

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

**F. No. - 7/8/2017-DGAD  
Government of India  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)  
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5, Parliament Street, New Delhi-110001**

Date: 19<sup>th</sup> April, 2018

**NOTIFICATION**

**FINAL FINDINGS**

**Subject: Sunset Review of Anti- dumping duty imposed on imports of "Plain Gypsum Plaster Boards", originating in or exported from China PR, Indonesia, Thailand, and UAE.**

F. No. 7/8/2017 - DGAD Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof; the Designated Authority (herein after referred to as Authority) recommended imposition of Anti-Dumping Duty on imports of "Plain Gypsum Plaster Boards", (hereinafter referred to as subject goods) originating in or exported from China PR, Indonesia, Thailand, and UAE (hereinafter referred to as subject Countries). The Authority vide its preliminary findings No. 14/45/2010-DGAD dated the 19<sup>th</sup> March, 2012, recommended imposition of anti-dumping duties against dumped imports of the subject goods from the Subject countries. Duties were imposed by the Central Government vide custom notification No. 32/2012-Customs (ADD) dated the 7<sup>th</sup> June, 2012. The Final Findings notification of the Authority was published vide notification No. 14/45/2010-DGAD dated 15<sup>th</sup> January, 2013. On the basis of the findings, definitive anti-dumping duties on the subject goods imported from subject countries were imposed by the Department of Revenue vide notifications No. 6/2013-Customs (ADD) dated 12<sup>th</sup> April, 2013.

1. WHEREAS in terms of Section 9A (5) the Customs Tariff (Amendment) Act 1995 the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition.

2. And, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
3. Whereas, a petition was filed by M/s Saint-Gobain India Private Limited (hereinafter referred to as ‘petitioner’) in accordance with the Act and the Rules, seeking initiation of a sunset review of the Anti-dumping duty in force on import of "Plain Gypsum Plaster Boards” for extending the duties for a further period of five years, alleging likelihood of continuation or recurrence of dumping and injury of the subject goods originating in or exported from China PR, Indonesia, Thailand, and UAE.
4. And whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 7/8/2017-DGAD dated 05<sup>th</sup> June, 2017, published in the Gazette of India, initiating the subject investigations in accordance with the above Rule to examine whether the expiry of the said duties on the import of the above goods originating or exported from the subject countries is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
5. The scope of the present review covers all aspects of the original investigation concerning imports of the above goods, originating in or exported from the subject countries.

## **PROCEDURE**

6. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
  - i. The Authority notified the Embassy of China PR, Indonesia, Thailand, and UAE in India about the receipt of the sunset review of anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
  - ii. The Authority issued a public notice dated 05<sup>th</sup> June, 2017 published in the Gazette of India Extraordinary, initiating sunset review investigation concerning imports of the subject goods.
  - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
  - iv. The Embassy of the subject countries in India was also requested to advise the exporters/producers from subject countries to respond to the questionnaire within the

prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from these countries.

v. The Authority sent a copy of the initiation notification to the Embassy of China PR, Indonesia, Thailand, and UAE in India, known producers/exporters from subject countries and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(4) of the AD Rules.

1. Gypsemna Company (L.L.C), UAE
2. The Siam Gypsum Industry (Saraburi) Co., Ltd., Thailand
3. Pt. Siam Indo Gypsum Industry, Indonesia
4. Pt Petrojaya Boral Plaster board, Indonesia
5. Shandong Baier Building Materials, China
6. Linyi Huamei Gypsum Building, China
7. CNBM International Corporation, China

vii. In response to the above notification, the following producers/exporters have filed their Questionnaire responses in the above matter. The same has been accepted by the Authority.

1. M/s Gypsemna Company (L.L.C), UAE
2. M/s Siam Gypsum Industry (Songkhla) Co. Ltd.
3. M/s Siam Gypsum Industry (Saraburi) Co. Ltd.
4. M/s PT Petrojaya Boral Plasterboard
5. M/s PT. SIAM-INDO Gypsum Industry

viii. After the initiation of the investigation, another company namely M/s Knauf LLC, Dubai, UAE had submitted only a letter to the Authority but have not submitted exporter's questionnaire response.

ix. The Authority also forwarded a copy of the Initiation Notification to the following known importers/users/user associations (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

1. M/s Sastha Senior Building Product
2. M/s Lafarge Boral Gypsum India Private Limited
3. M/s Lafarge Boral Gypsum India Pvt

4. M/s Vikash Trading Company
5. M/s Total Solutions Building Material Co.

- x. The Authority notes that none of the importers responded to the questionnaire sent by the Authority.
- xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).
- xii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- xiii. The period of investigation is January 2016 to December 2016 (12 months) and for the purpose of injury determination, the period i.e., April 2013 to March 14, April 2014 to March 15, April 2015 to March 16 and the POI will be considered.
- xiv. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xv. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. The Authority held an oral hearing on 06<sup>th</sup> March, 2018 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry and other interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties were also advised to collect written submissions made by the opposing parties and were requested to submit their rejoinders thereafter.
- xvii. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.

- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xx. In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority to the concerned interested parties. Comments received on the disclosure statement to the extent considered relevant by the Authority have been considered in this final finding.
- xxi. ‘\*\*\*’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority for the subject investigation is  
1US\$ = Rs.67.96

## **PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **Submissions by the Domestic Industries**

7. The submissions made by domestic industry are as follows:
- i. The present investigation being a sunset review, the scope of the Product under Consideration cannot be changed from what was there in the original investigation.
  - ii. The interested parties have claimed that in addition to the existing exclusions from the scope of product under consideration, Next Generation Standard Board (Next Gen.), is also liable to be excluded, as it is a product not manufactured or imported into India during the POI, In the absence of imports or manufacture in India, no anti-dumping duty can be levied. In this regard, the Domestic Industry submits that the exclusion in the original investigation was provided to certain products on the basis of their physical/technical specifications, usage, substitutability etc. Any exclusion, apart from the ones already there, has to pass the same yardstick. However, if the Authority after examination is of the view that a specific product ought to be excluded on the basis of

its physical/technical specifications, usage, substitutability etc., the Domestic Industry does not have any reservations against it.

### **Submissions made by the producers/exporters/other interested parties**

8. The submissions made by other interested parties are as follows:
  - i. In addition to the existing exclusions from the scope of product under consideration, Next Generation Standard Board (Next Gen.), is also liable to be excluded, as it is a product not manufactured or imported into India during the POI, In the absence of imports or manufacture in India, no anti-dumping duty can be levied.

### **Examination by the Authority**

9. The product under consideration in the present application is “Plain Gypsum Plaster Boards of all thicknesses and dimensions but excluding the following:
  - a. Gypsum Boards having water absorption up to and including 5% (Moisture Resistant Boards)
  - b. Gypsum Boards having a minimum breaking load of 24 neutrons in the transverse direction and 50 neutrons in the longitudinal direction per millimeter of thickness (Impact Resistant Boards” or “Fire Resistant Boards).
  - c. Fire Boards
  - d. Fire Heat Boards
  - e. Gypsum Ceiling Boards with Moisture Barrier
  - f. ECHO Boards
  - g. Heat Boards
  - h. Anti-modal Boards or Weather Boards
  - i. Thermal Boards
  - j. Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film
10. The product under consideration is classified under chapter heading 68091100. However, the subject goods are also being imported under tariff headings 68091900. However, Customs classification is indicative only and is in no way binding on the scope of the present investigation. Present investigation, being a sunset review of the duty in force, the products under consideration would remain the same as has been defined in the original investigation.
11. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:-

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

12. After considering the information on record, the Authority holds that there is no material difference in product under consideration exported from subject country and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of physical characteristics, production technology & manufacturing process, functions & uses, product specifications, distribution & marketing. The two are technically and commercially substitutable.
13. The Authority holds that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the Anti-dumping Rules.

## **SCOPE OF DOMESTIC INDUSTRY & STANDING**

### **Submissions by the Domestic Industries**

14. The submissions made by the domestic industry are as follows:
  - i. The request for the sunset review has been filed by M/s Saint-Gobain India Private Limited. The applicant accounts for around 84% of the total domestic production which may be considered as a major proportion of the domestic production of the subject goods.
  - ii. Petitioner has not imported the subject goods from subject country during the POI. Petitioner is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country. Thus the petitioner is eligible domestic industry under Rules 2(b) and 5(3) of the AD Rules.
  - iii. The interested parties have argued that since the Domestic Industry have related parties in the subject countries, it cannot be considered as a Domestic Industry in terms of Anti-Dumping Rules. In this regard, the Domestic Industry submits that it does not have any related party in any of the subject country, which is engaged in production of the subject goods or exports of the subject goods to India. A declaration regarding the same has already been filed with the petition. The Domestic Industry further submits that the interested parties are trying to divert the attention of the Authority from the substantive facets of the investigation by making fallacious arguments and frivolous accusations.
  - iv. The interested parties have argued that the Domestic Industry has concealed the fact that there are more than two producers of the subject goods in India. They have stated that apart from two producers, specifically mentioned by the Domestic Industry in its petition, there are few other producers of the subject goods in India. In this regard, the Domestic Industry submits that there are indeed few manufacturers who are attempting to put capacities in India for the subject goods. However, to the best knowledge of the

Domestic Industry, some of them were in trial run before the POI or were manufacturing the Product under Consideration at very small scale. Owing to the small or nascent operations of these producers, the Domestic Industry, at the time of the initiation, was not in a position to acquire information and data relating to these producers. In any case, the emergence of these new market players itself proves that the anti-dumping duties against the subject countries have been effective. However, owing to the huge excess capacities owned by the exporters from the subject countries, their export orientation and their tendency to dump goods in export market, if the duties are allowed to be exhausted, it would be tremendously disastrous for the Domestic Industry as well as these newly emerging manufacturers.

### **Submissions made by the producers/exporters/other interested parties**

15. The comments of the interested parties on the standing of the Domestic Industry are as below:

- i. The petitioning domestic industry has not come with clean hands before the Authority, and has obtained the initiation on misrepresentation of facts. It is stated that there are only 2 producers of the like article in India, whereas there are many other producers, having substantial capacities.
- ii. The applicant has related parties in UAE, Indonesia and Thailand namely Saint Gobain Gyproc UAE, Saint Gobain Indonesia and Gyproc (Saint-Gobain) Thailand. The applicant wishes antidumping duty on imports from subject countries while having its own production in these countries. The applicant thus wants the best of both the worlds, while making producers in these countries suffer. Further, the applicant has excluded those products which are produced by its related entities in these countries so that the petitioner can import the same from these countries. It is not a question merely limited to eligibility or otherwise of the petitioner. It extends to the conduct of the petitioner, its will to restrict the supply sources selectively and at the same time reap the benefits of global production.

### **Examination by the Authority**

16. Rule 2 (b) of the AD rules defines domestic industry as under:

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

17. The application in the present case has been filed by M/s Saint-Gobain India Private Limited. The production and share of the Indian producers during the period of investigation is as under:

<b>Particulars</b>	<b>Jan 16- Dec 16 (POI)</b>	
	<b>M3</b>	<b>Share</b>
M/s Saint Gobain India Pvt Ltd.	***	84%
M/s USG Boral Building Products (India) Pvt. Ltd.	***	16%
<b>Total</b>	<b>***</b>	<b>100%</b>

18. It may be noted from the above, the applicant accounts for around 84% of the total domestic production which may be considered as a major proportion of the domestic production of the subject goods.

19. The production of the petitioner alone constitutes around 84% of Indian production. Accordingly, the Authority holds that that the petitioner satisfied the requirement of standing under Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).

20. As regards the arguments of the interested parties that the petitioner has related parties in some of the subject countries, the Authority notes that the petitioner has submitted that it does not have any related party in any of the subject countries which is engaged in the production or trade of the subject goods.

21. As regards the contention of the interested parties that apart from the two producers mentioned by the Domestic Industry, there were other Indian producers during the period of investigation, the Authority notes that the Domestic Industry has submitted that owing to the nascent operation of the newly emerging producers, they were not in a position to acquire the information related to these producers at the time of initiation. In any case, the Authority notes that the applicant has enough share in total domestic production to be deemed as a Domestic Industry in terms of Anti-dumping Rules. The Authority further notes that, as submitted by the Domestic Industry, the emergence of the new Indian producers is a speaking proof that the current anti-dumping duties have been effective.

## **ISSUES RELATING TO CONFIDENTIALITY**

### **Submissions by the Domestic Industries**

22. The submissions made by domestic industry are as follows:

- i. The petitioner has claimed only such information as confidential, the confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
- ii. The petitioner has provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. Information such as volume of exports to India, gross volume of sales in domestic market, production, sales, average price for exports to India have been provided in indexed version as the information is business proprietary information.
- iv. None of the exporters has provided the non-confidential version which is an exact replica of their confidential version. They have kept all the volume related information confidential. They have also not provided any statement of claim of confidentiality. Further, the responses are in stark violation of the specific guidelines issued by the Designated Authority with regard to the procedure to be followed for filing of non-confidential version of the exporter's questionnaire responses. We would, therefore, request the Hon'ble Designated Authority to disregard the submissions of the interested parties and also to reject the response of exporters and deny them the individual treatment.

#### **Submissions made by the producers/exporters/other interested parties**

23. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are as follows:
- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to volume related information also.
  - ii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
  - iii. Domestic Industry has also not provided sufficient details of their costing.

#### **Examination by the Authority**

24. The Authority made available non confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).

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

*“Confidential information”*

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

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

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

26. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the information submitted by various interested parties in the form of public file.

## **NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **Normal Value**

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

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

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

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

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

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

### **Submissions by the Domestic Industry**

28. The submissions made by domestic industry are as follows:

- i. The Domestic Industry had filed full information with regard to the normal value and export price which was necessary for the purpose of initiation of an investigation. In terms of Rule 5, the Domestic Industry is required to give information which is sufficient to justify the initiation of an investigation. Necessary evidence had also been provided in support of their claim of normal value as well as export price.
- ii. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.

