

To be published in Part-I Section I of the Gazette of India Extraordinary

**F. No. 7/17/2022-DGTR
Government of India
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi- 110001**

Dated 27.09.2023

**Final findings
(Case no. MTR-07/2022)**

Subject: - Mid Term Review of anti-dumping duty imposed on the imports of "Natural mica-based pearl industrial pigments excluding cosmetic grade" originating in or exported from China

A. BACKGROUND OF THE CASE

F. No. 7/17/2022-DGTR: 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.

1. The Designated Authority (hereinafter also referred to as the “Authority”) received an application, on behalf of Sudarshan Chemical Industries Limited (hereinafter also referred to as the “applicant” or the “domestic industry”) requesting initiation of a mid-term review investigation of anti-dumping duty imposed on imports of natural mica based pearl industrial pigments excluding cosmetic grade (hereinafter also referred to as the “subject goods” or the “product under consideration”) to examine the need to re-evaluate and enhance the anti-dumping duty levied against imports of the subject goods exported by Fujian Kuncai Material Technology Company Limited, originating in or exported from China PR (hereinafter also referred to as the “subject country”).
2. An anti-dumping investigation with respect to natural mica-based pearl industrial pigments excluding cosmetic grade originating in or exported from China PR, was initiated on 9th May 2020 to examine the nature and extent of dumping and its injurious effect on the domestic industry. The Authority vide its Final Findings No. 6/8/2020-DGTR, dated 8th June 2021 recommended imposition of definitive anti-dumping duties, which were given effect vide Customs Notification No. 47/2019 – Customs (ADD), dated 26th August 2021 for a period of five years.

3. The present mid-term review was initiated in accordance with Section 9A of the Act, read with Rule 23(1A) of the Rules. The Authority is required to review, based on a duly substantiated request made by or on behalf of any interested parties, as to whether the change in circumstances warrant modification of the existing anti-dumping duty.
4. In view of the duly substantiated application with *prima facie* evidence and in accordance with Section 9A of the Act, read with Rule 23 of the Rules, the Authority initiated a mid-term review investigation vide Notification No. 7/17/2022-DGTR dated 30th September 2022. The scope of the review was enhanced to examine the need for redetermination of the anti-dumping duty earlier extended on the subject goods from the subject country.

B. PROCEDURE

5. The procedure described below has been followed regarding the subject investigation:
 - a. The Authority vide Notification No. 7/17/2022-DGTR dated 30th September 2022, published a public notice in the Gazette of India, Extraordinary, initiating a mid-term review investigation concerning anti-dumping duty imposed on the imports of the subject goods from the subject country.
 - b. The Authority sent a copy of the public notice to the Embassy of China in India, known producers and exporters from the subject country, known importers, importer/user associations and other interested parties, to inform them of the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
 - c. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Government of China, through its Embassy and to other interested parties who made a request in writing in accordance with Rule 6(3) of the Rules.
 - d. The Authority forwarded a copy of the public notice initiating the mid-term review investigation to the known producers / exporters in the subject country, and other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within time limit (including the extended time limit), as prescribed in the initiation notification, and make their views known in writing in accordance with the Rule 6(4) of the Rules.
 - e. The Authority forwarded copies of the notification and non-confidential version of the petition to the known producers/ exporters.
 - f. The Government of China, through its Embassy in India was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassy of China along with the details of the known producers/exporters from China in accordance with the Rule 6(5) of the Rules.
 - g. In response to the above notification, the following producers/exporters from the subject country have filed response to the exporters' questionnaire:
 - i. Fujian Kuncai Material Technology Co., Ltd.
 - ii. Zhejiang Coloray Technology Development Co., Ltd.

- iii. Henan Lingbao New Materials Technology Co., Ltd.
- h. The Authority forwarded a copy of the notification and questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. Asian Paints Limited
 - ii. R.C. International
 - iii. FX Pigments Pvt. Ltd.
 - iv. Kajal Chemicals
 - v. KPL International Limited
 - vi. Geochrome International
 - vii. Polychem Exports
 - viii. Kuncai International (India) Private Limited
- i. In response to the above notification, following related importer filed response to importer/user questionnaire responses.
 - i. Kuncai International (India) Private Limited
- j. The period of investigation (POI) for the purpose of the present investigation is 1st April 2021 to 31st March 2022 (12 months).
- k. Transaction-wise imports data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and DG, Systems. The Authority has relied upon the data of DGCI&S for calculating the volume and value of imports of the subject goods in India and the data of DG, systems for comparison and reconciliation with the responses filed by the exporters.
- l. Further information was sought from the applicant and responding exporters/importers to the extent deemed necessary.
- m. All the interested parties were requested to e-mail non-confidential versions of their submissions/responses/comments filed by them to all the other interested parties.
- n. The non-injurious price (hereinafter referred to as “NIP”) has been determined based on the optimum cost of production and reasonable profits of the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the anti-dumping Rules. Such non-injurious price has been worked out so as to ascertain whether the anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- o. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 21st December 2022. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.
- p. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final finding.

- q. The Authority, during the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final finding, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.
- r. The information provided by the interested parties on a confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered 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.
- s. Wherever an interested party has refused access to or has otherwise not provided necessary information during investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this final finding based on the facts available in accordance with the Rule 6(8) of the Rules.
- t. A disclosure statement containing the essential facts in this investigation which have formed basis of the final finding was issued to the interested parties on 18th September, 2023 and the interested parties were given time till 23rd September to comment on the same. The comments on disclosure statement received from the interested parties have been considered to the extent found relevant in this final finding.
- u. ‘***’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rate adopted by the Authority for the subject investigation is 1 USD = 75.34

C. Product under consideration and Like article

6. The product under consideration in the original investigation was

"7. The product under consideration in the present investigation is "Natural Mica based Pearl Industrial Pigments excluding cosmetic grade."

8. The product under consideration is chemically titanium dioxide coated micaceous and lustrous pearlescent pigment and is commercially known in the marketplace as Titanium Dioxide or Iron Oxide coated Mica Pearl Pigment or Pearl Lustre Pigments or Pearl Pigments. It is extensively used to impart colours and other effects such described as certain inorganic pigments/colouring agents giving lustrous/ shining frosted effects, such pearlescent effects, metallic effects, for coating. inks and plastics application

C.1 Submissions made by other interested parties

7. Following submission have been made by the interested parties

- i. The application states 'natural mica-based pearl industrial pigments' as the subject product. It is requested that the Authority clarify that the information provided in the application does not include cosmetic grade.
- ii. The scope of the PUC cannot be increased in an MTR investigation to include cosmetic grade. Reference is placed on Rule 23(1A), Notice of Initiation, and the written submissions of the applicant.
- iii. Without disclosure of the source of the subject imports, the assumption that industrial grade being imported as cosmetic grade seems to be a conjecture.
- iv. The allegation made by the domestic industry is merely assumption as import prices have decreased by mere 9% which can be due to raw material fluctuation.
- v. The domestic industry should have filed an anti-circumvention application to cover the situation where an article is being imported with altered description.

C.2 Submissions of the domestic industry

8. The subject goods are natural mica-based pearl industrial pigments excluding cosmetic grade. There are significant imports of cosmetic grade being imported for industrial application. It is requested that the Authority clarify that cosmetic grade for cosmetic application is exempted from the duty imposed.

C.3 Examination by the Authority

9. In the original investigation, the product under consideration was described as under:

"7. The product under consideration in the present investigation is "Natural Mica based Pearl Industrial Pigments excluding cosmetic grade."

8. The product under consideration is chemically titanium dioxide coated micaceous and lustrous pearlescent pigment and is commercially known in the marketplace as Titanium Dioxide or Iron Oxide coated Mica Pearl Pigment or Pearl Lustre Pigments or Pearl Pigments. It is extensively used to impart colours and other effects such described as certain inorganic pigments/colouring agents giving lustrous/ shinning frosted effects, such pearlescent effects, metallic effects, for coating. inks and plastics application

10. The product scope is the same as that in the original investigation. The following PCNs methodology considered in the original investigation are adopted for the purpose of the subject investigation.

S.No.	Non-Automobile	Particle Size
1.	Silver- 1	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
2.	Gold- 2	Small (D50<17)- S

		Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
3.	Iridescent- 3	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
4.	Earth tones (Bronze/ Copper/ Maroon)- 4	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
5.	Others- 5	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
	Automobile application	
1.	Silver- 1	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
2.	Gold- 2	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
3.	Iridescent- 3	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
4.	Earth tones (Bronze/ Copper/ Maroon)- 4	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X
5.	Others- 5	Small (D50<17)- S Regular (D50 between 17-30)- R Large (D50>30)- L Special- X

11. The subject goods are classified under Chapter 32 of the Customs Tariff Act under the tariff code 3206 11.

12. It is also noted that since the imposition of anti-dumping duties, the subject goods are being imported under different HSN codes apart from the dedicated code at 6-digit level, namely, 32064990, 32061900, 32041759, 32041739, 32041720, 32041790 and 32071040. The

Authority notes that the customs classification is only indicative and is not binding on the scope of the product under consideration.

13. The present investigation is a mid-term review, limited in scope to examining the need for re-quantification of dumping margin and injury margin, and modification of duty. The scope of the review does not include re-examination of the product scope. Therefore, the scope of the product under consideration in the present review shall be the same as that in the previous investigation.
14. The Authority notes the submissions of the interested parties regarding the scope of the product under consideration. The cosmetic grade was excluded from the product under consideration in the original investigation and the same is also excluded from the current investigation. Some of the interested parties have sought clarification regarding exclusion. It is clarified that the cosmetic grade means *Natural Mica based Pearl Industrial Pigments*. It is further noted that this clarification does not tantamount to modification of product scope. There is no change in scope of product under consideration.
15. The Authority notes that the subject goods produced by the domestic industry and that imported from China are comparable in terms of characteristics such as physical & chemical 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. The same has not been disputed by other interested parties as well. In view of the same, the Authority concludes that the goods produced by the domestic industry are like article to the product under consideration imported from subject country.
16. The other interested parties have raised the issue that the domestic industry should have filed an anti-circumvention application to cover the situation where an article is being imported with altered description. The Authority notes that this is not a case of anti-circumvention as the articles are not being imported with altered description rather the imports have increased under certain PCNs and decreased in the others.

D. Domestic Industry and Standing

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

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

18. The application has been filed by Sudarshan Chemical Industries Limited, who is the sole producer of the product under consideration in India. It is noted that the applicant accounts for a major proportion of the total domestic production. The applicant is neither related to subject Chinese producers or exporter nor importer of the subject goods in India. Therefore, the Authority holds that Sudarshan Chemical Industries constitute domestic industry within the meaning of Rule 2(b) read with rule 5(3) of the Anti-Dumping Rules.

19. No submissions have been advanced by the applicant or the other interested parties with regards to the standing of the domestic industry.

E. Scope of Review

E.1 Submissions made by other interested parties

20. Following submission are made by the other interested parties:

- i. The scope of Rule 23(1A) is limited and does not empower the Authority to carry out limited review. No limited review has been initiated by the Authority in the recent past. Reference is placed on Manual of Operating Practises for Trade Investigations and closure letter issued in imports of Jute products on 28 March 2019.
- ii. Rule 23(1A) only empowers the Authority to withdraw existing duties and not enhance under any circumstances. Reliance cannot be placed on Indian Graphite Manufacturers Association v. Ministry of Finance & Ors (13 April 2006) as the decision was limited to SSR investigation.
- iii. Rule 23 (1A) does not bind the Authority to initiate review limited to Kuncai as requested by the applicant. The Authority is empowered under the provision to define the scope of the review. Considering the applicant made no objection to the initiation against all producers/ exporters, the same cannot be challenged before the Authority at present.
- iv. Reliance on the OM dated 18 June 2019 by the applicant is misplaced as the same was issued in the context of Rule 23 and not Rule 23(1A), The latter explicitly requires injury examination. The OM has to be read in the context of the issue and cannot supersede the Rules. The Authority's practice is not to initiate investigations based on requests for limited review.
- v. Reliance placed on mid-term review investigation on aluminium alloy road wheels from China PR dated 30 August 2022 is incorrect as the facts of the case is distinguished from the present investigation.
- vi. Reliance placed on *Rishiroop Polymers* is incorrect as the ratio of the decision is only regarding the withdrawal of duty which does not lead to the conclusion that the other parameters are not required to be examined.
- vii. The real reason for the applicant seeking to avoid redetermination of dumping or injury margin for other producers is because they are facing quality issues, have limited production capability which makes it necessary for them to import the product to retain their market share.
- viii. Coloray and Lingbao does not dispute that Rule 23(1A) permits the Authority to conduct limited review. Rule 23(1A) permits the Authority to initiate review against all producers

from China PR. Reliance is placed on WTO panel report in United States — *Anti-Dumping Measures on Certain Shrimp from Viet Nam (WT/DS/429/R)*.

