

**F. No. 7/46/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi -110001**

Dated: 20th July, 2021

NOTIFICATION
FINAL-FINDINGS
Case No. (AD SSR) 27/2020)

Subject: Sunset Review investigation concerning imports of ‘Barium Carbonate’ originating in or exported from China PR

A. BACKGROUND OF THE CASE

F. No. 7/46/2020-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 (hereinafter also referred to as ‘the Rules’) as amended from time to time thereof, M/s Amaravathi Chemicals and Fertilizers Pvt. Ltd.; M/s Kadapa Barium Salts; Rahul Barium Chemicals Pvt. Ltd. and M/s Shree Pavan Chemicals & Minerals (hereinafter also referred to as the Petitioners or the Applicants or the Domestic Industry) have filed an application before the Designated Authority (hereinafter also referred to as the Authority) on behalf of the domestic industry for initiation of 2nd Sunset Review of anti-dumping duty imposed on the imports of Barium Carbonate (hereinafter also referred to as the subject goods or the product under consideration), originating in or exported from China PR (hereinafter also referred to as the subject country). According to the Petitioners, the petition contains prima facie evidence for conducting the 2nd sunset review investigation.

- Original investigation was initiated on 16th June, 2009 and provisional anti-dumping duties were imposed by the Central Government vide Customs Notification No 37/2010 dated 23rd March, 2010. The Authority had issued the Final Findings vide Notification No. 14/18/2009-DGAD dated 10th December, 2010, which were confirmed by the Ministry of Finance vide Notification No. 6/2011-Customs dated 07th February, 2011. Further, the Authority issued final finding after 1st SSR investigation vide Notification No. 15/27/2014-DGAD dated 23rd February, 2016 on imports of Barium Carbonate originating in or exported from China PR. The same were confirmed by the Ministry of Finance vide Notification No.

14/2016-Customs (ADD) dated 21st April, 2016. The said duties were levied for a period of five years and are set to expire on 20th April, 2021. On the basis of request made by the Authority, the Ministry of Finance vide Notification No. 22/2021– Customs (ADD) dated 15th April, 2021 extended the duty till 20th October, 2021.

3. In terms of Section 9A (5) of the Act, anti-dumping duty 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 duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the same, 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 duty is likely to lead to continuation or recurrence of dumping and injury.
4. Based on the prima facie evidence of likelihood of continuation or recurrence of dumping of the subject goods originating in or exported from the subject country and consequent injury given in the petition filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated sunset review investigation vide Notification No. 7/46/2020-DGTR dated 2nd March, 2021, published in the Gazette of India, Extraordinary, to examine whether the expiry of present anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.

B. PROCEDURE

5. The procedure, as described herein below, has been followed with regard to the investigation:
 - a. The Authority notified to the Government of the subject country through its Embassy in India about the receipt of the anti-dumping application before proceeding to initiate the present investigation, in accordance with Rule 5(5) of the Rules.
 - b. The Authority vide Notification No. 7/46/2020-DGTR dated 2nd March, 2021, issued a public notice in the Gazette of India, Extraordinary, initiating anti-dumping investigation against imports of the subject goods from the subject country.
 - c. In accordance with Rule 6(2) of the AD Rules, the Authority forwarded a copy of the public notice to the Embassy of the subject country in India, known producers/exporters from the subject country, known importers/users association and the domestic industry as per the addresses made available by the Domestic Industry and requested them to make their views/submissions known in writing within thirty days from the date of issue of the letter. The time limit to file information was extended up to 05th December 2020.
 - d. The Authority provided a copy of the non-confidential version of application filed by the Applicants to the known exporters and the Embassy of the subject country in India, in accordance with Rule 6(3) of the Rules.
 - e. The Embassy of the subject country in India was also requested to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.

- f. The Authority sent questionnaires to elicit relevant information to the following known exporters of the subject goods in the subject country in accordance with Rule 6(4) of the Rules:
- i. M/s. Quinngdao Rising Intl. Co. Ltd.,
 - ii. M/s. Hunan Mint Import & Export Co.
 - iii. M/s Guizhou Redstar Developing Import & Export Co. Ltd.,
 - iv. M/s. Hunan Mec Machinery & Electronic Imp. & Exp. Corp.
 - v. M/s. Hongkong Jingjiu Industrial Co. Ltd.
 - vi. M/s. Tianjin Port Free Trade Zone & Shangshun Int. Trade Co.
 - vii. M/s. China Hubei Jingshan Chutian Barium
 - viii. M/s. China Haohua Chemical Industry
 - ix. M/s. Shangs Intl. Trade Co.
 - x. M/s. Chemisky Co Ltd,
 - xi. M/s GuizhouHongtai Chemical Co. Ltd.,
 - xii. M/s Hunan Wanfeng Chemical Co. Ltd.,
 - xiii. M/s Guangzhou Chemicals Import & Export Corporation,
 - xiv. M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd.,
- g. No producer/exporter from the subject country has participated and filed the exporter questionnaire response before the Authority:
- h. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information, in accordance with Rule 6(4) of the Rules:
- i. M/s Gujarat Alkalies & Chemicals Ltd
 - ii. M/s Hindalco Industries Ltd.,
 - iii. M/s Hind Lamps
 - iv. M/s. Videocon Industries Ltd.
 - v. M/s United Chemical Industries
 - vi. M/s Sparkling Traders (P) Ltd
 - vii. M/s Mineral Udyog
 - viii. M/s DCM Shriram Consolidated Ltd
 - ix. M/s Reliance Industries Ltd
 - x. M/s Tamilnadu Petro Products Ltd
 - xi. M/s Sri Krishna Fireworks
 - xii. M/s Jaysree Chemicals
 - xiii. M/s DCW Ltd
 - xiv. M/s Pratik Chemicals
 - xv. M/s Saral Chem
 - xvi. M/s Maruthi Chemical Company
 - xvii. M/s Devanshi Impex (P) Ltd
 - xviii. M/s Laopala Rg. Ltd
 - xix. M/s Krishna Associates
 - xx. M/s Om Glass Works (P) Ltd
 - xxi. M/s Rishi Enterprises

- xxii. M/s Prakash Chemicals Agencies
- xxiii. M/s Piramal Glass Ltd

- i. No importer/user/user organisation from India has filed Questionnaire response in the present investigation.
- j. Investigation was conducted for the period from 1st April, 2019 to 30th September, 2020 (18 months) (hereinafter referred to as the 'Period of Investigation' or 'POI') with injury analysis covering the period April, 2016 – March, 2017, April, 2017 – March 2018, April, 2018 – March, 2019 and the POI.
- k. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their submissions orally in the oral hearing held on 1st July, 2021. The oral hearing was attended only by the Domestic Industry. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID-19 pandemic. The Domestic Industry which presented its views in the oral hearing was requested to file written submissions of its views.
- l. Information provided by the Domestic Industry on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority accepted the confidentiality claims wherever warranted after due examination of the same.
- m. The Directorate General of Commercial Intelligence and Statistics (DGCI&S) was requested to provide details of imports of subject goods for the past three years, and the period of investigation, and the said information was obtained from the DGCI&S and has been adopted for the purpose of the present investigation.
- n. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods in India.
- o. The submissions made by the Domestic Industry during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- p. '***' in these Final Findings represents the information furnished by the Domestic Industry on confidential basis and so considered by the Authority under the Rules.
- q. The exchange rate for the POI has been taken by the Authority for the subject investigation as 1US\$ = Rs. 73.17

C. PRODUCT UNDER CONSIDERATION

- 6. The product under consideration in the original investigation as well as the present SSR petition is "Barium Carbonate". As defined in the original investigation, Barium Carbonate is an inorganic chemical in the form of a white powder and granules having chemical formula BaCO₂ manufactured out of Barytes, a mineral product. Barium Carbonate is produced by reducing carbon in rotary furnace which converts barytes to Barium Sulphide known as black ash, Barium Sulphide is bleached using hot water to extract water soluble water barium sulphide which is then treated with soda ash to obtain Barium Carbonate. Barium Carbonate is used for purification of brine solution in caustic soda industry. It is also used in production of hard Ferrite Ring Magnets, Television Glass Shell, Neutral gloss, Lamps, Heat treatment salts and other barium salts. The present application being concerned with sunset review of existing anti-dumping duty, the scope of the product under consideration remains the same as the scope of

the product under consideration in the original investigation. The subject goods fall under Chapter 28 of the Act under subheading No. 28366000. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

D. LIKE ARTICLE

7. The Petitioners have claimed that the goods produced by the domestic industry are like article to the imported product in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The two are technically and commercially substitutable. The consumers are using the two interchangeably. As already established in the original investigation, product under consideration produced by the Petitioners representing the domestic industry is like article to the product under consideration imported from the subject country in accordance with the Rules.

E. DOMESTIC INDUSTRY & STANDING

8. The present SSR application has been filed on behalf of the M/s Amaravathi Chemicals and Fertilizers Pvt. Ltd.; M/s Kadapa Barium Salts; M/s Rahul Barium Chemicals Pvt. Ltd. and M/s Sree Pavan Chemicals & Minerals. Petitioners claim that they have neither imported the subject goods nor are related to any importer or exporter from the subject country. The Petitioners have furnished the support letter on 17.12.2020 from 6 producers, namely, Athiappa Chemicals (P) Ltd., Ellak Chem Industries India Pvt. Ltd., Jagadeeswari Chemicals, PVS Chemicals, Akshya Chemicals Pvt. Ltd. And Muruganantham Chemical & Co. and claimed to constitute a major proportion of total domestic production of subject goods in India. Though for initiation of a Sunset Review, standing of the Domestic Industry is not mandatory, still the Domestic Industry along with its supporters constitutes 48% of the total production of the subject goods in the country. Thus, the production of applicant companies along with supporting companies constitutes a major proportion of total domestic production of subject goods in India. It is noted that none of the Petitioner companies have imported the subject goods from the subject country or are related to any exporter or importer of the subject goods. Therefore, the Authority has considered the Petitioners as constituting domestic industry within the meaning of Rule 2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra, even though standing within the meaning of Rule 5(3) is not required to be established in a sunset review initiated under Rule 23.

F. CONFIDENTIALITY

9. Neither any exporter/producer from the subject country nor any importer/user/user organisation of the subject goods in India has participated in this investigation. The Authority has considered the claims of confidentiality made by the Domestic Industry and on being satisfied about the same, has allowed the claim on confidentiality.

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

10. The following submissions have been made by the Domestic Industry.

- a) The consideration of appropriate market economy third country does not imply that such a country should not be a developed country.
- b) The Applicants have considered Russia as the appropriate market economy third country.

Normal Value

11. The Authority notes that Normal Value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure 1 of AD rules. In the instant case none of the producers and exporters from China PR has filed any market economy treatment (MET) questionnaire and, therefore, the Authority notes that options under para 7 of Annexure 1 to AD rules need to be explored. Para 7 lays down hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other country, including India, or where it is not possible, 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. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7. The Petitioners had submitted that EU and USA have imposed duties on China and countries such as Japan, Russia, Taiwan are involved in significant trade of subject goods and these countries, i.e., Russia and Japan can be considered as a market economy third country for China PR. The Applicants have provided information on (a) imports into Russia and Taiwan and the price prevailing in these countries and (b) exports from Japan. The Authority noted that export price from Japan is significantly high. Further, after consideration of volume and value of imports of subject goods into Russia and Taiwan as the consumption price in these countries, the Authority adopted Russia as an appropriate third country and considered average import price of Russia as normal value. The normal value so determined is shown in the Dumping Margin Table below.

Export Price

12. Petitioners have relied upon DGCI&S published data. The export price has been adjusted for expenses such as ocean freight, marine insurance, commission, port expenses, inland freight expenses, bank charges and VAT adjustment to arrive at the net export price. The Authority has accepted the claim of the Petitioners and the net export price so determined is shown in the Dumping Margin Table below.

Dumping Margin

13. Considering the normal value and export price determined as above, the dumping margin has been determined as under:

Country	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range%)
China PR	—	***	***	***	***	25-35

H. ASSESSMENT OF INJURY, CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

14. The following submissions have been made by the Domestic Industry.

- a) The imports from subject country have declined due to the anti-dumping duty in force, both in absolute terms and in relation to production/consumption in India.
- b) The primary reason behind dumping margin, undercutting and injury margin being negative is significant price difference between granular and powdered form of subject goods. On perusal of DGCI&S transaction wise data, it may be seen that there are only three transactions of imports and these are granular Barium.
- c) The average third country export prices of China are below the level of cost of sales and selling price which indicates that in the event of cessation of duty there is likelihood of intensified imports at prices that is likely to undercut the domestic industry's prices.
- d) Considering the prices in which China is exporting to other countries, the cessation of anti-dumping duties on subject goods would have suppressing and depressing effect on the prices in the market.
- e) The production, capacity, capacity utilization, sales, market share in demand increased and the average inventories decreased over the injury period due to the anti-dumping duties in force.
- f) The profits, cash profit, PBIT and return on capital employed earned by the domestic industry improved till 2017-18, declined in 2018-19 and then increased again in 2019-20.
- g) Growth in parameters such as capacity, production, cost of sales, selling price, domestic sales of the domestic industry was positive, however, profit per unit, cash profit, were at negative levels, whereas, return on investment was at low levels.
- h) The antidumping duty have been effective in preventing injurious imports. The Indian industry has been able to get substantially entire market. Imports from China have declined significantly since last conducted review investigation (2016).

- i) Imports even at low volume has been made at dumped price. Positive dumping margin post imposition of duty implies likelihood of dumping in the event of withdrawal of duty in itself justifies extension of anti-dumping duty.
- j) The overall performance of the domestic industry has improved over the injury period in terms of profits, return on investments, and cash profit in view of current anti-dumping duty. Imports from China has declined significantly since last conducted review investigation (2016).
- k) Further, producers in the subject country have refrained from intensified dumping of subject goods due to existing anti-dumping duty. These factual scenarios prove the effectiveness of the duties and also that the Chinese producers only have market for dumped subject goods
- l) Producers and exporters from China PR are exporting the subject goods at dumped prices in other countries markets. Almost 12,578 MT of exports made to third countries are at injurious price, i.e., around 20% of Indian demand, and 1, 18,891MT of exports were dumped. The EC in its findings also noted that China's export behaviour in other third countries (to the six largest export markets) with no measures in place, i.e., Brazil, Egypt, Iran, Japan, Mexico and Russia, were made at dumped prices.
- m) The EU industry suffered injury at a higher price of Chinese imports of subject goods, this also indicates that the injury to Indian industry in absence of duty will be huge.
- n) In the absence of the domestic industry, Chinese producers are charging much higher prices. Chinese producers are selling at low prices only in those markets where there is domestic production. The only exception is Vietnam.
- o) However, prices to Vietnam should be ignored for the reason that the Chinese producers in general have started selling to the producers in Vietnam at prices similar to China – with Vietnam increasingly becoming pseudo Chinese production centre.

Volume of Imports and its Analysis

- 15. Product under consideration is classified under Chapter sub-heading 28366000 of the Customs Tariff Act. For the purpose of analysing the imports data, the Petitioners have adopted published import data from DGCI&S.
- 16. Annexure II to the Anti-Dumping Rules, in its relevant part provides that the examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, , wages, growth, ability to raise capital investments.

17. It may be noted that the volume of imports from the subject country and other countries has remained insignificant throughout the injury period in comparison to the total demand in the country.
18. Information with regard to various parameters showing injury to the domestic industry has been analysed as under:

a. Import Volume and Market Share

19. With regard to 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. Annexure II (ii) of the Anti-Dumping Rules provides as under:

"While examining the volume of dumped imports, said Authority, shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India".

20. The below-mentioned table provides details of the volume of imports and share of subject country in total imports, consumption and production in India.

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI (A)
Imports from subject country	MT	20	-	-	94	63
Trend	Indexed	100	-	-	313	313
Imports from other countries	MT	116	217	144	100	67
Trend	Indexed	100	187	124	57	57
Total Imports	MT	136	217	144	194	129
Trend	Indexed	100	159	106	95	95
Subject country imports in relation to total imports	%	15	-	-	48	48
Trend	Indexed	100	-	-	329	329
Total Indian production	MT	44,702	50,518	57,805	94,524	63,016
Trend	Indexed	100	113	129	141	141
Imports from subject country relative to production	%	0.04	-	-	0.10	0.10
Trend	Indexed	100	-	-	222	222
Demand	MT	44,752	49,597	57,880	94,872	63,248

Trend	Indexed	100	111	129	141	141
Imports from subject country relative to demand in India	%	0.04	-	-	0.10	0.10
Trend	Indexed	100	-	-	222	222

21. It may be noted that the volume of imports from the subject country and other countries has remained insignificant throughout the injury period in comparison to the total demand in the country. It is seen that the subject imports are nil or negligible in relation to production and consumption demand in India. Further, the volume of imports from subject country also remains nil or negligible. During the POI, the %age of subject imports is mere 0.12% of total Indian production and demand.

b. Price Effect

22. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

(i) Price undercutting

23. Price undercutting has been determined by comparing the landed price of imports from subject country with the Net Sales Realization (NSR) of domestic industry for the subject goods. It is seen that the landed price of imports (after including basic customs duties) is significantly high from the selling prices of the domestic industry. The Applicants have admitted that there is nil price undercutting.

Particulars	UOM	POI	POI (A)
Selling Price of DI	Rs/Kg	***	***
Trend	Index	100	100
Landed price	Rs/Kg	38	38
Price undercutting	Rs/Kg	***	***
Price undercutting	%	***	***
Price undercutting	Range	(40)-(30)%	(40)-(30)%

(ii) Price Suppression/Depression

24. It is seen that the selling price has increased more than the increase in cost of sales. Further imports have been low and they are not having any suppressing or depressing effect on the prices of the Domestic industry.

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI (A)
Cost of Sales	Rs/MT	***	***	***	***	***
Trend		100	103	98	99	99
Selling Price	Rs/MT	***	***	***	***	***
Trend		100	112	112	104	104
Landed Price	Rs/MT	32,371	-	-	38,291	38,291
Trend		100	-	-	119	119

(iii) Price underselling/Injury Margin/Dumping Margin estimates

25. The Authority notes that during the course of verification, the domestic industry has not furnished the requisite data / information for verifying Non-Injurious Price (NIP) claimed by them, despite several e-mails, requests and reminders. Non-cooperation of the domestic industry in furnishing the essential facts and figures led to non-determination of NIP and CNV. Therefore, it was not possible to determine the NIP and CNV accurately because of the deficient and unverified data. With the above background, NIP and CNV could not be verified and determined. Therefore, the Authority in order to expedite the investigation and avoid further delay has adopted the below mentioned NIP determined by the domestic industry itself since the domestic industry itself has admitted negative injury as per its own NIP. The NIP has been compared with the landed price of imports. It is seen that injury margin so determined is negative. Applicants have argued that cessation of anti-dumping duty may have adverse price impact on the domestic industry in future. However, current trend does not support the claim as such. Landed value does not include anti-dumping duty (ADD) and even without adding ADD, the landed value is more than the selling price of the DI.

Particulars	Value (Rs/KG)	Value (USD/KG)
Non-Injurious Price	***	***
Landed Value	38	0.53
Injury Margin	***	***
Injury Margin %	***	***
Exchange Rate used	USD/INR	73.17

c. Economic Parameters relating to the domestic industry

26. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

27. Various economic parameters of the domestic industry are discussed herein under:

i. Production, Capacity, Capacity utilization and Sales

28. Information on production, capacity, capacity utilization and sales provided by the petitioner shows as follows;

Particulars	UOM	2016-17	2017-18	2018-19	POI	POI (A)
Capacity - Plant	MT	25,128	25,128	25,128	39,492	31,594
Trend		100	100	100	157	126
Production	MT	10,008	12,043	15,718	24,442	16,294
Trend		100	120	157	163	163
Capacity utilization - Plant	%	40	48	63	62	62
Trend		100	120	157	155	155
Domestic sales	MT	9,922	10,906	15,648	24,596	16,397
Trend		100	110	158	165	165

29. As per information provided by the Applicants, the following is observed:

- The capacity of the domestic industry remained more or less static from 2016-17 to 2018-19 and was enhanced in the POI.
- Capacity utilisation has increased during the injury period.
- The production of the DI kept increasing throughout the injury period but decreased in the POI.
- The total demand registered a continuous increasing trend throughout the injury period.
- The sales of the DI increased continuously throughout the injury period.

ii. Profits, return on investment and cash flow

30. Information provided by the applicant shows as follows –

Particulars	UOM	2016-17	2017-18	2018-19	POI	POI (A)
Profit/Loss	Rs/MT	***	***	***	***	***
Trend		(100)	82	191	(7)	(7)
Profit/Loss	Rs Lacs	***	***	***	***	***
Trend		(100)	91	301	(12)	(12)
Cash Profit	Rs Lacs	***	***	***	***	***
Trend		100	23,700	52,400	16,900	11,300
Return on Capital Employed	%	***	***	***	***	***
Trend		100	1,300	2,700	300	300

31. It is seen from the table above that domestic industry made losses in the POI. Cash profits and return on capital employed in the POI also have declined.

iii. Employment, Productivity and Wages

32. Petitioners have claimed that employment with the domestic industry has increased over the injury period. Wages paid have been increased considerably during the POI. It is noted that wage cost per unit of production has decreased during POI; whereas productivity increased over the injury period.

Particulars	Unit	2016-17	2017-18	2018-19	POI	POI (A)
Wages	Rs. Lacs	***	***	***	***	***
Trend		100	128	149	232	155
Employee	Nos.	***	***	***	***	***
Trend		100	102	106	108	108
Production/Employee	MT/Employee	***	***	***	***	***
Trend		100	117	147	225	149
Productivity/Day	Per Day (MT)	***	***	***	***	***
Trend		100	117	155	162	162

iv. Ability to raise capital investments

33. It is seen that growth of the Domestic Industry is in terms of volume parameters such as production, sales, capacity utilization and market share is positive. Growth in terms of price parameters such as profits, cash profits and return on investment also reflects positive trend.

v. Growth

34. It is seen that growth of the Domestic Industry in terms of volume parameters such as production, sales, capacity utilization and market share is positive. Growth in terms of price parameters such as profits, cash profits and return on investment also reflects positive trend.

Particulars	Unit	2016-17	2017-18	2018-19	POI (A)
Production	%	-	***	***	***
Domestic Sales	%	-	***	***	***
Domestic Profit-Per Unit	%	-	***	***	***
Domestic profit-Per Lacs	%	-	***	***	***
Cash Profit	%	-	***	***	***
PBIT	%	-	***	***	***
ROI	%	-	***	***	***

I. Conclusion on injury

35. The Authority notes that during the course of verification, the domestic industry has not furnished the requisite data / information for verifying Non-Injurious Price (NIP) claimed by them, despite several e-mails, requests and reminders. Non-cooperation of the domestic industry in furnishing the essential facts and figures led to non-determination of NIP and CNV. Therefore, it was not possible to determine the NIP and CNV accurately in the absence of the deficient and unverified data. With the above background, NIP and CNV could not be verified and determined. Therefore, the Authority in order to expedite the investigation and avoid further delay has adopted the below mentioned NIP determined by the domestic industry itself since the domestic industry itself has admitted negative injury as per its own NIP. It is seen that the volume of imports from the subject country has remained nil or very negligible in absolute terms and also in relation to demand and production of the subject goods in India, which has resulted in significant increase in market share of the domestic industry. The domestic Industry has not suffered injury on account of imports of the subject goods. The Applicants have admitted that there is nil price undercutting and further that the imports are not having any suppressing or depressing effect on the prices of the Domestic industry. The Domestic Industry has made profits in injury period which increased further in the POI. Profits, cash profits and return on capital employed shows the same trend over the period as that of

profitability. The Domestic Industry has not suffered injury on account of imports of the subject goods. The non-injurious price estimated for the domestic industry has been compared with the landed price of imports and it is seen that injury margin is negative.

J. Causal Link

36. Non attribution Analysis - Applicants have claimed that the causal link has already been established in the original investigation. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority accepts the contention of the Applicants.

K. Likelihood of Dumping and Injury

37. Applicants have claimed that the following factors indicate that there is likelihood of dumping and injury:

- i. Dumping Margins determined in previous investigations and present petition are positive and significant and clearly show likelihood of dumping and consequent injury in the event of cessation of anti-dumping duty.
- ii. Imports even at low volume has been made at dumped price. Positive dumping margin post imposition of duty implies likelihood of dumping in the event of withdrawal of duty in itself justifies extension of anti-dumping duty.
- iii. The overall performance of the domestic industry has improved over the injury period in terms of profits, return on investments, and cash profit in view of current anti-dumping duty. Imports from China has declined significantly since last conducted review investigation (2016). Further, producers in the subject country have refrained from intensified dumping of subject goods due to existing anti-dumping duty. These factual scenarios prove the effectiveness of the duties and also that the Chinese producers only have market for dumped subject goods
- iv. The US and EU have imposed duties on imports of subject goods since 2003 and 2005. Both countries have conducted two review investigations and have extended antidumping duties on the ground of likelihood of dumping and injury.
- v. The known capacity with the producers in China is 4, 37,000 MT as against the Indian demand of around 63,000MT. This huge capacity signifies potential dumping into the Indian market in the event of cessation of the antidumping duties.

Name of the Company*	Production Capacity PA (in MT)
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Hubei Jingshan Chutian Barium Salt Corp Ltd.	60,000
Zaozhuang Yongli Chemical Co. Ltd.	50,000
Guizhou Redstar Developing Co. Ltd.	3,00,000
Hengyang Wenfeng Chemical Co. Ltd.	27,000
Total	4,37,000 MT

*Source: Web sources

- vi. The European Commission in its last conducted review found that the declared production capacity amounted cumulatively to a yearly capacity of at least 428 000 tonnes which was about three times the total world trade of barium carbonate in 2015.
- vii. Chinese producers also have capacity much beyond their demand. The European Commission in its last conducted review found that available spare capacities in China were significant to the tune of around 280 000 tonnes. The same was also found by the US commission in its third expedited review. Such spare capacity represents more than four times the total India consumption during the current review investigation period.
- viii. The US Commission in its third expedited review has also re-emphasized upon the ability to shift exports between markets, and would have the incentive to increase exports to the Indian markets if the anti-dumping duties were to expire in light of the European Union's and US continuation of antidumping duty order on barium carbonate from China PR.
- ix. Producers and exporters from China PR are exporting the subject goods at dumped prices in other countries markets. Almost 12,578 MT of exports made to third countries are at injurious price, i.e., around 20% of Indian demand, and 1, 18,891MT of exports were dumped. the EC in its findings also noted that China's export behaviour in other third countries (to the six largest export markets) with no measures in place, i.e., Brazil, Egypt, Iran, Japan, Mexico and Russia, were made at dumped prices.
- x. The EU industry suffered injury at a higher price of Chinese imports of subject goods, this also indicates that the injury to Indian industry in absence of duty will be huge.
- xi. In the absence of the domestic industry Chinese producers are charging much higher prices. Chinese producers are selling at low prices only in those markets where there is domestic production. The only exception is Vietnam. However, prices to Vietnam should be ignored for the reason that the Chinese producers in general have started selling to the producers in Vietnam at prices similar to China – with Vietnam increasingly becoming pseudo Chinese production centre.
- xii. Export orientation of exporters: In the event of cessation of duty, these exporters are likely to increase their exports to India at dumped prices, considering the fact that anti-dumping duties are already in force on the Chinese product in USA and EU.
- xiii. Price undercutting in the absence of measures: The dumped imports from subject country would cause significant price undercutting in the absence of

anti-dumping duty. Should the present anti-dumping duty cease, there is a chance of likelihood which may result in price undercutting later.

- xiv. Price attractiveness of Indian market: The prices at which subject goods are being exported to third countries are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in case of expiry of duty, exporters from the subject country would further channelize their output in the Indian market in view of significant capacity with it. This indicates likelihood of injury to the domestic industry.

Post Disclosure Comments/Submissions by Domestic Industry

38. The Authority notes that neither any exporters/producers from the Subject Country nor any importers/users and other interested parties have participated in this investigation. Only the Domestic Industry has submitted the post Disclosure Statement submissions which are repetitive and have already been dealt with by the Authority. In brief, the submissions are as under:

- i. With regard to the Authority's observation that the domestic industry has not furnished the requisite data / information for verifying Non-Injurious Price (NIP) claimed by them, it is submitted that all applicant companies fall within definition of "small enterprise" and the domestic industry has provided all information required for verification to the best of its ability.
- ii. Imports from China remained low only after imposition of antidumping duty. The landed price of imports is not indicative of likely prices as the volume of import is low. The average third country export prices of China are below the level of cost of sales and selling price which indicates that in the event of cessation of duty there is likelihood of intensified imports at prices that is likely to significantly undercut/undersell the domestic industry's prices. The landed price of imports is above the selling price and non-injurious price of the domestic industry. These prices reflect only granular form of subject goods. These prices of granular form of subject goods are not proper reflective of price impact of subject imports. The domestic industry made losses in the POI. Cash profits and return on capital employed in the POI also have declined. The return on investment remains much below the reasonable level.
- iii. The Authority concluded that there is no likelihood of injury to the Domestic Industry if the current duty levied on the imports of the subject goods from the subject country ceases. The domestic industry briefly submits that there was significant dumping margin in all past investigations; whenever the volume of imports was significant, the dumping margin was significant. This clearly shows likelihood of dumping and consequent injury in the event of cessation of anti-dumping duty. The US and EU have imposed duties on imports of subject goods since 2003 and 2005. Both countries have conducted two review investigations and have extended antidumping duties on the ground of likelihood of dumping and injury. The known capacities with the Chinese producers are way beyond Chinese demand. Huge capacity signifies potential dumping into the Indian market in the event of cessation of the antidumping duties. The European Commission in its last conducted review found that the declared production capacity amounted cumulatively to a yearly capacity of at least 428000 tonnes which was about three times the total world trade of barium carbonate in 2015. The US Commission in

second review in 2015 also concluded that the producers in China hold significant capacities and are highly export oriented. Chinese producers also have capacity much beyond their demand. The European Commission in its last conducted review found that available spare capacities in China were significant to the tune of around 280000 tonnes. Such surplus capacity represents more than four times the total India consumption during the current review investigation period. The producers/exporters in subject country are highly export oriented. Considering the significant capacity held by China with their export orientation and anti-dumping duty in force on the Chinese product under consideration in EU and USA, it is extremely likely that in the event of cessation of anti-dumping duties, the exporters from China PR will increase their exports to India at dumped prices. Producers and exporters from China PR are exporting the subject goods at dumping prices in other countries' markets.

- iv. The expression public interest does not limit itself to the consumer industry alone and is in fact a much wider term which covers in its ambit the domestic industry as well. It is well known that all the applicants are small scale producer of subject goods in India. In an event where the injury to domestic industry is likely to recur injury in all probability and non-continuation of duties may lead to worsening condition of the industry and the Indian industry may have to shut down, as a result of which the users of the product under consideration may become wholly dependent on imports. Therefore, it is essential that the domestic industry is seen under the ambit of public interest.
- v. Therefore, the Authority is requested to conclude that there is a likelihood of injury to the domestic industry if duties are not extended and recommend continued imposition of definitive anti-dumping duties on imports from subject country for a further period of 5 years to provide a level playing field to the domestic industry.

Examination by Authority

39. The Authority has examined the post Disclosure Statement comments by the Domestic Industry and noted that the submissions are repetitive. Still, the Authority has examined the post Disclosure Statement comments.
40. The Applicants themselves provided the evidence that there is nil import from the subject country during 2017-18 and 2018-19, and even during the POI, the imports are miniscule. It is seen that during the last five years, overall import volume is nil or significantly low in absolute terms and almost nil in terms of market share.
41. It is apparent that the anti-dumping duty that has been levied and the overall performance of various economic parameters and financial position of the Domestic Industry seems very good. The Applicants have admitted that there is nil price undercutting and further that the imports are not having any suppressing or depressing effect on the prices of the Domestic industry. The Domestic Industry has not suffered injury on account of imports of the subject goods. The non-injurious price estimated for the domestic industry has been compared with the landed price of imports and it is seen that injury margin is negative.

42. The only issue raised by the Applicants is the export potential and excess capacity of China which may result in increase of the imports into India due to likelihood in case the measures are discontinued. However, no substantial evidence for analysing the likelihood in terms of excess capacity in China has been furnished by the Applicants. Therefore, likelihood of injury has not been conclusively established by the Applicants.
43. The Authority notes that post-disclosure comments/submission made by the Domestic Industry are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and appropriately addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to issues raised by the interested parties:

INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

44. The Authority notes 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. Imposition of anti-dumping measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

Conclusions

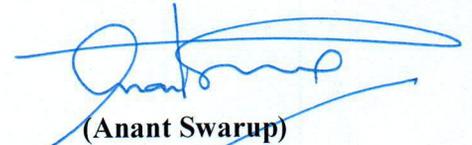
45. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- i. It is seen that during the last five years, overall import volume of the subject goods from the subject country is nil or significantly low in absolute terms and almost nil in terms of market share.
 - ii. The Applicants have admitted that there is nil price undercutting and further that the imports are not having any suppressing or depressing effect on the prices of the Domestic industry.
 - iii. The Domestic Industry has not suffered injury on account of imports of the subject goods. The injury margin is negative.
 - iv. No substantial evidence for analysing the likelihood in terms of excess capacity in China has been furnished by the Applicants. Therefore, likelihood of injury has not been conclusively established by the Applicants.
 - v. Therefore, it is concluded that the Domestic Industry has neither suffered injury on account of imports of the subject goods, nor is there any likelihood of injury to the Domestic Industry if the current duty levied on the imports of the subject goods originating in or exported from the subject country ceases.

Recommendations

46. Having observed that the existing anti-dumping duty is in existence since 23rd March, 2010, the Authority considers it necessary and recommends immediate ceasing of antidumping duty on import of subject good from the subject country recommended vide Notification No. 15/27/2014-DGAD dated 23rd February, 2016 and enforced vide Customs Notification No. 14/2016-Customs (ADD) dated 21st April, 2016 which was further extended vide Customs notification No22/2021– Customs (ADD) dated 15th April, 2021 till 20th October, 2021.

Further Procedures

47. An appeal against the order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority