

**F.No.7/18/2018-DGAD
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi –110001**

Dated the 01 April, 2019

NOTIFICATION

FINAL FINDINGS

Subject: Final Findings in the Sunset Review anti-dumping investigation concerning imports of ‘Ductile Iron Pipes’ originating in or exported from China PR.

A. Background of the case

1. Whereas the Designated Authority (hereinafter also referred to as the Authority), 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 the AD Rules or the Anti-Dumping Rules), had initiated the original investigation vide Notification No. 14/14/2005-DGAD dated 24th February, 2006. The Authority issued its Final findings recommending imposition of definitive anti-dumping duty on imports of Ductile Iron Pipes (hereinafter also referred to as DI Pipes or the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country) vide Notification No.14/14/2005-DGAD dated 23rd August 2007. The definitive anti-dumping duties were imposed by the Government of India vide Customs Notification No. 103/2007-Customs dated 14th September 2007 on the imports of Ductile Iron Pipes originating in or exported from China PR.
2. Whereas in terms of Section 9A(5) of the Customs Tariff (Amendment) Act 1995, the anti-dumping duties imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition. In terms of Rule 23 of the Anti-dumping Rules, the Authority initiated the sunset review vide Notification No. 15/1006/2012 dated 7th September, 2012 to examine as to whether cessation of the duty would lead to continuation or recurrence of dumping and injury.
3. And whereas, the original antidumping duty as notified vide Notification No.103/2007-Customs dated 14th September, 2007 was extended by the Government of India up to 12th September, 2013 vide Notification No. 41/2012-Customs dated 13th September, 2012.

4. And whereas, the Authority issued its Final Findings vide notification no. 15/1006/2012-DGAD dated 4th September, 2013 recommending continuation of anti-dumping duties. The definitive anti-dumping duties were imposed by the Government of India vide Customs Notification No. 23/2013-Customs dated 10th October, 2013.
5. And whereas, M/s Electrosteel Casting Limited, M/s Srikalahasti Pipes Ltd. (SPL) and M/s Jindal Saw Limited file filed an application dated 31.03.2018 for initiation of Sunset Review investigation for continuation of existing Anti-Dumping Duty on the subject goods originating in or exported from the subject country.
6. And whereas, the petitioners were given the opportunity of oral hearing at pre-initiation stage before the Designated Authority on 15.05.2018 to present their case and make their submissions
7. And whereas, based on examination of the petition filed by the Domestic Industry and the submissions made during the hearing on 15.05.2018, Authority came to the conclusion that there was no need to initiate the Sunset Review concerning imports of DI Pipes originating in or exported from China and accordingly order dated 17.05.2018 was issued intimating the decision of the Authority.
8. And whereas against the said order, the Domestic Industry filed Special Civil Applications No. 12368 of 2018 before the Hon'ble High Court of Gujarat at Ahmedabad. The Hon'ble High Court vide its order dated 26.9.2018 and 8.10.2018 set aside the order dated 17.05.2018 issued by the Designated Authority and directed the Authority to decide the application for sunset review afresh well before 09.10.2018.
9. And whereas pursuant to the said orders of the Hon'ble High Court of Gujarat dated 26.09.2018 the Designated Authority initiated the sunset review investigation on 09.10.2018. In pursuance of the direction of the Hon'ble High Court of Gujarat , the central government extended the duties vide notification no. 51/2018-Customs (ADD) dated 09.10.2018 up to 9th April, 2019.
10. The scope of the present sunset review investigation covers all aspects of the previous notifications.

B. Procedure

11. The procedure followed in this investigation has been described below:
 - i. The Authority notified the Embassy of the subject country in India about the receipt of the aforesaid petition from the Domestic Industry before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
 - ii. The Authority initiated sunset review investigation vide Notification No. 7/18/2018 dated 9th October, 2018.

- iii. The Authority forwarded copy of the Notification dated 09.10.2018 to the Embassy of the subject country in India, known exporters, importers/users and the Domestic Industry and gave them an opportunity to make their views known in writing within forty days from the date of the letter communicating the initiation of the investigation in accordance with the Rule 6(2) of the Rules.
- iv. The Authority provided a copy of the petition as well as the exporter's questionnaire to the Embassy of the subject country in India and the following known exporters/manufacturers from the subject country in accordance with sub-rule (3) of Rule 6 supra with the request to provide relevant information to the Authority within the stipulated time:
1. Yongtong ductile cast iron pipe Co., Ltd
 2. Benxi Beitai Ductile Cast Iron Pipe Co., Ltd
 3. Beitai Iron and Steel Group Co., Ltd
 4. Chengdu Jinfeng
 5. Dalian Wantong Industrial Equipment Co., Ltd
 6. Hydera Machinery Limited
 7. Qian'anishi Jintang Ductile Iron Pipes Co., Ltd.
 8. Rizhao Zhufu Industry Co., Ltd.
 9. Shandong Ductile Iron Pipes Co., Ltd
 10. Shanghai Cast iron Pipe Plant
 11. Shanxi Guanghua Cast Pipe Co., Ltd.
 12. Shanxi Solid Industrial Co., Ltd
 13. Xinjiang Treasury Ductile Iron Pipe Co., Ltd.
 14. Xinxing Ductile Iron Pipes (Group) Co., Ltd.
 15. Saint Gobain (Xuzhou) Pipe Casting Co., Ltd.
- v. A supplementary questionnaire was also provided to the known producers/exporters of the subject goods from the subject country and the Embassy of subject country in India with the request to provide relevant information to the Authority within the stipulated time.
- vi. The Embassy of the subject country in India was also requested to advise other exporters/producers from that country who were not known to the Authority to respond to the initiation of investigation and the exporter's questionnaire within the prescribed time. A copy of the letter, petition and the exporter's questionnaire which was sent to the known exporters was also sent to the Embassy of the subject country in India.
- vii. None of the exporters/producers from the subject country filed questionnaire response
- viii. The importer's questionnaire was sent to the following known importers/users/user associations of the subject goods in India for necessary information within the prescribed time in accordance with Rule 6(4) of the Rules:

1. Pratibha Industries Limited
 2. J V Gokal & Co. Pvt. Limited
 3. Gammon India Limited
 4. Larsen & Toubro Limited
 5. SPML India Limited
- ix. None of the above-mentioned importers/users/user associations or any other interested party responded to the questionnaire or the initiation notification.
- x. The investigation was carried out for the period starting from 1st January 2017 to 31st December 2017 (12 months), i.e., the period of investigation (POI). The examination of trends in the context of injury analysis covered the period 2014-15, 2015-16, 2016-17 and the POI.
- xi. The Authority kept a non-confidential version of the petition and other submissions presented by various interested parties from time to time in the form of a public file maintained by the Authority and kept the same open for inspection by the interested parties as per Rule 6(7) of the Rules.
- xii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered 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.
- xiii. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xiv. The non-injurious price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of guidelines laid down under Annexure III of the AD Rules has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xv. An Oral Hearing was held on 25.1.2019 by the Designated Authority, where Domestic Industry and their attorneys provided their views orally. This was followed by their written submission.
- xvi. On the spot verification of the data provided by the domestic industry was carried out to the extent considered necessary by the Authority.
- xvii. The import data for the period of investigation and preceding three years was obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S).
- xviii. **** in this Final Findings represents information furnished by an interested party on

confidential basis and so considered by the Authority under the Rules.

- xix. The exchange rate adopted by the Authority in this investigation is 1USD=66.04** as per the relevant customs notification.

C. Product Under Consideration and the Like Article

Submissions by the Domestic Industry

12. The following submissions have been made by the domestic industry with regard to the scope of the product under consideration (PUC) and the like article:
- (i) The product under consideration for the purpose of the present investigation is the same as in the earlier investigation i.e., Ductile Iron Spun Pipes. The present investigation being a sunset review, the scope of the product under consideration has to remain the same as that in the original investigation.
 - (ii) There is no difference in subject goods produced by the domestic industry and the subject goods produced in and exported from China PR and they are like articles in terms of the Rule 2(b) of the Rules.
 - (iii) There is no material difference in the production process employed by the Chinese producers and the Indian producers of the subject goods.

Submissions by other interested parties

13. No submission was made by other interested parties with regard to the scope of product under consideration or like article.

Examination by the Authority

14. In the original investigation, the product under consideration was defined as under:

"The product under consideration is Ductile Iron Spun Pipe as defined under clause 3.1 and 3.2 of International Standard, ISO 2531 (for water and gas) and ISO:7186 (for sewage applications). These are often also described as Spheroidal Graphite Iron Pipes or Ductile Cast Iron Pipes or Ductile Iron Spun Pipes. These are classifiable within 73030030 and 73030090 of the Customs Tariff Act.

The various applications of DI Pipes are in:

- a. Transmission of raw, potable and sea water at high pressures.
- b. Distribution of potable water and gas.
- c. Disposal of domestic and industrial effluents.
- d. Fire-fighting systems.

15. The Authority notes that this being Sunset review, the scope of the product under consideration remains unchanged. The Authority further holds that the DI pipes manufactured by the domestic industry and those produced in China PR are "like articles" in terms of Rule 2(d) of the Anti-dumping Rules.

D. Scope of the Domestic Industry and Standing

Submissions by the Domestic Industry

16. The following submissions have been made by the domestic industry with regard to the scope of the domestic industry and its standing:
- (i) The applicants' share of production of subject goods constitutes 54% of the total Indian production and around 89% of the production with supporters. This shows that applicants constitute a major proportion of the total domestic production in the country.
 - (ii) Further, the applicants have not imported the subject goods from the subject country nor they are related to importer or exporter of subject goods from subject country.
17. In view of the above, petitioners constitute the eligible domestic industry in terms of Rule 2(b).

Submissions by other interested parties

18. No submission has been made by other interested parties with regard to the standing of the Domestic Industry.

Examination by the Authority

19. It is noted that the applicants namely, M/s Electrosteel Casting Limited, M/s Srikalahasti Pipes Ltd. (SPL) and M/s Jindal Saw Limited account for 54% of the total Indian production and together with supporters they account for 89% of the total Indian production. Therefore, the Authority holds that the applicants command a major proportion of the total domestic production of the subject goods in India
20. The Authority also notes that applicants have neither imported the subject goods, nor are they related to any importer or exporter of the subject goods. Therefore, for the purpose of this investigation the applicants satisfy the standing requirement and constitute the domestic industry in terms of Rule 2(b) and Rule 5(3) of the AD Rules.

E. Miscellaneous Submissions

Submissions by the Domestic Industry

21. The Domestic Industry submitted that the existing anti-dumping duties have been very effective and helped survival and growth of the DI Pipe industry in India. Further, Domestic Industry submitted that the fact that there have been no imports during the entire injury investigation period is testimony to their contention that the Chinese goods are not competitive if imported at fair and un-dumped prices.
22. It is a matter of record that none of the Chinese exporters have cooperated in the investigation or made any effort to prove that there is no likelihood of recurrence or continuation of injury

to the Domestic Industry in the event duties are revoked. Therefore, in the absence of any information from any of the exporters in the prescribed Exporter's Questionnaire Part II or even from the Government of China, the Authority should recommend continuation of the present duties as sufficient information and data has been provided by the Domestic Industry to establish that there is every likelihood of recurrence of injury in the event the duties are not continued. In view thereof, we humbly request the Authority to kindly extend the duties for further period of 5 years to safeguard the interests of the Domestic Industry.

Submissions by other interested parties

23. No submissions was made by any other interested party

Examination by the Authority

24. The Authority notes that the purpose of a sunset review is to examine as to whether there is any likelihood of continuation or recurrence of dumping or injury in the event the anti-dumping duties are revoked and for this purpose all the relevant information is to be examined.
25. The Authority notes that each relevant issue raised in the submissions of the Domestic Industry will be dealt with at appropriate places in this final findings.

F. Methodology and Determination of Normal Value, Export Price & Dumping Margin Likelihood of Dumping

Submission relating to Normal Value

Submissions made by the Domestic Industry

26. The Domestic Industry has made the following submissions:
- (i) Normal value for China PR has to be determined in terms of the provisions for non-market economy countries.
 - (ii) Since no producer / exporter from China has responded to the notices issued by the Authority, Para 7 of Annexure I of the AD Rules should be followed by the Authority for the determination of Normal Value. Normal Value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. In order to arrive at Normal Value on this basis, the Authority shall require complete and exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country along with its cost of production and all other associated information and evidences (including all information in the ordinary course of trade). Principles of fair comparison as laid down under Article 2.4 of the Anti-Dumping Agreement are also relevant in this respect.

Submissions by other interested parties

27. There was no submission from other interested parties in regard to normal value.

Examination by the Authority

28. The Authority also notes that Article 15 of China's Accession Protocol 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 non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."*

29. Article 15 implies that provisions of subparagraph (a) (ii) shall expire in 15 years from the date of China's Accession. The provisions of this paragraph expired on 11th December, 2016.
30. With regard to the submissions made by the petitioner, it is noted that the commitments under para 15(a) (i) of the Accession Protocol signed by China with WTO requires that the producers under investigation should 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. In event of this being substantiated, the importing WTO member shall use Chinese prices or costs for the industry under investigation in determining price comparability. Further Article 2.2.1.1 of WTO and AD Rules of India requires that the financial records of producer/exporter reasonably reflect the production costs. Therefore, information and supportive evidence thereof in respect of the following is required to be provided.
- Decisions in regard to price, cost, input including raw material, cost of technology and labor, output, sales and investment, are made in response to market signal reflecting supply and demand and without significant State interference and whether cost of major inputs substantially reflect market value.
 - Production costs and financial situation does not suffer from any distortion.
 - The producer/exporter are subject to bankruptcy and property law which guarantees legal certainty and stability for the operation of the firms.
 - Exchange rate conversions are carried out at the market rate.
31. As a part of the proceedings in this investigation, the Authority had sent questionnaires to the known exporters/producers from the subject country advising them to provide information in the form and manner prescribed. There has been no response to the questionnaire nor has there been any submission by the any of the Chinese producers/exporters. In the absence of cooperation from the Chinese exporters/producers, the Authority determines to construct the normal value on the basis of facts available.
32. The constructed normal value so determined is as Rs. *** per MT (USD *** per MT)

Export Price and Dumping Margin

Submissions made by the Domestic Industry

33. Domestic Industry has submitted that based on the actual exports price of subject goods from China to Turkey, Vietnam and Sri Lanka in FOB price terms can be worked forwards to get the likely export price to India. Likely export price to India calculated by the domestic industry based on the abovementioned criterion is as under:

	Unit	Sri Lanka*	Turkey*	Vietnam*
Quantity	MT	11838	7982	28923
FOB Prices	USD/MT	***	***	***
Exchange Rate	USD/INR	66.04	66.04	66.04
FOB Prices	RS/MT	***	***	***

Commission	Rs/MT	***	***	***
Bank Charges	Rs/MT	***	***	***
Port Expenses	Rs/MT	***	***	***
Inland Freight Expenses	Rs/MT	***	***	***
VAT	Rs/MT	***	***	***
Credit Cost	Rs/MT	***	***	***
Net Export Price in INR	Rs/MT	***	***	***
Net Export Price in US\$	US\$/MT	***	***	***
Normal Value	Rs/MT	***	***	***
Dumping Margin	Rs/MT	***	***	***
Dumping Margin	%	45-55%	60-70%	55-65%

*Based on China export Data (Source: HS International Inc. Sydney)

Submissions by other interested parties

34. There was no submission from other interested parties in regard to export price

Examination by the Authority

35. The Authority notes that imports of subject goods from China during POI is to the tune of 73 MT at Rs. 1,54,000 per MT. It is further noted that the price of import is abnormal, which is established by the fact that the DI is selling the subject goods at approx. Rs. *** per MT only. It is noted that the import statistics of this item points to either misclassification of the import item or it not being the like article. However, the Authority has also calculated the export price based on the available import data. Export price has been adjusted for ocean freight, marine insurance, port expenses, commission, inland freight and indirect taxes (VAT) which may have been incurred by the exporter for exporting material to India, in order to put normal value and export price at the same level of trade. The export price to be determined is as Rs. *** per MT.

Particulars	Unit	To India
Constructed Normal Value	Rs/MT	***
Ex-factory price	Rs/MT	119895
Dumping margin	Rs/MT	***
Dumping margin	Range	(75)-(65)

G. Assessment of Injury and Examination of Causal Link

Assessment of Injury

Submissions made by the Domestic Industry

36. Domestic Industry has made following submissions:

- (i) Since there have been no reliable imports of the subject goods either during the Period of Investigation or the injury investigation period, no injury analysis can possibly be made of current injury. In any case, the analysis of current injury recedes into insignificance in case of a sunset review practically when there are no imports.
- (ii) Domestic Industry further submits that the mandate of the law for the Authority is only to carry out likelihood analysis as envisaged in Section 9A (5). Further, the Domestic Industry has been able to collect data of exports by the Chinese exporter to other countries during this period. There is sufficient indication that if the export price to other countries is taken as an estimate of the likely export price to India (once the anti-dumping duties are removed), it would be clear that the Chinese exports will injure the Domestic Industry. The price undercutting as well as price underselling analysis would reveal that if the duties are not extended, the injury to the domestic industry is imminent.

Submissions made by other interested parties

37. No other interested party has participated in the investigations and accordingly no submission been made by other interested parties.

Examination by the Authority

38. The Authority notes that there have been miniscule imports of the subject goods during the injury investigation period. The Authority however notes that despite the absence of reasonable quantum of import, the Authority as per the consistent practice determines to conduct injury analysis.

Volume Effect and Price Effect of the dumped imports

39. The Authority notes that as per the Rules, the Authority is required to do the analysis of the volume effect of the dumped imports on the market share of the domestic industry and the effect of the dumped imports on the prices of the domestic industry to determine price undercutting, price underselling, price suppression and depression. The Authority however notes that in view of the insignificant quantum of import from the subject country and that

too at non-representative price of such import, the analysis with regard to price undercutting, price underselling, price suppression and depression would throw illogical conclusion and accordingly the authority decides not to carry out analysis with respect to volume effect and price effect of the dumped imports.

Economic parameters relating to the domestic industry

40. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows:

“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 the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments”

Production, Capacity, Capacity Utilization and Sales

41. The effects of dumped imports on the domestic operation of the domestic industry cannot be examined in terms of total production, capacity utilization and domestic sales of the domestic industry as there are miniscule imports of the subject goods during the entire injury investigation period. However, the Authority notes capacity, production, capacity utilization and sales volumes of the domestic industry as under:

Particulars	Unit	2014-15	2015-16	2016-17	POI
Capacity-DI	MT	***	***	***	***
Production-DI	MT	***	***	***	***
Capacity Utilization-DI	%	82.26%	87.18%	85.07%	88.29%
Domestic Sales-DI	MT	***	***	***	***
Domestic Sales-Others	MT	335967	475089	744254	752115
Imports from all Sources	MT	3	365	22	408
Total Demand (MT)	MT	934053	1207040	1528188	1576776

42. The Authority notes that:
- i. The Domestic Industry increased its capacity in 2015-16 to meet the increasing demand and thereafter it has remained the same. The production of domestic industry has witnessed significant increase in 2015-16 and thereafter it has not witness any substantial change.
 - ii. It is also seen that the sales of other producers in India has also increased in the POI as compared to the base year.