E.2 Submissions of the domestic industry

21. Following submission are made by the domestic industry:

- i. Changed circumstances in the POI warrant the need for re-quantification and enhancement of existing anti-dumping duty in force on natural mica-based pearl industrial pigments excluding cosmetic grade exported from Fujian Kuncai Material Technology Company Limited.
- ii. Rule 23 (1A) read with OM dated June 18, 2019 permits limited review of dumping margin and injury margin. Reliance is also placed on *Rishiroop Polymers Pvt Ltd v. Designated Authority and Addl. Secretary*¹ and MTR investigation on imports of *Aluminium Alloy Road Wheels from China PR*, (dated 30th August 2022).
- iii. Review of all other exporters shall cause prejudice to the non-participating Chinese producers and increase burden on DGTR. No *prima facie* evidence is on record to show changed circumstances *qua* these exporters.
- iv. Manual of Operating Practises for Trade Investigations cannot be cited in case of contradictions/ differences as mentioned in Page xi of the Manual. It allows the Authority to recognise case-specific variations in different investigations and final decisions are to be made based on merits.
- v. As regards the argument that Rule 23(1A) only empowers the Authority to withdraw duty, reliance is placed on the CESTAT decision in *Thai Acrylic Fibre Co. Ltd. v. Designated Authority (2010(253) ELT 564 (Tri-Del.))*. It was held that the purpose for which the statute authorises the levy; it also has the incidental and ancillary power to increase or reduce the same to make it fully effective against dumping.

E.3 Examination by the Authority

22. The present investigation was initiated as per Rule 23(1A), which, inter-alia, provides as follows:

“(1A) The designated authority shall review the need for the continued imposition of any anti-dumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.”

¹ (2006 (196) E.L.T. 385 (SC)),

23. The Authority issued an Office Memorandum dated 18th June 2019 providing for review, which, *inter-alia*, provides as follows:

"6. Any interested party, including domestic industry, can seek a review under rule 23 and 24 of AD and CVD Rules respectively to alter the quantum or form of existing AD/ CVD duty. The changed circumstances which may warrant a review may include changes in raw material prices, costs, duty structure, exchange rate etc. The Authority would consider a fresh POI for such a review and evaluate all key parameters viz dumping margin or subsidy margin, injury margin and landed value for this chosen POI. The modified AD/ CVD, including the form, would be based on this comprehensive re-computation."

24. The Authority notes that the present review has been initiated based on change in circumstances alleged by the applicant. The present investigation is limited to examination of whether there has been a change in circumstances which justify the modification of the quantum of anti-dumping duty. In their application, the applicant had alleged the following;

- a. There is significant shift in the product profile exported by the exporter to the Indian market.
- b. The increase in costs on account of raw materials is not proportionately reflected in the increase in the export price.
- c. The export price of some PCNs has increased less than raw material price increase.
- d. The weighted average increase in export price for few PCN is negative, whereas the weighted average increase in costs is positive.

25. Some of the interested parties have contended that the scope of Rule 23(1A) is limited and does not empower the Authority to either carry out a limited review or enhance duties. It is noted that it has been the consistent practice of the Authority to vary the duty rates by either reducing or enhancing or retaining the quantum of duty during a mid-term review. The Authority notes that it has conducted reviews for re-quantification of duty under Rule 23 in the past as well. One of such review, concerning imports of Acrylonitrile Butadiene Rubber (NBR) was challenged before the Hon'ble Supreme Court, and was found consistent with the provisions of Rule 23 by the Apex Court.

26. Further in the recent MTR investigation on imports of Aluminium Alloy Road Wheels from China PR, dated 30th August 2022, the Authority has conducted review limited to re-examination of the dumping/injury margin. Therefore, the present review cannot be considered to be beyond the provisions of Rule 23.

27. Further, the Designated Authority has vide Office Memorandum dated 18th June 2019, issued a guideline stating that any interested party, including the domestic industry, could seek initiation of a review under Rule 23 to alter the quantum or form of duty.

28. Further, Rule 23(1) mentions that "any anti-dumping duty imposed under the provision of section 9A of the Act, shall remain in force, so long as and to the extent necessary, to counteract dumping, which is causing injury." The meaning of the word "to the extent" means

the duration or degree of duty. Further Rule 23(1) provides for “if the said anti-dumping duty is removed or varied and is therefore no longer warranted”. Thus, this rule allows the Authority to vary the degree (quantum) of duty.

29. In view of the foregoing, the Authority concludes that the scope of the present review is limited only to examination of the need for re-determination of dumping margin/ injury margin for all exporters subjected to the duties in the earlier investigation. The scope of such review is governed by the provisions of Rule 23, read with Office Memorandum dated 18th June 2019.
30. The Authority notes that the applicant had sought review limited to M/s. Fujian Kuncai Material Technology Co., Ltd (Kuncai). The Authority refers to the WTO panel report in *US – Shrimp II (Viet Nam) [WT/DS429/R]*, wherein it has been held that the Authority is vested with the discretion to undertake a review on an order-wise or on a company-specific basis. Such decision depends on both the specific request made by the interested party and the evidence submitted by the party substantiating the need for a review.
31. In the present case, the request of the applicant for a limited review of duty imposed on only one exporter from China based on the submitted evidence was not sustainable, as the changed circumstances claimed by the applicant would also have affected the export price and cost of production of other exporters from China. The applicant had not submitted any evidence as to why/how the changed circumstances are applicable only to Kuncai and not to the other exporters of the subject goods from China PR. In light of the same, the Authority has undertaken the current review of the duty for all exporters/producers after being satisfied that the change in circumstance including cost of raw material and export price alleged by the applicant requires to be investigated for all producers/exporters in the subject country.
32. With respect to the contention raised by the domestic industry that there has been increase in cost of raw materials but there is no proportionate increase in the export price, the Authority notes that as per the data submitted by the domestic industry it is observed that increase in the price of raw material in certain PCNs is more than the increase in the export price during the period of review in comparison to period of original investigation. On further analysis it is seen that the increase in average cost of major raw material used in the manufacturing of product under consideration is more than the increase in average landed value of the product under consideration during the period of review as compared to the period of original investigation.
33. The table below demonstrate the said trend:

Particulars	2020-2021 (Rs./Kg)	2021-2022 (POI) (Rs./Kg)	Increase/Decrease (%)
Cost of major raw material	***	***	***

Indexed	100	124	20-30
Landed Value	***	***	***
Indexed1	100	112	10-20

The Authority after analysing the data concludes that increase in cost of major raw materials has impacted the injury parameters which is detrimental to the interest of the domestic industry. Therefore, there is a need to review the dumping margin and injury margin.

F. Confidentiality

F.1 Submissions made by other interested parties

34. The applicant has claimed excessive confidentiality on the source of the import data. Reliance is placed on Mono Ethylene Glycol from Kuwait, Saudi Arabia, and USA (27 October 2022) and CESTAT order in vitrified Tiles.

