

F. No.7/13/2018-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 8th August, 2018

(Final Findings)

Sub: Final Finding in Mid-term Review (MTR) investigation with regard to the antidumping duties in force on the imports of Graphite Electrodes of all diameters originating in or exported from China PR.

No.7/13/2018-DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the “Rules” or “AD Rules”) thereof. An application for Mid-Term Review (“MTR”) investigation was filed by Alloy Steel Producers Association of India (“ASPA”) (hereinafter referred to as “the applicant”), before the Designated Authority (hereinafter also referred to as the “Authority”).

A. BACKGROUND OF THE CASE

2. Whereas, the Authority had initiated the original investigation vide 14/02/2013-DGAD dated 20.5.2013 on a petition filed by M/s HEG Ltd and M/s Graphite India Ltd. The Final Findings were notified vide Notification No. 14/02/2013-DGAD dated 19.11.2014 recommending imposition of definitive anti-dumping duty on imports of “Graphite Electrodes of all diameters” (hereinafter also referred to as the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country) and the definitive anti-dumping duty was imposed by the Central Government vide Notification No. 4/2015-Customs (ADD) dated 13.2.2015.
3. Whereas, Alloy Steel Producers Association of India, on behalf of importers, have submitted an application requesting for initiation of a mid-term review of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject country in accordance with Section 9A of the Customs Tariff Act 1975 read with Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. It has been claimed by the applicant that the circumstances that were prevalent during the period of investigation of the original investigation have changed significantly leading to a situation where the existing anti-dumping duties are no longer warranted.

B. INITIATION

4. Whereas, Rule 23 (1A) of the AD Rules read with Section 9A of the Act require that the designated authority shall review the need for the continued imposition of any anti-dumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti -dumping duty is removed or varied and is therefore no longer warranted.
5. Having regard to the information provided by the applicant substantiating the need for such review and indicating changed circumstances necessitating a review of the measure in force, the Designated Authority, vide Notification No. 7/13/2018-DGAD dated 4th April, 2018, initiated the Mid-term Review (MTR) investigation with regard to the final findings notified vide Notification No. 14/02/2013-DGAD dated 19th November, 2014 published in the Gazette of India, Extraordinary Part I, Section I and the definitive duties imposed by the Central Government vide Notification No. 4/2015-Customs dated 13th February, 2015, to review the need for continued imposition of the anti-dumping duties.

C. PROCEDURE

6. The procedure described below has been followed by the Authority with regard to the present investigation:
 - i. The Authority sent copies of the initiation notification dated 4th April, 2018 to the Embassy of China PR in India, known exporters from the subject country, known importers and other interested parties, and the domestic producers, as per the available information. All parties were requested to provide their views and data within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to Embassy of China PR in India along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject country to respond within the prescribed time.
 - ii. The Authority forwarded a copy of the public notice initiating the MTR to the following known producers/exporters in China PR and sent the exporter's questionnaires to elicit relevant information within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4) of the Anti-dumping Rules:
 - a. M/s Fushun Carbon Co., Ltd.,
 - b. M/s Jilin Carbon Imp. & Exp. Company,
 - c. M/s Kaifeng Carbon Co., Ltd.
 - d. M/s Fangda Carbon New Material Co., Ltd
 - e. M/s Sinosteel Zhejiang Co., Ltd.,
 - f. M/s Sinosteel Jilin Carbon Co. Ltd.,

- g. M/s Linyi County Lubei Carbon Co., Ltd.,
 - h. M/s Shandong Basan Carbon Plant,
 - i. M/s Anseen Metallurgy Group Co., Ltd.,
 - j. M/s Nantong Yangzi Carbon Co. Ltd,
 - k. M/s Sichuan Guanghan Sida Carbon Co. Ltd.,
 - l. M/s Fushan Oriental Carbon Co. Ltd.,
 - m. M/s Liaoyang Carbon Co. Ltd.,
 - n. M/s Linghai Hongfeng Carbon Products Co Ltd.,
 - o. M/s Jinnai Carbon (HK) Co. Ltd.,
 - p. M/s CIMM Group Co. Ltd.,
 - q. M/s CIMM Donghai Advanced Carbon Co., Ltd.,
- iii. On the request of certain interested parties, the Authority extended the time period for submission of Questionnaire responses by the interested parties up to 15.06.2018.
- iv. In response to the initiation of the subject investigation, the following producers/exporters from China PR have responded by filing exporters questionnaire response:
- a. M/s Liaoyang Carbon Co. Ltd (Producer) M/s Jinnai Carbon (HK) Co. Ltd, HongKong (Exporter)
 - b. M/s Hefei Carbon Co., Ltd, China PR (Producer) and M/s. Fangda Carbon New Material Co. Ltd, China PR (Exporter and producer)
 - c. M/s Fushun Oriental Carbon Co., Ltd., (Producer), China PR and M/s Anssen Metallurgy Group Co., Ltd., (Exporter) China PR
 - d. M/s Dandong Xinxing Carbon Co., Ltd., (Producer), China PR, M/s CIMM Group Co., Ltd., (Exporter) China PR and M/s JP Trading China Limited, (Exporter), Hong Kong,
- v. The Enterprises Rights Protection Centre of CCPIT/CCOIC has filed written submissions only.
- vi. Letters were also sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
- a. SAIL, Alloy Steel Plant
 - b. SAIL, Bhilai Steel Plant
 - c. SAIL, Bokaro Steel Plant
 - d. SAIL, Rourkela Steel Plant
 - e. SAIL, Durgapur Steel Plant
 - f. SAIL, Visvesvaraya Iron & Steel Plant
 - g. Bhushan Steel Ltd.
 - h. Sunflag Iron & Steel Co. Ltd.
 - i. Jindal Steel & Power Ltd.
 - j. Jindal Stainless Ltd.

