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**F. No. 6/1/2023-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001**

Dated: 28th March, 2024.

**NOTIFICATION
FINAL FINDINGS**

Case No. AD (OD)-1/2023

Sub: Anti-dumping investigation concerning imports of “Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension” originating in or exported from China PR.

A. BACKGROUND OF THE CASE

1. M/s Easy Openends India Private Limited (an MSME unit) (hereinafter also referred to as “applicant” or “petitioner”) filed an application/petition seeking initiation of an anti-dumping investigation concerning imports of “Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension” (hereinafter also referred to as “Subject goods” or “Product Under Consideration” or “PUC”) originating in or exported from China PR (also referred to as “subject country”) before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with Customs Tariff Act, 1975 as amended from time to time (herein also referred to as the “Act”) and Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred to as the “Rules”).
2. The Authority, on the basis of a sufficient *prima facie* evidence submitted by the applicant, issued a public notice vide notification file no. 6/1/2023-DGTR dated 31st March, 2023, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country and to recommend the amount of anti-dumping duty (ADD), which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

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

- a. The Authority notified the embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b. The Authority issued a public notice dated 31st March, 2023 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods from the subject country.
- c. The Authority sent a copy of the initiation notification dated 31st March, 2023, to the embassy of the subject country in India, the known producers and exporters from the subject country, known importers, importer/user associations, the domestic industry, and other interested parties, as per the addresses made available by the applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit, in accordance with Rules 6(2) and 6(4) of the Rules.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its embassy in India in accordance with Rule 6(3) of the Rules supra.
- e. The embassy of the subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.
- f. The Authority issued economic interest questionnaire (EIQ) to all interested parties and the concerned ministry on 05.04.2023. Response to EIQ was submitted by the domestic industry and interested parties.
- g. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the AD Rules;
 - i. Fujian Xiangda Import and Export Co Limited
 - ii. Guangdong Enpack Packaging Co Limited
 - iii. Zhejiang Changhong Can End Making Co Limited
- h. In response, the following exporters/producers from the subject country filed exporter's questionnaire response;
 - i. Easy Open LID Industry Corp Yiwu
- i. Apart from the producer/exporters, submissions were made by "China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME)" also.

- j. The Authority sent importer's questionnaire to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rule.
- i. Rgsk Easy Pack Private Limited
 - ii. Hindustan Tin Works Limited
 - iii. Shetron Limited
 - iv. Ace Cans Mfg Co
 - v. J J Enterprise
 - vi. A J Packaging Limited
 - vii. CCL Products India Limited
 - viii. Karshni Packs Private Limited
 - ix. Patson Foods India Private Limited
 - x. Indus Coffee Private Limited
 - xi. Kaira Can Company Limited
 - xii. Vimal Agro Products Private Limited
 - xiii. Haldiram Foods International Private Limited
- k. In response, the following importers/users who have responded within stipulated and extended time period and filed importer's questionnaire response were considered:
- i. JJ Enterprise
 - ii. Kaira Can Company Limited
 - iii. Shetron Limited
 - iv. AJ Packaging Limited
 - v. Hindustan Tin Works Limited
 - vi. Victory Food Specialities FZE
- l. The Authority specifically provided an opportunity to propose product control number (PCN), if any, for fair comparison of the PUC in the initiation notification dated 31st March, 2023 by stipulating time lines to make the proposals.
- m. In response to the PCN proposal, the applicant reiterated that the facts of the case do not necessitate any PCN construction as such and requested the Authority to consider a model-to-model comparison as proposed in the application. However, some of the other interested parties only requested for extension of time to submit comments on PCN proposal. Considering such request, additional time of one week up to 27.04.2023 was granted to make PCN proposals.
- n. Even though extension of time was granted to propose any PCN, no such proposals were submitted by any of the interested parties.
- o. In the absence of any specific PCN proposal by the interested parties other than domestic industry, information on record found to be relevant for a PCN has been examined and a PCN method has been determined by the Authority and communicated to all the interested parties vide communication dated 8th May, 2023.

- p. Interested parties were requested to file the questionnaire response in accordance with the PCN notified within two weeks from the date of communication of PCN i.e. 8th May, 2023. Thereafter, request for additional time were made by the interested parties and considering such requests, an extension was granted upto 5th June, 2023 to file the responses/submissions.
- q. The Authority made available non-confidential version of the evidence presented/made by the various interested parties to the other parties by directing the parties to exchange such submissions via e-mail based on the list of interested parties relevant for the subject investigation made available to all relevant parties on the website of the DGTR.
- r. A request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of the subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S transaction-wise details of imports data for computation of the volume of imports and its analysis after due examination of the transactions.
- s. The non-injurious price (NIP) has been determined based on the cost of production and the cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure-III to the anti-dumping Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- t. The period of investigation for the purpose of the present anti-dumping investigation is from 1st January 2022 to 31st December 2022 (12 months). The injury investigation period has, however, been considered as the period from 1st April 2019-31st March 2020, 1st April 2020-31st March 2021, 1st April 2021-31st March 2022 and the POI.
- u. Desk verification/verification of the information provided by the applicant, responding producer and exporter from the subject country to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary modification/rectification, wherever applicable, has been relied upon for the purpose of present notification.
- v. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on hybrid mode on 21st July, 2023. All the parties who had attended the oral hearing were provided an opportunity to file written submissions by 28th July, 2023, followed by rejoinders, if any by 4th August, 2023.
- w. The submissions made by the interested parties during the course of this investigation so far, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered and addressed by the Authority.

- x. Information provided by the interested parties on confidential basis was examined with regard to the 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.
- y. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- z. '****' in this final findings-represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- aa. The exchange rate adopted by the Authority for the subject investigation is US\$1 = Rs.79.26.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. At the stage of initiation, the product under consideration and like article were defined as:

3. The product under consideration (PUC) in the application is "Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension".

4. The subject goods are essentially easy to open lids or open ends of cans/containers which are used in packaging of consumable and other items such as fresh and preserved foods and beverages etc. The subject goods cover easy open ends that are manufactured using tin plate including electrolytic tin plate (ETP) and are full aperture or fully openable in nature and are normally lacquered and carry opening instructions printed on top side of the easy open ends/lid. The traditional lids to be used/stamped to the cans/containers in packaging requires an external tool or force to open the lid, whereas, easy open ends can be seamlessly opened by pulling the ring stamped on to the outer side of the easy open end itself.

5. Also, the subject goods cover only easy open ends that measures 401 Diameter (99MM) and 300 Diameter (73MM) in dimension wherein 401 Diameter stands for 4 inches and 1/16th of an inch and 300 Diameter stands for 3 inches. These dimensions are in line with the universal dimensions followed by can/container and lid producers at large to ensure proper seaming of lids with the cans/containers. The product is generally traded by quoting the Diameter of the product and instances of mentioning dimensions also in millimeter (MM) terms are very often.

6. For clarity, the following are not covered in the scope of PUC;

- a) *Easy open ends that are manufactured of materials other than tin plate, such as aluminium, tin free sheet etc.*
- b) *Easy open ends having dimensions other than 401 Diameter (99MM) and 300 Diameter (73MM) of any make/input material.*
- c) *Easy open ends of partial or short aperture of any make and dimension.*

7. Product under consideration falls under Miscellaneous articles of base metal under Chapter 83 of the Customs Tariff Act, 1975 and further under customs sub-heading no. 8309 90 20 which is not a dedicated classification for PUC. However, the applicant has claimed that there is a possibility of import of the product under consideration under any other heading / tariff item. The HS classification for the product under consideration is only indicative and in no way binding upon the product scope.

LIKE ARTICLE

8. The applicant has claimed that there is no known difference in the subject goods produced by the domestic industry and the subject goods imported from the subject country. Both the goods are comparable in terms of physical & chemical characteristics, functions & uses, pricing, distribution & marketing, and tariff classification of the goods. The Authority notes that the two products are technically and commercially substitutable. The consumers have used and are using the two products interchangeably. Therefore, for the purpose of the present investigation, the subject goods produced by the domestic industry are being treated as 'like article' to the subject goods imported from the subject country.

C.1. Submissions by the other interested parties

- 5. The following submissions have been made by the other interested parties with regard to the product under consideration and like article:
 - i. The PUC covers only EOE's of 401 and 300 Dia made from tinplate. However, the petitioner produces other diameters of EOE's and also EOE's of aluminium. It is not clear why all such EOE's are not covered in the PUC.
 - ii. The products manufactured by the applicant are not like article as it is of an inferior quality. Hence, the users have to import.
 - iii. The applicant uses Batch Annealing (BA) tinplate manufacturing process to manufacture the PUC while producers / exporters use Continuous Annealed (CA) tinplate manufacturing process. The tinplate (raw material for PUC) manufactured using CA technology is of superior quality as compared to BA technology tinplate used by the applicant.

C.2. Submissions of the domestic industry

6. The domestic industry has submitted as follows with regard to the product under consideration and like article:
- i. The product under consideration (PUC) is “*Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension*” originating in or exported from China PR.
 - ii. The subject goods are essentially easy to open lids or open ends of cans/containers which are used in packaging of consumable and other items such as fresh and preserved foods, beverages, pan masala etc. The subject goods are also known as lids for cans, EOE, Easy Opens or Ring Pulls in the market parlance.
 - iii. The following are not covered in the scope of PUC; a) Easy open ends that are manufactured of materials other than tin plate, such as aluminium, tin free sheet etc., b) Easy open ends having dimensions other than 401 Diameter (99MM) and 300 Diameter (73MM) of any make/input material, c) Easy open ends of partial or short aperture of any make and dimension.
 - iv. With regard to any import of the product without the ring/tap attached to the lid, the ring (the ring to open the lid) is an integral and inherent part of the PUC and in the absence of a ring, the purpose of the EOE will not be met and even definition would be incomplete. The applicant is not aware of any import of EOE without the ring and the ring being placed on the subject goods after import into India at this juncture. However, petitioner cannot rule out any such activities in case of levy of any duties.
 - v. With regard to the chances of circumventing the diameters in question i.e. 401 and 300 Diameters, the Diameters concerning EOE are sacrosanct and are universally followed by can manufacturers also. Hence, such chances can be ruled out at this juncture.
 - vi. There is no known difference in the subject goods produced by the domestic industry and the subject goods imported from the subject country. Both the goods are comparable in terms of physical & chemical characteristics, functions & uses, pricing, distribution & marketing, and tariff classification of the goods. The two products are technically and commercially substitutable. The consumers have used and are using the two products interchangeably. The reason for preference for imported material is nothing, but the dumped prices offered by the exporters.
 - vii. It has been contended that the products manufactured by the applicant are not like article as it is of an inferior quality and the applicant uses Batch Annealed (BA) tinplate to produce the PUC while producers / exporters use Continuous Annealed (CA) tinplate to produce the PUC and the tinplate (raw material for PUC) manufactured using CA technology is of superior quality as compared to BA technology. The contentions are without any basis.