F.2 Submissions of the domestic industry

35. Non-disclosure of analysis on PCN and export data is due to the prohibition placed by Section 135AA of the Customs Act read with Trade Notice 01/2022. The confidentiality claims of the domestic industry are in adherence with Trade Notice 1/2013.

F.3 Examination by the Authority

36. With regard to confidentiality of the information, the Rule 7 of the Anti-dumping Rules provides as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

37. The Authority considers that any information which is by nature confidential or which is provided on a confidential basis by the parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.
38. As regards import data filed in the application, the import data received from market intelligence sources cannot be shared as publishing of such data is prohibited under Section 135AA of the Customs Act, 1962 “unless required so to do under any law for the time being in force”. The data is being provided in the application in terms of the provisions of Rule 5(2) read with the Trade Notice issued in this regard, specifying the application formats. Hence, the confidentiality claim of the applicant on the import data has been accepted by the Authority.
39. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by the interested parties by directing the interested parties to share the non-confidential version of their submissions with each other through e-mails.
40. Some of the interested parties have contended that the domestic industry has not shown good cause for confidentiality. The Authority notes that the domestic industry has provided a justification table in the non-confidential version of the petition. The Authority has accepted the confidentiality claimed by all the interested parties after being satisfied about the same.

G. Miscellaneous

G.1 Submissions made by other interested parties

41. The following submissions have been made by the interested parties
- i. Export details of the subject goods are not available in the public domain and circulation of the same is violative of Section 135AA of the Customs Act. The applicant has not provided the source and authenticity of the data submitted. The applicant has either filed fabricated information or the same has been procured illegally.

G.2 Submissions of the domestic industry

42. The following submissions have been made by the domestic industry-
- i. The export details of the subject goods have been procured from market intelligence. The allegations made by the respondent on the accuracy and veracity of the same is baseless.

G.3 Examination by the Authority

43. As regards the contentions on the export data submitted by the Domestic industry, the Authority notes that the data provided by the domestic industry does not affect the findings of the Designated Authority as the Authority relied on DGCI&S and DG system data.

H. Normal value, Dumping margin

H.1 Submissions made by other interested parties

44. The following submissions have been made by the interested parties
- i. The average raw material cost per unit of the subject goods by Kuncai has declined and the export price increased during the POI as compared to the POI of the original investigation.
 - ii. The domestic industry has failed to establish with evidence the extent of increase in the raw materials price. The increase in the raw material cost is applicable to all producers and hence the review should not be limited to Kuncai.
 - iii. Zhejiang Coloray Technology Development Co., Ltd should not be granted individual duty. Reliance is placed on TDI Review Investigation and Jute Review Investigation.

H.2 Submissions of the domestic industry

45. The following submissions have been made by the domestic industry.
- i. There is a change in the product sales mix sold during the POI of the original investigation and the current POI. PCN wise analysis in the original investigation was undertaken which shows that change in the sales mix of the current period of investigation has impacted the dumping and injury margin warranting a review of Kuncai.
 - ii. Proportional increase in the export price is not commensurate to increase in cost of raw material. Rather, there is a reduction in export price for certain PCN, despite increase in raw material cost.
 - iii. The Authority may determine normal value on the basis of cost of production, duly adjusted as done in the original investigation.
 - iv. As regards the decline in raw material cost per unit of Kuncai, it is submitted that there is no relevance for the same in the present investigation as Kuncai (China) is a non-market economy as determined in the original investigation.
 - v. Change in circumstance due to change in raw material cost cannot be assumed for all exporters as the same has not been supported with evidence.
 - vi. The dumping duty should not be modified for other companies as no changed circumstances have been established for them.

H.3 Examination by the Authority

46. The Authority notes that none of the producers/exporters from China PR has filed the supplementary questionnaire response to rebut the presumptions as mentioned in para 8 of Annexure – I of the Rules. Under these circumstances, the Authority has to proceed in accordance with para 7 of Annexure – I of the Rules as under.

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

47. The Authority notes that no producer or exporter from China PR has submitted market economy treatment or supplementary questionnaire response. The normal value computation for these producers/exporters are thus required to be determined in terms of provisions of para 7 of Annexure-1 of Anti-Dumping Rules. The Authority notes that under the provisions of para (7) of Annexure – I, the normal value may be determined on the basis of price or constructed value in a market economy third country, or the price of exports from such a third country to other countries, including India. However, when such basis is not possible, only then the Authority can determine normal value on any other reasonable basis, including the price paid or payable in India.
48. In the present case, none of the interested parties have claimed or provided information with regard to price or constructed value in a market economy third country, or the price of exports from such a third country to other countries, including India. Further, the domestic industry has not proposed an alternate surrogate country for China PR. In light of, the same, the Authority concludes that there is no sufficient information to consider application of the first proviso of para 7 nor is any information available with the Authority for the same.
49. The Authority also notes that the trade map data of PUC exports to other countries does not have details about the PCNs prescribed by the Authority. Also, the PUC does not have a dedicated HSN Code. Therefore, in absence of sufficient information on export of PUC to other country, the Authority cannot adopt option 2 of para 7.
50. The Authority, therefore, has determined normal value based on other reasonable basis. For this purpose, the Authority has considered the cost of production of the domestic industry, with due adjustments, and a reasonable addition of selling, general and administrative expenses, and profits.

H.4 Determination of the Export Price

51. The following producers/exporters from China PR have filed response to the Exporter's questionnaire:

- a. Fujian Kuncai Material Technology Co., Ltd
- b. Zhejiang Coloray Technology Development Co., Ltd.
- c. Henan Lingbao New Materials Technology Co., Ltd

a. Fujian Kuncai Material Technology Co., Ltd

Export Price

52. Fujian Kuncai Material Technology Co., Ltd. has directly exported ***MT subject goods to both unrelated and related customers in India of an invoice value of US\$ ***. The related importer has cooperated with the investigation. To ensure that the related transactions are at arms-length, from the response filed by the related importer, it is seen that the sales made by the importer shows profit. Accordingly, after allowing the adjustment on account of ocean freight, insurance, inland transportation, port, and other related expenses etc., the weighted average ex-factory export price and weighted average landed value comes to ***US\$ / MT and ***US\$ / MT respectively.

b. Zhejiang Coloray Technology Development Co., Ltd.

