities with subject country

66. As claimed by domestic industry there are at least 9 producers of the subject goods in China holding a combined production capacity of more than 3,50,000 MT. The Indian demand of subject goods is just a miniscule of the Chinese capacity. In the event of revocation of anti-dumping duty and considering the Chinese export orientation, the producers of China are capable of completely overtaking the Indian manufacturing sector engaged in

subject goods

Export orientation of the subject country

67. From the information made available by the domestic industry, it is evident that the Chinese producers/exporters are highly export oriented. Considering the high favourable market conditions for the subject goods in India and the high production capacity and export orientation of the Chinese producers, the Authority holds that if the existing antidumping duties are withdrawn, the entire demand for the subject goods in India can be catered by the Chinese producers by replacing the Indian producers.

P. Magnitude of Injury and injury margin

68. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI. The injury margin has been determined as under:

Particulars	Unit	Amount
Non injurious price of the domestic industry	Rs/Mt	***
Landed price of imports	Rs/Mt	79,430
Injury margin	Rs/Mt	***
Injury margin %	%	***
Injury margin % Range	%	50-60

Q. Post Disclosure Comments

69. The following are the post-disclosure comments made by the domestic industry:

- a. Product under consideration continues to be exported to India at dumping prices from the subject country.
- b. Both dumping margin and injury margin in the current POI are positive.
- c. Domestic industry has suffered continued injury in spite of existing anti dumping duties.
- d. The anti dumping duty is required to be extended further for a period of five years.
- e. The form of anti dumping duty is required to be kept same as the present form.

70. The following are the post-disclosure comments made by the concerned Chinese producer and exporter:

- a. Dalian Dyechem International Corporation, China PR cannot provide reasons for any discrepancy between the sales data reported by the importers and as reported by Dalian Dyechem International Corporation, China PR.
- b. The invoice value reported by Dalian Dyechem International Corporation, China PR is as per actual Invoice raised by the exporter.
- c. Data submitted by Dalian Dyechem International Corporation, China PR is factually correct and should be accepted by DGAD.

Examination by the Authority

71. Authority notes that the post disclosure comments made by the domestic industry and other interested parties are mostly reiterations of their earlier submissions, which have already been addressed in this final finding. As regards the request of the domestic industry for continuation of the same form of anti-dumping duty as in the original investigation, the Authority notes that despite imposition of the ad valorem anti-dumping duties, the dumping of the subject goods, originating or exported from the subject country, continued significantly.

R. Indian industry's interest and other issues

72. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

73. The purpose of anti dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti dumping

duties, therefore, would not affect the availability of the product to the consumers.

S. Conclusions

74. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this final finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- (a) The subject goods are entering the Indian market at dumped prices and the dumping margin is above de-minimis and significant.
- (b) Chinese exports of the subject goods are causing significant price undercutting. Further, the injury margin is positive and significant.
- (c) Chinese exports of the subject goods are causing significant price underselling both with and without anti-dumping duty
- (d) During the POI, the domestic industry has shown negative growth in terms of the economic parameters such as production, domestic sales, capacity utilization, profit, profitability, ROCE. The dumped imports continue to cause injury to the domestic industry.
- (e) Should the present anti-dumping duties be revoked, dumping of the subject goods from the subject country is likely to get intensified causing further injury to the domestic industry.

T. Recommendations

75. Having concluded as above, the Authority is of the view that the anti-dumping measure is required not only to be extended, but also to be revised in respect of imports of the subject goods, originating in or exported from the subject country, as specified in the duty table below.

76. The Authority notes that despite imposition of the ad valorem anti-dumping duties, the dumping of the subject goods, originating or exported from the subject country, continued significantly. In view of the above stated position, the Authority recommends imposition of anti-dumping duty in fixed form as

a more effective measure. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, the anti-dumping duty equal to the amount indicated in Col. 9 of the table below is recommended to be imposed concerning all imports of the subject goods, originating in or exported from the subject country, by the Central Government.

Duty Table

Sl. No	Sub Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Duty Amt.	Unit of Measure	Currency
1	2	3	4	5	6	7	8	9	10	11
1	3204	Sulphur Black	In All forms and strength	China PR	China PR	Any	Any	766	MT	US\$
2	3204	Sulphur Black	In All forms and strength	China PR	Any other than China PR.	Any	Any	766	MT	US\$
3	3204	Sulphur Black	In All forms and strength	Any other than China PR.	China PR	Any	Any	766	MT	US\$

U. Further Procedures

77. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

J.K. Dadoo
Designated Authority