- viii. Batch Annealing (BA) technology and Continuous Annealing (CA) technology pointed out pertains to the production of raw material to produce the subject goods i.e., tin plate and not to the manufacturing of the subject goods. Difference in technology to produce raw material is inconsequential on the subject goods nothing is brought on to show that the difference in technology to produce raw material has impacted the comparableness of the products in terms of physical properties, interchangeability or uses of the imported EOE and EOE produced by the domestic industry.
- ix. Mere difference in technology or input/production process does not make the product different, unless there is a change in the specifications in the final product to the extent that they do not remain interchangeable or substitutable. In the present matter, imported EOE and that produced domestically remain interchangeable or substitutable and any difference in technology to produce tin plate has no impact on EOE.
- x. The manufacturing technology and process adopted by the applicant and the producers in the subject country to produce the subject goods are comparable and it is not even claimed that the technology to produce the subject goods are different. When such manufacturing technology and process adopted to manufacture the subject goods are comparable, the difference in technology to produce the raw material to produce the PUC has no meaning or any material effect on the subject goods.
- xi. The response filed by the exporter says that there is no difference from the product under consideration in any way or has specific characteristics or uses which single out the product them. When the foreign producer has not claimed or substantiated any difference in the subject goods that produced and exported by them and that produced and sold by the applicant on account of technology or quality in the relevant part of the exporter questionnaire response, importers making claims about differences in the imported and domestically produced EOE has no evidentiary value.
- xii. The Authority has issued final findings in anti-dumping investigation concerning imports of Coated/Plated Tin Mill Flat Rolled Steel Products originating in or exported from the European Union, Japan, USA and Korea RP on 17th June, 2020 [F. No.6/9/2019-DGTR] and the said finding has not taken cognizance of any such technology involved in the production of tin plate in India and their importance in the end uses of tin plate. The PUC clearly covers subject goods of tin plate irrespective of the technology to produce tin plate since the technology to produce tin plate is not a determining factor in the production and consumption of EOE.
- xiii. The users who bought the subject goods from the applicant have never shown any preference for EOE produced from tin plate of a particular technology. EOE were produced and sold based on the properties, end user preferences and features relevant for the EOE. There has been no instance of consumer preferring EOE

made of tin plate of CA technology alone and rejecting EOE's made of tin plate from BA technology produced by the applicant. Also, the import data do not differentiate between EOE's made from tin plate of BA or CA technology as the technology to produce tin plate is not any factor to describe the EOE's which is a value-added product of tin plate irrespective of the technology involved in production of tin plate.

- xiv. Also, the Manual of Operating Practices for Trade Remedy Investigations published by the Authority says that the important characteristics required to be examined while determining "like article" are similarity of physical characteristics, end use of the product, consumer preference and tariff classification etc. Two products may look different in terms of technology of production, design, style, quality, etc., yet they could be considered alike for the purpose of an investigation as long as they are functionally substitutable and replaceable in the market, due to similar end use, and consumer preference.
- xv. The Authority in a plethora of cases has ruled that neither the difference in technology nor the alleged quality differences can per se be a ground for exclusion of any product or for the purposes of either the dumping margin or the injury analysis and technology or the process used to manufacture the subject goods is of little significance as long as the resultant product is the same. It has also been ruled that difference in process or technology cannot be considered as a ground to differentiate the product as the end uses of the imported product and that domestically produced are same and consumers are using the two interchangeably.
- xvi. The applicant has been purchasing tin plate from The Tinsplate Company of India Limited (BA Technology) and the tin plate offered by the company meets the requirements to produce EOE's. The Company in particular claims that they cater to about 47% demand for tin plate for processed food application where easy open ends also fall and it cannot be believed that processed food industry uses tin plate of poor quality. Thus, the contention that EOE's made from BA technology tin plate is inferior in quality has no meaning.
- xvii. It is evident that difference in technology cannot be considered as any ground to differentiate the imported and domestic products as long as the PUC and like article have same end uses and are used interchangeably. When such has been the position on differences in the technology to produce the PUC itself, the alleged difference in technology to produce the raw material to produce the PUC has no tenability at all.
- xviii. When the applicant started production in 2016, Tin Plate Company of India was the only source available to buy tin plate domestically even though there are more producers of tin plate in India now even with CA technology. But the concern as stated is that the dumped imports are preventing price increases by the applicant to more reasonable levels.

- xix. Also, any alleged difference in quality is also not relevant in the determination of like article. The allegation that the EOE's produced by the applicant are of inferior quality has no basis. There have not been any serious quality issues raised by any of our customers so far and products have been well accepted by the users. The domestic industry ensures that even the minutest concerns of the users are addressed and there has been no instance that the domestic industry lost order on account of any persisting quality concerns. The EOE's produced and sold by the domestic industry are of good quality and are at par with the best products available in the world.
- xx. EOE produced by the applicant are used by reputed companies including MNCs in the food and consumables industry and such customers would not have placed repeat orders had the quality been inferior. It is not the quality but the dumped price which is attracting the importers to China PR and it is essential that some level playing field is ensured so that the domestic industry can also survive in the market by catering to the common customers in India.
- xxi. Finding by the Authority in the matter of Certain Flat Rolled Products of Aluminium that quality is not a factor for assessing the scope of the PUC and the difference in quality is not a sufficient justification for the exclusion of a product.
- xxii. The aspect of quality not being a factor for exclusion of a product from the scope of like article has been dealt with by the Hon'ble CESTAT in DSM Idemitsu Limited vs Designated Authority in which it was held that difference in quality will not make an article as different and Designated Authority was right in observing 'that the fact that qualities may be different, does not imply that the imported product and the domestic are not like articles'.
- xxiii. Tin plate purchased by the applicant hold quality accreditations. ETP- IS 1993/ISO 11949, Equivalent to JIS G 3303, EN 10202, ASTM A 624, ETP (SR), ASTM A 626- ETP (DR) seems to be the quality accreditations which the tin plate supplier holds which is relevant for EOE's also. Thereafter, EOE's produced from tin plate as per the applicable quality standards to produce tin plate cannot be of any inferior standards and the observation of the Authority in Anti-Dumping investigation concerning imports of Certain Flat Rolled Products of Aluminium originating in or exported from China PR- F. No. 6/27/2020-DGTR that if the government has prescribed certain standards of a product and the product supplied by the domestic industry conforms to such standards, the consumers cannot contend that the product type produced by the domestic industry does not meet the desired standards.
- xxiv. When tin plate bought by the applicant has been produced as per the standards prescribed for producing tin plate, EOE's, a value-added product produced using such tin plate, cannot become of poor quality or unusable quality by the users on account of poor quality of tin plate.

- xxv. The domestic industry considers tin plate and aluminum EOE's as two distinct products and hence aluminum EOE's are not included in the scope of present application. EOE's of aluminum and tin plate are different in terms of physical properties, basic raw materials, end uses, pricing etc., and EOE's of tin plate and aluminum are not interchangeably used and must be treated as distinct products within the meaning of Rule 2 (d). Also, there has been no production of 307 Dia during the POI.

C.3. Examination by the Authority

7. The product under consideration (PUC) in the present investigation is "*Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension*".
8. The subject goods are essentially easy to open lids or open ends of cans/containers which are used in packaging of consumable and other items such as fresh and preserved foods and beverages etc. The subject goods cover easy open ends that are manufactured using tin plate including electrolytic tin plate (ETP) and are full aperture or fully openable in nature and are normally lacquered and carry opening instructions printed on top side of the easy open ends/lid. The traditional lids to be used/stamped to the cans/containers in packaging requires an external tool or force to open the lid, whereas, easy open ends can be seamlessly opened by pulling the ring stamped on to the outer side of the easy open end itself.
9. Also, the subject goods cover only easy open ends that measures 401 Diameter (99MM) and 300 Diameter (73MM) in dimension wherein 401 Diameter stands for 4 inches and 1/16th of an inch and 300 Diameter stands for 3 inches. These dimensions are in line with the universal dimensions followed by can/container and lid producers at large to ensure proper seaming of lids with the cans/containers. The product is generally traded by quoting the Diameter of the product and instances of mentioning dimensions also in millimeter (MM) terms are very often.
10. It is further clarified that the followings are not covered in the scope of PUC;
- a) *Easy open ends that are manufactured of materials other than tin plate, such as aluminium, tin free sheet etc.*
 - b) *Easy open ends having dimensions other than 401 Diameter (99MM) and 300 Diameter (73MM) of any make/input material.*
 - c) *Easy open ends of partial or short aperture of any make and dimension.*
11. Product under consideration falls under miscellaneous articles of base metal under Chapter 83 of the Customs Tariff Act, 1975 and further under customs sub-heading no. 8309 90 20 which is not a dedicated classification for PUC. The HS classification for the product under consideration is only indicative and in no way binding upon the product scope.

12. It is also noted that though there has been no proposal for any PCN methodology from any of the interested parties even after providing adequate opportunities, the Authority vide communication dated 8th May, 2023 determined a PCN methodology considering the significant variation between the prices of the PUC of 401 and 300 diameter. Accordingly, the diameter of the product covered i.e., 401 Diameter (99MM) and 300 Diameter (73MM) has been considered as the basis to determine the PCN relevant for determination of dumping and injury margins and the PCN determined has been as follows;

SI. No.	Diameter	PCN
1.	401 Diameter (99MM)	401
2.	300 Diameter (73MM)	300

13. The Authority has also considered the arguments of the interested parties regarding the scope of the PUC and has examined the same based on the relevant information available on record and by calling further from the interested parties as found necessary.
14. With regard to the contention of the opposing parties that the petitioner produces other diameters of EOE's and also EOE's of aluminium and all such OE's are not covered in PUC, the Authority notes that the scope of the PUC is limited to easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension. Also, the imported product and that produced and sold by the petitioner are also comparable in terms of basic product properties, uses, raw materials, manufacturing process etc.
15. With regard to the issue of the quality of the goods manufactured by the domestic industry, the Authority notes that quality, per-se is not an issue in an anti-dumping investigation to contemplate exclusion of a product from the scope of the PUC. The Hon'ble CESTAT in DSM Idemitsu Limited vs Designated Authority upheld that the fact that qualities may be different, does not imply that the imported product and the domestic are not like articles. It is noted from the submissions that the users have been procuring the subject goods from the applicant and also from the subject country and the applicant has submitted that there has been no instance of rejection of the subject goods produced by the applicant by the users for quality issues.
16. With regard to the contention that the applicant uses tinsplate produced by using Batch Annealing tinsplate manufacturing process whereas the imported products are of tinsplate produced through Continuous Annealing technology which is claimed to be superior, the Authority notes that the difference in technology as contended by the opposing parties pertains to the production of tinsplate which is only a raw material to produce the subject goods and not to the subject goods itself. Also, it is not demonstrated that the difference in the technology to produce the raw material has rendered the EOE's produced from such raw materials two incomparable products in terms of end uses. The subject goods produced and sold by the domestic industry and that imported from the subject country are noted as functionally substitutable and replaceable in the market, due to similar end use, and consumer preference. It has also been claimed by the applicant, that the applicant procured tinsplate from one of the largest producers of tinsplate in India i.e. The Tin Plate

Company of India and the evidences shows that the tinplate supplied by the said producer meets the quality requirements to produce tinplate. In view of the same, difference in technology to produce raw material as claimed cannot be treated as any ground to distinguish between imported product and that produced by the applicant.