Export Price

53. During the period of investigation, Zhejiang Coloray Technology Development Co., Ltd. has directly Exported ***MT of product under consideration to unrelated customers in India of an invoice value of US\$ ***. After allowing the adjustment on account of ocean freight, inland transportation, insurance, port, and other related expenses etc., the weighted average ex-factory export price and weighted average landed value comes to US\$ ***/MT and ***US\$ / MT respectively.

c. Henan Lingbao New Materials Technology Co., Ltd

Export Price

54. During the period of investigation, Henan Lingbao New Materials Technology Co., Ltd has directly exported ***MT of product under consideration to unrelated customers in India of an invoice value of US\$ ***. After allowing the adjustment on account of ocean freight, insurance, inland transportation, port, and other related expenses etc., the weighted average ex-factory export price and weighted average landed value comes to ***US\$ / MT and ***US\$ / MT respectively.

d. Other non-cooperative exporters from China subject to investigations

55. The export price for non-cooperative producers/exporters who have not cooperated with the present investigation is considered based on the import price available on record, considering the data provided by the cooperative producers/exporters and imports into India, in accordance with Rule 6(8) of the Rules. The export price so determined is mentioned in the dumping margin table.

Dumping Margin

56. The normal value, export price and dumping margin determined in the present investigation can be seen from the table below. It would be seen that there is a change in dumping margin.

Dumping Margin Table

Producer/Exporter	Normal Value (USD/MT)	Net Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin (Range)
Fujian Kuncai Material Technology Co., Ltd	***	***	***	***	10-20
Zhejiang Coloray Technology Development Co., Ltd.	***	***	***	***	70-80
Henan Lingbao New Materials Technology Co., Ltd	***	***	***	***	70-80
Non-cooperative producers/ exporters	***	***	***	***	90-100

I. Injury

I.1 Submissions made by other interested parties

57. The following submission are made by the other interested parties
- i. The applicant has failed to meet the precondition of 'lasting nature of the changed circumstances' as necessitated by the Manual of Operating Practises for Trade Remedy Investigations. Reliance is placed on Carbon Black (dated 28 February 2013) and closure letter in TDI.
 - ii. The applicant has not suffered injury on accounts of subject imports as there has been 17% increase in the installed capacity, 22% increase in capacity utilization, 40% increase in production, 32% increase in domestic sales, 5.5% increase in export sales, increase in the domestic sales price, increase in productivity per day by 40%.
 - iii. There is no causal link as there is increase in capacity, interest cost, depreciation and decline in exports sales.
 - iv. Given the increase in interest cost, and depreciation, the Authority should make adjustment for cost incurred as start-up costs, extra-ordinary costs, non-recurring cost, and excess depreciation.

I.2 Submissions of the domestic industry

58. The following submission are made by the domestic industry.

- i. There is no requirement to show lasting nature of the changed circumstances as per the Anti-dumping Agreement, AD Rules and the application proforma.
- ii. The Authority's practice is to examine lasting nature in the event of revocation of anti-dumping duty. Reliance is placed on mid-term review on the imports of "4,4Diamino Stilbene2, 2 Disulphonic Acid" (DASDA), originating in or exported from China PR (dated 26th September 2016).
- iii. The changed circumstance alleged by the applicant is reflective of one year and has impacted the dumping and injury margin previously determined. Hence, they are enough to show that the change is of lasting nature.
- iv. As regards arguments on injury, it is submitted that the current investigation is limited redetermination of the dumping margin and injury margin previously determined and quantum of duties levied in the original investigation.

I.3 Examination by the Authority

59. Some of the interested parties have claimed that the Authority should examine injury to the domestic industry. The Authority notes that the present investigation was initiated to re-determine the quantum of anti-dumping duty levied on all exporters from the subject country. The request of the applicant for a limited review of duty imposed on only one exporter from China.
60. Further, the domestic industry had not made any claims with regard to the injury being caused due to dumped imports. The Authority notes that since the present investigation is limited mid-term review initiated for re-quantification of anti-dumping duty levied on subject exporters from the subject country, the Authority has re-quantified the dumping margin and injury margin imposed on the exporters in the original investigation. However, the Authority has examined the injury parameters for a more comprehensive investigation.
61. Some of the interested parties have contended that the lasting nature of the changed circumstance has not been established. The Authority has previously noted the following in "4,4Diamino Stilbene2, 2 Disulphonic Acid" (DASDA), originating in or exported from China PR, dated 26th September 2016;

"The language of the rules concerning sunset review and midterm review has been deliberately kept different so as to emphasize more on the cautiousness of establishing the need for withdrawal. The emphasis on word "not" likely in Rule 23 (1A) of AD Rules, signifies a higher and stringent obligation while examining premature withdrawal of antidumping duty."

62. The Authority notes that such stringent obligation arises only when examining premature withdrawal of the anti-dumping duty. In addition, the Authority has initiated the present investigation after being satisfied of the *prima facie* evidence submitted by the applicant. The

Authority notes that the applicant has substantiated the changed circumstance by providing information for a period of one year.

63. The Authority has examined the injury information over the injury period. Having satisfied that the changed circumstance alleged by the applicant is reflective of one year and has impacted the dumping and injury margin previously determined, the Authority deems that they are enough to show that the change is of lasting nature. The Authority notes the fact that the injury to the domestic industry has continued over the entire injury period which further shows that the changed circumstances are of lasting nature.
64. The Authority also notes that it is not necessary that all parameters of injury must show deterioration. Some parameters may show deterioration, while others may not. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and other interested parties. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers that the impact of existing duties on the subject imports is required to be considered while examining the injury to the domestic industry. The Authority has examined whether the existing measure is not sufficient to counteract the dumping which is causing the injury.

I-4 Volume effect of dumped imports on the domestic industry

a. Assessment of demand/ apparent consumption

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

SN	Particulars	Units	2018-19	2019-20	2020-21	POI
1	Sales of domestic industry	MT	***	***	***	***
2	Trend	Indexed	100	93	91	125
3	Imports from China PR	MT	1,841	2,003	2,471	1,871
4	Imports from other countries	MT	231	178	192	294
5	Total demand/consumption	MT	***	***	***	***
6	Trend	Indexed	100	101	115	112

66. It is seen that the demand for the PUC has increased over the first three years of the injury period with a marginal decline in the POI, as compared to the immediately preceding period. Overall, the demand has increased over the injury period.

b. Import volume from the subject countries

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

SN	Particulars	Units	2018-19	2019-20	2020-21	POI
1)	China PR	MT	1,841	2,003	2,471	1,871
2)	Other countries	MT	231	178	192	294
3)	Total imports	MT	2,072	2,181	2,663	2,166
4)	Subject country in relation to-					
i.	Indian production	%	***	***	***	***
	Trend	Indexed	100	117	165	85
ii.	Demand	%	***	***	***	***
	Trend	Indexed	100	108	117	91
iii.	Total imports	%	89	92	93	86

68. It is seen that:

- a) The volume of imports from the subject countries have increased until 2020-21 but has declined in the POI due to imposition of anti-dumping duties in August 2021. The sales of the domestic industry has increased during period of investigation as compared to the previous year.
- b) Despite imposition of anti-dumping duties in existence, the imports from China PR holds major share in Indian demand and total imports into India.

