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F.No.7/21/2019-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated: 30th April, 2020

NOTIFICATION

FINAL FINDINGS

CASE NO: (SSR) 09/2019

Subject: Sunset Review Investigation concerning imports of “Sodium Citrate” from People’s Republic of China.

Background of the case

Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Rules”) thereof;

1. The Designated Authority (hereinafter also referred to as the “Authority”) initiated anti-dumping investigation on imports of “Sodium Citrate” (hereinafter also referred as the “subject goods” or “product under consideration” or “PUC”), originating in or exported from China PR (hereinafter also referred to as the “subject country”) vide notification No. 13/23/2013-DGAD dated 28th February, 2014. The Authority thereafter notified the Final Findings No. 14/23/2013-DGAD dated 26th February, 2015, recommending imposition of anti-dumping duties (ADD) against imports of the subject goods from China PR. Definitive ADD was imposed by Ministry of Finance vide Customs Notification No. 19/2015-Customs (ADD) dated 20th May, 2015 for five years and the same is in force till 19th May, 2020.
2. In terms of Section 9A (5) of the Act, the 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 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 duty is likely to lead to continuation or recurrence of dumping and injury.
3. Before the expiry of the said duty, M/s. Posy Pharmachem Private Limited, constituting the Domestic Industry (hereinafter referred to as the “Applicant”) has filed a duly substantiated application before the Authority in accordance with the Act and the Rules, for initiation of Sunset Review investigation concerning imports of “Sodium Citrate” originating in or exported from China PR, alleging likelihood of continuation or

recurrence of dumping and consequent injury to the domestic industry in case of cessation of existing anti-dumping duties.

4. The Authority on the basis of the prima facie evidence initiated sunset review investigation through notification No. 7/21/2019-DGTR dated 25th October, 2019 to examine whether the expiry of the said duties on the import of the subject goods originating in or exported from China PR are likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
5. The scope of the present review covers all aspects of the final findings No. 14/23/2013-DGAD dated 26th February, 2015 concerning imports of the above goods, originating in or exported from the subject country.

A. PROCEDURE

6. The following procedure has been followed with regard to this investigation:
 - i. The Authority issued a notification dated 25th October, 2019, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject good from subject country.
 - ii. The Authority sent a copy of the initiation notification to the Government of the subject country, through its Embassy, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Applicant and requested them to make their views known in writing within the prescribed time limit.
 - iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject country, through its Embassy and known importers/users in India in accordance with Rule 6(3) of the Rules supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - iv. The Authority also forwarded copy of the notice to known producers/exporters from the subject country, known importers/users in India, other Indian producers and the domestic industry as per the addresses made available by the Applicant and requested them to make their views known in writing within 40 days of the initiation notification. The Authority sent Exporter's Questionnaire to the following known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules:
 - a) M/s. Qingdao Sonef Chemical Company Limited, Rm 1504, Jinhua Building 1, No.100, Nanjing Rd, Shandong, Qingdao, China;
 - b) M/s. Weifang Vot International Business Co. Ltd., No. D2704, Dong Feng Street, Shandong - 261 000, Weifang, China;
 - c) M/s. Hai Hui Group Co., Ltd., Industrial Park of Ju County, Shandong – 276500, Rizhao, China;

- d) M/s. Foodchem International Corporation, Building 9, 2277 Zuchongzhi Road, Zhangjiang Hi - Tech Park, Shanghai - 201203, China;
 - e) M/s. Yixing Zhenfen Medical Chemical Co. Ltd., Zhoutie Town, Yixing City, Jiangsu Province - 214262, China;
 - f) M/s. Hainan Huarong Chemical Co. Ltd, 21A, Beijing Building, No.56, Guomao Road, Hainan, Haikou - 570125, China;
 - g) M/s. Lianyungang Dongtai Food Ingredients Co. Ltd., Room 201, Unit 1, No.A3, Building, 28 Yingzhou Road, Xinpu District, Jiangsu – 222000, Lian Yungang, China;
 - h) M/s. Lianyugang Shuren Kechuang Food, Additive Co. Ltd., The East of Linhong Road, Dapu Chemical Industry Zone, Lianuungang TEDA, Jiangsu -222000, China;
 - i) M/s. COFCO, Fortune Plaza, No.8, Chao Yang Men South St., Chao Yang District, Beijing, China;
 - j) M/s. Laiwu Taihe Biochemistry Co., Ltd., Laiwu, No.106 Luzhong East Street, Laiwu, 271100, Taihe city, Shandong, China;
 - k) M/s. Weifang Ensign Industry Co. Ltd., Changle, 1567 Changsheng Street, Changle Weifang, 262499 China.
- v. The Embassy of China PR in India was also requested to advise the exporters/producers from China PR to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassy along with the names and addresses of the known producers/ exporters from the subject country.
- vi. In response to the initiation of the subject investigation, following producers/exporters from the subject country have responded by filing questionnaire response:
- a) M/s. Jiangsu Guoxin Union Energy Co. Ltd.
- vii. The Authority sent Importer's Questionnaire to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
- a) M/s. Crystal Crop Protection Pvt. Ltd, GI-17, GT Karnal Road, Industrial Area, Azadpur, Delhi – 110033;
 - b) M/s. Desmo Exports, 125-Arenja Arcade, Sector 17, Vashi, Navi Mumbai – 400703, Maharashtra;
 - c) M/s. New Drug & Chemical Co., 4, Jay Mahal Estate 2nd Floor, 20/48, Lohar Chawl, Maharashtra;
 - d) M/s. Colorcon Asia Private Limited, 38-AB, Government Industrial Estate, Charkop, Kandivali West, Mumbai, Maharashtra;
 - e) M/s. ACID –India, Mulratra 2nd Floor, 334- Narshi Natha Street, Mumbai – 400703, Maharashtra;
 - f) M/s. Pradipkumar Pharma Pvt. Ltd., Address: 701, Arun Chambers, 80, Tardeo Road, Mumbai – 400034, Maharashtra;
 - g) M/s. Amijal Chemicals, 5/4, Mungekar Industrial Estate, Off Aarey Road, Goregaon (E), Mumbai, Maharashtra;

- h) M/s. Adani Pharmachem Pvt.Ltd., Plot No. 2729 to 2731, Road - I-1, Lodhika, G.I.D.C, Village Metoda, Tal. Lodhika, Rajkot – 360021, Gujarat;
 - i) M/s. Sujata Chemicals, 802, GIDC, Makarpura, Vadodara – 390010, Gujarat;
 - j) M/s. Prakash Chemicals Pvt. Ltd., Induchacha House, Opposite Cchani Octroi Naka, Vadodara, Gujarat;
 - k) M/s. RM Chemicals, Guru Kripa Complex, 131, Anna Pilai Street, Sowcarpet, Chennai - 600001, Tamil Nadu;
 - l) M/s. Pfizer Limited, Pfizer Center, Patel Estate, SV Road, Jogeshwari (W), Mumbai – 400102, Maharashtra;
 - m) M/s. FDC Limited, B-8, MIDC Area, Waluj – 431136, Aurangabad, Maharashtra;
 - n) M/s. Wallance Pharmaceutical Ltd., 3rd Floor, Dempo Trade Centre Building, Papp Plaza, EDC Complex, Panaji - 403001, Goa.
- viii. The Authority sent Importer’s Questionnaire to the following known Associations of subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:
- a) ASSOCHAM
 - b) FICCI
 - c) CII
- ix. No importer of the subject goods have responded by filing an Importer Questionnaire response.
- x. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xi. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the injury period and period prior to it, and also the period of investigation, and post POI. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions. The Authority also obtained data from DG-Systems, Central Board of Indirect Taxes and Customs (CBIC) for POI to correlate quantum of exports from specified exporters to validate the responses filed, to the extent feasible.
- xii. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xiii. In accordance with Rule 6(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 11th March, 2019. All the parties who presented their views in the oral hearing were requested to file written submissions of their views expressed orally. The parties

were also advised to collect written submissions made by the opposing parties and were provided an opportunity to submit their rejoinders, if any.

- xiv. On the spot verification of the information provided by the Applicant was conducted to the extent considered relevant by the Authority.
- xv. The Period of Investigation (POI) for the purpose of the present review investigation is 1st April, 2018 to 30th June, 2019 (15 months). The examination of trends in the context of injury and likelihood analysis covered the periods April 2015- March 2016, April 2016-March 2017, April 2017-March 2018 and the POI.
- xvi. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in this final findings.
- xvii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xviii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the views/observations on the basis of the facts available.
- xix. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 16th April, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The following interested parties have submitted their comments to disclosure statement:
 - a) M/s. Posy Pharmachem Private Limited
 - b) M/s. Jiangsu Guoxin Union Energy Co. Ltd.
- xx. The Authority notes that most of the post-disclosure submissions made by the interested parties are mere reiteration of their earlier submissions and have already been addressed in the disclosure statement issued by the Authority, and also in these final findings. Other post-disclosure submissions, to the extent considered relevant, have additionally been examined in these final findings.
- xxi. ‘***’ in this document represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate for the POI has been taken by the Authority as US\$ 1= ₹ 70.73.

B. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

7. The product under consideration in the present investigation is Sodium Citrate.

B1. Views of the domestic industry

8. The following submissions were made by the domestic industry with regard to the product under consideration:

- i. The PUC in the present petition is 'Sodium Citrate'. Sodium Citrate is a chemical compound that comes in the form of monosodium citrate, disodium citrate and trisodium citrate. Sodium Citrate is the sodium salt of citric acid. Like citric acid, it has a sour taste. Like other salts, it also has a salty taste. The PUC has been transacted by the following names:
 - a) Sodium Citrate
 - b) Tri sodium Citrate
 - c) Tri sodium citrate dihydrate
 - d) Sodium citrate dihydrate
 - e) Tribasic sodium citrate
 - f) Sodium Citrate Tribasic Dihydrate
 - g) Sodium Citrate Dibasic Sesquihydrate
 - h) Sodium Citrate Monobasic Bioextra
- ii. The PUC may be described differently based on applications. Based on applications, it can be industrial, food ingredients, pharma grade (P/BP/USP), reagent, fish grade. The present petition covers all forms, all types and all possible descriptions of sodium citrate. Further, it includes all alternate names of sodium citrate.
- iii. The PUC was defined by the Authority in its Final Findings dated 26th February, 2015 in the original investigation. The description of the subject goods or its use has not undergone any change during the past five years. Therefore, description and scope of PUC in the original investigation has been referred to and relied upon in this review investigation as well.
- iv. There is no known difference in the PUC exported from China PR and that produced by the Indian industry. In the present case, both products are comparable in terms of technical characteristics, similar end uses, technical and commercial substitutability and tariff classification. The two are technically and commercially substitutable.
- v. The product under consideration is imported under Chapter 29 of the Customs Tariff Act, 1975, under customs sub-heading 29181520. The customs classification is indicative only and is not binding on the scope of the product under consideration.

B2. Views of the other interested parties

9. The cooperating producer/exporter has not made any submissions with regard to the scope of the PUC or like article.

B3. Examination by the Authority:

10. The PUC in the present investigation is Sodium Citrate. The subject goods are mainly used as an expectorant and a urine alkalinizer. Sodium Citrate is a chemical compound that comes in the form of mono-sodium citrate, disodium citrate and tri-sodium citrate.
11. The subject goods fall under customs sub-heading 29181520. However, the said customs classifications are only indicative, and not binding on the scope of the investigations. The description of goods shall prevail for the imposition and collection of duties.
12. This being a sunset review investigation, the scope of the PUC remains the same as that in the original and subsequent review investigation. The PUC as mentioned in the original investigation was:

“The product under consideration for the purpose of present investigation is “Sodium Citrate”. It’s a chemical compound that comes in the form of mono-sodium citrate, disodium citrate and tri-sodium citrate. It is sodium salt of citric acid and has a sour and salty taste. Sodium Citrate is mainly used in pharma industries as an expectorant and urine alkalinizer. It is also used as a pharmaceutical aid, food additive in dairy industries, laboratory reagent in water treatment, acidity regulator in drinks, an emulsifier for oils when making cheese and an antioxidant in food, etc.

The product under consideration can also be transacted by the following alternate names:- a. Sodium Citrate b. Tri Sodium Citrate c. Tri Sodium Citrate dihydrate d. Sodium Citrate dihydrate e. Tribasic Sodium Citrate f. Sodium Citrate Tribasic Dihydrate g. Sodium Citrate Dibasic Sesquihydrate h. Sodium Citrate Monobasic Bioxtra

Sodium Citrate is classified under Chapter 29 of the Customs Tariff Act under customs subheading 29181520. The customs classification is however indicative only and in no way binding on the scope of the present investigation.”

13. Rule 2(d) relating to the definition of "like article" specifies that "like article" means an article which is identical or alike in all respects to the article under investigation, or in the absence of such an article, another article having characteristics closely resembling those of the article under investigation.
14. From the above definition of the term "like article", it is noted that the like article has to be identical or alike in all respects to the article under investigation. The scope of the term like article shall also include those articles having closely resembling characteristics to those under investigation in the absence of articles identical or alike in all respects.
15. On the basis of information on record, the Authority holds that there is no known difference in the subject goods produced by the Domestic Industry and those imported from the subject country. The two are comparable in terms of physical characteristics, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classifications of the goods. The two are technically and

commercially substitutable. The consumers also use the two interchangeably. The Authority holds that the product manufactured by the Applicant constitutes like article to the subject goods being imported into India from the subject country.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

C1. Views of the domestic industry

16. The following submissions have been made by the Domestic Industry in this regard:

- i. The application has been filed by M/s. Posy Pharmachem Private Limited (hereinafter also referred to as “Posy Pharmachem”). The application is supported by M/s. Adani Pharmachem Pvt. Ltd., M/s. Alpine Labs, M/s. India Phosphate and M/s. Sunil Chemicals. The share of the Applicant along with supporting companies accounts for approximately 61% in Indian production. Even otherwise, M/s. Posy Pharmachem accounts for a substantial share (around 32%) in the POI in production of the product concerned in India.
- ii. In the original investigation, M/s. Sunil Chemicals was the supporter. At that time Indian industry consisted of 6 producers, viz. M/s. Posy Pharmachem Private Limited; M/s. Sunil Chemicals; M/s. Amijal Chemicals; M/s. Sujata Chemicals; M/s. Vasa Pharmachem; and M/s. Adani Pharmachem Private Limited. Since the imposition of ADD, new capacities have been established in India and the total number of producers has increased from 6 to 11. The existing producers too were able to enhance their capacity in view of the ADD in force.
- iii. Currently, there are the following 11 producers in India:
 - a) DI in the current SSR investigation and also the original investigation –
 - (1) M/s. Posy Pharmachem Private Limited
 - b) Supporters in the current SSR investigation –
 - (1) M/s. Adani Pharmachem Private Limited
 - (2) M/s. Sunil Chemicals
 - (3) M/s. India Phosphate
 - (4) M/s. Alpine Labs
 - c) Other Producers –
 - (1) M/s Amijal Chemicals
 - (2) M/s. Sujata Chemicals
 - (3) M/s. Vasa Pharmachem Pvt. Ltd.
 - (4) M/s. Devendra Kirti Pharmachem Pvt. Ltd.
 - (5) M/s. Wang Pharmaceuticals & Chemicals
 - (6) M/s. Ishita Drugs & Industries Ltd.
- iv. As regards absence of names of supporters from Initiation Notification under Para 7, it is submitted that the scope of Domestic Industry is different from the scope of supporters. Supporters are not Domestic Industry, as the Domestic Industry provides injury information. The Domestic Industry has not requested Authority to treat supporters as Domestic Industry. The other Indian producers have not provided injury data only because of the small sized operations and complex nature of costing requirements. Other domestic producers cannot be treated as Domestic Industry.

- v. At the stage of SSR investigation, an analysis of standing is not a mandatory requirement. Notwithstanding the same, the Domestic Industry has submitted that its share in Indian production is 32% and thus, it constitutes “a major proportion” of Indian production. The Applicant and the supporters together constitute 61% of Indian production, thus satisfying the requirement of standing as per the Rules.
- vi. The Domestic Industry has not imported the subject goods from the subject country nor are they related to any producer or importer of subject goods.
- vii. It is presumptive on the part of the cooperating producer/exporter that other domestic producers who have not provided their injury data could be doing well.
- viii. The production of other Indian producers is quite low having regard to gross Indian production. Despite holding 32% of Indian production, the Domestic Industry is an MSME. Other Indian producers are even smaller and are also MSMEs.

C2. Views of the other interested parties

17. The cooperating producer/exporter has made the following submissions with regard to eligibility of the Domestic Industry and standing:

- i. The standing test of the Domestic Industry is a mandatory requirement whether the investigation is original investigation or sunset review investigation. The standing of the Domestic Industry cannot be ignored. Reference has been drawn to Para 4.13 of the Manual of Operating Practices for Trade Remedy investigations, whereby standing test of the Domestic Industry in SSR is to be applied afresh. The standing of the Domestic Industry during SSR is important for a valid investigation. An incorrect standing may render the initiation invalid. The statement made by the Domestic Industry in the written submission is contrary to the past practice of DGTR and should not be taken into consideration.
- ii. Initiation Notification under Para 7 provided that the Applicant can be termed as eligible DI. However, it has failed to state the names of the supporters in the said para. The initiation Notification has not provided the names of the following supporters mentioned in the Application:
 - a. M/s. Adani Pharmachem Private Limited
 - b. M/s. Sunil Chemicals
 - c. M/s. India Phosphate
 - d. M/s. Alpine Labs
- iii. As per Trade Notice No. 13/2018 dated 27th September, 2019, a supporter is required to file a complete response in the formats prescribed by the Authority in the said trade notice. The above mentioned four claimed supporters have not complied with the above Trade Notice and have not filed any documents or details such as annual reports, performance parameters, reasons for supporting this application and not becoming co-petitioner, difference in the production process employed by the supporting company and the Applicants or foreign producers, wherever possible, names of major raw materials and packing materials consumed

in the production and sale of the PUC, etc. Hence, meaningful and sufficient information of such supporting companies is not available with the cooperating producer/exporter for the purpose of analysis of the economic parameters of the supporting companies. Hence, the above companies should not be considered as supporting the application in the present investigation.

- iv. Why only one out of the 11 producers mentioned in the application has filed the Application is not clear. The other domestic producers may not be participating because of their high earning and rising performance.
- v. The Domestic Industry has failed to file the data of the supporters with the written submissions. This clearly establishes that there is a deliberate attempt on the part of domestic producers in India to mislead the Authority by selective participation. This should be discouraged by the Authority and either the supporters should be asked to file the required information or else the application should be rejected and the investigation be terminated.
- vi. The present investigation is void-ab-initio.

C3. Examination by the Authority:

18. Rule 2 (b) of the 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".

19. The present sunset review application has been filed by M/s Posy Pharmachem Private Limited. The application has been supported by M/s Adani Pharmachem Private Limited, M/s. Sunil Chemicals, M/s. India Phosphate and M/s. Alpine Labs. There are six other domestic producers of subject goods, namely, M/s Amijal Chemicals, M/s. Sujata Chemicals, M/s Vasa Pharmachem Pvt. Ltd., M/s Devendra Kirti Pharmachem Pvt. Ltd., M/s Wang Pharmaceuticals & Chemicals and M/s. Ishita Drugs & Industries Ltd.

20. As regards the reasons for non-participation of other producers, the Authority notes the submission of the Domestic Industry that these producers are small-scale companies and they may have problems in preparing detailed formats. It is also noted that the Applicant was the sole applicant in the original investigation as well. The production by the Applicant in the present investigation is 32% and constitutes "a major proportion" of total Indian production. None of the other domestic producers have significant production individually and, in any case, there is no information on record with regard to their production. Further, the Applicant is not related to any importer or exporter of subject goods in the subject country, nor have they imported subject goods from subject country. None of the domestic producers have opposed the application. Thus, on the basis of examination of the degree of support for and opposition to the

application expressed by domestic producers of the like product, it is determined that the application has been made by the domestic industry.

21. In view of the above, the Authority holds that the Applicant is an eligible domestic industry within the meaning of Rule 2 (b) of the Rules and considers that the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

D. CONFIDENTIALITY

D1. Views of the Domestic Industry

22. Various submissions made by the domestic industry with regard to confidentiality claims of the exporters/importers and other interested parties are as follows:
 - i. The cooperating producer/exporter has claimed excessive confidentiality by not providing information in the public version of their questionnaire responses. Not even indexed information has been provided. Appendix-I on Performance Parameters is not as per format prescribed by the Authority. Parameters have been provided only for capacity, production, shipment and inventory. Other parameters have been completely deleted from the format violating the Trade Notice prescribed by the Authority. Information on sales of other producers in the subject country and demand in the subject country has also not been provided as required by the SSR Questionnaire-II. The response filed by the cooperating producer/exporter is grossly deficient and is liable to be rejected.
 - ii. The Domestic Industry has claimed confidentiality having regard to the Rules. The Domestic Industry cannot disclose such information publicly, confidentiality of which is protected under the Rules. No specific instance has been pointed out by the cooperating producer/exporter where the Domestic Industry has claimed confidentiality and the Rules do not permit the same or confidentiality otherwise is not warranted.
 - iii. As regards confidentiality of costing information, the Authority has consistently permitted confidentiality on this information. In any case, this information is highly business-sensitive.

D2. Views of the other interested parties

23. Various submissions made by the interested parties with regard to confidentiality claims of the Domestic Industry are as follows:
 - i. DGTR should not have initiated the present investigation on the basis of the information contained in the Application. The non-confidential version of the Application does not allow for a reasonable understanding of the allegations contained therein. The non-confidential version of the Application clearly violates the requirements specified in Rule-7 of the Rules.
 - ii. The Domestic Industry has claimed excessive confidentiality and filed an incomplete Application.

- iii. The share of the Applicant in Indian production is kept confidential on the grounds of “*Business sensitive information not Amenable to Summarisation*” in Annexure 2.3 of the Application whereas the combined share of the Domestic Industry and the supporters is provided.
- iv. In response to Section-VI (Costing Information) of the Application, the Domestic Industry has not furnished any information at all. The Domestic Industry has replied to all questions raised in Part VI of the Application “*please refer enclosed Format A to K*”, but nothing has been provided in the non-confidential version of these formats. The Domestic Industry is required to show reasonable justification for the claim, but has failed to do so.
- v. The information filed by the Domestic Industry is grossly deficient. The Authority is requested to direct the Domestic Industry to provide the above information along with a non-confidential summary of the same so that the cooperating producer/exporter is able to give comments.

D3. Examination by the Authority

- 24. Various submissions made by the Applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined and addressed as follows:
- 25. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection as per Rule 6(7).
- 26. With regard to confidentiality of information Rule 7 of the Rules provides as follows:

“7. 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 summarisation 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 authorize its disclosure in a generalized or summary form, it may disregard such information.”

27. As regards the contentions with regard to confidentiality of information, it is noted that information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties in the form of public file. The information related to imports, performance parameters and injury parameters of domestic industry has been made available in the public file. Business sensitive information has been kept confidential as per practice. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

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

28. Under 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-*

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

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):

(b) 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 transshipped 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.

E1. Views of the Domestic industry

29. The following are the submissions made by the Applicant in respect of normal value:

- i. The Applicant has cited and relied upon Article 15(a)(i) of China's Accession Protocol and stated that the Chinese producers should be directed to show that consistent with the provisions of Article 15(a)(i), market economy conditions prevail in the industry producing the like product, with regard to the manufacture, production and sale of that product under consideration, so that Chinese prices or costs can be used for the industry under investigation. Additionally, the Applicant has provided evidence which is relevant in establishing that market economy conditions prevail in the industry producing the like article with regard to manufacture, production and sale of product under consideration.
- ii. The Applicant has claimed that should the above-stated stand be inapplicable, in accordance with provisions of Para 1-6 of the Rules, Chinese domestic costs and prices nevertheless cannot be accepted unless the Chinese exporters pass the tests of market economy. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.
- iii. In view of the above the Applicant has determined Normal Value in China on the basis of cost of production in India, based on the cost of the domestic industry duly adjusted with selling, general and administrative expenses.
- iv. The Applicant in its written submissions dated 18th March, 2020, post oral hearing held on 11th March, 2020, submitted that as provided under Para 7 of Annexure 1 to the Rules, it explored all options in a sequential manner:
 - a) Normal value could not be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. Such normal value must be comparable price in the ordinary course of trade the like article when meant for consumption in such market economy third country. Principles of fair comparison as laid down under Article 2.4 of the Anti-dumping Agreement are also relevant in this respect. The Applicant has not been able to procure such information from a producer in market economy third country.
 - b) Constructed value also implies the cost of production (with reasonable addition for profit) as evidence of normal value in a market economy third country. However, there is no published information available about the same.
 - c) The Applicant does not have information on PUC from any market economy third country to other country. Further, as regards price from market economy country to India, it may be seen that imports from other countries other than China PR, have miniscule balance of exports in terms of volume and hence, cannot be considered representative for the purpose of determination of normal value. Further, it must be emphasized that imports from Cambodia are actually of Chinese origin as there are no manufacturers of the PUC in Cambodia.
 - d) In the absence of information available on the above, accordingly, the Applicant has determined Normal Value in China on the basis of cost of production in India, based on the cost of production of the domestic industry

duly adjusted with selling, general and administrative expenses and reasonable profit.

E2. Views of the interested parties

30. No submissions have been made by the exporters or other interested parties with regard to normal value.

E3. Examination by the Authority

E.3.1 Determination of normal value and export price

Market economy status for Chinese Producers

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 non-market 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 producer / exporter from China PR has not submitted the supplementary questionnaire response, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.
33. Accordingly, the normal value and export price for the producers/ exporters from the subject country have been determined as below.

Normal Value for all Producers in China PR

34. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules.
35. Para 7 of Annexure I of the Rules provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of 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.”