### **Views of the opposing interested parties**

29. The normal value computed in the application for China PR is in contravention of the requirements as provided under Annexure I (7) of the AD Rules. Paragraph 10 of the Initiation Notification, as well as the Application, stipulates that the normal value for China PR be computed on the basis of the cost of production, duly adjusted.

### **Examination by the Authority**

30. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption

of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. However, none of the Chinese producers filed any response to the exporters questionnaire issued by the Authority.

31. Accordingly, the normal value and export price for the all the producers/exporters from the subject countries have been determined as below:

#### **Determination of Normal Value for producers and exporters in China PR**

32. The Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering optimum consumption norms of the domestic industry for major raw materials, cost of raw materials, is as per international prices, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry. 5% of cost of sales excluding interest has been allowed towards reasonable profit.

#### **Export price for producers and exporters in China PR**

33. None of the exporters from China PR have provided any information giving details of export price. Therefore, the Authority has determined the export price for producers/exporters of China PR on the basis of the DGCI&S transaction wise data. Accordingly, the weighted average net export price at ex-factory level, in respect of all exporters from China PR has been determined after making due adjustments for Ocean Freight, Marine Insurance, Port Expenses, Bank charges, Commission and Inland freight on the basis of best available information as mentioned in the Dumping Margin table

#### **Determination of Normal Value and Export price for M/s Gypsemna Co. (L.L.C.), Dubai and for other producers and exporters in UAE**

34. M/s Gypsemna Co. (L.L.C.), Dubai: The questionnaire response filed by the exporter has been examined. The same is complete and in order. The cost of production was determined on the basis of verified information of the producer and domestic sale transactions were examined and found that the domestic sales are in the ordinary course of trade. Therefore, the Authority has proceeded to determine the normal value based on complete domestic sales data. Producer has claimed adjustment on account of transportation, credit cost, insurance and the same have been accepted after necessary verification. The normal value is shown in the Dumping Margin Table below.
35. The Normal value for other producers in UAE has been correlated with the normal value arrived for M/s Gypsemna Co.

36. Export price for M/s Gypsemna Co. (L.L.C.), Dubai: During the POI, M/s Gypsemna Co. (L.L.C.), Dubai, has exported the subject goods to India directly. The exporter has claimed adjustment on account of inland transportation, overseas transportation, bank charges, credit cost and the same have been accepted after necessary verification. The net export price determined is shown in the Dumping Margin Table below.

37. The Authority has determined the export price for other non-responding exporters as per the facts available on record correlated with transaction-wise DGC&IS data.

**Normal value and Export Price for producers and exporters from Indonesia and Thailand**

38. The Authority notes that there were no exports of the subject goods from Indonesia and Thailand during POI. It is noted that the following exporters have submitted Questionnaire response and the same has been accepted by the Authority:

- a. M/s Siam Gypsum Industry (Songkhla) Co. Ltd.
- b. M/s Siam Gypsum Industry (Saraburi) Co. Ltd.
- c. M/s PT Petrojaya Boral Plasterboard
- d. M/s PT. SIAM-INDO Gypsum Industry

**DUMPING MARGIN**

39. The dumping margin for subject goods has been determined by comparing constructed normal value and net export price. The table below shows the calculated dumping margin for producers/exporters from subject countries.

Sr. No	Country	Producer/Exporter	Normal Value (USD/M3)	Net Export Price (USD/M3)	Dumping Margin (USD/M3)	Dumping Margin %	Range %
1	China	All exporters/producers	***	***	***	***	100-110
2	UAE	M/s Gypsemna Co. (L.L.C.), Dubai	***	***	***	***	10-20
		Any Other Producer	***	***	***	***	55-65

## **METHODOLOGY FOR INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK**

### **Views of the Domestic Industry**

40. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. Imports of the product under consideration have shown significant increase over the years with a significant increase in POI. Imports have also shown increase in relation to production and consumption in India;
  - ii. Despite the anti-dumping duties in force, market share of subject countries in demand is increasing. Market share of the domestic industry has decreased in the POI as compared to the base year. The same is due to imports from subject countries;
  - iii. With reduction in the prices by the foreign producers, the only choice available to the Indian producer is to either realign their prices with the changes in the import prices or to lose orders and hence the market share;
  - iv. Domestic industry prices, reflects the effect of the prices that are being offered by the importers in the domestic market;
  - v. The price underselling, price undercutting is positive and substantial. Further, the Domestic Industry is suffering from price depression as they are not able to increase its prices to reasonable terms. The main reason for this is high volume of imports from China that too at dumped and injurious prices.
  - vi. Performance of the domestic industry has steeply deteriorated in terms of profits, return on investments and cash profits to a very significant extent.
  - vii. The decline in profitability of the domestic industry was due to significant increase in the import volume at non-remunerative prices from China.
  - viii. The increase in selling price was lower than the increase in cost of production and thus the dumped imports are creating price suppression effect on the domestic industry.
  - ix. The domestic industry has suffered material injury in connection with dumping of subject goods from China. Further, the domestic industry is threatened with continued injury, should the present condition continue.

### **Submissions made by the producers/exporters/importers/other interested parties**

41. The following are the injury related submissions made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority
- i. The Domestic Industry is not suffering any injury and has improved throughout the injury investigation period;
  - ii. There have been no imports from Indonesia and Thailand. Therefore, the question of any injury on account of imports from these two countries does not arise;
  - iii. There is no price undercutting, price suppression and depression and therefore, the claim of Domestic Industry of any injury on account of imports from subject countries should be rejected;
  - iv. The Domestic Industry has made huge improvements in terms of market share, profitability, ROCE etc. Therefore, it is established that there has been no injury to the Domestic Industry.
  - v. The Domestic Industry has failed to establish any likelihood of continuance or recurrence of dumping and injury.

### **Examination by the Authority**

42. The Authority has taken note of the submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Anti-Dumping Rules and considering the submissions made by the other interested parties.
43. As regards the submissions of absence of injury, the injury analysis carried out hereunder is self-explanatory to establish, if dumping has caused injury to the domestic industry or not.
44. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:
45. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to

the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

46. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Anti-dumping rules states as under:-

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

47. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

### **Cumulative assessment**

48. With regard to cumulative assessment Annexure II (iii) to the Rules provides as follows:

*In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of the like article or where the export of individual countries less than three percent, the imports collectively accounts for more than seven per cent of the imports of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.*

49. The Authority notes that the imports are entering the Indian market simultaneously from the subject countries. Therefore, the issue of cumulative assessment of the injury caused to the domestic industry due to dumped imports from these sources has been examined with respect to parameters in Annexure II (iii) to the Rules. It was observed that:

Particulars	UOM	2013-14	2014-15	2015-16	Jan 16 - Dec 16
Imports					
China PR	M3	367	5	287	1,014
Thailand	M3	586	123	0	0
UAE	M3	12,412	18,247	45,177	63,509
Indonesia	M3	0	0	0	0
Total Subject Countries	M3	13,365	18,375	45,464	64,524
Others	M3	125,387	164,062	204,499	216,712
Total Imports	M3	138,752	182,436	249,963	281,235

50. The table shows that there are no imports from Thailand and Indonesia during POI. Further, Indonesia has not exported any subject goods throughout the injury period.

51. In view of the above, the Authority holds that for the purpose of cumulative assessment, un-dumped imports from producers from subject countries have been taken out for the purpose of injury analysis.

### **Volume Effect of Dumped Imports and Impact on Domestic Industry**

#### **Import Volumes and Share of Subject country**

52. With regard to the volume of the dumped imports, the Authority has considered whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The volume of imports of the subject good from the subject country has been analyzed as under:

Particulars	UoM	2013-14	2014-15	2015-16	POI
Import Volume					
Subject countries	M3	13365	18375	45464	64524
Other Countries	M3	125387	164062	204499	216712
Total Imports	M3	138752	182436	249963	281235
Domestic Industry	M3	446115	487013	554151	599914
Other Producers	M3	98815	105826	107317	111875

Indian Production	M3	544930	592839	661468	711789
Indian Consumption	M3	683682	775275	911431	993024
Imports from Subject Countries in relation to					
Total Production	%	2%	2%	5%	7%
Total Imports	%	10%	10%	18%	23%
Total Consumption	%	2%	2%	5%	7%

53. It is noted from the above table that imports of the subject goods from the subject countries have increased in absolute and relative terms in POI as compared to the previous years.

54. As seen from the Table at para 49 above, the overall imports from subject countries is primarily concentrated in UAE and China. Hence, the share of imports in relation to production and consumption primarily reflects the effect of imports from these two countries only. Thus, it is seen that the volumes from these two subject countries are significant in absolute terms as well as in relation to total imports.

### **Price Effect of Dumped Imports on the Domestic Industry**

#### **Price Undercutting**

55. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

56. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The price of the domestic industry was determined at the ex-factory level. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods.

Price Undercutting	UoM	China	UAE	Thailand	Indonesia	Subject countries
Import Volumes	M3	1014	63509	0	0	64524
Landed Value without AD Duty	Rs/ M3	***	***	***	***	***
Trend	Indexed	100	100	0	0	100
Net Sales Realization	Rs/M3	***	***	***	***	***

Trend	Indexed	100	100	0	0	100
Price Undercutting	Rs/M3	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	Range	35-45	20-30	0	0	20-30
Landed Value with AD Duty	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100			100
Net Sales Realization	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100			100
Price Undercutting	Rs/M3	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	Range	0-10	0-10	0	0	0-10

57. The above analysis shows that the Domestic Industry has suffered price undercutting from China and UAE at 1% and 6% respectively. Although, the Domestic Industry has claimed that they could not increase its selling price due to price pressure of low priced dumped imports from subject countries, the above table does not substantiate the same specially when examined/ correlated with the table at para 60 indicating a constant rise in domestic sales prices.

### **Price Underselling**

58. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject countries. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports from each country. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

Price Underselling	UoM	China	UAE	Thailand	Indonesia	Subject countries
Import Volumes	M3	1014	63509	0	0	64524
Landed Value without AD Duty	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100	0	0	100
NIP	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100	0	0	100
Price Underselling	Rs/M3	***	***	***	***	***
Price Underselling	%	***	***	***	***	***
Price Underselling	Range	20-30	0-10	0	0	0-10
Landed Value with AD Duty	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100			100

NIP	Rs/M3	***	***	***	***	***
Trend	Indexed	100	100			100
Price Underselling	Rs/M3	(***)	(***)	***	***	(***)
Price Underselling	%	(***)	(***)	***	***	(***)
Price Underselling	Range	(15) - (5)	(15) - (5)			(15) - (5)

59. It is noted from the above table that there is negative price underselling on account of imports of the subject goods from China and UAE. Further, there is no underselling from Indonesia and Thailand since there have been no imports from these two countries.

### **Price Suppression and Depression**

60. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Price Suppression/Depression	UoM	2013-14	2014-15	2015-16	POI
Landed Value without ADD	Rs/M3	***	***	***	***
Trend	Indexed	100	96	98	97
Landed Value with ADD	Rs/M3	***	***	***	***
Trend	Indexed	100	100	100	100
Cost of Sales	Rs/M3	***	***	***	***
Trend	Indexed	100	102	92	90
Net Sales Realization	Rs/M3	***	***	***	***
Trend	Indexed	100	103	103	102

61. From the above table, it is clear that the landed value of imports from the subject country have shown an upward trend in POI as compared to the previous years.

### **Economic Parameters of the Domestic Industry**

62. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and

unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

63. Accordingly, various economic parameters of the Domestic Industry are analyzed herein below.

### **Capacity, Production, and Capacity Utilization**

64. The performance of the domestic industry with regard to production, capacity & capacity utilization was as follows:

Particulars	UoM	2013-14	2014-15	2015-16	POI
Capacity	M3	605000	645000	663000	699000
Trend	Indexed	100	107	110	116
Production	M3	443740	484601	550016	587496
Trend	Indexed	100	109	124	132
Capacity utilization	%	73%	75%	83%	84%
Trend	Indexed	100	102	113	115

65. It can be seen that the production of the Domestic Industry has consistently increased throughout the injury period. The capacity utilization of the Domestic Industry also followed the same trend as that of production. It is noted that the installed capacity has also increased by 16% over the injury period.

### **Sales Volumes:**

66. The sales parameters both in terms of volume and prices are demonstrated below:

Particulars		2013-14	2014-15	2015-16	POI
Domestic Sales Volume	M3	***	***	***	***
Trend	Indexed	100	109	124	132
Domestic Sales Price	Rs. /M3	***	***	***	***
Trend	Indexed	100	103	103	102
Total Sales Volume (including exports)	M3	***	***	***	***
Trend	Indexed	100	109	124	132
Total Sales Price	Rs. /M3	***	***	***	***
Trend	Indexed	100	103	103	102

67. It is noted that the sales volume of the Domestic Industry has increased gradually during the injury period with a substantial rise during the POI. The sales price has also been steady and increasing gradually in the injury period.

**Market share:**

68. The details of imports, domestic sales and the market share of the domestic industry is as below:

Particulars	UoM	2013-14	2014-15	2015-16	POI
<b>Demand</b>					
Subject countries imports	M3	13365	18375	45464	64524
Other Countries imports	M3	125387	164062	204499	216712
Domestic Industry Sales	M3	443740	484601	550016	587496
Other Producer Sales	M3	98815	105826	107317	111875
Total Demand	M3	681307	772864	907295	980606
<b>Market Share in Demand</b>					
Subject countries imports	%	2%	2%	5%	7%
Other Countries imports	%	18%	21%	23%	22%
Domestic Industry Sales	%	65%	63%	61%	60%
Other Producer Sale	%	15%	14%	12%	11%

69. As is clear from the above table, imports of the subject goods from subject counties have increased throughout the injury investigation period. The break-up of the subject countries exporting to India have been presented at the table at para 49 and maybe seen from the table.

70. It is also noted that market share of domestic sales has decreased during POI as compared to the preceding years whereas market share of imports from subject country during the same period have increased, but not in the same proportion. Hence, the reason for decrease in the market share of Domestic Industry may be related to other countries imports, as evident from the table.

### **Profit/Loss, Cash Flow, Return on Capital Employed**

71. The profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Particulars		2013-14	2014-15	2015-16	POI
Profit & Loss	Rs. /M3	***	***	***	***
Trend	Indexed	100	146	495	582
Profit & Loss	Rs. Lacs	***	***	***	***
Trend	Indexed	100	160	607	791
Depreciation	Rs. Lacs	***	***	***	***
Trend	Indexed	100	112	86	90
Cash Flow	Rs. Lacs	***	***	***	***
Trend	Indexed	100	125	228	280
Profit before Interest and Tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100	160	607	791
Capital Employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	81	88	85
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	199	692	930

72. The overall profitability parameters of the domestic industry has improved over the injury period.

73. It is noted that all figures in the table are self-explanatory with regard to quantum increase in profitability of the domestic industry. Further, the return on capital employed has shown significant increase throughout the injury period. In fact, its substantially high (almost nine times ) in the POI when compared to the base year.

### **Inventories**

74. The data relating to inventory of the subject goods is shown in the following table:

Particulars	Units	2013-14	2014-15	2015-16	POI
Average Stock	M3	***	***	***	***
Trend	Indexed	100	142	105	269
Production Per Day	No. of Days	***	***	***	***

Trend	Indexed	100	109	124	132
Inventory as no. of production Days	No. of Days	5	7	5	11

75. It is noted from the above that the average stock of the Domestic Industry has been piling up of late.

76. The average no. of days for which the domestic industry was holding production in stock was calculated. It is found that the holding number of days production in stock is around 5 to 7 days during the injury period, increasing to 11 days in the POI. This cannot be considered as high.

### **Employment and Wages**

77. The position with regard to employment and wages is as follows:

Particulars	Unit	2013-14	2014-15	2015-16	POI
No. of Employees	No.	***	***	***	***
Trend	Indexed	100	105	106	113
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	145	260	230
Wages per Employee	Rs/ No.	***	***	***	***
Trend	Indexed	100	138	245	203

78. Authority notes that numbers of employees and the wages paid have increased from the base year till the period of investigation.

### **Productivity**

79. It can be seen from the table below that productivity in terms of production per employee has increased by 17% in the POI as compared to the base year.

	Unit	2013-14	2014-15	2015-16	POI
Production (MT)	M3	***	***	***	***
Employees	No.	***	***	***	***
Production/employee	MT/No.	***	***	***	***
Trend	Indexed	100	104	117	117

80. The Authority notes that the figures relating to the productivity of the Domestic Industry has consistently improved throughout the injury period.

### **Growth**

<b>Growth</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>POI</b>
Production year on year	%	-	9	13	7
Domestic Industry Sales year on year	%	-	9.3	13.0	6.9
Profit & Loss year on year	%	-	61	279	31
Market Share of Domestic Industry year on year	%	-	2.71	1.14	-0.51

81. The domestic industry has contended that with increase in demand, the domestic industry had expected growth in profits, comfortable cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same to the desired levels due to the presence of the dumped imports from subject countries.

82. The analysis show that the Domestic industry sales year on year has increased with an exceptional rise in 2015-16.

### **Magnitude of Dumping:**

83. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin determined against two of the subject countries is above *de minimis*.

### **Ability to raise Capital Investment:**

84. There is no verifiable information presented by the Domestic Industry and neither available on records that can imply that future investment in the sector can be marred by the presence of dumped imports from subject countries, which in any case, account for 2% to 7% (range during the injury period) of the total production.

85. Ability of the domestic industry to raise capital investments for the sector may not be affected due to the dumped imports from the subject countries.

### **Conclusion on Injury**

86. Having regard to the information on record and after examination of the performance of the Domestic Industry, the Authority notes that the dumped imports of the subject goods from subject countries have increased in absolute terms. Marginal increase in imports is observed in relation to production and consumption of the subject goods in India.

87. The examination indicates that there is a healthy demand in India for the subject goods. It is also noted that the landed value of subject goods from subject countries are below the sales realization of the domestic industry. The domestic industry has been able to increase its prices in spite of the decrease in the cost of sales.

### **MAGNITUDE OF INJURY MARGIN**

88. The determined non-injurious price of the subject goods produced by the Domestic Industry has been compared with the landed value of the exports from subject countries for determination of injury margin during POI as under:-

Sr. No	Country	Producer/Exporter	NIP (USD /M3)	Landed Value (USD/M3)	Injury margin (USD/M3)	injury margin %	Range %
1	China PR	All exporters/producers	***	***	***	***	20-30%
2	UAE	M/s Gypsemna Co. (L.L.C.), Dubai	***	***	***	***	0-10%
		Any other producer	***	***	***	***	15-25%

### **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

#### **Views of the Domestic Industry**

89. The following are the submissions relating to the likelihood of dumping and injury made by the domestic industry during the course of the present investigation and considered relevant by the Authority:

- i. The exporters in the subject countries have got huge production and surplus capacities of the subject goods. Further, the excess capacity available with such exporters is in itself many times the total production capacity of the Domestic Industry. The country wise production capacity and surplus capacity is as below:

Country	Capacity	Estimated exportable capacity	Capacity as % of capacity of Domestic Industry
UAE	1166250	816250	167%
Indonesia	1925000	500000	275%
China	22050000	6615000	3155%
Thailand	2600000	1575000	372%

- ii. The South African International Trade Administration recommended the continued imposition of anti-dumping duty on imports of gypsum plasterboard from Indonesia and Thailand.
- iii. The continued imposition of the duties by the South African Commission clearly establishes the fact the exporters from Indonesia and Thailand have indulged in dumping practices not only in India but also in other countries.
- iv. The dumping practices of these countries along with the fact that these countries have huge exportable surplus further substantiate that in case the duties are not extended there is every possibility of continuation or recurrence of dumping and injury from the subject countries.
- v. The existence of current dumping and injury margins in itself establish that the Domestic Industry is destined to suffer greatly if the current anti-dumping duties are revoked.

#### **Submissions made by the producers/exporters/importers/other interested parties**

90. The following are the submissions for examining likelihood of dumping and injury made by the opposing interested parties during the course of the present investigation and considered relevant by the Authority:
- i. The Domestic Industry has failed to prove that there is any likelihood of dumping or injury since all the parameters relating to the threat of material injury set out in in para (vii) Annexure II to the Anti-dumping Rules, 1995 are not met with in the present case.
  - ii. Having mere capacity is not sufficient to prove likelihood of injury. The applicant is required to prove that the existence of such surplus capacity with the exporters would result in dumping of products in India. However, the applicant failed to prove any such allegation and hence such an allegation doesn't stand the qualified evidence under the likelihood parameter.
  - iii. While M/s Gypsemna cannot comment on the South African investigation against the PUC in the instant case, it is noteworthy to point out that no such duty was levied on imports from UAE. This goes to prove that even other jurisdictions have not found producers from UAE guilty of engaging in a practice of dumping goods.

#### **Examination of Authority**

91. The Authority has examined the contention of the Domestic Industry to examine likelihood of continuation or recurrence of dumping and injury with specific reference to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of

Annexure II to the rules read with Nirma Ltd. Vs Union of India 2017(346) E.L.T 328 (Guj) decided on 13/12/2016.

**(a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation**

92. As regards the argument regarding post POI data, it is noted that the Authority has not received post POI information from the exporters and other interested parties have not submitted their response as well.
93. Further the information pertaining to Post POI period, import data was not submitted by the domestic industry. Hence, the domestic industry has not established continuation of dumping of subject goods from subject countries post POI, with corroborating evidence. Further, the capacity detail given in the submission lacks the unit of measurement in which capacities of subject goods from subject countries have been estimated by domestic industry.
94. Further, the contention that domestic industry will continue to suffer injury because of continued dumped imports from subject countries, cannot be established in the instant case for the following reason: (a) In the present case, the domestic industry is not suffering injury on any of the economic parameters during the period of investigation, as seen from the preceding paragraphs on injury analysis and examination of major economic parameters (b) no verifiable documents submitted to claim injury in the post POI period.

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

95. This parameter for ascertaining the threat of material injury requires evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market. Domestic industry has claimed that the producers in subject countries are already faced with significant surplus capacities. Further, these producers are exporting the product to a large number of countries, a very significant proportion of which is being exported at a price below the prices in respect of India, thus showing likelihood of diversion of these exports to India in the event of withdrawal of Anti-Dumping duty. None of the interested parties have provided any verifiable evidence and information with regard to existing surplus capacities, and consequent likelihood /possibility of increased dumped exports to Indian market. Further, a communication was sent to the Domestic Industry to provide evidences of the same. No response has been received either.

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

96. At the current landed price in India, there is price undercutting during POI without anti-dumping duty in case of the subject goods from only two of the subject countries viz. China and UAE.

**(d) Inventories of the article being investigated**

97. The facts available on records do not contain any dependable evidence on inventories of the article being investigated.

**(e) Price attractiveness of Indian market**

98. The post POI transaction-wise import data of the import price, at which the subject goods are being exported by subject countries to India, is an indicator of the likelihood of continuation of dumping. No details of the same has been provided either by the Domestic industry or any other interested parties.

**(f) Vulnerability of Domestic Industry in terms of price sensitivity of the product and the Indian market**

99. It has been contended by domestic industry that the Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. Such being the case, availability of such low priced imports from the subject countries in the market would cause an adverse impact on the Domestic Industry. Given the facts of the instant case, and considering the above discussed current dumping and likelihood of dumping and injury parameters, it is noted that interested parties have not commented on the price sensitivity of the product that makes the domestic industry vulnerable.

**OTHER KNOWN FACTORS & CAUSAL LINK**

100. Under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not.

101. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

**(a) Volume and prices of imports from third countries**

102. The imports of the subject goods from countries other than the subject countries are significant as revealed by the transaction-wise data from DGC&IS. The pattern is seen throughout the injury period. The imports are reportedly higher in volume accounting for nearly 78% of the total imports during the period of investigation.

**(b) Contraction of demand and changes in the pattern of consumption.**

103. There has been a steady increase in demand of the product concerned throughout the injury period.

**(c) Developments in technology:**

104. Technology for production of the product concerned has not undergone any change.

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

105. There is no trade restrictive practice, which could have affected the Domestic Industry. The raw materials as well as the subject goods are freely importable in the country.

**(e) Export performance of the domestic industry**

106. The injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

**(f) Productivity of the Domestic Industry**

107. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

**POST DISCLOSURE STATEMENT**

108. The issues raised at post disclosure stage have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions, whichever appropriate to the context and has factual basis have been summarized and again addressed as below. Further, issues have been addressed at respective paras in the present Final Finding:

**Submissions made by the Domestic Industry**

109. The comments submitted by domestic industry are summarized as below:

- i. Sufficient time has not been given for submission of comments to the disclosure statement.
- ii. Authority incorrectly analysed that there is no price pressure on the Domestic Industry.
- iii. With the inclusion of Anti-Dumping Duty there is positive price undercutting from UAE and China.
- iv. Serious price undercutting to the extent of 35% in case of China and 20-30% in case of UAE.

- v. Disclosure statement didn't mention why price undercutting should not have been made on the basis of landed price without Anti-Dumping Duty.
- vi. Failure to provide any comments as the Designated Authority hasn't provided the details of the NIP.
- vii. Authority ignores serious positive and substantial price underselling in case of China and UAE.
- viii. Current analysis of Designated Authority proves that the improved performance of Domestic Industry is only on account of Anti-Dumping Duty in place.
- ix. Landed value with Anti-Dumping Duty reflected the same indexed numbers which is a typographical error
- x. Issue a fresh disclosure statement with correct numbers as well as analysis on such corrected numbers.
- xi. Variation in capacity cannot be termed as an increase in capacity. Variation is mainly on basis of two major accounts a) due to reduction in weight of the product and b) increased the output by way of debottlenecking as reduction in product weight led to increase in line speed
- xii. Increase of 16% in capacity would imply increase of 48% in the POI when compared to the base year and which is not the case. Hence observation in the disclosure statement is incorrect and need new analysis.
- xiii. Volume of subject goods at dumped prices is increasing and therefore apart from current injury there is likelihood of future injury if the duties are revoked.
- xiv. Analysis failed to consider that all the imports during the POI are mainly from Oman, Saudi Arabia and Thailand.
- xv. Charts show that imports and market share from the subject countries have increased throughout the injury period in which landed value decreased.
- xvi. Market share of other countries in total imports also increased in same proportion as of increased in market share in imports from subject countries
- xvii. Observation in disclosure statement is flawed as far as analysis of landed value is taken in account
- xv. Analysis of the Authority in para 83 doesn't hold merit and is factually incorrect.
- xvi. Exporters refused to provide post POI data and are still being considered cooperating exporters.
- xvii. Incorrect to state that Domestic Industry has not established continuation of dumping as the post POI-import data has not been filed.
- xviii. Post POI data is limited to analysis of likelihood. Continuation of dumping itself gets established by the Authority
- xix. No request or direction was made by DGAD to Domestic Industry to provide post-POI data
- xx. Referring to para 44 the Domestic Industry noted that the Authority itself determined that the injury analysis carried out shows dumping caused injury to the Domestic Industry. Hence its beyond understanding how the

Authority determined that the Domestic Industry is not suffering injury on any economic parameters.

- xxi. Post hearing the Domestic Industry made a request to DGAD to give authorization to obtain post-POI data and without waiting for the data the disclosure statement was issued.
- xxii. There is however no legal or logical requirement that the likelihood has to be carried out based on post POI data.
- xxiii. The unit of measurement for capacities has been estimated as M3 and mentioned in the application and the same should be noted by the Designated Authority.
- xxiv. Proper analysis of Exporter's Questionnaire Response would itself give an idea of existing surplus capacities with the producers.
- xxv. None of exporters or interested party has disputed the evidence provided by Domestic Industry in respect of surplus capacities from subject countries.
- xxvi. Referring to para 98 the Domestic Industry noted that Authority is incorrect as the Authority can determine the inventory related information from cooperating exporters from Part II of their responses.
- xxvii. Domestic Industry has come to know from market inputs that the landed price of subject goods from subject countries has further declined in post POI data.
- xxviii. Designated Authority ignored submission in regard to Anti-Dumping Duty imposed by other countries against the exports from subject countries.

#### **Submissions made by the Exporters/producers and other interested parties**

110. The comments submitted by other interested parties are as below:

- i. Exporter's Questionnaire Response was submitted with full evidence of cost of production and domestic and other prices, irrespective of the same, the Authority had ignored the response and concluded likelihood of recurrence of dumping because the same has been imposed by South African Authorities.
- ii. Conclusion that can be drawn from the disclosure statement is that there is no current dumping or injury nor any likelihood of continuation or recurrence of dumping or injury concerning imports of subject goods.
- iii. Next Generation Standard board is also liable to be excluded for the sole reason that the same is not manufactured or imported into India. It also contains special properties.
- iv. Owing to petitioner's related parties in UAE, Thailand and Indonesia manufacturing the product under consideration, the petitioners are not eligible domestic industry under rule 2(b) of the Rules.
- v. From the conclusion noted by the Authority it can be concluded that there is no dumping from Thailand.
- vi. Agreement with the conclusion of the Authority that for the purpose of cumulative assessment, un-dumped imports should be taken out for the purpose of injury analysis.

- vii. Absence of dumped imports from Thailand concludes that there is no current dumping or injury from imports originating or exported from Thailand.
- viii. All the economic parameters as noted by Authority also indicate that Domestic Industry is not suffering injury and has been able to improve its position substantially.
- ix. In regard to the first factor of likelihood, there have been no imports from Thailand to India during the injury period and neither post POI. Thus, there is no indication of likelihood of any increased importation. Further, no depressing or suppressing effect on the prices of the Domestic Industry.
- x. In regard to freely disposable capacity; SGISB has a 100% capacity Utilization rate and doesn't have any freely disposable capacity. As far as SGISK is referred, there might have a minimal free capacity which is being utilized to cater the increasing demand in Thailand and other alternative markets. Hence no threat of any substantial increase in imports of the subject goods from Thailand and in future.
- xi. The South African Authority report cannot be relied upon owing to different POI in the investigation, determination was based on adverse facts and there were presence of exports from Thailand which is lacking in the current investigation.
- xii. The Authority did not terminate the investigation despite agreeing that there is no prima facie justification for continuation of the Anti-Dumping Duty.
- xiii. Accuracy and discrepancy existed in the petition as the application mostly contained self-serving and contradictory statements and the NCV version was insufficient and was inaccurate.
- xiv. Presence of related party in UAE should restrict the petitioner from claiming excessive capacities in UAE.
- xv. Authority is required to re-examine the issue of confidentiality
- xvi. Though the Authority has noted that the imports have increased in both absolute and relative terms the same should have been seen in the light of increase in demand, increase in sales of domestic industry and increased in imports from non-subject countries
- xvii. The Authority noted that the allegation that domestic industry couldn't increase the price because of low price imports is false. However, the same is due to the non-subject imports as can be established from comparable CIF import price of imports and higher landed price of imports from subject countries.
- xviii. The position taken by domestic industry in regard that the subject countries have affected the market share of Domestic Industry is untenable: market share held by Domestic Industry has remained stable (65-63% in first 2 years and 61-60% in last two years)
- xix. Imports from other countries increased sharply along with increase in demand
- xx. The Domestic Industry need to prove that the existence of surplus capacity would result in intensified dumping in India. Authority have noted of the same.
- xxi. Need for PCN wise analysis as the Product under consideration is being produced and sold in different types and thickness and the same has different cost and prices.
- xxii. Authority is requested to kindly note the comparable prices for the same type of board from subject and non-subject countries

- xxiii. Profitability, return on capital employed and cash profit of Domestic Industry improved significantly over the injury period.
- xxiv. The Domestic Industry has suffered injury in respect to imports from China
- xxv. UAE producers despite admitted capacities have not resorted to dumping in South African market, which shows absence of likelihood of increased imports in India in the event of cessation of antidumping duty at lower prices.
- xxvi. The producers in non-subject countries are also holding significant capacities and the current volumes of exports to India are quite insignificant having regard to their capacities.
- xxvii. If the foreign producers in non-subject countries are not finding Indian market as attractive, there is no reason why producers in subject countries would find Indian market attractive.

### **Examination by Authority**

111. Most of the issues raised at post disclosure stage have been examined in above relevant paragraphs. Errors or omissions as pointed out in the disclosure statement have been rectified wherever necessary. The response of the Authority to the contentions raised post disclosure statement have been summarized below:
- i. Regarding availability of sufficient time for filing comments to disclosure statement, the Authority notes that sufficient time have been allowed to interested parties as per consistent practices of the Authority. It is also noted that most of the data/information in the disclosure statement pertains to the information provided by the petitioner domestic industry and therefore deemed to be within the knowledge of domestic industry. The domestic industry was merely called upon to consider such information, statements in the disclosure statement and offer its comments.
  - ii. The Authority does not agree that the submissions made by the petitioner with regard to injury or likelihood of injury have not been considered. All submissions made by the petitioner domestic industry have been adequately considered in the disclosure statement and Final Findings. However, where mere comments are reiterated without corroborating evidence, such comments have not been considered as essential facts. In fact, the domestic industry has advanced contradictory arguments with regard to injury. While contending that imports have caused injury to the domestic industry, the same has not been substantiated with facts and the same is also contrary to the facts on record with regard to performance of the domestic industry. The petitioner domestic industry has not shown any instance where the information/economic parameters adopted in the disclosure statement are materially different from what has been claimed by the petitioner. The authority has objectively examined various information provided by the petitioner and the same are in accordance with various legal provisions applicable in the instant case.
  - iii. The petitioner contended that price undercutting is positive after adding anti-dumping duty. It is noted that, the Authority has relied on the DGCI&S data for the analysis apart from the submissions. The landed price of imports from subject countries after

including ADD was materially higher than landed price of imports from non-subject countries. Further the volume import from non-subject countries was significantly higher than that from subject countries. This clearly shows that the petitioner could not have claimed that imports from subject countries have caused injury and imports from non-subject countries have not caused injury. Further, given the price and volume parameters of subject country imports vis-à-vis the non-subject country imports, the alleged price pressure on the domestic industry could not have been from imports from subject countries. It could have been due to imports from non-subject countries. The petitioner has provided no data/information/analysis to demonstrate that imports from non-subject countries did not create price pressure despite being at a lower price and being significantly higher in volumes.

- iv. Regarding the contention regarding sales parameters of the domestic industry, the Authority notes that sales of the domestic industry increased over the injury period. Further, import from non-subject countries increased significantly over the injury period whereas import from subject countries in relation to production only increased by 5%. Thus, alleged decline in domestic sales could not be established because of dumped import from subject countries.
- v. Regards alleged error in landed price of import, it is clarified that the indexed data has been presented correctly in the disclosure statement.
- vi. The petitioner has contended that there was no increase in capacities and there was merely a variation in the capacities. However, the petitioner itself presented data wherein it has shown increase in capacity over the injury period. Whether such increase in capacity is due to addition of production facilities or de-bottlenecking or due to change in product mix or due to increased efficiencies is immaterial in deciding whether the capacities have increased over the period.
- vii. The reference to post POI data is with regard to possible claim of likelihood by the interested parties based on post POI data. It is clarified that the Authority has not directed any party to provide post POI data. It is for the interested parties to decide whether they wish to rely upon post POI data to advance their case. Neither the domestic industry nor the exporters advanced the arguments in their favour based on post POI data and accordingly Authority has not examined merits of the case based on post POI data. While commenting on absence of post POI data from exporters, the domestic industry ignored that even domestic industry has not made any claims based on the basis of post POI data.
- viii. Regarding the contention that the petitioner domestic industry, in fact had made efforts to collect post POI data and Authority did not provide adequate time, it is clarified that the Authority considers 6 months' period after the investigation period for post POI data submission as satisfactory. The post POI period in the instant case ended in June, 2017 and the Authority had held hearing in March, 2018. It was open for the interested parties to obtain post POI data and advance their case on the basis of the same. The petitioner domestic industry however did not make efforts in collecting post POI data

upto the stage of hearing and has now attempted to blame the Authority for not providing adequate time to the domestic industry while issuing disclosure statement. It is also noted that while domestic industry has advanced significant arguments with regard to post POI data, it has even contended that the post POI data is not even necessary for likelihood examination and the likelihood should be based on data for the present injury period. Thus, on one hand domestic industry sought rejection of data filed by exporters on the grounds that they have failed to provide post POI data whereas, on the other hand, the domestic industry questioned the need for post POI data. The contradictory statements given by the petitioner constraints the Authority to objectively examine the instant contention of the petitioner.

- ix. Regarding Para 44 of the disclosure statement, the Authority notes that the domestic industry has read this portion of the disclosure statement in isolation and not in totality. The averment at Para 44 of the disclosure statement is only with regard to the nature of examination carried out by the Authority and not with regard to conclusion by the Authority. This becomes all the more evident from the fact that the Para is placed at the beginning of the examination by Authority and even before analysis of various injury parameters. The Authority does not arrive at conclusions regarding existence of injury to the domestic industry without analysing injury parameters. Thus, the examination at Para 44 refers to only the nature of examination that has been carried out by the Authority and does not reflect a conclusion on injury by the Authority.
- x. The domestic industry contended that existence of positive price undercutting and injury margin itself implies whether domestic industry has suffered injury. The Authority however considers that there is no legal and factual basis for the same. The fact whether domestic industry has suffered injury is required to be determined having regard to the provisions of Annexure-II and mere existence of positive price undercutting, injury margin per-se does not imply that the domestic industry has suffered injury. In particular, the Authority considers whether performance of the domestic industry has deteriorated in order to hold that the domestic industry has suffered continued injury.
- xi. Contrary to the claim of domestic industry, the exporters have disputed the claim of domestic industry with regard to reliance on capacities as the sheer indicator of surplus capacities. The interested parties have contended that the domestic industry has equated capacities with surplus capacities.
- xii. The petitioner has argued that existence of current dumping is not necessary to consider likelihood or recurrence of dumping. The Authority however notes that in those situations where there is no current imports and hence current dumping, the petitioner is required to establish likelihood of recurrence of dumping of the product in the country. The petitioner has not been able to establish with corroborating evidence that there is likelihood of recurrence of dumping in the country. Further, the Authority notes that a communication was sent to petitioner on 21/3/2018 stating the following:

*“Reference : Para 8 of the rejoinders which refers to the parameters to establish likelihood . Can you please list the evidences ( references of documents that have been submitted ) you have provided with regard to (1) huge surplus capacities (2) export orientation (3) dumping behavior (4) aggressive pricing strategies “*

No response has been received from the petitioner on the same. The mail has been placed in the Public file.

- xiii. Regarding need for examination of causal link, the Authority clarifies that the Authority has consistently examined causal link even in sunset reviews. It is considered that the domestic industry is required to establish that cessation of ADD is likely to lead to recurrence of injury to the domestic industry. In a situation where domestic industry has not suffered continued injury, it is evident that there is no causal link between current dumping and injury to the domestic industry. Therefore, the Authority examined the likelihood of recurrence of injury due to likelihood of continued dumping in the event of cessation of anti-dumping duties.
- xiv. Regarding anti-dumping duty imposed by other countries against the exports from subject countries, the Authority notes that the antidumping duty has been imposed on those countries who have not exported the product in the Indian market. Whereas, those countries who are exporting the product in Indian market and suffering antidumping duty are not covered by these measures. Thus, the fact of imposition of antidumping duty by other countries does not establish likelihood of dumping and injury to the domestic industry.

### **CONCLUSION**

112. Various statements in the petition showed that the petitioner itself admitted that it is not suffering injury. The petitioner contended that the Anti-dumping duty imposed played an effective role in development of domestic industry and providing necessary protection against imports. Further, volume of imports from subject countries declined significantly between original investigation POI to present POI.
113. The conclusion is summarized below:
- i. Various economic parameters relating to Domestic Industry has shown improvement.
  - ii. Domestic Industry failed to show that the injury has been suffered by Domestic Industry owing to imports.
  - iii. Domestic Industry failed to substantiate their claim in relation to likelihood of injury to the domestic industry with cessation of Anti-Dumping duty.
  - iv. The imports from non-subject countries are much higher in volume and comparable in price and are admittedly not causing injury wherein imports from non-subject countries and sales of Domestic Industry has increased more than imports from subject countries.

## **RECOMMENDATION**

114. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted the investigation into dumping, injury and causal links in terms of the provisions laid down under the Anti-Dumping Rules, the Authority holds that there is no evidence that dumping and consequent injury to the domestic industry is likely in case the present Anti-Dumping duty is not extended further due to reasons given above, nor there is any causal link between the dumped imports and likely injury to the domestic industry. Therefore, the Authority does not recommend continuation of the anti-dumping duty on the imports of subject goods from the subject countries.
115. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

**(Sunil Kumar)**  
**Additional Secretary & Designated Authority**