- k. Lloyd Steel Inds. Ltd.
 - l. Mukand Ltd.
 - m. JSW Ispat Steel
 - n. ISMT Limited
 - o. Bhushan Power & Steel Limited
- vii. In response to the above notification, the following users/importers have filed users/importers questionnaire response:
- a. SAARLOHA Advance Materials Private Limited
 - b. RMG Alloy Steel Ltd.
 - c. Vardhman Special Steels Ltd.
 - d. JSW Steel Ltd.
- viii. Letters were sent to M/s Graphite India Ltd. and M/s HEG Ltd., the known domestic producers of the subject goods in India constituting the domestic industry in the original investigation, for necessary information and response. M/s. Graphite India Ltd. and M/s HEG Ltd. did not file any response, injury related data or comments in the subject investigations. M/s HEG Ltd vide letter dated 5.6.2018 submitted that they have not opposed the review and Directorate can take a suitable view considering the demand/supply position and domestic prices in China vs. their export prices. M/s Graphite India Ltd. vide letter dated 9.6.2018, submitted that the case may be decided suitably after taking cognizance of the contemporary pricing of Chinese products in India and China and other relevant/ related matters.
- ix. Investigation was carried out for the period starting from 1st April, 2017 to 31st March, 2018 (POI). However, injury examination was to be conducted for the period April 2014-March 2015, April 2015-March 2016, April 2016-March 2017 and the POI.
- x. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 17th July, 2018. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally. The submissions made by the interested parties during the course of the investigation have also been considered by the Authority, wherever found relevant, in this Final Finding.
- xi. Information provided by interested parties on confidential basis has been examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis have been directed to provide sufficient non-confidential version of the information filed on confidential basis.

- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xiii. 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 Final Finding on the basis of the facts available.
- xiv. Arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.
- xv. A Disclosure Statement was issued on 1.8.2018 containing essential facts under consideration of the Designated Authority, giving time up to 7.8.2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately
- xvi. ‘***’ In Final Finding, represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

D. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 7. The product under consideration in the present mid-term review investigation, is ‘Graphite Electrodes of all diameter’, originating in or exported from China PR. The product scope is the same as defined in the original investigation.
- 8. The main function of Graphite Electrodes is to be used for melting of steel by passing electric current into the charge fed into the furnaces. This method of steel making is also known as secondary steel making. Graphite Electrodes are used in arc furnaces as current carrying conductors and are required to carry a very high rate of power feed. Graphite electrodes can be broadly categorized as Ultra High Power (UHP) and others which include the High Power Grade (HPG) and Normal Power Grade (NPG). Accordingly, they are required to have properties capable for taking such high current and power feeds.
- 9. The product under consideration is classified under Customs Tariff Heading 8545 and are primarily imported under tariff item number 85451100 and 85451900 of the Custom Tariff Act, 1975. The customs classification is indicative only and is in no way binding on the scope of the present investigation.
- 10. The applicant has claimed that the subject goods being produced by the domestic industry are similar to the subject goods being imported into India. The two have comparable characteristics in terms of parameters such as physical characteristics, manufacturing

process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. They are technically and commercially substitutable and hence should be treated as 'like article' under the Rules.

11. Since none of the interested parties other than the applicant have made any submission with regard to product under consideration and like article, the scope of the product under consideration and like article in the present review remains the same as that in the original investigation.

E. DOMESTIC INDUSTRY AND STANDING

12. The Authority notes that Rule 2(b) of the Anti-dumping Rules defines domestic industry as under:

2(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";

13. During the original investigation, M/s Graphite India Ltd. and M/s HEG Ltd. constituted the domestic industry. The position remains unaltered during the POI of the present investigation and no submission has been made by any interested party to the contrary. In view of the said position, the Authority notes that M/s Graphite India Ltd. and M/s HEG Ltd. constitute domestic industry in the present MTR investigation within the meaning of the Rule 2 (b) and satisfy the criteria of standing in terms of Rule 5 (3) of the Anti- dumping Rules.