I-5 Price effect of dumped imports on the domestic industry

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

a) Price undercutting

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

SN	Particulars	Units	2018-19	2019-20	2020-21	POI
1)	Net sales realisation	Rs/MT	***	***	***	***
2)	Landed Price	Rs/MT	3,80,425	3,79,897	3,94,105	4,43,452
3)	Price undercutting	Rs/MT	***	***	***	***
4)	Price undercutting	%	***	***	***	***
5)	Price undercutting	Range %	25-35	20-30	10-20	0-10

71. The Authority notes that the price undercutting is significant and positive despite the existence of the anti-dumping duties.

b) Price suppression and depression

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

SN.	Particulars	Unit	2018-19	2019-20	2020-21	POI
1)	Cost of Sales	Rs. /MT	***	***	***	***
	Trend		100	101	105	108
2)	Selling Price	Rs. /MT	***	***	***	***
	Trend		100	93	91	94
3)	Landed Price	Rs. /MT	***	***	***	***
	Trend		100	100	104	117

73. It is seen that the landed price of imports from the subject country continues to be below the cost of sales of the domestic industry. Consequently, the domestic industry is unable to increase its selling price even at the level of cost in the year 2020-21 and period of investigation, despite anti-dumping duties in existence. The dumped import from subject country is suppressing the prices of the domestic industry.

I-6 Economic Parameters of the domestic industry

74. Annexure II to the Rules provides that the examination of the impact of the dumped imports on the domestic industry should include an objective evaluation of all relevant economic

factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below. The Authority has examined the injury parameters objectively considering various facts and arguments made by the interested parties in their submissions.

a) Capacity, production, capacity utilization and domestic sales

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

Particulars	Unit	2018-19	2019-20	2020-21	POI
Capacity	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>117</i>
Production	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>81</i>	<i>119</i>
Capacity Utilization	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>81</i>	<i>102</i>
Sales (Domestic)	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>93</i>	<i>91</i>	<i>125</i>

76. It is seen that the capacity of the domestic industry has increased during POI. The production, capacity utilisation and domestic sales have increased during POI. The increase is due to anti-dumping duty in existence.

b) Profitability, return on investment and cash profits

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

Particulars	Unit	2018-19	2019-20	2020-21	POI
Profit/(Loss) per unit	Rs./MT	***	***	(***)	(***)
<i>Trend</i>		<i>100</i>	<i>6</i>	<i>-58</i>	<i>-54</i>
Profit/Loss	₹ Lacs	***	***	(***)	(***)
<i>Trend</i>		<i>100</i>	<i>6</i>	<i>-53</i>	<i>-68</i>
Cash Profit per unit	Rs./MT	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>48</i>	<i>14</i>	<i>9</i>
Cash Profit	₹ Lacs	***	***	***	***
<i>Trend</i>		<i>100</i>	<i>45</i>	<i>12</i>	<i>11</i>
PBIT per unit	Rs./MT	***	***	(***)	(***)
<i>Trend</i>		<i>100</i>	<i>12</i>	<i>-35</i>	<i>-34</i>
PBIT	₹ Lacs	***	***	(***)	(***)
<i>Trend</i>		<i>100</i>	<i>11</i>	<i>-32</i>	<i>-43</i>
Return on Capital Employed	%	***	***	(***)	(***)

<i>Trend</i>		100	13	-49	-48
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78. It is seen that:

- The domestic industry is suffering losses during POI despite anti-dumping duties in existence.
- The domestic industry is unable to increase its cash profits, PBIT and ROI at levels achieved in 2018-19 and in 2019-20. The return on investment of the domestic industry is below 1% in 2020-21. The domestic industry is unable to improve its performance even after imposition of anti-dumping duties, due to imports entering in the Indian market at an unfair price that current anti-dumping duties are unable to address.

c) Inventories

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

Stock (Volume)	Unit	2018-19	2019-20	2020-21	POI
Opening Inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average Inventory	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	142	127	132

80. It is noted that the average inventory held by the domestic industry increased during the POI.

d) Employment, wages, and productivity

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

Particulars	Unit	2018-19	2019-20	2020-21	POI
No of Employees	Nos	***	***	***	***
<i>Trend</i>		100	91	99	108
Productivity per day	MT	***	***	***	***
<i>Trend</i>		100	100	75	125
Productivity per Employee	MT/Nos.	***	***	***	***
<i>Trend</i>		100	100	85	108
Wages	₹ Lacs	***	***	***	***
<i>Trend</i>		100	116	92	119

82. It is seen that the number of employees, productivity and wages paid have increased during POI as compared to previous year as well as base year.

e) Magnitude of dumping

83. Magnitude of dumping is an indicator of the extent to which the dumped imports are causing injury to the domestic industry. The data shows that the dumping margin determined against the subject country has increased as compared to the previous investigation.

f) **Ability to raise capital investment.**

84. The domestic industry is suffering financial losses and has not been able to earn a positive contribution. Due to the dumped imports, the operations of the industry have been adversely impacted.

I.7 Magnitude of Injury Margin

85. The Authority has determined the non-injurious price for the domestic industry on the basis of the principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials, the utilities, and the production capacity by the domestic industry over the injury period have been considered in order to nullify injury, if any, caused by the domestic industry by in efficient of raw material and utilisation. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on the average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax return towards interest, profit, and taxes in order to arrive at the non-injurious price as prescribed in Annexure III of the Rules.
86. The landed price for the cooperative exporters has been determined on the basis of the data furnished by the exporters.
87. Based on the landed price and the non-injurious price determined as above, the injury margin for the producers/exporters has been determined by the Authority and the same is provided in the table below.

