

No.14/14/2005-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 23rd August, 2007

Final Findings

Subject: Anti-dumping investigations involving imports of DI Pipes originating in or exported from China PR – Final Findings.

NO.14/14/2005-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter 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, (hereinafter referred to as the Rules) thereof:

2. Whereas M/s Electrosteel Castings Ltd. and M/s Lanco Industries Ltd. (herein after referred to as the Applicants) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance

with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of DI pipes (herein after referred to as subject goods), originating in or exported from China PR (herein after referred to as subject country) and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods. The Authority notified the Embassy of China PR about the receipt of dumping allegation in accordance with sub rule 5(5) of Rules.

3. WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 24.2.2006 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject country in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the antidumping duty.

A. Procedure

4. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority.

(i) The Designated Authority sent copies of initiation notification dated 24th February 2006 to the Embassy of the subject country in India, known exporters from the subject country, importers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

- (ii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy of China PR in accordance with Rule 6(3) supra.
- (iii) The Embassy of the People's Republic of China in India, was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. Copies of the letters and questionnaire sent to the exporters were also sent to them, alongwith the names and addresses of the exporters.
- (iv) A questionnaire for according market economy treatment was forwarded to all the known exporters and the Embassy of the Peoples' Republic of China and Bureau of Fair Trade China (BOFT) China PR. While, for the purpose of initiation, the normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, the authority informed the known exporters that it proposed to examine the claim of the applicant in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore requested to furnish necessary information / sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable the Designated Authority to consider whether market economy treatment could be granted to cooperating exporters / producers who could demonstrate that they satisfied the criteria stipulated in the said paragraph.
- (v) The Authority sent a questionnaire, to elicit relevant information to the known exporters in China PR in accordance with Rule 6(4):
 - a. In response to the Initiation Notification, M/s Xinxing Ductile Iron Pipes Co. Ltd. (XDIPL) provided information on exporter's questionnaire for determination of dumping and information for rebutting Non-Market Economy Treatment.
- (vi) Exporters who have not provided the information in the investigation have been treated as non-cooperating exporters.

(vii) Questionnaires were sent to known importers and Consumers of subject goods in India calling for necessary information in accordance with Rule 6(4). In response to the notification, following importers provided information:

- a) M/s Larsen & Toubro Ltd., Chennai
- b) M/s J V Gokal & Co. Ltd., Mumbai
- c) M/s Gammon India Ltd., Mumbai
- d) M/s Engineering (Projects) India Ltd., New Delhi

The data shows that only M/s J V Gokal & Co. , Mumbai had imported subject goods during the POI.

- (viii) Importers/users who have not provided information in this investigation have been treated as non-cooperating importers/users.
- (ix) The Authority held a Public Hearing on 8.8.2006 to hear the interested parties. The parties attending the Public Hearing were requested to file written submissions of the views expressed orally. The Designated Authority considered the submissions as received from the interested parties in the findings.
- (x) The Authority verified the information provided by the domestic industry to the extent considered necessary.
- (xi) The Authority also verified the information provided by the cooperating producer/exporter to the extent considered necessary.
- (xii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigations;

- (xiii) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file (duly indexed) kept open for inspection by the interested parties. The acknowledgements of interested parties inspecting files and taking copies of the record have been kept in the public file.
- (xiv) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- (xv) In accordance with Rule 16 of Rules Supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received thereon have also been duly considered in the findings.
- (xvi) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules.
- (xvii) Investigation was carried out for the period starting from 1.4.2005 to 31.12.2005(POI). The examination of trends in the context of injury analysis covered the period from April 2002-March 2003, April 2003-March 2004, April 2004- March 2005 and the POI.

B. Product Under Consideration

5. 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.

6. DI Pipes performs the function of transporting liquid object at long distances at high pressure. It is primarily used for transporting water or sewerage disposal and gas, transmission of domestic and industrial effluent, fire-fighting systems on shore and off-shore. The various applications of DI Pipes are:

1. Transmission of raw, potable and sea water at high pressures.
2. Distribution of potable water and gas.
3. Disposal of domestic and industrial effluent.
4. Fire-fighting systems on shore and off shore.

The production technology adopted for manufacturing DI Pipes is centrifugal casting.

B. 2. Product Exported by 'XDIPL'

7. The specifications of XDIPL's products exported to India are the same as the product sold in the domestic market of India. The product involved in the investigation is produced pursuant to the international standard ISO 2531 push-in joint, with the effective length of 6 meters, and the size of DN 80mm-DN 2600mm. The product is mainly used to transport drinking water, sewage and all kinds of gas.

8. The product exported by XDIPL uses the standard coating. The inner cement of the product is in accordance with standard ISO 4179. The outer zinc coating and bitumen coating of the product is in accordance with standard ISO 8179. The grade of thickness of the pipes is K9.

B.3. Like Article

9. Domestic industry manufactures DI pipes in various sizes from 80mm to 1100mm dia. Larger size pipes can also be made.

10. DI Pipes product by the domestic industry and imported from China are comparable in terms of characteristics such as product properties, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods.

11. No argument has been raised by any interested party on like article. The Authority, in view of above, holds that the DI pipes manufactured by the domestic industry and imported from China is like article as per section 2(d) of the Anti-dumping Rules.

C. Domestic Industry and Standing

12. The application for anti-dumping investigation was filed by M/s Electrosteel Castings Ltd. and M/s Lanco Industries Ltd. After initiation of the investigation, M/s Jindal Saw Ltd. expressed its support for investigation. The applicants and the supporter account for 100% of the production of D I pipes, therefore, the applicants have the desired 'standing'. The applicants account for 81% of the total production of Indian producers during POI, therefore, constitute domestic industry as per rule 2(b) of the Anti-dumping Rules.

13. The exporter has argued that for the purpose of injury analysis, M/s Jindal Saw Ltd. constitutes a 'significant' player, therefore, the domestic industry should gather the data with reference to Jindal to provide correct and substantive analysis of the impact, if any, of Chinese imports. The Authority notes that the applicant domestic industry accounts for 81% of the total

production during the POI and constitute domestic industry within the meaning of the Rules. M/s Jindal Saw Ltd. began its production only during POI. The company expressed its support to the investigation and provided some information, however, it did not cooperate further by replying to queries of the Authority and providing non-confidential version of the confidential data already provided. The Authority has option of discarding the data, however, the data relating to capacity, production and sales in volume terms have been relied on for assessing the demand and capacity utilisation. The data relating to other aspects has not been taken into account. Moreover, the exporter itself has objected to the use of data provided by M/s Jindal Saw Ltd.

D. Other issues

D.1. Issue of Memorandum of Understanding between ECL and XDIPL

Submissions by XDIPL

14. It has been submitted that XDIPL group had been supplying patented technology and equipment to Electrosteel since 1999. In February 2006, Electrosteel also entered into a contract to procure technology and equipment of a sinter plant from an associate company of XDIPL. In April 2006, Electrosteel officials visited XDIPL's factory and signed a MOU on their own free will and volition. In the said MOU, Electrosteel admitted to the following:

1. That XDIPL has not indulged in dumping and that XDIPL is a highly transparent company.
2. That Electrosteel would report "the truth" to the Indian Government and "cancel" the anti-dumping investigation against XDIPL as soon as possible.

15. Electrosteel further sought XDIPL's assistance in setting up its new steel plant by supplying "advanced technology and equipment". The MOU

was signed by Umang Kejriwal and Uddhav Kejriwal. It is also important to note that Electrosteel has not disputed the existence of the MOU and has admitted to the contents thereof. It has been further submitted that despite extensive submissions that DGAD should terminate the investigation under Rule 14, however, DGAD has not done so. It has been further stated that DGAD should nonetheless take note of contents of MOU as it establishes that petition was initiated without any basis and in bad faith.

16. The Authority notes that after the initiation of investigation on DI Pipes, XDIPL brought to the notice of the Designated Authority that there existed a Memorandum of Understanding (MOU) between ECL and XDIPL stating that XDIPL has not indulged in dumping and Electrosteel would report 'the truth' to the Indian Government and 'cancel' the anti-dumping investigations against XDIPL as soon as possible. XDIPL requested the Authority to terminate the investigation on the basis of MOU. The exporter also filed a writ petition in Delhi High Court seeking termination of investigation on the same ground.

17. The Authority after taking into account submissions made by the domestic industry and XDIPL observed that the termination of investigation was possible under Rule 14(a) of the Rules where a request in writing has to be made by the domestic industry in this regard. As there was no expressed request from the domestic industry for termination of the investigation, therefore, the Authority decided to continue with the investigation. It was also informed to the interested parties that the investigation may be terminated during the course of investigation under sub rule (b), (c), (d) and (e) Rule 14 or any other provision of the Rules depending upon the facts and circumstances. The Delhi High Court dismissed the writ petition on the ground that the domestic industry had not made any request under Rule 14(a) of the Anti-dumping Rules.

18. Now it has been contended that the Authority may take into account the content of the Memorandum of Understanding. In this regard, the Authority holds that after initiation of the investigation, for taking any decision,

the Authority has to take into account submissions of all the interested parties. The Authority is also of the view that agreement or content of MOU between two private parties cannot be considered as findings of the Authority. Further, the Authority has not gone into the circumstances under which the MOU was signed between the two private parties particularly when the domestic industry has kept on insisting for continuation of investigation. Therefore, the findings concerning dumping and market economy status are issued on the basis of appraisal of required facts as per Anti-dumping Rules.

D.2. Issue of Internal Competition between producers of the domestic industry

19. Interested parties have raised the issue that M/s Jindal Saw Ltd. has not joined the investigation. It has also been pointed out that loss market share of the domestic industry is on account of entry of M/s Jindal Saw Ltd. during the period of investigation. It has been argued that M/s Jindal Saw Ltd. enjoy the benefit of excise duty exemption, therefore, it has given the competition to the applicant domestic industry.

20. The Authority notes that with the entry of new producer in the market, the competition among the producers would have increased. It may have affected the financial performance of the existing producers. However, the present investigation is against the unfair trade on account of dumped imports from the subject country. The Authority further notes that in 2004-05, M/s Jindal Saw Ltd. was not producing the DI pipes so there could not have been internal competition between Jindal Saw and other domestic producers. In that year the domestic industry did not increase the selling price proportionate to increase in cost of production. The landed value of imports were undercutting the selling price of the domestic industry indicating that the domestic industry was benchmarking their prices with the imports. Subsequently in 2005-06 when Jindal Saw began its production of DI pipes, the competition *inter se* domestic producers must have been

created. However, the landed value of imports during POI as well was undercutting the selling price of the domestic industry again indicates that the domestic producers were benchmarking their selling price with the imports. The Authority holds that as per the Anti-dumping Agreement, if the injury, if any, has been caused to the domestic industry by the dumped imports then it is not necessary to segregate injury caused by internal competition.

21. It has also been stated that because of exemption of excise duty to M/s Jindal Saw Ltd., the company was in a position to give competition to the existing domestic producers by offering competitive selling price. The Authority in this regard notes that the excise exemption to M/s Jindal Saw Ltd. was given by the Government to offset the disadvantages of setting up the industry in a particular region. It is also pertinent that M/s Jindal Law Ltd. has expressed support to the anti-dumping investigation even though the company has not fully cooperated in the investigation.

D.3. Issue of Statement made in the GDR document

22. It has been pointed out by the cooperating exporter that the ECL has raised fund through the GDR issue and it has also been pointed out that how the company which has been making losses can have the confidence to convince the investors to invest in it and raise the fund of US\$40 million. It has further been pointed out that in the GDR offer document, the performance of the company on various parameters are inconsistent with the performance as submitted to DGAD for injury purpose. The decline in profitability of the company has been explained as rising cost of the raw materials. From the GDR offer document, the text has been quoted wherein the ECL had stated "With regard to the domestic market, XDIPL supplied approx. 10,000 tons of DI pipes to India during the financial year ended 31st March 2005 but has yet to make a significant impact on the Indian market. The company believes that the extensive experience of its management combined with its 45 year history as a spun pipe manufacturer in India cannot be easily replicated by competitors or new entrants in the domestic market." It has also been pointed out that in Electrosteel Castings Ltd. in offering memorandum for FCCB dated 11.5.2006 has also made same statement that "with regard to the domestic market, XDIPL supplied approx. 10,000 tons of DI pipes to India during the financial year ended 31st March 2005 but has yet to make a significant impact on the Indian market."

23. The Authority notes that through the GDR offer the fund has been raised by one of the producer and data quoted in offer document relates to period up to 31.3.2005 and some unaudited data up to June'05 however it does not cover complete period of the investigation. The GDR document refers to the performance of the company as a whole and not for the product under anti-dumping investigation, whereas the injury analysis by the Authority is restricted to only for the product under investigation and for a specific period of investigation for domestic industry as a whole and not for individual company.

24. Regarding claim of the company about its extensive experience in management is an expression of their strength and confidence to face the competition in the market. The statement in no way refers to the unfair competition by way of dumping from the other country. Concerning the statement that imports from China by XDIPL yet to make a significant impact on the Indian market, the Authority notes that Electrosteel Castings Ltd. in its annual report 2004-05 stated that *"the main threat to company is cheap imports from neighbouring Asian countries with the opening of the economy and continued reduction in imports duty"*. The Authority further notes that the statement in context of international competitors in offer memorandum for FCCB dated 11.5.2006 though made after initiation of the anti-dumping investigation, is same statement as had been made in the GDR offer document as it refers to imports made up to March 2005. In view of the statements of the company made in different contexts, the Authority holds that the findings in the investigation are based on actual appraisal of facts and cannot be based on statements made in different contexts. Moreover, the statement made in different contexts cannot be bar to any company to seek investigation against unfair trade in the form of dumping.

D.4. Statements of the domestic industry in Annual Reports and GDR offer document regarding rising cost of raw materials impacting the profitability of the Domestic Industry

25. The exporter has argued that performance of the domestic industry as stated in the annual reports and GDR offer documents shows good performance and had indicated optimistic picture for the future. The Authority notes that the performance of the companies as indicated in the annual reports and GDR offer document relates to company as a whole and not restricted to subject goods under investigation for period relating to period of investigation. The data relating to the performance of the company cannot be considered as performance about the subject goods and, therefore, cannot be relied upon for injury analysis. The Authority has relied on verified data relating to subject goods for period of investigation for the purpose of injury analysis.

26. It has been argued by the exporter that the cost of major raw materials increased abnormally as indicated in the annual reports of the domestic industry and GDR offer documents. The domestic industry increased the selling price to counter the effects of abnormal prices of raw material, but the increase was not sufficient to neutralise the abnormal rise in the prices of raw materials. It has also been stated that to control the rise in prices, the domestic industry had gone in for investment in plant as a measure towards backward integration. It has been argued that it was *“the combined effects of rise in prices internationally which was further exacerbated by anti-dumping duty on met coke that has resulted in the abnormal purchase prices that the domestic manufactures of Domestic Industry pipes have had to pay. This has lead to increased costs of manufacture and consequently slightly decreased profit margins.”* It has further been argued that *“in fact the petitioners do not even mention imports as a cause for the decrease in profits in any of their published documents and are attributing injury as a result of imports for the first time in their petition before the DAGD.”*

27. The Authority notes that M/s Jindal Saw Ltd. was not manufacturing the D I Pipes in the period referred in the annual reports and GDR offer documents. In absence of any competition, there was no reason for the domestic industry to not to pass the increased cost of manufacturing to the consumer except that the domestic industry was benchmarking their selling price with that of imports, therefore, the domestic industry could not increase the selling price in proportion to the increase in cost of production indicating very clearly that prices were suppressed because of the low priced imports. XDIPL has argued that the domestic industry had not indicated about imports as cause of concern, however, the Authority notes that Electrosteel Castings Ltd. in its annual report 2004-05 stated that *“the main threat to company is cheap imports from neighbouring Asian countries with the opening of the economy and continued reduction in imports duty”*.

E. Methodology for calculation of dumping margin and examination of market economy

E.1. Non-Market Economy & Normal Value

E.2. Submissions by the Domestic industry

28. After placing reliance on para 7 of Annexure I of the Anti-dumping Rules, the Applicants submitted that China is required to be considered as non-market economy country and the normal value be determined accordingly unless any Chinese exporter is granted market economy status in terms of para 8 of the said Annexure.

29. The Applicants further submitted that the normal value be determined on the basis of the prices in the third country market economy. The Applicants proposed Spain and France as appropriate third country market economy and provided reasons in support thereof. The Applicants also opposed the proposal of XDIPL to select Malaysia as the appropriate third country market economy on the grounds of difference in the production process, incomparable capacities and size of operations.

30. With regard to the claim of market economy status by XDIPL in terms of paragraph 8(3), it has been submitted by the domestic industry that the said exporter is not entitled to MES as they have failed to substantiate their claim the onus of which is on the exporter. Further, XDIPL is a State owned company where majority of the directors are government nominees. The exporter has not produced any evidence that there is no significant state interference or that the factors of production like raw material prices, utilities, etc. are not influenced by the State. In the Accession Treaty with the WTO, China has accepted that there is State interference in the coal market which is

also being subsidized against losses. It was also submitted by the domestic industry that the Designated Authority should investigate the social security system and other subsidies being offered by the Chinese government, as has been done in the past cases. Further, the fact that the exchange rate is fixed over considerable period of time is also indicative of hidden subsidies to the exporters demonstrating non-market economy status of the Chinese market.

E.3. Submissions by M/s Xinxing Ductile Iron Pipes Co. Ltd. (XDIPL)

31. XDIPL was constituted in 1997 as a public listed company. Till November 9, 2005, the shareholding of XDIPL was as follows: 64.78% was held by the Group Company and 35.22% of the shares were held by the public. The 35.22% were freely tradable at the stock exchange, and 64.78% of the Group Company's shares could be transferred through negotiated transfers. On November 9, 2005, in giving effect to the equity allocation reform- a practice described in our replies to the Hon'ble DGAD's queries, the Group Company's holding was reduced to 54.2%, and the balance 10.58% of its shares were distributed among the existing shareholders. The 54.2% of the shares of XDIPL can now be freely traded through the Centralised billing transaction system of Shenzhen Stock Exchange, subject to certain conditions discussed in our reply.

32. It is of importance to note that as a shareholder of 64%, and now 54% of the shares, the Group Company is prohibited from exercising control over the operation of XDIPL, through several safeguards in the Company Law, the Rules of the Stock Exchange and its own Articles of Association. These provisions curtail and regulate the powers of the majority shareholders, in order to ensure independent functioning of the company on market principles.

33. As a public listed company, XDIPL is required to undertake several measures under law in order to ensure that its majority shareholder does not

exercise undue control over the company and that XDIPL operates independently on economic principles. The key provisions are as under:

- The Articles of Association (AOA) requires the controlling shareholder to refrain from undermining the rights of XDIPL and other shareholders, and provides relevant remedies.
- The AOA require that an interested shareholder and interested director shall not participate in respect of voting for affiliated transaction.
- The company sets up the position of independent directors, the number of which shall be no less than one third of the total number of directors. The independent directors shall not bear any relation to the company's major shareholders, and has been endowed with veto in respect of the matters such as a significant affiliated transaction.
- In respect of a Significant Affiliated Transaction, i.e., one in which the total transaction amount reached between the company and the affiliated person is over RMB 30 million Yuan, and over 5% of the value of net assets of the latest auditing of the company. All such transactions are required to be recognised by the independent director before being submitted to the board of directors for discussion. The independent director may hire an intermediate organisation to issue independent financial statements for enabling a decision by the independent director.
- Article 109 of the AOA requires an independent opinion from the independent director on several significant matters of the company.
- The Company Law of China requires that shareholders of a company shall not abuse their rights to injure the interests of the company or of other shareholders. They are required to act in the interests of the company, and not its shareholders. In case of default such shareholder is liable to pay compensation.
- Chapter IX of the Rules governing Listing of Shares at the Stock Exchange provides that no related director shall be a party to the

discussions involving a related party transaction and that under certain circumstances these transactions shall be subject to the approval of the shareholders. Listed companies are also mandated to disclose the details of all related part transactions.

- Listed companies are also governed by the Code for Corporate Governance, which mandate prudent transparent behaviour, and specifically mandate, among other aspects that the controlling shareholder is also forbidden from interfering in the decisions of the company and is also directed to respect the financial independence of the company.

34. In addition to the above, it is also important to note that the Articles of Association of the Group Company has several provisions mandating that the Group Company shall not interfere in the operations of the subsidiaries. Some key provisions in Article 16 include the following:

- As independent legal persons, the subsidiaries have independent rights over its properties, enjoy civil right, assume civil liability, and operate independently and ensure the maintenance and increment of state owned asset in accordance with laws.
- The subsidiaries are entitled to make decisions on plan, stocking, sale, pricing, human resource, distribution and organisation set up and other and carry on three system reformations, settle superfluous stuff and cut off the social function of the company.
- The relation among the subsidiaries is managed in accordance with the principles of market and the activities are regulated by signed contracts.

35. It is also important to note that the Group Company is a profitable venture. The Group Company's profitability is clearly borne out in the data presented in its balance sheet and income statements on December 31, 2005, where the cash and cash equivalents of XDIPL Group is stated to be

RMB *** million Yuan, total assets is *** million Yuan and the profit is *** million Yuan.

36. XDIPL further submits that mere shareholding pattern cannot be considered an indicator of market economy status. In fact, many of India's public sector undertakings that have state shareholding, operate on pure market principles. Similarly, the law governing companies in most jurisdictions allow for restrictions on transferability of shares, especially for private companies, and such restrictions do not impact the operation of the company on market principles.

37. With reference to raw material prices it has been submitted that XDIPL has a strict purchasing system, and purchases all raw materials and supplies required for its operations from suppliers selected after careful comparison of prices, and negotiations, and often through a public bidding system. The company does not depend on any one supplier for any kind of raw material. It always chooses the best supplier from among three or more than three suppliers by inquiring the price and comparing the functions of the product in the market.

38. The critical factors that XDIPL looks for in its suppliers is price and functions of the product. In order to identify and retain the best supplier, XDIPL uses many measures, such as bidding to eliminate any incompetent supplier. The supplier selected through bidding enters into contract of supply for a limited period of time, and there is no guarantee that such supplier will be selected under the next bid. There is no assurance for a long time contract of supply, and no exclusive supplier for any raw material. Purchase of raw material is strictly done only through the bidding process.

39. Regarding utilities, it has been submitted that XDIPL purchases electricity at commercial rates which establishes that XDIPL pays commercial

rates for electricity. XDIPL procures coal from the open market at competitive rates. The Chinese government currently does not have restrictions on the prices of coal and coke for metallurgical use. Regarding export quota it has been stated in 2005 the export quota for coke was 14,000,000 metric tonnes while the actual export was 12,000,000 tonnes, therefore, the quota for coke have not restricted exports. The prices of coal and coke fluctuate along with the demand and supply. For instance, the market price in 2005 increased more than 40% compared with that in 2003. Moreover, it is important to note that the price of coke in Chinese domestic market is very similar to that of international market and the export quota for coke does not affect the exports.

40. Regarding foreign exchange rates in China, it has been submitted that the foreign exchange practice in China prior to July 2005 was that of a managed exchange rate regime. Under this system the Bank of China would determine the exchange rate based on the foreign currency rates, and ensure that the exchange rate was maintained at a steady level. Thus, status in China is best described as being maintained at a steady state, rather as being fixed by the Government. From July 21, 2005 as has been the case with many other countries, China adopted a managed floating currency regime based on market demand and supply by referencing the market currency. Market forces therefore play a greater role in determining the exchange rate.

41. Regarding surrogate country, XDIPL has raised objection about the proposal of the domestic industry to choose Spain or France as 'an appropriate market economy third country' on the ground that the economic development between these two countries and China are not comparable. Cost of key raw materials in Spain are higher than that of China. Spanish producer has to buy pig iron and then convert it into liquid iron for casting of the pipes whereas XDIPL has its own melting plant from where the liquid material is directly transferred to blast furnace for casting it into pipes. Cost of labour and electricity in Spain is much higher than that of China. The exporter has proposed Malaysia as an appropriate market economy third country.

E.4. Examination of Market Economy Treatment of Response submitted by M/s Xinxing Ductile Iron Pipes Co. Ltd.

42. The Designated Authority, as per para 8 (2) of the annexure 1 of AD rules for the purpose of assessing the normal value proceeded with the presumption that any country that has been determined to be or has been treated as a non-market economy for the purposes of anti-dumping investigations by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economy country. In the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by WTO members such as EU and USA. In the instant case China PR was proposed to be investigated as a non-market economy country.

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

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d) the exchange rate conversions are carried out at the market rate.

44. The Authority sent copies of the questionnaires to all the known exporters for the purpose of determination of normal value. Response has been received from one producer/exporter M/s Xinxing Ductile Iron Pipes Co. Ltd. (XDIPL) and the company has claimed Market Economy Treatment (MET).

45. It has been stated by the exporter that Xinxing Ductile Iron Pipes Co. Ltd. (XDIPL) is a joint stock company organised and existing under the Corporation Laws of People's Republic of China. It has also been stated that Xinxing Ductile Iron Pipes (Group) Company ('Group' company) is a holding company of XDIPL. The Group company currently holds 54% shares of XDIPL (during the verification it was pointed out that as on 31.12.2006, 50.04% of shares were held by the Group company.) Further it was stated that XDIPL has three subsidiaries namely (a) Wuhu Xinxing Ductile Iron Pipes Co., (b) Hebei Xinxing Ductile Iron Pipes Co. and (c) Shijiazhuang Xinxing Ductile Iron Pipes Co. In the subsidiaries apart from XDIPL, Group company, Shijiazhuang factory and English Realtime Profits Ltd. also hold shares, however, majority shares are held by XDIPL. (During the verification it was found that Shijiazhuang Xinxing Ductile Iron Pipes Co. Ltd was closed. After the verification it was informed that because of higher cost of production the manufacturing activity of the company was stopped from June 2006.)

46. The Group company is a state-owned company with limited liability. 100% of its shareholding vests in the State-owned Assets Supervision and Administration Commission. The Group company was

established on Jan. 8, 1997 in pursuant to Notification for Printing & Promulgating the Implementation Planning and the Overall Disposal Opinion concerning the Safeguard Enterprises Transferred by the Army (C.J.[2001] No.4) promulgated by the joint meeting of the army safeguard enterprises hand-over and take-over affaires group, and the “Approval for the Operation and Management of Xinxing Ductile Iron Pipes (Group) Co. Ltd.” (L.A. [2001] No.368) issued by the General Logistics Department of the The Chinese People’s Liberation Army, the enterprises and the other military supply entities directly managed by the military supply branch and the Qingzang army service station of the General Logistics Department were transferred to Xinxing Ductile Iron Pipes (Group) Co. Ltd., whose name, at the same time, was changed into Xinxing Ductile Iron Pipes Group Co. Ltd.. As per Article 11 of Article of Association the business scope of the company *inter alia* include operation and management of the subsidiaries and the affiliates of the company and production and sale of ductile iron pipes, compound pipe and its fittings, engineering machine and other mechanical equipment, textile, clothes, leather and shoe leather, production and sale of rubber product.

47. As per Article 2 of the Interim Regulations on Supervision and Management of State-owned Assets of Enterprises Decree of the State Council of the People’s Republic of China No.378 (‘Regulations’), the ‘Regulations’ is applicable to *inter alia* State-owned holding enterprises and enterprises with the State-owned equity. The Article 3 of the Regulations define the term “State-owned assets of enterprises” as all forms of State investments in enterprises and the equities generated therefrom, as well as other equities which are legally determined to be owned by the State. These Articles indicate that the above mentioned regulations apply to both the ‘Group’ company and XDIPL. ‘Group’ is 100% owned by the State whereas XDIPL more than 50% of equity is held by the State through ‘Group’.

49. During on the spot verification, it was stated by the exporter that the above said Regulations is not applicable to XDIPL instead the Company Law of China PR is applicable to the company. However, the regulations very clearly state that it is applicable to State-owned enterprises and enterprises

with the State-owned equity. In this case in XDIPL more than 50% equity is held by the State through 'Group'.

50. It has also been argued that 'Group' company is prohibited from excising control over operation of XDIPL through several safeguards in the company law, the rules of the stock exchange and its own Article of Association. These provisions curtail and regulate the powers of majority shareholders, in order to ensure independent functioning of the company on market principles.

51. The Authority, however, notes that followings relevant excerpts of Articles from Articles of Regulations indicate how State can supervise and interfere in the management of the company and company cannot be liquidated:-

Article 11 - The invested enterprises shall accept the supervision and administration conducted by the State-owned assets supervision and administration authority according to law, and shall not harm the legitimate rights and interests enjoyed by the owner of State-owned assets of enterprises and other investors.

Article 13 -(4) appoint or remove the responsible persons of the invested enterprises and evaluate their performance in accordance with the statutory procedures, and grant rewards or impose punishments based on the evaluation results;

(6) formulate rules and systems on State-owned assets supervision and administration of enterprises.

Article 14 – (1)..... propel the adjustment of the layout and structure of the State economy;

(6).....offer guidance and coordination to State-owned enterprises

Article 16 - selecting and appointing the responsible persons of enterprises and the mechanism of incentives and restraints that meet the requirements of modern enterprise system.

Article 17 - to appoint or remove, the responsible persons of its invested enterprises

(3) nominate the candidate for the director of the board

(4) nominate the candidate for the director of the board or supervisor to be dispatched to a company with State-owned equity according to the company's articles of association.

Article 18 -establish a system for evaluating the performance of the responsible persons of enterprises

Article 19 -determine the remuneration of, grant rewards to or impose punishments

Article 21 – The state-owned assets supervision and administration authority decides such major matters as the division/merger, bankruptcy, dissolution, capital increase or decrease, or issue of company bonds of wholly State-owned enterprises or wholly

Article 22 -appoint representatives of shareholders.....voice their opinions and exercise the right to vote according to the instructions of the State-owned assets supervision and administration authority

Article 26 -guideline for the remuneration system

52. The company was asked to explain the selection process of the Directors. It was informed that in all there are 9 directors of XDIPL of which 3 are recommended by the 'Group', 3 represent the public shareholders and 3 are independent directors. All directors are elected by general body meeting (GBM). It was also explained that the outgoing board of directors recommend the names of 3 directors to be represented by the public for election in the GBM. The 6 directors recommend the names of 3 independent directors. The Authority also notes that the top 10 public shareholders hold less than 1% shares individually. Shareholders holding less than 1% of shares cannot nominate any candidate for directors. Interestingly, the directors representing the public did not change from 2000 to 2006. It has also been observed from Annual Report of XDIPL that many directors of the company were simultaneously functionaries in 'Group', XDIPL and subsidiaries. From the selection process it is apparent that all the directors are either nominee of the 'Group' or nominated by nominee directors of the 'Group'. As informed by the company, the 6 directors representing the 'Group' and 'public' are functional directors. The post of Chairman and General Manager of the company are discharged by directors representing the 'Group'. In addition to 6 functional directors, 9 more functionaries were shown as heads of departments, however, their designations and hierarchies could not be explained. After the verification, a document was sent along with the verification papers showing appointment of some functionaries. However, their designations and hierarchies still remain unclear.

53. The company was asked to explain the decision-making process regarding pricing for exports and home sales. Neither such a process could

be explained nor any documentary evidence in the form of minutes was shown to the verification team.

54. The company has received export subsidies as indicated in their Annual Report 2005 of the company. The subsidy has been explained as an income sourced from the finance industrial award fund received by the company's shareholding subsidiary, Wuhu Xinxing and income obtained on the basis that the Wuhu Government encourages Wuhu Xinxing for the R&D of seamless iron pipes with larger calibre. During the on the spot verification, at the company's subsidiary at Wuhu, no such R&D centre could be seen.

55. It was noticed from the annual report for the year 2005 that a substantial amount was payable to the 'Group'. It was explained that this amount was long term amount payable to the 'Group' and there was 'no need to pay the financial charges for these outstandings'.

56. Raw material Coke is under the export control of the Government. In this regard it has been explained that at present the Chinese government still imposes export quotas for coke. However, since the price of coke in Chinese domestic market is very similar to that of international market, the export quotas for coke does not affect the export. It has been explained that in 2005, the export quotas for coke was 14,000,000MT, while the actual export was 12,000,000MT. It has also been explained that the market price of Coal & Coke for metallurgical use in 2005 increased more than 40% compared with that of 2003 and the price of coke exported from China PR in 2005 was about US\$140-150 per tonne c.i.f.

57. While analysing the injury to the domestic industry the exporter has relied on the information provided in GDR offer wherein Electrosteel has stated that the prices of LAMC has increased considerably from 2003 to 2005. In 2003, the price was US\$ 166.4/MT whereas in 2005 the price was

US\$354.8/MT. However, while disputing the non-market economy claim the exporter has disputed the claim of the domestic industry that Met Coke was being sold by the Chinese Government to the domestic manufacturers in China at US\$80-100 per MT whereas international price of coke was above US\$ 400 per MT.

58. The Authority holds that in view of the export quota for Coke the prices of Metallurgical coke in China cannot reflect the prices as per the market principles. (At present there is an anti-dumping duty in India on Met Coke from China PR)

59. Keeping in view the provisions of the above mentioned 'Regulations' applicable to 'Group' and XDIPL concerning interference by the State, selection process of directors, lack of evidence about decision making about prices in accordance with market principles, export subsidies, export control on key raw material, the Authority holds that the presumption of non-market economy by XDIPL has not been rebutted.

E.5. Normal Value

60. In view of the failure of the cooperating exporter to rebut the presumption of non-market economy, the Authority is unable to apply the principles set out in paragraph 1 to 6 of Annexure 1 for determination of normal value for the Chinese exporters. Therefore, the normal value in respect of all exporters/producers from China PR is determined as per Rules relating to non-market economy as contained in para 7 of Annexure 1 of AD Rules.

61. As per para 7 of Annexure 1 of AD Rules, the Authority is required to determine normal value on the basis of 'price or constructed value in the market economy third country or the price from such a third country to other countries,

including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product.’

62. At the time of initiation, the domestic industry had proposed Spain and France as appropriate market economy third country for determination of normal value. The cooperating exporter and importer opposed the selection of Spain and France as appropriate market economy third country on grounds *inter alia* development of China PR and Spain and France are not comparable. The cooperating exporter suggested instead Malaysia as appropriate market economy third country. The Authority selected Malaysia as appropriate market economy third country and requested producers in Malaysia (names of producers were suggested by the exporter and domestic industry) to provide information for determination of normal value in Malaysia. No producer from Malaysia responded to the letters of Authority and provided any information. The Authority, therefore, is not in a position to determine normal value in market economy third country.

63. The imports from other country for the subject goods is nil during the period of investigation, therefore, the export price from third country to India is also not available. The Authority, therefore, in absence of any other option, has determined the normal value by resorting to method ‘any other reasonable basis’.

E.6. Normal Value for China

64. Under the circumstances, the authority has constructed the normal value by considering the raw materials for manufacture of D I Pipes at the international prices, the consumption norms of the cooperating exporter, utility and other costs of the efficient producer of the domestic industry. A reasonable profit @ 5% has been added for determination of normal value. Based on

above information available, the normal value has been calculated USD ***/MT. by considering the average exchange rate during POI of 1USD=44.27

E.7. Export Price for M/s Xinxing Ductile Iron Pipes Co. Ltd.

65. It has been contended by the exporter that DI pipes are sold grade-wise as a pipe of certain grade is used for some specific purpose. The cost of production differs significantly between smaller and larger grade of DI pipes. It has also been stated that XDIPL has not exported all grades that it produces and exports have been restricted to certain grades namely, DM 250, 300, 350, 450, 500 and 600. It has been contended that dumping margin first be calculated grade-wise. In this regard, the Authority has examined the per unit prices of the exports made by XDIPL. The per piece price differs significantly depending upon the diameter, however, in terms of unit of weight, variation of the average prices ranges plus-minus 1%. As there is no significant difference in the per unit prices of the product in terms of weight, therefore, the weighted average export price has been determined of all exports.

66. The exporter has provided information about two export transactions to India during the period of investigation. One transaction has been sent directly to India to importer M/s J V Gokal & Co. In the second export transaction, the shipment has been sent directly by the exporter to India, however, the export invoice was made in the name of M/s Kingsburg Exports Ltd., Hong Kong. M/s Kingsburg Exports Ltd. has in turn made the invoice for importer M/s J V Gokal & Co. The export price by M/s Xinxing to Kingsburg and from Kingsburg to importer are same. M/s Xinxing stated that transaction between and Kingsburg were on principal to principal basis.

67. The exporter while filing response to Exporter's Questionnaire had submitted a contract agreement in which M/s Kingsburg Exports Ltd., Hong Kong had stated, on stamp paper, to an Authority in India that it is the sole

authorised agent for M/s Xinxing DI Pipe (Group) PRC in India. The exporter was asked to explain how a transaction was made on principal to principal basis when the supplier had submitted before an Authority in India that he is an authorised agent for the exporter. In reply, it was stated that the submission by Kingsburg was made without their knowledge. However, no document disputing the claim of M/s Kingsburg about his being sole authorised agent was shown by the exporter nor any other documents have been shown restraining Kingsburg from claiming it to be their sole authorised agent in India. It has also been noticed that the exporter is operating in India from the office of importer M/s J V Gokal & Co. It has also been stated by the exporter that no payment etc. are being made to importer for using their facility in India.

68. The Authority in view of the documents available is unable to accept the claim of the exporter that the transaction to Kingsburg was made on principal to principal basis particularly keeping in view the sale price at which M/s Kingsburg had exported the goods to M/s J V Gokal & Co. being the same as that of its purchase price from XDIPL. The transaction of export through Kingsburg has been made to India, therefore, this transaction has also been taken into account by deducting commission @5% to determine the ex-factory export price.

69. During on the spot verification, for export sales, the exporter had not shown any original documents relating to expenses concerning domestic freight, forwarding agent, accessories, overseas freight, overseas insurance, credit cost, quality inspection. For home sales transactions, not even a single transaction could be verified from the original records. Subsequently, certain invoices of home sales were submitted showing the comparison of sales prices of XDIPL and other Chinese pipe producers. However, these invoices cannot be considered to have been verified from the original records.

70. The transaction-wise details have been relied upon to determine weighted average export price. The expenses on account of inland freight, insurance, overseas freight, difference on account of VAT payment and value of accessories as provided by exporter has been adjusted to determine the ex-factory weighted average export price. The ex-factory weighted average export price has been calculated as US\$*** per MT.

E.8. Export Price for China for Non-cooperating Exporters

71. For the purpose of determining export price for non-cooperating exporters, the transaction-wise details provided by IBIS has been relied upon. The adjustment for expenses as claimed by the cooperating exporter has been relied upon to determine the ex-factory export price. With the disclosure statement (e-copy), calculation pertaining to expenses for adjustments was also forwarded to the exporter in which adjustment for VAT was calculated on the basis of data (e-copy) provided by the exporter. After the disclosure statement, it was pointed out that wrong adjustment pertaining to VAT has been taken, however, no calculation has been sent to the Authority pointing out the mistake. It is not clear how the wrong calculation has been made when data provided by the exporter has been relied upon for making the calculation. Therefore, the calculation made earlier and sent to the exporter has been relied upon for calculating the ex-factory export price.

72. During POI the CIF value of export price was US\$^{***}/MT. After making adjustments on account of inland freight and insurance as US\$^{***}/MT, ocean freight and insurance as US\$ ^{***}/MT, accessories as US\$ ^{***}/MT and difference on account of VAT payment as US\$ ^{***}/MT the ex-factory export price has been calculated as US\$ ^{***}/MT(1 US\$ = Rs.44.27/- during the POI).

E.9. Dumping Margin

73. Based on the normal value and export price as determined above, the Authority determined the dumping margin as under:

Dumping Margin

Exporter/Producer	Normal Value USD/MT	Export Price USD/MT	Dumping Margin USD/MT
Xinxing Ductile Iron Pipes Co. Ltd	***	***	*** 49.11%
Other Exporters	***	***	***

from ChinaPR			53.44%
--------------	--	--	--------

The above determined dumping margin is more than *de minimis*.

F. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

Submissions on Injury Analysis

F.1. Views of the domestic industry

Volume of Imports

74. It has been submitted that imports from China have come under two distinct categories during the entire injury investigation period. Substantial quantities of imports have come duty free under Custom Notification No.84/1997 dated 11.11.97. The benefit of this custom notification is specifically granted to project financed by international organisations like ADB/World Bank. The demand against such projects is sporadic. This explains as to why the industry saw spurt in demand in 2004-05 which came down to its normal level. There was no project financed by such organisations. It has been requested that Authority may consider appropriate to exclude the imports made without payment of custom duties for the purpose of injury analysis.

75. It has also been submitted that volume of imports may be assessed by taking into account volume of imports reported in all tenders for shipment have already been made and reached India within investigation period. In addition to that, volume of imports of all tenders for which shipment were not made within POI but supply have been made after the POI, volume of imports reported in all tenders for which shipment were not made but supplies would be made in due course, volume imports reported in all tenders for which orders have not been finalised as yet, but Chinese producers have already quoted lower prices and are likely to receive the orders, volume imports reported in all tenders for which orders have not been finalised as yet and price negotiations are in process with bidders.

76. It has been submitted that export price should be computed after taking into account the actual physical imports during the period of investigation as well as the prices of those consignments for which the contracts have been completed during the POI and also the contracts for which the Chinese exporters have offered their quotes.

77. It has been submitted that market for DI pipes is peculiar in terms of pricing as well as the delivery schedule. There is a considerable gap between the time of the tender negotiation, date of placement of the orders and the final deliveries. The domestic industry has already submitted documents which indicate that the typical time lag from the date of the order and the final delivery varies between 6 to 12 months. Therefore, the fact that the actual imports during the POI may have marginally dropped over the preceding period is not of much significance. It is clear from the documentary evidence submitted by the domestic industry that substantial orders have been placed for the Chinese goods during the POI and for supplies after the POI. In such a situation, the Authority must take an overview of the imports during the injury investigation period. The fact of significant orders having been placed for Chinese pipes during the POI is indicative of significant potential imports and also threat of injury.

78. It has been submitted that Domestic Industry has lost a number of contracts to the exporters from China. In a number of cases, prices offered by the Chinese producers were lower than the prices offered by the Indian producers. Consequently, in some of these cases, the petitioners have been forced to lower the prices in order to get these orders. However, in spite of domestic industry lowering prices, orders for supply of material have not been given to the petitioners and it is understood that the Chinese producers have either already lowered the prices or negotiations are underway with them. Petitioner is afraid it is likely to lose some of these sales.

79. In respect of the Global Depository Receipts (GDR) of ECL, it has been submitted that the present investigations are restricted to product under consideration. They have further submitted that the injury determination is for the domestic industry as a whole under Annexure II and not in respect of any one of the constituents of the domestic industry. They claimed that petition that was filed was for the domestic industry as a whole and GDR averments were relating to ECL only that too for the company as a whole and not for product under consideration. Hence, according to the domestic industry Xinxing was attempting to mislead the Authority it attempted to compare incomparable. They further pointed out that the statements made in GDR offer document were in respect of ECL's overall operations and not for the product under consideration alone. Xinxing's reliance on the extract from the GDR offer document is also misplaced as the GDR offer document itself in unambiguous terms refers to information prior to 31st March 2005 and not for period of investigation. No details about the import quantity or value or price of subject goods supplied by Xinxing have been quoted or referred to in the GDR offer document for the period of investigation chosen for the present investigation. In view thereof, it is clear that the statement contained therein about XDIPL cannot be attributed to the period of investigation. The statement that the experience of ECL cannot be easily replicated by competitors is not a statement made in the context of injury but in the context of producers setting up operations in India. Further, there is no indication that the company is of the view that they can face even unfair competition.

Causal Link

80. Substantial orders have been placed for the Chinese goods during the POI and for supplies after the POI, which is indicative of significant potential imports and also threat of injury. The domestic submitted that their case industry is fully supported by the decision of the Hon'ble CESTAT in the case of Lubrizol (India) Pvt. Ltd. Vs. Designated Authority, the relevant excerpts of which are reproduced below:

“The tender which was floated by the IOC was opened during the period of investigation on 19-7-2001. The export prices quoted by the exporters for procurement of 5200 MTs of the subject product were much lower than the NIP and the prices offered by the domestic industry. Since the tenders were opened during the period of investigation disclosing dumped prices at which the exporters committed to offer the goods, the domestic industry was injured not only by loss of contract but there arose a real threat of material injury which also is to be considered as “injury”, as defined in the opening part of Annexure II to the rules. Since such threat of injury became a real, in view of the firm offers made below the non-injurious price in the tenders by the exporters, the Designated Authority rightly took that aspect into consideration in paragraph F(6)(iii) of the final findings along with the other relevant factors.”

81. Substantial offers were made to the tune of over 26000 MT for supply of Chinese pipes in the Indian market during the POI, which ultimately culminated in their favour.

82. China accounted for 100% of the total imports into India throughout the injury investigation period. This is indicative of the aggressive pricing policy being followed by the Chinese exporters to gain a foothold in the Indian

market. The trend is the same whether the duty-free imports are included or excluded.

83. The share of imports from China in comparison to the total demand and domestic production has also increased. The share of duty paid dumped imports as compared to the total domestic demand has gone up.

84. The ratio of duty paid imports from China as compared to the total production, has also increased in the POI as compared to in the base year.

85. While the selling price per MT has gone up during the POI as compared to the year 2002-2003, the increase in costs per MT is much higher indicating that the domestic selling prices have been suppressed during the period of investigation.

86. While the costs and resulting prices of the domestic industry had been going up, the landed value of imports has been showing a downward trend.

87. There is significant price undercutting and price underselling during the period of investigation.

88. The sales value in absolute terms has gone up in the year 2004-2005 and then fallen in the POI.

89. The market share of the domestic industry has declined during the period of investigation.

90. While the production, capacity as well as the capacity utilization has also gone up this increase has to be seen in the context of the industry losing its market share in a growing market where selling prices are also falling as a consequence of dumped imports.

91. The domestic industry has suffered significant loss of profits during the POI. The profit of the domestic industry has fallen to one third during the POI as compared to the base year of 2002-2003. Thus, it is clear that the Chinese imports have affected the profitability of the domestic industry in a serious manner, which is an important indicator of material injury.

92. The Return on Capital Employed (ROCE) of the domestic industry has also shows a drastic decline to about on fifth in the POI compared to the base year.

93. The average inventories of the domestic industry in absolute terms as well as in terms of number of days have increased over the injury investigation period and the cash flow position has also deteriorated, clearly showing injury to the domestic industry.

94. According to the estimated provided by the Applicants, there is a significant dumping margin.

95. Other factors like growth and ability to raise capital also show injury to the domestic industry.

96. The domestic industry has submitted documents indicating several instances of lost contracts during the period of investigation as well as in the Pre-POI period. During the POI, the domestic industry lost a huge contract of

26238 MT for supplies to be made to Kerala Water Authority (KWA) through L&T and Subhash Projects & Marketing Ltd. This contract was lost only on account of the lower prices offered by the Chinese exporter as per the documentary evidence submitted by the domestic industry. The domestic industry has also submitted that besides losing contracts for substantial quantities to the Chinese exporters, they further lost the Rate Contract also with Maharashtra Jeewan Pradhikaran (MJP). The Rate Contract was also lost to Chinese exporters (through JV Gokal & Co.).

97. In the face of substantial loss of contracts, the domestic industry was compelled to reduce its prices for other contracts as well to ensure that they do not lose further contracts even though this meant a substantial loss of profitability to the industry.

98. With regard to the argument raised by the exporter from China that the domestic industry has been suffering on account of inter se competition, it has been submitted that even after the sales of JSL are added, the domestic industry as a whole has lost sales to the dumped imports. Therefore, the injury of the domestic industry cannot be attributed to inter se competition. The domestic industry has submitted documentary evidence relating to some of the tenders which show that substantial offers were made by or on behalf of XDIPL during the POI. These documents prove beyond doubt that the domestic industry has been forced to match the Chinese prices.

F.2. Submissions by XDIPL

Submissions in respect of Injury

99. Regarding contention of the domestic industry that all imports for ADB and World Bank funded projects should be excluded as they are rare and

demand sporadic. In this regard, it has been stated that this contention is contrary to statement in GDR and FCCB offer document where they have stated that “several infrastructure development projects initiated by international and multilateral development finance institutions such as the World Bank and the ADB have resulted in an increased demand for the company’s DI pipe products.” It has also been argued that if petitioners are demanding that imports for projects funded by international organisations be excluded from injury analysis, it also means that they admit that supplies of pipes for internationally funded projects are not injuring them. Further as the aforesaid submissions indicate, even exports for non-internationally funded projects are not injuring the domestic industry.

100. ECL has not disclosed the issuance of Global Depository Receipts (GDR) to and the accompanying GDR Offer Document provided to foreign investors. This is a material fact going to the root of the allegations of injury and ECL intentionally concealed this important document from the DGAD because it establishes beyond doubt that ECL was not facing injury of any kind from China in general and Xinxing in particular during the POI.

101. It has been pointed out that there are several statements made in the GDR document where ECL has stated repeatedly that it is the market leader and it faces no threat from any source domestic or foreign.

102. ECL has specifically mentioned Xinxing and assured its investors that Xinxing’s imports into India are not capable of having any impact on ECL’s sales. The text is quoted below:

- “With regard to the domestic market, Xinxing supplied approximately 10,000 tons of DI pipes to India during the financial year ended 31st March 2005 but has yet to make a significant impact on the Indian market”

- The company believes that the extensive experience of its management combined with its 45 year history as a spun pipe manufacturer in India cannot be easily replicated by competitors or new entrants into the domestic market”

103. It was ECL’s intention to raise 38.32 million USD from this GDR issue to fund its extensive capital expenditure. However, it raised USD 40 million. It is worth considering whether a company that is making losses can have the confidence to convince investors to invest in it and raise USD 40 million from such investment. It is also shocking that after having raised USD 40 million through its GDR issue, the ECL alleges in the Petition that it is unable to raise capital.

104. It has been pointed that petition’s data of falling sales it unreliable. The petitioners fall in profit cannot be attributed to imports by Xinxing and are solely attributable to a meteoric rise in raw material prices. The GDR Offer Document states that the Company’s PBDITM (profit before depreciation, interest and taxation margin) was 18.3%, 20.0% and 25.7%, for 31 March 2005, 2004 and 2003 respectively. It further explains that the PBDITM decreased during the period of financial years 2003 to 2005 primarily due to increases in the cost of raw materials, which have outweighed the greater margins realised by the Group’s move away from DI pipe production.

105. The rise in raw material cost was so significant that it rose by 50% in 2004-05 as compared with previous year. A significant raw material is coking coal and prices of Goonyella hard coking coal price increased from USD 46 to USD 126 which is an increase of 173%. Similarly, there was an increase in iron ore prices from \$18 in 2003 to \$36 in 2005. In the 3 months ended June 2005 the price was at it was \$48. The company also experienced rises in prices of MS Scrap and Electricity. The company itself admits that this downward trend is primarily due to increases in the cost of raw materials.

106. It has been pointed out that the record shows that ECL did increase prices to counter rise in raw material costs however this rise in prices of DI pipes was not enough to counter rise in raw material cost. This has been admitted to in 2004-05 and 2003-04 annual reports which are reproduced below:

Annual Report 2004-05 at pg 14

“The year gone by witnessed high volatility in the price of imported coke which had major impact on the profit margins.”

“apart from the increase in sale, the turnover has increased due to increase in selling price to partially off set the abnormal increase in coke price.”

Annual Report 2003-04 at page 15

“Your company has effected an increase in prices of DI pipes, but this increase neutralise the increase in the price of imported coke, unless the artificial increase comes down to realistic levels. The hope of early reduction in the prices have been belied and there are no indications at present to this effect.”

GDR offer document at pg.69

“PBDITM has decreased during the period of financial years 2003 to 2005. This downward trend is primarily due to increases in the cost of raw materials, which have outweighed the greater margins realised by the Group’s move away from CI pipe production. As the cost increases associated with raw materials have not been reflected by corresponding increases in the Group’s finished products, they have had a significant impact on the Group’s profitability.”

107. Regarding increase in capacities, it has been pointed out that ECL has commissioned 5 plants in 2005 and expansion was so expensive that ECL incurred capital expenditure at Rs.3 billion and Rs.100 million per year ended March 2006-07. “It is also intriguing that petitioners have installed most their new plants during the POI. This fact alone establishes that imports from China have not in any manner hindered the extensive growth of the Petitioners or caused any injury to the petitioners.”

108. The production of DI pipes of the domestic industry has increased consistently from 2002-03 to 2004-05. Any alleged drop in production is attributable to the closure of mini blast furnace.

109. The data submitted by petitioner themselves proves that imports from China have fallen in both absolutely and also relatively to production and consumption. Market share constituted by imports is negligible, as it constitutes only 2.56% of total market share. The market share of imports have fallen to 2.56% of production, Jindal’s production at the same time has increased to 30% and petitioners market share fell to 67% from 92%. Thus loss of market share of the petitioners coincided with market entry of Jindal. The fall of market share of Chinese imports and the coincidental rise in market share of Jindal establishes that imports are not the reason for any alleged injury to the petitioners.

Loss of Contract

110. Electrosteel has raised a false alarm in the nature of “loss of contracts” for the Kerala Water Authority project. While Electrosteel has cried hoarse about the fact that XD IPL secured an order from L&T and Subhash for supply of 25,000 MT of DI pipes for the KWA project, it has failed to mention that it too supplied 30,000 MT of DI pipes for the same project. Their tender too was

opened during the POI, so they too knew that in the coming year they would be supplying 30,000 MT of DI pipes to KWA. In this scenario, how is there loss of contracts?

111. Further any claims that Electrosteel had to reduce its prices on account of XDIPL for the supply of 30,000 MT is false because XDIPL does not even submit price bids to contractors for “local competitive bidding” tenders. Thus Electrosteel bid and supplied these pipes knowing fully well that XDIPL is not even in contention.

112. The only reason that L&T and Subhash procured pipes from XDIPL is on account of their quick delivery time (9 months as against Electrosteel’s 18 months) and the absence of a price escalation clause in XDIPL’s contract. Thus, XDIPL secured the contracts because Electrosteel cannot supply pipes on time which is a crucial requirement in all internationally funded projects.

113. On the issue of lost contracts, XDIPL would like to submit that Electrosteel and Lanco have intentionally withheld information pertaining to other tenders either opened or awarded during the POI, which were awarded to Electrosteel and Lanco and which proves that their claim of “lost contracts” bears no merit whatsoever. The list of such tenders is provided below:

1. PRED-Jal Nirmal Projects-Bijapur district (Qty. 5318 MT)
2. Kerala Water Authority (Qty. 3122 MT)
3. Mangalore Municipal Corporation (Qty. 1137 MT)
4. BWSSB, 7 CMC and 1 TMC project (Qty. 9,000 MT)
5. Kerala Water Distribution Packages (Qty. 30,410 MT)
6. BWSSB 7 CMC project – Distribution network (Qty. 18,589 MT)
7. Karnataka Land Army Corp., Koppal Water supply project (Qty. 4,500 MT)
8. Rajasthan Bikaner project (Qty. about 35,000 MT)
9. Karnataka Rural Water Supply (Qty. 2,500 MT)
10. Jharkhand drinking water and sanitation, Ranchi (Qty. 2,700 MT)
11. PHED, Patna Bihar (Qty. 2,300 MT)
12. GWSSB, Gujarat (Qty. 7,300 MT)

13. J&K Economic Reconstruction Agency, J&K (Qty. 4,500 MT)
14. PHED, Rajasthan (Qty. 4,500 MT)

Potential imports as a parameter for present material injury

114. The petitioners have relied on the decision in *Lubrizol* to suggest that the DGAD should take into account tenders that were opened during the POI even though they were for supply of pipes after the POI. This amounts to saying that imports which were imported 6 months after the POI, should be considered as if they were made in the POI. This proposition is faulty, against the tenets of the WTO Agreement on Anti-dumping and amounts to re-writing the law on this point through an incorrect reading of the *Lubrizol* judgement.

Causal Link

115. Any imposition of duty requires that there be a clear connection between imports and injury to the domestic industry and the facts should establish beyond doubt that imports alone, and not other factors resulted in injury to the domestic industry.

116. Data presented by the petitioners show that during the POI imports fell from 2004-05 levels and constituted a mere 2.5% of the market share. The same period also saw Jindal increase its market share to 30%, which consequently also led to a fall in the petitioners market share from 92% to 67%.

117. Decreasing imports during POI sever the causal link between imports and any alleged injury suffered by the petitioners.

118. The Hon'ble DGAD should also recall the statement made by the petitioners in the GDR Offer Document dated September 30, 2005, i.e. in the middle of the POI that "Xinxing has yet to make a significant impact on the market". This statement itself goes to prove that the petition is baseless and filed with a malafide intention of thwarting all legitimate competition.

119. The DGAD should note that the petitioners have not experienced injury on any of the injury parameters. The GDR Offer Document and the Annual Reports for both companies establish that production volume, sales, net sales, realisation, capacity expansion, cash flow, wages, employment, inventories, growth and productivity have all shown positive trends and indicate further that the companies are slated for major expansion.

120. If a domestic industry is indeed materially injured due to imports, it would be constrained from raising capital and going in for expansion. However, as the record indicates, investment and expansion of the type that both Electrosteel and Lanco are planning goes against a finding of injury. Not only did Electrosteel successfully raise 40 million through the GDR issue, it now planning to go in for another GDR issue³/FCCB offering to fund its coal mine and sinter plant acquisition.

121. The Hon'ble DGAD should also consider "other factors" in the injury analysis:-

- a) XDIPL is the holder of 33 patents pertaining to specific aspects of DI pipe production technology which lend immense levels of productivity that cannot be matched by any of the producers in India. Respondent's technology enables it to efficiently use raw materials and even use different grades of raw materials to produce quality DI pipes. The domestic industry in India does not possess comparable technology and

know-how and therefore are inherent deficiencies in its production processes.

- b) Even Electrosteel recognised the superior value of XDIPL's technology and has in the past procured the same from XDIPL. Specifically in 1999, XDIPL and Electrosteel entered into an agreement for the supply and installation of an entire DI fittings plant. Subsequently XDIPL has supplied technology and know-how from XDIPL and benefiting from the same are now trying to keep them from the market by filing a baseless petition with the DGAD.
- c) Petitioners faced high coke prices due to an anti-dumping duty in place on the product since 1998. The petitioners coking coal needs are met by imports mainly from China and Australia. As the DGAD is aware, there has been an anti-dumping duty on imports of Met Coke from China since August 1998, which was extended after a sunset review in January 2004. The duty is therefore in place at this point and will come up for review in January 2008. Thus the imposition of an AD duty has also substantially increased prices of Met Coke, which is the most important ingredient for manufacture of DI pipes and thus contributed to high raw material costs.
- d) Further basic customs duty on DI pipes has consistently been reducing since 2000 when it was 35%. Basic customs duty fell to 20% in 2004 and then to 15% in 2005. The current duty is at 12.5%.
- e) Falling customs duty also a reflective of the fact that the Indian Government recognises the need for importance of DI pipes to the water supply problem in India and has seen it necessary to facilitate the entry of imports by consistently lowering customs duty over the years.

122. None of the data and information submitted by the petitioners shows "material injury" or causal link between imports and alleged injury to the domestic industry and further establishes that the petitioners have not fulfilled their burden under the anti-dumping Agreement and Rules.

123. In the light of the above, the DGAD should reject any finding of injury or causal link. Further the DGAD should find against the petitioners for concealing important documents such as the GDR Offer Document that state the actual condition of ECL as claimed before its investors. Not disclosing the content of the Offer Document and alleging injury based on inadequate and baseless information amounts to misrepresentation and the Hon'ble Authority should take strict note of this act.

124. It has been submitted that Jindal Saw Ltd. has submitted some confidential data. The information is inadmissible for purpose of investigation, as the same has been submitted in clear violation of Anti-dumping Rules as Rule 7 requires that all information should be accompanied by a non-confidential version of the same. In this case Jindal has refused to submit non-confidential version, therefore, data is liable to be wholly rejected. However, it has also been contended that XDIPL is forwarding an evidence which establishes that Jindal Saw has been on an expansion spree and suffered no injury during the entire POI. In this regard, it has quoted interview of Shri Inderesh Batra, Vice Chairman of the company to CNBC-TV18 and also quoted Annual Report of 2005-06 stating that 2005-06 has been one of the most profitable years of the company.

F.3. Submissions made by M/s Larsen & Toubro Ltd.

125. The argument advanced by domestic industry that duty free imports are made under Custom Notification No.84/1997 dated 11.11.97 for the projects financed by international organisations and hence should be excluded for injury analysis is a baseless and debarred of any merits or legal basis. It also means that they admit that supplies for pipes for the internationally funded projects are not injuring them.

126. It has been submitted that before entry of Jindal Saw in the field of DI pipes only Electrosteel and Lanco were only two producers and suppliers of DI pipes. In fact Electrosteel and Lanco have been the sole suppliers to all water projects in India until in 2004 when due to the high demand that Electrosteel and Lanco could not meet, contractors were forced to import pipes for supply to water projects. It only after witnessing buoyant growth in demand for DI pipes in India, that Jindal Saw made an entry to the production of DI pipes and commenced its production during the period of investigation itself. The period of investigation is that period in which not only Jindal Saw commenced its production operations but was able to sell substantial quantities of DI pipes in India and was able to secure sizeable portion of domestic market i.e., 30% (approx) market share within 9 months into production.

127. It has been further submitted that prior to entry of Jindal Saw Electrosteel has been a monopoly manufacturer and supplier of DI pipes in India. Its only some competition for some years was Lanco Kalahasti which entered into the market in 2001. The profit of Electrosteel drastically fell by 25% upon Lanco's entry into the DI pipe market, which clearly shows how Electrosteel was abusing its monopolistic status. In order to reinforce its monopoly position Electrosteel bought a major shareholding in Lanco and today controls upto 48% of the company. Lanco now functions as an associate company of Electrosteel. However the entry of Jindal has led to a drastic fall in the Domestic Industry share and renewed the fierce competition between the petitioners and Jindal Saw. This is a clear sign the competition between the two players, which has forced prices down and led to a shift in the domestic market share. The loss of such a huge market share of domestic industry is a result of competitive prices at which Jindal Saw Ltd has offered its goods in the Indian market thereby forcing the domestic industry to drop their profit margins from unreasonable high to reasonable level.

128. It has been alleged by the domestic industry that the respondent/importer M/s Larsen & Toubro Ltd. instead of placing the order on ECL has sourced its requirement for the product under consideration from

China. It has also been submitted that a MOU concerning sourcing of DI pipes was entered into between ECL and L&T. The said MOU was executed on 1.10.2005 wherein ECL had quoted a price for supply of DI pipes to L&T for 5 Kerala Water Supply project for which L&T had made bids. The tenders/products for which MOU were signed, were not for the period of investigation and are immaterial to the present case. The said tenders never opened up during the period of investigation, therefore, ordering for any quantity for the said contract/MOU during the period of investigation never arise. The said contracts were awarded to the L&T not before May 2006, much after period of investigation. Further the importer has not imported any quantity of the product under consideration during POI belies the claim of domestic industry as the L&T is not substituting its requirement for the product under consideration with Chinese goods over domestic industry goods.

129. Imports have declined drastically during the POI, the reason for such sharp decline in imports was the entry of new Indian producer in the Indian market i.e. Jindal Saw Ltd. The domestic demand which was facing supply pressure earlier due to shortage of supply of material from the domestic industry was left with no option but to import the same from China but with the entry of new producer in Indian market the imports reduced significantly. Not only imports were reduced drastically but also Jindal Saw which is relatively a new entrant in the Indian market has eaten up considerable market share of the domestic industry and imports.

130. All the parameters such as capacity, production, capacity utilisation, sales and stocks are showing positive trend during the injury period. The sales of domestic industry which has declined in the POI as compared to the preceding year cannot be ascribed to imports from China as the same also declined significantly. The domestic industry lost its sales in the POI due to the entry of a new producer in Indian market.

131. In view of the above the domestic industry has faced no injury on account of these parameters due to imports of DI Pipes from China PR.

132. It is submitted that not only sales of the domestic industry have increased substantially but the selling price of the domestic industry has also increased significantly, clearly refuting the theory of price pressure as being built by the petitioners of projecting injury to the domestic industry. It may be argued by the domestic industry that their selling price has declined from the preceding year; however, it may be observed that volume of imports has also declined significantly during the POI from preceding year. It is further worth noting that the prices of the domestic industry were at its peak when the imports from China were at its highest clearly proves that there is no correlation between imports and selling price of domestic industry.

133. The domestic industry recorded its highest profit in the year 2004-05 when the imports were at its peak clearly establishes the fact that the imports from China have not caused any losses to the domestic industry.

134. The decline in profitability of domestic industry is not because of imports from China as the imports have decreased substantially during the period of investigation. Hence, here is no nexus between imports and performance of the domestic industry.

135. It is beyond our comprehension that such a steep decline in imports can cause any injury to the domestic industry. Imports declined by 60% during the period of investigation from the preceding year. Landed value of the imports has been increasing over the years despite reduction in customs duty. In spite of reduction in landed value by 2% during the POI from preceding year, imports have also declined by 60%, rather than increasing.

136. M/s Jindal Saw Ltd. found the market lucrative for production of ductile iron pipes as the domestic industry was making huge profits before entry of M/s Jindal Saw Ltd. Had the Jindal Saw Ltd. found that market not lucrative

because of presence of imports from China, the company would not have entered in the production of DI Pipes.

137. Thus, the decline in market share held by the domestic industry is not due to imports from China, the same is due to entry and competition posed by other producers in the Indian market. The domestic industry was enjoying monopoly in the Indian market which is challenged by other producer.

138. It is admitted by the domestic industry itself that domestic industry was able to fetch maximum price and recorded maximum sale in 2004-05, while the imports were also maximum during the same period. Hence the domestic industry performed much better in the presence of maximum imports, rather their selling price declined as the imports declined.

139. The profitability of the domestic industry declined during POI, which is due to entry of other producer in the Indian market.

140. It may be concluded that Jindal Saw is undercutting the prices of domestic industry and domestic industry is forced to benchmark its prices upon the prices of Jindal Saw, which resulted in decline in profitability of the domestic industry increased market of the Jindal Saw and reduced market share of the Domestic Industry.

141. DI has claimed it has lost a number of contracts to the exports from China PR against without any basis. It may be noted that the domestic industry despite increase in capacity, capacity utilisation, production and sale was unable to fulfil the rising demand of the domestic industry which resulted in imports from China. The imports from China came down significantly once the demand supply gap was filled with the entry of new producer i.e. Jindal Saw Ltd. in the Indian market who not only gobble the share of imports from

China but also significantly captured the market share of the domestic industry.

F.4. Examination By The Authority

Volume of Dumped Imports

142. Transaction-wise data of imports from DGCIS does not show imports of DI pipes in 2003-04 and 2004-05. However, some transactions of imports have been reported during the POI. The transaction-wise data from IBIS shows imports in 2003-04, 2004-05 and POI. The data provided by the importers also shows the imports were made in preceding years. It appears that imports data provided by DGCIS has not captured all transactions of imports, therefore, the transaction-wise data provided by IBIS has been relied upon for analysis.

Market Share of Imports from Subject countries

(% of Total Imports)

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05- Dec 05 POI	POI (Annualized)
Imports from subject country (MT)	0	2867	13412	4644	6192
Total Imports (MT)	0	2867	13412	4644	6192
% Share	0	100%	100%	100%	100%

143. The data shows that import of subject goods was made from subject country only, therefore, imports from subject country constitute 100% of the total imports. In 2002-03, the imports were nil. In 2003-04 imports were 2867 MT, rose to 13412 MT in 2004-05 and declined to 6192 MT (annualised) in POI. The trend shows that imports rose up to 2004-05, however, it declined during the POI. The Authority also notes that rise in imports in 2004-05 coincided with the significant undercutting by imports of selling price of the domestic industry.

144. The domestic industry has submitted that the imports have come under two distinct categories during the entire injury investigation period. Substantial quantities of imports have come duty-free under Customs Notification No. 84/1997-Cus. dated 11.11.1997. The break-up of the duty-free and duty-paid imports, as culled out from the IBIS transaction-wise data is as follows:

Year	Duty-paid	Duty-free	Total Qty in MT
2002-03	Nil	Nil	Nil
2003-04	584	2283	2867
2004-05	6952	6460	13412
POI	4644	Nil	4644
POI (Annualized)	6192	Nil	6192

145. The domestic industry further submits that the duty-free imports are made under the aforesaid Customs Notification which is granted specifically to projects financed by international organizations like ADB/World Bank. The demand against such projects is sporadic as can be seen from the above figures. This also explains as to why the industry saw a spurt in demand in

2004-2005 which came down again to its normal level when there were no projects financed by the international organizations like ADB/World Bank. In view of the irregular and transient nature of such imports, it has been submitted that the Authority may consider it appropriate to exclude the imports made without payment of customs duties for the purpose of injury analysis.

146. It has been contended by the other interested parties that “if the petitioners are demanding the imports for project funded by international organisations be excluded from injury analysis, it also means that they admit that supply of pipes for internationally funded projects are not injuring them.”

147. The Authority notes that substantial quantities of imports had taken place under the specific notification which exempts specified imports from payment of customs duties. It is also seen that substantial proportion of imports in the years 2003-2004 and 2004-2005 were against such projects whereas no such imports have taken place during 2002-2003, which is the base year of the injury investigation period nor are there any imports under the aforesaid notification during the period of investigation.

148. The Authority observes that by excluding the duty free imports, the trend of imports remains same from the base year to POI.

Share of Imports from China in comparison to Total Demand and Domestic Production

(% of Total Demand)

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI	POI (Annualized)
Total Demand (MT)	152193	168187	203355	168933	225244
Trend	100	111	134	111	148
% Share from China	0.00%	1.70%	6.60%	2.75%	2.75%

149. The data shows that demand of the subject goods rose by 48% during POI (annualised) as compared to base year. The share in demand of subject country was 1.70% in 2003-04, 6.60% in 2004-05 and 2.75% during POI. The trend shows that share of subject country rose from 2002-03 to 2004-05 when it was 6.60% of total demand, however, it declined to 2.75% in POI.

(In proportion to domestic production)

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI	POI (Annualized)
Total Production of all domestic producers (MT)	201976	218579	240549	222574	296765
Imports from China (MT)	0	2867	13412	4644	6192
Proportion of Domestic Production	0	1.31	5.6	2.1	2.1

150. The data shows that imports as ratio of total production was 0% in 2002-03, 1.21% in 2003-04, 5.6% in 2004-05 and 2.1% in POI. The trend

shows, as compared to base year it rose from 0% to 5.6% in 2004-05, however, it declined to 2.1% during the POI.

Effect of Dumped Imports on Domestic Prices

151. The Authority notes that the selling price of the domestic industry has increased over the injury investigation period. However, the cost of sales of the domestic industry at the same time has also increased. The increase in the cost of sales is much more than the increase in selling prices resulting into substantial loss of profit to the domestic industry. It can be seen from the following table that the selling price per MT has gone up by about 36 percent points during the POI as compared to the year 2002-2003, the costs per MT have increased by about 54 percent points during the same period. It is noted that while the costs and resulting prices of the domestic industry had been going up, the landed value of imports has been showing a downward trend. This clearly indicates that the domestic selling prices have been suppressed during the period of investigation.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI	POI (Annualized)
Landed Value from China Rs. / Unit	-	32841	30945	30171	30171
Domestic Selling Price Rs. / Unit	***	***	***	***	***
Trend	100	118	142	136	136
Cost/Unit	***	***	***	***	***
Trend	100	115	146	154	154

Price Undercutting

152. It was contended by the cooperating exporter that undercutting and dumping margin should be examined grade-wise, however, on examination of the prices in terms of weight of the exporter of various grades, it was found that there is variation of approx. plus-minus 1%, therefore, the Authority has examined the undercutting by the weighted average imports of all the grades.

153. In determining the weighted net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated.

154. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject country for the period of investigation with the weighted average net sales realization of the domestic industry. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the value reported in the IBIS data of import prices from the subject country. The price undercutting from subject country was in the range of 2-10% during POI.

	Price undercutting
Domestic S.P	***
Landed Value	30171
Price Undercutting	***
Undercutting (%)	2-10%

155. The domestic industry has cited instances to demonstrate that due to the dumped imports and undercutting by Chinese exporters, they had to reduce their prices. These instances indicate that the prices offered by the domestic industry had to be reduced in view of the fact that their customers were being offered lower prices by the Chinese exporter. It can be seen from the MOUs signed between domestic industry and L&T and domestic industry and Subhash Projects that the prices had to be dropped to match the prices offered by the Chinese exporter. The fact that the contracts were finally not awarded to the domestic industry is clear evidence of substantial undercutting of prices.

Price Underselling

156. For the purpose of price underselling determination the weighted average landed prices of imports from subject country have been compared with the weighted Non-injurious price (NIP) of the domestic industry determined for the POI. (M/s Jindal Saw Ltd. after providing some data did not cooperate further. The data available in latest cost audit report was for the Accounting Year 1.10.2004 to 30.9.2005 and the same could not be adopted because POI for the investigation was for period 1.4.2005 to 31/12/2005. Therefore for determining NIP, data of M/s Electrosteel Castings Ltd. and M/s Lanco Industries Ltd. has been taken. For this purpose, factors including cost of raw material, consumption thereof, the cost of utilities, cost of labour, depreciation cost, selling and administrative expenses, interest and reasonable profit on capital employed have been taken into account.) The comparison shows that underselling during the POI is in the range of 10-25%

	Price underselling
Non-Injurious Price (NIP)	***
Landed Value/MT	30171
Price Underselling	***
% Underselling	10-25%

In view of the above, the Authority observes that the dumped imports from China have adversely affected the prices of the domestic industry.

Effect of Dumped Imports on the Domestic Industry

157. The Authority had further examined the effect of the dumped imports on the domestic industry by analyzing various injury parameters in terms of Annexure II of the Anti-dumping Rules.

Sales Volume of the Domestic industry

158. The Authority notes that M/s Jindal Saw Ltd. has made sales during the POI, therefore, the analysis has been done by including the volume of all the producers. The volume of sales by all producers has risen by 44% during POI as compared to base year. The demand of the subject goods has risen by 48% during the same period. The Authority also notes that the sales of the applicant domestic industry has risen by 9% in 2003-04, 25% in 2004-05 and 9% during POI as compared to base year. The Authority further notes that the overall volume of sales of all producers has risen by 44% in consonance with the rise in demand during the same period.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr-Dec 05 (POI)	POI (Annualized)
Sales of all producers (MT)	152193	165320	189943	164289	219052
Trend	100	109	125	108	144
Sales of DI (MT)	***	***	***	***	***
Trend	100	109	125	109	109

Market Share of Domestic Industry

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr-Dec 05 POI	POI (Annualized)
Domestic Sales of Domestic industry (MT)	***	***	***	***	***
Domestic sales of				***	***

other producers (MT)					
Imports from subject country (MT)	0	2867	13412	4644	6192
Total Demand (MT)	152193	168187	203355	168933	225244
Share of DI	100%	98.30%	93.40%	73.50%	73.50%
Share of other producers	0%	0%	0%	23.75%	23.75%
Share of all producers	100%	98.30%	93.40%	97.25%	97.25%
Share of subject country	0%	1.70%	6.60%	2.75%	2.75%

159. The data shows that the share of all the producers was 100% in 2002-03, 98.30% in 2003-04, 93.40% in 2004-05, and 97.25% during POI. The share of the domestic industry from base year declined from 100% to 97.25% in POI. The share of subject country was 1.70% in 2003-04, rose to 6.60% in 2004-05 and declined to 2.75% in POI.

Production, Capacity & Capacity Utilization

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI	POI (Annualized)
Capacity of DI (MT)	***	***	***	***	***
Capacity of other producers (MT)				***	***
Total capacity of all producers	260000	290000	290000	367500	490000
Trend (Indexed)	100	112	112	141	188
Production of DI (MT)	***	***	***	***	***
Production of other producers (MT)	***	***	***	***	***
Total Production (MT)	201976	218579	240549	222574	296765
Trend	100	108	119	110	147

Capacity Utilization of DI (%)	***	***	***	***	***
Capacity utilisation of other producers (%)	***	***	***	***	***
Total capacity utilisation (%)	78%	75%	83%	60.56	60.56

160. The Authority notes that the capacity of all producers rose to 490000 MT during POI i.e. by 88% as compared to 260000 MT during the base year. The production of all producers rose by 47% during POI as compared to base year. The capacity utilisation of all the producers however, declined from 78% in the base year to 61% during POI. The Authority also notes that the decline in capacity utilisation has occurred because of new capacity addition during POI by new entrant in the market. The Authority further notes that the production of all producers rose by 47% during POI as compared to base year. The demand of the subject goods during the same period rose by 48%.

Profitability

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr-Dec 05 POI	POI (Annualized)
Profit/Loss (Rs./Unit)	***	***	***	***	***
Trend	100	128	123	54	54
Profit/Loss (Rs. Lacs)	***	***	***	***	***
Trend	100	139	154	44	58

161. The data shows that the profit per MT from base of 100 (indexed) in 2002-03 rose to 128 in 2003-04, declined to 123 in 2004-05 and was 54 during POI. It indicates that the domestic industry has suffered significant loss of profits during the POI. The Authority notes that decline in profitability began in

2004-05, however, there was sharp decline in profitability in POI. In absolute terms, profits went up from 100 to 154 and then fell sharply to 44 during the same period.

Return on Investment (Capital Employed)

162. The Return on Capital Employed (ROCE) of the domestic industry has shown a drastic decline from 19.42% in 2002-2003 to a mere 4.79% during the POI. The data also shows that the decline began in 2004-05, however, drastic decline occurred in POI, indicating that the domestic industry has indeed suffered on account of dumped imports.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI
Capital Employed (in lakhs)	***	***	***	***
- Net Fixed Assets	***	***	***	***
- Net Working Capital	***	***	***	***
Profit Before Interest	***	***	***	***
ROCE (%)	***	***	***	***

Actual and potential negative effect on cash flows

163. An examination of the financial data of the domestic industry reveals that the dumped imports have had an adverse impact on the cash flow position of the domestic industry in as much as the profit plus depreciation has declined in the POI. The cash profit figures are given in the following statement:

	April 02 to March 03	April 03 to March 04	April 04 to March 05	Apr 05-Dec 05 POI	POI (Annualized)
Profit/Loss	***	***	***	***	***
Depreciation	***	***	***	***	***
Cash profit	***	***	***	***	***
Trend	100	140	155	56	75

Productivity

164. The productivity per employee for the domestic industry has increased over the injury investigation period. Thus, the productivity is not a cause of injury to the domestic industry as the productivity has increased from Indexed 100 per employee in 2002-03 to 120 during POI.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (Annualized)
Production(MT)	***	***	***	***
Employees	***	***	***	***
Production / Employee	***	***	***	***
Trend	100	103	118	120

Employment and Wages

165. The number of employees engaged by the domestic industry has not changed over the injury investigation. The wages per employee have increased over the injury investigation period which, according to the domestic industry, is in view of the contractual/legal obligations.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI (Annualized)
No of Employees	***	***	***	***
Trend	100.00	105	101	99
Wages Total (Rs. Lacs)	***	***	***	***
Wages /Employee (Rs.)	***	***	***	***
Trend	100	168	207	180

Inventories

166. The average inventories of the domestic industry in absolute terms as well as in terms of number of days have declined over the injury investigation period. The average stock has declined from 100 in 2002-2003 to 98 annualised during the POI. In terms of number of days' sales it declined from 100 to 90 over the same period.

	April 02 to March 03	April 03 to March 04	April 04 to March 05	POI
Average Stock (MT)	***	***	***	***
Trend	100	112	89	98
Average Stock (No. of Days)	***	***	***	***
Trend	100	103	71	90

Magnitude of Margin of Dumping

167. From the data supplied by the domestic industry and the cooperating exporter, it has been observed that there is a significant magnitude of dumping margin 46.47% as far as the imports from China are concerned.

Growth

168. The data shows that the demand of subject goods, production and sales of domestic industry shows rising trend, however, in terms of profits, profitability and return on capital employed, it shows declining trend.

Ability to Raise Capital Investments

169. The domestic industry claims that in view of the falling profitability, market share and ROCE, it would not be feasible for them to raise any fresh capital in the business. During the proceedings, the exporter also referred to the GDR Offer Document of ECL which, according to them, would have established beyond doubt that ECL was not facing injury from China in general and Xinxing in particular during the POI. The domestic industry in its rejoinder submissions claimed that the present investigations are restricted to product under consideration. They have further submitted that the injury determination is for the domestic industry as a whole under Annexure II and not in respect of one of the constituents of the domestic industry. They claimed that petition that was filed was for the domestic industry as a whole and GDR averments were relating to ECL only that too for the company as a whole and not for product under consideration. Further, it was submitted that the GDR document referred to does not pertain to the period of investigation. On examination of the submissions made by the concerned parties, the Authority is of the view that it is under an obligation to examine injury under Annexure-II for the domestic industry as a whole and not for its individual constituents. At the same time, the domestic industry has rightly pointed out that the statements made in GDR offer document were in respect

of ECL's overall operations and not for the product under consideration alone and not for the period of investigation. Xinxing's reliance on the extract from the GDR offer document is also misplaced as the GDR offer document refers to information prior to 31st March 2005 and some unaudited information up to June 2005 not for the full period of investigation. In view thereof, it is clear that the statement contained therein about Xinxing cannot be relied for analysis of data for the period of investigation.

170. The statement that the experience of ECL cannot be easily replicated by competitors is not a statement made in the context of injury but in the context of producers setting up operations in India. Further, there is no indication that the company is of the view that they can face even unfair competition. The evidence on record clearly goes to show that the goods were dumped in India indicating thereby that the exporter was resorting to unfair competition. The object of any investigation is to restore fair trade by imposition of anti-dumping duties to the extent necessary to remove injury to the domestic industry. In view of the above, the Authority finds no merit in the arguments made by the exporter in this respect.

Evidence of Lost Contracts

171. The domestic industry has submitted information indicating several instances of the competition between Chinese supplier and domestic industry indicating undercutting during the period of investigation as well as in the Pre-POI period. It is seen from these documents that during the POI, the domestic industry lost a huge contract of 26238 MT for supplies to be made to Kerala Water Authority (KWA) through L&T and Subhash Projects & Marketing Ltd. The Authority also corresponded with Kerala Water Authority as well as other parties involved in the contract. The Kerala Water Authority has confirmed that the Chinese exporter had been added as an approved supplier for the said projects. It has been stated by the exporter that the Chinese supplier replaced the Indian supplier because of the delivery schedule and not because of the prices, however, the correspondence

between domestic industry and the contractor very clearly indicate that the negotiations were concerning the prices and not for the delivery schedule. Thus, it is clear that the above orders to the tune of 26238MT of supplies went to the account of the Chinese exporter. It is also apparent that this contract was lost only on account of the lower prices offered by the Chinese exporter.

172. The exporter has mentioned number of contracts which the exporter claim to have been awarded to the domestic industry. It has also been stated that the domestic industry withheld the information from the Authority regarding the contracts. The domestic industry stated that these contracts relate to POI and post-POI period and many of these instances have already been informed to the Authority in the submissions made after the Public Hearing. The Authority notes that the instances of the contract cited by domestic industry were in the context of competition and undercutting by the Chinese supplier. The Authority holds that it is not necessary for the domestic industry to inform all the contracts awarded to the domestic industry as the investigation concerns contracts lost by the domestic industry because of undercutting and dumping by the exporter.

173. As stated earlier, in the face of substantial loss of contracts, the domestic industry was compelled to reduce its prices for other contracts as well to ensure that they do not lose further contracts even though this meant a substantial loss of profitability to the industry. This is evidently reflected in the price trend of the domestic industry over the injury period. Thus, it is evident that the domestic industry lost substantial contracts to the Chinese exporters and also suffered heavily on account of price reduction. The loss of contracts is also reflective of volume injury to the domestic industry.

F.5. Conclusion on Injury

174. The demand of subject goods from base year to POI has increased by 48%. The imports of subject goods from China PR has increased from 0 MT to 6192 MT during POI, the domestic sales of all producers has increased by 44% and production of all producers have increased by 47% during the same period.

175. The cost of sales of the domestic industry has increased by 15% in 2003-04, 46% in 2004-05 and 54% in POI as compared to base year. The trend on selling price shows that selling price increased by 18% in 2003-04, 42% in 2004-05 and 36% in POI during the same period. As compared to base year, profit per unit increased by 28% in 2003-04, 23% in 2004-05 and declined to 54% of base year in POI. The data indicates that the cost of sales kept on increasing from base year to POI whereas selling price declined marginally in 2004-05, however, it declined sharply in POI. The return on capital employed shows similar trend. It increased in 2003-04, declined marginally in 2004-05, however, there was sharp decline in POI. The evidence of loss of contract indicates that the domestic industry was in position to sell the product only by reducing the price because of the undercutting by the exporter. The loss of volume because of lost contract would actually be translated after POI.

176. The above analysis indicate that though there was increase in imports from base year to POI, however, as compared to 2004-05, the imports declined in absolute term from 13412 MT to 6192 MT (annualised) during POI. The sales volume of applicant domestic industry increased up to 2004-05, however, in POI it declined. The sales of all domestic producers shows that it increased during POI as compared to base year. The data indicates that imports declined in POI as compared to immediate preceding year, however, sales of all domestic producers increased inconsonance with the growth in demand of the subject goods.

177. The data indicates that cost of sales kept on increasing from base year to POI, the selling price increased up to 2004-05 before declining in POI. The

data on per unit profit/loss indicate that the decline began in 2004-05, however, there was sharp decline in POI as compared to immediate preceding as well as base year. The return on capital employed shows the same trend. The analysis indicates that the domestic industry kept the pace concerning production and sales with the growth in demand, however, the domestic industry was under severe pressure concerning profitability and return on capital employed during POI indicating injury to the domestic industry.

178. In view of the above, the authority concludes that the domestic industry has suffered material injury during the period of investigation on account of dumped imports from China and that there is also an imminent threat of injury on account of order of the large quantities accrued to exporter during the period of investigation.

F.6. Other Known factors

179. The Authority has also examined the issue of causal link and other non-attribution factors as laid down in the Rules to segregate injury if any caused by other factors. In this regard the following indicative factors as laid down in the Rules have been examined.

i) Volume and prices of imports from other sources

180. The authority notes that there was no imports from other country during the entire injury period, therefore, this factor cannot be considered as causing injury to the domestic industry.

ii) Competition by other domestic producers

181. M/s Jindal Saw Ltd. entered the market during POI. It has been contended by the exporter and importers that the injury to the domestic industry has occurred because of competition created by M/s Jindal Saw Ltd. It has further been contended that the volume loss of the applicant domestic industry has been cornered by the new entrant in the market. It has also been stated that M/s Jindal Saw Ltd. is exempted from payment of excise duty, therefore, has price advantage vis-à-vis existing producers. The Authority notes that with the entry of new producer in the market, the competition was bound to arise. However, where there was robust growth in demand of the subject goods, the sales in absolute term were not affected though the new entrant captured share in the market. The Authority also notes that excise exemption given to M/s Jindal Saw Ltd. for the purpose of setting up unit in a specified area. The excise exemption had been given by the Government to offset the disadvantage of setting up unit in that area.

182. The Authority notes that in 2004-05, in absence of M/s Jindal Saw Ltd. the domestic industry could not increase price in proportion to the rising cost of production. The Authority also notes that the landed value of imports was undercutting the selling price in 2004-05 indicating that because of undercutting by the dumped imports from China PR the domestic industry was prevented from raising their prices in proportion to the cost of production and consequently impacting their profitability. As undercutting from China PR continued during POI, therefore, the Authority holds that in spite of entry of M/s Jindal Saw Ltd. during the POI, the injury to the domestic industry is attributable to the dumped imports from the subject country.

iii) Contraction in demand and / or change in pattern of consumption

183. The subject goods have shown robust growth during the injury period. The total demand of subject goods has shown growth of 48% during Period of Investigation as compared to the base year. There is no change in

consumption pattern of the product in the domestic market which could be attributed to the injury to the domestic industry.

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

184. The Authority notes that there is no restricted practice prevalent in the industry which could be attributed to the injury to the domestic industry.

v) Development of technology

185. The Authority notes that technology for production of the product has not undergone any change. Development of any other technology, therefore, cannot be attributed to the injury to the domestic industry.

vi) Export performance

186. For the purpose of production, capacity utilisation, the export production has been taken into account, however, for selling price, profitability, profit and return on capital employed, data relating to domestic sales is taken into account. Therefore, the effect of export performance will not impact the analysis relating to sales of the domestic industry in the domestic market, therefore, this factor cannot be considered causing injury to the domestic industry.

vii) Productivity of the Domestic Industry

187. Productivity of the domestic industry in terms of production per employee has increased during the injury period, therefore, it cannot be considered as factor causing injury to the domestic industry.

188. No other factor which could have possibly caused injury to the domestic industry has been brought to the knowledge of Authority.

F.7. Causal Link

189. The demand of subject goods grew by 48%, the imports though increased in absolute term from base year to POI, however, actually declined in POI as compared to immediate preceding year. The Authority notes that sharp increase in imports in 2004-05 coincided with significant undercutting of the selling price by the imports from subject country. The market share of all domestic producers declined from 100 in the base year to 97.25% during POI. The share of subject country increased from 0% to 2.75% during the same period, however, the share of subject country declined to 2.75% in POI from 6.60% in immediate preceding year. It has been argued by the cooperating exporter that the domestic industry has not lost in volume term as the share from subject country has actually declined. It has also been argued that loss of volume by applicant domestic industry has actually been garnered by the new producer who entered the market during POI. The domestic industry, from the data shows, has not lost in volume term, however, the D I has submitted evidence that they lost the contract during the POI because of undercutting by the exporter. The Authority notes that the loss of volume because of contract will actually be translated in the period in which the actually deliver of goods will take place, however, because of undercutting by the dumped imports, the domestic industry be under constant fear of losing volume unless it matches prices with the dumped imports.

190. The domestic industry has shown sharp decline in selling price and profitability during the POI as compared to immediate preceding year whereas the cost of sales during the same period has increased. The landed value of imports goods shows declining trend and decline during the same period. With the rising cost of sales, there was no reason for the domestic industry to reduce the selling price except that it had to benchmark its prices with that of imports. It has been argued by the exporter that the new entrant M/s Jindal Saw Ltd. was having benefit of exemption of excise and, therefore, they reduced the prices giving competition to the applicant domestic industry with the result that the volume loss of the applicant was garnered by the new entrant. It has been noted that in the year 2004-05, the Domestic Industry did not increase the selling price in consonance with the rise in cost of production on account of rise in the cost of raw materials. It indicated that the domestic industry was benchmarking its prices with the imports. (In preceding years M/s Jindal Saw Ltd. was not in the market and could not have given competition to the existing producers) The Authority holds that M/s Jindal Saw Ltd. has created competition in the market, however, the domestic industry was also benchmarking its prices with the imports as indicated from declining landed value of imports. The Authority also holds that the loss of contract by the domestic industry to the exporter during the POI very clearly indicate that the domestic industry was under pressure from the exporter to reduce the prices for keeping their share in the market. It has been argued by the exporter that the loss of contract will actually affect the domestic industry beyond the POI period, the Authority notes that in this type of product where there tender processes are involved, there is a gap of time between floating of tenders and actual supply of goods, however, the undercutting by the exporter was visible when the tender was opened and the contractors were putting pressure on the producer to reduce the prices. The goods are actually being supplied by the exporter as indicated from the documents available very clearly shows that though the loss of volume will actually be translated in period beyond the POI, however, the price effect become visible even during the POI.

191. In view of the above the Authority holds that though in response to the dumped imports the domestic industry did not lose in volume term

immediately, however, it had to reduce the prices to retain the share in the market and suffered in the profitability and return on capital employed. The loss of contract by the domestic industry and replacement of the domestic producer with that of exporter for which supplies are to be made after the POI period also establishes the causal link between the potential imports and the financial performance of the domestic industry.

G. Indian Industry's interest & Other Issues

192. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country.

193. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the subject goods or the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. With a view to minimize the impact on the downstream industry, the Authority has considered it appropriate to recommend anti dumping duty based on the lower of the dumping and injury margins. The Authority notes that the imposition of anti dumping measures would not restrict imports from subject country in any way, and therefore, would not affect the availability of the product to the consumers.

H. Conclusions

194. The Authority has, after considering the foregoing, come to the conclusion that:

- a) The subject goods have been exported to India from the subject country below its normal value;
- b) The domestic industry has suffered material injury;
- c) The injury has been caused by the dumped imports from subject country.

I. Recommendations

195. It is considered necessary to impose definitive anti-dumping duty on the imports of subject goods. Accordingly, the Authority recommends imposition of anti dumping duty on the imports of DI Pipes

196. It is decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. In this case injury margin is less than dumping margin, accordingly, anti-dumping duty equal to the amount indicated in Col. 8 of the table below is recommended to be imposed by the Central Government, on all imports of subject goods originating in or exported from the subject country.

Duty Table

Sl. No	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	73030030 and 73030090	DI Pipes	China PR	China PR	M/s Xinxing Ductile Iron Pipes Co. Ltd.	Any	127.40	MT	US\$
2.	Do	do	China	China	Any other than	Any	139.79	MT	US\$

			PR	PR	above				
3.	do	do	China PR	Any other than subject country	Any	Any	139.79	MT	US\$
4.	do	do	Any other than subject country	China PR	Any	Any	139.79	MT	US\$

197. An appeal against this order shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(R. Gopalan)
Designated Authority