F. DUMPING MARGIN AND INJURY MARGIN

14. The application has been filed by the Association on behalf of member importers claiming that there is no injury and no likelihood of injury to Domestic Industry as the economic performance of the domestic industry in terms of revenue, profits and return on capital employed (ROCE) has improved significantly. The Domestic Industry has been exporting significant volumes of the subject goods in the last few years and is neglecting the demands of the Indian market resulting into scarcity of the subject goods in India. Domestic producers in India has neither challenged the contentions raised by the applicant or submitted any costing data.
15. The following groups of producers and exporters of the subject goods originating in or exported from China PR have filed questionnaire response to this mid-term review:

- e. M/s Liaoyang Carbon Co. Ltd (Producer) M/s Jinnai Carbon (HK) Co. Ltd, HongKong (Exporter)
- f. M/s Hefei Carbon Co., Ltd, China PR (Producer) and M/s. Fangda Carbon New Material Co. Ltd, China PR (Exporter and producer)
- g. M/s Fushun Oriental Carbon Co., Ltd., (Producer), China PR and M/s Anssen Metallurgy Group Co., Ltd., (Exporter) China PR
- h. M/s Dandong Xinxing Carbon Co., Ltd., (Producer), China PR, M/s CIMM Group Co., Ltd., (Exporter) China PR and M/s JP Trading China Limited, (Exporter), Hong Kong,

I. NORMAL VALUE

16. It is noted that the Indian producers namely M/s. Graphite India Ltd. and M/s HEG Ltd. who were the Domestic Industry in the original investigation did not file any response, injury related data or comments in the subject investigations neither opposed the investigation. However, exporters from the subject countries have filed questionnaire responses in which they have claimed the normal value and the net export price. None of the producer exporter have claimed market economy status. The information submitted in the responses has not been verified, however, the dumping margins on the basis of normal value and net export price as claimed by the producer exporters in their responses are detailed in the Dumping Margin table below:

II. EXPORT PRICE

a. M/s Liaoyang Carbon Co. Ltd (Producer) M/s Jinnai Carbon (HK) Co. Ltd, HongKong (Exporter)

17. As per the Exporters Questionnaire response M/s Liaoyang Carbon Co. Ltd is the producer of PUC and have exported to India only through their unrelated trading company M/s Jinnai Carbon (HK) Co. Ltd, HongKong. They have exported *** MT to India during the POI. Adjustment towards Inland Transportation (upto FOB), Ocean Freight, Insurance and Port & Other related expenses have been claimed. The export price for exports to India at ex-factory level, as claimed in the response, is shown in the Dumping Margin Table below

b. M/s Hefei Carbon Co., Ltd, China PR (Producer) and M/s. Fangda Carbon New Material Co. Ltd, China PR (Exporter and producer)

18. As per the Exporters Questionnaire response M/s Fangda Carbon New Material Co., Ltd., China PR (“Fangda Carbon”) is a producer of Graphite Electrodes of various grades viz. RP, HP, HD, SHP, UHP grades. The company has reported *** MT export to India in the period of investigation. Out of these exports, the company exported *** MT of Graphite Electrodes which are manufactured by them and the balance *** MT was manufactured by M/s Hefei Carbon Co., Ltd. The sales to India were carried out on CIF basis. Adjustment

towards inland freight, handling charges, ocean freight have been claimed. The export price for exports to India at ex-factory level, as claimed in the response, is shown in the Dumping Margin Table below.

c. M/s Fushun Oriental Carbon Co., Ltd., (Producer), China PR and M/s Anssen Metallurgy Group Co., Ltd., (Exporter) China PR

19. As per the Exporters Questionnaire response, M/s Fushun Oriental Carbon Co., Ltd is the producer of PUC. During the POI, its products are exported through M/s Anssen Metallurgy Group Co., Ltd which is only a trading company. M/s Anssen Metallurgy Group Co., Ltd., has filed response separately. They have exported *** MT to India during the POI. Adjustment towards Ocean Freight, Insurance, Inland transportation, Port and other related expenses, Credit Cost and VAT have been claimed. The export price at ex-factory level, as claimed in the response, is shown in the Dumping Margin Table below.

d. M/s Dandong Xinxing Carbon Co., Ltd., (Producer), China PR, M/s CIMM Group Co., Ltd., (Exporter) China PR and M/s JP Trading China Limited, (Exporter), Hong Kong,

20. As per the Exporters Questionnaire response M/s Dandong Xinxing Carbon Co.,Ltd. is the producer of PUC. During the POI it had exported the subject goods to India through 2 unrelated trading companies namely M/s JP Trading China Limited & M/s CIMM Group Co., Ltd. Both the exporters have filed responses separately. They have exported a total of *** MT to India during the POI, out of which *** MT was through CIMM Group Co. Ltd and *** MT through M/s J P Trading China Ltd. Adjustment towards Commission, ocean Freight, Insurance, Non-Refundable Vat and SGA have been claimed. The export price for M/s JP Trading China Limited & M/s CIMM Group Co., Ltd, China PR at ex-factory level, as claimed in the response, is shown in the Dumping Margin Table below:

III. DUMPING MARGIN

21. The details claimed in the questionnaire responses have not been verified by the Authority in view of the typical situation of the case wherein DI is by default agreeing for review of the case. The normal value, export price and dumping margin for all exporters of the subject goods from the subject country, as claimed in the responses is as below:

SN	Producer	Exporter	NV USD/MT	NEP USD/MT	Dumping Margin		
					USD/MT	%	Range
1	Liaoyang Carbon Co. Ltd	Jinnai Carbon (HK) Co. Ltd, HongKong	***	***	(***)	(***)	Negative
2	Hefei Carbon Co., Ltd. Fangda Carbon New Material Co., Ltd	Fangda Carbon New Material Co., Ltd	***	***	(***)	(***)	Negative

3	Fushun Oriental Carbon Co., Ltd	Anssen Metallurgy Group Co., Ltd	***	***	(***)	(***)	Negative
4	Dandong Xinxing Carbon Co.,Ltd	JP Trading China Limited and CIMM Group Co., Ltd	***	***	***	***	1-10

22. It is seen that the dumping margin claimed in the responses of the producer exporters is negative and marginally positive for exports of Dandong Xinxing Carbon Co. Ltd.

G. DETERMINATION OF INJURY AND LIKELIHOOD OF INJURY

Views of the Domestic Industry

23. No submissions have been made by the Domestic Industry in the present investigation.

Views of the Applicant and other interested parties

24. The following are the submissions with regard to injury and likelihood of injury related issues made by the Applicant and other interested parties considered relevant by the Authority.

- a. The subject goods are primarily used for melting of steel scrap. It would be relevant to note that the demand of steel in India has significantly increased in the recent years and is expected to further increase at a rate of 6%. This has led to a substantial increase in the demand for the subject goods by the steel industry in India. However, the current supply of the subject goods in India is not in line with its domestic demand. As far as supply from domestic sources is concerned, the Domestic Industry has been exporting significant volumes of the subject goods in the last few years and is neglecting the demands of the Indian market.
- b. The demand for the subject goods in the Indian market has shown huge increase:
 - i. Demand for Graphite electrodes has increased from 51,128 MT in 2012 to 1,05,066 MT in 2017 i.e., approximately 105% and it is further expected to rise to a level of 1,20,971 MT by 2019;
 - ii. Capacity for domestic producers was 1,41,900 MT in 2012 and increased to 1,60,000 MT in 2018 representing only a 12% increase;
 - iii. Domestic Industry is exporting more than 52% of the graphite electrodes produced. This has been admitted by HEG Ltd. in the transcripts of the conference call held by HEG India Ltd and available in the public domain;
 - iv. The production capacity of domestic producers in January 2012 to December 2012 was sufficient to meet the demand in domestic market as well as for export market. However, between 2012 to present, the

demand for the subject goods in India has increased significantly and thus, the production capacities of domestic producers are no longer sufficient to meet the Indian demand along with exports being undertaken by them;

- v. An insignificant increase in production capacities of the domestic producers compared to the significant rise in Indian demand combined with increased exports has led to shortage of subject goods in the Indian market;
 - vi. The domestic producers are not able to cater to the domestic demand in India. Moreover, the domestic producers are not interested in catering to the domestic demand but have, rather, prioritized export sales over domestic sales;
 - vii. The Domestic producers have contributed to the situation of short-supply in India and accordingly, the prices of the subject goods in India have increased substantially in recent years. Domestic producers of graphite electrodes are already charging higher price in Indian market as compared to price in international market. On the basis of analysis of the User's Questionnaire Responses, it can be observed that the prices of graphite electrodes were in the range of Rs. 1.5 Lacs per MT in May 2017 which has been consistently rising and reached a level of Rs. 7-8 Lacs per MT in March 2018. In fact, Graphite Electrodes are presently priced around Rs. 10-11 Lacs per MT. Domestic producers raised the price of subject goods following the rise in price by producers from China PR but have not reduced the prices when Chinese prices have declined, particularly for HP Grade. Cost of graphite electrodes is approximately in range of 5-7% of total cost of production of downstream steel depending upon the prices. The increase in price of subject goods has increased the cost of production of steel by approximately Rs.1300 per ton. Hence, non-availability of Graphite Electrodes at competitive prices is making Indian steel industry less competitive and severely impacting their growth, as well.
- c. The domestic producers are not suffering any injury from the imports of the subject goods. The performance of the domestic industry has shown significant improvement in the period after the imposition of anti-dumping duty. Domestic Industry is not facing any injury at present. A perusal of the Annual Reports from 2014-15 onwards of both HEG Ltd. and Graphite India Ltd, shows that performance of these companies with regard to revenue, profitability and return on capital employed parameters improved tremendously since the imposition of anti-dumping duties and has reached record levels during 2017-18. The subject goods are the main product of the Domestic Industry. More than 90% of revenue of Domestic Industry comes from the subject goods.