Injury Margin Table

Producer/Exporter	NIP (USD/MT)	Landed Value (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin (Range)
Fujian Kuncai Material Technology Co., Ltd	***	***	***	***	0-10
Zhejiang Coloray Technology Development Co., Ltd.	***	***	***	***	50-60
Henan Lingbao New Materials Technology Co., Ltd	***	***	***	***	40-50

Non-cooperative producers/ exporters	***	***	***	***	60-70
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J. NON-ATTRIBUTION ANALYSIS

88. The Authority is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices and competition between the foreign and the domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether the above said factors other than dumped imports could have contributed to the injury to the domestic industry.

a. Volume and prices of imports from third countries

89. The imports from other countries are either at higher prices or at negligible levels.

b. Contraction in Demand

90. It is noted that demand has increased as compared to the base year.

c. Changes in the pattern of consumption

91. There have been no changes in the pattern of consumption.

d. Trade restrictive practises

92. There is no known trade restrictive practice.

e. Development in technology

93. None of the interested parties has furnished any evidence to demonstrate any change in the technology.

f. Export performance of the domestic industry

94. The Authority notes that the injury information examined relates only to the performance of the domestic industry in terms of its domestic market.

g. Performance of other products of domestic industry

95. The Authority has considered data only in relation to the product under consideration

h. Productivity of the domestic industry

96. The domestic industry has provided the data relating to their productivity.

K. POST-DISCLOSURE COMMENTS

L.1 Submissions made by other interested parties

97. The following submission are made by the other interested parties

- i. There are certain discrepancies in the calculations of the Coloray's PCN-wise Landed Value whereby the landed prices for certain PCNs appear to have been inadvertently interchanged.
- ii. The Authority has not clarified which PCNs of the domestic industry were selected for comparison with the Coloray. The Authority must clarify the same as otherwise, it is a violation of the principle of natural justice.
- iii. Neither has the petitioner made any submission regarding injury nor does the initiation notification covers the scope of the present review on injury faced by the petitioner. The Authority should not undertake injury examination.
- iv. It is a violation of natural justice for the Authority to have analysed the the petitioner's data and allegations regarding alleged injury without first having provided an opportunity to the other interested parties to comment on the same.
- v. The volume of the subject imports has decreased significantly during the POI and are insignificant even in the injury period. The petitioner has deliberately reduced its selling price to show adverse effects of the subject imports.
- vi. The petitioner's capacity, production, capacity utilization and domestic sales volume has increased during the POI as compared to the injury period. Financial losses suffered is attributed to increase in fixed assets and depreciation costs.
- vii. There is no causal link between dumped imports and injury, the domestic industry is suffering losses during the POI in spite of anti-dumping duties in existence.
- viii. The magnitude of dumping has decreased substantially in the present review investigations as compared to the original investigation, the Authority had determined the dumping margin of all other producers to be in the range of 200-300% whereas in the present mid-term review investigation, the margin is just 90-100%.
- ix. Rule 23(1A) does not empower the Authority to carry out a limited mid-term review. The same was held by the Authority when closing the request for initiating a mid-term review of the anti-dumping duties imposed on Jute products.
- x. Change in the product profile in exports claimed by the applicant is misleading, fabricated, and based on fudged information, or procured through illegal means as this detail/information: (a) is not available in public domain, (b) is not available in transaction-wise data, (c) were not provided by the applicant in its application, and (d) is only available in the questionnaire response filed by the responding exporter.
- xi. The applicant must disclose the source of export details, and if it is found to be procured through illegal means, or fabricated, the investigation must be terminated.
- xii. Rule 23(1A) empowers the Authority to only withdraw the duties (partial or complete) and not increase the same under any circumstances.
- xiii. The present investigation is without jurisdiction as the initiation notification nor the application provides information as to how the changed circumstances are of lasting

nature. The application is completely in violation of the provisions of Rule 5 of the anti-dumping rules.

- xiv. The claims made by the applicant regarding increase in the raw material and export price of the responding exporter are wrong, misleading, fabricated and incorrect as: (a) the average raw material cost per unit of the subject goods of the responding producer / exporter declined by 3.64% during the POI as compared to the POI of the original investigation, and (b) the average export price of the responding exporter increased significantly during the POI as compared to the POI of the original investigation i.e., by around 7%.
- xv. Merely providing information for a period of one year does not substantiate that the changed circumstances are of lasting nature.
- xvi. Increasing duty will be against public interest as the applicant is the only producer creating monopolistic situation, they are strongly export oriented and unable to meet the domestic demand resulting in demand supply gap.
- xvii. It is the consistent practice of the Authority to consider the nearest PCNs of the domestic industry for those PCNs which were exported by the producers / exporters during the POI but not manufactured and / or sold by the domestic industry in commercial quantities during the POI.

L.2 Submissions of the domestic industry

98. The following submission are made by the domestic industry.

- i. The domestic industry sought limited review against one exporter. Widening the scope of the investigation without sufficient grounds and based on the hypothesis that the changed circumstance claimed by the domestic industry is likely to have affected other exporters is mere presumption.
- ii. Examination of injury parameters is not warranted in a case limited to re-quantification of anti-dumping duty levied in the original investigation.
- iii. Lasting nature is established in cases filed for premature withdrawal of anti-dumping duties. None of the exporters have disputed with evidence that the changed circumstances are not lasting in nature.
- iv. All 9 HSN codes under which the product under consideration is being imported into India is to be included within the duty table.
- v. Exclusion in the current investigation is only of cosmetic grade for cosmetic application. Clarifying the same does not amount to broadening the scope of the product under consideration.
- vi. The volume of consumption of certain raw maw materials have varied over the injury period. The Authority is requested to not optimise them for NIP determination.
- vii. NIP law provides for normation of consumption inefficiencies and not difference in consumption. The Authority should give detailed findings if rejecting the claims of domestic industry regarding NIP.
- viii. As the domestic industry has not supplied identical PCNs to those exported by the foreign producers, the Authority should construct NIP for comparable PCNs and make due adjustments for differences in physical characteristics of the product. Reliance is placed on India's WTO proposal.

- ix. The Authority should recommend residual duties to the producers/exporters who are non-cooperating in the present investigation.
- x. The domestic industry was never burdened with the responsibility to evidence that changed circumstance is applicable only to Kuncai at any stage of this investigation. It lies with the exporters who have cooperated in the investigation to adduce the evidence.

L.3 Examination by the Authority

99. The Authority has examined the post disclosure submissions made by the interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.
100. On the submissions made by the domestic industry regarding widening the review to include all exporters from the subject country, the Authority notes that it is the prerogative of the Authority in deciding whether to extend the scope of the review on an order-wise or on a company-specific basis. In the present investigation, the Authority has undertaken the current review of the duty for all exporters/producers after being satisfied that the change in circumstance including cost of raw material and export price alleged by the applicant requires to be investigated for all producers/exporters in the subject country. Further, from the responses filed by the producers/exporter, the Authority has been satisfied that the prices of the subject goods have not been aligned with the changes of cost of production.
101. Both the domestic industry and respondents have contended that injury examination need not be conducted for an investigation with limited scope, the Authority notes that even though the present investigation is limited mid-term review initiated for re-quantification of anti-dumping duty levied on subject exporters from the subject country, the Authority has examined injury parameters to ascertain the lasting nature of the changed circumstances.
102. The other interested party has cited natural justice violation when stating that they were not afforded an opportunity to comment on the injury parameters of the domestic industry until the stage of disclosure statement. On the direction of the Authority, the domestic industry has duly submitted their injury formats and shared a non-confidential version of the same as addendum to their application on 16 December 2022. The other interested parties have been provided ample time to examine and provide their comments on the same. Further, the comments on injury parameters have been addressed under the relevant headings.
103. The submissions regarding the inclusion of HSN codes in the duty table has been noted and the same has been included in the table below.

104. All submissions made on the scope of Rule 23(1A), lasting nature, changed circumstance that resulted in the initiation of the investigation, the veracity of the export data submitted by the domestic industry, and public interest and clarification on the product scope have already been addressed under the relevant headings.
105. As regards the issues raised by the domestic industry on the construction of NIP for comparable PCNs and adjustment for differences in physical characteristics and other issues on NIP determination. In this regard, firstly, the Authority matched PCN to the PCN and wherever not matched, considered the nearest NIP for those PCNs which are not produced by the domestic industry, as per DGTR consistent practice. It is also noted that the product category /profile is same. The same methodology was adopted by the Authority in the original investigation.
106. As regards discrepancies in the calculations of the Coloray's PCN-wise Landed Value, the same has been corrected for the purpose of the present findings.
107. As regards the argument on disclosure if PCNs of the domestic industry were selected for comparison with the Coloray, the Authority has undertaken its consistent practice. Where the domestic industry has supplied the exact similar PCN, the same has been considered for present determination. However, in cases where the import quantities include some of the PCNs, which have not been produced by the domestic industry during the period of investigation, the non-injurious price or normal value for these PCNs have been computed based on the closest PCN with due adjustments, if required.

L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

L.1 Submissions made by other interested parties

108. The following submission are made by the other interested parties
- i. Enhancement of duty will be against the public interest as the applicant is export oriented, there is huge demand-supply gap, and creates a monopolistic situation.

L.2 Submissions of the domestic industry

109. The following submission are made by the domestic industry.
- i. As regards the contention on public interest, reference is placed on the analysis conducted by the Authority in the original investigation where it did not find any adverse impact of the duty on the consumers. Further, there are no consumer/user participation in the current investigation.

L.3 Examination by the Authority

110. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers, and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with respect to the present investigation, including the possible effects of enhancement of existing anti-dumping duties

on their operations. The Authority sought information on, *inter-alia*, the interchangeability of the product supplied by various suppliers from different countries, ability of the consumers to switch sources, the effect of anti-dumping duties on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation resulting from modified anti-dumping duties. None of the users or importers of the product under consideration has responded to the initiation notification or filed response to the questionnaire.

111. It is noted that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by unfair trade practises 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. The Authority recognised that the modification of the anti-dumping duties might affect the price levels of the subject goods as well as other downstream products manufactured by using the subject goods in India.
112. However, fair competition in the Indian market will not be reduced by imposition of anti-dumping measures, but would prevent the decline of the domestic industry that may ensue because of low-prices subject imports from the subject country and help maintain the wider availability of choices to the consumers of the subject goods.
113. On the issue of monopolistic behaviours of the domestic industry, it is noted that the purpose of anti-dumping duty is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market. From the anti-dumping rules, it is not borne out that a company, even if a monopoly, is prohibited from requesting the Authority for action against the unfair imports. In the instant case, the fact that there is only one Indian producer of the product under consideration and non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concern and the fact that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration as noted in the final findings of the original case, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

M. CONCLUSION

114. After examining various submissions of the interested parties with regard to product under consideration, confidentiality, adequacy and accuracy of the application, questionnaire responses, scope of the investigation, re-quantification of dumping and injury margin, other factors allegedly causing injury to the domestic industry, the Authority notes that it has appropriately dealt with the issues raised in the relevant paragraphs of these findings. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:
 - i. The product scope and the PCN methodology considered in the present investigation remains the same as defined in the original investigation. It is clarified that the exclusion from the product scope is *Natural Mica based Pearl Industrial Pigments* excluding cosmetic grade.
 - ii. The subject goods do not have a dedicated code at 8-digit level and is being imported under various HSN codes which are covered within the scope of this findings.

- iii. The applicant constitutes domestic industry under Rule 2(b) of the Rules and the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.
- iv. The scope of the present investigation is governed by provisions Rule 23(1A) read with the Office Memorandum dated 18th June 2019 and is limited to re-determination of dumping/injury margin for all exporters subjected to duties in the earlier investigation.
- v. The dumping margins of the cooperating exporters are more than *de minimus*.
- vi. The Authority has examined the injury parameters for a more comprehensive investigation even though the present investigation is limited to re-quantification of anti-dumping duty levied in the original investigation.
- vii. The lasting nature of the changed circumstance has been duly established by the domestic industry.

N. RECOMMENDATION

115. The Authority notes that the mid-term review investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic producers, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link.

116. Having concluded that there is changed circumstance warranting modification of the existing duties, the Authority is of the opinion that the measure is required to be modified in respect of imports from China imposed vide Customs Notification No. 47/2021 – Customs (ADD), dated 26th August 2021. Accordingly, definitive antidumping duty as per amount specified in Col. 7 of the table below is recommended to be imposed from the date of this notification till the remaining period of the duty that is upto 25.08.2026 which is imposed vide Customs notification no. 47/2021-Customs dated 26.08.2021 in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from China PR.

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

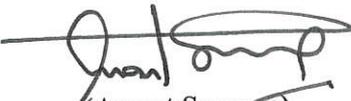
Duty Table

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	32064990, 32061900, 32041759, 32041739,	Natural Mica based Pearl Industrial	China PR	Any country including	Fujian Kuncai Material Technology	299	Per MT	US\$

	32041720, 32041790, 32071040	Pigments excluding cosmetic grade		China PR	Company Limited			
2	-do-	-do-	China PR	Any country including China PR	Zhejiang Coloray Technology Development Co., Ltd.	2913	Per MT	US\$
3	-do-	-do-	China PR	Any country including China PR	Henan Lingbao New Materials Technology Co., Ltd	2353	Per MT	US\$
4	-do-	-do-	China PR	Any country including China PR	Any producer other than serial no 1 to 3	3144	Per MT	US\$
5	-do-	-do-	Any country other than China PR	China PR	Any Producer	3144	Per MT	US\$

O. Further Procedure

118. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.


 (Anant Swarup)
 Designated Authority