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F. No. 7/13/2022-DGTR

Government of India, Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Trade Remedies)

4th Floor, Jeevan Tara Building,

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Dated: 12th April 2023

(Case No. AD (SSR)-05/2022)

FINAL FINDING

Subject: Sunset review investigation of anti-dumping duty on the imports of ‘Grinding Media Balls excluding Forged Grinding Media Ball’ originating in or exported from China PR and Thailand.

F. No. 7/13/2022-DGTR- 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 thereof, as amended from time to time (hereinafter also referred to as 'the Rules' or 'AD Rules') thereof –

The Designated Authority (hereinafter referred to as “Authority”) received an application from AIA Engineering Ltd. and Welcast Steels Ltd. (hereinafter also referred to as the “applicants” or the “domestic industry”) seeking initiation of a sunset review of the anti-dumping duty imposed on imports of ‘Grinding Media Balls excluding Forged Grinding Media Ball’ (hereinafter referred to as “GM Balls” or the ‘subject goods’ or the ‘product under consideration’ or the ‘PUC’ originating in or exported from China PR and Thailand (hereinafter referred to as the ‘subject countries’).

A. BACKGROUND OF THE CASE

1. The Designated Authority had initiated an original investigation concerning imports of “Grinding Media Balls excluding forged Grinding Media Balls” originating in or exported from Thailand and China PR vide Notification No. 14/34/2010-DGAD dated 23rd May 2011. The final findings notification was issued by the Authority vide Notification No. 14/34/2010-DGAD dated 22nd May 2012, recommending the imposition of definitive Anti-Dumping Duty (ADD) on the imports of the subject goods. Definitive anti-dumping duties were imposed by the Ministry of Finance vide Notification No. 36/2012- Customs (ADD) dated the 16th of July 2012.
2. The Authority had thereafter initiated the first sunset review investigation concerning imports of the subject goods from the subject countries vide Notification No. 7/7/2017-DGAD dated 04th July 2017. The final findings notification was issued by the Authority

vide Notification No. 7/7/2017-DGAD dated 11th June 2018 recommending the extension of the duties in force on the imports of the subject goods, originating in or exported from the subject countries. The anti-dumping duties were extended by the Ministry of Finance vide Notification No. 36/2018-Customs (ADD), dated 13th July 2018. The said duties were levied for a period of 5 years and are set to expire on 13th April 2023.

3. In terms of Section 9A (5) of the Act, ADD imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition; and the Authority is required to review, whether the expiry of ADD is likely to lead to continuation or recurrence of dumping and injury. Further, Rule 23 (1B) of the Rules provides as follows:

“any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.”

4. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of ADD is likely to lead to continuation or recurrence of dumping and injury.
5. In view of the duly substantiated application with prima facie evidence submitted by the applicants, the Authority issued a public notice vide notification no. 7/13/2022-DGTR dated 30th September 2022, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A (5) of the Act, read with Rule 23 of the Rules to review the need for continued imposition of ADD in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of the said ADD is likely to result in continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the previous investigations on imports of subject goods originating in or exported from the subject countries.

B. PROCEDURE

7. The procedure described below has been followed with regard to the subject investigation:
 - a. The Authority notified the Embassy of the subject countries in India about receipt of the application for sunset review investigation before proceeding to initiate the present investigation in accordance with Sub-Rule (5) of Rule 5 of the Anti-Dumping Rules.

- b. The Authority issued a public notice dated 30th September 2022 published in the Gazette of India Extraordinary, initiating sunset review investigation concerning anti-dumping duty imposed on imports of the subject goods from the subject countries.
- c. The Authority sent a copy of the initiation notification dated 30th September 2022 to the Embassies of the subject countries in India, the known producers and exporters from the subject countries, known importers, importer/user Associations and other interested parties, as per the addresses made available by the applicants. The interested parties were advised to provide relevant information in the form and manner prescribed and to make their submissions known in writing within the prescribed time-limit.
- d. 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 countries in India in accordance with Rule 6(3) of the Rules.
- e. The Authority sent questionnaires to the following known producers/ exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. Magotteaux Co Ltd., Thailand (“Magotteaux Thailand”).
 - ii. Magotteaux Alloyed Material (Suzhou) Co Ltd., China (“Magotteaux China”)
- f. In response to the above notification, the following producers/exporters have responded and submitted/filed exporters’ questionnaire responses:
 - i. Magotteaux Co Ltd., Thailand.
- g. The Authority forwarded a copy of the notification and questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. ACC Ltd.
 - ii. Alcon Cement Company Pvt. Ltd.
 - iii. Ambuja Cement Ltd.
 - iv. Andhra Cement Co. Ltd.
 - v. Anjani Portland Cement Ltd.
 - vi. Asian Concretes and Cements Pvt. Ltd.
 - vii. Bharat Heavy Electricals Ltd.
 - viii. Binani Cement Ltd.
 - ix. Birla Corporation Ltd.
 - x. Cement Manufacturing Co. Ltd.
 - xi. Century Cement, Century Textiles & Industries Ltd.
 - xii. Chariot Steel & Power (P) Ltd.
 - xiii. Chowgule & Company Ltd.
 - xiv. Chunar Churk Cement Ltd.
 - xv. Deccan Cements Ltd.
 - xvi. Diamond Cements Ltd.
 - xvii. Durga Cement, Andhra Cements Ltd.

- xviii. ECO Cement India Ltd.
- xix. Grasim Industries Ltd.
- xx. Green Valley Industries Pvt. Ltd.
- xxi. Gujarat Sidhee Cement Ltd.
- xxii. Gujarat State Electricity Corporation Ltd.
- xxiii. Heidelberg Cement India Ltd.
- xxiv. Hindustan Zinc. Ltd.
- xxv. India Resources Ltd.
- xxvi. J.K Cement Ltd.
- xxvii. J.K Lakshmi Cement Ltd.
- xxviii. Jaiprakash Associates Ltd.
- xxix. Jaypee Infrastructure Ltd.
- xxx. Jindal Steel & Power Ltd.
- xxxi. Kakatiya Cement Sugar & Industries Ltd.
- xxxii. Keerthi Industries Ltd.
- xxxiii. Kesoram Industries Ltd.
- xxxiv. Khyber Industries (P) Ltd.
- xxxv. Lafarge India Pvt. Ltd.
- xxxvi. Madras Cements Ltd.
- xxxvii. Maharashtra State Power Generation Company Ltd.
- xxxviii. Mahi Cement (Banswara) Ltd.
- xxxix. Birla Corporation Ltd.
 - xl. Mandovi Pellets Ltd.
 - xli. Megha Technical & Engineers Pvt. Ltd.
 - xl.ii. Meghalaya Cements Ltd.
 - xl.iii. MSP Steel and Power Ltd.
 - xl.iv. Murali Industries Ltd.
 - xl.v. My Home Cement Industries Ltd.
 - xl.vi. NCL Industries Ltd.
 - xl.vii. NGS White Cement Company Ltd.
- xl. OCL India Ltd.
- xl. Orent Cement Ltd.
 - l. Panipat Thermal Power Station
 - li. Panyam Cements & Mineral Industries Ltd.
 - lii. Parsakti Cement Industries Ltd.
 - liii. Penna Cement Industries Ltd.
 - liv. Prism Cement Ltd.
 - lv. Rain Commodities Ltd.
 - lvi. Rashmi Cement Ltd.
 - lvii. Reliance Infrastructure Ltd.
- lv. Sagar Cements Ltd.
- lix. Saloni Industries
- lx. Samruddhi Cement Ltd.
- lxi. Sarda Energy & Minerals Ltd.
- lxii. Saurashtra Cement Ltd.
- lxiii. Shiva Cement Ltd.
- lxiv. Shree Cement Ltd.
- lxv. Shree Digvijay Cement Company
- lxvi. DCM Shriram Ltd.

- lxvii. Suday Minerals & Chemicals (P) Ltd.
- lxviii. Tata Chemicals Ltd.
- lxix. The India Cements Ltd.
- lxx. Trinayani Cement (P) Ltd.
- lxxi. Trumboo Industries Private Ltd.
- lxxii. U.P Rajya Vidyut Utpadan Nigam Ltd.
- lxxiii. Ultratech Cement Ltd.
- lxxiv. Vasavadatta Cement
- lxxv. Zuari Cement Ltd.

- h. In response to the above communication, none of the importers or users responded or submitted importer/user questionnaire responses/legal submissions and/or registered as interested parties.
- i. The Authority sent questionnaires to the following known user association of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. National Council for Cement and Building Materials
 - ii. Cement Manufacturers Association
 - iii. The Indian Mining and Engineering Journal
- j. In response to the above notification, none of the user associations responded or submitted any submissions and/or registered as interested parties.
- k. The Authority, upon request made by the interested party, granted extension of time to file the questionnaire responses, vide communication dated 10th November 2022. The Authority, upon request made by the responding exporter, granted further extension of time to file the additional information, vide communication dated 03rd February 2023. The Authority during the course of investigation sought additional information from all the interested parties.
- l. Since it was not possible to maintain physical public file due to ongoing COVID-19 pandemic, all the interested parties were requested to e-mail non-confidential versions of their submissions/responses/comments filed by them to all the other interested parties.
- m. The period of investigation (POI) for the purpose of the present investigation is 1st April 2021 to 31st March 2022. (12 months). The injury examination period has been considered as the period from 2018-19, 2019-20, 2020-21 and the POI.
- n. The transaction-wise imports data for the period of investigation and the preceding three years was procured from the DG Systems. The Authority has relied upon data of DG

Systems for calculating the volume and value of imports of the subject goods in India and for comparison and reconciliation with the responses filed by the exporters.

- o. Further information was sought from the applicants and responding exporters/ importers to the extent deemed necessary.
- p. The non-injurious price (hereinafter referred to as “NIP”) has been determined, based on the optimum cost of production and reasonable profits, for the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been worked out so as to ascertain whether cessation of anti-dumping duty is likely to lead to continuation or recurrence of injury to the domestic industry.
- q. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held through video conferencing on 16th February 2023. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.
- r. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during the course of investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this final finding notification.
- s. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this final finding notification, to the extent possible, and verified the data/documents submitted by the domestic industry to the extent considered relevant and possible.
- t. Physical verification of the information provided by the domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information, wherever applicable, has been relied upon for the purpose of this final finding notification.
- u. Due to the worldwide outbreak of COVID-19 and consequent restrictions on physical movement imposed by the different countries, including India, the physical inspection through on-the-spot verification of the information submitted by the exporters were not carried out by the Authority. The desk verification of the information provided by the producers/ exporters, was not conducted as the responding producer/exporter did not submit documentary evidences in support of their submissions.

- v. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. 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.
- w. A disclosure statement containing the essential facts in this investigation which have formed the basis of the final findings was issued to the interested parties on 05th April 2023, and the interested parties were allowed time up to 10th April 2023 to comment on the same. The comments on disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.
- x. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this final finding notification on the basis of the facts available.
- y. ‘****’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- z. The exchange rate adopted by the Authority for the subject investigation is US \$1= 75.37.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1. Submissions by the other interested party

- 8. The submissions made by interested party with regard to the product under consideration and like article are as follows:
 - a. No PCN methodology was notified by the Authority in the previous investigations and the same shall be continued in the present case.

C.2. Submissions by the domestic industry

- 9. The submissions made by the domestic industry with regard to the product under consideration and like article are as follows:
 - a. The product under consideration is the same as been defined in the previous investigations. The subject good is a like article to the product produced by the domestic industry as established in the previous investigations.
 - b. The domestic industry stressed on the need for PCN methodology as there has been huge difference in the price of the product sold by the domestic industry and Magotteaux.

C.3. Examination by the Authority

10. The product under consideration as defined in the original investigation is reproduced hereunder: -

“8. The product under consideration is ‘Grinding Media Balls’ (excluding Forged Grinding Media Balls). ‘Grinding Media Balls’ (in short, ‘GM Balls’) are produced in different sizes, shapes and compositions for use in diverse applications. Further, it is available different hardness depending upon varying requirements of the customers.

9. The product under consideration is extensively used in cement build materials, metal mining, coal slurry, thermal power plant, chemical engineering, ceramic industry, dope industry, light industry such as papermaking and magnetic material etc for powder preparation. The subject goods are classified under Customs sub-heading 7325 9100 of Chapter 73 of the Customs Tariff Act, 1975. However, the Customs classification is indicative only and in no way binding on the scope of this investigation.”

11. The present investigation is a sunset review investigation. There are no submission by any interested party requesting review of the scope of the product under consideration. The scope of the product under consideration remains the same as defined in the original investigation.

12. The Authority notes that the subject goods produced by the domestic industry are comparable to the imported goods from the subject countries in terms of product characteristics, product specifications, technical specifications, manufacturing process & technology, functions and uses, pricing, distribution and marketing, and tariff classification of the goods. The two are technically and commercially interchangeable. Accordingly, the Authority concludes that the subject goods produced by the domestic industry are ‘like article’ to the subject goods being imported from the subject countries in terms of Rule 2(d) of the Rules.

13. The Authority has noted the domestic industry’s submissions on the need for PCN methodology. However, the information on record shows that there are no imports from the subject countries. Further, the responding exporter’s questionnaire response shows no exports to India. It is also noted that no PCN methodology was notified by the Authority in the original investigation and in the first sunset review investigation. Therefore, the Authority has not defined PCNs for the present investigation. However, wherever required grade to grade comparison has been undertaken for fair comparison.

D. SCOPE OF THE DOMESTIC INDUSTRY AND STANDING

D.1. Submissions by other interested party

14. The following submissions have been made by the other interested party:
 - a. The review petition is deficient as no authorization letter/ requisite certificate in Format X has been enclosed for Welcast Steels Ltd. No evidence of support has been enclosed for Welcast Steels Ltd.
 - b. Other domestic manufacturers have not participated/supported the petition. The domestic industry is aiming to monopolise and coerce them to shut down their operations.

D.2. Submissions by the domestic industry

15. The following submissions have been made by the domestic industry:
 - a. AIA Engineering Ltd. and Welcast Steels Ltd. account for a major proportion of the Indian production of the like article.
 - b. Apart from the domestic industry, there are 11 other domestic producers who predominantly cater to the domestic demand. Support letters received from four domestic producers have been adduced as legal submissions before the Authority.
 - c. Non- participation by other domestic producers is owing to the fact that they're (i)MSME (ii) cater only to domestic demand (iii) have no exports.
 - d. As regards the contention that the review petition is deficient, it is submitted that the applicants have complied with the requirements of the petition and the same was duly scrutinised by the Authority.
 - e. As regards no other domestic manufacturers have participated, the domestic industry has submitted support letters from other domestic manufacturers seeking continued imposition of duties.

D.3. 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 has been filed by AIA Engineering Ltd. and Welcast Steels Ltd. There are 11 other producers of the product under consideration in India. During the course of the

investigation, four producers have filed support letters supporting the application and the requested for extension of anti-dumping duty.

18. The Authority notes, on the basis of information on record, that the applicants account for ***% of Indian production and accounts for a major proportion of the total Indian production. Further, the applicants have not imported the subject goods during the period of investigation; and are not related to any exporter or producer of the subject goods in the respective subject countries or any importer or user of the product in India within the meaning of Rule 2(b).

19. Therefore, having regard to information on record, the Authority, concludes that the applicants constitute ‘domestic industry’ within the meaning of Rule 2(b) of the Rules. Even though the standing requirements are not applicable to review investigations, the Authority concludes that the application satisfies the requirements of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by other interested party

20. The following submissions have been made by the other interested party:

- a. The applicants have claimed excessive confidentiality in their application. Reliance is placed on *Reliance Industries Ltd. v. Designated Authority and Ors*, [2006 (202) ELT 23 (SC)]

E.2. Submissions by the domestic industry

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

- a. Not only has the respondent claimed excessive confidentiality in contravention to the Trade Notice, Rules, and principles of natural justice, but also their explanations to the same is absurd and illogical. Reliance is placed on CESTAT order in the matter of *H.R. Johnson v. Designated Authority* [2005(185) ELT 125 (Del)] and other findings of the DGTR wherein the responses were rejected owing to failure to furnish meaningful non-confidential version of the information claimed confidential.
- b. As regards the contention that the petition is excessively confidential, it is submitted that the argument is severely belated and should therefore not be accepted. Further, *Magotteaux* has already been called upon by the Authority on its non-compliance to the Trade Notice, whereas the applicants have not been.

E.3. Examination by the Authority

22. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

“Confidential information:

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

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

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

23. The Authority examined the confidentiality claims of the interested parties. The Authority had instructed Magotteaux to file revised response after adhering to the Trade Notice 10/2018. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.

24. The Authority has considered the claims of confidentiality made by the applicants and the opposing interested parties. The Authority has noted that the questionnaire response initially submitted by the respondent was grossly insufficient and excessively confidential. Thereafter, the respondent was directed to provide complete EQR and sufficient non-confidential version of the information filed on confidential basis. The Authority has noted that the response re-filed continues to be excessively confidential. In accordance with Rule 7(3), the Authority has disregarded that information that is not accompanied with a sufficient non-confidential version for the purpose of the final finding notification. The Authority made available to all interested parties the non-confidential version of evidence submitted by various interested parties. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by other interested party

25. The following submissions have been made by the other interested party:
- a. Prolonged duty of imposition is against the spirit of cooperation amongst ASEAN partners.
 - b. If the duty is continued, the domestic industry will enjoy duty protection for an uninterrupted period of 10 years.

F.2. Submissions by the domestic industry

26. The following submissions have been made by the domestic industry:
- a. Magotteaux's manufacturing facilities in various countries has created trade barriers, eliminated competition through various trade actions, and maintained privileged trade access solely for their products.
 - b. Despite the legal requirement and direction, Magotteaux India, a related entity of Magotteaux Thailand has failed to participate in the current investigation. This is in spite of it being an importer, selling and marketing office, for Magotteaux and having undertaken domestic sales during the period of injury.
 - c. The questionnaire response submitted by the respondent is grossly inadequate and lacks sufficient response. The failure to provide a meaningful summary, meet the requirement sought by the Authority has impaired the domestic industry's right to defend its interest.
 - d. There are no known imports of the product during the injury period. There is only negligible volume recorded under the HS code, of which the price is excessively disproportionate to the volume. The domestic industry requests the Authority to investigate the volume so reported.
 - e. Even in the event of low volumes of imports, ADD can be continued. Reliance is placed on cases from various jurisdictions including India, Canada and EU.

F.3. Examination by the Authority

27. The Authority has considered the submissions made by the parties and concludes as follows:
- a. The Authority notes that the law clearly envisages that the anti-dumping duty is required to be extended from time to time if it is found that dumping and consequent injury to the domestic industry is likely in the event of cessation of anti-dumping duty. Anti-dumping law is for removing unfair trade practice and providing a level playing field to the domestic industry. The Authority recommends anti-dumping duty only after following the requirements prescribed under the laws.
 - b. It is noted that Magotteaux India Pvt. Ltd. participated in the hearing. However, despite multiple directions and requirement, the company has not cooperated with the Authority

and has not provided relevant information in the current investigation. In contravention to the Trade Notice 11/2018, Magotteaux India has not registered itself as an interested party to the current investigation. Despite this Magotteaux India's representative participated in the oral hearing and spoke in support of Magotteaux Thailand. Even though the Authority directed Magotteaux Thailand to provide relevant information in respect of Magotteaux India, the Authority notes that desired information was not provided for Magotteaux India. The Authority considers that response from Magotteaux India was relevant and necessary in the present investigation, since Magotteaux Thailand stated that it intends to export the product to India in the event of cessation of ADD, Magotteaux India is selling the goods in the domestic market during the present period. Additionally, as seen from the EQR of Magotteaux Thailand, Magotteaux India is currently engaged in production whereas it was only a marketing arm as observed in the original investigation.

- c. As regards adequacy of information filed by Magotteaux Thailand, the Authority had issued deficiency questionnaire to Magotteaux Thailand thereby giving them opportunity to complete the response. However, despite giving multiple opportunities, Magotteaux Thailand has not provided the following information desired by the Authority:
 - i. Audited Financial Statements for the 2021-22, 2019-20.
 - ii. Profitability Statements for the last three years.
 - iii. Performance parameters in trend.
 - iv. Variation in cost and sales data.
- d. Magotteaux Thailand has not provided any documents in support of the information furnished in their questionnaire responses with regards to their Capacity, Cost of production and sales. However, an e-mail was received from the counsel of Magotteaux Thailand on 5th of April, 2023 at around 01:40 A.M. when the Authority was in the process of issuing the disclosure statement. The authority notes that the exporter was given several opportunities to provide relevant information to the Authority throughout the course of the present investigation. The exporter however has not provided the relevant information during the time limit. The documents filed by the exporter at the stage of the issuance of disclosure statement by the Authority is significantly belated and time barred. The Authority therefore does not accept the submissions made by the said exporter at such a belated stage for the purpose of the final finding notification. In view of the above, the Authority established facts based on the best facts available to it.

G. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions by other interested party

28. No submissions have been made by the other interested party with regard to the normal value, export price and determination of dumping margin.

G.2. Submissions by the domestic industry

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

- a. China needs to be treated as a non-market economy for the reason that the costs and prices in China do not reasonably reflect the market forces. Hence, the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- b. Under Para 7, normal value for non-market economy country is required to be determined on the basis of prices of the subject goods in the market economy third country or price from such third country to the other countries, including India, or on some other reasonable basis. The applicants have suggested Thailand as an appropriate market economy third country for the present investigation
- c. The normal value for Thailand should be calculated on the basis of cost of goods sold by Magotteaux Co., Ltd., Thailand, the sole producer of the subject good in the country and reasonable profit margin.

G.3. Examination by the Authority

30. According to Section 9A(1)(c) of the Act, '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-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 transhipped 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.

Normal Value in China

31. Article 15 of China's Accession Protocol in WTO provides as follows:

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

"(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

32. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in Para 8 of the Annexure I of the

Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to this questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of Para 7 of Annexure I of the Rules.

33. The normal value and export price for all producers/exporters from the subject countries have been determined as below.

34. Para 7 of Annexure I of the Rules reads as under:

In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

35. None of the exporter/ producers in China have cooperated in the investigation. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proposes to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

All producers/exporters from China PR

36. In absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of the AD Rules, the Authority has determined the normal value by adopting the method “any other reasonable basis”.

37. The Authority has therefore constructed the normal value for China PR, for the purpose of present investigation.

Normal value determination for M/s Magotteaux Co Ltd., Exporter/producer from Thailand

38. While examination of the respondent's questionnaire response, the Authority notes that there are significant variations in the data in the questionnaire response submitted. It is seen that;
- a. While Appendix 1 shows volume of exports to third countries is as *** MT, in the submission made on transaction wise sales data to third countries for product under consideration in period of investigation, the respondent reported exports of *** MT. It is unclear whether these transaction wise sales contain NPUC sales.
 - b. The financial statement of the company, despite being required to submit for the last 3 years, the respondent has only submitted one. In Annexure 8, containing the financial statement for 2020-2021, which covers 9 months of period of investigation, it is seen that the company made a loss of *** million bhat in 2021 and a loss of *** million bhat in 2020, while in Appendix 7, company reported profit of *** million bhat for the company as a whole, *** million bhat profit in PUC and *** million profit in NPUC. No reconciliation has been provided in the response to show how a loss of *** million in 2021, turned into profit of *** million bhat in the period of investigation.
 - c. In the third country transaction wise data reported in Annexure 1, of Part II EQR, Inland freight reported shows abnormal per unit cost, from as low as *** bhat per MT to as high as *** bhat per MT. The difference is significant considering it is charged for freight from factory to seaport. Similarly, ocean freight in respect of exports to Australia varies from as low as *** bhat per MT to as high as *** bhat per MT, and Turkey varies from as low as *** bhat per MT to as high as *** bhat per MT. This significant variation is seen even on transactions for the same country during the same date such as Turkey – 30 August – freight *** bhat per MT and *** bhat per MT and, for Australia – 8 April – ocean freight reported varies from *** bhat per MT to *** bhat per MT.
39. Additionally, despite the Authority's direction to submit documentary evidence in support of their submissions and having provided a timeline of 10 days for the same, the respondent did not provide documentary evidence for desk-verification. In view of the above, Authority has determined the normal value based on the facts available in accordance to Rule 6(8).

Normal value of all other exporter/producers from Thailand

40. It is noted that M/s Magotteaux Co Ltd., Exporter/producer is the sole producer / exporter of the subject goods from Thailand. The normal value and export price from Thailand has been determined as per facts available.

Determination of export price of China PR and Thailand

41. None of the exporters from China PR have provided any information giving details of export price. The DG Systems data shows no imports of the product under consideration from China PR.
42. As regards Thailand, M/s Magotteaux Co Ltd., Thailand has responded to the investigation and stated that they have not exported the product under consideration to India. The Authority has verified the same through DG Systems data.
43. The Authority notes that there are no known imports of the product concerned from the subject countries during the POI. Therefore, actual dumping margin in respect of POI exports cannot be determined in the absence of the actual imports into India during the POI.

H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions by other interested party

44. The following submissions have been made by the other interested party:
 - a. The domestic industry is significantly export oriented and cannot allege recurrence of injury in case of cessation of duties.
 - b. The Authority should investigate the need for inordinately prolonged period of protection and inherent inefficiencies of the domestic industry which attributes to their injury. Reliance is placed on SSR concerning imports of Caustic Soda from Saudi Arabia and USA, (1 August 2018), Phenol from Japan and Thailand, (1 July 2016) Plain Gypsum Plaster Boards from China PR, Indonesia, Thailand, and UAE (19 April 2018).
 - c. The deterioration in the financial health of the domestic industry when the duties were in force are not the fault of Magotteaux.
 - d. Calculation of non-injurious price should take into account the COVID-19, and capacity expansion that has resulted in increased cost of interest and depreciation.
 - e. There is no merit in calculation of injury based on unmaterialised offers that are different and dissimilar from the domestic industry having no details of grade or PCN.
 - f. There is no volume injury, price injury, or any adverse effect on profitability, cost of sales, installed capacity etc.
 - g. Welcast working under protected environment of the duties have still suffered losses.
 - h. There is no merit in claiming that duties imposed on the domestic industry in other jurisdictions are causing injury to the domestic industry. Infact, the domestic industry has not even challenged any of these duties. Their claim is baseless.

- i. Duties imposed on the domestic industry in other jurisdictions indicates that they are exploiting the Indian domestic users by overcharging for the PUC.

H.2. Submissions by the domestic industry

45. The following submissions have been made by the domestic industry:
 - a. The domestic industry has not claimed continued dumping or injury. The existence of duty has in fact resulted in reasonable improvement in various economic parameters of the domestic industry.
 - b. Even though there are no or negligible imports from the subject countries, there exists sufficient freely disposable capacity with the foreign exporters. Reference is placed on investigations conducted in various jurisdictions.
 - c. Absence of current dumping or injury is not sufficient to conclude that the duty should not be continued.
 - d. As regards the contention that the domestic industry is export oriented, it is submitted that they are domestic producers and not export oriented unit. Further as one of the leading producers of the subject goods in the global market, the domestic industry is engaged in exports.
 - e. As regards the contention that the domestic industry's available capacity and expansions show no threat of dumping, it is submitted that the expansions have no correlation to threat of dumping faced from the subject countries.

Particulars	UOM	2018-19	2019-20	2020-21	POI
Sales of Domestic Industry	MT	***	***	***	***
Trend	Indexed	100	81	103	114
Sales of Other Domestic Producers	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Subject countries as a whole	MT	246	135	63	0
Other Countries	MT	83	120	9	52
Demand/consumption	MT	96,905	89,800	97,889	1,01,841

The sales of other domestic producers have been taken as their installed capacity from the market information submitted by DI.

- f. As regards the contention that the prolonged protection is against the spirit of ASEAN and that it is the inefficiencies of the industry that has attributed to the injury, it is submitted that no injury has been claimed by the applicants. Further, there is no bar on the period for which duties can be extended. Reference is placed on various

investigations in India, EU, Brazil, Canada, USA where duties have been extended for 15-30 years.

- g. As regards the contention on deterioration in financial health is not related to Magotteaux, there is no volume injury, price injury or adverse effect on performance parameters, the applicants submit that they have not claimed continued injury or that Magotteaux has caused them injury.
- h. As regards the contention that calculation of NIP should take into account COVID-19 and other effect, the calculation of NIP shall be governed by the rules and practises laid down.
- i. As regards the contention, that there is no merit in calculation of injury based on unmaterialised offers having no details of grade or PCN, it is requested that the Authority evaluate the offers submitted which has details of grades.
- j. As regards the argument that Welcast despite being protected by the duty continues to suffer losses, it is submitted that these losses are not due to dumping. The domestic industry is in the process of phasing out production of subject goods at Welcast and hence the resultant reduced capacity utilisation.

H.3. Examination by the Authority

- 46. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
- 47. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
- 48. The Authority notes that this being a sunset review of antidumping duty already in force, continuation of material injury to the domestic industry, as well as likelihood of continuation or recurrence of material injury needs to be examined in the context of actual or likely imports of the subject goods from the subject countries.
- 49. The Authority has examined the submissions made by the interested parties regarding the likelihood of recurrence of injury to the domestic industry in case of expiry of duty. It is noted that the present investigation has been initiated in terms of Section 9A(5) of Customs Tariff Act which requires the Authority to determine whether the duty is required to be continued for a further period of five years and to examine the degree and extent of likely

dumping and injury and the need for continuation or revocation of duty based on the information provided and submissions made by various interested parties during the course of the investigation. For the purpose of assessing current injury or continuation of injury during the injury period, the Authority has examined the volume and price effects of dumped imports on the domestic industry.

50. In consideration of the various submissions made by the interested parties in this regard, the Authority has first examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

51. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The 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 submitted by the domestic industry and other interested parties.

52. In the instant case, the Authority notes that there are no known imports of the product under consideration in India. Therefore, in any case, the domestic industry could not have suffered continued injury due to dumped imports. Nevertheless, the Authority examined the performance of the domestic industry over the present injury period.

53. As regards the argument that Welcast despite being protected by the duty continues to suffer losses, the Authority notes that these losses are not due to dumping. The domestic industry contends that it is in the process of phasing out production of subject goods at Welcast and hence the resultant reduced capacity utilisation.

H.3.1 Volume effect of dumped imports on domestic industry

(i) Assessment of demand/apparent consumption

54. The Authority has taken into consideration, for the purpose of the present investigation, demand, or apparent consumption of the product in India as the sum of domestic sales of the domestic industry and all other Indian producers, imports from the subject countries as per DG Systems data, and import from all other countries.

55. It is seen that the demand for the subject goods has increased during the period of investigation as compared to the base year and previous year.

(ii) Import volumes from the subject countries

56. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or

relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on volume of imports from the subject countries as per the DG System data. The factual position is as follows:

Particulars	UOM	2018-19	2019-20	2020-21	POI
Subject countries as a whole	MT	246	135	63	0
Other Countries	MT	83	120	9	52
Subject country imports in relation to					
Consumption	%	***%	***%	***%	***%
Trend	Indexed	100	59	25	0
Indian production	%	***%	***%	***%	***%
Trend	Indexed	100	57	28	0
Total imports	%	75	53	88	0

57. It is seen that imports from subject countries have declined in both absolute terms as well as in relation to production and consumption in India. Further, there were no imports of the product from subject countries in the present POI.

H.3.2 Price effect of the dumped imports

(i) Price undercutting

58. Since there are no known imports of the product under consideration from the subject countries, it is concluded that the subject imports have not undercut the prices of the domestic industry in the market.

(ii) Price suppression and depression

59. In order to determine whether the domestic industry is suffering suppressing or depressing effect on the prices, the Authority has considered the trends in costs and prices of the domestic industry. However, since there are no known imports of the product under consideration from the subject countries, it is proposed to conclude that the subject imports have not had any suppressing or depressing effect on the prices of the domestic industry in the market. The table below shows factual position with regard to the trends in the costs and prices of the domestic industry in the market:

Particulars	UOM	2018-19	2019-20	2020-21	POI
Cost of sales	Rs. /MT	***	***	***	***
Trend	Indexed	100	102	99	133
Selling price	Rs. /MT	***	***	***	***
Trend	Indexed	100	96	88	113

60. It is seen that the increase in cost of production is not commensurately reflected in the increase of selling price of the domestic industry. However, the domestic industry has submitted that the foreign producers are likely to dump the product at injured price in the domestic market in the event of cessation of duties, and if so, the circumstances will result in price depression in the market, leading to material injury to the domestic industry.

H.3.3 Economic parameters of the domestic industry

61. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

(i) Production, capacity, capacity utilization and sales

62. The capacity, production, sales and capacity utilization of the domestic industry over the injury period is given in the table below:

Particulars	UOM	2018-19	2019-20	2020-21	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	117	117	117
Production	MT	***	***	***	***
Trend	Indexed	100	96	91	97
Capacity utilization	%	***%	***%	***%	***%
Trend	%/Indexed	100	81	77	83
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	81	103	114
Export sales	MT	***	***	***	***
Trend	Indexed	100	97	91	94

63. It is seen that the domestic industry has increased its installed capacity in 2019-20. The production and capacity utilization declined till 2020-21 and has increased in the POI. Domestic sales volumes declined till 2019-20 and has increased thereafter till the POI.

(ii) Market share in demand

64. Market share of the domestic industry, other Indian producers, imports from the subject countries and other countries are shown in the table below:

Particulars	UOM	2018-19	2019-20	2020-21	POI
Imports from all sources	%	0.34%	0.28%	0.07%	0.82%
Sale of domestic industry	%	***%	***%	***%	***%
Trend	Indexed	100	88	102	108

Sales of other domestic producers	%	***%	***%	***%	***%
Trend	Indexed	100	108	99	95

65. It is seen that the share of the domestic industry decreased in 2019-20 but increased thereafter. The share of the subject imports has continued to remain nil (less than one percent) through the injury period.

(iii) Inventories

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

Particulars	UOM	2018-19	2019-20	2020-21	POI
Average Inventory	MT	5,413	7,551	7,853	7,630
Trend	Indexed	100	140	145	141

67. It is seen that average inventories with the domestic industry has increased in the period of investigation as compared to the base year and declined as compared to the previous year.

(iv) Profitability, cash profits and return on capital employed

68. Profit, profitability, cash profits, PBIT and return on investment of the domestic industry over the injury period is given in the table below:

Particulars	UOM	2018-19	2019-20	2020-21	POI
Profit/loss (PBT)	Rs./MT	***	***	***	***
Trend	Indexed	100	74	48	41
Total profit/loss (PBT)	Rs. Lacs	***	***	***	***
Trend	Indexed	100	60	50	46
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	60	50	46
Cash profits	Rs. Lacs	***	***	***	***
Trend	Indexed	100	63	56	56
Return on Investment	%	***%	***%	***%	***%
Trend	Indexed	100	62	60	40

69. It is seen that the profits, cash profits, PBIT and ROI of the domestic industry has declined continuously over the injury period.

(v) Employment, wages and productivity

Particulars	UOM	2018-19	2019-20	2020-21	POI
Number of employees	Nos.	***	***	***	***
Trend	Indexed	100	91	77	69
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	105	119	141

70. It is seen that the employment with the domestic industry has declined over the injury period. However, productivity of the domestic industry has increased significantly over the injury period and particularly in the POI as compared to the previous year as well as base year. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry.

(vi) Growth

71. While overall growth of the domestic industry over the injury period was negative both with respect to volume and price parameters, while the growth in volume parameters became positive in POI, the growth in price parameters remained negative.

(vii) Ability to raise capital investment

72. The domestic industry has not claimed material injury during the POI.

(viii) Magnitude of injury margin

73. The Authority has determined the non-injurious price (NIP) for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the information/data relating to the cost of production provided by the domestic industry for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials of the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed. The NIP so determined has been considered for calculating injury margin.

74. Since there are no imports of the subject goods from subject countries, the injury margin based on the exports during period of investigation has not been calculated. However, the Authority has relied upon calculated NIP for likelihood examination.

I. CAUSAL LINK & NON-ATTRIBUTION ANALYSIS

75. The Authority examined any known factors other than the subject imports which could be causing injury to the domestic industry, so that the injury caused by these other factors, if any, is not attributed to the dumped imports. Factors which are relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practises and competition between the foreign and domestic producers, developments in the technology and the export performance and productivity of the domestic industry. The Authority examines whether the factors other than dumped imports could be of injury to the domestic industry.

a) Volume and prices of imports from third countries.

76. It is seen that there are insignificant imports from other countries. Thus, volume and price of imports from third countries could not have been causing injury to the domestic industry.

b) Contraction in demand

77. It is seen that the demand for the product under consideration have increased in the POI as compared to the base year as well as the previous year.

c) Changes in pattern of consumption

78. No evidence has been brought by any interested parties about any material change(s) in the pattern of consumption in respect of the product under consideration.

d) Conditions of competition and trade restrictive practises

79. The Authority notes that the investigation has not shown any change in the conditions of competition or any trade restrictive practises.

e) Developments in technology

80. No evidence has been brought by any interested parties about any developments/ changes in the existing technology.

f) Export performance of the domestic industry

81. The Authority notes that the injury information examined relates only to the performance of the domestic industry in terms of its domestic market. Thus, it cannot be attributed to the export performance of the domestic industry.

g) Performance of other products

82. The domestic industry has provided the injury data for the product under consideration and the same has been adopted by the Authority for the purpose of injury analysis. Performance of other products produced and sold by the applicants have not been considered.
83. In any case, the Authority holds that the applicants have not suffered any injury due to the subject imports.

J. LIKELIHOOD OF CONTINUATION/ RECURRENCE OF DUMPING AND INJURY

J.1. Submissions by other interested party

84. The following submissions have been made by the other interested party:
- a. Section 9A(5) of the Act read with Rule 23 emphasises on the need to assess factors such as rate of dumping, capacity available, price effect and inventories. Reference is also placed on *Jindal Saw Ltd. vs Designated Authority* [2021 (376) ELT 107 (Tri-Del)], *Hubei Tri-Ring Forging Co. Ltd. vs Designated Authority* [2016 (342) ELT 473 (Tri-Del)] and *Nirma Ltd. vs Union of India* [2017 (358) ELT 146 (Guj.).
 - b. No presumption can be made on likelihood of substantially increased importation as there are no subject imports.
 - c. Magotteaux' s plant is not solely dedicated towards India and caters to multiple markets developed over the 10 years of imposition of anti-dumping duty.
 - d. The capacity available with domestic industry and further expansions undertaken by them shows that there is no threat of dumping.
 - e. No information is available with the exporters regarding participation or offers made by the domestic industry.
 - f. The exporter has made substantial increase to third country markets since the original investigation and SSR.
 - g. It is known from Magotteaux India that the products sold by the company are contract manufactured by an independent third party locally in India.
 - h. As regards the presence of the country manager of Magotteaux India during the public hearing, reference is placed on Trade Notice No. 11/2018, wherein the Authority categorically allowed any party, whether or not registered as an interested party, to attend the public hearing and provide comments on the disclosure statement.
 - i. Magotteaux India and Magotteaux Thailand are group entities, but do not control each other. No information regarding Magotteaux India is available with Magotteaux Thailand.

- j. Magotteaux India is not required to cooperate with the current investigation as (i) they are not an exporter in the subject country of the PUC, (ii) have not imported the PUC in the POI and (iii) not enrolled as an interested party in the present investigation. Reference is placed on *Alleima Materials Technology (Jiangsu) Co Ltd. v. Union of India* [order dated 06 September 2022 in W.P. (C) 12894/2022].
- k. The price offers submitted by domestic industry are doctored and fabricated.
- l. The company has an inventory of *** MT of standardized products (as on 31 March 2022) and non-standardized products are manufactured and supplied against orders.
- m. Since the original investigation markets where sales have increased to are Middle East (2219%), Europe (1541%), Australia (452%) and South America (214%).
- n. Since the previous investigation, the markets where sales have increased to are South America (7349%) and Australia (259%).
- o. Nature of the information sought from Magotteaux India has no relevance to the present investigation and are trade secrets of Magotteaux India.

J.2. Submissions by the domestic industry

85. The following submissions have been made by the domestic industry:
- a. The decline in imports in the current period is due to the anti-dumping duty in force. The dumping shall resume at significant volumes in the event the duty ceases.
 - b. The producers from the subject countries have a history of dumping. India is the second largest cement producer in the world and holds fair advantage in the production and conversion costs in steel and alumina mining which makes India a lucrative market for the subject goods.
 - c. There is freely disposable present and potential capacities with the foreign producers. The surplus capacity of China has been observed by the Australian Commission in a recently concluded SSR on the product under consideration.
 - d. The producers in the subject countries are significantly export oriented and has been dumping significantly in third countries.
 - e. As there are no imports of the subject good, Magotteaux India has been attempting to retain its customers by offering domestically manufactured products in the market without disclosing the origin of the same.
 - f. Magotteaux India has been attempting to establish the brand in the Indian market by offering product at dumped and injurious prices.

- g. As can be seen from the offers, Magotteaux India has been offering the product to the customer at ex-warehouse Raipur, Chhattisgarh prices. The dumping and injury margin determined as per the offers provided are significant as seen below;

a. Previous Offers:

Particulars	Quantity	Dumping margin		Range	Injury Margin		Range
	(MT)	(\$/MT)	%		(\$/MT)	%	
Offer 1	***	***	***%	100-110	***	***%	20-30
Offer 2	***	***	***%	60-70	***	***%	0-10
Offer 3	***	***	***%	180-190	***	***%	50-60
Offer 4	***	***	***%	80-90	***	***%	10-20
Total	***	***	***%	80-90	***	***%	10-20

b. Current Offers:

Particulars	Quantity	Dumping margin		Range	Injury Margin		Range
	(MT)	(\$/MT)	%		(\$/MT)	%	
Offer 1	***	***	***%	10-20	***	***%	10-20
Offer 2	***	***	***%	20-30	***	***%	20-30
Offer 3	***	***	***%	10-20	***	***%	10-20
Offer 4	***	***	***%	10-20	***	***%	20-30
Total	***	***	***%	10-20	***	***%	20-30

- h. The Authority should examine the likely performance of the domestic industry should the domestic industry reduce its prices to the extent of price offered by Magotteaux. It may be seen that the domestic industry will suffer significant financial losses and negative return on investments, as can be seen from the table below:

Particulars	UOM	Actual	As per Offer Price
Net Sales Realisation per Unit	Rs. /MT	***	***
PBT (Profit before Tax)	Rs. /MT	***	(***)
PBIT (Profit before Interest & Tax)	Rs. /MT	***	(***)
Cash Profit (PBT+ Depreciation)	Rs. /MT	***	(***)
PBIT as % of Average Capital Employed (ROI)	%	***%	(***)%

- i. Magotteaux has resorted to third country dumping which has resulted in significant price undercutting, loss of potential orders, and price injury in a number of countries.
- j. As stated in the EQR, the respondent has developed 72 markets as a result of the antidumping duty order on PUC from India. Further the company intends to export the product to India only in the event of removal of duties.
- k. The respondent has claimed no change in production capacity despite an intention to sell in the Indian market thereby leading to the conclusion that they've unutilised capacities,

they intend to divert products from other markets to India and that the Indian market is highly price attractive.

- l. The assessment of likely and potential performance of the applicants show that the domestic industry would have done much better in the absence of dumping and is likely to deteriorate if the duties cease.
- m. As regards the respondent's contention that no likelihood can be determined as the volume of imports have remained low to 0, it is submitted that the dumping and injury has been offset by the duty in force. Further, lack of imports during the POI is not presumptive that the imports shall not flood the market once the duties cease.
- n. As regards the contention that Magotteaux's plant is not solely dedicated to catering to India, it is the respondent's own submission that they have developed over 72 markets to utilise the capacities when duties came into force. Logistically and economically, India is more lucrative to the respondent than the other 46 countries which are already being catered to by the other manufacturing units of Magotteaux which has proximity to these regions.

J.3.Examination by the Authority

86. As there is no known import of the product under consideration from any of the subject countries, the Authority has determined whether dumping is likely to recur in the event of cessation of ADD, and if so, whether the same is likely to cause injury to the domestic industry. The applicants provided evidence of likelihood of recurrence of dumping in its petition and supplemented the same during the course of the investigation and submitted that the same is likely to cause injury to the domestic industry. The submissions made by the interested parties and evidence on record has been examined by the Authority. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A (5), Rule 23 and parameters relating to threat of material injury in terms of Annexure-II (vii) of the Rules and other relevant factors brought on record. The present investigation being a sunset review of anti-dumping duty currently imposed, and under the Rules, the Authority is required to determine whether continued imposition of the anti-dumping duties is warranted in the event of cessation of anti-dumping duty.
87. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia for factors which are required to be taken into consideration, viz;
 - i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.
 - ii. 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.

- iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports; and
- iv. Inventories of the article being investigated.

88. The Authority has, *inter alia*, considered the above requirements and following parameters in order to determine whether dumping is likely to recur in the event of cessation of ADD, and if so, whether the same is likely to cause injury to the domestic industry. Further, the Authority considers that the above parameters are required to be applied having regard to the fact that there was an ADD in place. Therefore, the Authority has examined, considering the above parameters, whether there is a significant threat of material injury to the domestic industry in the event of cessation of ADD:

a. **Dumping in respect of exports to third countries**

89. The domestic industry contended that the subject producers are exporting the product to a number of third countries and the same are at dumped prices. While there is no response from Chinese producers, the sole Thai producer has responded and provided relevant information. The Authority has examined exports from the subject countries to various countries globally and determined whether the same are at dumped and injurious prices. Thereafter, the Authority has determined the volume of exports to various countries globally and determined the volume of exports at dumped and injurious prices. The Authority has also compared these exports with the selling price of the domestic industry in order to ascertain whether the exporters are likely to find Indian market attractive enough in terms of prices prevailing in the Indian market and the prices at which exporters are selling in third countries. Summarized position is as follows:

Particulars	Absolute volume			In relation to Indian consumption		
	As per EQR	As per Trade Map data		As per EQR	As per Trade Map data	
	Magotteaux	Thailand	China	Magotteaux	Thailand	China
	(In MT)	(In MT)	(In MT)	(In %)	(In %)	(In %)
Volume of exports to third countries below normal value	***	***	***	81.49%	91.33%	54.47%
Volume of third country exports below NIP	***	***	***	10.31%	1.69%	6.44%
Volume of third country exports	***	***	***	13.98%	1.61%	13.73%

below selling price prevailing in India						
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90. Following may be seen from the table above:
- i. *** MT of exports by the exporter is at dumped price which amounts to 81.49% of total Indian demand. The declared capacity of the exporter is *** MT. This indicates that almost 89% of exports are at dumped prices and the exporter is making exports at significant loss.
 - ii. *** MT of exports by the exporters is at injurious price. This injurious volume of exports accounts for 10.31% of total Indian demand.
 - iii. *** MT of exports are being made by the exporter at price below the price at which goods are being sold in the Indian market. The exporters will find the Indian market attractive to divert this volume of export to India, particularly when it is making losses. This price attractive volume of exports constitutes almost 14% of Indian demand.

91. It is thus seen that the exporter is highly export oriented and dumping goods all over the world. Significant volume of exports being made at dumped and injurious price. The exporter is incurring significant losses. The dumped, injurious and price attractive third country exports is significant in relation to Indian demand and sufficient to cause disruption in the domestic market. Thus, cessation of duty is likely to lead to significant volume of exports to India at dumped and injurious price which will consequently lead to injury to the domestic industry.

b. Price offers made in Indian market

92. The applicants have not provided evidence regarding price offers by the Chinese producers. The applicants have produced many price offers given by Magotteaux India. Some of the price offers show country of origin as Thailand. During the course of the investigation, the Directorate contacted 10 companies which had allegedly received offers from Magotteaux India. Out of the 10 companies, 5 companies have informed the Directorate that they have been approached by Magotteaux Group for sale of the subject goods. This indicates a clear intention by Magotteaux Group to sell the subject goods in India. It is reiterated that *** MT of exports by the exporter is at dumped price which amounts to 81.49% of total Indian demand. The declared capacity of the exporter is *** MT. This indicates that almost 89% of exports are at dumped prices and the exporter is making exports at significant loss *** MT of exports by the exporters is at injurious price. Further, this injurious volume of exports accounts for 10.31% of total Indian demand. It is therefore seen that there is a likelihood that in the event of cessation of ADD on the PUC, the responding exporter/producer shall start dumping in the Indian market causing injury to the domestic industry.

93. Further, the Authority wrote to Magotteaux Thailand and a number of consumers identified by the applicants to provide the details of these offers. Magotteaux Thailand was directed to provide details of lost orders in third country markets, inventory, markets developed subsequent to the previous SSR and price offers made by its related Indian entity, Magotteaux India. Magotteaux Thailand responded to certain questions and claimed to have no information available with them regarding the others. The same is being dealt in detail as follows;
94. As regards Magotteaux Thailand's claim that no information is available with them regarding price offers provided by the applicants, the Authority notes that Magotteaux India offers contain significant information clearly showing offers as "Magotteaux Group" with no indication therein that the price offer is based on a purchase of a product from Indian market or it is of Thailand origin. Both Magotteaux Thailand and Magotteaux India attended the public hearing and Magotteaux India representative made statement that there were several such offers in the market. The Authority also notes that the language of the offer given by Magotteaux India gives an impression of supply of Magotteaux product.
95. As regards Magotteaux Thailand's statement that it does not have any control over Magotteaux India and vice versa, the Authority notes that the Magotteaux Thailand had identified Magotteaux India as an "associated entity". Further, while the questionnaire requires information about Magotteaux India, the exporter stated that the requirement for the same does not arise in view of absence of imports during the POI. The exporter has however given three channels and identified supplies through Magotteaux India and direct purchase and sale by Magotteaux India as channel of sales. The Authority notes that there are admittedly no imports of the product during the present period and therefore the Authority is required to determine likelihood, where potential imports upon cessation of ADD are important and relevant. Given the relationship and channel of distribution, response from Magotteaux India was relevant and necessary. The Authority sought information about Magotteaux India in order to verify the claims of the domestic industry on its price offers and supply of the product. This was important in view of the fact that the offers given by Magotteaux India makes significant references about Magotteaux Group. Magotteaux India, inter-alia, stated "*Celebrated our 100 years of foundry activity Magotteaux has played a leading role in the development of Grinding Media and... ' With over 500,000 MT of world-wide capacity, Magotteaux has achieved and consolidated a successful track record to serve numerous different customers across the globe and provide wide range of alloys specifically adapted... ' ; ' Because we belong to a Worldwide Group present in every continent, we know the most effective way to supply in time, with the right forwarders, duly clearing the goods in time, performing the right inspections and optimizing international transport and freight costs ' ; ' With our well spread manufacturing network... sourcing origin may be adapted upon request and planning to meet your expectation. We ensure continuous supply regardless of geography and political instability. '* " The responding exporter claimed that both the group companies do not control each other and therefore the information regarding Magotteaux India could not be furnished. It is however noted that Magotteaux Thailand has

identified Magotteaux India as an associated entity and has identified two channels out of three where Magotteaux India is involved. Further, the Director of Magotteaux India attended the public hearing and made statements, which were not limited to Magotteaux India and extended to Magotteaux Thailand. It is also seen that the offers by Magotteaux India makes significant references to the Group, and provides details of the Group, their 100 year of experience, worldwide manufacturing network etc. The Authority does not consider that Magotteaux Thailand can claim Magotteaux India as unaffiliated. Further, the manner in which offers have been given by Magotteaux India and the questionnaire response filed by Magotteaux Thailand (stating absence of exports due to ADD, willingness to supply after removal of ADD, participation in the hearing and statements orally made at the time of hearing, etc) cannot absolve Magotteaux Thailand from providing relevant information to the Authority. Since the objective of these questions was to ascertain likelihood of dumping in the event of cessation of ADD, the information was considered relevant and necessary. It has been a practice of the Authority to require a response from the related party involved in production or sale of the product under consideration. Magotteaux Thailand has not provided relevant information relating to Magotteaux India. The Authority is therefore constrained to establish facts based on information and document available on record or otherwise publicly available.

96. Indian consumers were directed to provide details of purchases/ price, details of manufacturer of the subject merchandise made from Magotteaux India, and the difference in the product offered by Magotteaux India and the domestic industry. Of the ten consumers approached by the Authority 5 consumers have stated that they have been approached by Magotteaux for sale of the PUC.

97. The Authority has perused the offers presented by the domestic industry on record. The Authority provided an opportunity to the responding exporter to rebut the allegation of the domestic industry and asked for details of sale, purchase and offers made by Magotteaux India but the information sought was not provided by the exporter. Some of the consumers approached by the Authority have confirmed that Magotteaux had approached them for sale of the PUC. Therefore, the Authority takes note of the submissions of the domestic industry that:

- i. Magotteaux India is a selling arm of Magotteaux Thailand in India. The domestic industry contended Magotteaux India has offered either Indian or Thai product with a view to establish its market so that it can export significant volumes once the ADD ceases. Magotteaux Thailand clarified that it has supplied a product made in India. In its questionnaire response, Magotteaux Thailand has also stated its intention to export the product in the event of cessation of ADD.
- ii. The price offers by Magotteaux India contain detailed information, including the product type, volume offered, price basis, etc.
- iii. The domestic industry contended that these prices are an indicative price at which Magotteaux Thailand may export to India, in the event of cessation of anti-dumping duty.

b. Freely disposable production capacity

98. The domestic industry contended that the Chinese and Thai producers are holding significant freely disposal production capacity. The information provided by the exporter and the domestic industry was examined in detail. Following is observed:

- i. Whereas the domestic industry contended that the Thai producer holds a production capacity of 1,40,000 MT, the questionnaire response filed by Magotteaux Thailand shows a capacity of *** MT with them.
- ii. Whereas domestic industry reported total export volumes of 93,217 MT from Thailand during the POI, the questionnaire response filed shows export volume of *** MT by Magotteaux.
- iii. The Thai producer is having a capacity utilisation of ***% during the present POI.

99. The Authority also notes that in their submission, Magotteaux has stated that since the original investigation markets where sales have been increased are Middle East, Europe, Australia, and South America. Further, since the previous investigation, sales have increased to South America and Australia. The Authority notes that even though the exporter has stated that it has developed a large number of markets globally, it has also stated in their EQR that its entire sale in global market are on spot basis. Thus, these markets have been developed as spot markets, and the exporter has not committed any part of capacities for supplies to these markets. Therefore, barring domestic consumption (of below *** MT), entire capacity with the exporter is available for sale in any of the global markets, including India. It is seen that more than 90% of the capacity with the exporter is freely disposable for any market.

100. As regards China, the Authority notes that Chinese producers/exporters have not cooperated in the current investigation. The domestic industry has provided evidence of capacity and demand of China. However, the evidence pertains to the 8 years prior to the POI. The Authority considers the evidence is not recent and close to the period of investigation to establish that the Chinese producers have significant freely disposable production capacity with them.

101. The capacity, production, and demand of the subject goods in Thailand as submitted by the responding exporter are as under:

Particulars	Unit	Thailand
Capacity	MT	***
Production - PUC	MT	***
Production - NPUC	MT	***
Unutilized capacity	MT	***
Demand	MT	***

Freely Disposable Capacity	MT	***
Demand in India	MT	1,01,841
% of freely disposable capacity of Indian demand	%	113%
% of surplus capacity of Indian demand	%	18%

102. However, Magotteaux Thailand has not provided any documents in support of the information furnished in their questionnaire responses with regards to their Capacity, Cost of production and Sales. The Authority established facts based on that information and have considered the best facts available to it.

103. The information on record thus shows that there are significant unutilized capacities in Thailand. Additionally, the producers in the subject countries are likely to divert their third country exports to India.

i. Attractiveness of the Indian market

104. The domestic industry has not provided any evidence to establish that the Indian market is attractive to the Chinese producers. The questionnaire response of Magotteaux Thailand shows that the company has developed close to 70 markets during the last 10 years. Further, Magotteaux group has production facilities in 5 countries. The Indian market is most lucrative to Magotteaux Thailand due to (1) increasing demand in India (b) proximity to Thailand as compared to other markets developed by the company (c) presence of selling arm in India, (d) current business activities of Magotteaux India. Further, in its relevant part, Magotteaux Thailand has stated as followed in questionnaire response;

- a. The company intends to export PUC to India in near future, subject to removal of existing anti-dumping duties which have been in force for 10 years.
- b. The company does not expect any change in the production capacity, home market shipments, and exports to other markets (other than India). However, it is expected that the Company will receive a few orders from Indian customers and to that extent production may rise.
- c. The company does not have any long-term supply contract with any customer. All exports are on spot sales.

ii. Inventories

105. Magotteaux Thailand reported an inventory of standardized products (as on 31 March 2022) as *** MT. The Company further stated that non-standardized products are manufactured and supplied against orders, while standardized products can be supplied from inventories. The authority notes that both domestic industry and exporters have stated that a significant part of production is against specific orders. Under the circumstances, an inventory of *** MT of standardized products is quite significant, having regard to available

demand for such a standardised product in India. While there is no information on record with regard to segregation of demand between standardised and non-standardised products, even on aggregated basis, inventory of *** MT constitutes about one-month consumption in India and is therefore quite significant.

106. It has been contended by the domestic industry that they would start suffering significant financial losses, cash loss and negative return on investment, should the domestic industry lose its domestic sales to the extent of the volume of likely import. Alternatively, if the domestic industry matches the third country export price of Magotteaux Thailand and prevent imports, the profitability of the domestic industry may again decline to a situation of financial losses, cash losses and negative return on investment. Thus, in both the situations, the domestic industry is likely to suffer financial losses, cash losses and negative return on investment should the present duties be allowed to cease.
107. No information is provided by the domestic industry on inventories held by the Chinese producers.

Conclusions on Likelihood

108. There is sufficient evidence enumerated above to establish that there is likelihood of dumping and consequent injury to the domestic industry in the event of cessation of anti-dumping duty against Thailand. As regards China, the Authority considers that the evidence provided by the domestic industry is not sufficient to establish likelihood.

K. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

K.1. Submissions by other interested party

109. The following submissions have been made by the other interested party:
- a. In light of the effect of COVID-19 in the period of injury, imposition of duty shall create a dominant position and monopolistic market making the cost of goods uneconomical and burdensome.
 - b. The submissions made by the domestic industry as to how the subject importers do not keep the consumers' interest in mind is illegal and sans any basis in fact. The same should be ignored by the Authority.
 - c. Magotteaux India Pvt Ltd. is preferred by consumers in India. They get the PUC manufactured under contract from other non-supporting domestic manufacturers. This is not illegal, or in circumvention of the Rules.
 - d. Continuation of duties will lead to injury to the Indian consumers who are subject to the monopolistic attitude of the applicants.

K.2. Submissions by the domestic industry

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

- a. No response from the importers/ users have been received in the current investigation. Such non-participation indicates that the extension of anti-dumping duties will not have any adverse effect on the Indian industry.
- b. Support letters have been received from other domestic manufacturers seeking continued imposition of the duties so as to prevent recurrence of dumping and injury from the subject countries.
- c. The duration of the duty in force, the financial data of the domestic industry, the decline in price parameters over the injury period indicates that the domestic industry is not engaged in or is attempting to monopolise the market.
- d. The duty has been in force for the last 10 years with no adverse impact. The impact on consumers is negligible at 0.02%- 0.03%.
- e. The domestic industry has more than sufficient capacities to cater to the entire demand in the country and the subject imports are wholly unnecessary. There is no demand-supply gap for the subject goods in the Indian market
- f. The removal of duty will lead to surge in cheap imports which shall drive out the existing domestic industry and other domestic manufacturers of the subject goods.
- g. As regards the contention that Magotteaux India is preferred by the consumers, it is submitted that the related entity has failed to cooperate with the current investigation. Further, no evidence/ support has been provided to back this claim.
- h. Magotteaux has continued to ignore the consumer's interest in their attempt to re-establish themselves in the market.
- i. As regards the contention that contention on the effect of COVID-19 and that duty shall lead to monopoly, it is submitted that no relevance, factors, quantification, or existence has been provided by the respondent. Additionally, the existence of other domestic producers in the market ensure that the no dominant or monopolistic market is created.

K.3. Examination by the Authority

111. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers, and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with respect to the present investigation, including the possible effects of the anti-dumping duties on their operations. The Authority sought information on, *inter-alia*, the interchangeability of the product supplied by various suppliers from different countries, ability of the consumers to switch sources, the effect of anti-dumping duties on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by the imposition of the anti-dumping duties. None of the users or importers of the product under consideration has responded to the initiation notification or filed response to the questionnaire.

112. The Authority had prescribed an economic interest questionnaire which was sent to all interested parties to this review investigation. Only the domestic industry has provided information sought in the Economic Interest Questionnaire. The applicants have supplied information related to the domestic industry as well as the user industry in its Economic Interest Questionnaire.
113. It is noted that the purpose of anti -dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Authority recognizes that the continuation of the anti-dumping duties might affect the price levels of the subject goods as well as other downstream products manufactured by using the subject goods in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, the continuation of anti -dumping measures would prevent the decline of the domestic industry that may ensue as a consequence of low-priced subject imports from the subject country and help maintain the wider availability of choices to the consumers of the subject goods.
114. On the issue of monopolistic behaviour of the domestic industry, it is noted that the purpose of antidumping duty, in general, is to eliminate dumping which is causing or likely to (in case of SSR) cause injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in general interest of the country. From the antidumping rules, it is not borne out that a company, even if monopolistic, is prohibited from requesting to the Authority actions against the unfair imports. In the instant case, there are 11 producers of the product under consideration in India. In such situation, the question of monopolistic practice does not arise when these companies are competing with each other in the domestic market. The Authority notes that there were no known imports of the product in the POI from any source, and low volume of imports in the injury period. More than 99% of the demand for the product was met by Indian industry. Despite this, there was no substantiated case of monopolistic approach or action by the domestic industry. Further, profits, cash profits, profit before interest and return on capital employed of the domestic industry has declined over the present injury period and have remained low over entire injury period. This would not have been the position, had the domestic industry been in a monopolistic situation or had the domestic industry adopted a monopolistic approach. It is evident that the profitability of the domestic industry has remained low despite absence of imports and predominantly entire share of Indian industry in the Indian market.
115. The domestic industry submitted that the user industry for the product is majorly mining and cement producers in the country. The domestic industry has provided information on the impact of anti-dumping duty on the eventual end consumer. The Authority has noted the submission of the domestic industry regarding impact of anti-

dumping duty on the end consumers which is about 0.02%-0.03% as seen below. This is in a theoretical situation where the Indian industry increases the prices by the amount of ADD:

Particulars	UOM	Cement	Mining
Price of Finished Product	Rs. /MT	7,000	70,000
Production of Finished product	MT	1050000	2000000
Total Consumption of GM Ball	MT	53	1,600
Consumption of GM Ball per MT of Finished product	MT	0.00005	0.00080
Anti-Dumping Duty on GM Ball	INR/MT	29,168	29,168
Impact	INR/MT	1.46	23.32
% Impact	%/MT	0.021%	0.033%

116. The Authority also notes that the imposition of anti-dumping duty will not lead to non-availability of the subject goods for the consumers. It is also noted that there is no demand - supply gap in the country and the domestic industry has sufficient capacity to cater to the entire Indian demand. The Authority notes that there were practically no imports of the product in the entire injury period and more than 99% of the demand for the product was met by Indian industry. None of the consumers participated and complained absence of material. On the contrary, some of the consumers stated that they were satisfied sourcing the material from domestic producers.

L. POST-DISCLOSURE COMMENTS

L.1. Submissions of the other interested parties

117. The submissions made by the other interested parties on the disclosure statement are as below:

- a. The Authority failed to address objection with respect to the absence of Welcast Steel Ltd's authorization in Format X.
- b. The Authority has not disclosed the four domestic producers who have supported the application.
- c. Rule 2(c) does not require a domestic related entity of the foreign producer to compulsorily participate in the investigation failing which adverse inference would be drawn against the foreign producer. Hence, not registering Magotteaux as an interested party is not in contravention to Trade Notice 11/2018.
- d. The confidentiality claims made by the exporter is the mirror image of claims made by the domestic industry. Therefore, the exporter cannot be accused of excessive confidentiality.

- e. There is a contradiction in the statement that the examination of injury is relating to the performance of the domestic industry in terms of domestic market and the observation that the domestic industry has suffered loss in the overseas market which affected their production and capacity utilization.
- f. The Authority should not have asked for the details of lost orders in third country markets.
- g. The offer price by Magotteaux India cannot be approximately in the range of landed value determined as the volumes sold by Magotteaux India are domestically manufactured and sold at minimal profit.
- h. The domestic industry is relying on fabricated invoices/offers which has to be verified and investigated.
- i. The volumes traded by Magotteaux India are miniscule in comparison to the volumes manufactured and sold by the domestic industry and the same cannot be considered for determining the dumping and injury margin.
- j. The Authority is relying on assumption and conjectures instead of undisputed facts which is Magotteaux India has not imported any PUC from the exporter.
- k. The demand for participation of Magotteaux India is fallacious as (i) despite being one of the distribution channels, Magotteaux India has not imported during the POI. (ii) Magotteaux Group consists of multiple entities, demanding Magotteaux India's participation would mean that all group companies of Magotteaux be forced to participate in the present investigation (iii) assurance provided by Magotteaux India to remove impact of duty is rhetoric as despite the same, the exporter could not find buyers. (iv) Magotteaux India is selling products manufactured by third party locally under contract which is not illegal and is irrelevant when determining possibility of likelihood or recurrence of dumping and injury.
- l. AIA Engineering Ltd has increased huge production capacity, which has resulted in the poor indices. The domestic industry is riddled with malafide and monopolistic behavior.
- m. The domestic industry is seeking perpetual anti-dumping duty which is against the purpose of anti-dumping duty as there are zero imports and after 10 long years, there is no justifiable reason to seek further protection.
- n. The domestic industry is exploiting Indian user by eliminating competition from Magotteaux.
- o. Magotteaux India is a group entity of Magotteaux of which Magotteaux Co. Ltd., Thailand is also one such entity. Merely because Magotteaux India belong to same Magotteaux group and therefore, Magotteaux India is required to participate, then all group companies of Magotteaux may also be forced to participate in the present investigation.

L.2. Submissions of the domestic industry

118. The submissions made by the domestic industry on the disclosure statement are as below:
- a. Magotteaux Thailand's submissions on the day of disclosure statement is belated. They have throughout the investigation blatantly disregarded the time limits prescribed by the Authority, Rules and Law.

- b. The Respondents has failed to provide prescribed information as per questionnaire, circulate meaningful non confidential version of the questionnaire, submit relevant documents for verification etc. Magotteaux Thailand failed to cooperate during the investigation.
- c. Non-confidential versions of the submissions made at the delayed stage on 05th April 2023, was not circulated to the domestic industry. The domestic industry is unaware of the contents in these submissions.
- d. The exporter's questionnaire instructs for information to be filed by all related entities. The lack of participation by Magotteaux India, the related entity, who is an importer, selling and marketing office of Magotteaux Thailand, has made domestic sales in the injury period and is offering customers the subject goods at dumped and injurious prices has significantly impeded the investigation.
- e. Magotteaux India's non-cooperation prevents the Authority from meaningfully analysing details of the purchase, operations, units involved and the channel of distribution in the current investigation.
- f. Magotteaux Thailand and India are controlled by Magotteaux Group, are affiliated and has common directors. Transaction details disclosed in the annual report includes sales, and purchase of goods and management consulting between these companies.
- g. The calculation of export price on the offers made by Magotteaux India is as per the practise of the Authority. This approach has been taken in investigations in various jurisdictions including Catalyst from Denmark, PIB from EU, Singapore, Thailand, Japan, Brazil and Korea RP and Seamless Tubes from Austria, Czech Republic, Russia, and Ukraine. Reference and reliance is placed on the Anti-dumping investigation concerning imports of Caustic Soda from Qatar dated 7th October 2002.
- h. Magotteaux Group intends to create global monopoly as is seen from the history of trade remedial measures; selling dumped products in third country market, loss suffered by Magotteaux Thailand when the duties were in force.
- i. The duty should continue after 10 years to protect the domestic industry and the domestic producers who are MSME's; to counter the effect of concessions and benefits received by Magotteaux Thailand; significant dumping and injury margin determined as per price offers by Magotteaux India, freely disposable capacity and inventory available with the respondent; and the dumping in third country.
- j. The impact of the duties on the end consumer has been re-calculated by considering the duty applicable on Magotteaux. The same is 0.009-0.014% and continue to be negligible and insignificant.
- k. The consumers in India are getting fair prices as the domestic industry has not increased their selling price in proportion to increase in cost, have provided documents supporting the domestic industry.

L.3. Examination by the Authority

119. The Authority has examined the post disclosure submissions made by the domestic industry, and the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the disclosure statement. The issues raised for the first time in the post

disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.

120. As regards the contention that Welcast Steel has not given authorisation in prescribed formats, the Authority notes that Welcast Steel is a wholly owned subsidiary of AIA Engineering. As the parent company is engaged in production of the PUC and has sold the material produced by Welcast, the Authority has accepted the information. In any event, the Authority has received Format X from Welcast and have further undertaken verification of information and has satisfied itself with regard to sufficiency of information and evidence. The Authority also notes that authorisation and certificates prescribed by the Authority are for Authority's satisfaction and the same does not cause any prejudice against the interests of other interested parties.
121. As regards the name of other domestic producers who supported the application, the responding exporter did not comment on the confidentiality claimed within the prescribed time of 7 days of the receipt of non-confidential version of the document. It has been claimed by the domestic industry that disclosure of even name shall cause significant adverse effect to the party's interest. The Authority has satisfied itself with regard to the same and on being satisfied, Authority has allowed confidentiality on the name of the party. The Authority notes in this regard that it is not uncommon that even name of the parties concerned are confidential particularly when conflicting business interests of opposing parties are involved. However, the domestic industry itself fulfils the standing requirement as per rule 5(3). Therefore, the requirement of other domestic producers as supporters is not relevant for the present investigation.
122. As regards the contention that Magotteaux India need not have participated in the present investigation, the Authority notes that Magotteaux Thailand has undisputedly sold material over the injury period. There are no exports only during the POI. Further, Magotteaux Thailand itself has identified Magotteaux India as one of its sales channels. The scope of the present investigation is to ascertain likelihood of dumping and consequent injury to the domestic industry in the event of cessation of this duty. Such being the case, the sales channel adopted becomes very important. Also some of the price offers show country of origin of the goods as Thailand. Magotteaux India has attended the oral hearing. If Magotteaux India attended the hearing virtually, it cannot be contended that the party has no interest whatsoever in the present investigation, particularly, in a situation where the petitioners have contended significant business activities by Magotteaux India and the same has been admitted even at the time of hearing.
123. As regards apparent contradiction in performance analysis of domestic industry in respect of domestic and export market, it is clarified that the injury examination is limited only to the performance of the domestic industry in respect of sale in the domestic market. The Authority has separately examined the export performance of the domestic industry as required under causal link analysis and likelihood. The examination of export performance and the market loss or gained by the domestic industry in export markets is only in respect of the change in pattern of exports by the domestic industry found over the years.

124. As regards the statement that Magotteaux India has not imported the PUC from the exporter during the POI, the Authority has not considered that Magotteaux Thailand has sold the material to Magotteaux India during the POI. The Authority has held that there is no import of the PUC from Thailand. However, in a situation where there were no imports of the PUC during the POI, the rules require the Authority to ascertain likelihood of recurrence of dumping. Further, there were exports made by Magotteaux Thailand in the injury period. The Authority has considered all information and evidence available on record to ascertain the likelihood of recurrence of dumping in the event of cessation of duty.
125. As regards the contention that Magotteaux India response was not necessary, the authority has examined the submissions made by Magotteaux Thailand, domestic industry and other parties and considers that the response by Magotteaux India was very important and relevant to the present case as Magotteaux Thailand itself has identified Magotteaux India as a distribution channel for export to India. The Authority has not stated that all group entities of Magotteaux Thailand should have filed questionnaire response. As the investigation concerns exports by Magotteaux Thailand, the manner in which Magotteaux Thailand will export the product to India becomes relevant for likelihood determination. However, in a theoretical situation where Magotteaux Thailand would have exported the product through one or more of its other global entities, the Authority would have required response from those entities. However, Magotteaux Thailand has not identified other global entities for the purpose of present case and therefore the Authority has not demanded response from other group companies of Magotteaux Thailand.
126. It has been claimed by the applicants that Magotteaux India has given assurance to its customers to remove the impact of the duty. The exporter/producer has stated that this claim of the applicants is merely rhetoric. The Authority notes that notwithstanding the claim of the applicants regarding the assurance given by Magotteaux India to remove the impact of the duty, Magotteaux Thailand itself has stated that it would supply some material in the event of revocation of duty.
127. Magotteaux Thailand has stated in its questionnaire response in response to the question seeking response on the impact of revocation of duty on production capacity, production, home market shipments, exports to India and other markets, or inventories relating to the production of PUC in the future that *“The Company does not expect any change in the production capacity, home market shipments, and exports to other markets (other than India). However, it is expected that the Company will receive a few orders from Indian customers and to that extent production may rise.”* Magotteaux Thailand admitted that they may export the subject goods to India in the event anti-dumping duties are revoked. This is an indication of likelihood of recurrence of dumping and injury.
128. As regards increase in production capacities and impact of the same on economic performance, the Authority notes that increase in the cost of production of AIA cannot be attributed directly with the increase in capacity. It is mainly due to increase in raw material

cost. In fact, the plant where production capacities have been expanded is having conversion cost lower than the plant which did not expand the capacities.

129. As regards the allegation of monopolistic behaviour by the petitioner, the Authority notes that the petitioner does not hold the majority share in the Indian market in total demand. In fact, the majority share in the Indian market is by MSME sector which comprises of 11 players. Further, the Authority has analysed the share of Indian industry in production and consumption from the original investigation i.e., since 2010. As seen below, it is evident that the domestic industry does not have any monopolistic position in the Indian market. Further, the anti-dumping duty has played a huge role in boosting the share of MSME in production and consumption in India.

	Original Investigation	First SSR	Present SSR
Period of Investigation	Jan-Dec 2010	April '16- March '17	April '21- March '22
Other Indian Producers			
Share in Consumption	21%	47%	58%
Share in Production	10%	12%	21%

130. As regards the issue raised by the interested parties that there cannot be any justifiable reason to seek further protection since the duties were already in force for 10 years, the authority notes that the rules do not prescribe any time period for which duty should be imposed. The duties are recommended considering the dumping, injury and likelihood of continuation or recurrence of dumping and injury to the domestic industry. These factors are analyzed at appropriate sections of this final findings.

M. CONCLUSION & RECOMMENDATIONS

131. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of likelihood of continuation/recurrence of dumping and injury.

132. The recommended anti-dumping duty would not reduce competition, either domestically or internationally, since the Indian consumers would, be free to source the material from domestic producers, China and other markets.

133. The duty imposed on the product since last 10 years has helped the domestic industry to operate in a level playing field. It has also been contended that there is no evidence of any adverse effect of anti-dumping duty in force since last 10 years on the consumers. Rather,

- the domestic industry has submitted and provided letters from consumers stating that the consumers have benefited and saved costs by using the products of the domestic industry.
134. Having concluded that there is likelihood of recurrence of dumping and injury, the Authority is of the opinion that the measure is required to be extended in respect of imports from Thailand. The Authority has noted the evidence placed before the Authority in the form of extracts of annual report of Magotteaux Thailand for the year 2019-2021. It is observed that the company has reported financial losses for calendar year 2019, 2020 and 2021 despite exporting approximately 95% of the production. The Authority is of the opinion that the company is not able to get good price in other global markets and is looking for a profitable market such as India.
135. The Authority notes that Magotteaux Thailand is exporting more than 80% of the total production of the subject goods to third countries at a price below the normal value. This shows the behaviour pattern of Magotteaux Thailand. It is very likely that upon withdrawal of anti-dumping duty they are likely to dump the subject goods in the Indian market which are presently exported to third countries that would cause injury to the domestic industry.
136. The capacity of the domestic industry and other domestic producers collectively can meet the domestic demand even after accounting of exports. Hence, imports of any quantity will be additional over and above the capacity of domestic producers. If the imports are dumped at injurious price, the domestic producers are likely to lose their market share and consequently suffer loss.
137. Magotteaux Thailand has clearly stated that its entire export sales of about 95000 MT is on “spot sale” basis; thus leaving significant production capacities freely disposable. Further, Magotteaux Thailand has stated that it would start selling in the Indian market in the event of cessation of anti-dumping duty.
138. Having regard to the contentions raised, information provided, submissions made and the facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- a. The product under consideration is the same as defined in the previous investigations and is like article to the product produced by the domestic industry.
 - b. The applicants constitute domestic industry under Rule 2(b) of the Rules and the application satisfies the requirements under the Rules.
 - c. No injury is presently suffered as there are no imports since the imposition of anti-dumping duty.
 - d. The domestic industry’s performance over the current period and significant share of other Indian producers in consumption clearly demonstrates that the domestic industry has not monopolized the India market.

- e. Analysis of the questionnaire response shows that there is sufficient potential for Magotteaux Thailand to re-direct exports from its other far-off market to India and the only barrier they face is the existing anti-dumping duty.
 - f. The producers from Thailand have a history of dumping in India, holding freely disposable production capacity, have been dumping in third countries and are significantly export oriented.
 - g. The assessment of likely and potential performance of the applicants show that the performance of the domestic industry is likely to deteriorate if the duties cease.
 - h. Continuation of the existing duties shall not be against public interest.
 - i. The impact of the anti-dumping duties on the eventual end consumer is insignificant.
 - j. There are no sufficient evidence to establish likelihood of dumping and injury from China PR.
139. Having concluded that there is likelihood of recurrence of dumping and injury, the Authority is of the opinion that the measure is required to be extended in respect of imports from Thailand. The volume of dumped and injurious imports from Thailand to India based on the price offers and to the rest of the world have been considered. However, continuation of anti-dumping duty is not recommended on imports of product under consideration from China PR.
140. Having examined the likelihood of dumping and injury to be imminent in case of expiry of the current measure in place, the Authority recommends continued imposition of Antidumping Duty in place against Thailand as recommended by the Authority vide Final Findings Notification No 7/7/2017-DGAD dated 11th June 2018 published in the Gazette of India, Extraordinary, Part-I, Section-I and notified by the Central Government vide Notification No. 36/2018-Customs (ADD), dated 13th July 2018 for a period of five years. Accordingly, definitive antidumping duty as per amount specified in Col. 7 of the table below is recommended to be extended from the date of this notification in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from Thailand.

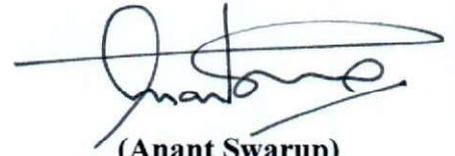
DUTY TABLE

S. No.	Heading/ Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Duty Amount In US \$ per MT
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	7325 9100	'Grinding Media Balls' (excluding Forged Grinding Media Balls)	Thailand	Thailand	Magotteaux Co Ltd, Thailand	158.80

2	-do-	-do-	Thailand	Thailand	Any other except as reflected in S.No. 1	187
3	-do-	-do-	Any	Thailand	Any	187
4	-do-	-do-	Thailand	Any	Any	187

N. FURTHER PROCEDURE

141. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.



(Anant Swarup)
Designated Authority