36. In the absence of sufficient information on record, regarding the other methods as enshrined in Para 7 of Annexure I of the Rules, the normal value has been determined by considering the method on "any other reasonable basis". The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production

in India, duly adjusted, including selling, general and administrative expenses and addition of reasonable profits. The Constructed Normal Value so determined for POI by the Authority is mentioned in the dumping margin table below.

Determination of Export Price

a. **M/s. Jiangsu Guoxin Union Energy Co., Ltd.**

37. M/s. Jiangsu Guoxin Union Energy Co. Ltd., (Jiangsu) is a producer and exporter of subject goods from China PR and has submitted the questionnaire response in the form and manner prescribed. It is noted that during the POI, M/s Jiangsu made export sales of ***MT for US\$ *** to India and *** MT for US\$ *** to third countries.

38. It is also noted from the response that some of the transactions of the cooperating producer/exporter’s exports to India are on FOB basis and some are on CIF. The cooperating producer/exporter has claimed ocean freight charges, insurance, inland transportation, bank charges and credit cost as adjustments. The Authority made adjustments on account of inland freight, handling charges, ocean freight, insurance, cash credit, bank charges and VAT as claimed by the exporter in its response to the questionnaire in order to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for M/s Jiangsu, has been determined and is mentioned in the dumping margin table below.

b. **Export Price for all other producers/exporters from China PR**

39. The export price for the non-responding producers/exporters from China PR has been determined on the basis of facts available taking into account the export transactions of the responding exporter.

E.3.2 Dumping Margin

40. Based on normal value and export price determined as above, the dumping margin for producers/exporters from China PR has been determined by the Authority and the same is provided in the table below:

Country	Producer	Normal Value/ CNV (US\$/MT)	Export Price (US\$/MT)	Dumping Margin US\$/MT	Dumping Margin %	Dumping Margin Range
China PR	Jiangsu Guoxin Union Energy Co. Ltd.	***	***	***	***	20-40
	Other producers and exporters	***	***	***	***	40-60

41. The dumping margins are more than the *de-minimis* limits prescribed under the Rules.

F. DETERMINATION OF INJURY AND CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY TO THE DOMESTIC INDUSTRY

42. The views on injury, likelihood and causality are as under:

F1. Views of the Domestic industry

43. There has been a continued increase in demand till 2017-18, with only a slight decline in the POI. Thus, over the injury period the demand for the subject goods has seen an overall increase.
44. Imports from China PR declined over the injury period only due to the imposition of ADD. However, imports remained significant, and entered the market at dumped prices. In the event of cessation of ADD, it is likely that the dumped imports will increase considering significant surplus capacity available with the producers in the subject country and considering the price at which the subject goods are being imported. Imports in relative terms have declined over the injury period as a result of the remedial effect of ADD in place. However, they continue to remain significant despite the imposition of ADD. The analysis of imports, domestic sales, demand and market share shows that while the imposition of ADD has only some remedial effects and not to the extent that would have been desirable as imports are still entering the market at dumped prices. Imports continue to hold a significant market share.
45. Landed price of imports is below the level of selling price of the Domestic Industry and price undercutting has remained positive throughout the injury period except briefly in 2017-18. Therefore, imports are likely to undercut prices of the Domestic Industry in the event of cessation of ADD. The cost of production increased throughout the injury period. While the increase in selling price was commensurate with the cost of production till 2017-18, it, however, declined in the POI with a steep decline in import prices. Further, the landed price of imports is below both the selling price and cost of production of the Domestic Industry. Imports are likely to cause suppressing/depressing effect on the domestic market in the event of cessation of ADD.
46. The capacity of the Domestic Industry has registered an increasing trend throughout the injury period in view of the growing demand and considering export markets. The production and domestic sales of the Domestic Industry has increased. The capacity utilization of the Domestic Industry has also increased over the period. Such improvement is because of the imposition of ADD. Imports in the domestic market are not necessary as the Indian industry has sufficient capacities to cater to the demand. However, imports from the Subject Country are still significant.
47. The Market share of the Indian industry and that of the Domestic Industry increased, as a result of a decline in the share of subject imports. The market share of the subject imports has declined as a direct consequence of the imposition of ADD. However, the subject imports continue to maintain a considerable market share, and in all likelihood, should the ADD cease to exist, this market share shall see a sharp increase.

48. The performance of the Domestic Industry has improved over the injury period, but has declined in the POI. Return on investment and cash profits have followed the same trend as that of profitability.
49. Inventories with the Domestic Industry have increased over the injury period.
50. Employment and wages increased between 2015-16 and 2017-18, and declined in the POI. Wages per unit has also declined in the POI. Productivity of the Domestic Industry has increased in line with the increase in production. The Domestic Industry has registered a growth both in terms of volume and price parameters. Various parameters, i.e. sales volume, sales value, production volume, capacity utilization showed positive growth over the period. However, even when profits and ROI registered a positive growth, the same declined in the POI and are at below optimum/desired levels indicating the vulnerable position of the Domestic Industry. This improvement in performance of the Domestic Industry was only because of the ADD in place. However, post 2017-18, the performance of the Domestic Industry in terms of profit, return on investment and cash profits has declined with significant and positive undercutting registered in the POI.
51. The causal link has already been established in the original investigation. There exists a causal relationship between the likelihood of continuation or recurrence of dumping and likelihood of continuation or recurrence of injury:
- i. The dumped imports from the Subject Country have continued to enter the Indian ports at dumped price despite ADD in force.
 - ii. Subject imports are available at prices lower than the domestic prices. If ADD ceases to exist, the volume of dumped imports shall intensify.
 - iii. The imports are undercutting and underselling the domestic prices in the POI.
 - iv. In case ADD ceases to exist and consequently imports from the subject country further increase, the Domestic Industry would be forced to reduce the prices of the product concerned significantly given the fact that the product concerned is a commodity product.
 - v. Should the Domestic Industry be forced to reduce the prices, its natural impact would be on the profitability of the Domestic Industry. Decline in profits would lead to a decline in cash flow and return on investment.
 - vi. Should the Domestic Industry choose to maintain its normal price levels, it is likely to lose its sales volume as consumers would increasingly switch over to the imports.
 - vii. Should the Domestic Industry prefer to lose sales volumes, there would be an increase in inventories level; decline in production, capacity utilization and productivity, increase in cost of production and decline in profits.
52. While imports have declined in the current period, in the POI, the decline in import price is far beyond the decline in cost of production.
53. As regards the argument of the cooperating producer/exporter that claims of Domestic Industry is contrary to published information, the Domestic Industry has submitted that it is not a listed company and has not published anywhere anything which is contrary to the claims in the petition.

54. The cooperating producer/exporter's reference to Article 5 is entirely misplaced in a situation where the application is under Article 11. The requirements under Article 11 are quite different from the requirements under Article 5. Notwithstanding, petition contains sufficient information on the parameters identified by the interested party. Similarly, reference to Article 3 is also misplaced. As regards reference to the WTO decisions, the same are also highly misplaced for the reason that the same do not pertain to SSR cases and pertain to fresh investigations. Since the present investigation is not in the nature of fresh investigations, the stated cases are in any case not applicable.
55. The Domestic Industry has not claimed current volume injury as justification for extension of duty. Nor should there be current volume injury to the Domestic Industry for extension of ADD. The Domestic Industry has claimed likelihood of injury in the event of cessation of ADD. Given the high price undercutting and significant capacities with the exporters, it follows that there will be significant increase in imports should the present ADD cease.
56. The cooperating producer/exporter's attribution to the absence of injury information from supporting producers or other domestic producers is clearly without any basis. The real reason for other domestic producers not participating is the complex requirements and MSME nature of the industry. In any case, there is no evidence that other domestic producers' performance is such that the same will establish no need for extension of ADD.
57. In any case, what needs to be seen in a review investigation is the likely performance of the Domestic Industry in the event of cessation of ADD. The fact that the producers have mammoth capacities much more than their domestic demand, are export-oriented and the producers are attracting ADD by various other jurisdictions indicates likely surge in dumped imports which will resultantly cause injury to the Domestic Industry.
58. The Domestic Industry has submitted that they have not claimed that the dumping from China PR in the present period has led to adverse effect on capacity or production. Nor are they required to show that the dumping from China PR is preventing enhancement of capacities or increase in production or sales. In fact, the Domestic Industry is protected during this period as a result of which while the Domestic Industry has enhanced capacities, other companies have setup capacities in the country. A number of new players have come in the market which clearly shows positive effect of imposition of ADD.
59. The reason for decline in PBIT in the POI is the fact that the import price reduced significantly in the POI as compared to preceding year despite the fact that cost of production has not declined to proportionate extent. The import price declined far beyond the decline in cost of production. Resultantly, the Domestic Industry is forced to reduce the prices in the POI far beyond the decline in cost of production resulting in significant decline in profit per unit.
60. There is likelihood of continuation of dumping and injury in the event of cessation of ADD. The Appellate Body in US-Corrosion Resistant Steel Sunset Review itself states that there are three conditions, which, if satisfied, ADD will be continued. Relevant extracts of the report as follows:

Article 11.3 imposes a temporal limitation on the maintenance of anti-dumping duties. It lays down a mandatory rule with an exception. Specifically, Members are required to terminate an antidumping duty within five years of its imposition "unless" the following conditions are satisfied: first, that a review be initiated before the expiry of five years from the date of the imposition of the duty; second, that in the review the authorities determine that the expiry of the duty would be likely to lead to continuation or recurrence of dumping; and third, that in the review the authorities determine that the expiry of the duty would be likely to lead to continuation or recurrence of injury. If any one of these conditions is not satisfied, the duty must be terminated.

All the three conditions laid down by the Appellate Body is fulfilled in the present case, i.e., *first*, sunset review investigation was initiated before expiry of five years from the date of imposition of duty and *second*, the expiry of duties is likely to lead to continuation and intensified dumping and thirdly expiry of duties is likely to lead to continuation of injury to the domestic industry.

61. The exporters in the subject country have surplus excess capacity and have tendency to dump goods in various countries. The imports from China are at dumped and injurious price despite imposition of ADD. The excess capacity found through other jurisdiction findings suggests is 26 times of that of the total Indian demand. Thus, cessation of ADD is likely to lead to continuation of dumping and injury to the Domestic Industry.

F2. Views of other interested parties

62. SSR can only be initiated where sufficient evidence of dumping, material injury, likelihood and causation, is provided. Information provided by the Domestic Industry is manifestly insufficient to justify initiation. The Domestic Industry has failed to evaluate relevant economic factors under Rule 11 and para IV of Annexure II. Article 5.3 of the Anti-Dumping Agreement requires the Authority to examine sufficiency of evidence to justify initiation. The cooperating producer/exporter has relied on the case of US-Softwood Lumber from Canada. Further, in Guatemala-Cement II, it is stated that application satisfied under Article 5.2 does not show that there is sufficient evidence for initiation under Article 5.3. Further, the cooperating producer/exporter has relied on the Mexico-Steel Pipes and Tubes, to state that mere initiation does not mean that Authority justified itself for sufficient evidence. The cooperating producer/exporter has quoted Article 3(1) and Article 3.5 of the Anti-Dumping Agreement, to counter the Domestic Industry's claim of likelihood of continuation or recurrence of dumping and injury.
63. The facts on record reveal that there is a decline in imports of subject goods from China PR, and the Domestic Industry has deliberately invented injury. If the investigating authority continues the investigation, it shall be determined that there is no dumping of the subject goods which has caused injury to the Domestic Industry.
64. The claims of the Domestic Industry are contrary to the published information and appear to be concocted and fabricated to show injury.
65. The Domestic Industry has failed to evaluate some of the relevant economic factors and indices listed in Rule-11 of the Rules and para IV of Annexure II thereof. Indexed data

on unit price, total costs, investments, employment and stocks are not explicitly provided and analyzed in the narrative of the Application, which lacks a meaningful analysis. In this respect, the cooperating producer/exporter has quoted Rule 5(3) (b) of the Rules regarding initiation of an investigation.

66. The domestic sales of the Domestic Industry and the supporters have increased significantly from 100 in 2015-16 to 206 in the POI with demand increasing from 100 to 166 during the same time period, while imports from the Subject Country have declined from 100 to 87 during the same time period. The increase in sales of the Domestic Industry and supporters clearly indicates that there is no volume injury to the Domestic Industry caused due to imports from the Subject Countries.
67. The market share of China PR has declined drastically during the POI as compared to the base year 2015-16. However, the market shares of the Domestic Industry and its supporters have increased during the POI.
68. The capacity of the Domestic Industry increased every year during the injury period and the POI. The capacity increased from 100 in 2015-16 to 208 during the POI. Accordingly, the production has also increased sharply during the POI to 207 from 100 during 2015-16. Therefore, injury, if any, is mainly caused because of undue/unjustified capacity enhancements.
69. The sales volumes of the Domestic Industry have increased drastically in domestic market and exports. The increment is of 129% in domestic sales and 136% in export sales during the POI.
70. The captive consumption has also increased substantially during the POI to 211 as compared to 100 during 2015-16.
71. The sales realization per unit has increased from 100 in 2015-16 to 107 during the POI.
72. The average stock in 2015-16 was 100 and it increased to 110 during the POI. But this cannot be taken in isolation for the purpose of determining the injury caused to the DI. The capacity of the Domestic Industry is increasing along with the domestic and export sales so stock can be kept as inventory. The capacity of the Domestic Industry has increased 108% whereas the inventory shows a nominal increment of just 10%. Hence, imports of the subject goods are not causing any material injury to the DI.
73. The PBIT-Domestic Sales increased from 100 in 2015-16 to 119 during the POI. Cash profits have also increased from 100 in 2015-16 to 113 during the POI.
74. It is not clear how the cash profit and profit before interest and tax have shown a tremendous increase in 2017-18 and a regressive decline during the POI though the POI is of 15 months.
75. The overall performance of the Domestic Industry has improved significantly. It seems that there are some other factors which are causing injury to the DI.
76. The number of employees has increased substantially from 100 in 2015-16 to 130 during the POI. Productivity per day has also increased from 100 during the base year

to 127 during the POI. Thus, there is no injury to the Domestic Industry from the imports from China PR.

77. It is not clear how the number of employees can decline from 207 in 2017-18 to 130 during the POI.
78. The return on capital employed is positive. Thus, there is no injury on account of imports.
79. Any injury allegedly suffered by the Domestic Industry is due to factors other than imports from the Subject Country.

F3. Examination by the Authority

80. The Authority has taken note of the arguments and counter-arguments of the all the interested parties with regard to injury to the Domestic Industry. The injury analysis so made by the Authority hereunder addresses the various submissions made by the interested parties.
81. Rule 11 of the Rules read with its Annexure – II thereto provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... *taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles.*”
82. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the Domestic Industry shows that it has not suffered injury during the current injury period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the Domestic Industry.
83. While considering the various submissions made by the interested parties in this regard, the Authority proceeds to examine 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 country. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the Domestic Industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure-II of the Rules. The Authority has taken note of various submissions of the Domestic Industry and the exporters / importers / traders / users on injury to the Domestic Industry and has analyzed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties.

F3.1 Volume Effect of dumped imports and impact on domestic industry

i. Assessment of Demand/Apparent Consumption

84. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product concerned in India as the sum of domestic sales of the Domestic Industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below. As evident from the table, the demand for the PUC has been increasing significantly during the injury period, and has almost doubled during the POI as compared to base year.

Demand	Unit	2015-16	2016-17	2017-18	POI	POI(A)
Domestic industry's sales	MT	***	***	***	***	***
Supporters	MT	***	***	***	***	***
Other producers' sales	MT	2,740	3,290	3,880	5,813	4,650
Subject imports	MT	841	1,159	772	1,014	811
Other imports	MT	325	907	1,244	530	424
Demand/consumption	MT	7,294	8,364	11,169	15,473	12,378

ii. Volume Effect of Dumped Imports and Impact on Domestic Industry

Import Volume and Share

85. 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 the transaction-wise import data procured from DGCI&S. The import volumes of the subject goods from subject country and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI	POI (A)
Imports in Absolute Terms						
China PR	MT	841	1,159	772	1,014	811
Other Countries	MT	325	907	1,244	530	424
Total Imports	MT	1,167	2,065	2,015	1,544	1,235
Demand/consumption	MT	7,294	8,364	11,169	15,473	12,378
Production	MT	***	***	***	***	***
Imports of subject goods from subject country in relation to						
Indian production	%	***	***	***	***	***
Demand/consumption	%	12%	14%	7%	7%	7%

86. It is noted that the imports of PUC from the subject country have marginally declined over the injury period in absolute terms as well as in relation to production and consumption in India. The imports, however, still remain significant in both, absolute terms and in relation to production and consumption in India. It is noted that imports from other countries had also increased till 2017-18 before they declined during the POI. The domestic industry has submitted that the increase in subject goods are largely from Cambodia which are goods of Chinese origin, as there is no production facility for this product in Cambodia. Since the domestic industry has not substantiated its claim further, nor has filed any petition under anti circumvention provisions, the same has been considered irrelevant for the present purposes.

F3.2 Price Effect of the Dumped Imports on the Domestic Industry

87. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

a. Price Undercutting

88. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product and the average selling price of the Domestic Industry, net of all rebates and taxes, at the same level of trade. The prices of the Domestic Industry were determined at the *ex*-factory level.

89. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods during the POI.

Particulars	Unit	2015-16	2016-17	2017-18	POI (A)
Landed price of imports	Rs./MT	58,905	62,882	67,910	58,480
Net Selling Price	Rs./MT	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***
	%	***	***	***	***
	Range	0-20	(20)-0	(20)-0	0-20

90. It is seen that besides 2016-17 and 2017-18, the landed price of imports have remained below the level of selling price. The price undercutting in POI has increased significantly from the base year.

b. Price Suppression and Depression

91. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the information given by the Domestic Industry for the changes in the costs and prices over the injury period has been compared with the landed value to see the desired effect. The details are as under:

Particulars	Unit	2015-16	2016-17	2017-18	POI (A)
Cost of Sales	₹/MT	***	***	***	***
Trend	Indexed	100.00	94.71	100.19	107.65
Selling Price	₹/MT	***	***	***	***
Trend	Indexed	100.00	102.61	111.16	106.10
Landed price of imports from subject country	Rs./MT	58,905	62,882	67,910	58,480
Trend	Indexed	100.00	106.75	115.29	99.28

92. From the above table, it is noted that the landed value of imports from the subject country was below the selling price of the Domestic Industry in the POI. In fact, barring 2016-17, and 2017-18, the landed value of subject goods was below the cost of sales and selling price. As a result, the dumped imports of subject goods from subject country have not allowed the domestic industry to fetch a selling price which could re-cover its full cost and reasonable profit margin. It is also noted that price depressing effect is not discernible when examined from the base year, However, domestic industry prices have been depressed in the POI as compared to 2017-18, and it is likely that price effect on the domestic industry will be adverse in the event of revocation of anti-dumping duty.
93. Though the selling price and cost of sales of subject goods have increased since base year, the selling price of the subject goods has not increased in proportion to the cost of sales of the subject goods. The price suppression effect is more pronounced since 2017-18 onwards when the selling price decreased by 5% while the cost of sales increased by 7%.

c. Price Underselling

94. The Authority has also examined price underselling suffered by the Domestic Industry on account of dumped imports from the subject country. For this purpose, the NIP determined based on average NIP for the Domestic Industry has been compared with the landed price of imports as obtained from the DGCI&S import data.
95. It is noted that the landed price of imports was much below the non-injurious price of the Domestic Industry. The Authority notes that the Domestic Industry has suffered price underselling during POI due to dumped imports of the subject goods from the subject country

Price Underselling	USD/MT
Non Injurious price (US\$/MT)	***
Landed value (US\$/MT)	826.77
Price Underselling Margin (US\$/MT)	***
Price Underselling %	***
Price Underselling % (Range)	0-20

F3.3 Economic Parameters relating to the Domestic Industry

96. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of alleged imports on domestic producers of such products. With regard to the 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.

97. The various injury parameters relating to the Domestic Industry are discussed herein below:

a. Production, Capacity, Capacity Utilization and Sales Volumes

98. The performance of the Domestic Industry with regard to production, domestic sales, capacity and capacity utilization is as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI	POI(A)
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	117	150	208	208
Total Production	MT	***	***	***	***	***
Trend	Indexed	100	100	144	207	207
Total Capacity Utilization	%	***	***	***	***	***
Trend	Indexed	100	86	96	99	99
Domestic Sales	MT	***	***	***	***	***
Trend	Index	100	103	160	222	178

99. The Authority notes the following:

- i. The capacity installed by the DI, the total production of the Domestic Industry and its domestic sales increased throughout the injury period, including the POI.
- ii. The capacity utilization dipped in 2016-17, as compared to the base year, and thereafter increased again in 2017, and in the POI.

b. Market Share in Demand

100. Market share of alleged dumped imports and Domestic Industry have been examined as below:

Particulars	UoM	2015-16	2016-17	2017-18	POI(A)
Domestic industry	%	***	***	***	***
Trend	Indexed	100.00	90.05	104.47	104.83
Supporters	%	***	***	***	***
Trend	Indexed	100.00	63.97	98.67	121.64
Other Indian Producers	%	***	***	***	***
Trend	Indexed	100.00	104.71	92.48	100.00
Subject imports	%	11.53%	13.85%	6.91%	6.56%
Trend	Indexed	100.00	120.14	59.90	56.84
Other imports	%	4.46%	10.84%	11.14%	3.43%
Trend	Indexed	100.00	242.93	249.60	76.77
Total	%	100.00%	100.00%	100.00%	100.00%

101. It is noted that the market share of the Domestic Industry declined in 2016-17 as compared to 2015-16. Thereafter the market share of the Domestic Industry has been increasing, including in the POI. Thus, during the injury period, the market share of the domestic industry has marginally increased. The market share of the import of subject goods from subject country increased in 2016-17 as compared to 2015-16 and thereafter has declined.

c. Profit or Loss, Cash Profits and Return on Investment

102. Performance of the domestic industry with regard to profit, return on investment and cash flow is as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI (A)
Cost of Sales	₹/MT	***	***	***	***
Trend	Indexed	100	94.71	100.19	107.65
Selling Price	₹/MT	***	***	***	***
Trend	Indexed	100	102.61	111.16	106.10
Profit Before Tax (PBT)	₹/MT	***	***	***	***
Trend	Indexed	(-)100	943.92	1,304.40	(192.26)
Total PBT - Domestic Sales	₹ Lacs	***	***	***	***
Trend	Indexed	(-)100	971.41	2,026.16	(419.84)
Cash Profits	₹ Lacs	***	***	***	***
Trend	Indexed	100	1,158.45	2,214.94	(297.53)
Average Capital Employed	₹ Lacs	***	***	***	***
Trend	Indexed	100	108.42	144.24	118.76
Return on capital employed (ROCE)	%	***	***	***	***
Trend	Indexed	100	1,205.12	1,854.88	(302.33)

103. It is noted that the profitability, the return on capital employed, and cash profit increased from the base year till 2017-18, however, in the POI, all three parameters declined significantly and became negative.

d. Inventories

104. The data relating to inventory of the subject goods indicates an increase in 2016-17 as compared to 2015-16. Since then there has been a decline. The average inventory levels of the domestic industry have declined over the injury period.

Particulars	Unit	2015-16	2016-17	2017-18	POI (A)
Opening Stock	MT	***	***	***	***
Closing Stock	MT	***	***	***	***
Average Inventory	MT	***	***	***	***
Average Inventory	Trend	100	167	165	110

e. Employment and Productivity

105. The details of employment and wages are given below:

Particulars	UOM	2015-16	2016-17	2017-18	POI (A)
No. of Employees	Nos	***	***	***	***
Trend	Indexed	100	170	207	215
Productivity /Employee	MT	***	***	***	***
Trend	Indexed	100	58	70	78
Productivity /day	MT/Day	***	***	***	***
Trend	Indexed	100.0	100.4	143.8	165.7

106. The number of employees increased throughout the injury period, including the POI. The productivity per employee declined from 2015-16 to 2016-17, and has been increasing thereafter, while the productivity per day increased throughout the injury period, including the POI.

f. Magnitude of Dumping Margin

107. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing or likely to cause injury to the Domestic Industry. The investigation has shown that dumping margin is positive and significant in the present investigation period. The dumping continues despite anti-dumping duty in force.

g. Ability to raise Capital Investment

108. The Authority notes that the performance of the Domestic Industry has deteriorated considerably, and continued dumping of the product under consideration may adversely impact the ability of the domestic industry to raise capital investment.

h. Growth

109. The table below shows that the Domestic Industry has registered positive growth in terms of production, domestic sales, capacity utilization and cost of sales and registered a decline in the selling price and profitability during the POI.

Particulars	UOM	2016-17	2017-18	POI (A)
Total Production	%	0.4	43.3	15
Domestic Sales	%	3.3	54.9	11.2
Total Capacity Utilization	%	-14.9	12.3	3.1
Cost of Sales	%	-5.3	5.8	7.5
Selling Price	%	2.6	8.3	-4.5
Profit/Loss	%	-943.9	42.7	-124.3

i. Factors Affecting Domestic Prices

110. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the Domestic Industry in the domestic market shows that the landed value of subject goods from the subject country is below the selling price and the non-injurious price of the domestic industry causing price undercutting, and price underselling in the Indian market. The Authority notes that the prices of the product under consideration in general should move in tandem with the prices of key raw materials, and the domestic industry has been fixing its prices considering these input prices and landed price of imports. Thus, the landed value of subject goods from the subject country is an important factor for determination of domestic prices.

F3.4 Causal Link & Non Attribution Analysis

111. As per the Rules, the Authority, *inter alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the Domestic Industry, so

that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the Domestic Industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the Domestic Industry:

- a. **Volume and prices of imports from third countries:** While the volume of imports from the other countries as a share of total imports into India has increased, however, the same are at higher prices in the POI.
- b. **Changes in demand:** Demand for the subject goods has increased consistently over the entire injury period. Thus, injury to the Domestic Industry has not been caused due to contraction in demand or changes in pattern of consumption.
- c. **Developments in technology:** Technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor causing injury to the Domestic Industry.
- d. **Conditions of competition and trade restrictive practices:** There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry.
- e. **Export performance of the domestic industry:** The Applicant has exported the PUC. It is seen that performance of the Domestic Industry has not deteriorated in exports. However, export performance is not relevant here since the Authority has considered only the domestic performance of the Domestic Industry for injury analysis.
- f. **Performance of other products produced and sold by the domestic industry:** The performance of other products being produced and sold by the Domestic Industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the domestic like product only.

F3.5 INJURY MARGIN

112. The Authority has determined Non-Injurious Price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production 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 NIP, the best utilisation of the raw materials by 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. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. 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 product under consideration was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

113. For all the non-cooperative producers/exporters from China PR, the Authority has determined the landed price based on facts available

114. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters from China PR has been determined by the Authority and the same is provided in the table below:-

Country	Producer	Non-Injurious Price (US\$/MT)	Landed Value (US\$/MT)	Injury Margin US\$/MT	Injury Margin (%)	Injury Margin (Range)
China PR	Jiangsu Guoxin Union Energy Co.,Ltd.	***	***	***	***	0-20
	Other producers and exporters	***	***	***	***	20-40

115. It is noted that injury margin is positive and significant for cooperating producer and exporter from the subject country for POI.

Conclusion by the Authority on injury and causal link

116. The Authority notes that the dumped imports of the subject goods from the subject country continue to be significant even after imposition of definitive ADD on subject imports. Imports of the product are undercutting the prices of the Domestic Industry in the market. Further, while the cost of production had increased over the injury period, the increase in selling price is less than increase in cost of production while the landed price of subject goods continue to be less than selling price and cost of sales barring 2016-17 and 2017-18. The imports are, thus, suppressing the prices of the Domestic Industry since 2017-18 and preventing the price increases that would have otherwise occurred in the absence of dumped imports.

117. The Authority notes that the Domestic Industry has suffered injury on account price effect of dumped imports, as a result of which the profitability of the domestic industry has declined. It is also noted that return on capital employed, profits and cash profits turned negative in POI. Thus, growth in respect of most of the parameters such as profits, cash profits, and return on capital employed, shows an adverse impact on the domestic industry.

118. An analysis of the performance of the Domestic Industry over the injury period shows that the performance of the Domestic Industry has deteriorated due to dumped imports from subject country. Causal link between dumped imports and the injury to the Domestic Industry is established on the following grounds:

- i. Price undercutting being caused by the dumped imports prevented the increase in prices of the Domestic Industry which otherwise would have happened.

- ii. The price suppression effect of dumped imports from subject country has resulted in erosion in profitability of the Domestic Industry.
- iii. The Domestic Industry has been prevented from increasing its production, capacity utilization and market share despite existence of significant demand and capacities in the Country.
- iv. Deterioration in profits, return on capital employed and cash profits are a result of dumped imports.
- v. The growth of the Domestic Industry became negative in terms of a number of economic parameters like profitability, cash profit and ROCE.

F.36 LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

119. The Authority observes that this is an SSR investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if ADD was to be allowed to expire even if there is no current injury.

Views of the Domestic Industry

120. The Domestic Industry has submitted the following regarding likelihood of continuation or recurrence of dumping and injury:

- i. Decline in imports after the imposition of ADD and a positive dumping margin in such imports imply the likelihood of dumping in the event of withdrawal of ADD and justify the extension of ADD.
- ii. The consistent approach followed by investigating authorities around the world is that in case of decline in imports or low imports, there is a need to investigate whether there is likelihood of dumping and injury in the event of cessation of duties.
- iii. Although the volume of subject imports has declined post-imposition of ADD, but the imports are coming in at dumped and injurious prices. Imports are also undercutting the Domestic Industry prices. Thus, cessation of ADD is likely to lead to intensified dumping and consequent injury to the Domestic Industry.
- iv. ADD covering imports of Sodium Citrate from China are in place in Brazil, Colombia, the EU, Russia, Thailand and the USA.
- v. Producers/exporters in China have excessive production capacities. In case of cessation of the present ADD, dumping from China would definitely increase and ultimately cause intensified volume and price injury to the DI. The spare capacity with the producers in China in 2012 was estimated to be 192,000 MT, whereas the entire domestic demand in India in the POI was around 7,200 MT. Even if it is assumed that there has been no enhancement in capacity since 2012, and considering the same extent of excess capacity, it would mean that the excess capacity in itself is 26 times that of the total Indian demand.
- vi. Since the exporters hold significant surplus and unutilized capacities, the exporter would find the Indian market attractive. Indian market is highly price sensitive. The consumers decide their procurement, with the price being the foremost consideration. In the event of cessation of current ADD, the domestic industry will have to either reduce the selling price by the amount of ADD or the domestic industry would lose sales volumes.

- vii. Price undercutting without ADD is high in the POI. Thus, if ADD currently in place is allowed to expire, the dumped imports would cause severe price undercutting which would in turn cause material injury in the form of low volume of sales, reduced selling price and decline in profits of the DI.
- viii. In the event of cessation of the current ADD and if the Domestic Industry is constrained to sell at import prices, the profitability of the Domestic Industry would significantly become negative and it will incur huge losses.

Views of the Other Interested Parties

121. The submissions of the cooperating producer/exporter, with regard to the likelihood of continuation or recurrence of dumping and injury are summarized hereunder:

- i. The Domestic Industry's submission that excessive production capacity is held by the subject country and that there is export orientation is baseless and unsubstantiated. As per information filed with the Authority, M/s. Jiangsu Guoxin is working almost at 100% capacity utilization. Further, the relevant extracts shown by the Domestic Industry in its written submission is of 5 years ago i.e. 2015 whereas the POI for the current investigation is April 2018 to June 2019. The extracts of the findings which are presented in the written submission were based on the POI of October 2012 to September 2013 (EU Findings) and POI of May 2013 to April 2014 (US Findings). There is about 5-to-6-years gap between the POIs, and during such a long period, the situation of production capacity has changed a lot in China. Further, the production capacity investigated by EC covers both Sodium Citrate and Citric Acid, the production capacity investigated by USA covers Sodium Citrate, Citric Acid and Potassium Citrate. That means the production capacity investigated by USA and EC including the PUC and other products. Thus, the data and analysis of the US Findings and EC Findings are not relevant for the current SSR investigation.
- ii. The Domestic Industry has claimed that if the current ADD are terminated, this will result in a surge of exports from China PR and is likely at increased dumping levels and such acts will lead to a continuation or recurrence of dumping and injury. These claims of likelihood of continuation or recurrence of injury are based on unjustified speculation about the Chinese commercial behaviour and reference to certain specific trade factors, notably China's pattern of sales to third country markets. The producers/exporters are exporting the subject goods to third countries at a price equal to or higher than in India. The Chinese producers have developed a wide range of export markets beyond the Indian market, the supply and demand of PUC are balanced and remain stable in each market. M/s. Jiangsu Guoxin's questionnaire reply shows that during the POI, the PUC was exported to 65 other countries excluding India. Thus, there is no possibility to shift the exports to India. In fact, the exporters can shift the export from India to third countries since they are getting higher price.

Examination by the Authority with regard to likelihood of continuation or recurrence of dumping and injury

122. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping or injury in the

event of cessation of the duty. The Authority has considered various information, as made available by the Domestic Industry and other interested parties, in order to evaluate the likelihood of continuation or recurrence of dumping or injury.

123. The present investigation is a sunset review of ADD earlier imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of ADD is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. 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.

i. Continued dumping

124. The dumped imports from China PR continue despite imposition of ADD. Thus, dumping is likely to continue in the event of cessation of ADD.

125. It is seen that subject goods are subject to ADD by Russia, Thailand, Europe, USA, Brazil and Colombia. It is also noted that some of these measures have been extended following sunset review investigations.

ii. Excess Capacity

126. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicates the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports. This parameter for ascertaining the threat of material injury requires evaluation of freely disposable capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market. The Domestic Industry has claimed that the producers in subject countries are already faced with significant surplus capacities and that these producers are exporting the product to a large number of countries, a very significant proportion of which is being exported at a price below the prices in respect of India, thus showing likelihood of diversion of these exports to India in the event of withdrawal of ADD.

127. The Domestic Industry has referred to EC and US review findings on subject goods from China as evidence of spare capacity with the producers in China. As per the information available on record, the spare capacity with the producers of subject goods in China in 2012 was estimated to be 192000 MT whereas the entire domestic demand in India during

the POI is only around 15000MT. Neither is any recent information available with regard to surplus capacity in the subject country with the Authority nor has any interested party provided the same.

iii. Price undercutting in the absence of measures and Attractiveness of India as a market

128. It is noted that price undercutting is positive during the POI, and thus cessation of ADD currently in place is likely to lead to intensified dumping causing injury in the form of low volume of sales, reduced selling price and decline in profits to the Domestic Industry.

129. The Authority is required to establish that the price prevailing in the domestic market i.e. India is attractive for the exporter to divert the quantity exported to the third countries. It is noted that the landed value of imports is below the cost of sales and the net selling price of the Domestic Industry in the POI. The Authority has further examined the price of exports from the subject country to third countries, and it is found that the exporters of the subject country are exporting the PUC to a number of countries at prices lower than Indian prices, thereby clearly showing price attractiveness of Indian market. Data from ITC Trademap is available at 6-digit and the same indicates that significant quantity of goods falling into 291815 exported from the subject country was at a rate lower than that exported to India in 2018. It is also noted that a significant share of exports made by cooperating producer and exporter from China PR to third countries are taking place at prices below the prices at which subject goods are exported to India. Thus, in the event of cessation of ADD, the exporters in the subject Country are likely to export the product in India at dumped pricing causing injury to the Domestic Industry.

iv. Inventories of the article being investigated

130. The inventory of the cooperating producer/exporter from China has been increasing since 2016, having increased 9 times in 2018, as compared to 2017.

POST-DISCLOSURE COMMENTS

Submissions by the Domestic Industry

131. The Applicant reiterated its submissions regarding the need to continue ADD. Further, the Applicant made the following submissions:

- a. The Applicant has requested for disclosure of the following facts, in order to come to a meaningful conclusion:
 - i. A copy of communications sent by the Authority and copy of the non-confidential version of replies filed by the interested parties.
 - ii. A copy of the non-confidential version of submissions by interested parties.
 - iii. A copy of non-confidential version of rejoinder submissions.
 - iv. Since the methodology is based on the domestic industry data, the Applicant may be disclosed the non-confidential version of the normal value so determined.

- v. The Authority has been requested to disclose which transactions have been considered to determine the export price for non-responding exporters, and the same is requested to be disclosed.
- b. The Authority has noted in the Disclosure Statement that as the net selling price of the domestic industry has increased steadily during the injury period, hence there is no price depression for the domestic industry. It is submitted that such an observation is incorrect; the selling price has declined in the POI when compared to the previous year, when costs have increased.
- c. The Applicant has reiterated that in the context of SSR where the claim of extension is based on recurrence of injury, the Authority may examine the likelihood of price suppression/ depression in case of cessation of ADD.
- d. Even when profits and ROI registered a positive growth, the same declined in the POI and were below optimum/desired levels, indicating the vulnerable position of the domestic industry.
- e. The Applicant has submitted that the present quantum of duties should be extended in the present case. A harmonious reading of Article 11.3 of WTO Agreement and Section 9A (5) read with Rule 23(1B) makes it evident that the Authority is required only to extend the period and that the duties should not be modified in a sunset review. Even in situations where dumping margin and/or injury margin have been found negative at the stage of sunset review, the same quantum of ADD has been extended on the grounds of likelihood of dumping and injury.
- f. The Applicant has provided import data for the post-POI period and stated that since the import prices are in the similar region, despite the fact that the costs have changed, existing quantum of ADD needs to be continued.
- g. The Applicant has submitted that the duty should be imposed in terms of US\$.
- h. The Applicant has submitted that ADD may be imposed only as a fixed quantum, citing that the product is already attracting fixed quantum of ADD at present and that the Anti-dumping legislation which has been created in consonance and in conformity with the WTO Agreement on Anti Dumping, explicitly permits authorities to impose ADD in the form and manner requested. Further, the Applicant has cited cases in which the order of the Authority has been modified by CESTAT on the grounds of incorrect form of measures.

Submissions by other interested parties

132. The submissions of the cooperating producer/exporter are as follows:

- a. As already stated in the rejoinder submissions, the PUC under anti-dumping investigation in Russia and Thailand was *Citric Acid not Sodium Citrate*. The cooperating producer/exporter has requested the Authority to take this fact into consideration. Further, the AD measures issued by Eurasian Economic Union concerning Citric Acid were terminated on 9th April, 2020.
- b. The Authority has allowed a return of 22% on average capital employed for the PUC and has assumed the same to be reasonable. It is submitted that the non-injurious price determined by the Authority is hypothetical and not reasonable.

Examination by the Authority

133. The Authority notes that the post-disclosure comments / submissions made by the interested parties are mostly reiterations and already examined suitably and adequately

addressed in the relevant paras of these final findings. Other post-disclosure comments/submissions made by the interested parties and considered relevant by the Authority are examined below.

134. With reference to the Applicant's request that non-confidential versions of communications sent by the Authority and copy of the non-confidential version of replies filed by the interested parties be made available, it is stated that as per DGTR's practice, all non-confidential versions were made available in the public file before the nation-wide lockdown due to COVID-19. Thereafter, all non-confidential versions of communication which, as per DGTR's practice would have been put in the public file, have been shared through e-mail with interested parties. Further, to determine the export price for non-responding exporters, the Authority has considered the information on the basis of facts available.
135. With regard to likelihood of price depression in the event of cessation of anti-dumping duty, it is noted that same has been examined in the relevant part of these findings. It is also noted that price depressing effect is not discernible when examined from the base year. However, domestic industry prices have been depressed in the POI as compared to 2017-18, and it is likely that price effect on the domestic industry will be adverse in the event of revocation of anti-dumping duty.
136. The Authority has allowed a return of 22% on average capital employed for the PUC as per its consistent practice.
137. As regards the argument that existing quantum of anti-dumping duty should be continued, it is the consistent practice of the authority to recommend a particular level of ADD in the SSR investigation, based on the particular facts and circumstances of the case. The Authority has examined the matter keeping in view the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority, as recorded above, and on the basis of the above analysis, it is considered appropriate to recommend continuation of definitive anti-dumping duty, as modified, on all imports of the subject goods from the subject country as per duty table below.

Conclusion on likelihood of dumping and injury

138. The evidences on record show that even though imports have declined from the subject country, the same have remained significant. Dumping of the subject goods from China PR continues and imports of subject goods are being made at prices which are suppressing the prices of the domestic industry, and are below the non-injurious price. The information on record also shows that there are excess capacities in China and exporters are subject to antidumping duties in Russia, USA, Europe, Thailand, Colombo and Brazil. Such excess capacities coupled with trade barriers are likely to increase exports at dumped prices in the event of expiry of present duties. Further, significant volumes of exports made by the subject country to third countries are at prices below the prices at which subject goods are being exported to India and the inventory level with the responding exporter is increasing. Thus, all these parameters indicate that in the event of cessation of ADD, the exporters in the subject country are likely to intensify export of dumped product in India at dumped prices, causing injury to the Domestic Industry.

G. INDIAN INDUSTRY'S INTEREST

139. The Authority notes that the purpose of anti-dumping duty, 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.
140. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

H. CONCLUSION

141. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings 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. There is continued dumping of the subject goods from subject country and the imports are likely to enter the Indian market at dumped prices in the event of expiry of duty.
 - b. The domestic industry has suffered continued injury on account of dumped imports from the subject country.
 - c. The information on record shows likelihood of continuation of dumping and injury in case the Anti-dumping duty in force is allowed to cease at this stage.
 - d. There is sufficient evidence to indicate that the revocation of ADD at this stage will lead to continuation of dumping and injury to the Domestic Industry.

I. RECOMMENDATIONS

142. 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 dumping, injury and the causal link.
143. Having concluded that there is positive evidence on the aspect of dumping, injury and causal link and likelihood of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required on the import of PUC from the subject country.

144. Under the circumstances, the Designated Authority considers it appropriate to recommend continuation of definitive anti-dumping duty, as modified, on all imports of the subject goods from the subject country as per column 7 in the duty table below:

Duty Table

S. No	Sub-heading	Description of Goods*	Country of origin	Country of exports	Producer	Amount	Unit of measurement	Currency
1	2	3	4	5	6	7	8	9
1	29181520	Sodium Citrate	China PR	Any country including China PR	Jiangsu Guoxin Union Energy Co.,Ltd.	96.05	MT	US\$
2	-do-	-do-	China PR	Any country including China PR	Any other producer other than serial no. 1	152.78	MT	US\$
3	-do-	-do-	Any country other than China PR	China PR	Any	152.78	MT	US\$

* Note:-The Description of the Goods in the Duty Table above includes the following alternate names as well: – (a). Tri Sodium Citrate; (b). Tri Sodium Citrate dehydrate; (c). Sodium Citrate dehydrate; (d). Tribasic Sodium Citrate; (e). Sodium Citrate Tribasic Dihydrate; (f). Sodium Citrate Dibasic Sesquihydrate; (g). Sodium Citrate Monobasic Bioxtra.

145. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 8B, 9 and 9A of the Customs Tariff Act, 1975, as amended from time to time.

146. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the with the relevant provisions of the Act.

(Bhupinder S. Bhalla)
Additional Secretary & Designated Authority