Profits, Return on Investment and Cash Profit

43. The profits, cash profit and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market were as under: -

Year	2014-15	2015-16	2016-17	POI
Profit/loss (Rs./MT)	***	***	***	***
Trend	100	134	114	121
Return on Investment	***	***	***	***
Trend	100	157	101	130
Cash Profit (Rs./MT)	***	***	***	***
Trend	100	98	92	97

44. The Authority notes that:

- i. Domestic industry has been earning profits. However, its profitability has kept on fluctuating throughout the injury investigation period.
- ii. Similar trend is observed in case of return on investment also.

Employment, Wages and productivity

45. The number of employees employed by the domestic industry, wages paid, and its productivity shows as follows:

Year	2014-15	2015-16	2016-17	POI
Production (MT)	765030	924132	901709	935868
Trend	100	121	118	122
Employees	***	***	***	***
Trend	100	103	101	99
Production/employee	***	***	***	***
Trend	100	118	117	123
Wages/employee/annum	***	***	***	***
Trend	100	115	163	168

46. The Authority notes that

- (i) Productivity per employee after initial increase in 2015-16 has remained more or less same during 2016-17 before witnessing further increase during POI.
- (ii) Wages per employee increased throughout the injury investigation period.

Inventories

47. Inventory position of the domestic industry is given in the table below:

Year	2014-15	2015-16	2016-17	POI
Average stock (MT)	***	***	***	***
Trend	100	172	223	216
Inventory as No. of days of Production	***	***	***	***
Trend	100	142	189	176

48. It is noted the average inventory of the domestic industry increased during the entire injury investigation period except marginal decline during POI.

Ability to raise capital

49. The domestic industry claims that its condition will worsen once the anti-dumping duties in force are withdrawn and consequently will have difficulties in raising capital from the market or from financial institutions.

Growth

50. The Authority notes that the volumes of imports from the subject country are miniscule and therefore no comparative analysis can be carried out objectively between the growth of domestic industry and imports.

H. Examination of Causal Link:

Submissions made by the Domestic Industry

51. The domestic industry submits that:
- (i) It is a settled position of law that causal link analysis is not mandatorily required to be done in sunset review investigations. In this connection, the domestic industry invites the attention of the Authority to the following excerpts from the Appellate Body decision in the case of Oil Country Tubular Goods from Mexico (WT/DS282/AB/R dated 2 November 2005):

“118. We therefore agree with Mexico that this fundamental principle is expressed in Article VI of the GATT 1994 and in various provisions of the Anti-Dumping Agreement. The United States does not question this principle per se. However, this does not mean that a causal link between dumping and injury is required to be established anew in a "review" conducted under Article 11.3 of the Anti-Dumping Agreement. This is because the "review" contemplated in Article 11.3 is a "distinct" process with a "different" purpose from the original investigation.”

119. The Appellate Body has underlined that "the nature of the determination to be made in a sunset review differs in certain essential respects from the nature of the determination to be made in an original investigation", and that "[t]he disciplines applicable to original investigations cannot, therefore, be automatically imported into review processes."

X. Findings and Conclusions

219. for the reasons set forth in this Report, the Appellate Body:

(a) in relation to causation:

(i) finds that there is no requirement to establish the existence of a causal link between likely dumping and likely injury, as a matter of legal obligation, in a sunset

review determination under Article 11.3 of the Anti-Dumping Agreement and that, therefore, the USITC was not required to demonstrate such a link in making its likelihood-of-injury determination in the sunset review at issue in this dispute;”

- (ii) It is further submitted that there are good technical and logical reasons for not applying the requirement of causal link in a sunset review case. If duties can be extended even if there are no imports, the question of carrying out the causation analysis does not arise. Further, the test for extension of the period of duties under Section 9A(5) is only to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

Submissions made by other interested parties

52. No submissions has been made by any other interested party.

Examination by the Authority

53. Annexure 2 to the Rules provides as follows with regard to Causal Link:

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must 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 dumping 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.”

54. As far as the analysis of injury caused by the other factors is concerned, the Authority notes as under:

Volume and value of imports not sold at dumping prices:

55. There are miniscule imports of the subject goods from the subject country in the entire injury period. Further, volume of imports from other countries also is insignificant. Therefore, volume and value of imports and its impact on the domestic industry cannot be analyzed.

Contraction in demand:

56. Demand of the product under consideration has not registered any negative growth. Instead, it has increased and shown a positive growth. Thus, contraction in demand is not a possible reason which could have contributed to the injury to the domestic industry.

Changes in the patterns of consumption:

57. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

Trade restrictive practices of and competition between the foreign and domestic producers:

58. There is no trade restrictive practice which could have contributed to the injury to the domestic industry.

Developments in technology:

59. Technology for production of the product has not undergone any change nor are there any likely changes in the coming future. Developments in technology are, therefore, not a factor of injury.

Export performance:

60. The petitioning companies export the product under consideration. However, only information relating to domestic sales has been taken into consideration for assessment of injury.