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

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

18. After considering the information on record, the Authority holds that the product under consideration produced by the domestic industry and imported from the subject country are comparable in terms of physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. Thus, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject country within the scope and meaning of Rule 2(d) of Anti-Dumping Rules.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1. Submission of the other interested parties

19. The submissions on the aspect of the domestic industry and the standing as filed by other interested parties are as follows;
- i. The applicant has admitted in its application that it has imported the product under consideration from China PR. In such a case, the Authority should not consider the applicant as a domestic industry in terms of Rule 2(b) and terminate the investigation outright.

D.2. Submissions made by the domestic industry

20. The submissions made by the domestic industry with regard to scope of the domestic industry & standing are as follows:
- i. The application on the basis of which the present investigation was initiated has been filed M/s. Easy Openends India Private Limited (an MSME unit). The applicant is the sole producer of the subject goods in India. The applicant is also not related to any exporter or producer of the subject goods in the subject country or any importer of the PUC in India.
 - ii. There has been one instance of import of 401 DIA EOE (PUC) in the POI as decided at the time of initiation. The miniscule import made was for assessing the factual position of import and the products offered by the exporters at dumped

levels. The applicant has no plan to continue the import nor continued it and its credentials as a producer is still intact and the import made was only an exception to holistically assess the situation of large increase in dumped products. Nevertheless, the import made was very insignificant which should not lead to disqualification of the applicant as an eligible domestic industry.

- iii. It would be evident that the imports made by the applicant is less than ***% of the total imports of the subject goods from China PR into India and such import is not significant. To substantiate the claim that the imports made by the applicant is not significant, reliance is placed on a decision by the Authority in the matter of Anti-dumping Investigation concerning imports of “Natural Mica based Pearl Industrial Pigments excluding cosmetic grade” originating in or exported from China PR. [F. No. 6/8/2020 - DGTR, 8th June, 2021] wherein imports by the domestic industry in the said matter has been about 5% of total imports from the subject country.
- iv. The petitioner fulfils the criteria under Rule 2 (b) to be considered as the domestic industry concerning the subject goods.

D.3. Examination by the Authority

21. Rule 2 (b) of the AD rules defines the “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”

22. It is noted that the application has been filed by M/s. Easy Openends India Private Limited and the certification as has been submitted shows that the applicant is an MSME unit. The applicant has claimed that they are the sole producer of the subject goods in India and this claim of the applicant is not rebutted with counter facts by any of the other interested parties. In view of the same, the applicant is considered as the sole producer of the subject goods in India.
23. It is further noted that the applicant is not related to any exporter or producer of the subject goods in the subject country or any importer of the PUC in India. However, it is noted that the applicant has imported the subject goods from the subject country during the POI as admitted in the application.
24. The Authority considered the arguments of the interested parties regarding the imports made by the applicant and notes that the imports made by the applicant during the period of investigation, accounts for ***% of the total demand and ***% of the total imports into India which is not significant so as to disentitle the applicant from being treated as domestic industry.

25. Therefore, considering the information on record, the Authority holds that the applicant/petitioner as eligible domestic industry within the meaning of Rule 2(b) of the Rules, and that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. ISSUES ON CONFIDENTIALITY

E.1. Submissions made by other interested parties

26. The following submissions have been made by other interested parties with regard to confidentiality issues:
- i. The applicant has claimed confidentiality in gross violation of Trade Notice No. 10/2018 dated 07 September, 2018 and Rule 7 of the Anti-dumping Rules.
 - ii. NIP not provided $\pm 10\%$ and details of self-imports as a % of total imports $\pm 5\%$ not provided in violation of the trade notice.
 - iii. The decision of the Hon'ble Supreme Court of India with respect to confidentiality in anti-dumping duty cases in *Sterlite Industries (India) Ltd. v. Designated Authority* 2003 (158) E.L.T. 673 (S.C.) is directly applicable in the present case. In the said case, on the issue of treatment of confidential information, the Hon'ble Supreme Court held that confidentiality was not to be granted automatically and should be based on thorough scrutiny.
 - iv. It appears in the present case that the claim for confidentiality has been granted automatically without a thorough evaluation of the information to which the confidentiality claim pertains.
 - v. The excessive confidentiality in this case has violated the rights of the interested parties to defend their interest properly while violating the law declared by the Supreme Court, CESTAT judgments, the Authority's own Trade Notice as well as the principles of natural justice.
 - vi. The applicant has sourced import data from secondary source and the data cannot be held confidential as it pertains to exports made by the Chinese exporters.

E.2. Submissions made by the domestic industry

27. The following submissions have been made by the domestic industry with regard to confidentiality issues:
- i. The opposing parties have resorted to excessive confidentiality in this matter which has limited that ability of the applicant to offer adequate rebuttals on their claims.
 - ii. Importers/users have not provided any indexed summary of information pertaining to volume and price detail of EOE's imported. This is when the applicant has provided a summary of its injury parameters in an indexed form.

- iii. The applicant has clearly quantified and provided a range of its claims on the impact of anti-dumping duty on down-stream users and the details of the claims also have been provided so that it is easily understood by everyone. But the response by the importers/users have held such claims confidential even without a summary.
- iv. The NCV response does not allow the applicant to understand the role of PUC in their product so that effective rebuttals can be provided on claims of any impact of anti-dumping duty.
- v. Involvement of any other exporters in the exports by Easy Open LID Industry Corp Yiwu to India needs to be checked in view of the excessive confidentiality adopted in the response.
- vi. Though the applicant has claimed confidentiality on transaction wise import data as permissible in the rule, a summary of the same showing volume and value of the imports for the entire injury period has been provided to the other interested parties. Hence, there has been no violation of confidentiality provision.
- vii. It has been contended that the applicant claimed excess confidentiality in violation of TN 10/2018 dt. 07 September 2018). The contention has no basis as the applicant claimed certain information as confidential by adducing valid reasons as permissible under the rule read with the settled jurisprudence in this regard and a summary wherever possible has been provided to other parties.

E.3. Examination by the Authority

28. With regard to confidentiality of information, Rule 7 of the 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."

29. The Authority notes that the information provided by the domestic industry and other interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered confidential.
30. With regard to the contention that the petitioner has not provided range of their import as a percentage of total imports into India and a range of NIP, it is noted that such information is disclosed to the extent permissible under Rule 7 in this notification.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions made by the other interested parties

31. The following submissions have been made by the exporter/ producer/ other interested parties with regard to various issues:
 - i. The respondents earnestly request the Authority to thoroughly examine the project report of the applicant to understand the various parameters and analysis which was considered to arrive at a decision regarding the viability of the PUC business.
 - ii. As claimed by the applicant during the hearing, its capacity is only 60 million pieces. Accordingly, it is amply clear that the applicant can cater to only around 15% of the Indian demand.
 - iii. The applicant has classified manufacturing and salary / wages into fixed and variable expenses. We apprehend that the objective of the applicant is to get their certain manufacturing and salary / wages accepted as it is by claiming the same as variable i.e., without optimization.
 - iv. Initiation of the present investigation is totally baseless as the petitioner has not brought forth any substantive evidences to establish the conditions for initiation.
 - v. Import data considered by the applicant is from unreliable sources and the Authority should have called in import data as per DGCI&S at the time of initiation.
 - vi. Levy of anti-dumping duty will establish a monopoly of domestic producer which will not be in public interest.

F.2. Submission made by the domestic industry

32. The following miscellaneous submissions have been made by the domestic industry:

- i. Even though the demand has been so robust and the capacity available with the applicant was not sufficient to meet the entire demand, the domestic industry could not increase its capacity utilization to any meaningful levels and the capacity utilization during the POI was very meagre in comparison to the demand in India.
- ii. The domestic industry should not have been left with huge unutilized capacities when the available capacity is not sufficient to meet the entire Indian demand. Thus, the contentions on demand supply gap have no merit and is only an alibi to justify dumping.
- iii. The domestic industry can cater to more Indian demand and there will be capacity additions should there be some level playing field established by arresting the dumped imports. It is a settled jurisprudence that the demand - supply gap cannot justify dumped imports and ruling of the Hon'ble CESTAT in DSM Idemitsu Ltd Vs DA matter in this regard is applicable in this matter also.
- iv. The anti-dumping duty has been imposed in numerous cases wherein the demand supply gap was found as very significant even in very recent findings. Thus, the present case is not about demand supply gap, but about the inability of the Indian producer to utilize its capacity to any prudent level even when the demand is very robust in India.
- v. The applicant had to rely on import data as per secondary available sources as the data as per DGCI&S could not be procured by it on account of regulatory reasons.
- vi. Submission of CCCME shows that CCCME has not shown their status as an interested party since CCCME has merely stated that they represent the interest of three parties. CCCME has not shown how many producers, exporters of the PUC are their members and a majority of them is being represented by CCCME. Until and unless CCCME shows its credentials as an interested party by satisfying the conditions of Rule, submissions of CCCME must not be taken on record as bona fide views and concerns.
- vii. The contention that the application filed by the lone producer in the country suffers from a host of defects is bereft of any merit and must be rejected. The application contained factually correct information on all aspects relevant for an anti-dumping investigation.
- viii. The contention that there is a need for thorough examination of the project report of the domestic industry and the primary reason for the applicant to put up an unviable project was some business arrangement which either did not materialize or fell apart is the cause of injury has no merit. The project report has no relevance in case of a claim of material injury since actual injury suffered by the domestic industry during the POI is the contentious issue in this case. It has been decided in Nippon Zion matter by Hon'ble CESTAT that the question of injury to domestic industry cannot be decided by assuming ideal conditions, but has to be

decided on prevailing conditions though giving reasonable adjustments. When the actual injury suffered by the domestic industry during the POI along with injury information for the entire injury period is presented before the Authority, the project report has no role to play as contended by the importers.

F.3. Examination by the Authority

33. The Authority has considered the views of the interested parties, as follows;

- i. With reference to the argument of demand-supply gap, the Authority considers that a gap in demand and supply cannot be a reason for depriving the domestic industry from seeking redressal against dumped imports causing injury. It is noted from the facts of the present case that the demand for the product during the POI was *** lakh pieces against which the production of the domestic industry has been ***lakh (capacity utilization at ***) pieces wherein the capacity available with the petitioner/domestic industry is noted as *** lakh pieces. Thus, the Indian production and the total available capacity was not sufficient to meet the entire Indian demand during the POI. The given capacity can meet about **% of the Indian demand found during the POI.
- ii. However, in this regard, the Authority notes that substantial part of the available capacity for the product in India have been significantly underutilized during the POI as evident from the **% capacity utilization by the domestic industry. Even though the present capacity is not sufficient to meet the current Indian demand, it was explained by the domestic industry that it can achieve much higher output from the current capacity itself, should there be better take off in the subject goods produced by the domestic industry.
- iii. Currently, the capacity is determined based on machine hours considered at 12 operational hours per day at the efficiency rate of **% whereas the industry can operate almost 24 hours and the current operational efficiency is also more than **% against the conservative estimate of **% efficiency considered for the purpose of capacity determination. The domestic industry claims that in such a scenario, the actual output could be almost double of the current capacity in hand. Also, it is claimed during the spot verification that the domestic industry will add new production facility in a very short span of time in the land available with it in case of conducive market situations.
- iv. With regard to the contention that the application contains incorrect and inconsistent information with regard to injury parameters including basis of the claims on wages, it is noted that the profitability and other claims were subjected to verification and scrutiny, and only such verified data pertaining to the subject goods alone is considered in the present disclosure statement.
- v. With regard to the contention that anti-dumping duty will lead to monopoly of the petitioner and any such measures shall be against public interest, it is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence

on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

- vi. With regard to the contention that the import data considered by the applicant is from unreliable sources and the Authority should have called in import data as per DGCI&S at the time of initiation, it is noted that the applicant relied upon secondary source for import data as it could not procure the said data from DGCI&S. However, the Authority relied upon DGCI&S data at the time of initiation itself and such data is used for this final finding also.

G. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN

G.1. Submission of other interested parties

34. The following submissions have been made by the other interested parties concerning determination of normal value, export price and dumping margin: -
 - i. After 11th December, 2016, any member country will no longer be able to derogate from the standard rules on the determination of the normal value included in Article-2 of the AD Agreement while dealing with imports from China PR.
 - ii. The Authority may grant “market economy status” to China PR based on the development of market economy of China PR, conduct any normal value calculation in accordance with Article 2 of the AD Agreement and accordingly apply the data on cost and price provided by the responding Company in its response for the determination of normal value.

G.2. Submissions made by the domestic industry

35. The following submissions have been made by the domestic industry:
 - i. The dumping margin is not only above the *de-minimis* threshold but is also very significantly positive for the PUC as a whole and individually for the PCNs devised.
 - ii. China PR should be treated as a non-market economy country and normal value in case of the producers/exporters from China PR should be determined in accordance with para-7 read with para 8 (2) and (3) of Annexure I of the Rules. In terms of Para8 in Annexure 1 to the Rules, it is presumed that the producers of the subject goods in China PR are operating under non-market economy conditions. Therefore, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

- iii. The Authority may note that the responding exporter has not claimed market economy treatment by filing applicable questionnaire replies and, in this context, determination of normal value based on paras 7 and 8 of Annexure-I to the AD Rules is very essential.
- iv. Normal value could not be determined on the basis of the price in a market economy third country or constructed value in a market economy third country or the price from such a third country to other country, including India on any reasonable basis is available. Determination of normal value on such basis requires specific data which is not available. Even imports into India have been primarily from China PR and there are no major imports from any other country apart from miniscule import from UAE. In view of the same, the applicant has to claim normal value on the basis of price actually paid or payable in India, duly adjusted to include a reasonable profit margin.

G.3. Examination by the Authority

Normal value

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

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

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

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

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Market Economy Status for Chinese Producers

37. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement

on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

- (a) *"In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following Rules:*
 - (i) *If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
 - (ii) *The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
- (b) *In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
- (c) *The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
- (d) *Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."*

38. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producer/ exporter from China PR have not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.
39. Accordingly, the normal value for all the producers/exporters from the subject country have been determined as below.

Normal Value for all Producers in China PR

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

In case of imports from non-market economy countries, normal value shall be determined on the basis 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. Account shall also be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

41. The Authority notes that normal value could not be determined on the basis of prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, as the relevant information has neither been made available by the applicant or any interested party, nor is available with the Authority from any public source. Also, imports of the subject goods into India have been primarily from the subject country and there has been only some miniscule import from another country, therefore, it would not be feasible to consider price from market economy third country to India. Thus, the normal value can only be determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The Authority has, thus, constructed the

normal value based on the optimized cost of production, considering prices of major raw materials and other costs paid in India, as per facts available and on the basis of PCN determined. Further, reasonable profit has been added to the cost of production for the purpose of determination of normal value. The normal value has been determined for all producers and exporters from China PR, and are mentioned in the dumping margin table.

Determination of Export Price for cooperating producers and exporters

i. Export Price

a) Easy Open LID Industry Corp Yiwu

42. From the exporters' questionnaire response of Easy Open LID Industry Corp Yiwu who is the producer cum exporter of the subject goods, it is noted that during the POI the Company has exported *** lakh pieces to India for value USD *** directly and indirectly through its unrelated company namely M/s Viscory Food Specialities FZE and M/s Lamy International Limited exported *** lakh pieces to India for Value USD ***. It is found that the unrelated companies of the producer/exporter did not file any questioner responses before the Authority within the stipulated time. The Authority has verified the data and other supporting documents during desk verification. It is noted that the exports through unrelated companies during the POI, was ***% of the total subject goods exported to India, which response has not been filled by the exporter/producer of the subject country.
43. It is also noted by the Authority that export to India made through such non-cooperative exporters is very significant in terms of total exports to India. Since no response has been filed by such other exporters, the value chain is not complete. Accordingly, the Authority does not accept the response of exporter/producer and determines the export price for the company on the basis of best available information and the same is shown in the Dumping Margin Table below.

Determination of Normal Value and Export Price for all non-cooperating Producers and Exporters in China PR

44. The normal value and export price for other non-cooperating exporters from China PR has been determined as per facts available taking into account the data examined for the co-operating exporters and the same is mentioned in the dumping margin table.

Dumping Margin

45. Considering the normal value and export price for the subject goods, the dumping margins for the subject goods from the subject country have been determined as follows;

Dumping Margin Table

S.No	Country	Producer	Diameter/PCN	Normal Value US\$/Per Lakh Piece	Net Export Price US\$/ Per Lakh Piece	Dumping Margin US\$/ Per Lakh Piece	Dumping Margin %	Dumping Margin (Range %)
1	China PR	Any	300	***	***	***	***	15-25
			401	***	***	***	***	25-35
			Weighted Average	***	***	***	***	20-30

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submissions made by other interested parties

46. The submissions made by the other interested parties have been as follows:

- i. The applicant has made an attempt to project as if their problems are on account of the alleged dumping from China. This is not borne out from the facts of the case. The injury, if any, is clearly on account of other factors.
- ii. There has been significant decline in the NPUC production and export sales decreased to nil. It is apparent that the decline in the exports sales of the PUC and production of NPUC has adversely impacted other injury parameters and resulted in decline in the production of PUC, consequent decline in the capacity utilization, increased cost of production as decline in production directly increases the per unit fixed cost of production like depreciation, interest cost etc.
- iii. High cost of raw material is the primary cause of the alleged injury. Quality Control Order imposed mandatory BIS Certification on the major inputs of the industry like tinplate/tin-free steel. Since the imports of this principal raw material for EOE industry is facing this temporary hurdle.
- iv. The applicant is using rectangular sheet instead of scroll sheet, which results in the increase in tinplate consumption by 10% as compared to the usage of scrolled sheet being used by the producers / exporters from China PR.
- v. The applicant does not have fully automated high speed production lines, which results into low productivity and high cost as compared to the integrated high-speed lines used by the producers / exporters from China PR.
- vi. The applicant is using Batch Annealed (BA) Tinplate while the producers / exporters from China PR are using Continuous Annealed (CA) Tinplate. Consistency in product quality is a concern in BA technology.

- vii. As per the market intelligence of the respondents, the applicant is using second-hand low speed old machines, which results in low productivity and high cost. This is the reason for injury, if any, suffered by the applicant.
- viii. The applicant does not have in-house lacquering and printing facilities, which increases their cost of production and decreases their competitiveness. The applicant gets its product lacquered and printed from the Jamshedpur plant of Tata while the applicant's factory is located in Noida.
- ix. Imports from China PR have moved in tandem with the demand and the imports have been to meet the demand.
- x. It can be noted that the increase in selling price has been higher than the increase in cost. This might have resulted in profits. Thus, there is no price effect during the POI.
- xi. There is steep decline in production of both PUC and non-PUC items. No reason given for decline in production of non-PUC.
- xii. It is not understood why the sales of the applicant declined when there has been increase in demand for the subject goods. The cause of injury must be some other reasons. Inventories declined during the POI in comparison to base year.
- xiii. The applicant has been in losses since its inception. Any losses prior to the commencement of production must be excluded. The applicant is producing PUC and non-PUC in the same plant. The Authority may examine whether cost of non-PUC is the cause of losses.
- xiv. There is no correlation between the net fixed asset figures, average capital employed, depreciation and installed capacity which needs examination. There is no correlation between annual report of the applicant and the economic parameters.
- xv. The products produced by the applicant cannot be used for critical segment. Therefore, more than 80% of the imports is in critical industry. The interest cost of the applicant has increased which needs explanation from the domestic industry.
- xvi. The domestic industry is relying on only one supplier of tin plate in India (The Tin Plate Company of India- TCIL) and the issue of the domestic industry is that the tin plate supplier earlier provided subsidies enabling the domestic industry to sell EOE and the said company has now stopped subsidy and increased the rates and at the same time, Chinese cost has not increased could be the cause of injury.
- xvii. It seems that the increase in net fixed asset has been wrongly reported in order to claim abnormally high Non-injurious Price (NIP) and Constructed Normal Value (CNV) which directly affects the level of dumping as well as the injury margin.

- xviii. The Authority may modify the practice of applying 22% ROCE keeping in view the existing tax and interest rate structure.

H.2. Submissions made by the domestic industry

47. The following submissions have been made by the domestic industry:
- i. The domestic industry suffered material injury as envisaged in the Rule, and volume and price injury of very significant nature stands demonstrated.
 - ii. Imports of the subject goods from the subject country has increased both in absolute terms as well as in relation to production and consumption in India by the POI over the base year and also in comparison to the immediate previous year.
 - iii. Market share of the dumped imports increased over the injury period and throughout the POI while that of the domestic industry declined in the POI as compared to the previous year and also the base year. Market share of the domestic industry was at the lowest level during the POI and that of the dumped imports has been at the highest level during the POI.
 - iv. Capacity of the domestic industry remained the same even though the demand for the product has seen robust increases. The domestic industry was left with significant unutilized capacities as the major market share was held by dumped imports.
 - v. Production, capacity utilization and sales of the domestic industry declined during the POI over the immediate previous year and also over the base year. Even the inventory level remained significant during the POI. This is when there have been increases in demand for the product in the country and the capacity in the country has been less than overall demand for the product.
 - vi. The landed prices have been at significantly positive undercutting levels and also created significant price suppression effects. The domestic industry was prevented from increasing the prices to reasonable levels so as to recover full cost and to earn reasonable profits.
 - vii. The domestic industry suffered financial losses as reflected in negative PBT, negative PBIT, negative PBDIT and cash losses including negative ROI during the POI. In fact, ROI which has been on an improving trend between base year and immediate previous year once again turned significantly negative in the POI showing the very high magnitude of dumping and its effects on the domestic industry.
 - viii. The level of employment with the domestic industry suffered as the domestic industry was forced to reduce employees with sharp fall in production. The domestic industry will have to cut more employees if the situation is not improving.

- ix. Growth can be noted as negative in majority of the injury parameters during the POI. In fact, growth which was positive on many parameters till the previous year once again turned very negative in the POI as an after effect of dumping of the subject goods from China PR. The ability of the domestic industry to raise capital investment has been significantly impacted and the investments already made have been suffering so seriously. Thus, both price and volume parameters show that the domestic industry has suffered material injury as envisaged in the AD Rules.
- x. It is also shown in the petition that the injury to the domestic industry has not been caused by any other factors and there is a direct causal relation between dumped imports and the injury suffered by the applicant.
- xi. With regard to the contention that lack of fully automated high speed production lines, which results into low productivity as compared to the integrated high-speed lines used by the producers / exporters from China PR, the production by the applicant is semi-automated and productivity of the domestic industry was not impacted because of lack of full automation.
- xii. With regard to the contention that use of obsolete technology (BA - Batch Annealing Processing), wherein the consistency in production/quality is a concern, it may be noted that the contention has no meaning. BA and CA technologies are available technologies to produce tin plates and not EOE's per se. Tin plate by BA technology is widely used in India for packaging purposes including food and tin plates bought by the applicant apparently met the standards prescribed to produce tin plates. The product of the domestic industry was never rejected because of the tinplate technology.
- xiii. With regard to the contention that usage of second-hand low speed old machines, resulting in low productivity, the applicant started the operations in 2016 with all brand-new machines and only a conversion press bought by the company in 2018 was not brand new which was primarily for enhancing the existing operational abilities of the company. Machine not being a brand new one does not mean that the machine was unfit for production or has been of inferior performance as being insinuated by the opposing parties. The said machine was bought because its technology complemented the production line very well and it was not prudent to go for a new machine at that juncture after testing the conditions of the machine. The machine has been delivering robust performance in the plant.
- xiv. With regard to the contention that no in-house lacquering and printing facilities, which increases the cost of production, it may be noted that the applicant had plans to integrate lacquering and printing line into its production line within the initial years of production itself. But further investments had to be delayed on account of aggressive dumping being practiced by the exporters from China PR. However, tin plate in lacquered and printed condition is available and the integration of these process will take place once the conditions of competition in the market is favorable by stopping injurious dumping.

- xv. With regard to the contention that the sole supplier of tin plate, which is using BA technology, which decreases the bargaining power of the applicant industry, and consequently, increases the cost of production, it may be noted that there is more than one producer of tin plate in India and the tinplate is available in India at competitive rates.
- xvi. With regard to the contention that the applicant does not have the yield advantage as they are not using scroll cut sheets, it may be noted that the raw material consumption factor for the entire injury period is provided and it can be noted that any anomalies in the use of raw material has not been the cause of injury to the applicant. Factor of usage of raw materials during the POI and previous years would show that the contention has no meaning.
- xvii. With regard to the contention that the capacity utilization of non-PUC also declined and no reason for this is provided by the domestic industry, the Authority may note that the information on capacity and capacity utilization of PUC is separately provided and trend of PUC alone is relevant in the injury examination since the injury pertaining to like article alone is relevant as per the AD Rules.
- xviii. With regard to the contention that why there has been a decline in sales when there has been an increase in demand and the decline in sales could be on account of other reasons, the Authority may note that it is precisely the case of the domestic industry that the domestic industry lost market share, was pushed to sit on idle/unutilized capacity by dumped imports and faced volume and price injury when there has been robust growth in demand for the product in the country and such adverse situation has been at play only on account of dumped imports taking place in the country in an unabated manner.
- xix. With regard to the contentions on injury based on annual report of the applicant procured from the website of Ministry of Corporate Affairs, the Authority may note that the data presented in the application and annual report are not the same due to other products as well.
- xx. With regard to the contention that the interest cost of the applicant has increased which needs explanation from the domestic industry, the interest cost in absolute terms have significantly declined in the POI (about ***% decline as shown in proforma IVA) and the increase seen in interest cost on per unit production is on account of sharp decline in production during the POI which was on account of spike on dumped imports.
- xxi. With regard to the contention that the average capital employed increased when there was no increase in capacity and there appears some error in the data, the Authority may note that the capital employed is not linked to capacity addition alone as contended and the existing capacity also require investments in plant and machinery etc. and in such a situation capital employed can vary even in the

absence of any capacity enhancement since capital employed is the sum of net fixed assets and working capital.

- xxii. With regard to the contention that the products by domestic industry can be used only for non-critical uses and people import from China PR for critical purposes, the supplies of easy open ends by domestic industry are made specifically for 'Retort Type' application where the filled can is put in retort conditions for 45-90 mins at a temp of 121 degrees as mentioned by our customers. domestic industry's products are fit for Retort to fill any critical products like fruits, vegetables, meat etc. In fact, retort test is the available method to assess whether the product is fit for critical use or not and our EOE's pass this test consistently and without any fail.
- xxiii. With regard to the contention that the domestic industry is relying on only one supplier and the said supplier now stopped subsidy whereas Chinese cost has not increased, Chinese producers of EOE admittedly operate under non-market economy conditions and the statement that their cost has not increased has no persuasive value. Also, the tin plate company of India was the only supplier of tin plates when the domestic industry started production though there are more producers now and the domestic industry bought the tin plate from the tin plate Company of India based on market price of tin plate and the domestic industry never got any subsidy at any point in time. The real issue is how the exporters afford to sell EOE's at such low rates. Also, the price of tin plate offered to the domestic industry by TCIL moved in tandem with the price of HRC and other major raw material and it cannot be said that injury caused to the domestic industry has been on account of any unscrupulous pricing of raw material by TCIL.

H.3. Examination by the Authority

48. The Authority has taken note of various submissions of the domestic industry and also opposing parties and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties.
49. 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.

50. With regard to various contentions on injury and causal link, the substantial submission of the opposing parties is that the injury claimed by the applicant are on account of other reasons and the contention is not that the domestic industry did not suffer injury at all as envisaged in the Anti-dumping rules. It is argued that the quality issues of the product are mainly on account of difference in technology to produce the raw material to produce the subject goods i.e. tinplate has been the main cause of injury to the domestic industry. The Authority notes that neither the difference in such technology nor the alleged quality differences can per se be a ground for exclusion of any product for the purposes of either the dumping margin or the injury analysis. It is further noted that the domestic industry is supplying the subject goods to large numbers of customers and their quality has been accepted by the market as evident from the sales made by the domestic industry. In any case, none of the interested parties has provided any evidence to substantiate their claim that goods produced by the domestic industry with existing technology cannot be used by them due to quality and other technical issues. The Authority, therefore, holds that the difference in technologies of producing law material for PUC cannot form the basis of any conclusion on injury as long as the products are technically and commercially substitutable.
51. It has also been contended that injury to the domestic industry is attributable to other reasons such as domestic industry's plant is not fully automated, domestic industry is using an old machine, domestic industry has no in-house lacquering and printing facilities, domestic industry is using imported raw materials/consumables, domestic industry does not have yield advantage as they are not using scroll cut sheets and domestic industry is reliable on only one supplier of tin plate in India, the Authority notes that the question of injury to domestic industry cannot be decided by assuming ideal conditions, but has to be decided on prevailing conditions though giving reasonable adjustments. The Authority has subjected the claims of the domestic industry including its financial data to strict scrutiny as per the Rules and only most efficient use of raw material, utilities etc. have been considered while deciding the injury.
52. Concerning the contention that high cost of raw material is the primary cause of the alleged injury, the Authority has noted the following. The major raw material in the production of the subject goods is tinplate and the domestic industry purchased tinplate in coated/lacquered and printed condition only from domestic supplier. It is further examined whether the alleged injury is on account of increase in cost of tinplate as contended based on the below given information;

Particulars	Unit	2019-20	2020-21	2021-22	POI
Key Raw Material Cost-Coated and Printed Tinplate	Rs Lakhs	***	***	***	***
Production	Pieces	***	***	***	***
Key Raw Material Cost-Coated and Printed Tinplate	Rs/Pc	***	***	***	***

Trend	Indexed	100	102	136	146
Cost of Sales	Rs/Pc	***	***	***	***
Trend	Indexed	100	82	103	136
Share of Tinplate cost in Total Cost	%	***	***	***	***
Trend	Indexed	100	123	130	106
PBT (Profit before Tax)	Rs/Pc	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(16)	(22)	(124)
Landed Price (LV)	Rs/Pcs	***	***	***	***
Trend	Indexed	100	107	120	135

53. Selling price table as above shows that even when the share of tinplate, which is the key raw material, in total cost of the domestic industry declined between the POI and immediate previous year by 33 indexed points, the profits of the domestic industry declined by about 124 points. It is also noted in this regard that the landed price of imports during the POI has been lower than the cost of sales and also the selling price of the domestic industry. Thus, the drop in profits of the domestic industry during the POI cannot be linked to any increase in raw material cost alone as contended.
54. With regard to the contention of opposing parties that the cause of injury could be the fall in production of non-PUC items, the Authority notes that the injury being addressed in this statement concerns only the PUC.
55. With regard to the submission that the Authority must modify the practice of applying 22% ROCE keeping in view existing tax and interest rate structure, it is noted that the 22% ROCE allowed for the purpose of NIP determination is as per the consistent practices in the Department and such practice is considered as appropriate in the present matter also.

i. Volume Effect of Dumped Imports on the domestic industry

a. Assessment of Demand/Apparent Consumption

56. The demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producer since there is only one producer and imports from all sources. The demand so assessed has increased during the injury period.

Particulars	Unit	2019-20	2020-21	2021-22	POI
Imports from China PR (Subject Country)	Lakh Pcs	1,108	1,146	1,169	1,846
Trend	Indexed	100	104	106	167
Total Imports from Other Countries	Lakh Pcs	8	401	32	16
Total Imports into the Country	Lakh Pcs	1,115	1,547	1,201	1,862

Domestic Sales of Petitioner	Lakh Pcs	***	***	***	***
Trend	Indexed	100	202	205	96
Total Demand	Lakh Pcs	***	***	***	***
Trend	Indexed	100	146	118	159

57. As can be seen from the above table, the demand for the subject goods in India during the POI has increased over the base year and also over the immediate previous year. In fact, demand has been at the highest level during the POI with an increase of 59% between POI and the base year and 41% increase between POI and the immediate previous year.

b. Import Volumes from subject country

58. With regard to the 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	Unit	2019-20	2020-21	2021-22	POI
Imports from China PR (Subject Country)	Lakh Pcs	1,108	1,146	1,169	1,846
Share of Subject Country in total Imports	%	99.31	74.09	97.36	99.14
Share of Other Countries in total imports	%	0.69	25.91	2.64	0.86
	%	100	100	100	100

59. It is seen that imports of the subject goods from the subject country has increased from 1108 Lakh PCs in the base year to 1846 Lakh PCs in the POI showing an increase in imports in absolute terms. In terms of percentage, the share of imports from subject country in overall imports into India which was 99.31% in the base year decreased slightly to 99.14% in the POI while the share of imports from other countries increased from 0.69% in the base year to 0.86% by the POI. Notably, major share in overall imports into India have been held by imports from subject country throughout the injury period.

c. Subject Country Imports in relative terms

Particulars	Unit	2019-20	2020-21	2021-22	POI
Total Imports from Subject Country	Lakh Pcs	1,108	1,146	1,169	1,846
Total Demand	Lakh Pcs	***	***	***	***
Trend	Indexed	100	146	118	159
Sales of domestic industry (DI)	Lakh Pcs	***	***	***	***
Trend	Indexed	100	209	226	92

Particulars	Unit	2019-20	2020-21	2021-22	POI
Imports from subject country relative to Indian consumption	%	***	***	***	***
Trend	Indexed	100	71	89	105
Imports from subject country relative to production of DI	%	***	***	***	***
Trend	Indexed	100	50	47	181

60. It is noted that the share of dumped imports in relative terms to production and consumption in India has increased between the POI and the base year and also between the POI and the immediate previous year.

ii. **Price Effect of the imports on the domestic industry**

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

a) **Price Undercutting**

62. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject country. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Net Sales Realization	Rs./Pcs	***	***	***	***
Landed Price (LV)	Rs./Pcs	***	***	***	***
Price Undercutting	Rs./Pcs	***	***	***	***
Price Undercutting	% of NSR	***	***	***	***
Price Undercutting	Range	10-20	10-20	20-30	15-25

63. It is noted from the aforesaid table that imports from the subject country have been entering Indian market at a price below the net sales realization of the domestic industry, resulting in positive price undercutting. It is further noted that though the landed price of imports had increased over the years, the gap between landed price of dumped imports and NSR of the domestic industry remained very significant resulting in a price undercutting in the range of 15-25% during the POI.

b) Price Suppression/Depression

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

Particulars	Unit	2019-20	2020-21	2021-22	POI
Cost of Sales	Rs./Pcs	***	***	***	***
	Indexed	100	82	103	136
Domestic Selling Price	Rs./Pcs	***	***	***	***
	Indexed	100	110	138	141
Landed Value-Subject Country	Rs./Pcs	***	***	***	***
	Indexed	100	107	120	134
PBIT profit and loss per unit	Rs. /Pcs	(***)	(***)	(***)	(***)
	Indexed	(100)	(16)	(22)	(124)

65. It is observed that while the cost of production and selling price of the domestic industry has increased between POI and base year along with increases in landed price of imports, the landed value of the subject imports during the injury period including the POI has remained lower than cost of sales and domestic selling prices of the domestic industry. Therefore, it is noted that the imports of the subject goods from the subject country are suppressing the selling prices of the domestic Industry as the increase in cost of sales is higher than increase in selling price of the domestic industry and also the price increases would have been higher in the absence of such landed value of imports, even enabling the domestic industry to sell at profitable levels.

iii. Economic Parameters of the domestic industry

66. Annexure-II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping;

actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

67. While disclosing the essential facts on injury and causal link, the Authority has also examined the injury parameters objectively taking into account various submissions made by all the interested parties so far in this investigation so as to address all such submissions as well.

a) Production, Capacity, Sales and Capacity Utilization

68. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization was as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Installed Capacity	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	100	100	100
Production	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	209	226	92
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	209	226	92
Domestic Sales	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	202	205	96

69. It is noted that while the capacity remained constant over the injury period, production, capacity utilization and sales of the domestic industry increased between the base year i.e. 2019-20 and the immediate previous year i.e. 2021-22 and declined considerably during the POI. It is also observed in this context that the imports from the subject country in relation to production and demand/consumption in India increased between the POI and the immediate previous year level at considerable rates.
70. It is also observed that production, capacity utilization and sales low of the domestic industry during the POI have been lower than the levels during the base year and capacity utilization of the domestic industry remained very low even when the claim is that there is a demand and supply gap for the product in India. It has been claimed by the domestic industry that the meager capacity utilization percentage in an ever-growing market for the subject goods like India is a direct fallout of dumped imports and such percentage of utilization indicate the volume injury being suffered by the domestic industry.

d. Market Share in Demand

Particulars	Unit	2019-20	2020-21	2021-22	POI
Imports from China PR (Subject Country)	Lakh Pcs.	1,108	1,146	1,169	1,846

Particulars	Unit	2019-20	2020-21	2021-22	POI
Trend	Indexed	100	104	106	167
Total Imports from Other Countries	Lakh Pcs.	8	401	32	16
Total Imports into the Country	Lakh Pcs.	1,115	1,547	1,201	1,862
Domestic Sales of Petitioner	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	202	205	96
Total Demand	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	146	118	159
Share in Indian Demand that of;					
Imports from China PR (Subject Country)	%	***	***	***	***
Trend	Indexed	100	71	89	105
Total Imports from Other Countries	%	***	***	***	***
Trend	Indexed	100	3,576	348	130
Total Imports into the Country	%	***	***	***	***
Trend	Indexed	100	95	91	105
Domestic Sales of Petitioner	%	***	***	***	***
Trend	Indexed	100	139	173	60
Domestic sales of Indian producers	%	***	***	***	***
	Indexed	100	139	173	60

71. The Authority notes that the market share of the subject imports has increased between the base year and POI from 100 basis indexed points to 105 indexed points in the POI. However, the share of the domestic industry in demand has declined in the same period from 100 indexed points in the base year to 60 indexed points in the POI. In fact, the fall in market share of the domestic industry between the POI and immediate previous year has been of highest levels as can be noted from the fall of about 113 indexed points in the said period. Market share of the subject imports increased by 16 indexed points in the same period. The domestic industry has claimed that the decline in market share of the domestic industry at a time when there has been an increase in demand is the fall out of increase in share of dumped imports of the subject goods into India from the subject country in the same period.

b) Profitability, return on investment and cash profits

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

Particulars	Unit	2019-20	2020-21	2021-22	POI
Profit/Loss	Rs. Pcs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(16)	(22)	(124)

Particulars	Unit	2019-20	2020-21	2021-22	POI
Profit/(Loss) before Int. & Tax (PBIT)	Rs. Pcs	(***)	(***)	***	(***)
Trend	Indexed	(100)	(5)	11	(98)
Cash Profit	Rs. Lacs	(***)	***	(***)	(***)
Trend	Indexed	(100)	17	(3)	(124)
Average Capital Employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	106	106	96
Return on Capital Employed	%	(***)	(***)	***	(***)
Trend	Indexed	(100)	(9)	22	(96)

73. From the above table, it is noted that the key profitability parameters of the domestic industry have been on an improving trajectory till 2021-22, though the actual numbers were in the negative territory and then such parameters once again declined in the POI resulting in substantial losses in terms of all key profitability parameters. Overall, the domestic industry suffered financial losses during the POI including negative ROCE.
74. With regard to the contention of the opposing parties that there is no correlation between the net fixed asset figures, average capital employed, depreciation and installed capacity and there is no correlation between annual report of the applicant and the economic parameters, the Authority notes that the applicant has produced non-PUC items also and information in the annual report will not be directly relatable to subject goods alone. However, segregated information applicable to subject goods alone have been relied upon in the injury examination.
75. With regard to the contentions on increase in capital employed and working capital when the capacity remained the same, it is noted from the rejoinder submission of the domestic industry that there was an error in the capital employed reported in the petition for the base year which was rectified by the applicant. Thereafter, information on capital employed, working capital etc. as claimed by the applicant have been subjected to verification and only such verified data is considered for this statement which addresses the concerns raised by the opposing parties.

c) Employment, productivity and wages

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

Particulars	Unit	2019-20	2020-21	2021-22	POI
Employment	Nos	***	***	***	***
Trend	Indexed	100	147	165	109
Wages	Rs. Lakh/Pcs	***	***	***	***
Trend	Indexed	100	65	70	123

Particulars	Unit	2019-20	2020-21	2021-22	POI
Productivity per employee	Lakh Pcs/Person	***	***	***	***
Trend	Indexed	100	142	137	85

- a) It is noted that there has been some decline in the employment level of the domestic industry and the trend was in line with the decline in production. Wages per unit is noted as increased over the injury period and reduction in production also resulted in some decline in productivity of the domestic industry.

d) Magnitude of Dumping Margin

77. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive and significant in the investigation period.

e) Inventories

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

Particulars	Unit	2019-20	2020-21	2021-22	POI
Inventory	Lakh Pcs.	***	***	***	***
Trend	Indexed	100	108	231	85

79. It is noted that inventory with the domestic industry declined by the POI viz. the base year.

f) Growth

80. The Authority notes that growth of the domestic industry with regard to key volume and profitability parameters have been negative during the POI as can be seen from the table below;

Particulars	Unit	2020-21	2021-22	POI
Production	%	108.82	8.21	(59.28)
Sales Volume Domestic	%	101.82	1.41	(52.99)
Capacity Utilization	%	108.82	8.21	(59.28)
Inventory	%	10.50	112.11	(63.54)
Employment	%	47.17	12.35	(34.16)
Selling Price Per Pcs	%	9.66	25.73	2.12
Cost of Sales Per pcs	%	(18.34)	26.31	31.53
Return on Capital Employed	%	90.58	329.57	(544.16)
Profit per Unit	%	83.86	(35.47)	(465.61)
PBIT Per Unit	%	94.89	323.40	(962.79)

g) Ability to raise capital investments

81. The Authority notes that the domestic industry has made capital investments to set up the plant to produce the subject goods. However, the performance of the domestic industry has deteriorated during the injury period and the domestic industry have been in losses during the POI. It has been stated that the domestic industry had plans to expand the capacity but has been put on hold on account of injury being suffered by them. However, it is noted that the domestic industry is a multi-product company and therefore the ability to raise capital investment may not be governed based on the performance of the product under consideration (PUC) alone.

h) Factors affecting domestic prices

82. The examination of the import prices from the subject country, 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 the landed value of imported material from the subject country is below the selling price and cost of sales, causing significant price undercutting, and price suppression. It is also noted that the demand for the subject goods was showing significant increase during the injury period and therefore it could not have been a factor affecting domestic prices. Thus, it can be noted that the principal factor affecting the domestic prices is the dumped imports of the subject goods from the subject country.

i) Magnitude of Injury Margin/Price Underselling

83. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of 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 information/data relating to the cost of production provided by the domestic industry and duly certified by the practicing cost accountant for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed. Separate NIP has been determined for each type of the product.
84. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on facts available.
85. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority.

Injury Margin

SN	Country	Producer	Diameter/PCN	NIP US\$/Lakh per Piece	Landed Value US\$/ Lakh per Piece	Injury Margin US\$/ Lakh per Piece	Injury Margin %	Injury Margin (Range %)
1	China PR	Any	300	***	***	***	***	15-25
			401	***	***	***	***	15-25
			Weighted Average	***	***	***	***	15-20

I. NON-ATTRIBUTION ANALYSIS

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

a) Volume and price of imports from third countries

87. The imports from countries other than the subject country have been very negligible (less than 1% of total imports of PUC into India) and have been taking place at much higher price than the subject country.

b) Export Performance

88. The Authority has considered the data for domestic operations only for its injury analysis. In fact, there were no exports made by the domestic industry during the POI.

c) Contraction in demand Changes in pattern of consumption

89. It is noted that the demand of the subject goods has increased over the injury period.

d) Trade restrictive practices of and competition between the foreign and domestic producers

90. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. Interested parties to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

e) Developments in technology

91. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry. The concerns of difference in technology to produce the raw material i.e. tinplate to produce the subject goods is addressed under the PUC and like article section herein above.

f) Changes in pattern of consumption

92. The subject goods produced by the domestic industry and that imported into India are comparable and the end users find these goods interchangeable.

g) Performance of the domestic industry with respect to other products

93. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performances concerning the subject goods. The information considered by the Authority is with respect to the product under consideration only.

h) Productivity of the domestic industry

94. Productivity per employee as assessed has slightly declined by the POI in line with decline in production during the same period. Thus, the Authority notes that deterioration in productivity as such has not been any cause of injury to the domestic industry.

J. INDIAN INDUSTRY'S INTERESTS AND OTHER ISSUES

J.1. Submissions by other interested parties

95. The following submissions have been made by the other interested parties during the course of the investigation;

- i. The imposition of the duty will adversely impact the interest of the user industry which is in MSME and common masses.
- ii. Product under consideration is used in the manufacturing of downstream product (tin can), which are primarily used for packing of dairy products, processed foods etc. Accordingly, imposition of duty will directly and adversely impact the common masses and would also be detrimental to the food processing sector which is on the priority list of the government.
- iii. The user industry employs more than 1,00,000 people directly and indirectly and is mainly concentrated in MSME sector and scattered all over the country. Imposition of duty will directly and adversely impact the employment in the MSME enterprises.
- iv. The applicant can cater to only around 15% of the Indian demand. Therefore, majority of the demand has to be met from imports as the production capacity of the

applicant (sole Indian producer) is not sufficient to meet the Indian demand and the quality of the product under consideration manufactured by the applicant is also substandard. In such a case, imposition of duty will adversely impact the user industry.

- v. The cost of product under consideration in the total cost of the downstream product account (tin can) accounts for a significant share i.e., in the range of 20% to 30%. The applicant has requested antidumping duty in the range of 45%-55% on 300 Dia and 50%-60% on 401 Dia. Therefore, imposition of duty will increase the cost of the downstream product significantly i.e., by around 10%. It will also increase the working capital requirement for the downstream product.
- vi. To apply anti-dumping measures in this investigation will be inconsistent with the long term and overall interest of the Indian domestic industry.

J.2. Submissions by the domestic industry

96. The following submissions have been made by the domestic industry during the course of the investigation;

- i. The information on effect of any anti-dumping duty as claimed by the applicant shows that the effect on ultimate end user shall be very negligible at 0.10% to 1.10% and such percentages must be noted as not very significant.
- ii. The applicant has submitted their claim of possible impact of anti-dumping duty on the ultimate end consumer for commonly used products wherein EOE is used as follows and claimed that the impact will be in the range of 0.10-1.10%.

	Unit	Redco w Diary Panir- 401	Haldiram Gulabjam un -401	Amul Cheese - 401	Hexago n Fiber- 401	Paras Ghee- 401	Delmot e Sweet Corn- 300	Nestle Milkmaid -300
Price of End Product to the consumer	Rs./Can	235.00	240.00	238.00	878.00	1,326.00	115.00	144.00
Landed Price of EOE	Rs./Pc	3.77	3.77	3.77	3.77	3.77	2.51	2.51
Injury Margin as claimed	Rs./Pc	2.06	2.06	2.06	2.06	2.06	1.24	1.24
Landed after anti-	Rs./Pc	5.83	5.83	5.83	5.83	5.83	3.75	3.75

dumping duty								
Share of Subject goods in End Product without anti-dumping duty	%	1.60	1.57	1.58	0.43	0.28	2.18	1.74
Share of Subject goods in End Product with anti-dumping duty	%	2.48	2.43	2.45	0.66	0.44	3.26	2.60
Estimated Net Increase in cost (Impact on the End Consumer/ Public)	%	0.88	0.86	0.87	0.24	0.16	1.08	0.86

- iii. The effect on ultimate end user is relevant in the impact analysis and nothing is provided to show that the downstream users of the subject goods will not pass on the increase in cost on account of any anti-dumping duty to end consumer.
- iv. The Authority should not limit the examination of public interest to examining the effect of anti-dumping duty on users of the subject goods alone. The larger picture of the need for ensuring level playing field for the EOE producer also must be considered while conducting the public interest examination.
- v. EOE production base is very relevant for the country with much focus on packaging requirements. The exporters are trying to nip this industry in the very bud itself so that the exporters continue to enjoy dominance in Indian market. Levy of anti-dumping duty will thwart such unfair attempts and situations.
- vi. While there is only one producer of EOE in India, there is claimed to be about 10 producers of cans in India which shows EOE industry also has scope for entry of more producers and capacity expansion by the existing producer.
- vii. The subject goods have robust demand in India and, still the market is dominated by dumped imports from China PR. The raw material to produce the subject goods is available at abundance in India and there is no need for India to be dependent on imports to meet the demand for this product at least in the time to come.

- viii. To reduce imports, it is essential to help the current manufacturing base in India to sustain and also expand further. As of now, the demand for the subject goods is about 20-25 crore Pcs and the current capacity is about 6-9 Crore pieces, and even the said capacity is largely underutilized in the range of 20-30%. Only anti-dumping duty can remove such imbalances in the market.
- ix. Subject good is used in the packaging industry and with focus of the Governments on elimination of single use plastics, the demand for the product will continue to grow at increased rates in the years to come. There is no reason for India to be not self-reliant on this product and the country can stop out flow of substantial money on account of import of EOE, if it helps to develop a strong production base for the subject goods in India by levying measures to remove the effects of dumping.
- x. The subject goods are value added product of tin plate which means the subject goods complement the steel sector in India very well and a strong production base for EOE will ensure better health of the entire steel value chain to the extent of production of EOE.
- xi. Production of the subject goods require investments which will be affordable to even small units in the MSME sector etc. and the country may see ramping up of capacities to produce the subject goods within a short span of time, should there be fair competition between imports and domestic products in India. Currently, the fair balance is vitiated on account of presence of dumped imports.
- xii. Emergence of a greater number of producers of EOE in India will reduce any import dependency and more producers of EOE in India will only benefit the users in the long run. In cases like Aluminum Road Wheels, Vitrified Tiles etc. level playing field ensured by levy of anti-dumping duty saw entry of large number of producers and India now has a strong manufacturing base. Level playing field for EOE manufacturing with levy anti-dumping duty will see such developments in the business of this product as well.
- xiii. India is one of the largest producers and users of steel in the world and the claims that a value-added product produced in India from tin plate is not of superior quality is only an alibi to enjoy dumped imports which cannot be a tenable strategy in true public interest.
- xiv. The industry is already stable in terms of quality and other operational aspects and the only concern is that the producer is not able to increase the prices to reasonable levels which would have been possible in the absence of dumping. The anti-dumping duty to address such kind of situation shall certainly be in larger public interest.
- xv. The contended demand supply gap also has no meaning in the context of public interest as the capacity with the applicant has been largely underutilized and such underutilization was the result of presence of dumped imports.
- xvi. India has capacity of about 7,49,000 MTPA (TCIL- 379000 MTPA, JSW Vallabh Tinplate- 120000, JSW Tarapur plant- 250000MTPA) to produce tin plates with planned capacity additions by about 3,00,000 MTPA as of FY 2021-22. Only a small portion of that is required by EOE industry to meet the entire demand in India. Thus, EOE industry have fair access to raw material within India and in such a situation, allowing dumping of EOE to take place in India shall not be in the collective public interest in India.
- xvii. The importers may hugely benefit from dumped imports in the short run and they want such dumped imports to continue unabated as evident from their claims but it

will not do any good to the country in the long run. The issue is not imports, but the dumped imports at injurious levels. The anti-dumping duty so as to remove the effects of dumping shall not be against public interest in any manner.

- xviii. Levy of anti-dumping duty to remove the distorting effects of dumping based on lower of the injury and dumping margin determined shall not go against the public interest in any manner. Rather, such steps will be huge stepping stone for establishing a strong EOE manufacturing base in India and such manufacturing base shall be in larger public interest of India.

J.3. Examination by the Authority.

97. 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 regard to the present investigation, including possible effect of anti-dumping duty on their operations. The Authority sought information on, *inter-alia*, interchangeability of the product supplied by various suppliers from different countries, ability of the consumers to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.
98. It is noted that anti-dumping duty does not restrict imports, but only ensures that the imports enter the market at fair prices. Thus, the users will continue to have the broader choice and liberty to import the subject goods at fair prices, which will ensure better competition in the market. Further, as stated in earlier paras, any measures if proposed the Authority, shall be applicable to the product varieties produced in the POI which faced material injury.
99. With regard to quality and demand-supply gap, it is noted that the imposition of anti-dumping duty does not act as a ban on imports. The purpose of imposition of antidumping duty, in general, is to address the issue of trade distortion caused by the unfair trade practices in order to re-establish the situation of open and fair competition. In any case, the Authority notes that if there is a demand supply gap in the country, the foreign producers can certainly fill the gap in the country by bringing the product at a fair price. However, existence of demand supply gap does not justify dumping of the product. It is already noted herein above that the quality of the product produced by the applicant has been acceptable to the users and the users have been buying from the domestic industry as well.
100. With regard to impact on user industry, the domestic industry has quantified the impact of impact of anti-dumping duty on the end user and that is in the range of 0.16-1.10%. The other interested parties have not quantified the impact of the anti-dumping duty on the end user and instead have quantified impact for the importers. Further, the Authority notes the submission of the domestic industry that the subject goods are easy open ends which is used along with the cans used for packing and storage of various edible and daily use items etc. and cost of packing associated with EOE's constitutes a miniscule portion of the value of the underlying goods stored in the containers to which EOE's are

attached. Therefore, a cost increase of EOE's in line with the lower of the margins noted will have less than 1% impact on the end users.

101. With regard to the impact of any anti-dumping duty on the downstream users who are in the MSME sector, the Authority notes that there is only one producer of EOE's in India which is also an MSME unit while there are large number of tin can producers in India as claimed by the interested parties. Also, the subject goods are value added products of tinplate which is abundantly produced in India which means the manufacturing of subject goods in India is a very viable option and have the potentials to be encouraged in view of the growing relevance of other than single use plastic packaging options in the country. Though there is a demand and supply gap for the product in India, the available capacity for the subject goods with the domestic industry have been largely unutilized. In such a situation, any steps for ensuring level playing field for domestic manufacturing of the subject goods as against the current situation of injury cannot be seen as a move against the interest of users including the downstream producers.

K. POST DISCLOSURE COMMENTS

K. 1. Submissions by the other interested parties

102. The following submissions have been made by the other interested parties;
- i. Levy of anti-dumping duty will establish a monopoly of domestic producer and will not be in public interest.
 - ii. Other reasons such as decline in the production of NPUC, decline in the export performance of the petitioner, use of outdated technology, sole supplier of raw material might have caused injury to the domestic industry and the petitioner has failed to mention the same in the petition.
 - iii. YIWU has exported subject goods to India through three channels. Directly and through Lamy International Limited and Victory Food Specialities FZE out of which Victory also filed EQR. Hence, it is not clear why the Authority has concluded that the unrelated exporter, Victory, of YIWU has not participated or filed their questionnaire responses. Hence, the Authority may look into this matter urgently and work out individual dumping and injury margin for the co-operating producer/exporter, YIWU.
 - iv. The applicant has apparently filed certain incorrect injury information to prove a non-existent case for seeking protection of anti-dumping duties. The fact of incorrect information has a direct bearing on dumping, injury and causal link.
 - v. The applicant has suffered injury, if any, on account of its inherent reasons like high cost of raw material, lack of high-speed line, non-integrated plant etc. The Authority may thoroughly examine the project report of the applicant to understand the various parameters relied upon to determine the business viability.

- vi. The imposition of duty will directly and adversely impact the employment in the MSME enterprises.
- vii. Majority of the demand has to be met from imports as the production capacity of the applicant (sole Indian producer) is not sufficient to meet the Indian demand and the quality of the PUC manufactured by the applicant is also substandard. In such a case, imposition of duty will adversely impact the user industry.
- viii. Imposition of duty will increase the cost of the downstream product significantly i.e., by around 10%. It will also increase the working capital requirement for the downstream product.
- ix. The Authority must not attribute the injury, if any, suffered by the applicant on account of other reasons to the imports made from China PR.

K.2. Submissions by the domestic industry

103. The following submissions have been made by the domestic industry:

- i. The product has two layers of packing with the initial packing done by arraying the product in a narrow-woven (NW) bag and such arrays of bags are then placed in a larger cardboard box. However, packing cost concerning cardboard box is not allowed in the NIP. The Authority may include packing cost on both these counts in the NIP. Annexure III to the Rules does not provide for exclusion of packing cost while determining the NIP.
- ii. In case packing cost is not fully allowed in the NIP, adjustments for unallowed packing be made in the import price so that apple to apple comparison is ensured while determining dumping and injury margin.
- iii. The facts of the present case shows dumping of the subject goods from the subject country at very significant magnitude and consequent material injury to the domestic industry on account of such dumped imports.
- iv. Anti-dumping duties are very essential to remove the injuries caused by such dumping and also to establish level playing field for the domestic industry in the Indian market which is dominated by dumped imports as of now.
- v. There is only one producer of the subject goods in India currently and there is scope for more capacities to come up in India. The product would auger well for the packaging industry and for the tinplate value chain in India wherein the tinplate i.e. the major raw material for EOE is available at abundance. Level playing field for the product shall definitely be in the larger public interest of the country and such level playing field by way of levy of anti-dumping duties is very essential to ensure existence of this budding industry in India as can be ascertained from the facts disclosed.

- vi. The Authority may confirm its decisions to not grant individual margin to Easy Open LID Industry Corp Yiwu since exporter questionnaire response considering significant part of its exports to India has not been submitted. The exporter has not made any disclosure in its NCV EQR that the other exporters involved in the value chain has not filed any response. It is a consistent practice of the Authority to reject the response of a responding producer/exporter if substantial part of exports by such a party is not represented before the Authority.

K.3. Examination by the Authority

104. It is noted that most of the submissions made by the interested parties post disclosure statement are reiteration and reproduction of their previous submissions which have been appropriately addressed at the time of issuance of the disclosure statement itself. Since there are no new facts brought on record post the disclosure statement, the views taken in the disclosure statement on such issues is confirmed in this final finding. However, certain specific claims are addressed herein below.
105. With regard to the contention that the levy of anti-dumping duty will establish a monopoly of domestic producer and the anti-dumping duty will be against the users, the Authority notes that the purpose of imposition of anti-dumping duty, 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 measures does not aim to restrict imports from the subject country in any way.
106. With regard to the contention that the injury has been caused on account of other reasons, the Authority has examined the submissions made by other parties on any other factors which could have caused injury to the domestic industry and it is noted as recorded in detail in this finding that no other factor that appear to have caused injury to the domestic industry as envisaged in the anti-dumping rules.
107. With regard to the claim of individual margin for Easy Open LID Industry Corp Yiwu, the Authority has looked into the claims of the exporter post disclosure statement comments. It is noted that during the POI the company has exported **118.59** lakh pieces to India for value USD **499685** directly and indirectly through its unrelated companies namely M/s Victory Food Specialities FZE and M/s Lamy International Limited exported **303.63** lakh pieces to India for Value USD **848398**.
108. It is found that the unrelated companies of the producer/exporter did not file any 'exporter questionnaire response' before the Authority within the stipulated time. It is further noted that the information submitted by M/s Victory Food Specialities FZE are not in the format prescribed by the Authority for exporters of the subject goods. It is further noted that the Authority on 7th June, 2023 published a list of interested parties who has responded to the Authority along with the nature of submission made by such interested parties and at the time of publication of the said list, the interested parties were directed to revert to the Authority in case of any discrepancy in the preparation of the said list of interested parties in the following lines;

3. In case name or any correction, of any interested party who has made submissions but its name or email id has not been mentioned in the list, may please inform the Authority at the email ID mentioned above so as to update the list to ensure that no interested party is deprived of the aforesaid process of exchange of NCV submissions.

109. The list of interested parties published on 7th June, 2023 earmarked participation of M/s Victory Food Specialities FZE as an importer. Thereafter, no communication / participation received during the course of the investigation. It is further noted by the authority that since information was not provided in the prescribed format within the stipulated time, warranted rejection of the said party.
110. In view of the same, the Authority cannot consider the information submitted by M/s Victory Food Specialities FZE as relevant exporter questionnaire response so as to determine individual margin for Easy Open LID Industry Corp Yiwu. The Authority notes that significant share of exports made by Easy Open LID Industry Corp Yiwu is not represented before the Authority and no individual margin can be determined for Easy Open LID Industry Corp Yiwu based on the available responses.
111. With regard to the contention that majority of the demand has to be met from imports as the production capacity of the applicant (sole Indian producer) is not sufficient to meet the Indian demand and the quality of the PUC manufactured by the applicant is also substandard and in such a case, imposition of duty will adversely impact the user industry, the issue is already addressed herein above. Nevertheless, the Authority considers that a gap in demand and supply cannot be a reason for depriving the domestic industry from seeking redressal against dumped imports causing injury.
112. The producer of the subject goods in India which is also a MSME has invested in the production of the subject goods in India and in the absence of the lone producer, Indian users shall be dependable totally on imports. The Authority further notes that there is sufficient supply of tinplate in India and additional capacity for the supply of the subject goods can come up in a conducive market scenario as recorded herein above. A level playing field for the domestic industry shall only better the prospects of Indian production of subject goods which will ultimately benefit the users at large.
113. With regard to the contention that the imposition of duty will increase the cost of the downstream product significantly i.e., by around 10% and will also increase the working capital requirement for the downstream product, it is noted that the claim is not substantiated based on any documentary evidences. On the contrary, the claims made by the applicant based on price information publicly available shows that the impact of the lower of the margins as any antidumping duty will not be more than 1% at the end of the end user. Anti-dumping duty does not restrict imports, but only ensures that the imports enter the market at fair prices. Users will continue to have the broader choice and liberty to import the subject goods at fair prices, which will ensure better competition in the market and the impact of any antidumping duty needs to be seen in this context.
114. With regard to the contention of the domestic industry that packing cost is not fully allowed in the NIP and fair comparisons at same level of packing needs to be done

between domestic and imported product, the Authority notes that NIP has been determined as per the principles enshrined in Annexure III to the Rules and also consistent practices of the Authority.

L. CONCLUSIONS

115. Based on the submissions made, substantiated information provided by the interested parties and the facts available before the Authority as recorded and examined in the aforementioned paragraphs and on the basis of determination of dumping and consequent injury to the domestic industry, the Authority concludes the following:
- i. The product under consideration (PUC) in the present investigation is “Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension”. The followings are not covered in the scope of PUC;
 - a) Easy open ends that are manufactured of materials other than tin plate, such as aluminium, tin free sheet etc.
 - b) Easy open ends having dimensions other than 401 Diameter (99MM) and 300 Diameter (73MM) of any make/input material.
 - c) Easy open ends of partial or short aperture of any make and dimension.
 - ii. The product under consideration has been exported from the subject country at a price below the normal value, thus, resulting in dumping. The dumping margin found in case imports of the subject goods originating in or exported from the subject country for all producers/exporters is not only above *de-minimis* level but also significant.
 - iii. The examination of volume of imports of the subject goods shows that the imports of the subject goods from the subject country have increased significantly by the POI in absolute terms and also in relation to production and consumption in India.
 - iv. While the market share of the domestic industry declined during the POI, market share of imports from the subject country has increased significantly in the same period.
 - v. The landed price of imports has been below the net sales realization of the domestic industry in the POI and has been, therefore, undercutting the prices of the domestic industry. Further, the landed price has also been below the cost of sales of the domestic industry.
 - vi. The selling price of the domestic industry has been below its cost of sales throughout the injury period leading to financial losses.
 - vii. All key volume parameters such as production, capacity utilization and sales of the domestic industry have declined in the POI. Capacity utilization has been notably very low in the POI and the domestic industry has been left with significant

underutilized capacity during the POI even when the contention has been that the domestic industry cannot meet the Indian demand alone.

- viii. The domestic has suffered injury as a result of dumped imports. The injury margin is positive and significant.
 - ix. The Authority has examined the submissions made by other parties on any other factors which could have caused injury to the domestic industry. No other factor appears to have caused injury to the domestic industry. The Authority concludes that the injury to the domestic industry has been caused by the dumped imports of the subject goods from the subject country.
 - x. It is noted with regard to public interest that anti-dumping duty does not restrict imports, but only ensures that the imports enter the market at fair prices. Users will continue to have the broader choice and liberty to import the subject goods at fair prices, which will ensure better competition in the market.
116. In view of the above, the Authority finds that there is sufficient evidence that the product under consideration has been exported to India from the subject country at dumped prices and such dumping of the subject product from the subject country has caused material injury to the domestic industry.

M. RECOMMENDATION

117. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, embassy of the subject country, exporters, importers and the other interested parties to provide positive information on the aspect of dumping, injury and causal link.
118. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of antidumping duty is required to offset dumping of subject goods from subject country and the consequent injury to the domestic industry. Therefore, the Authority considers it necessary to recommend imposition of definitive antidumping duty on the imports of the subject goods from the subject country in the form and manner described hereunder for a period of 5 years.
119. Having regard to the provision contained in Rule 4(d) and Rule 17(1) (b) of the Rules, the Authority recommends imposition of the anti-dumping duty equal to the lesser of margin of dumping and the margin of injury so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the subject goods described at Column 3 of the Duty Table originating in or exported from China PR.

Duty-Table

SN	Heading / Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount	UoM	Currency
1	2	3	4	5	6	7	8	9
1	83099020	Easy open ends of tin plate, including electrolytic tin plate (ETP), measuring 401 Diameter (99MM) and 300 Diameter (73MM) in dimension*	China PR	Any country including China PR	Any	741	Lakh Pcs.	USD
2	-do-	-do-	Any country other than China PR	China PR	Any	741	Lakh Pcs.	USD

**Note-1: The followings are not covered in the scope of PUC;*

- a) Easy open ends that are manufactured of materials other than tin plate, such as aluminium, tin free sheet etc.*
- b) Easy open ends having dimensions other than 401 Diameter (99MM) and 300 Diameter (73MM) of any make/input material.*
- c) Easy open ends of partial or short aperture of any make and dimension.*

120. The landed value of imports for the purpose of this notification shall be assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under Sections 3, 8B, 9, 9A of the said Act.

121. An appeal against the determination of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority