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**F. No. 7/22/2018-DGAD  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

*Dated 15<sup>th</sup> January, 2019*

**NOTIFICATION**

**FINAL FINDINGS**

**Subject: Sunset Review of Anti-dumping investigation concerning imports of ‘4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)’ originating in or exported from the China PR.**

**File No. 7/22/2018-DGTR:** Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules) recommended imposition of definitive anti-dumping duties were imposed vide Notification No. 14/1/2012 – DGAD dated 22<sup>nd</sup> November, 2013 on imports of 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) from China PR. The same were imposed vide Notification No. 09/2014 Customs (ADD) dated 23<sup>rd</sup> January, 2014.

2. And whereas the Dyestuffs Manufactures Association of India, Mumbai, claiming itself as a representative body of users of the subject goods, submitted an application requesting for initiation of a review of the anti-dumping duties imposed on the imports of the subject goods from the subject country. The Designated Authority, vide Notification No. 15/18/2015-DGAD dated 1st October, 2015, initiated the Mid-term Review (MTR) investigation. After conducting detailed investigation, the Authority revised the anti-dumping duty vide Notification No. 15/18/2015– DGAD dated 26th September, 2016 on imports of 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) from China PR. The same were imposed vide Notification No. 52/2016 Customs (ADD) dated 9th November, 2016.
3. Whereas in terms of Section 9A(5) the Customs Tariff(Amendment) Act 1995 the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition 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.
4. Whereas, M/s. Deepak Nitrite Industries Ltd (hereinafter also referred to as the petitioner) filed an application requesting initiation of sunset review of the anti-dumping duties earlier imposed and seeking continuation of duties against imports from China PR. The request was based on the grounds that the expiry of the measure would likely result in dumping from that country and consequent injury to the domestic industry.

5. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a sunset review investigation vide Notification No. 7/22/2018-DGAD dated 26.06.2018 to review the need for continued imposition of the anti-dumping duties in respect of the subject goods, originating in or exported from China PR (hereinafter referred to as the subject countries), and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.
6. The scope of the present review covers all aspects of the previous investigations concerning import of the subject goods, originating in or exported from the subject country.

## **A. PROCEDURE**

7. Procedure described below has been followed with regard to this investigation, after issuance of the public notice notifying the initiation of the above investigation by the Authority;
  - i. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, known producers/exporters in the subject country, known importers/users in India, and the Domestic Industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
  - ii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters in subject country and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
  - iii. The Embassy of the subject country in India was also requested to advise the exporters/producers from China to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR.
  - iv. The Authority sent Exporter's Questionnaire to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
    - i. Tsaker Chemical (Cangzhou) Co. Ltd
    - ii. Hua Geholding Group Co. Ltd
    - iii. Yangmei Fengxi Fertilizer Industry
    - iv. Lianyungang Lion Chemical Co. Ltd.
    - v. Luoyang City East Garden Chemical Co. ltd
    - vi. Beijing Yangcun Chemical Co., Ltd.
    - vii. Zhejiang Euchem Chemical Co., Ltd.
    - viii. Chemmax Guangzhou Limited Company
    - ix. Zhejiang Shangyu Chemical Co., Ltd.
    - x. Shanxi Xiangyu Chemical Co. Ltd
    - xi. HeBei HengShui DongGang Chemical Co. Ltd
    - xii. HengShui Jingheng Chemical Products Co. Ltd
    - xiii. Botou Tianhe Chemical co Ltd,
    - xiv. Yanshi Dongyuan Chemical Co Ltd,
    - xv. Hebei Hua-Chem Group

- v. Further on the request of interested parties, the Authority extended the time period for submission of Questionnaire responses by the interested parties up to 13.08.2018.
- vi. The following producer and exporter from China PR have filed a response to the exporter questionnaire-
  - i. Tsaker Chemical (Cangzhou) Co. Ltd.
  - ii. Tsaker Chemical Dongguang Co. Ltd.
  - iii. Tsaker Technology (Beijing) Co. Ltd.
- vii. The Authority forwarded copy of Notification to the following known importers / consumers of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:
  - i. Daikaffil Chemicals India Ltd.
  - ii. Anil Organics
  - iii. Pranav Chemicals
  - iv. Meghamani Dyes and Intermediates LLP
  - v. M/s Paramount Minerals and Chemicals Ltd.
  - vi. M/s- Eskay Dyestuffs and Ogranics Chemicals Pvt. Ltd.
  - vii. M/s BASF India Ltd.
  - viii. M/s- Khyati Chemicals Pvt. Ltd.
- viii. The following importers and users have filed a response to the User questionnaire, attended the oral hearing and subsequently filed written submissions-
  - i. M/s Paramount Minerals and Chemicals Ltd.
  - ii. M/s- Eskay Dyestuffs and Ogranics Chemicals Pvt. Ltd.
  - iii. M/s BASF India Ltd.
  - iv. M/s- Khyati Chemicals Pvt. Ltd.
- ix. The period of investigation (POI) for the purpose of the present review is April, 2017 – March, 2018 (12 months). However, injury analysis period covers 2014-15, 2015-16, 2016-17 and the period of investigation.
- x. Transaction-wise imports data for the period of investigation and preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). The Authority has, relied upon the DGCI&S data and the data of co-operative exporters for calculating the volume and value of imports of the subject goods in India.
- xi. The Authority made available non-confidential version of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xii. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods.
- xiii. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority also provided opportunity to the interested parties to present their views orally in an oral hearing held on 12.09.2018. The parties, who presented their views in the oral hearings, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions. Submissions made by all interested parties have been taken into account in this Disclosure Statement.
- xiv. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of investigation, to the extent the

same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this Disclosure Statement.

- xv. The Authority, during the course of investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this disclosure to the extent possible and verified the data / documents given by the domestic industry and responding exporters to the extent considered relevant and necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this investigation.
- xvi. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xvii. 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 considered such interested parties as non-cooperative and recorded these findings on the basis of the 'facts available'.
- xviii. A Disclosure Statement was issued on 20<sup>th</sup> December, 2018 containing essential facts under consideration of the Designated Authority, giving time up to 31<sup>st</sup> December, 2018 to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xix. \*\*\* In this final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority for the subject investigation is 1US\$=Rs.65.33

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

### **B.1 Views of the Domestic Industry**

8. The domestic industry has made the following submissions with regard to the scope of product under consideration and like article:
  - i. The product under consideration for the purpose of the present investigation is the same as in the earlier investigations, that is, '4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)',
  - ii. As noted in the previous investigations, the product produced by the petitioning domestic industry is like article to that imported from the subject countries.

### **B.2 Views of the opposing interested parties**

9. No submissions were made by the opposing interested parties with regard to the scope of product under consideration or like article.

### **B.3 Examination by the Authority**

10. The product under consideration in the present sunset review investigation is '4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)', commonly known as DSD Acid.
11. The present investigation being a sunset review investigation and anti-dumping duties, as earlier recommended by the Authority, being in force on the imports of the subject goods from

the subject countries, the Authority considers that the scope of the PUC in the present investigation remains the same as that in the original and subsequent review investigations. The product under consideration defined in the previous investigations is as follows

*“The product under consideration in the present investigation is 4, 4 Diamino Stilbene 2, 2 Disulphonic Acid (also referred to as DASDA). It is also known as 2, 2'- (1, 2-Ethylenediyl) bis (5-aminobenzenesulfonic acid), 4, 4'-Diaminostilbene- 2, 2'-Disulfonic Acid, 2, 2'-ethene-1, 2-diylbis (5- amino benzene sulfonic acid), Amsonic Acid and DSD Acid. DASDA is a light yellow color powder/cream, which is used in synthesis of dye stuffs, like optical brightening agents, fluorescent brightening agents, etc. The subject goods are classified under chapter heading 29215990, although reportedly being imported under a number of other tariff headings such as 29214290, 29222190, 29222990, 29309099, etc. However, the customs classification is indicative only and in no way binding on the scope of this investigation.”*

12. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry is comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
13. The Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration as mentioned in the paragraphs above, in accordance with the Anti-Dumping Rules.

### **C. DOMESTIC INDUSTRY AND STANDING**

14. The petition for review of anti-dumping duty in force on imports of the subject goods was filed by Deepak Nitrite limited as domestic producers of the product under consideration in India.

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

15. The Petitioner has made the following submissions with regard to Domestic Industry and Standing:
  - i. The application was filed by Deepak Nitrite Limited (DNL) on behalf of the domestic industry. The petitioner has a major share of the total Indian production.
  - ii. The petitioner is not related to producer/exporter of the product under consideration in subject country.
  - iii. The Petitioner has imported small quantities of the subject goods during period of investigation.
  - iv. Imports were made by Dahej plant of the petitioner, which is used for manufacturing OBA. The product under consideration is not manufactured at Dahej plant.
  - v. Imports made by the petitioner were only for the purpose of self-consumption and was not used for sale.
  - vi. Imports have been made by Dahej plant for self-consumption to produce OBA. Imports made, since the Hyderabad plant of the Petitioner, which produces DASDA, was shut down temporarily for two months in 2016.
  - vii. The imports in 2017 by the Dahej plant were made in absence of supply from the Hyderabad plant, because of domestic orders and commitments.

- viii. The Petitioner constitutes “domestic industry” as per Rule 2(b) since they have a “major proportion” of the Indian production and the imports made are negligible in volume when compared to the Indian demand and total imports.

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

16. The opposing interested parties have made the following submissions:
- i. The DI themselves have imported a significant quantity of the subject goods from China PR and the same was not disclosed to the Authority.
  - ii. The domestic industry will have to explain that why have they concealed the fact from the Authority. The import made is very substantial, out of 4609 MT 200 MT import has been made by the DI itself and it amounts to 4.34% of the total imports.
  - iii. The investigation should be terminated on the ground of failure of DI to provide essential information which has bearing on their claims as DI, injury and likelihood such action by the DI has put their eligibility as DI and credibility of various claims in the petition in serious question.

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

17. The present application was filed by Deepak Nitrite limited as domestic producers of the product under consideration in India, seeking review and continuation of anti-dumping duties in force on imports of product under consideration from the subject country.
18. The Authority notes that the petitioner is not related (either directly or indirectly) to an exporter or producer of product under consideration produced in subject country or an importer of product under consideration in India. With regard to imports made by the petitioner, the Authority noted that petitioner had initially not disclosed imports made by them and accepted that they have imported PUC only after oral hearing when the interested parties brought this fact to the notice of the Authority. The petitioner is well versed with the Anti-Dumping Rules and he should have brought this fact to the notice of the Authority at the time of filing of petition itself. It is noted that the petitioner had imported \*\*\* MT of product under consideration from China PR during period of investigation. Imports made by petitioner are \*\*\* of total imports, \*\*\* of its production and \*\*\*of demand.
19. The Authority notes, on the basis of information on record the petitioner accounts for 84% for total Indian production and accounts for major proportion of the total Indian production. In view of the above and after due examination, the Authority holds that the applicant satisfies the standing requirements for the subject goods and constitutes domestic industry under Rule 2(b) and Rule 5(3) of the AD Rules.

### **D. CONFIDENTIALITY**

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

20. The following submissions have been made by the domestic industry:
- i. The exporter has claimed information like product list, channel of distribution, production process, production flowchart, name of raw material, information regarding exports to India, sales of goods of the company, sales price structure, statement showing installed capacity, information related to cost of production, information related to subsidiary, information with regard to exports to third countries etc. Non-confidential version of the questionnaire response is grossly inadequate.
  - ii. Information publicly available has been kept confidential and the non-confidential version of the information has not been provided. Interested parties have not filed proper and

sufficient non confidential summary of the information claimed confidential so as to enable the petitioners to give meaningful comments. The interested parties have merely given blank formats.

- iii. All the interested parties are required to comply with the Trade Notice no 10/2018 dated 7<sup>th</sup> September, 2018, however the exporters and users are in clear breach of the same due to the excessive confidentiality in the questionnaire responses.
- iv. Confidentiality provision under the Rules is not a mere tool to deny disclosure of information provided during investigation in order to kill all transparency provisions of the rules and create a handicap for the opposing parties. Any claim to treat the information as confidential must be bona fide and germane to the rights and legitimate interests of the party wanting to treat the information it provided as confidential.
- v. The petitioner has provided all the information in the non-confidential version of the petition. The non-confidential version of the information filed by the petitioners is largely in consonance with the trade notice no 10/2018 dated 7th September, 2018. Injury statements filed by the domestic industry are invariably either on actual basis or on indexed basis.
- vi. Format A-L is a business sensitive information and non-confidential summary of that cannot be made. Petitioner has claimed confidentiality only within the Rule and is in compliance with trade notice no 10/2018 dated 7th September, 2018.

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

21. The following submissions have been made by the opposing interested parties:

- i. DGTR should not have initiated the investigation as the NCV does not allow for a reasonable understanding of the allegations
- ii. Interested parties cannot fully exercise right to defense as NCV is not properly indexed. Justification table of Confidentiality is not proper as per Trade Notice.
- iii. Section VI (Costing Information) is missing and Format A-L are claimed confidential. No proper justification has been provided for claiming the information confidential.
- iv. Information provided by the petitioner in the petition is clear violation of the Trade notice 1/2013 and the requirements laid down in Rule 7 of the Rules.
- v. Deepak Nitrate Ltd. (DNL) is trying to hide its own confidentiality claims by accusing other interested parties of excessive confidentiality. Volume information has been claimed confidential whereas the information has been provided in previous cases.
- vi. That the petitioner itself has claimed excessive confidentiality and filed an incomplete petition. Petitioner has not provided sufficient reasons as to why confidentiality was claimed and why summarization was not possible for certain information. The petitioner has not even provided the indexed numbers. Tsaker has provided all the information as per above mentioned Rule and also enclosed the justification table clarifying the reasons for claiming the confidentiality.

### **Examination of the Authority**

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

*“7. Confidential information:*

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

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

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

23. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences 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. MISCELLANEOUS ISSUES**

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

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

- i. Observation of the Authority in the MTR with regard to Dongying unit not only suggest that the exporter has one more production unit of DASDA namely Tsaker Dongying but the exporter had suppressed various facts from the Authority at the time of MTR investigation. The Authority has already verified the existence of Tsaker Dongying.
- ii. Even if the plant is under construction, it clearly shows the additional capacity coming up in China, increasing surplus capacity in China. In the event of cessation of anti-dumping duty, the production from these capacities will get diverted to India.
- iii. The plant of the petitioner was closed only for 28 days. It is not correct that the plant was closed due to non- compliance of PCB order. Since there was stormed rain in the month of Sep-16 and Oct-16, PCB issued instruction to all the establishment in the industrial estate for more strict administrative control adherence. Upon verification, PCB have asked to close production till necessary modification are done. DNL had spent nearly Rs. 60 to 70 Lakhs for necessary modification as directed by PCB, the details of

which have been stated in revocation order. DNL thereafter restarted the production in the plant.

- iv. Depreciation of rupee cannot be a ground for non-continuation of anti-dumping duty. It is without basis that depreciation of rupees has singularly impacted the import price. Depreciation of rupee has had its own adverse effect on several factors. Moreover, there is no basis to assume that the rupee shall remain depreciated at the present level.

#### **Views of the other interested parties**

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

- i. The Petitioner has not brought any evidence to prove the condition for initiation. The Application is short of legal and factual basis.
- ii. As it was mentioned in the interim report of 2015 that the Dongying plant is still under construction and is not planned to increase the overall capacity of Group, but as a supplementary plant to guarantee supply of DSD Acid if Donguang plant is closed down due to environmental policies of Govt. of China.
- iii. Many plants have been closed in China due to Govt. policies. Tsaker group took two main measures to deal with the environmental policies. Firstly, to invest in more environment friendly facilities to control pollution at Donguang plant, and secondly, started to build Dongying plant in case Donguang plant is also suspended. It was anticipated that once Donguang plant is suspended, Dongying plant would continue the supply of DSD Acid.
- iv. The Authority needs to examine what was the production loss due to Pollution Control Board (PCB) plant closing, what is the current position of DNL with regard to compliance raised by PCB, has any long term measures been taken to address pollution issues, assessment of the company if this issue will arise in future or not, investment made by the company to make compliant with environment law, concern's raised by PCB and the permitted quantity for the PUC for production. The Authority needs to examine all the parameters.
- v. DNL plant faces shut downs on account of environmental issues and the same needs deeper investigation by the Authority.
- vi. Depreciation of rupee has rendered imports unviable and it gives an additional protection to the DI. This situation if seen in the context of plant closures in China PR and also the prices which have started to increase significantly owing to tight supplies shall show the fairness in letting current ADD on DASDA to expire.
- vii. The petitioner in the original petition stated that it had not made any imports of the subject goods during the entire injury period, however in the written submission, it is stated that the Petitioner had made errors and thereafter submitted the details of the imports it had made.
- viii. The petitioner has admitted that it imported the subject goods, and no leniency shall be granted as DNL is a seasoned user of ADD. False statements in the petition and Format F raise doubts on all other statements made in the petition. Admission is not bonafide as DNL only admitted the imports when evidences were brought to the Authority. DNL made imports during POI to show some imports at low prices to make grounds for continuation of duties.

### **Examination by the Authority**

26. As regards the argument of plant shutdown of the domestic industry due to environmental issues, the authority notes that production of Deepak Nitrite Limited was suspended due to orders of Pollution Control Board. The production was suspended till the necessary modifications were done in the plant and upon verification it was noted that the production was suspended for 28 days in total to comply with the modification suggested by the Pollution Control Board. Since the production of the company was suspended in 2015-16 for 28 days, the Authority has made adjustment in the cost and return for the financial year 2015-16 on account of closure of the plant.
27. With regard to imports made by the petitioner, the Authority noted that petitioner had initially not disclosed imports made by them and accepted it only after oral hearing when the interested parties brought this fact to the notice of the Authority.
28. As regards argument of additional capacity being set up by Tsaker group, the Authority verified that the new plant in Dongying which is under construction and it may be completed by end of 2019. As per the details of capital expenditure provided by the company it has been observed that company has already made substantial investment in new plant. The Authority noted that exporter has made substantial investment in order to enhance their capacity and to produce and sell the DASDA in the near future. Therefore, with the new capital investment the total Capacity of DASDA will be 55,000 MT p.a. from 2020.
29. It has been reported by the Company during verification that it has undergone change in name, w.e.f., 16th October 2018 as Hebei Tsaker Chemical Company Limited in place of Tsaker Chemical (Dongguang) Co., Ltd. They have requested that the change in name may be duly incorporated in the Final Findings. In support of their claim, the company has provided information and supporting documents.

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

30. According to Section 9A (1) (c) of the Customs Tariff Act, 1975 'Normal Value' in relation to an article means: -

*"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*

*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):*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the*

*country of export, the normal value shall be determined with reference to its price in the country of origin.*

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

31. Submissions made by the domestic industry are as follows:

- i. China needs to be treated as non-market economy for the reason that the costs and prices in China do not reasonably reflect the market forces. Para 8 to Annexure-I specifies the parameters which should be considered for grant of market economy status. This also implies that unless these conditions are not fulfilled/ satisfied, the Chinese costs and prices cannot be adopted.
- ii. Chinese producers are required to be treated as companies operating under nonmarket economy environment and the Authority may proceed to determine the normal value on the basis of Para 7 of Annexure-I.
- iii. Tsaker group has filed exporter questionnaire response on behalf of two producers i.e. Tsaker Chemical (Dongguang) Co. Ltd and Tasker Chemical (Cangzhou) Co. Ltd. The exporter came with one more production unit namely Tsaker Chemical (Dongying) Co Ltd, in 2014 mainly for the production of DSD Acid but no questionnaire response has been filed on behalf Tsaker Chemical (Dongying) Co Ltd.
- iv. The Authority took note of the same in the MTR as well. The Authority rejected the claim of name change of the exporter and held that the exporter is not only coming up with one more production unit but has also suppressed material fact.
- v. It is not a question of claiming normal value. It's question of filing complete QR. If a company can resort to suppression of facts to such an extent that a manufacturing unit is completely not brought before the authority, there is no confidence that rest of the information filed by the company shall be credible enough to be accepted by the authority.
- vi. The completeness of the questionnaire response is vital for determination of individual dumping margin. Unless the responding producer is able to precisely establish both the normal value and export price, it follows that the producer is not entitled for individual dumping margin. In the instant case as well, Tsaker group has suppressed the fact of existence of Tsaker Chemical (Dongying) Co Ltd and has not filed questionnaire response of the same.
- vii. The Designated Authority should not accept questionnaire response and the Authority should not determine individual dumping margin. This is in consonance with the well-established practice of the Authority, and as was applied in investigations concerning, for example, Purified Phthalate Acid (PTA), USB Flashdrive, Acetone from Korea, Cast Aluminium Alloy Wheels, Solar Cells, Hot Rolled Stainless Steel 304. Completeness of questionnaire response is a mandatory requirement and a well-established practice of the Authority.

### **Views of other interested parties**

32. Following submissions have been made by the other interested parties:

- i. PUC is only produced in Dongguang plant. Dongying plant is under construction and is not planned to increase the overall capacity of Group, but as a supplementary plant to

guarantee supply of DSD Acid if Donguang plant is closed down due to environmental policies of Govt. of China.

- ii. As per exporter questionnaire response filed by Tsaker it has two production units one is Donguang plant and other is Dongying plant (under construction). Response has been filed by Tsaker (Donguang). Response has also been filed by Tsaker Chemical Cangzhou and Tsaker Technology Beijing. None of them are manufactures but supply the goods to local market in China.
- iii. Tsaker has provided all relevant information about Tsaker Dongying and stated that Tsaker Chemical (Dongying) Co., Ltd. is under construction. Since the plant is under construction, company has not started manufacturing and trading yet, therefore, filing of separate questionnaire response does not arise.
- iv. Determination of NIP cannot be commented upon as all relevant facts have been claimed confidential without a meaningful summary. Authority is requested to determine NIP as per Annexure III and consistent practices.

## **Examination by Authority**

### **Normal Value**

33. At the stage of initiation, the Authority proceeded as per the information given by the petitioner. Upon initiation, the Authority advised the producers/ exporters in China PR to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority also requested Government of China PR to advise the producers/ exporters in China PR to provide the relevant information.
34. The Authority notes that the known Chinese producers/ exporters and the Government of China PR have been adequately notified about the requirement of submission of information in the form and manner prescribed and adequate opportunity was also granted to them to make their submissions in this regard. In this regard, M/s. Tsakar filed a letter accepting the fact that they had not filed the MET Questionnaire as they were not granted Market Economy Status in the previous MTR investigation. Hence, in the present Sunset Review investigation, they are not pressing for such claim of MET. The Authority may determine normal value as per existing rules and legal position. None of the producers/exporters have claimed market economy treatment.
35. In view of the above position the Authority considers it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value. The normal value for the subject goods has been constructed based on the cost data as per domestic industry covering all expenses and profit.

### **Export Price**

36. From the responses filed, it is noted that Tsaker Group comprises of the following related entities involved in the production and exports of the product concerned to India:
  - i. Tsaker Chemical (Donguang) Co Ltd (Producer/exporter)
  - ii. Tsaker Chemical (Dongying) Co Ltd (Producer- Under construction)
  - iii. Tsaker Chemical (Cangzgou) Co Ltd (Trader)

iv. Tsaker Technology (Beijing) Co. Ltd

37. All the above have filed separate questionnaire response except Tsaker Chemical (Dongying) Co Ltd. which is under construction.

#### **Determination of Dumping Margin**

38. Based on constructed normal value and net export price, the dumping margin on weighted average basis for each co-operating producers is determined as follows:

Particulars	UOM	Amount
Constructed Normal Value	Rs/MT	***
	US\$/MT	***
Net Export Price	Rs/MT	***
	US\$/MT	***
Dumping Margin	Rs/MT	***
	US\$/MT	***
Dumping Margin	%	***
	Range	5-10

#### **DETERMINATION OF INJURY AND CAUSAL LINK**

##### **Views of the Domestic industry**

39. Following submissions have been made on behalf of the domestic industry:

- i. Despite existing anti-dumping duty, the exporters from China have continued exports to India at dumped prices. Thus, it is very likely that in the absence of such a duty, the dumping of the subject goods in India will continue.
- ii. The petitioner has determined dumping margin and injury margin for the last 10 years. In view of significant variations in the costs & prices due to changes in raw materials, the petitioner has determined these margins on the basis of monthly averages. The petitioner has adopted such approach for determining monthly CNV and NIP as is adopted by the Designated Authority wherever and whenever the Designated Authority has undertaken monthly comparison. It will be seen that out of 120 months for which the petitioner did calculations, the dumping margin was positive in 102 months and the injury margin was positive in 89 months.
- iii. This clearly establishes that Chinese producers have most often resorted to exporting at unfair prices, but have exported the product strategically and consciously sometime at significantly high prices.
- iv. In the past also, despite knowledge that the imports were being made under advance license (where the consumer would source the material only from Chinese producers), the exporter has charged unfair prices. It is also pertinent to note that the dumping margin increased significantly till 2016-17 but thereafter declined with significant increase in export price. This further establishes the attempt to manipulate the prices.
- v. If the anti-dumping duty has had the desired effect, the condition of the domestic industry is expected to have improved during the period the anti-dumping duty was in

force. However this does not mean that there is no likelihood of recurrence of injury. Therefore, the assessment whether injury will continue, or recur, would entail a counter-factual analysis of future events, based on projected levels of dumped imports, prices, and impact on domestic industry.

- vi. While at present, the domestic industry is not suffering injury due to imposition of antidumping duty on one hand and the present pricing being kept by Tsaker on the other hand, considering the past behavior of the exporter, petitioner is quite sure that Tsaker will reduce the prices to such unreasonably low level that the petitioner suffers significant financial losses. This is not a conjecture, but a reality established by the past trend of the prices.
- vii. Imports claimed by the petitioner is on the basis of DGCI&S data and cannot be exaggerated. The petitioner has not claimed injury.
- viii. As far as DASDA operations are concerned, the same are governed by the income statement of at DNL at this location. The petitioner produces de-facto only DASDA at Hyderabad location. Since accounts are separately audited for DASDA location, the same readily show the financial performance of DASDA location alone.
- ix. Decline in export market by Tsaker is far disproportionate to the decline in cost of sales. Resultantly, even the petitioner has been forced to reduce the price far disproportionate to the reduction in cost of production. There is no co-relationship between the decline in cost and import price and import prices have declined far more than decline in cost.
- x. This is due to the reason that Tsaker is commanding the prices of the domestic industry. The selling prices of the domestic industry is not fixed as per cost but as per price trend scenario which is mainly commanded by Tsaker, it being the dominant player in the world DASDA market.
- xi. Comparison of cost of production and import price clearly shows that the import prices have not moved in tandem with the increase/reduction in cost of production. Since Tsaker was well aware of the sunset review falling due in 2018, the exporters doctored their prices to influence the present investigation. This is an intentional action taken by Chinese exporters in order to influence the sunset review investigation and seek withdrawal of ADD
- xii. The way Chinese producers have modified their prices and have resorted to significant increase and reduction in prices without any regard to the basic raw materials, it is evident that the weighted average import price in the POI is highly misleading to conclude on the likely behavior of the exporters in the event of cessation of anti-dumping duties.
- xiii. The movement of prices within the POI itself is clearly indicative of the manner in which Chinese producers can increase and reduce the prices. If the prices could be reduced and increased from INR 315 (Nov., 2014), to 202 (April, 2015); from 160 (June, 2017) to 208 (July, 2017) and 241 (Dec., 2017). It would be improper to consider that the Chinese producers are exporting and are likely to export at these prices which were prevailing during the end of investigation period.
- xiv. The domestic industry has not claimed injury in the present investigation. However, cessation of anti-dumping duty will lead to likelihood of dumping and injury.
- xv. The domestic industry is earning nominal profit and is not highly profit making. The return on investment is calculated on the net fixed asset of the company which is highly depreciated. The plant is old. The petitioner has worked out return on investment on gross fixed assets and it will be seen that the ROI on GFA is below 22%.

## **Views of the Other Interested Parties**

40. Following submissions have been made by the other interested parties

- i. DI has not claimed any Injury still their performance would show that DI is not vulnerable to any likely injury.
- ii. In POI the imports have declined and the DI claimed that China had excess capacity in that period had this been the case the imports would have increased.
- iii. Decline in import price is in line with decline in cost. Such import prices were not of any injurious effect to the DI which is evident in the fact that the performance of the DI was robust in the POI.
- iv. Market share of China PR slightly increased from 36.23% to 37.73% only. However, the decline in share of DI from 100 points to 89 points is due to significant decline in their captive uses and not because of imports. In fact, share of other companies increased substantially in this period from 100 points to 197 points which suggest that the imports were not impacting the sales of the Indian companies.
- v. DNL also imported during the POI and DNL could not supply enough due to PNT issues which also needs to be considered in view of the increase in market share of imports.
- vi. The decline in captive consumption by DI needs to be investigated in detail. As per our information DNL was producing significant volume of OBA where DASDA is used. In that case decline of captive consumption from 100 points to 13 points in the POI needs scrutiny. We request the Authority to check the OBA production and raw material source detail of DNL to assess the factual position of DASDA use by DNL. Thus, the DI did not face any market loss in actual terms.
- vii. The capacity of the petitioner remained the same during the entire injury period. However, production declined in 2016-17 and POI. This needs to be seen in view of the fact that plant of DNL was closed in 2016-17 for some time on account of PCB order. DNL also faced raw material issues (PNT) during the POI as evident from the letter from DNL wherein the company has asked users to pre close orders considering DNL's inability to supply the material.
- viii. The significant reduction in captive use of DASDA raises a lot of doubt on the injury data concerning DASDA presented by DNL. If the decline is true as DNL was not able to sell OBA, then such issues cannot be attributed to imports of DASDA DNL is still using DASDA sales and ADD on DASDA as a measure to control the OBA market and declines in DASDA captive use in such a case needs deeper investigation.
- ix. On examination of post POI data it will be seen that not only import prices but DI prices have also increased. Post POI trend up to April-June 18 Quarter, the months after that are showing even higher increase in price, both for DNL and also exporter from China PR
- x. Tsaker is operating on a very high profit margin and it cannot be said that they are under pressure to export the product to India in lower price.
- xi. Petitioner has failed to evaluate some economic parameters. Indexed points for unit price, total costs, investments, employment, and stocks are not explicitly provided and analyzed.
- xii. Increase in import volume is not dumping, but the increase in demand of Indian market due to growth in downstream industry

- xiii. Sale of DI has remained the same, however share of other Indian producers have increased due to the increase in demand.
- xiv. There is no correlation between Cost of Sales and Selling Price.
- xv. Prices of DASDA are tied to the international prices of Crude and hence have reached to new highs during the end of POI. It will further increase Post-POI.
- xvi. Price undercutting is amongst the most important factor, however is not the only factor. It has to be seen with other parameters and performance of the DI. Undercutting was negative in 2014-15 and 2015-16 and was only 1-20% during 2016-17 and POI. Despite positive undercutting, DI has improved on performance
- xvii. It is baseless that Tsaker is affecting the world prices. Tsaker is using its dominant position in market to higher levels and DNL is not affected by the same. Being the only remaining producer, Tsaker is increasing its prices worldwide, which can be reflected in the Post POI import prices provided. The prices will further go up due to the plant closures in China PR.
- xviii. Tsaker being the only producer in China PR will use its dominant position to raise the prices and DNL would not be impacted by the higher prices. DNL only wishes to extend the duty to create a monopoly in the OBA market in India by controlling the supply of a major raw material DASDA.
- xix. Statement that Tsaker is controlling prices of the PUC is baseless. Had Tsaker been controlling the prices, DNL would not have increased the prices periodically and earned profits while not suffering injury during the POI.
- xx. No real explanation as to how Tsaker is doctoring volumes and prices of DASDA. Infact, DNL is doctoring the pricing of OBA by misusing the ADD on DASDA.
- xxi. DNL, as admitted is already earning nominal profits and due to plant closures in China PR, the prices are increasing to higher level. Any ADD would lead to DNL earning exorbitant profits, which is not the aim of ADD. The aim is to correct dumping and injury, which has now been removed. There is no likelihood either as the prices will only increase.
- xxii. Statement by DNL that absence of current injury in not indicative of likely situation in absence of duties is not true. The situation needs to be seen in context of the significant price increase lately owing to closure of DASDA plants in China PR except one. The prices will only go higher owing to the limited supply in a market with increasing demand.
- xxiii. DNL states that import volumes have increased since previous case. Imports have increased due to demand supply gap, DNL does not sell the material in a fair manner.
- xxiv. DNL itself asked users to pre-close order owing to their inability to supply due to PNT issues. Plant of DNL was closed in 2016-17 on account of PCB issues, which is a recurring instance.
- xxv. Import prices and prices of DNL have both shot up significantly showing a paradigm shift in pricing scenario of DASDA.
- xxvi. Contention that India will be chosen destination of dumping is baseless. World demand for the product is increasing and Tsaker is the only producer in China, hence it will raise prices.

- xxvii. Claim that Tsaker did not increase prices with prices of Raw material is baseless. As stated by Tsaker, it produced upstream raw material and hence stabilized the DASDA prices.
- xxviii. Claim that DNL is vulnerable to imports and the price sensitivity is untrue as DNL itself commands prices in a dominant manner. They have an integrated production till OBA level and hence control prices to reap benefits. DNL is not vulnerable and imports the PUC from China.
- xxix. DI admits it has no injury and the case is solely about likelihood of injury.
- xxx. The imports have declined recently and in the POI compared to previous year. This decline occurs at a time when the DI claims excess capacities in China.
- xxxi. Decline in prices of import are in line with decline in cost and not otherwise which is evident in the fact that the cost of the DI also declined by the POI. Thus, reductions in price were driven by cost. Such import prices were not of any injurious effect to the DI which is evident in the fact that the performance of the DI was robust in the POI.
- xxxii. Share of China only increased from 36.23% to 37.73%, however the share of DI fell from 100 points to 80 points due the decrease in captive sales. The share of other producers substantially increased from 100 to 197 points which shows that the imports did not affect the sales of Indian companies.
- xxxiii. Decline in captive sales needs scrutiny as OBA production of DNL increased. The OBA production and raw material source detail needs to be assessed by the Authority.
- xxxiv. The capacity of DNL remained the same throughout, however the production fell owing to raw material shortage as indicative from the letter by DNL. The plant was also closed for a period due to a PCB order. This is the real reason for fall in production and sales and not the imports.
- xxxv. Employment has increased and production has decreased which shows the incompetency of the producer and cannot be cured by continuation of duty.
- xxxvi. The profitability increased and any losses cannot be attributed to the imports as there were plant closures. The import prices were comparable to prices offered by DI hence there was no suppression.
- xxxvii. DNL earned profits during the entire injury period except 2016-17 wherein the plant was closed owing to PCB order. The lower margin should be seen in light of fall in captive consumption and imports made by DNL which leads to a self-inflicted injury. Thus, the lower margin does not show any injury. The data submitted in the petition does not show any significant level of price undercutting or underselling. Based on the average price of the responding importers here, the price undercutting/underselling would be even negative.
- xxxviii. Analysis shows that DI is no longer suffering injury and that the situation has gone tremendous changes. DI is not vulnerable to any injury on cessation of duty. Certain factors are responsible for performance of DI like PCB order, PNT constraints, decline in captive use, import by DNL and recurrence of such instances in the future cannot be ruled out. This shows that there was no causal link between imports and injury, which further shows that there is no likelihood in event of cessation of duties.
- xxxix. The statements that Tsaker commands prices in Indian and Global Market are false, as Tsaker has not made any manipulations of export price of DASDA. The prices of DASDA depend on the price of the raw materials and it had fluctuated in accordance with the raw materials prices only.

- xl. As per the Annual Report of DNL in 2017-18, the company is earning substantial profits. However the Petition states that only nominal profits are made. Also, return on investment is to be worked out on Net Fixed Assets, not on Gross fixed Assets.
- xli. Capacity has remained same however the plant production utilization has increased. The production of PUC has decreased because the petitioner is focusing more on non-PUC, which has increased from 100 in 2014-15 to 522 during POI.
- xlii. Sales volume of the petitioner has increased. Segregation into two segments is not warranted. However, Captive sales and exports of the Petitioner have decreased majorly which can be the cause of injury.
- xl.iii. Sales volume of the petitioner has increased. Segregation into two segments is not warranted. However, Captive sales and exports of the Petitioner have decreased majorly which can be the cause of injury.
- xliv. Average stock should not be seen in isolation. It has no meaning unless seen in relation to production and sales.
- xl. v. Profitability of the Petitioners has increased significantly during the POI as compared to the base year. Total PBT, PBIT and Cash Profits have improved overall during POI as compared to base year, and hence the imports are not causing injury to the petitioner.
- xlvi. No. of employees has increased during POI.
- xl. vii. Overall performance of domestic industry has improved. All factors are improving apart from productivity, which is almost the same and market share, which has declined due to slump in captive consumption and increase in market share of other producers.
- xl. viii. Any injury caused is due to other factors. DG should examine other factors which can cause injury. Such non-attribution analysis should be performed to establish causal link. Thus injury cannot be attributed to only imports.

#### **Examination by Authority**

- 41. The injury analysis made by the Authority here under addresses the various submissions made by the interested parties.
- 42. Rule 11 of Antidumping Rules read with Annexure–II 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....”. 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.
- 43. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is

otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

44. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
45. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.
46. In consideration of 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 countries.

**i. Assessment of Demand/ Apparent Consumption**

47. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand for the product under consideration is given below:

Demand	UOM	2014-15	2015-16	2016-17	POI
Sales of Domestic Industry including captive	MT	***	***	***	***
Sales of Other Indian Producers	MT	***	***	***	***
Import from China PR - Subject Countries	MT	***	***	***	***
Import from Other Countries	MT	***	***	***	***
<b>Total Demand</b>	<b>MT</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

48. The Authority notes that the demand for the subject goods has increased till 2016-17 and then slightly declined in POI.

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

**Import volume and Market Share**

49. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. The table below summarizes the factual position with regard to import volumes and market share:-

Particulars	UOM	2014-15	2015-16	2016-17	POI
Import Volumes					
China PR - Subject Country	MT	3,998	4,674	5,324	4,675
Other Countries	MT	7	-	-	-

Particulars	UOM	2014-15	2015-16	2016-17	POI
Total Imports	MT	4,004	4,674	5,324	4,675
Market Share in Imports					
China PR - Subject Country	%	99.84	100	100	100
Other Countries	%	0.16	-	-	-
Imports from Subject Countries in relation to					
Indian Production	%	56	57	74	62
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>101</i>	<i>131</i>	<i>109</i>
Indian Consumption	%	48	45	48	43
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>92</i>	<i>100</i>	<i>90</i>

50. Based on the table above the Authority notes the followings:

- i. Import from the subject country has increased till 2016-17 despite anti-dumping duty being in force. It is noted that there is decline in import from the subject country in the period of investigation compared to the previous year.
- ii. The subject country accounts for 100% of the market share in imports.
- iii. Imports in relation to consumption has declined in 2015-16 and has increased in 2016-17, thereafter it has declined in the period of investigation.

**iv. Price Effect of the Dumped Imports on the Domestic Industry**

**a. Price Undercutting**

51. With regard to the effect of dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports when compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product and the selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The Authority has compared landed price of imports with the selling price of the domestic industry for the subject goods.

Particulars	Unit	2014-15	2015-16	2016-17	POI
Landed price of imports	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>74</i>	<i>63</i>	<i>80</i>
Net Sales Realization	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>73</i>	<i>88</i>
Price undercutting	Rs./MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>0</i>	<i>103</i>	<i>46</i>
Price undercutting	%	***	***	***	***
<i>Trend</i>	<i>Range</i>	Negative	0-10	0-10	0-10

52. From the above, the Authority notes that the landed price of imports of subject goods from subject country is below the net selling price of the domestic industry. The imports from subject country are undercutting the selling prices of domestic industry from 2015-16 to POI. However there is no undercutting during 2014-15 i.e. base year.

**b. Price Suppression/ Depression**

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

Particulars	UOM	2014-15	2015-16	2016-17	POI
Cost of Sales	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>88</i>	<i>87</i>	<i>92</i>
Selling Price	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>73</i>	<i>88</i>
Landed Value	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>74</i>	<i>63</i>	<i>80</i>

54. The Authority notes that the import price from subject countries is lower than the selling price and cost of sales of the domestic industry in the injury period. It is noted that the cost of sales and selling price have declined till 2016-17. Decline in selling price is more than decline in cost of sales, hence depressing the domestic price. In the period of investigation the cost of sales and selling price both have increased since previous year. It is noted that the import price has both suppressing and depressing impact on the domestic price.

**v. Economic Parameters relating to the Domestic Industry**

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

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

**a) Production, Capacity, Capacity Utilization and Sales Volume**

57. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:

Particulars	UOM	2014-15	2015-16	2016-17	POI
Installed Capacity - Plant	MT	6,600	6,600	6,600	6,600
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
Production Plant	MT	6,687	7,126	6,378	7,131

Particulars	UOM	2014-15	2015-16	2016-17	POI
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>95</i>	<i>107</i>
PUC Production	MT	6,545	6,981	5,994	6,389
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>92</i>	<i>98</i>
NPUC Production	MT	142	145	384	742
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>102</i>	<i>271</i>	<i>522</i>
Capacity Utilisation	%	101	108	97	108
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>95</i>	<i>107</i>

58. The Authority noted that the petitioner is producing OBA from DASDA (captive consumption) and also from DNSDA (non PUC). The company has increased use of DNSDA and consequently reduced the use of DASDA for production of OBA in the POI as compared to base year. The plant production and capacity utilization of DASDA has not declined as the result of declining consumption of DASDA for producing OBA.

59. It is noted above that capacity of the domestic industry has remained same throughout the injury period though there is a significant increase in demand in POI as compared to base year. Production of the product under consideration increased in the period of investigation compared to the previous year, however it has declined in relation to the base year. Capacity utilization has increased in the period of investigation compared to the base year as well as the previous year.

**b) Market Share in Demand**

60. The market share of the domestic industry moved as shown below:

Market Share in Demand	Units	2014-15	2015-16	2016-17	POI
Sales of Domestic Industry including captive	%	44.92%	43.84%	40.97%	45.52%
Sales of Other Indian Producers	%	6.65%	11.47%	10.86%	11.13%
Import from China PR	%	48.35%	44.69%	48.18%	43.36%
Import from Other Countries	%	0.08%	0.00%	0.00%	0.00%
<b>Total Demand</b>	<b>%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

61. It is noted that the market share of the domestic industry has slightly increased in the period of investigation as compared to the base year. Market share of the other Indian producers has increased in the period of investigation since the base year.

**c) Profitability, return on investment and cash profits**

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

Particulars	UOM	2014-15	2015-16	2016-17	POI
Cost of Sales	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>88</i>	<i>87</i>	<i>92</i>
Selling Price	Rs/MT	***	***	***	***

Particulars	UOM	2014-15	2015-16	2016-17	POI
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>78</i>	<i>73</i>	<i>88</i>
Profit / (Loss)	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>19</i>	<i>(11)</i>	<i>61</i>
Profit / (Loss)	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>24</i>	<i>(16)</i>	<i>98</i>
PBIT	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>29</i>	<i>(9)</i>	<i>102</i>
Cash Profit	Rs. Lacs	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>31</i>	<i>(3)</i>	<i>110</i>
Return on Capital Employed	%	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>26</i>	<i>(7)</i>	<i>65</i>

63. Since the production of the company was suspended in 2015-16 for 28 days, the Authority has made adjustment in the cost and return for the financial year 2015-16 on account of closure of the plant. After such adjustment the Authority notes that the profits of the domestic industry has declined in the period of investigation since the base year. PBIT, ROI and cash profits have shown the same trend where there was a decline in trend in 2015-16 and it was negative in 2016-17 and has increased in the period of investigation. The profits, cash profits and ROI in the POI were however lower than base year.

**d) Inventories**

64. Inventories with the domestic industry is as follows:

Particulars	UOM	2014-15	2015-16	2016-17	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>97</i>	<i>56</i>

65. It is seen that inventories with the domestic industry has declined over the injury period.

**e) Employment and productivity**

66. Performance of the domestic industry with regard to employment, productivity and wages is as follows:

Particulars	UOM	2014-15	2015-16	2016-17	POI
Productivity per day	MT/Day	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>107</i>	<i>92</i>	<i>98</i>
Employment	Nos	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>102</i>	<i>101</i>

67. On the basis of above, the Authority notes that the levels of employment and productivity have almost remain constant throughout the injury period.

**f) Magnitude of Dumping**

68. Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry. The analysis shows that the dumping margin determined against the subject country is positive.

**g) Ability to raise Capital Investment**

69. There is no verifiable information presented by the Domestic Industry and neither available on records that can imply that future investment in the sector can be marred by the presence of dumped imports from subject country.

**Magnitude of Injury and injury margin**

70. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under:

Particulars	Rs/MT	\$/MT
Non Injurious Price	***	***
Landed Price	***	***
Injury Margin	***	***
Injury Margin %	***	***
	Negative	Negative

It is noted that Injury margin in the present case is negative.

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

71. The Authority observed that this is a sunset review investigation and the focus of this investigation is to examine the likely scenario of continued dumping and consequent injury if the anti-dumping duties were to be allowed to expire even if there is no current injury.

**Views of the Domestic Industry:**

72. Following are the submissions made by the Domestic Industry with regard to likelihood of continuation of dumping and consequent recurrence of injury –

- i. Tsaker Chemical (Cangzhou) Limited is the largest producer of DASDA in China. It has the world’s largest production base for DSD acid and accounts for 57% of world market at present. In 2017, 20000 tons project was put into operation which further consolidates the company’s leadership position in the industry.

- ii. Being a market leader, the company is not only affecting the prices in the Indian market but also affecting prices in Chinese and global markets. Given their position, all DASDA producers are forced to align their prices with Tsaker prices.
- iii. The fact of price manipulation resorted by Tsaker alone justifies extension of ADD in the present case. If Tsaker has increased and reduced prices so drastically and so often, the petitioner holds no confidence that the present trend of prices will continue.
- iv. Tsaker group is the largest manufacturer of the subject goods in the world. The Company already has surplus capacities, and despite so, making further expansion. The current capacities available with the exporter are 35,000 MT and further expansion is being undertaken for 15,000 MT which takes the total capacity of the company to 50,000 MT, which is almost equal to the global demand.
- v. The exporter's prices are not only affecting the Indian market but Chinese and global market as well, cessation of present anti-dumping duties will enable the company to dictate and dominate the prices of the subject goods in India and the domestic industry will be forced to align its prices to the imports.
- vi. Tsaker is controlling the price trends for the product in Indian, Chinese and global market. All other producers are forced to align their prices to the prices offered by Tsaker.
- vii. Tsaker was well aware of the sunset review falling due in 2018, the exporters doctored their prices to influence the present investigation. This is an intentional action taken by Chinese exporters in order to influence the sunset review investigation and seek withdrawal of ADD.
- viii. Determination on likelihood of dumping and injury in the present case cannot be based solely on the import price prevailing during the POI. Any conclusion drawn on the basis of weighted averages shall be highly misleading in view of the pricing behaviour of the Chinese producers.
- ix. The weighted average import price in the POI is highly misleading to conclude on the likely behaviour of the exporters in the event of cessation of anti-dumping duties. The moment of prices within the POI itself is clearly indicative of the manner in which Chinese producers can increase and reduce the prices.
- x. The importers/consumers demanded a midterm review seeking withdrawal of ADD on the grounds that import prices have significantly increased. The DA initiated midterm review on finding increase in import price.
- xi. After initiation of midterm review investigation, the import price once again declined significantly. Accordingly, even when authority held that there was sufficient justification for initiation of investigation and came to a conclusion that the dumping margin and injury margin in the investigation period considered by the authority were negative, the authority did not recommend withdrawal of ADD on the grounds that change in market were purely temporary and the situation had already significantly deteriorated to extent that were dumping margin and injury margin were once again positive.
- xii. An analysis of the volume of imports from China PR reported in the previous investigation period as well as in the current period shows that volume of imports from China PR have increased from the previous investigations. China constitutes 100% share in the total imports.
- xiii. Producers in subject country have huge capacities to produce subject goods. The total capacity of China for the product under consideration is 65, 000 MT which is more than the global demand. In fact, the total capacity of China is more than 65,000 MT after including the expansion being undertaken by the exporter which is 15,000 MT. The total capacity of

China for the subject goods is 80,000 MT. None of the plants are shut down because of environmental reasons.

- xiv. Producers/exporters in China are having freely disposable production capacities. The capacities that the individual major players hold in China are higher than the entire domestic demand in India. The total freely disposable capacity is 47,949 MT.
- xv. Chinese exporters are in the process of expanding their capacity, notwithstanding the existing surpluses with them. The same is readily established from their annual reports.
- xvi. The annual report of Tsaker Chemical Group states that the group planned to grow the capacity of DSD Acid to 55,000 tons per annum by end of 2015 from 35,000 MT as of the end of 2014, representing expansions of more than 50%.
- xvii. The group in its Annual report of 2016 stated that they are building new production plants in Dongying, Shandong province of the PRC.
- xviii. As per information available with the domestic industry and considering the MTR investigation, the capacity of Tsaker group is going to be further expanded by 15,000 Mt which makes the total capacity of the exporter to 50,000 MT. This clearly means that the cessation of the present anti-dumping duties will provide the Chinese exporters a free and favorable market situation and allow them to aggressively export to India at their prices.
- xix. China is the largest manufacturer of DASDA in the World. Tsaker Chemical (Cangzhou) Limited is the industry's largest enterprise. They account for more than 53% of world market. Exports from China have increased over the period and are expected to increase further.
- xx. The exporters from China PR have very high export orientation worldwide. In 2015, approximately 43.8% of the sales revenue of Tsaker Chemicals was derived from other countries such as India, Germany, Japan and USA. Further as per the Annual report of 2016 of the exporter, India is the largest revenue generating export market for the Tsaker Group in China.
- xxi. Various extracts of annual report of the exporter clearly highlight that the Tsaker group is very much keen to export to the Indian Market. The imposition of anti-dumping duty has not affected the Chinese producers, due to advance licence exemption given by the GOI.
- xxii. Since the imposition of anti-dumping duty has not much affected the business of the Group in India and the customers have absorbed the anti-dumping duty, the cessation of anti-dumping duty will lead to intensified dumping and consequent injury to the domestic industry. Also there is a need for enhancement of duties as clearly the present duties have not affected the imports of dumped products into India.
- xxiii. China is the largest manufacturing country in the World. Tsaker Chemical (Cangzhou) Limited is the industry's largest enterprise. They account for more than 55% of world market. In 2017, 20000 tons project was put into operation which further consolidates the company's leadership position in the industry.
- xxiv. Perusal of the annual report of the company shows that the Global production of DASDA has increased from approximately 41.8 kilo tons in 2011 to approximately 57.7 kilotons in 2016, with an annual compound growth rate of 6.6% and the major producer is Tsaker group, with 53% of world's market share.
- xxv. China production has increased from 26500 tons in 2012 to 48,400 tons in 2016 and 52,300 tons in 2017. The production in China constitutes major share in the global production and it has significantly increased over the period.

- xxvi. In case of cessation of the present duty, dumping from China would definitely increase and ultimately cause intensified volume and price injury to the Domestic Industry which is at the recovery stage under the protection cover of the anti-dumping duty. In case of cessation of anti-dumping duty, the volume of imports is bound to increase further.
- xxvii. The application made by the Tsaker group to Hong Kong stock exchange showcases that, despite of increase in raw material prices, the price of product under consideration of exporter has remained same. This clearly shows that the Chinese producers do not align their prices with the changes in raw material prices.
- xxviii. Under present situation, the erratic pricing of the product by Tsaker in the past clearly shows that the Tsaker would once again resort to such erratic pricing and the domestic industry would suffer. Thus, either the exporter should give an undertaking that it would maintain the present prices, or it should be concluded that the exporter would continue to resort to erratic pricing behavior.

### **Views of the Other Interested Parties**

73. Following are the submissions made by the other interested parties with regard to likelihood of continuation of dumping and consequent recurrence of injury –

- i. Petitioner has failed to substantiate its claim based on facts. The claim made by the petitioner about China's excess capacity is false, there is no unutilized capacity and goods are waiting to be exported to India in case of cessation of duty.
- ii. There is only producer in China which is functional and all others have shut down owing to environmental issue so the question of excess exported capacity does not arise.
- iii. Likelihood Analysis by DNL is flawed as historical prices have no significance on the future prices. There has been a paradigm shift globally due to closing down of all but one plant in China. Significant price increase in Post POI period clearly signifies that the price of import of DASDA from China PR will not have any injurious effect to the DI.
- iv. All the likelihood arguments by DNL rest on a ground that excessive export capacity will be diverted to India on cessation of ADD. There are no excessive exportable capacities as all except one plant in China PR, i.e. Tsaker have been closed down due to environmental policies. Performances of DNL have also improved and the purpose of ADD has been met.
- v. DNL shows dumping after levy of duties to show likelihood, however the situation of DASDA export has seen substantial changes and the prices have already started to increase due to short supply.
- vi. The facts shows that the prices of DASDA post POI has increased tremendously and such increases are for a fundamental cause and it cannot be believed that the prices will come down in the near future. There is going to be a scarcity/tight supply of DASDA from China PR owing to plant closure in China PR leading to manifold increase in price and no ADD is warranted to be continued at such a juncture.
- vii. Increase in production does not show any likelihood of increased import or injurious price. In situation of scarce supply, prices will only increase.
- viii. All plants except one have been closed in China, hence historical trends are not important. DNL importing the subject goods and claiming continued imports as a ground for likelihood needs to be seen with utmost importance.

- ix. Statement that Tsaker is expanding its capacity is false. Dongying plant is under construction and is not built to increase capacity but as a supplementary plant to continue supply in case the Dongguang plant is closed due to environmental policies of Government of China.
- x. DI has claimed that Tsaker has got about 35000MT capacity currently and they have an expansion in progress by another 20000MT. Even if that new capacity goes live, total capacity with Tsaker would be about 55000 MT. Against this, the DI itself admits that China PR has a local demand of more than 30000 MT and the total export from China PR except India is in the range of 25000MT to 35000MT<sup>1</sup> which means Tsaker would be having an easy market for about 55000 to 65000MT of DASDA in the time to come and they would still be short of material to the tune of 5000 to 10000 MT even with a capacity 55000 MT assuming that they will always operate at 100% utilization minimum.
- xi. If an exporter becomes only supplier of a good and has monopoly over the market, they would increase the price, they will not reduce their prices.
- xii. Tsaker apparently is under equipped to cater to the Chinese demand (local plus export other than India) with the current capacity and even if the exporter adds on another 20000 MT capacity, still the exporter would have some shortage of material with the above numbers
- xiii. All the producers in China except Tsaker have closed down so the point of excess capacities in China does not arise.
- xiv. Chemical plant closing in China is a well-known fact and DASDA is one of the product which pollutes water. DASDA plants in China have not been able to comply with the water waste treatment and have shut down.
- xv. Shanxi Xiangyu Chemical Co Ltd's DASDA plant is no more operational (plant was designed to produce 10,000 MT/annum of DASDA) since many years as they have been unable to treat wastewater properly. The DASDA plant was sealed by government in 2014.
- xvi. Yanshi Dongyuan Chemicals Co Ltd has a separate company for export business which is called Luoyang Hanyi Chemical Co Ltd and is a 100% affiliate. This is a double count of DASDA capacity
- xvii. Botou Tianhe Chemical Co.,Ltd. is a trade company, their location is in Botou city, Hebei province where it is impossible to build any DASDA plant. Their main products are: dyestuff, dyestuff intermediates, and furan resins of casting. According to our information, they purchase DASDA from local DASDA supplier about 20-30 MT per year only
- xviii. Tianjin Yuanhai Fine Chemical Co.,Ltd. is also a trade company. Their location is in Jinghai county, Tianjin city. Their total trade volume is 3000 MT for DASDA, PNTS and DNST. They export these products to USA, Japan, Italy and other countries. According to our information, they also purchase limited volume of DASDA every year.
- xix. The Authority is requested to conduct the likelihood of exports based on data submitted by the exporter alone and not on any other basis. The sketchy inputs given by the DI in its petition is disputed for serious factual errors.
- xx. Even the annual report of Tsaker says that since plants have been shut down in China they will have golden opportunity to meet the local demand. In that case surplus capacity or diverting the exports to India is unlikely.

- xxi. Historical position of import of DASDA has no meaning in the present case in view of the closure of DASDA plants in China PR and the Graphite Electrodes Case, where the duty was revoked by the Authority in MTR because loss making industry till 2-3 years back is a net exporter of the goods currently and their profits just sky rocketed to unusual and unimaginable high levels during the last few years.
- xxii. No surplus capacity in China. Tsaker group has only two plants, Tsaker Chemical (Donguang) and Tsaker Chemical (Dongying) which is under construction. Tsaker Chemical (Cangzhou) supplies goods to Tsaker Tech (Beijing) who further sells to unrelated domestic producers in China. They have also filed responses.
- xxiii. Many plants have been closed in China due to Govt. policies. Tsaker group took two main measures to deal with the environmental policies. Firstly, to invest in more environment friendly facilities to control pollution at Donguang plant, and secondly, started to build Dongying plant in case Donguang plant is also suspended. It was anticipated that once Donguang plant is suspended, Dongying plant would continue the supply of DSD Acid.
- xxiv. The claim by Petitioner of producers having excessive surplus capacity is baseless. Tsaker is not the only producer in China. There are four others producers with a combined capacity of 15,000 MT.
- xxv. Tsaker Group is growing only because of its environment friendly policies. However the policies have affected the Tsaker Group also, as after the Government Notification, the Group had to demolish a number of Coal fired boilers and others are in process of demolition. The company also had to upgrade other coal fired boilers.
- xxvi. The DGTR in recent decisions has either denied initiation or terminated investigations after initiations in cases where there is no injury or no likelihood of injury. NFY, Dry Cell Batteries, VFY are few cases where the investigations was terminated.
- xxvii. In the current case, there is no dumping from China or injury due to dumped imports. Anti-dumping duty is not meant to be perpetual in nature and there exists no special circumstances to warrant an extension of the duty.

### **Examination by Authority**

74. The Authority examined the likelihood of continuation or recurrence of injury considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules. Clause (vii) of Annexure II to the rules provides for the following:

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

75. The trend of import is as follows

Particulars	Unit	2014-15	2015-16	2016-17	POI*
Total Imports	MT	4,004	4,674	5,324	4,675
Total China	MT	3,998	4,674	5,324	4,675

76. The Authority notes that despite imposition of anti-dumping duty the imports from the subject country kept increasing till 2016-17 with a decline during period of investigation. However, the level of imports during period of investigation is significant and has increased as compared to base year.

77. Data regarding imports of the subject goods in the previous investigations is as under:

<b>Imports</b>	<b>MT</b>	<b>Indexed</b>
2008-09	1,030	100
2009-10	2,252	219
2010-11	2,613	254
2011-12	2,769	269
2012-13	4,397	427
2013-14	5,182	503
2014-15	3,998	388
2015-16	4,674	454
2016-17	5,324	517
April'17 to March'18	4675	454

78. It is observed that the imports from the subject country kept on increasing despite anti-dumping duty in force. There is also some decrease in 2014-15 and during the POI.

79. The Annual reports of Tsaker Chemical and the above table suggests that its exports to India was not much impacted by the anti-dumping duty in force. It is likely that in the event of cessation of anti-dumping duty, the volume of dumped imports may further increase in view of increased imports from subject country.

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

80. This parameter for ascertaining the threat of material injury requires evaluation of existing surplus capacities and capacity addition, if any, to explore the possibility of diversion of disposable quantity to Indian market.

81. The Authority evaluated existing surplus capacities and capacity addition, if any, with the exporters of the subject goods to determine possibility of diversion of disposable quantity to Indian market. The domestic industry has provided evidence of existing capacities with the Chinese producers, which shows that the producers in China have capacity way beyond the Indian demand. Summarized position of existing capacities with China is as follows:

<b>S. no.</b>	<b>Name of the Company</b>	<b>Current Capacity (MT)</b>
1.	Shanxi Xiangyu Chemical Co. Ltd	10,000
2.	Yanshi Dongyuan Chemical Co. Ltd	5,000
3.	Botou Tianhe Chemical Co. Ltd	3,000
4.	Tsaker Chemical (Dongguang) Co. Ltd	35,000
5.	Luoyang Dongyuan Chemical Co. Ltd	5,000
6.	Tianjin Yuanhai Fine Chemical Industry Co. Ltd.	3,000

7.	Dongyuan Chemical Co. Ltd	5000
8.	Total known capacities	66,000MT

82. Tsaker has stated that as per information available the production at LION has been suspended in 2018 due to environmental issue and production at RUI XIANG has been shut down due to environmental issues since 2016.

83. Further, the Authority visited the Tsaker Chemical Dongying Plant in Shandong province. As regards argument of additional capacity being set up by Tsaker group, the Authority verified that the new plant in Dongying which is under construction and it may be completed by end of 2019. As per the details of capital expenditure provided by the company it is noted the exporter has made substantial investment in order to enhance their capacity and to produce and sell DASDA in the near future. During the plant verification, the company stated that due to environment issues the Dongguang Plant may be shut down and the company is installing Dongying plant as an alternative. As per the company if the existing Dongguang Plant having DASDA Capacity of 35,000 MT p.a. is closed due to environmental issues, the company will initially start with new Plant at Dongying with DASDA Capacity of 20,000 MT p.a. and will further increase its Capacity. Therefore, with the new capital investment the total Capacity of DASDA will be 55,000 MT p.a. from 2020.

84. This newly added plant is nearer to the port and it is likely to be beneficial for Tsaker group. It is noted that Tsaker Chemical (Dongguang) Co. Ltd is the largest producer of the subject good in the world and is the market leader. By adding up this new capacity may bring them in more dominant position and keep them at advantage in the market.

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

85. At the current landed price in India, there is positive price undercutting during POI without Anti-Dumping Duty in force. It is noted that the imports are depressing and suppressing the domestic prices, despite anti-dumping duty in force.

d) **inventories of the article being investigated**

86. As per the details given in the exporter questionnaire by the exporter from China, the inventories have increased in POI as compared to base year as well as the previous year. It is noted that Inventories have been increasing despite the nature of the product, which is highly demand driven. It is also noted that the inventory has increased post POI.

e) **Price attractiveness**

87. The increase in demand of product under consideration in India, coupled with restrictions on Chinese products in US indicates that India will remain an attractive market for product under consideration. As per company's Interim Report (for 6 months) for 2018, the exporter's main product i.e. DASDA is mainly being exported to the US and in US products from China may be subject to 10% additional tariff due to U.S.-China trade dispute. In that case, products from China may get diverted to other countries.

**f) Export Orientation**

88. It is noted from the Annual report of the exporter that the Tsaker is highly export oriented. In the event of cessation of anti-dumping duty, the excess capacities in China will get diverted to India owing to increase in demand. As per the Annual report 2017 of the exporter the export percentage of the Chinese companies is 63.8%; India accounted for approximately 10.9 %. The group has sales network not only in Asia but also in Europe, North and South America.

**Causal Link**

89. Under Section 9A (5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. It was examined whether other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

**a) Volume and value of imports not sold at dumping prices:**

90. Statement of imports from various countries shows that there are negligible imports of product under consideration from other countries. It cannot, therefore, be said that the imports from other countries have also caused injury to the domestic industry

**b) Contraction in Demand and / or Change in Pattern of Consumption:**

91. The demand of the subject goods has increased over the injury period. Decline in demand could not have, therefore, contributed to the injury to the domestic industry.

**c) Trade restrictive practices of and competition between the foreign and domestic producers:**

92. The Authority notes that there is no trade restrictive practice in subject goods which could have contributed to the injury to the domestic industry.

**d) Developments in technology:**

93. The Authority also notes that the technology for production of the subject goods has not undergone any change. Developments in technology are, therefore, not a factor of injury.

**e) Export performance:**

94. Petitioner has exported the subject goods. However, they have not claimed injury in the export operations. Petitioners have provided costing and injury information for domestic sales separately. Hence, injury to domestic sales cannot be attributed to exports.

**f) Performance of other products produced and sold by the domestic industry:**

95. The performance of the domestic industry has improved over the period and has been attributed to the effect of anti-dumping duty.

96. However, the domestic industry has not claimed any injury either on account of imports of the subject country or due to above mentioned factors.

**POST DISCLOSURE COMMENTS**

**Views of the Domestic Industry**

97. The domestic industry inter alia submitted as follows

- i. The Disclosure statement issued does not does not constitute sufficient disclosure of essential facts as relevant information relating to likelihood of recurrence of injury.

- ii. The exporters have made plenty of misleading claims and statements regarding (a) There is only one producer in China which is functional (b) There are no excessive exportable capacities (c) Statement that Tsaker is expanding its capacity is false (d) Historical position of import of DASDA has no meaning in the present. (c) Dongying plant was built in case Donguang plant is also suspended.
- iii. No venture can afford to have an extra insurance styled production facility only to be used in a presumed case when the first facility ceases production.
- iv. Exporter can dictate prices due to its dominance, being the sole producer in China as per its claims. It can be seen from the records how the market prices were decreased, and then increased by Tsaker.
- v. The exporters states it does not have interest in the Indian market, but is however very concerned with the ADD investigation, which shows a difference practice than the theory.
- vi. The Exporter has been found to be suppressing facts and making misleading statements in the previous MTR investigation also. The same has been held in the MTR Final finding.
- vii. The name change request has been made blatantly at an untimely and hugely delayed stage, without any mentions in the previous submissions. This mockery of procedure is disputed by the Petitioners as there has been no opportunity provided to the petitioners to offer comments on such a new development.
- viii. A similar name change request was made in the MTR investigation, which was denied by the Authority stating that the change was not merely of the name.
- ix. As per the practice of the Authority, a separate investigation is carried out in case of name change request, granting the Domestic industry a proper chance to defend its' interests.
- x. The claim made by the exporter that the newly added capacity of 20,000 MT in Dongying is merely an alternative is unbelievable and false on the face of it. The Global offering paper of Tsaker group (2015) stated the Dongying plant was established to strengthen its leading position in DSD Acid market and not under anticipation of Donguang plant production being closed
- xi. Tsaker Group is not only a leader in China, but also the world market, and can influence Chinese and Indian prices, to which all other producers have to align prices accordingly.
- xii. The volatile pricing of Tsaker shows the manipulation it can do, which should be alone enough for extension of the duty. Petitioners submitted that it will not seek extension if the current high price trend continues, but no such undertaking was provided by Tsaker.
- xiii. Tsaker Group will attain monopoly in the world market if the ADD ceases. The company has a capacity equal to the world demand, and it shall use its dominance and pricing to take out competition.
- xiv. The exporter was aware of the impending SSR and hence doctored prices to influence the outcome. Similar practices have been resorted to, in the past.
- xv. Determination on likelihood of dumping and injury in the present case cannot be based solely on the import price prevailing during the POI. Chinese producers can readily increase and decrease prices, as can be seen.
- xvi. Such temporary change in prices were seen as a pattern, and duly noted in the MTR final finding by the Authority.
- xvii. Positive dumping margin has been noted in the Disclosure Statement, which established that the dumping continued in the POI despite the ADD. A comprehensive month wise

analysis has been done for the last 10 years which shows positive dumping margin in 102 months and positive injury margin in 89 months out of the 120 months.

- xviii. The DI is not suffering injury in the POI and has not claimed any injury either. Parameters have shown improvement because of the higher import prices, and the injury because of the dumping was removed because of the duty recommended by the Authority. However, the high prices are temporary and the surplus capacities will be used in the event of cessation of duty.
- xix. Absence of injury is no justification of not extending the duty. The Authority has to determine if the injury can 'recur', which means that the injury that has been removed by the ADD, can happen again on removal of the duty, on the basis of likelihood analysis.
- xx. China constitutes 100% share in the total imports and the imports have increased from the previous investigations as well.
- xxi. Producers in subject country have huge capacities to produce subject goods. The DI rechecked the status of these producers after claims of closures and found that none of their websites states that the DASDA production facility has been shut down.
- xxii. Total capacity of the Chinese producers is way more than India demand without even considering the current capacity expansions.
- xxiii. Producers/exporters in China are having freely disposable production capacities.
- xxiv. As per the evidence provided, Chinese exporters are in the process of expanding their capacity, notwithstanding the existing surpluses with them.
- xxv. China is the largest manufacturer of DASDA in the World. Tsaker Chemical (Cangzhou) Limited is the industry's largest enterprise. They account for more than 53% of world market.
- xxvi. From the evidence collected and provided to the Directorate, it may be seen that the exporters from China PR have very high export orientation worldwide.
- xxvii. Various extracts of annual report of the exporter clearly highlight that the Tsaker group is very much keen to export to the Indian Market. The imposition of anti-dumping duty has not affected the Chinese producers.
- xxviii. Since the imposition of anti-dumping duty has not much affected the business of the Group in India and the customers have absorbed the anti-dumping duty, the cessation of anti-dumping duty will lead to intensified dumping and consequent injury to the domestic industry.
- xxix. Tsaker Chemicals shows increase in production in China and consequently globally. It is clear from the table above that China is the largest manufacturing country in the World.
- xxx. The Global production of DASDA has increased from approximately 41.8 kilo tons in 2011 to approximately 57.7 kilotons in 2016, with an annual compound growth rate of 6.6% and the major producer is Tsaker group, with 53% of world's market share.
- xxxi. Relevant extracts from the application made by the Tsaker group to Hong Kong stock exchange showcases that, despite of increase in raw material prices, the price of product under consideration of exporter has remained same.
- xxxii. The Indian market for the product under consideration is highly price sensitive. The consumers decide their source, with the price being the foremost consideration.
- xxxiii. Despite anti-dumping duties being in force the volume of imports from the subject country has increased.

- xxxiv. The exporter could contend that the decline in price or increase in price is not selectively for the Indian market. What is however required to be considered is that DASDA is produced only in two countries – India and China.
- xxxv. Due to the existing anti-dumping duty, the domestic industry was able to increase its market share, as the imports were regulated so far and were made only in duty exemption category.
- xxxvi. Petitioner has provided information with regard to unit cost of sales, landed price of imports and selling price over the injury period. It is reiterated that Tsaker group is the major driver of the prices of the product under consideration, globally and India. Analysis of past 10 years data shows a clear trend of dumping and injury.
- xxxvii. The domestic industry's performance with regard to price parameters is fully dependent on the pricing kept by the Chinese producer.
- xxxviii. In the event of cessation of current anti-dumping duty and if Domestic Industry chooses to sell at import prices, the Domestic Industry would be forced to sell the product at sub-optimal price.
- xxxix. The likelihood analysis may not be based on injury margin, as the purpose of injury margin is only to determine quantum of ADD in a situation where the domestic industry has currently suffered injury.
  - xl. In a situation where the Designated Authority finds absence of injury, the finding is based on likelihood, and the Designated Authority may not determine injury margin and consider confirmation of the same quantum of ADD. This is also the practice of the Designated Authority wherein the Designated Authority has not modified the quantum of ADD when the Designated Authority found that the need for continuation/extension is based on likelihood of injury.
  - xli. The form of duty should be of fixed quantum, as the form makes the duty effective and less likely to be evaded due to various structural loop holes. A history of ADD shows that other forms of duty are readily evaded.
  - xlii. The Authority has already expressed anti-dumping duty in terms of US\$ in a large number of other investigations. Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$.

### **Views of the other Interested Parties**

98. The following submissions were made by producers/exporters/importers/other interested parties
- i. The Authority has not provided separate Dumping Margin and Injury Margin to co-operating producers. Only a table indicating the same without separate and individual rates to producers/exporters has been given.
  - ii. The Authority has not examined the post POI data as per the Manual of Operating Practices. The prices of Tsaker have increased during the post POI period and the DI is earning profits in Post POI period, which shows there is no injury.
  - iii. Capacity will be 55,000 MT by 2020 is incorrect. Tsaker is not expanding the product capacity. Tsaker is setting up the plant in Dongying as an alternative only.

- iv. Whether or not Tsaker Dongguang Plant will be closed after Tsaker Dongying Plant starts operating, the total capacity of Tsaker will be limited to 35,000 tons per year, as explained by documents made available during verification.
- v. Company has provided all relevant documents during verification for name change of Tsaker Chemical (Dongguang) Co., Ltd. to Hebei Tsaker Chemical Company Limited.
- vi. DG has allowed a return of 22% on average capital employed for the PUC and has assumed the same to be reasonable. The NIP determined by the DG is highly inflated and is not based on real situation.
- vii. Basis of 22% return was designed in the year 1987, when all parameters like interest rate and corporate tax were different; those cannot be termed as reasonable after 30 years in the year 2018. Such a practice is incorrect, as stated in Bridge Stone Tyre Manufacturing & others vs. Designated Authority by CESTAT.
- viii. There is no dumping and injury to DI and hence no likelihood of dumping and injury to DI during POI or post POI.

### **Examination by Authority**

99. The Authority notes that post-disclosure comments/submission made by the interested parties are mostly reiterations of earlier submissions, which have already been examined suitably and adequately and properly addressed in the disclosure statement or relevant paras of the present finding. The authority further considers as follows with regard to issues raised by the interested parties:

- i. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
- ii. As regards contention of the parties regarding name change, it is noted that the Authority has duly verified the name change request of the responding exporter along with relevant documents during the verification visit in China. In view of the verified documents, the Authority has accepted the name change request of the exporter.
- iii. As regards disclosure of dumping margin, injury margin and NIP, the Authority vide email dated 21<sup>st</sup> December, 2018 disclosed the confidential information to the respective parties (NEP and Landed Price to the responding exporter and NIP to the domestic industry).
- iv. As regards argument of consideration of post period of investigation data and domestic industry showing no injury in post period of investigation, it is noted that the domestic industry is not suffering injury in the present case. The prices of Tsaker have increased during the post POI period and the DI is earning profits in Post POI period, which shows there is no injury. The prices of Tsaker in third countries is comparable with India in POI and Post POI period.
- v. The Authority also noted that petitioner had initially not disclosed imports made by them and accepted that they have imported PUC only after oral hearing when the interested parties brought this fact to the notice of the Authority. The petitioner is well versed with the Anti-Dumping Rules and he should have brought this fact to the notice of the Authority at the time of filing of petition itself.
- vi. As regards argument of additional capacity being set up by Tsaker group, the Authority verified that the new plant in Dongying is under construction and it may be completed by end of 2019. However, commercial production may take more time thereafter and

may not have impact on the total capacity in the near future and Tsaker may have to close its existing plant due to environmental issues.

- vii. The Authority noted that there has been an improvement in the performance of the domestic industry in respect of most of the economic parameters relevant for evaluation of injury.
- viii. As regards 22% return allowed for calculation of NIP, it is clarified that it is the consistent practice of the Authority to consider 22% return on capital employed.

## **CONCLUSIONS**

100. 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 recurrence or continuation of dumping and consequent injury, the Authority concludes that:

- a) By hiding the imports, the petitioner tried to circumvent provisions of rule 2(b) of the Anti-Dumping Rules.
- b) Though dumping is there but the level of anti-dumping margins have decreased in the current period of investigation compared to the previous investigation. Despite the dumping of product under consideration, the injury margin is found to be negative in current period of investigation.
- c) The imports from subject countries are not being sold below the non-injurious price of the domestic industry.
- d) The performance of the domestic industry has improved. Analysis of various economic parameters shows overall economic health of the domestic industry has improved during the POI.

## **RECOMMENDATIONS:**

101. Having observed that the existing anti-dumping duty is in existence since 23<sup>rd</sup> January, 2014, the Authority is of the opinion that existing anti-dumping duty has served the intended purpose. Therefore, the Authority considers it necessary and recommends ceasing of anti-dumping duty on import of subject good from the subject country recommended vide Notification No.15/18/2015-DGAD dated 26<sup>th</sup> September, 2016 and enforced vide Customs Notification No. 52/2016-Customs (ADD) dated 9<sup>th</sup> November, 2016.

## **FURTHER PROCEDURES**

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

(Sunil Kumar)

Additional Secretary & Director General