I. CONCLUSION ON MATERIAL INJURY

61. Despite the submission of the domestic industry with regard to non-requirement of examination of causal link of fresh in case of sunset review investigation, the authority proceeds to examine the causal link. The authority notes that the profits, returns on investment, production and sales have shown improvement during the injury period and accordingly there is no material injury to the domestic industry.

J. LIKELIHOOD OF CONTINUATION/RECURRENCE OF DUMPING AND INJURY

Submissions made by the domestic industry

62. The following submissions have been made by the domestic industry regarding likelihood of continuation/recurrence of dumping and likelihood of continuation/recurrence of injury:
- (i) Domestic Industry submitted that no exports from China proves that the Chinese exports cannot compete with the Indian producers unless they indulge in dumping activities. However, it may be added that there is every likelihood of huge potential imports if the duties are not extended seeing the unutilized capacity.
 - (ii) The present duty is to be continued to protect the interest of domestic industry from the adverse effect of likely dumping of the subject goods from the subject country. Since there have been no exports of the subject goods during the Period of Investigation or in the preceding years, the Domestic Industry has submitted that the Authority needs to determine the likely export price to India on the basis of the export prices of the said goods from China

to other appropriate third country, including Domestic Industry. Without prejudice, it is submitted by the Domestic Industry that anti-dumping rules and jurisprudence provides enough indication that “appropriateness” is the criterion to be used when it comes to third country prices.

- (iii) Domestic Industry has also submitted the likely prices to India based on the FOB export prices of DI pipes from China to representative countries like Vietnam, Sri Lanka and Turkey. It is submitted that these countries are similar to India in their developmental efforts and infrastructural requirements. Since these countries do not have any domestic production of DI Pipes and, therefore, the prices offered to these countries can reasonably be considered to be true and fair reflection of the likely prices to India. Domestic Industry has also calculated dumping margin and injury margin taking into account all export transactions from China to other countries to analyse the price attractiveness to the Indian market. From the overall data, Domestic Industry has tried to establish that if the goods start flowing into India at landed value based on export price to other countries, the Domestic Industry will certainly start suffering losses.
- (iv) Domestic Industry has further submitted that more than 70% of the quantities exported from China to other countries are at a price which would have a positive injury margin and around 83% of the quantities sold to other countries are at dumped prices. This proves beyond an iota of doubt that there is every likelihood that at these prices, if the excess capacity is diverted to India, injury to Domestic Industry is imminent.
- (v) Domestic Industry also submitted that none of the Chinese producers / exporters or even the Government of China has bothered to contradict the detailed information and evidence provided by the Domestic Industry. This non-participation only proves that the information provided by the Domestic Industry is incontrovertible and the Authority is obliged to use information provided by Domestic Industry in terms of Rule 6(8).
- (vi) Domestic Industry has culled out the information from websites of respective companies and information available from website in relation to the capacities available in China. As per the submissions of the Domestic Industry, excess capacity in China is more than the entire domestic demand in India. The capacities of the subject goods in China is more than 3 times of the capacity of the Domestic Industry. Moreover, the, Chinese capacity of the subject goods is 4.6 times and 4.2 times of the demand in India and production of the Domestic Industry, respectively. The details of which are given below:

Sl. No.	Plant	Capacity
1	Xing Xing Pipe Co. (4 Plants)	1800000
2	Benxi Beitai Pipe Co.	600000
3	Longkhau Fanlin Pipe Co.	250000
4	Saint Gobain(xuzhou) Pipe Casting Co., Ltd.	1700000
5	Dalian Kunda Pipe Co. (2)	200000
6	Jincheng Chunchen Pipe Co.	180000
7	Sun Pipe Co.	150000
8	Xuzhou Everbright (SGPAM)	200000
9	Shandong Jinan Pipe Co.	300000

Sl. No.	Plant	Capacity
10	Henan Auyang Pipe Co.	300000
11	Shanxi Shengynan Pipe Co.	100000
12	Rhi Zhon Zhu Pipe Co.	200000
13	Qian'an Shi Jintang Iron Pipes co, ltd	90000
14	Shanxi Guanghua Cast Pipe	300000
15	Yongtong Ductile Cast Ltd	400000
16	Xinjiang Treasury co ltd	200000
17	Combined capacity of small plants (15 nos. approx.)	300000
	GRAND TOTAL	72,70,000

- (vii) Domestic Industry has further provided the comparison of above capacities in China with capacities, production, sales and demand in India to project the potential danger and the imminent likelihood of dumped imports into the country, in the event of revocation of duties. The same is tabulated below:

Particulars	
Chinese Capacity (MT)	72,70,000
Capacity of Domestic Producers (MT)	22,35,000
Demand in India (MT)	15,76,776
Production of Domestic industry (MT)	17,24,624
Sales of Domestic industry (MT)	15,76,368
Chinese Capacity as a % of Capacity of Domestic Industry (%)	325%
Chinese capacity as a % of demand in India (%)	461%
Chinese capacity as a % of production of domestic industry (%)	422%
Chinese capacity as a % of sales of domestic industry (%)	461%

- (viii) Domestic Industry has also submitted that the capacities of the subject goods in China is more than 3 times of the capacity of the Domestic Industry. Further, Chinese capacity of the subject goods is 4.6 times and 4.2 times of the demand in India and production of the Domestic Industry, respectively. They have further submitted that, if such quantities are diverted to India, at the likely prices, injury to the Domestic Industry is imminent.
- (ix) Export prices to other countries clearly indicate the likely behaviour of the exporters from China. Further, in case, duties are revoked, in order to win the tender bid, producers / exporters would be selling the subject goods into the Indian market at prices lower than the domestic prices in India. That being the case, the increased level of price undercutting is imminent.
- (x) Dumping margin calculated on the basis of the likely export price is in the range of 50%-67%. In such a situation, withdrawal of anti-dumping duties will only adversely impact the Domestic Industry. Revocation of duties will encourage free flow of dumped and non-remunerative imports which will definitely have an adverse impact on the domestic selling price, market share and ultimately on profits of the domestic industry.
- (xi) Domestic Industry reiterates that the Chinese products are not competitive unless and until they indulge in dumping practices. Further, the present level of anti-dumping is only about 15% to 18% of CIF value, which is very nominal by any standards. Despite this, no exporter

has exported the subject goods, nor did they participate in any of the tenders floated by the customers.

Submissions by Interested Parties

63. No interested party has made any submission in relation to likelihood of recurrence of dumping or injury.

Examination by the Authority

64. The Authority has examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the AD Rules, which reads as under:
- (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 as:*
- (a) *a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;*
 - (b) *sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;*
 - (c) *whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and*
 - (d) *Inventories of the article being investigated.*

Accordingly, while considering the likelihood aspect under clause (vii) of Annexure II to the AD Rules, the Authority considered, inter alia, the following factors

1. Present and continued imports

The Authority notes that during POI, the import of the subject goods is mere 73 metric tonnes. The domestic industry has further submitted themselves that subsequent to POI also, there is no likelihood of any import of subject goods having taken place on account of the nature of the product as no Chinese producer/ exporter is understood to have participated in any contract for supply of ductile iron pipe in India. The Authority accordingly notes that there is thus no question of increase of imports, leave alone significant increase of imports.

2. Price suppression and Price depression

The Authority notes that in view of above, there is no question of imports causing depressing or suppressing effect on domestic prices,

3. Surplus Capacities

This parameter for ascertaining the threat of material injury requires evaluation of existing

surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market.

In relation to the surplus capacity and the likelihood of its diversion to India in case of revocation of duties, it is noted that mere existence of surplus capacity does not establish the likelihood of diversion of surplus production to India prove the likelihood of imports if anti-dumping duties were to be revoked.

4. Level of inventories

The level of inventories available with the producers in subject countries could not be ascertained in view of lack of sufficient cooperation.

K. POST DISCLOSURE COMMENTS BY INTERESTED PARTIES

Submissions made by the Domestic Industry

65. Following submissions have been made by the Petitioners:

- a) In the absence of imports of the subject goods, the Authority is obliged to consider the likely prices of the imports for carrying out the analysis of likelihood of dumping and injury to the Domestic industry. In the disclosure statement no examination has been carried out regarding likelihood of dumping and injury for which detailed information has been provided in their submissions.
- b) The detailed documentary evidence filed by the Domestic Industry remains uncontroverted despite sufficient opportunity being given to all the interested parties which included the Government of China, producers and exporters in China. It is further submitted that in the absence of any submissions / evidence by any of the interested parties, the Authority ought to have accepted the submissions / evidence submitted by the Domestic Industry. Domestic Industry also submitted that besides the interested parties, even the Authority has not cited any evidence in the disclosure statement which could either negate or even dilute the submissions/information / evidence submitted by the Domestic Industry.
- c) The Authority in para 34 proposed to take into consideration the export price of a product which admittedly is not a like article or which may have abnormal prices. This would be in complete contradiction to the provisions of Annexure I to the Anti-Dumping Rules and Article 2.2 of the Anti-Dumping Agreement. It is further submitted by the Domestic Industry that calculation of export price and subsequent dumping margin has no relevance, as it is not for the subject goods and therefore the Authority should not base its conclusion on information which is not for the like article to subject goods.
- d) The Authority has also not considered the submissions of the Domestic Industry regarding likely dumping margin based on the actual export data from China to other countries. The legal obligation of the Authority is to examine the likelihood of dumping in sunset review investigations and the Authority is requested to kindly take into consideration in the final findings the detailed information filed by them.
- e) When the Authority has itself concluded that there are no imports of like article during the entire injury investigation period, then no meaningful injury analysis can be made. The Authority is requested to avoid making any conclusion based on the current injury information as the same has no logical or legal relevance.

- f) That the contention of the Domestic Industry has been completely misunderstood regarding likelihood of imports in India. Domestic Industry has submitted that nowhere they have stated that there is no likelihood of imports from China. The domestic Industry reiterated that no imports are likely if the imports have to bear the burden of the current anti-dumping duties. It is further submitted that the current anti-dumping duties are effective in restoring fair market prices in the country and the imports are bound to recur at dumped prices if the protection of current anti-dumping duties is not continued. Domestic Industry also requested the Authority to kindly delete / modify the premise mentioned in para 62(1) in its final findings, as it is based on incorrect understanding of Domestic Industry's submissions.
- g) That the Authority has admitted the existence of huge surplus capacities in China based on the incontrovertible documentary evidence filed by the Domestic Industry. However, the Authority does not find the evidence filed by the Domestic Industry as a conclusive basis to establish the likelihood of the surplus capacities to find their way into India. Domestic Industry has also highlighted the legal requirement is only to establish the likelihood or preponderance of probability that the surplus goods are likely to come into the country. However, from the disclosure statement, it appears that the test which the Authority proposes to apply is that the Domestic Industry must establish "beyond any doubt" that the surplus capacity would find its way in India. Domestic Industry further submitted that any conclusion based on this incorrect reading of the legal obligation of the Domestic Industry, would lead to misleading and flawed conclusions. That the Domestic Industry can, at best, provide information with regard to surplus capacities in China and the attractiveness of the Indian market. Once these set of facts are reasonably established, the inescapable conclusion would be that there is every "likelihood" of the dumped goods to find their way into India. It is further submitted that the Authority cannot ignore the fact that none of the interested parties has given any information/ evidence, which could even dilute, let alone contradict, the well-supported submissions of the Domestic Industry.
- h) That the disclosure statement does not carry out the "likelihood analysis", as envisaged under Section 9A(5) of the Custom Tariff Act read with Rule 23 (1B) of the AD Rules. It is further submitted that the Authority has carried out some analysis in respect of certain factors under the heading "Likelihood", while the said factors relate to "Threat of Material Injury" and not per-se to any likelihood analysis. It is also submitted that the test of threat analysis cannot be equated with that of a likelihood analysis.
- i) That in the instant case, the Domestic Industry has given detailed documentary evidence in support of the fact that there is every likelihood of dumping and injury in the event the duties are discontinued. The evidence also remains uncontroverted. In view of the incontrovertible evidence filed by the Domestic Industry and in the absence of any evidence / submission to the contrary, the basic ingredients to reach to the conclusion of likelihood of dumping and injury stand adequately satisfied.
- j) The Authority should have carried out likely price analysis based on the likely prices to India in the absence of actual imports of like article during the entire injury investigation period. Domestic Industry has further submitted that their submissions relating to likely price and its impact on Domestic Industry has not been dealt with the Authority in the disclosure statement. The Authority is requested to kindly deal with all its submissions and provide fresh opportunity to comment on the same.

Submissions made by other interested parties

66. No submission has been made by any other interested party.

Examination by the Authority

67. The examination of post-disclosure comments is as under:
- i. As regards the submission that the Authority has not carried out sufficient analysis on likelihood or recurrence of dumping and injury, it is noted that the Authority has carried out detailed analysis in this regard at appropriate places of the present findings.
 - ii. The Authority notes that there have been negligible imports of the Product under Consideration during the period of investigation and therefore the price attractiveness analysis for the Indian market based on such miniscule import would be inappropriate.
 - iii. The domestic industry has itself submitted that even in post-POI period there is no likelihood of any import of subject goods having taken place on account of (a) anti-dumping duty being in force and (b) the nature of the product, as no Chinese producer/ exporter is understood to have participated in any contract for supply of ductile iron pipe in India. Since the import of PUC has almost stopped during the injury period, the requirement of significant rate of increase of dumped imports into India in terms of Annexure II (vii) (a) of the AD Rule for analysis of likelihood of continuation or recurrence of injury is not met.
 - iv. The authority further notes that the very fact that the imports of PUC declined sharply during injury period establishes the fact that the anti-dumping measure applied since 23rd August 2007 has already served its intended purpose and that there is no need for its further continuation.
 - v. The Authority further takes note of the fact that there are surplus capacities with the Chinese exporters. However, the Authority reiterates that mere creation of additional capacities cannot be considered as a conclusive evidence of likelihood of dumping or injury. The Domestic Industry has failed to provide any evidence to prove that the additional capacities in China would be diverted to India in case of revocation of anti-dumping duty.

L. Conclusions and Recommendations

68. Having examined the contentions of the domestic industry and on the basis of the above analysis, the Authority concludes that continuation of anti-dumping duty is not warranted and accordingly recommends no further extension of anti-dumping duty on the subject goods from the subject countries.

M. Further Procedure

69. An appeal against this notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 and the decision of the Hon'ble High Court of Delhi in M/s Jindal Poly Film Ltd. v. Designated Authority, W.P. (Civil) No. 8202/2017.

(Sunil Kumar)
Additional Secretary and Director General