- d. The data of the Domestic Industry shows that the revenue of the producers at company level has increased from Rs. 2,78,002 lakhs in 2014-15 to Rs. 5,84,309 lakhs in 2017-18 representing a nearly 110% increase. Similarly, with regard to profitability, the profits of Domestic Industry at company level have increased from Rs. 20,154 lakhs in 2014-15 to Rs 2,99,353 lakhs in 2017-18 representing a nearly 1385% increase. In view of such tremendous revenue and profits, the domestic industry is clearly not “injured” in any sense.
- e. Further, ROCE for the domestic industry has significantly improved and is as high as 66% in 2017-18 when compared to 9% in 2014-15. Even after making such abnormal profits, domestic producers are unjustifiably asking for a price hike of subject goods of more than 10% for July 2018-September 2018. This will adversely affect competitiveness of domestic steel producers. Thus, the domestic industry has seen a remarkable improvement and the situation mandating the imposition of anti-dumping duties no longer exists. In view thereof, the continued imposition of anti-dumping duties is not justifiable.
- f. China PR was one of the major exporting countries of the subject goods to India. However, in the recent years, the Government of China PR has shut down many industrial plants producing the subject goods on account of environmental concerns. The Chinese government has shut down nearly 200,000 tonnes per annum of electrode making capacities in China PR in the beginning of 2017 due to environmental concerns. The effect of these developments is that is that China PR has now become a net importer of Graphite Electrodes as against being a major exporter earlier. A sharp reduction in production capacity for the subject goods in China PR has seriously impacted the export volumes of the subject goods to India.
- g. The share of imports from China PR in total imports of the subject goods into India has declined from 69% in January 2012 to December 2012 to 55% in 2017-18 whereas the share of imports from other countries has increased from 31% in Jan 2012-Dec 2012 to 45% in 2017-18. In view thereof, it is submitted that the imports from China PR have declined and therefore, the anti-dumping duties imposed against China PR merit revocation.
- h. Two letters have been filed by the domestic producers, M/s. HEG Ltd. and M/s. Graphite India Ltd. wherein the parties have not opposed the review application filed by the Applicant herein. The domestic producers have not appointed any representative and refrained from attending the public hearing. The non-participation by the domestic producers implies that the domestic industry is not suffering any injury anymore and is not interested in defending the continuation of anti-dumping duties
- i. Presently there are two manufacturers of graphite electrodes in India namely Graphite India Limited and HEG which reportedly produced 98,000 MT and

80,000 MT of the product respectively, till November 2017. The performance of the DI has improved remarkably after the imposition of Anti-Dumping Duty. HEG has 10% of the total global capacity of Graphite, making it fifth largest player in the world. More than 90% of the revenue of the DI comes from the subject goods. The annual reports for the year 2016 – 17 depict the same. No questionnaire response/information has been filed by DI, therefore submissions on the performance and economic parameters of the DI cannot be made.

- j. China was the major exporting country of the subject goods to India. In the past two years, China had some serious problems with air quality. The Chinese government early last year decided to reduce some of the highly polluting Industries emanating from serious environmental concerns. These closures have led to a sudden and significant drop of export of finished steel from China to the rest of the world. All this led to a demand-supply imbalance with Graphite Electrode prices soaring and global buyers scrambling to secure adequate supplies. As per the application filed by ASPA, total imports from China PR have declined substantially during the period of investigation as compared to the base year 2015-16. It can be seen that imports from China PR has declined from 9871 MT during the year 2015-16 to 1853 MT during the POI. The producers from China PR do not have the intention of dumping. Such imports are being done only to fill the demand supply gap in the Indian market. This shows that there is no volume effect caused by imports during the period of investigation.
- k. After imposition of anti-dumping duty, the share price of Domestic Industry has increased tremendously. The Domestic Industry has earned substantial profits during the period of investigation. As per the Application filed by ASPA, the overall profitability of the Domestic Industry has improved substantially. During the base year 2014-15, it was Rs. 20,154 lacs which increased to Rs. 184,249 lacs during the year 2017-18 (Annualised). The overall revenue of the Domestic Industry has also increased substantially. During the base year 2014-15, it was Rs. 278,002 lacs which increased to Rs. 438,535 lacs during the year 2017-18 (Annualised). At product level also, the profitability has improved significantly, from Rs. 139,373 lacs during 2014-15 to 224,196 during 2017-18 (Annualised). The annual report for the year 2017-18 of HEG limited also state that:
- “Net sales increased by 208% from C896.02 crore in 2016-17 to C2,758.40 crore as the demand for graphite electrodes surged to unprecedented levels. EBIDTA jumped from C88 crore in 2016-17 to C1,734 crore in 2017-18. The Company reported a Profit for the period at C1,081.34 crore in 2017-18 against a C50.05 crore loss in the previous year.”*

Thus, imports from subject countries are not causing any injury to the Domestic Industry.

- l. The Domestic Industry is earning tremendous return on capital.

- m. In past, there are various anti-dumping investigations wherein the Domestic Industry was earning huge profits or selling its products at price above NIP hence the Designated Authority has terminated those cases. Few examples are as follows:
- i. Anti-Dumping Investigation concerning imports of *AA Dry Cell Batteries* originating in or exported from China PR and Vietnam;
 - ii. Mid-term anti-dumping review investigation concerning imports of *Hydrofluoric Acid* originating in or exported from China PR;
 - iii. Mid-term review investigation concerning imports of *Phenol* originating in or exported from Korea RP;
 - iv. Anti-dumping investigation concerning imports of *Citric Acid* originating in or exported from China PR, Korea RP and Ukraine;
 - v. Anti-dumping investigation concerning imports of *Gypsum Plaster Board* originating in or exported from Indonesia and Thailand.
- n. It can be concluded that the Domestic Industry is performing well. The economic performance in terms of revenue, profits and return on capital employed (ROCE) has improved significantly.
- o. There is no opposition of domestic industry to the mid-term review. M/s HEG in their letter dated 5th June, 2018 have clearly stated that it would not like to oppose the review and the Designated Authority may take a suitable view considering the demand-supply position and the domestic prices in China versus their export prices. Similar letter has been written by GIL, wherein they have requested the Authority to decide the case after taking cognizance of the relevant matters.
- p. There is a significant gap between demand and supply of the subject goods in the domestic market. The supply of graphite electrodes required for production of steel has been on a decline, owing to capacity of 500,000 MT being shut down, which includes shut down of capacity to the tune of 300,000 MT in China PR itself. Resultantly, there has been a global shortage of the subject goods.
- q. It is submitted that the domestic industry has fully recovered from the injurious effects of past dumping, and all parameters of the domestic industry have shown improvement over the past period. From the annual report of HEG, it is clearly showing that the performance of the producer has improved with regard to all financial parameters, including net revenue, net profits, cash from operations, net worth, return on sales, return on capital employed and such other factors. Similarly, the annual report of GIL shows that the period of investigation shows the most favourable position for the producer, when compared over the last 10 years. All parameters including revenue, profits, return on net worth, finance cost cover, debt equity ratio, return on capital employed and other relevant parameters demonstrate that the producer has achieved the highest ever performance during the period of investigation, 2017 – 18. Clearly, the industry

is no longer suffering, but has earned phenomenal revenues and profits. Therefore, it no longer needs protection of anti-dumping duties.

- r. From the DGCI&S import data, it can be seen that the imports declined from the level of 14,049 MT in 2014 – 15 to 9,871 MT in 2015 – 16 and finally to merely 2,897 MT in the year 2016 – 17. However, in the POI there was an extreme shortage of supply in the Indian market, which not only increased the prices of the subject goods, but also increased the demand for imports. Resultantly, the imports increased to 11, 471 MT in the period of investigation. It is nevertheless relevant to bear in mind that the imports have increased only due to the unfulfilled demand in the Indian market.
- s. The imports from the subject country accounted for a 72% of the total imports in the year 2014 – 15, their share has reduced to 55% in the period of investigation. Thus, the subject imports have lost a significant share of the market in India.
- t. The capacity of the domestic industry has remained constant, while its production has increased by 31%. Resultantly, the capacity utilisation of the domestic industry has gone up from 70% to more than 91%. Further, the domestic sales of the domestic industry have also increased, by around 53% over the injury period.
- u. The market share of the domestic industry has recorded an increase over the period. From a level of merely 67%, the market share of the domestic industry grew to 88% in 2016 – 17. However, with the increase in demand and continued focus of domestic industry on exports, the market share dipped to 75% in the period of investigation.
- v. The profits of the domestic industry have shown a drastic increase over the period, of more than 16 times as compared to the year 2014 – 15. With the increase in profits, the cash profits of the domestic industry have also increased. The cash profits have recorded a sharp increase by nearly 10 times in the period of investigation, as compared to the year 2014 – 15. Likewise, the return on investment earned by the domestic industry has increased sharply and is nearly 92% in the period of investigation. When compared with the fact that the Designated Authority considers 22% to be a reasonable return, it becomes evident that the domestic industry no longer requires protection from the imports, as it is earning more than 4 times the return considered reasonable.

Examination by the Authority

25. The Authority in its final findings dated 19th November, 2014 of the original investigation had concluded that the domestic industry was suffering material injury due to the dumped imports from the subject country and therefore recommended for

imposition of Anti-Dumping Duty on the subject goods from the subject country. Now, the applicant has claimed that the circumstances have changed and there is no injury and no likelihood of injury to the Domestic Industry. Accordingly, the Authority examined the injury and likelihood of injury to the Domestic Industry and whether the Anti-Dumping Duty is required to be continued or discontinued under Rule 23 (1A) of the AD Rules. Rule 23 (1A) of the AD Rules states as follows:

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

26. In MTR investigation, no separate parameters have been prescribed to examine the injury or likelihood of injury to the Domestic Industry. Therefore, the Authority examined the injury to the domestic industry as per para (iv) of Annexure-II of the AD Rules and likelihood of continuation or recurrence considering the parameters relating to the threat of material injury in terms of para (vii) of Annexure-II of the AD Rules, which states as under:

“(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.

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

a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.

b. Sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports.

c. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports and,

d. Inventories of the article being investigated.”

I. ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY

27. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. The 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 profits, return on capital employed etc. The data pertaining to performance of the domestic industry available to the Authority exhibits that the domestic industry appears not to be suffering injury in the period of investigation. The various injury parameters relating to the domestic industry are discussed below.

i. Profitability and Return on capital employed

28. As per the applicant the information regarding Profit before tax, profit before interest and tax of Domestic Industry over the injury investigation period and particularly in the period of investigation is given below.

SN	Particulars	Unit	2014-15	2015-16	2016-17	POI
1	PBT	Rs. Lakhs	20,154	11,771	7,058	2,99,353
2	Interest	Rs. Lakhs	7,666	5,304	5,919	6,286
3	PBIT	Rs. Lakhs	27,819	17,075	12,977	3,05,639
4	Total Assets	Rs. Lakhs	4,62,044	4,21,423	4,15,470	6,13,153
5	Current Liabilities	Rs. Lakhs	1,44,849	1,18,079	1,14,405	1,50,149
6	Capital employed	Rs. Lakhs	3,17,194	3,03,344	3,01,065	4,63,004
7	ROCE	%	9	6	4	66
7a	Trend	Indexed	100	64	49	753

Source: Annual Reports of domestic producers

29. It is seen that the Profit before tax, profit before interest and tax of Domestic Industry has significantly increased during the POI as compared to the previous years as well as base year. The interest has shown a slight decreasing trend during the injury period and the POI. The total assets of the domestic industry have also increased in the POI as compared to the previous year and base year. Return on capital employed for the domestic industry has significantly improved and is as high as 66% in POI when compared to 9% in the base year.

ii. Demand-Supply Gap

30. As per the applicant the information regarding the Export Sales of the Domestic Industry

for the subject goods is as follows:

Table: Export Sales of the Domestic Industry

SN	CTH	Unit	Jan 2012- Dec 2012	2014-15	2015-16	2016-17	POI
1	85451100	MT		69,044	52,778	62,576	82,746
2	85451900	MT		1,836	1213	545	1,113
3		Total	74,844	70,880	53,991	63,121	83,589
4		Index		100	76	89	118

Source: Export Import Data Bank, Ministry of Commerce

31. It is seen that the demand for the subject goods has significantly increased over the injury period and the domestic sales of the domestic industry of the subject goods have also increased consistently. However, there has not been any significant increase in the capacity of the Domestic Industry. An insignificant increase in production capacities of the domestic producers compared to the significant rise in Indian demand combined with increased exports has therefore led to shortage of subject goods in the Indian market.

Table: Capacity of the Domestic Industry

SN	Company	Unit	Jan 2012- Dec 2012	2014-15	2015-16	2016-17	POI
1	Graphite India Ltd.	MT		80,000	80,000	80,000	80,000
2	HEG Ltd.	MT		80,000	80,000	80,000	80,000
3	Total		1,41,900	160,000	160,000	160,000	160,000

Source: Annual Reports of HEG Ltd., official website of Graphite India Ltd. and original final findings dated 19th November, 2014

32. From the above, the Authority notes that the domestic industry has an installed capacity of 1,60,000 MT and it is exporting almost 52% of its capacity despite huge demand in the Indian market. Capacity for domestic producers was 1,41,900 MT in 2012 i.e. in the POI of the original investigation and increased to 1,60,000 MT in POI of the present investigation showing 12% increase. The production capacity of domestic producers in January 2012 to December 2012 was sufficient to meet the demand in domestic market as well as for export market. However, between POI of the original investigation to the POI of the present MTR investigation, the demand for the subject goods in India has increased significantly and thus, the production capacities of domestic producers are no longer sufficient to meet the Indian demand along with exports being undertaken by them. Demand for Graphite electrodes has increased from 51,128 MT in 2012 to 1,05,066 MT in 2017 i.e., approximately 105% and it is further expected to rise to a level of 1,20,971 MT by 2019.

iii. Import volumes and Share

33. With regard to the volume of the imports, the Authority considered whether there has been a significant increase in imports, from the subject country. The Authority has therefore examined the likelihood of increase in the imports and capacities of the subject country as per Annexure II (vii) (b) which states that sufficient freely disposable, or an imminent, substantial increase in, the capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian exports. The Authority notes that Government of China PR has shut down nearly 200,000 to 3,00,000 MT per annum of electrode making capacities industrial plants on account of environmental concerns. The effect of these developments is that China PR has now become a net importer of Graphite Electrodes as against being a major exporter earlier which has seriously impacted the export volumes of the subject goods to India resulting into fall of import share. Therefore, there is no likelihood of increase in imports from the subject country. The volume of imports of the subject goods from the subject country has been analyzed as under:

SN	Particular	Unit	Jan 2012- Dec 2012	2015-16	2016-17	POI
1	Imports					
1a	China PR	MT	13,600	9,871	2,897	11,471
1b	Countries other than China	MT	6,240	7,348	4,073	9,460
1c	Total Import	MT	19,840	17,219	6,970	20,931
2	Market Share in Imports					
2a	China PR	%	69	57	42	55
2b	Other Countries	%	31	43	58	45

Source: Export Import Data Bank, Ministry of Commerce and original final findings dated 19th November, 2014

34. It is seen that the share of imports from China PR in total imports of the subject goods into India has declined from 69% in 2012 to 55% in POI whereas the share of imports from other countries has increased from 31% in 2012 to 45% during the POI.

iv. Rise in prices of subject goods in India

35. The Authority has examined the questionnaire responses filed by various interested parties and noted that the prices of subject goods in India have significantly increased during POI.

H. INJURY MARGIN

36. The domestic industry has not participated in the present investigation and have not submitted any data/information nor are opposing the MTR investigation, therefore, the Authority was not in a position to determine the non-injurious price.

I. SUMMARY OF VARIOUS ISSUES EXAMINED BY THE AUTHORITY CONCERNING INJURY AND LIKELIHOOD OF INJURY

37. The Authority notes that:

- i. No opposition by the domestic producers viz. M/s HEG Ltd. and M/s Graphite India Ltd. constituting Domestic Industry in the original investigation;
- ii. Profitability and return on capital employed of the Domestic Industry has significantly increased during the period of investigation;
- iii. Capacities are optimally utilized by the Domestic Industry;
- iv. Huge demand-supply gap resulted into increase in the prices of the subject goods in India;
- v. Reduction in export orientation from China due to shut down of 2,00,000 MT to 3,00,000 MT capacity of plants;
- vi. Decrease in import volume and share from the subject country.

J. POST DISCLOSURE COMMENTS

38. The post disclosure submissions have been received from interested parties. The issues raised therein have already been raised earlier during the investigation and also addressed in relevant paras. However, for the sake of clarity, the submissions by the interested parties are being examined as below:

Submissions made by the Domestic industry

39. No submissions have been made by the Domestic Industry in the present investigation.

Views of the Applicant and other interested parties

40. The following are the submissions made by the Applicant and other interested parties considered relevant by the Authority.

- i. The domestic industry has not objected to the proposed withdrawal of duty. This clearly indicates that they no longer need the protection afforded by anti-dumping duty. When the duty is no longer required by the domestic industry, its continuation only implies an additional cost burden on the importers and users of the subject goods. Thus, the duty should be withdrawn at the earliest.
- ii. If the duty in place is terminated, it is highly unlikely that the imports from subject countries would increase so as to cause injury to the domestic industry.
- iii. Though the demand of the subject goods in India has increased by around 40%, the domestic industry has not made any efforts to increase its capacity to fulfil the demand. The demand for the subject goods is expected to increase multifold because of the increasing demand for steel, however, the domestic industry is focused on exports, it will not be able to cater to the needs of Indian local

market. Further, there is a global shortage of the subject goods. The supply of the subject goods is likely be further constrained for the reason that the raw material for the subject goods, needle coke, is short in supply. In fact, both the domestic producers have in their annual reports have also acknowledged the same.

- iv. The volume of imports has reduced significantly over the injury period, the reason the imports have increased in the period of investigation is because the domestic industry was incapable to fulfill the domestic demand as their main emphasis has been on exports.
- v. The subject imports have also reduced in relation to production and consumption. the market share of imports reduced from 23% to 14% over the period.
- vi. The domestic industry's performance has improved significantly in all parameters. An analysis of the estimated figures of production and capacity utilization shows that the same have increased over the injury period. Not only have the domestic sales increased, but the market share of the domestic industry has also increased.
- vii. The domestic industry is earning profit per unit almost equal to its cost. Further, the increase in selling price is much beyond the increase in cost of the domestic industry. Thus, the prices of the goods are neither suppressed nor depressed. The significant increase in profits have led to increase in both the estimated cash profits and the return on capital employed of the domestic industry by at least 10 times.
- viii. The inventory holding period has reduced sharply from 31 days in 2014-15 to less than 10 days in period of investigation.
- ix. The interest coverage ratio shows the domestic industry has recorded significant improvement in the period of investigation. Further, the debt to asset ratio has also shown improvement, reducing from 42% in 2014-15 to falling to only 28% in the period of investigation.

Examination by the Authority

- 41. It is noted that the issues raised at post disclosure stage have already been examined by the Authority in above relevant paragraphs.

K. CONCLUSIONS

- 42. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:

- i. The imports of the subject goods from China PR in total imports into India has declined from 69% in 2012 to 55% in POI whereas the share of imports from other countries has increased from 31% in 2012 to 45% during the POI.
- ii. There is overall improvement in the health of the domestic industry. The domestic industry is not suffering from injury and the alleged dumped imports from the subject country are not resulting in material injury to the Domestic Industry.
- iii. There is an acute shortage of the subject goods in India and an insignificant increase in production capacities of the domestic producers compared to the significant rise in Indian demand combined with increased exports has led to a serious shortage of subject goods in the Indian market.
- iv. The facts of the case before the Authority do not indicate any likelihood of dumping and injury in case of cessation of AD duties.

L. RECOMMENDATION

43. The Authority notes that the mid term review investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic producers, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the mid term review investigation into dumping, injury and the causal link thereof in terms of the AD Rules it is established that the injury to the domestic industry is not likely to continue or recur, if the said anti -dumping duty is removed. The Authority is of the view that imposition of antidumping duty is not warranted in the present investigation. In view thereof the Designated Authority considers it appropriate to recommend discontinuation of Anti-Dumping Duty in respect of 'Graphite Electrodes of all diameters' originating in or exported from China PR, notified vide Notification 4/2015-Customs (ADD) dated 13.2.2015.
44. An appeal against the orders of the Central Government arising out of this finding shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Sunil Kumar)

Additional Secretary & Director General