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**F. No. 7/7/2021-DGTR  
Government of India  
Department of Commerce  
Ministry of Commerce & Industry  
(Directorate General of Trade Remedies)  
4th Floor, Jeevan Tara Building,  
5, Parliament Street, New Delhi – 110001**

Dated: 27<sup>th</sup> October, 2021

**Final Findings**

**CASE NO. (SSR) 07/2021**

**Subject: Sunset Review investigation of Anti-Dumping duties concerning imports of 'Axle for Trailers' originating in or exported from China PR**

1. F. No. 7/7/2021-DGTR- Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 (hereinafter also referred to as 'the Rules') as amended from time to time thereof, M/s York Transport Equipment (India) Pvt Ltd. (hereinafter also referred to as the petitioner or the applicant or the domestic industry or York) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) on behalf of the domestic industry for initiation of Sunset Review of anti-dumping duty imposed on the imports of Axle for Trailers (hereinafter also referred to as the subject goods or the product under consideration), originating in or exported from China PR (hereinafter also referred to as the subject country).

**A. BACKGROUND OF THE CASE**

**a. The Original investigation**

2. WHEREAS, the Authority, in an antidumping investigation, vide its Final Findings Notification No 14/17/2015-DGAD dated 30.9.2016, had recommended the imposition of anti-dumping duty on the imports of "Axle for Trailers" originating in or exported from China PR the (PUC or the Subject goods), and the definitive anti-dumping duty was imposed by the Ministry of Finance, vide Customs Notification No. 54/2016-Customs (ADD), dated the 29.11.2016.

**b. The Anti-circumvention investigation**

3. WHEREAS, the Authority had received information from the Commissioner of Customs (Imports), Nhava Sheva that the aforesaid anti-dumping duty was being circumvented form the subject goods subjected to anti-dumping duty were being imported in

CKD/SKD as parts of Axle for Trailers and thereafter being assembled to form the PUC. By taking cognizance of the information provided by the Commissioner of Customs as per sub rule 3 of Rule 26 of the Anti-dumping rules, the Authority initiated an anti-circumvention investigation vide Notification F. No. 4/11/2020-DGTR- dated 15<sup>th</sup> September, 2020 to determine the existence and effect of the alleged circumvention of the anti-dumping duties levied on the subject goods and to consider recommendation of the extension of existing antidumping duty also on such imports of PUC in CKD/SKD condition from China PR, in accordance with relevant AD Rules. The Authority vide its final findings dated 14.9.2021 recommended extension of existing antidumping duty on the import of PUC in CKD/SKD condition from China PR on finding circumvention.

**c. Present Sunset Review investigation**

4. In terms of Section 9A (5) of the Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the same, the Authority is required to review, on the basis of a duly substantiated request made by the domestic industry or on its own initiative, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
5. Based on the prima facie evidence of likelihood of continuation or recurrence of dumping of the subject goods originating in or exported from the subject country and consequent injury given in the petition filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated a sunset review investigation vide Notification No.7/7/2020-DGTR dated 19<sup>th</sup> April, 2021, published in the Gazette of India, Extraordinary, to examine whether the expiry of the present anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.
6. Following the initiation of the sunset review, the Ministry of Finance, vide Customs Notification No. 46/2021-Customs (ADD), dated the 25<sup>th</sup> August, 2021 extended the existing anti-dumping duties up to and inclusive of 28.01.2022 pending the outcome of the present sunset review investigation.

**B. PROCEDURE**

7. The procedure described herein below has been followed with regard to the subject investigation.
  - i. The Authority notified the Embassy of China PR about the sunset review investigation in accordance with the Customs Tariff Act read with Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995.
  - ii. The Authority, issued a public notice dated 19<sup>th</sup> April, 2021 published in the Gazette of India Extraordinary, initiating the subject sunset review investigation concerning imports of the PUC from China PR.

- iii. The Authority forwarded a copy of the initiation notification to the Embassy of China PR in India, all the known exporters, importers and user associations in India as per the information available on records.
- iv. The Authority wrote to all the known exporters/ producers, importers and user associations and requested them to file their responses in the prescribed questionnaire and to make their views known in writing within the time limit prescribed. Copies of the letter and questionnaires sent to the exporters were also sent to the Embassy of China PR, along with a list of known exporters/ producers, with a request to advise the exporters/ producers to respond to the Authority within the prescribed time and if there is any other exporter/producer of the PUC in the subject country which is not known to the Authority or due to incorrect e-mail ids of the known exporters/producers of the PUC, the communication of the Authority may not have reached, the same may be intimated so as to enable them to file their responses within the prescribed time
- v. The Authority sent questionnaires to elicit relevant information to the following known producers/exporters in China PR in accordance with Rule 6(4) of the AD Rules:
- a) Guangdong Fuwa Engineering Manufacturing Co., Ltd.
  - b) Guangdong Fuwa Heavy Industries Co., Ltd.
  - c) Shandong Jinsheng Axle Manufacturing Co., Ltd.
- vi. Responses were received from below mentioned exporters/producers within the timeline prescribed by the Authority:
- a) Guangdong Fuwa Heavy Industries Co., Ltd. (hereinafter also referred to as Fuwa)
  - b) Shandong Jinsheng Axle Manufacturing Co., Ltd. (hereinafter also referred to as Shandong)
- vii. It is noted that M/s. Guangzhou Huajing Machine Manufacturer Co. Ltd., a producer/exporter in China PR has filed legal submissions within the deadline. However, the said exporter filed its questionnaire response much after the deadline. In such a scenario, the Authority is unable to accept the questionnaire response of the said producer/exporter from China PR as per Rule 6(8) of the Anti-Dumping Rules. The response filed at such belated time is rejected as per Rule 6(8) of Anti-Dumping Rules, 1995, which states that "*in case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances*". The said Rule is a replica of Article 6.8 of Anti-Dumping Agreement which casts an obligation on the interested party to submit their response within the reasonable period of time provided by the Authority and in the subject investigation, the Authority has given 37 days' time from the date of the communication of the subject initiation enclosing the requisite questionnaire for the ease of the interested parties to submit their

response to enable the Authority to reach to fair and appropriate conclusions. It is further noted that while the other three producers/exporters from the subject country have submitted their questionnaire response within the deadline provided by the Authority, M/s. Guangzhou Huajing Machine Manufacturer Co. Ltd. was able to submit only their legal submissions and the response to the questionnaire was submitted much after the stipulated timeline. Accordingly, the above-mentioned producer/exporter from China PR is being treated as non-cooperative in this investigation to the extent of their submissions of data/information in the form of questionnaire response. However, the Authority has considered their legal submissions to the extent found relevant.

- viii. Questionnaires were also sent to the following known importers/users of the subject goods in India seeking necessary information in accordance with Rule 6(4) of the AD Rules.
- a) King Kaveri Trading Company
  - b) H.D. Trailers Pvt. Ltd.
  - c) Satrac Engineering Private Limited
  - d) Safetech Trailer Parts LLP
  - e) Synergic Trailer and Auto Solutions Pvt. Ltd.
  - f) Shivam Motors Pvt. Ltd.
  - g) Black Diamond Motors Pvt. Ltd.
  - h) Vandana Trailors & Body MFG (P) Ltd
  - i) MS Trailer Parts LLP
- ix. In response to the initiation notification the following importers/users filed their letter of interest to participate in the investigation, however, none of them filed their responses;
- a) H.D. Trailers Pvt. Ltd.
  - b) Road on Axles India Pvt. Ltd.
  - c) H.J. Axle India Pvt. Ltd.
- x. An importer, M/s Road on Axles India Pvt Ltd., has only filed the legal submissions and an incomplete response. In such a scenario as per Rule 6(8) of the Anti-dumping Rules, 1995, the response of the said importer also cannot be accepted being incomplete. However, the legal submissions filed by the said importer have been considered and examined to the extent found relevant.
- xi. Initiation notification was also sent to the following other known producers of the subject goods in India as per the available records;
- a) TATA Motors Ltd.
  - b) Ashok Leyland Ltd.
  - c) JOST India Auto Component Pvt. Ltd.
  - d) G.S. Auto International Ltd.
- xii. The other known producers have neither supported nor opposed the present investigation.

- xiii. The Authority made available a non-confidential version of the evidence presented by the various interested parties to the other parties by way of directions to exchange the submissions via e-mail as physical verification of the 'Public File' is not possible on account of the ongoing pandemic. Submissions made by all the interested parties during the course of the investigation to the extent relevant have been addressed appropriately at relevant paras of these final findings.
- xiv. Information provided by the interested parties on confidential basis was examined with regard to the 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 the 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.
- xv. Further information was sought from the interested parties to the extent deemed necessary. Verification of the domestic industry and the cooperating producers/exporters of China PR was conducted to the extent considered necessary for the purpose of the present investigation.
- xvi. Investigation has been carried out for the period starting from 1<sup>st</sup> January, 2020 to 31<sup>st</sup> December, 2020 (12 months) (hereinafter referred to as the "period of investigation" or "POI"). The examination of trends, in the context of injury analysis covered the period from, 2017-18, 2018-19, 2019-2020 and the POI.
- xvii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the details of imports of the PUC during the last four years, including the period of investigation, and the same was received by the Authority. The Authority has used the DGCI&S imports data for computation of the volume and value of imports and injury analysis.
- xviii. Verification of the information and data submitted by the domestic industry and the responding producers in the subject countries was carried out to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.
- xix. The Non-Injurious Price (hereinafter referred to as 'NIP') based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules has been worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xx. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided an opportunity to the interested parties to present their views orally in a hearing held through Video Conferencing on 9th of August, 2021. All the parties were

requested to submit their written submissions and rejoinders to the written submissions following the oral hearing.

- xxi. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 20<sup>th</sup> October, 2021 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xxii. Wherever an interested party has refused access to, or has otherwise not provided the necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded its observations on the basis of the facts available.
- xxiii. ‘\*\*\*’ in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiv. Exchange rate considered for the POI for conversion of USD to Indian Rupees is 1USD=Rs. 74.99.

### **C. PRODUCT UNDER CONSIDERATION LIKE ARTICLE**

#### **C.1. Product Under Consideration**

- 8. The product under consideration in the present sunset review investigation is the same as the product under consideration defined in the original investigation i.e., “Axle for Trailers” originating in or exported from China PR (hereinafter also referred to as the PUC or the subject goods). It falls under Customs Tariff 87169010 of the First Schedule to the Customs Tariff Act 1975.
- 9. The subject goods are manufactured and sold in different variants. However, the basic product characteristics and end use of all these variants remains the same and all such types of Trailer Axles have been covered in the scope of the PUC. All such variants essentially constitute a homogenous product under consideration with comparable basic characteristics and similar functions/uses.

#### **C.2. Views of the Domestic Industry**

- 10. The domestic industry has made following submissions with regard to the scope of product under consideration and the like article:
  - i. present investigation being a sunset review, the scope of the PUC and the Like Article should remain the same as found in the original investigation. The original definition was not assailed in any appeal and the finding has reached its finality.

- ii. There are no new facts supported with evidence brought on record in this case to revisit the scope of the PUC and Like Article as found in the original case.
- iii. It has been contended by Guangzhou Huajing Machine Manufacture Co. Ltd that single piece axles imported from China PR are different products and not like article to the axles produced by the domestic industry. This submission has no factual or legal basis.
- iv. Single piece axle has been part of the PUC in the original investigation also. Axle for Trailers manufactured out of a single piece beam or a welded beam is a comparable product and is clearly a like article to one another within the meaning of Rule 2 (c) of Indian AD Rules. The difference at the best is in the process/technology but the end uses remain the same and there are no technical or other factors which makes them two different products.
- v. Single piece axle is a perfect substitute for welded axle technically and commercially and the consumers are using it so. Even the argument of the non-cooperative exporter that technology and process is different hence they are different product also cannot hold any ground because it is already settled by Hon'ble CESTAT in ATMA vs DA matter that a difference in process or technology cannot be a ground to dispute the like article test under the Indian a Anti-Dumping rules.
- vi. The cooperating exporter who is understood to be exporting single piece axle has not disputed the PUC and only a non-cooperative exporter has disputed the scope of the PUC which has no factual or legal substance and the contentions should be rejected.

### **C.3. Views of the Opposing Interested Parties**

- i. The product under consideration is not comparable. The Axles produced by York are made by welding at 4 places. On the other hand, the Axles exported from China PR are single piece axles.
- ii. The domestic axles are weak and unstable and susceptible to breakdowns. The Axles imported are mainly a unique single piece axle produced by Guangdong Fuwa Heavy Industries Co., Ltd.
- iii. The Chinese manufacturing technology is undoubtedly superior and more efficient. In view of such differences, the imported axles for trailers and that produced in India cannot be compared.

### **C.4. Examination by the Authority**

- 11. The present investigation is a sunset review investigation concerning anti-dumping duties imposed on imports of 'Axle for Trailers' originating in or exported from China PR. Hence, the product under consideration in the present investigation is also "Axle for Trailers" originating in or exported from China PR.

12. The subject goods are manufactured and sold in different variants. However, the basic product characteristics and end use of all these variants remains the same and all such types of Trailer Axles have been covered in the scope of the PUC. All such variants essentially constitute a homogenous product under consideration with comparable basic characteristics and similar functions/uses.
13. The subject goods fall under Customs Tariff Head 87169010 of the First Schedule to the Customs Tariff Act 1975. However, the said classification is indicative only and in no way binding on the scope of the present investigation.
14. It is also noted that 'Axle for Trailers' have been getting imported in CKD (complete knock down)/SKD (semi knock down) condition by declaring it as 'parts of trailer axles' post imposition of anti-dumping duties and the Authority vide an Anti-circumvention investigation concluded on 14.9.2021 and recommended for extension of anti-dumping duties on the import from China PR on imports of 'Axle for Trailers' in CKD (complete knock down)/SKD (semi knock down) conditions also which are being imported by declaring them as 'parts of Trailer Axles'.
15. The Authority notes from the information on record that the product under consideration produced by the domestic industry is "like article" to the goods imported from the subject country. The product under consideration produced by the Indian industry and imported from the subject country is comparable in terms of technical specifications, functions or end-uses product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
16. With regard to the contention of the opposing party that Axles by York are produced by welding at 4 places and the Axles exported from China PR are single piece axles, the Authority notes from the facts available that the said single piece beam axle cannot be considered as a different product from the PUC. Axle for Trailers manufactured out of a single piece beam or a welded beam have similar uses and are comparable products which can be substituted by one another. While Guanzhou Huajing Machine Manufacture Co. Ltd has contended that Guangdong Fuwa Heavy Industries Co., Ltd has been exporting single piece axles, the responding exporter namely Guangdong Fuwa Heavy Industries Co. Ltd. has not made any such contentions with regard to the product scope. A similar contention was raised in the recently concluded anti-circumvention investigation by some other parties wherein also it was found that single piece axles imported and the axles produced by the domestic industry are comparable products.
17. With regard to the contention that the technology and process is different in the production of single piece and welded axle and the same should be considered as a ground to differentiate the imported and domestic product, it is noted that difference in process or technology cannot be considered as a ground to differentiate the product as the end uses of the imported product and that domestically produced are same and consumers are using the two interchangeably.



18. Thus the Authority holds that the scope of the present sunset review investigation remains the same as the original investigation. The PUC in the present investigation is, therefore, “Axle for Trailers” as was determined in the original investigation.

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

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

19. M/s York Transport Equipment (India) Pvt Ltd has made following submissions with regard to the domestic industry and standing;

- a. M/s York Transport Equipment (India) Pvt Ltd is the largest producer of Axle for Trailers in India and holds a major proportion in total Indian production. York has been the domestic industry in the original investigation and York alone has been cooperating as domestic industry in the anti-circumvention investigation initiated *suo motu* by the Authority.
- b. York has estimated the total Indian production of subject goods based on Society of Indian Automobile Manufacturers (SIAM) data pertaining to the production of prime movers, which was a method found reasonable in the original investigation also, as production by the other individual producers is not known. Estimated total Indian production of the subject goods based on such data shows a substantial share of York in the total Indian production the subject goods.
- c. Another producer namely Automotive Axles Ltd have also expressly supported the petition. Also, York has not imported the subject goods from China PR during the POI and its related parties in China PR have not exported the subject goods to India during the POI.
- d. The contention that York do not hold majority share in the Indian production has no substance. The contention that there are other producers of the product in India namely Kross Manufacturers Pvt Ltd, ADR Axles, BPW, HOV, Valent, Jamna Automart, Reliance Forge, Leytech etc. is also not substantiated as the claimant exporter and has not submitted any production detail of such producers along with the total Indian production to dispute the claims of York.
- e. York has provided its claims of the total Indian production supported by factual evidences as available from the SIAM and also provided the names of other producers known to it separately for the information of the Authority.
- f. The total Indian production estimated and claimed by the petitioner in the petition is the total estimated Indian production irrespective of the number of known producers in India.

- g. The other parties have not disputed or proved the total Indian production claimed by the petitioner wrong. The mere claim that there are other producers alone cannot disprove the claims of standing by York.
- h. The reason why York has estimated the total Indian production based on a publicly available third-party data itself is that the details of all producers and producer wise total production of the subject goods in India is not available from any official sources.
- i. It has also been the contention of the non-cooperative exporter that it is wrong to claim 10% trailers have been using single axle. It is submitted that even if the  $1\%*1+19\%*2+80\%*3$  formula proposed by the opposing party is adopted, still York holds major proportion in the Indian production on its own with \*\*\*% share as below.

Particulars	Volume. in Nos. (Annual)
Prime Mover Sales	9,918
1% are Single Axle	99
19% are 2 axles	3,769
80% are 3 Axles	23,803
Total	27,671
Less Imports in to India	3,230
Demand met by Indian producers	24,441
York's Production	***
York's share (Range)	80% to 90%

- j. The claim of HD Trailers Pvt Ltd to treat them as producer of subject goods should not be accepted. Importers like HD Trailers are being probed for circumvention practices by the Authority.

## D.2. Views of the other Interested Parties

20. The following submissions have been made by the other interested parties with regard to the standing and the scope of domestic industry;

- a) There are other producers of the product in India namely Kross Manufacturers Pvt Ltd, ADR Axles, BPW, HOV, Valent, Jamna Automart, Reliance Forge, Leytech etc. York has not shared the details of such producers with the Authority.
- b) York Transport Equipment (I) Pvt. Ltd is only an Axle assembly unit in India. York Transport Equipment (I) Pvt. Ltd does not hold any major share in the Indian production and the claims of the petitioner on standing are not correct. The data constructed by York to show market share in production is false and are with ulterior motive.

- c) Guangzhou Huajing Machine Manufacture Co. Ltd. submits that it absolutely agree with SIAM data regarding the number of prime movers sold in India. However, if a formula is to be reached it can only be considered by sampling data from RTO regarding type of trailers registered by their respective RTO offices or by sampling data from trailer manufacturers regarding Single axle (1), Double Axle (2) and Triple Axle (3) Trailer manufactured and sold by them during the POI. The company said that it is confident that the closest formula derived will be  $1\%*1+19\%*2+80\%*3$ .
- d) Automotive Axles Ltd cannot be termed as a supporter in the present investigation since no data or documents is provided by the company. This is in violation of Trade Notice No 13 and 14 of 2018 which requires supporter to provide complete response in the prescribed format.
- e) HD Trailers Pvt Ltd. should be treated as a producer of the subject goods in this matter.

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

21. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

22. The Application has been filed by M/s York Transport Equipment (India) Pvt Ltd. The applicant accounts for 93% of total Indian production as per the claims in the petition. The Authority notes that there are other manufacturers of the subject goods in India as per the petition. However, none of such producers have come before the Authority and neither supported nor registered opposition to the petition except Automotive Axles Ltd, who has expressly supported the petition. The Applicant has also certified that even though the applicant has related parties in the subject country, the applicant has not imported the PUC from such related parties in the subject country and also such related parties in the subject country have not exported the PUC to India in the POI.
23. With regard to the contention that there are many other producers of the subject goods in India other than what has been listed out in the petition, the Authority notes that the present investigation is a sunset review investigation and the initiation notification was published in the Gazette of India and was also available on the website of the DGTR. The opposing exporter has claimed that KROSS Limited, RSB, HOV Auto Limited and Reliance Forge are known to be manufacturing the subject goods, ADR Axles India Pvt Ltd., and BPW Trailer are known to be assembling the product and the status of Jamna Auto Industries as a producer of subject goods is marked as unknown to the exporter.

However, no such alleged other producers have made themselves known to the Authority. It is also noted that the claimant exporter and opposing parties have not provided any information about production of subject goods by such alleged other producers. Thus, the claims are unsubstantiated and such claims alone are not sufficient to reject the submissions of the of the petitioner as eligible domestic industry which is based on information from SIAM.

24. The Authority also notes the rebuttal of the applicant that even if the petitioner has missed out on the names of any other Indian producers, the same has no impact on the estimation of total Indian production as the share claimed by the petitioner is based on estimates of total Indian production of subject goods based on production of prime movers published by SIAM and wherein the subject goods are used. It is noted that the total Indian production of the subject goods estimated by the petitioner inter alia covers production by all the producers of the subject goods in India whether they have been included or not in the list of producers provided along with the petition.
25. With regard to the contention that York Transport Equipment (I) Pvt Ltd does not hold any major share in Indian production and the claims of the petitioner on standing are not correct, the Authority notes from estimated total Indian production that York Transport Equipment (I) Pvt. Ltd. alone holds a major proportion (93%) as required under Rule 2 (b) and the petition is also supported by another producer namely Automotive Axles Ltd.
26. With regard to the contention that the formula i.e.,  $10\%*1+80\%*2+19\%*3$  considered to estimate the total Indian production of subject goods by the petitioner is not correct, the Authority notes that such a formula was found reasonable and adopted in the original investigation and a similar view is adopted in the present investigation. The opposing party has suggested that a formula of prime mover production i.e.  $1\%*1+19\%*2+80\%*3$  must be adopted. It is noted in this regard that even if such a formula is adopted, the petitioner holds a major share (\*\*%) which still fulfils the standing requirements for the domestic industry as per the Rules.
27. With regard to the contention that M/s York Transport Equipment (I) Pvt. Ltd. is only an Axle assembly unit in India, it is noted that the company was considered as a domestic industry after due verification in the original investigation and a similar status was found in the recently concluded anti-circumvention investigation. It is also noted from the submissions made by M/s York that the company undertakes about 12 manufacturing processes starting from shot blasting of the beams prior to the assembly stage which covers about 14 further processes.
28. With regard to the contention that Automotive Axles Ltd. cannot be termed as a supporter in the present investigation since no data or documents is provided by the company, it is noted that the Company has expressly supported the petition by providing the details of production which is considered for the determination of standing only. However, the injury examination is done based on the complete data provided by the petitioner alone after due verification/table study of such data.
29. With regard to the claim of M/s HD Trailers Pvt. Ltd. to treat them as the producer of the subject goods in India, it is found in the recently concluded anti-circumvention

investigation that the company is not a producer of subject goods and have been only assembling imported PUC in CKD/SKD condition. There are no facts submitted in this investigation by the party that necessitated the Authority to revisit the said finding. It is further noted that M/s HD Trailers filed importer questionnaire response in the original investigation and thereafter the said importer claimed to be the producer of the subject goods in the recently concluded anti-circumvention investigation, wherein the Authority concluded that the said importer adds less than 35% of value to the imported product. In addition to all the above, the Authority through digital video conferencing discussed and verified the submissions of M/s HD Trailers wherein through the said discussion it emerged that M/s HD Trailers is in the process of becoming the domestic producer and is currently still holding a nature of an importer rather than the domestic producer of the subject good.

30. Information on record shows that the production by M/s York Transport Equipment (India) Pvt. Ltd. constitutes a major proportion of total Indian production and is an eligible domestic industry in terms of Rule 2 (b) and further considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules. In view of the above, M/s York Transport Equipment (India) Pvt. Ltd. is held as the eligible domestic industry for the purpose of present investigation.

#### **E. CONFIDENTIALITY**

##### **E.1. Submissions on confidentiality by the domestic industry**

31. The domestic industry has made the following submissions with regard to confidentiality:
- i. The responding exporters have adopted excessive confidentiality in Exporter Questionnaire response (EQR) and indexation also have been provided at limited places making it difficult to understand the claims of the exporters in any fair manner.
  - ii. Responding exporters have not provided any indexation or range in questionnaire response whereas the nature of data is such that indexation or a range is clearly possible for the key information filed by them.
  - iii. Such information is relevant in the evaluation of likelihood aspects and such excessive use of confidentiality has impacted rebuttals by York.
  - iv. The petitioner has claimed confidentiality on certain information including costing as permissible in the rule but indexation was provided to the extent possible and directions of trade notices were fully complied. It is in fact the exporters who have resorted to extreme confidentiality.

##### **E.2. Submissions on confidentiality by the opposing parties**

32. The exporters/importers have made the following submissions with regard to confidentiality.

- i. The non-confidential version of the petition does not give a reasonable understanding of the allegations contained therein. ○
- ii. The petition fails to meet the standards of Rule 7 and also trade notice no 1/2013 dated 9th December, 2013.
- iii. The petitioner has claimed excessive confidentiality with regard to annual accounts and balance sheet. This is when such information for the POI is available in the public domain and can be obtained from the website of MCA on payment of fees.
- iv. Petition also violates trade notice no 10/2018 dated 7<sup>th</sup> September, 2018 as the petitioner failed to provide actual information as applicable based on the said trade notice.

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

- 33. Various submissions made by the interested parties with regard to confidentiality/disclosure of information and considered relevant by the Authority are examined and addressed as follows:
- 34. With regard to confidentiality of information Rule 7 of Anti-Dumping Rules provides as follows: -

*Confidential information: (1) Notwithstanding anything contained in subrules 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.*

- 35. The Authority had made available non-confidential version of the information provided by various interested parties to all other interested parties in the form of an e-file through e-mail containing non-confidential version of evidence submitted by various interested parties for inspection as per Rule 6(7).

36. 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 interested parties were advised to share their non-confidential versions of responses/submissions with the other interested parties through email.

## **F. MISCELLANEOUS ISSUES**

### **F.1. Submissions on certain other issues by the domestic industry**

37. Views of the domestic industry with regards to other issues are as follows:

- i. Guangzhou Huajing Machine Manufacture Co. Ltd. should be treated as a non-cooperative party as it has not filed the required responses and its submissions need outright rejection for such non-cooperation. The foreign producers/exporters who wish to cooperate are supposed to file Exporters Questionnaire and also Sunset Review Part II questionnaire in an SSR which is prescribed to elicit relevant information, but the party failed to file both.
- ii. It has been contended that the investigation was initiated without any substantiative evidence. The claim has no merit. The petition contained evidences to justify present initiation and also continuation of duties.
- iii. It has been contended that the petitioner exaggerated the imports. The contention is in total malice. The import data has been considered as per DGCI&S and imports for PUC were correctly identified.

### **F.2. Submissions on certain other issues by the exporters/importers**

38. Views of the other interested parties on other issues are as follows:

- i. DGTR should not have initiated the present investigation on the basis of the information contained in the petition.
- ii. The petition did not contain sufficient evidences to justify the initiation. The requirement is that the petition must contain sufficient evidences on likelihood of dumping and injury.
- iii. The petitioner has exaggerated the imports to show a case of likelihood.

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

39. The Authority has examined the comments of all the interested parties as under:

- i. With regard to the contention of the petitioner that Guangzhou Huajing Machine Manufacture Co. Ltd should be treated as a non-cooperative party, the Authority notes that the submission of the party to the extent found relevant and supported by evidence are considered and addressed. This issue has already been addressed at the relevant paras.
- ii. With regard to the contention of the interested parties that the petition did not contain sufficient evidence to justify the present initiation, the Authority notes that the case was initiated based on sufficient *prima facie* evidence to justify the present sunset review investigation. Further, upon initiation all the interested parties were advised to submit their data and views. The same have been considered by the Authority to the extent relevant in the present final findings.
- iii. With regard to the contention that the petitioner has exaggerated the imports, it is noted that the petition contained imports as per DGCI&S data. The Authority has also relied upon import information collected from DGCI&S on transaction basis.

**G. ASSESSMENT OF DUMPING – METHODOLOGY AND DETERMINATION OF NORMALVALUE, EXPORT PRICE AND DUMPING MARGIN**

**G.1. Submissions by the domestic industry**

40. Views of the domestic industry with regard to normal value, export price and dumping margin, are as follows:

- i. The information as provided in the petition clearly shows that dumping of the subject goods has continued, and the dumping as claimed has been significantly positive during the POI.
- ii. Such dumping during the POI when the anti-dumping duty (ADD) is in force signifies the fact such dumping will only continue if the ADD is allowed to expire at this juncture.
- iii. Dumping margin during the POI establishes likely dumping also in the event of expiry of the present duties.
- iv. China PR should be treated as Non-Market Economy (NME) country for the purpose of the present investigation and Normal Value in case of Chinese producers should be determined as per the provisions of Para 7 of Annexure-I. The normal value should be determined based on the information supplied by the petitioner. The contentions of the exporters with regard to NME treatment of China PR are baseless and have been consistently rejected by the Authority.
- v. Chinese producers were found operating in NME conditions in the original investigation of the present matter itself. Also, the cooperating producers in the present matter has not rebutted the presumption of NME by filing the applicable questionnaire.



## G.2. Submissions by the exporters/importers

41. Views of the other interested parties with regard to normal value, export price and dumping margin, are as follows:

- i. The exporter from China PR is surprised to note that the Indian investigating Authority has issued a separate questionnaire to exporters from China PR seeking voluminous information with regard to claims of Market Economy status.
- ii. China PR had been treated as a Non-Market Economy country by India in the past. It is submitted that in accordance with relevant provisions of the Protocol on China's accession to the WTO, the "surrogate country" practice in Anti-Dumping actions is lacking in multilateral legal basis since 11th Dec, 2016.

## G.3. Examination by the Authority

### a) Normal value

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

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

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

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

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

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

43. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have filed the response in the prescribed exporter questionnaire responses:

- i. Guangdong Fuwa Heavy Industries Co. Ltd

**Market Economy Status for Chinese Producers**

44. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

- (a) *"In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following Rules:*
  - (i) *If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
  - (ii) *The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*
- (b) *In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*
- (c) *The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*
- (d) *Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket*

economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

45. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers/ exporters from China PR have not submitted response to the relevant questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure-I of the Rules.
46. Accordingly, the normal value for all the producers/exporters from the subject country have been determined as below.

**Normal Value for all Producers in China PR**

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

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

48. The Authority notes that normal value could not be determined on the basis of prices or constructed value of the product in an appropriate market economy third country or the export prices from such a third country to other countries, as the relevant information has neither been made available by the applicant or an interested party, nor is available with the Authority from any public source. Since there are no imports from other countries into India, it would not be possible to consider price from market economy third country to India as a basis of normal value. Thus, the last resort that is left for determination of normal value is on the basis of the price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. The Authority has thus constructed the normal value based on the optimised cost of production, considering prices of major raw materials and other costs paid in India, as per facts available. Further, reasonable profit has been added to the

cost of production for the purpose of determination of normal value. The normal value has been determined for all producers and exporters from China PR, and are mentioned in the dumping margin table. ○

b) Determination of Export Price for cooperating producers and exporters

Export Price

i. Guangdong Fuwa Heavy Industries Co. Ltd

49. From the exporters' questionnaire response of Guangdong Fuwa Heavy Industries Co. Ltd, who is the producer and exporter of subject goods, it is noted that during the POI the company has exported \*\*\* MT, however it is found that out of \*\*\* MT of goods exported to India, \*\*\* MT was not a part of the PUC/subject goods to India. The Authority has verified the data through desk verification and other supporting documents. The producer / exporter has claimed adjustments on account of inland freight, overseas freight, marine insurance, bank charges, and port charges, and the same have been allowed. Accordingly, the export price is provided in the dumping margin table.

ii. Shandong Jinsheng Axle Manufacturing Co., Ltd

50. Shandong Jinsheng Axle Manufacturing Co., Ltd, also filed the EQR wherein it was claimed that they have exported \*\*\* pcs. of PUC exported to India during the POI. However, during the verification of the data and the supporting documents through desk verification, it emerged that the descriptions of the exported items were that of the parts of the PUC (viz. axle without hub cap, axle beam, axle tube, axle without brake, etc.) rather than the PUC itself. In view of the same, the individual export price of the said exporter for the PUC could not be arrived at.

c) Determination of Normal Value and Export Price for all non-cooperating Producers and Exporters in China PR

51. The normal value and export price for other non-cooperating exporters from China PR has been calculated as per facts available and the same is mentioned in the dumping margin table.

d) Dumping Margin

52. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from subject country is as under:

Dumping Margin Table

S.No	Country	Producer	Normal Value US\$/ Kg	Net Export Price US\$/ Kg	Dumping Margin US\$/ Kg	Dumping Margin %	Dumping Margin (Range %)
1	China PR	Guangdong Fuwa	***	***	***	***	10-20

S.No	Country	Producer	Normal Value US\$/ Kg	Net Export Price US\$/ Kg	Dumping Margin US\$/ Kg	Dumping Margin %	Dumping Margin (Range %)
		Heavy Industries Co. Ltd					
2	China PR	Any other than serial no. 1	***	***	***	***	40-50

**Dumping Margin- Original Investigation**

S.No	Country	Producer	Dumping Margin (Range %)
1	China PR	M/s Guangdong Fuwa Engineering Manufacturing Co., Ltd, (Producer and Exporter) Guangdong Fuwa Heavy Industries Co., Ltd (Producer and Exporter)	30-35
2	China PR	Shandong Jinsheng Axle Manufacturing Co., Ltd.	35-40
3	China PR	All other Producers/Exporters	55-60

53. As can be seen from the above table that dumping margin was found to be substantial in the original investigation. However, despite imposition of anti-dumping duties, the margins continue to remain positive showing all the likelihood that once the duties are removed the margins may rise up to the same or even beyond the levels of the original investigation. The similar approach was taken by the WTO Appellate body in US-CORROSION STEEL RESISTANT case wherein the panel observed that future possibilities are based on an assessment of present circumstances. Therefore, the above comparison shows that though the imposition of duties has helped to cut off the dumping margins but they still remain positive giving a clear indication of exporters' behaviour in case of cessation of ADD. The final finding issued in the Anti-circumvention investigation also showed significant dumping in case of imports of PUC in CKD/SKD condition. All these factors together show persistence of dumping of subject goods from China PR which indicate that dumping is very likely in the absence of current measures.

## **H. EXAMINATION OF INJURY AND LIKELIHOOD OF CONTINUATION OF INJURY**

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

54. The following submission were made by the domestic industry with regard to injury, causal link and likelihood of dumping and injury:

- i. The information as submitted by York in its petition clearly shows that expiry of the existing anti-dumping duties is likely to lead to continuation or recurrence of dumping and injury to the domestic industry as envisaged in Rule 23 (1B) of the Anti-dumping Rules which is sufficient to continue the ADD in the present matter for a further period of five years.
- ii. Even though the injury as suffered by the domestic industry during the POI cannot be linked to dumped imports fully due to the presence of other temporary reasons, such as COVID pandemic driven adversities, there are overwhelming facts which still show that dumping was one of the key reasons for such injury and any expiry of the existing ADD at this juncture will only help the exporters to dump further aggravating the injury situation of the domestic industry.
- iii. While continued dumping has been clearly one of the reasons of injury, circumvention practices to evade the duty also contributed to the injury and the same also should be counted as part of continued dumping.
- iv. Dumping continued at significant levels undercutting the price of the domestic industry, if considered without ADD, and such dumped imports have been one of the causes of deterioration in overall performance of the domestic industry and material injury during the POI.
- v. Chinese producers of the subject goods are heavily export oriented and hold huge unutilized capacities and such unutilized capacities will be unleashed on India afresh in case of expiry of the present ADD. China PR has unutilized capacity to the tune of about 8 Lakh Pieces whereas the peak Indian demand as found during the base year was not more than 1 to 1.5 Lakh Pieces.
- vi. The exporters from China PR along with importers in India have been engaged in circumvention practices to evade the duty and such practices also show the extraordinary inclination of the exporters of subject goods in China PR to export the subject goods to India. Expiry of duty will only increase the dumped imports.
- vii. It could be seen that imports declined from 3426 MT in the base year to 800MT in the POI. But at the same time there have been imports by way of circumvention.
- viii. The domestic industry did well in terms of almost all parameters for about 2 years after the levy of ADD in 2016. However, the situation first started to deteriorate when the circumvention started. In the later period especially during the POI, the domestic industry has witnessed fall in demand for the product due to COVID

○ pandemic and also due to slow down in the economy. But what is notable is that even when the demand declined, dumped imports persisted and such dumped imports held substantial share in the Indian demand in the range of 10-15%.

- ix. Even prices were at undercutting level without ADD putting price pressure and suppressing effects on the domestic industry.
- x. In the absence of such dumped imports, the domestic industry would have produced and sold more at a higher price reducing the losses even in a situation of some fall in demand. But the continued and persistent dumped imports prevented such opportunities. The domestic industry, due to all such factors suffered injury in terms of both volume and price parameters and the profitability parameters have been significantly negative during the POI.
- xi. The demand is on a strong path of recovery and any expiry of the duty at this juncture will be taken as a golden opportunity by the exporters to dump more material in the Indian market as they are saddled with readily available huge unutilized capacities.
- xii. The effects of continued dumped imports were minimal due to the presence of ADD in force. The expiry of the same in such a situation signifies very strong likely effects and the facts shows likelihood of dumping and injury in this matter.
- xiii. The Rule does not provide for any specific methodologies to gauge the likely effects in the event of expiry of duties. However, Clause (vii) of Annexure II of the Rules, inter alia provide for factors which are required to be taken into consideration and all such factors are met in the facts of the present case.
- xiv. The dumped imports have been taking place in the entire injury period and such dumped imports continued even when there was a fall in demand.
- xv. Though the imports declined, without taking into account the circumvented imports, in absolute terms, the share of the dumped imports in demand was about 10-15% which suggests the imports will increase substantially when the demand situation gets better. Thus, there is a significant likelihood of increase in demand if the present duties expire and significant level of imports continued even after levy of ADD.
- xvi. China PR has a capacity of about 31 Lakh Pieces to produce the subject goods out of which 14 Lakhs pieces pertains to Guangdong Fuwa Heavy Industries Co. Ltd. as provided in their website itself. Against such capacity, the estimated sales in China PR, both export and domestic, stood at 23.28 Lakhs which shows an excess capacity of about 7.72 Lakh units.
- xvii. What is notable here is that the highest demand in India during the injury period was about 1 to 1.20 Lakh and such excess capacity can be diverted to absorb the entire Indian demand in no time should the duties expire.

- xviii. The data shows high export orientation of capacity available in China PR. Against a capacity of about 31 Lakh Pieces, China PR has a domestic demand of about 20 Lakhs only which means the export orientation is in the range of 11 Lakh pieces or 35% which is very substantial. There is a huge potential for future exports also from such highly export oriented capacities.
- xix. In fact, even 15-20% of such estimated unutilized capacities can grab the entire market share in India which is a major pressure on the domestic industry.
- xx. It is very clear from the injury information that imports have been entering at prices below the net sales realization of the domestic industry without anti-dumping duties, which prevented price increase which would have taken place in the absence of such undercutting, leading to suppressing effect on domestic prices and such price effects will only get aggravated if the duties are allowed to expire. Expiry of duties is likely to lead to increase in demand for further imports at such dumped and undercutting levels.
- xxi. The inventories in China PR of the article being investigated also appears very significant even though the actual production details in China PR are not available. The unutilized capacity of about 7.72 Lakh pieces must have been either largely idle or substantial part of that must have been in inventory after production.
- xxii. The Authority may examine the likelihood aspect also based on third country price and exports by the cooperating exporters. All the volume information concerning capacity, sales, inventory etc. in China PR relevant for likelihood also be corroborated with responses for fair conclusions.
- xxiii. The information in the petition shows that volume parameters such as production, capacity utilization and sales declined by the POI which is partly due to other reasons as explained, however, a number of other indicators relating to the financial situation of the domestic industry, namely profitability, return on investment, cash profit etc. once again turned negative in the POI from a positive situation in the previous years.
- xxiv. When the domestic industry has incurred losses when the anti-dumping duty is in force, any expiry of the same will lead to an aggravated situation of losses and injury.
- xxv. The fact that the injurious effect of such dumping was mitigated to great extent with the help anti-dumping duty in force, in fact shows the need for continuation of such duties in this review also.
- xxvi. The domestic industry is still vulnerable to such dumped imports and level playing field is still not established in the Indian market for the subject goods and the domestic industry needs the help of the anti-dumping duty to survive amidst such unfair competition from dumped imports.
- xxvii. The petitioner has claimed positive injury margin in the present case. However, in case any determination of NIP by the Authority leads to a negative injury margin



situation, it does not rule out injury or likely injury as injury margin is not even a parameter of injury.

- xxviii. Injury margin is required for the quantification of ADD whereas in the present matter ADD is already in force and the consideration is about its extension or revocation only.
- xxix. Unlike a fresh investigation, negative injury margin in an SSR cannot lead to any termination of the investigation. As per rule 23, current injury is not mandatory and in that scenario absence of injury itself has no effect on the continuation of duties and continuation of duties is determined based on likely parameters.
- xxx. The Authority must not adopt optimization while determining the injury to the domestic industry and injury must be determined based on the prevailing condition of the domestic industry during the POI as held by Hon'ble CESTAT in Nippon Zeon matter.
- xxxi. The factual evaluations shows that there is a strong likelihood of dumping and injury in the event of expiry of the present duties and extension of duties are very essential in this matter to provide adequate protection as warranted under the AD Rules.

## **H.2. Views of Other Interested Parties**

55. The opposing interested parties have made the submissions as under with regard to injury, causal link and likelihood of dumping and injury:

- i. During the POI 67,658 Units of Axles were produced by Guangzhou Huajing Machine Manufacture Co. Ltd. The company has submitted that its capacity has been reduced to 75,000 units during the POI.
- ii. The Authority may investigate the after-sales service support and Free of cost replacement of parts offered by York in its extended warranty period for promotion of products in India. This has serious implication on its profit margins.
- iii. York has extensive network of aftersales service in almost every region which offers free after sales support and warranty replacements in India. The cost of this extra service is included in price of all components sold by York. However, this additional cost is not included in sales of the PUC from China.
- iv. York is also an exporter of the PUC to related parties, this should also be investigated for price manipulation particularly for newly added SAF Holland global network.
- v. Since the preliminary investigation, exchange rate has adversely impacted imports in India. The Indian Rupee has depreciated by 20% against the USD from 62.13 to the current rate of 74.99 INR. Also, shipping freight has made the situation more unfavourable - from 500-700 USD per container during the preliminary

investigation to 1700-2100 USD during the current POI. Hence the assumption of dumping is completely wrong.

- vi. Increase in price of steel in the post POI period is to be evaluated carefully. It has severely affected the export price of trailer components from China. However, during the same period York has absorbed a major proportion of increase in price to its leading customers in India. The same can be evaluated by examining the selling price to any of the top 3 customers of York in India.
- vii. York claimed that there is excess capacity available with manufactures in China. York strongly supported the theory of unutilised capacity of Chinese manufacturer while York conveniently reduced the production capacity of its own by reducing the number of shifts. If York and Chinese Manufactures deal in production of like products, then how can York adopt double standards for capacity utilisation.
- viii. The huge presence of increased capacity in domestic axle manufacturing capacity is not considered by York in its petition. It considers itself to be a major player but in fact it is struggling to compete with the likes of KROSS and TATA.
- ix. The Authority may conduct forensic audit of York's books of accounts and act against York for restricting growth of Indian trailer industry.
- x. ADD is used by York to restrict entry of other trailer axle manufacturer to India, which will generally adopt a similar pattern as York did in 2012. To start by marketing its CBU (Completely Built Units) product, gradually shifting to CKD and SKD for assembly of the product in domestic market and in final stage to manufacturing and producing all major components in house.
- xi. Information shows that imports from China PR did not cause any injury to the domestic industry during the injury period of investigation. During the POI demand has come down and accordingly imports also have come down. Major share of demand is enjoyed by the domestic industry only which shows no injury from imports.
- xii. The price undercutting was negative in 2018-19 and lowest during the POI. In such a scenario there can be no losses.
- xiii. Selling price has not declined in the entire injury period and the POI. Landed price have been increasing continuously in the said period. There is no price suppression/depression in such a situation.
- xiv. The volume parameters of the domestic industry decreased by the POI due to sharp decline in demand during the POI. Thus, the decline in these parameters including capacity utilisation is not due to imports.
- xv. As per the annual report of the company, COVID-19 impacted the performance of the company.

- xvi. Though the petitioner claimed financial losses, the annual reports show profits. Productivity declined in the POI though employment increased. Increase in inventory should not be taken as a point of injury in isolation.
- xvii. The petition deliberately fails to address other causes of injury. Such issues provided in the annual report is not included in the petition. The other factors in this case may include weakened demand, subdued pricing environment, corona virus impact, disproportionate fall in realisations, adverse stock valuation rate, increase in foreign exchange loss, etc.
- xviii. The other producer of the product namely Automotive Axles Ltd. did not suffer any injury as can be seen from their annual report.

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

56. The Authority has taken note of the various submissions of the domestic industry and other interested parties and has analysed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority hereunder *ipso facto* addresses various submissions made by the interested parties.
57. Rule 11 of the Anti-dumping 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 article and the consequent effect of such imports on domestic producers of such articles.
58. 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 term or relative to production or consumption in India. For examining price effect of dumped imports, the Authority investigates whether there has been a price undercutting by the dumped imports as compared to the price of the like article 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.
59. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity, utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules. The injury analysis made by the Authority hereunder addresses the various submission made by the interested parties.

### **I. Volume Effect of Dumped Imports on the domestic industry**

#### **a) Assessment of Demand/Apparent Consumption**

60. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed has been as follows.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Imports from China PR (Subject Country)	MT	3,426	4,352	2,228	800
Trend	Indexed	100	127	65	23
Total Imports from Other Countries	MT	0	0	0	0
Total Imports into the Country	MT	3,426	4,352	2,228	800
Domestic Sales of Petitioner	MT	***	***	***	***
Trend	Indexed	100	113	55	30
Domestic Sales of Other Producers	MT	***	***	***	***
Trend	Indexed	100	60	10	3
Total Demand	MT	***	***	***	***
Trend	Indexed	100	89	35	17

61. As can be seen from the above table, demand for the subject goods in India have been on a declining trajectory and was at the lowest levels during the POI. It has been submitted by the petitioner that the fall in demand was on account of the pandemic and also the slowdown in the demand for the prime movers wherein the PUC is used. The fall in demand is also attributable to the circumvention of the PUC being done by the exporters. It has also been submitted that demand is back to a growth trajectory in the post POI period based on post POI sales by the domestic industry.
62. While the impact of fall in demand in the injury claimed by the domestic industry cannot be ruled out fully, the Authority takes note of the fact that imports moved in tandem with the demand situation and any revival in demand may lead to an increase in import also. It is also noted that the Authority has found that the PUC has been getting imported in CKD/SKD condition as parts for trailer axles to circumvent the duties and the actual imports of the PUC would have been higher if such circumvention was not taking place. It is further noted that the PUC is still in demand in the market and none of the parties have submitted this fall is permanent in nature.

**b) Import Volumes from subject country**

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

Particulars	Unit	2017-18	2018-19	2019-20	POI
Imports from China PR (Subject Country)	MT	3,426	4,352	2,228	800
Share of Subject Country in total imports	%	100	100	100	100
Share of other Countries in total imports	%	Nil	Nil	Nil	Nil

64. It is seen that the imports of the subject goods from the subject country have decreased from 3426 MT in the base year to 800 MT in the POI. The fall is in line with the fall in demand for the product. However, these numbers do not cover the import of the PUC in CKD/SKD condition imported to circumvent the existing duties. Had it not been the case as established in the recently concluded anti-circumvention investigation, the actual imports would have been higher. The import of PUC and PUC in CKD/SKD condition have been as follows;

Particulars	2015-16	2016-17	2017-18	2018-19	2019-20	POI
Imports from China - PUC (MT)	6,300	4,396	3,426	4,352	2,228	800
Imports of PUC from China in CKD/SKD Condition as Axle Parts (MT)	0	1,527	3,513	5,007	1,779	1,396

**c) Subject Country Imports in relative terms**

Particulars	Unit	2017-18	2018-19	2019-20	POI
Total Imports from Subject Country	MT	3,426	4,352	2,228	800
Total Demand	MT	***	***	***	***
Trend	Indexed	100	89	35	17
Production of Domestic industry (domestic industry)	MT	***	***	***	***
Trend	Indexed	100	109	65	40
Imports from subject country relative to Indian consumption	%	***	***	***	***
Trend	Indexed	100	142	187	136
Imports from subject country relative to production of domestic industry	%	***	***	***	***
Trend	Indexed	100	117	100	59

65. It is noted that while the imports have declined in absolute terms and also relative to the production of the domestic industry, imports from the subject country increased in the POI over the base year in relation to demand though slightly declined in the POI over the immediate previous year. This is when the demand for the product was at the lowest level during the POI which shows the persistent share of dumped imports even when the anti-dumping duty is in force.
66. While assessing the demand and volume effects of dumped imports during the injury period and POI of present review, the Authority also noted the situation found in the original investigation with regard to market share of dumped imports and the domestic

industry in demand. Considering the same in the context of the present review will show that dumped imports have been continuously present in the Indian market moving in tandem with the changes in demand in India which indicate a likely scenario that demand for dumped imports may continue further if the duties are expired with every uptick in demand. The market share of dumped imports and domestic industry in the original investigation was as follows;

Particulars	Unit	2011-12	2012-13	2013-14	POI Annualised
Demand	MT	16902	13923	8785	16684
Imports from China PR	MT	4,917	4,433	3,066	6,600
Market share of domestic industry	%	26.88	25.26	29.65	31.17
Market share of China PR	%	29.09	31.84	34.90	39.56
Market Share of other countries	%	3.11	0.06	-	-
Sale of other Indian producers	%	40.92	42.84	35.44	29.27

67. It can also be noted from the above table that there was a decline in imports commensurate with decline in demand during 2013-14 which was part of the injury period of the original investigation and the imports thereafter significantly increased in tandem with a significant increase in demand during the original POI. This indicate that any fall in import in tandem with demand cannot be considered as a factor ruling out any likely import and dumped imports persisted when the demand situation has been benevolent. Factors as gathered indicate that dumped imports are likely to hold a significant market share in Indian demand for the subject goods in the event of expiry of duties.

**d) Price Effect of the imports on the domestic industry**

68. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject goods from the subject country.

**i. Price Undercutting**

69. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject country.

While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the dumped imports. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Net Sales Realization	Rs. / Kg	***	***	***	***
Trend	Indexed	100	103	106	106
Landed Price (LV)	Rs. / Kg	113.09	126.01	121.28	128.12
Price Undercutting	Rs. / Kg	***	***	***	***
Price Undercutting	% Of LV	***	***	***	***
Price Undercutting	Range	5-15	-5-5	5-15	0-10

70. It is noted from the above table that imports from subject country have been entering Indian market at a price below the net sales realization of the domestic industry without considering the anti-dumping duty in place, resulting in positive price undercutting except for 2018-19. It is further noted that though the landed price of imports had increased over the years, the gap between landed price of imports and net sales realization of the domestic industry once again turned positive during 2019-20 and during the POI from a negative situation in the year 2018-19. This analysis also establishes the fact that had the anti-dumping duty would not have been in place, such undercutting would have created higher price effects on the domestic industry.

## ii. Price Suppression/Depression

71. In order to determine whether the dumped imports are 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 in normal course, the changes in the costs and prices over the injury period were compared in light of the landed price of dumped imports as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of Sales	Rs. / Kg	***	***	***	***
	Indexed	100	104	110	112
Domestic Selling Price (NSR)	Rs. / Kg	***	***	***	***
	Indexed	100	103	106	106
Landed Value without ADD	Rs. / Kg	113.09	126.01	121.28	128.12
	Indexed	100	111	107	113

Landed Value with ADD	Rs. / Kg	123.52	137.34	132.74	140.12
	Indexed	100	111	107	113

72. It is observed that while the cost of production has increased from 100 indexed points in the base year to 112 indexed points in the POI, the selling price of the domestic industry has increased from 100 indexed points to 106 indexed points only by the POI. It is further noted that the landed price of imports has been below the cost and price of the domestic industry during the POI. Such landed price prevented increase in price commensurate with the increases in cost. Therefore, it is noted that the imports of subject goods from subject country are suppressing the selling prices of the domestic industry as the increase in cost of sales is more than the increase in selling price of the domestic industry.

73. The table as above also contain landed price situation with and without anti-dumping duties. It can be noted that the landed price along with the duty in force have allowed the domestic industry to sell at a higher price but the lower landed price and also effects of circumvention practices as found, suppressed the price significantly and there is all the likelihood that the price suppression would have been even higher had there been no ADD. It was found in the anti-circumvention investigation that:

*71. PUC landed in India after payment of applicable anti-dumping duties, whereas PUI were imported without any anti-dumping duties. It can be noted that while PUC landed in India at a price of Rs. 132.74/- per Kg, PUI landed in India at a price of Rs. 98.79/ Kg and considering a value addition thereafter of about \*\*%, the landed price of assembled PUI remained at Rs.122.51/Kg. Such difference in landed price of PUC and PUI shows the effect of evasion of anti-dumping duties and circumvention of applicable anti-dumping duties is evident due to such price differences. Further, such activities by the importers have undermined the efficacy of the ADD measures*

74. It is noted based on the above facts that the price suppression has been very evident during the POI and it is also noted that lower landed prices of dumped imports coupled with practices to evade the prevailing anti-dumping duties has been evidently causing such price suppression effects.

75. The Authority notes the price undercutting and price suppression/depression situation in the original investigation as below. Considering such findings in the context of price effects in the current injury period would show that the dumped imports have been creating adverse price effects for quite some time in the market and the situation is not corrected fully even after duties in place;

Particulars	Unit	2011-12	2012-13	2013-14	POI Annualised
Cost of Sales	Indexed	100	115	118	108
Domestic Selling Price (NSR)	Indexed	100	100	98	102
Landed Value-Subject Country	Rs. Kg	95.35	105.80	110.09	109.73
	Indexed	100	110	115	115



Price undercutting	Range	15-20	5-10	1-5	5-10
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76. The Authority found significant undercutting and price suppression from dumped imports in the original investigation. Price undercutting without ADD and price suppression is also evident in the present review even though the domestic industry realised better prices immediately after the imposition of ADD and such effects of ADD was undermined by circumvention practices as noted. Thus, the landed price of dumped imports is also likely to cause the domestic industry to lower prices to match the dumped price or forgo price increases so as to retain market share in the future also since price undercutting and suppression have been continuing even after duties. A collective reading of the situation in the original investigation and in the present review signifies the fact that the Authority cannot rule out undercutting and suppressing or depressing effects from landed price of dumped imports from subject country to affect the price of the domestic industry in the absence of the present measures.

#### **J. ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY**

77. Annexure-II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Anti-dumping 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.

78. While discussing the essential facts on injury and causal link, the Authority has also examined the injury parameters objectively taking into account various submissions made by all the interested parties so far in this investigation so as to address all such submissions as well.

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

79. The performance of the domestic industry with regard to production, domestic sales, capacity and capacity utilization was as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Installed Capacity	MT	***	***	***	***
Trend	Indexed	100	100	67	67
Production	MT	***	***	***	***
Trend	Indexed	100	109	65	40
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	109	98	60
Domestic Sales	MT	***	***	***	***

Particulars	Unit	2017-18	2018-19	2019-20	POI
Trend	Indexed	100	113	55	30

80. It is noted that the key volume parameters such as production, capacity utilization and sales decreased over the injury period and was at the lowest levels during the POI. However, it is also noted that the domestic industry has been working in reduced shift and as a result effective capacity declined though the installed capacity remained the same.
81. It is further noted in this regard that the fall in volume of the domestic industry is in line with the fall in demand. However, as noted herein above, the dumped imports increased its market share in demand even in a falling demand scenario thus the cause of decline in volume parameters is not fall in demand alone. Also, as found in the Anti-circumvention investigation concerning the subject goods, circumvention practices had an impact on the performance of the domestic industry and the circumvented imports also contributed to the volume declines of the domestic industry.
82. The above facts do not rule out the contention that in the absence of dumped imports and circumvention, the volume performance would have been better.
83. Also, the Authority notes the performance of the domestic industry on key volume parameters in the original investigation as follows;

Particulars	Unit	2011-12	2012-13	2013-14	POI Annualised
Capacity	MT	16560	16560	16560	16560
Production	MT	4439	5127	5433	8318
Capacity Utilisation %	MT	26.26	36.82	61.84	49.85
Domestic Sales	MT	4542	3517	2605	5201

84. It is noted based on a comparison between the performance of the domestic industry on volume parameters in the original investigation and present review that the performance which had improved after the imposition of duties has once again deteriorated by the POI of the present review. While a temporary fall in demand due to economic slowdown and pandemic has contributed partially to such deterioration, continued dumping and circumvention of existing measures have been contributing primarily to such deterioration. It is likely that in the event of expiry of measures, the likely significant volume of subject imports would likely result in significant adverse price effects or loss of market share for the domestic industry, in either case leading to a significant adverse impact on the production, capacity utilisation, sales, market share etc of the domestic industry.

**b) Market Share in Demand**

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Particulars	Unit	2017-18	2018-19	2019-20	POI
Imports from China PR (Subject Country)	MT	3,426	4,352	2,228	800
Trend	Indexed	100	127	65	23
Total Imports from Other Countries	MT	0	0	0	0
Total Imports into the Country	MT	3,426	4,352	2,228	800
Domestic Sales of Petitioner	MT	***	***	***	***
Trend	Indexed	100	113	55	30
Domestic Sales of Other Producers	MT	***	***	***	***
Trend	Indexed	100	60	10	3
Total Demand	MT	***	***	***	***
Trend	Indexed	100	89	35	17
<b>Share in Indian Demand that of;</b>					
Imports from China PR (Subject Country)	%	***	***	***	***
Trend	Indexed	100	142	187	136
Total Imports from Other Countries	%	Nil	Nil	Nil	Nil
Trend	Indexed	Nil	Nil	Nil	Nil
Total Imports into the Country	%	***	***	***	***
Trend	Indexed	100	142	187	136
Domestic Sales of Petitioner	%	***	***	***	***
Trend	Indexed	100	126	158	177
Domestic Sales of Other Producers	%	***	***	***	***
Trend	Indexed	100	67	27	18

85. The Authority notes that the market share of the subject imports and also the domestic industry has increased between the base year and POI. The increase in market share of dumped imports even when there was a fall in demand shows the persistence of dumped imports in the market even after existing anti-dumping duties. It is also noted that the imports of subject goods as reported do not show the complete picture of imports of PUC as there have been import of the PUC in CKD/SKD condition as axle parts to circumvent the anti-dumping duties in force. The real market share of dumped imports must have been higher taking such circumvented imports also into consideration as found in the recent anti-circumvention investigation concerning the subject goods.

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

86. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Profit/Loss	Rs. Kg	***	***	***	***
Trend	Indexed	100	72	(19)	(112)

Particulars	Unit	2017-18	2018-19	2019-20	POI
Profit/(Loss) before Int. & Tax (PBIT)	Rs. Kg	***	***	***	***
Trend	Indexed	100	69	7	(71)
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	82	32	3
Average Capital Employed	Rs. Lacs	***	***	***	***
Trend	Indexed	100	129	142	117
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	60	3	(18)
Profit/(Loss) before Int. & Tax (PBIT) including ADD	Rs. Kg	***	***	***	***
Trend	Indexed	100	98	82	64
Return on Capital Employed with PBIT including ADD	Rs. Kg	***	***	***	***
Trend	Indexed	100	85	31	17

87. From the above table, it is noted that the profit of the domestic industry has been in the positive line till 2018-19, and then declined and turned negative through 2019-20 and the POI. Similar trend is observed in Return on Capital Employed also and the cash profits were at the lowest level during the POI.

88. The above table also contain relevant data to ascertain what would have been the profitability situation of the domestic industry if they were able to take the intended benefit of the ADD in force. The Authority notes from the above table that the domestic industry has been prevented from achieving a better level of profitability and ROCE which would not have been possible without the help of ADD, and the profitability during the POI do not reflect the benefits of ADD in force as the remedial effects of ADD in force were undermined by way of circumvention of measures in force. It was found as follows in the recently concluded anti-circumvention investigation concerning the present anti-dumping duties;

*Para 75. d) The import of the PUI has undermined the remedial effects of existing Anti-dumping measure on PUC imposed vide Custom Notification No.54/2016-Customs (ADD) dated 29th November, 2016*

89. It is noted that the profitability situation of the domestic industry deteriorated by the POI as a result of adverse price effects from landed price including circumvention of measures in force and the performance of the domestic industry would have been better had there been no such adverse effects from dumped imports.

90. The Authority notes the decline in demand for the product, adverse effects of pandemic and also the effects of circumvention of anti-dumping duties in force in the context of fall in profits of the domestic industry. As contended by the petitioner, the recovery

from effects of dumping was first vitiated by circumvention of duties which commenced immediately after imposition of duties. The profitability of the domestic industry has been as follows (as per the original final findings) in the original case and comparing the same with the present situation have shown how the situation of the domestic industry improved after the imposition of anti-dumping duties and once again started deteriorating by the present POI;

Particulars	Unit	2011-12	2012-13	2013-14	POI Annualised
Profit/Loss	Trend	100	(971)	(1266)	(316)
Profits Lakhs	Trend	100	(750)	(725)	(360)
Return on Capital Employed	Trend	100	(949)	(1061)	(293)
Cash Profits	Trend	100	(325)	(325)	(135)

91. The effects of continued dumped imports on the profitability of the domestic industry are evident as provided above.

**d) Employment and Productivity**

92. Employment and productivity situation of the domestic industry over the injury period are given in the table below;

Particulars	Unit	2017-18	2018-19	2019-20	POI
Employment	Nos	***	***	***	***
Trend	Indexed	100	109	84	85
Productivity per employee	MT/Person	***	***	***	***
Trend	Indexed	100	100	78	47

93. It is noted that both employment levels and productivity declined by the POI over the base year and reflected the situation in major volume parameters.

**e) Magnitude of Dumping Margin**

94. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive and significant in the investigation period.

**f) Inventories**

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

Particulars	Unit	2017-18	2018-19	2019-20	POI
Inventory	MT	***	***	***	***
Trend	Indexed	100	222	301	714

96. It is noted that inventory with the domestic industry increased by the POI in comparison to the base year and also significantly in comparison to the immediate previous year.

**g) Growth**

97. The growth of the domestic industry has been as given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Production	%	-	8.88	(40.08)	(38.85)
Sales Volume Domestic	%	-	12.74	(51.52)	(44.37)
Capacity Utilization	%	-	8.88	(10.12)	(38.85)
Inventory	%	-	122.27	35.31	137.41
Employment	%	-	8.79	(23.09)	2.10
Selling Price Per KG	%	-	2.64	3.63	(0.65)
Cost of Sales Per KG	%	-	3.51	6.15	1.73
Return on Capital Employed	%	-	(40.04)	(95.22)	(745.07)
Profit per Unit	%	-	(28.34)	(126.53)	(489.38)
PBIT Per Unit	%	-	(31.20)	(89.15)	(1,056.82)

98. It is noted that key injury parameters registered negative growth in the POI except employment which improved marginally in the POI viz. previous year.

**h) Ability to raise capital investments**

99. The Authority notes that the domestic industry has made capital investments to set up the plant to produce the subject goods. However, the performance of the domestic industry has deteriorated during the injury period after some improvements post imposition of anti-dumping duties.

**i) Factors affecting domestic prices**

100. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject country is below the selling price and cost of sales, causing price undercutting, and price suppression affecting the domestic prices. It is also noted that though the demand for the subject goods was showing declining trend, the performance and remedial effects of anti-dumping duties in place were undermined by the circumvention of anti-dumping measures in place. Thus, it can be noted that the factor affecting the domestic prices is the dumped imports of subject goods from subject country.

**j) Magnitude of Injury Margin/Price Underselling**

101. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been

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

102. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on facts available.

103. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority.

#### **Injury Margin**

S. No	Country	Producer	NIP Rs/Kg	Landed Value Rs/Kg	Injury Margin Rs/Kg	Injury Margin %	Injury Margin % Range
1	China PR	Guangdong Fuwa Heavy Industries Co. Ltd	***	***	***	***	NEGA TIVE
2	China PR	Any other than serial no. 1	***	***	***	***	20-30

104. It is noted from the Injury Margin table as above that the injury margin for the co-operative producer has been negative for the POI. However, for non-cooperating producers/exporters, the injury margin has been determined on the basis of facts available and is found to be positive for the POI.

105. In the recently concluded anti-circumvention investigation, the Authority found that the duties on PUC were being circumvented by way of imports of PUC in CKD/SKD condition. The injury margin has been determined in case of circumvented imports (referred to as PUI) separately and also cumulatively for PUC and PUI.

a) Injury Margin considering PUI

Name of the PUI (PUI-Circumvented Imports)	Imports in (KG)	CIF Value of imports	CIF Price	Norms of DI	Cost per KG
Beam	1,92,685	1,87,66,105	97.39	***	***
Break drum	2,91,937	2,16,16,497	74.05	***	***
Hub	1,50,897	1,30,30,932	86.36	***	***
Break Shoe	2,90,191	2,87,08,599	98.93	***	***
Slack adjuster	1,34,273	1,60,85,584	119.80	***	***
Camshaft	1,31,740	1,49,96,471	113.83	***	***
Bearing	66	8,118	123.00	***	***
CIF Price of PUI				Rs./KG	***
Add BCD @10%				Rs./KG	***
Add Surcharge @10%				Rs./KG	***
Landed PUI				Rs./KG	***
Add: value addition @24.02%				Rs./KG	***
Constructed Landed price of PUC based on PUI imports				Rs./KG	***
NIP for PUC				Rs./KG	***
Injury Margin				Rs./KG	***
Injury Margin				% Range	20 to 30

b) Injury Margin considering PUC+PUI

Landed PUC+PUI (equivalent to PUC)				Rs./KG	***
NIP for PUC				Rs./KG	***
Injury Margin				Rs./KG	***
Injury Margin				% Range	10 to 20

**K. CAUSAL LINK AND OTHERFACTORS (NON-ATTRIBUTION ANALYSIS)**

106. As per the Anti-Dumping Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring



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

**i. Volume and price of imports from third countries**

107. There were no imports from countries other than the subject country in the injury period. Thus, such prices cannot be considered to have adversely impacted the domestic industry.

**ii. Export Performance**

108. The Authority has considered the data for domestic operations only for its injury analysis. However, it is noted that the exports made by the domestic industry marginally increased by the POI.

**iii. Contraction in demand Changes in pattern of consumption**

109. It is noted that the demand of the subject goods has declined over the injury period. At the same time, the PUC has been getting imported in CKD/SKD condition to circumvent the anti-dumping duties. Thus, the actual demand would have been higher. Also, the petitioner has claimed that the demand has improved significantly in the post POI period based on the domestic sales in the post POI period as provided below. The petitioner further submitted that import data for the complete post POI period considered is not available yet the increase in sales indicates improvement in demand;

Period	Prime mover's sales (In Nos)	Domestic Sales of Axle by York (In Nos)	Domestic Sales of Axle by York (In MT)	Domestic Sales of Axle by York (In MT Indexed)
POI	9,918	***	***	100
Jan-June 21	10,093	***	***	198
Jan-June 21 Annualised	20,186	***	***	198

**iv. Trade restrictive practices of and competition between the foreign and domestic producers**

110. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic

producers have undergone any change. However, the circumvention practices shows that the exporters have been looking for ways to circumvent the duties in force which has undermined the intended purposes of the anti-dumping duties imposed. ○

**v. Developments in technology**

111. None of the interested parties have furnished any evidence to demonstrate significant changes in the technology that could have caused injury to the domestic industry.

**vi. Changes in pattern of consumption**

112. The subject goods produced by the domestic industry and that imported into India are comparable and the end users find these goods interchangeable. Possible changes in pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

**vii. Performance of the domestic industry with respect to other products**

113. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performances concerning the subject goods. The information considered by the Authority is with respect to the product under consideration only.

**viii. Productivity of the domestic industry**

114. Productivity per employee also reflected the situation in major volume parameters. Thus, the Authority notes that deterioration in productivity per se has not been any cause of injury to the domestic industry.

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

115. Consistent with the guidance provided through the Agreement on Implementation of Article VI of The General Agreement on Tariffs and Trade, Customs and Tariff Act, 1975 and the AD Rules, in a review investigation, the Authority makes its determination on the likelihood or continuation of recurrence of dumping of the subject goods into the Indian market and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed. The likelihood determination is a prospective determination. In other words, the Authority undertakes a forward-looking analysis and seeks to resolve the issue of what would be likely to occur if the duties are terminated.

116. The present investigation is a sunset review of duties imposed on the imports of subject goods. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires an examination of whether the duty imposed is serving the intended purpose. Further, the Authority has also examined other relevant factors having a bearing on the likelihood

of continuation or recurrence of dumping and consequent injury to the domestic industry.

117. The Panel in *US – DRAMS* described the requirement in Article 11.1 whereby anti-dumping duties "shall remain in force only as long as and to the extent necessary" to counteract injurious dumping, as "a general necessity requirement."
118. Article 11.3 of the Anti-dumping Agreement requires the Authority to determine that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. Thus, Article 11.3 requires the Authority to ascertain whether there is a relationship (or nexus) between the expiry of a duty, on the one hand, and continuation or recurrence of dumping and injury, on the other, such that the former would be likely to lead to the latter.
119. The Appellate Body in *US – Corrosion-Resistant Steel Sunset Review* noted that, as this likelihood determination is a prospective determination: "the authorities must undertake a forward-looking analysis and seek to resolve the issue of what would be likely to occur if the duty were terminated"
120. Although, no guidance is provided through the Anti-dumping Agreement into the factors to be analysed while undertaking a Review, Clause (vii) of Annexure II of the Rules provides, inter alia for factors which are required to be taken into consideration viz.:
- i. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
  - ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
  - iii. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
  - iv. Inventories of the article being investigated.
121. The examination of the parameters of likelihood relevant in this case is as follows:
- i. **Rate of continued imports and dumping of the subject goods in the current review and also situation of imports in the original investigation and during the anti-circumvention investigation indicating likelihood thereof.**
122. It was found in the original investigation that imports from China PR had increased substantially and such imports were at dumped levels injuring the domestic

industry. It was also evident that by way of dumping, exporters from China PR increased their market share in demand substantially.

123. The facts of the present case show that there have been continued imports of the subject goods at dumped rates though the volume has declined during the POI. Even though the volume of imports has declined, the market share of the dumped imports increased in the POI over the base year. Thus, there have been continued demand for dumped imports and dumping has not stopped. Dumping margin is found to be significant even in the case of cooperating exporters from China PR in this review. It is further noted that the examination of the import volumes when clubbed with the volumes imported through circumvention of the existing duties explains a threshold finding that the subject imports would be simultaneously present in the Indian market if the anti-dumping duties are revoked. It is further noted that in *US-Anti-Dumping Measure on Oil Country Tubular Goods (OCTG) (WT/DS282/AB/R)*, the Panel also observed that likely standard of Article 11.3 of the Anti-Dumping Agreement applies to overall determinations regarding dumping and injury; it need not necessarily apply to each factor considered in rendering the overall determinations on dumping and injury.

124. Further, post imposition of anti-dumping duties at the end of the original investigation, the Authority based on a *suo-motu* Anti-circumvention investigation found that there was a shift in pattern of trade of the PUC and the anti-dumping duties have been circumvented by exports of the subject goods in CKD/SKD condition as Axle Parts for trailers. Such imports were also reaching India at dumped levels and recommendations have already been made for extension of anti-dumping duty to such circumventing imports also. It was found as follows in the Anti-circumvention investigation concluded on 14.9.2021;

*75. Having initiated the present investigation based on inputs from the Commissioner, Nhava Sheva and after examining the contentions of the domestic industry and the other interested parties and on the basis of the analysis as above, the Authority concludes as under:*

*a) There has been a change in the pattern of trade in the case of import of the PUC and the PUI from China PR post imposition of Anti-dumping duties on the PUC.*

*b) The value addition in converting the PUI (Axle for Trailers in Completely Knock Down/Semi Knock Down condition) into the PUC (Axle for Trailers) is significantly less than the prescribed threshold in the Anti-circumvention Rules.*

*c) Imports of the PUI from China PR have been entering at dumped prices.*

*d) The import of the PUI has undermined the remedial effects of existing Anti-dumping measure on PUC imposed vide Custom Notification No.54/2016-Customs (ADD) dated 29th November, 2016.*

125. The facts as captured in this investigation shows that imports have declined reflecting the restraining effect of the anti-dumping duties in force and also some

reduction in import of the PUC is visible on account of reduced demand and also due to circumvention practices. The fact that the dumped imports continued even after anti-dumping duties and there were practices like circumvention to evade the duties in place shows a strong likelihood situation that rate of imports may increase significantly if the existing anti-dumping duties are revoked. The continued presence of subject imports in the domestic market during the POI, notwithstanding the disciplining effects of the imposition of anti-dumping duties, albeit in comparatively small volumes, demonstrates a sustained interest in exporting to India.

**ii. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter including export orientation.**

126. The Authority notes from the submissions of the petitioner that producers in China PR have set up significant excess capacity for the subject goods and their capacities are much higher than the domestic demand in China PR. The submissions made by the domestic industry shows the following situation and the opposing parties have not adduced any rebuttals to disprove the below claims;

<b>Excess Capacity and Export Orientation</b>	<b>In Nos</b>
Annual Capacity	3100000
Domestic Sales	2000000
Exports to all countries	328000
Idle Capacity	772000
Idle Capacity as a Percentage of Total Capacity	25%
Surplus Axle after Domestic Sales	1100000
Surplus Axle % vs domestic demand showing export orientation	35%

127. It is noted from the above table that China PR has about 25% of its capacities for the product in idle or unutilised state and it is also stated that about 35% of such capacities are set up targeting the export markets. This is evident in the fact that the domestic sales in China were only 20 Lakh pieces whereas the capacity is about 31 Lakh pieces as submitted. The idle capacities as above are even after considering export market also. In the absence of any other information, the idle capacities as claimed above are noted as very significant and are much higher than the peak Indian demand. It is not shown by the producers/exporters that any such idle capacities will not be diverted to India in the event of expiry of existing duties or they have other avenues to dispose such idle and excess capacities.

128. The information as above also shows that that the Trailer Axle industry in China PR is very large compared to the Indian market. Significant level of unutilised capacities available with the Chinese producers shows that the Chinese industry will likely seek to increase their production but with the limited domestic demand, the producers will tend to target to export markets. In a such a situation, producers in China PR are likely to direct significant volumes of subject goods to India and the likely volume of subject imports from China, both in absolute and relative terms to production and consumption in India, shall be higher in the absence of current measures. This

analogy achieves stronger weightage by the fact that the imports of subject goods have been present in the Indian market even after the measures and in fact the circumvention practise adopted to escape the duty liability by the Chinese exporters/producers satisfies the legal standard of import simultaneity in the absence of anti-dumping duties.

129. Notwithstanding the above, the Authority notes the unutilised capacity situation of the cooperating exporter namely Guangdong Fuwa Heavy Industries Co. Ltd as follows;

Particulars	Unit	2017	2018	2019	POI
Installed Capacity	PCS	***	***	***	***
	Indexed	100	100	100	100
Production Quantity	PCS	***	***	***	***
	Indexed	100	83	85	83
Capacity Utilisation	%	***	***	***	***
	Indexed	100	83	85	83

130. It is noted from the above table that Guangdong Fuwa Heavy Industries Co. Ltd has a capacity of \*\*\* Lakh units to produce the subject goods which remained same during the injury period and POI. But the capacity utilisation of the company declined in the POI. If the producer utilizes this \*\*\* of the unutilized capacity to produce the subject goods, then such production will be significant vis-à-vis the peak Indian demand which is claimed to be about \*\*\* Lakh pieces. As per the submissions made by the exporter, the company had a capacity of \*\*\* pcs during the original investigation which has increased to \*\*\* pcs by 2017. Such increased capacity with \*\*\* unutilised capacity present with the exporter suggests that there is all likelihood of the exporter routing the subject goods to India in case of discontinuation of current anti-dumping duties.

**iii. Depressing or suppressing effects of imports showing likely increase in demand for further imports**

131. The Authority found in the original investigation that landed price of dumped imports had affected the prices of the subject goods in the Indian market as evident from the significant price undercutting and underselling found from such imports. Landed price of subject imports acted as a cap on the price levels that could be obtained by domestic producers, and as a result, domestic industry was constrained to sell at a price below the non-injurious level leading to underselling situation.

132. The Authority notes from the facts of the present case that price undercutting from subject imports have been positive without the anti-dumping duties and the landed price have been below the cost and price of the domestic industry preventing price

increases which would have taken place otherwise leading to price suppression. Availability of dumped imports at a price a lower than the price of the domestic industry will lead to further increase in dumped imports. It is also noted that the importers have been engaging in practices like circumvention so as to avoid the applicable anti-dumping duties and the likeness for increased imports cannot be ruled out when the duty itself expires in such a situation.

133. Given the likely significant volume of subject imports, such undercutting and suppression effects would likely cause the domestic industry to lose market share or to lower prices or forgo price increases to cover costs in an effort to maintain market share as was the case in the original investigation. In such a situation, subject imports would likely have significant suppressing or depressing effects on prices of the domestic industry and/or would likely gain market share at the expense of the domestic industry, if the current measures are allowed to expire.

**iv. Inventories of the article being investigated.**

134. Though there are no actual information available about inventories in China PR, the significant idle capacity shows possibilities of some inventories as well. However, the trend of inventory with the cooperating exporter is noted as below which shows an increase in the inventory level by the POI;

Particulars	Unit	2017	2018	2019	POI
Inventory	PCS	***	***	***	***
	Indexed	100	230	247	127

135. The inventories with the domestic industry have, however, increased showing likely increases in the same in case of increases in imports.

**v. Volume of imports in presence of anti-dumping duties**

136. The Authority notes that there were significant imports from subject country in the present period though the volumes declined by the POI. Dumped imports constituted significant share in Indian demand. It is also noted that though the overall volume of imports has come down during the POI from the base year, such volumes should be seen in the light of the circumventing imports also. Thus, facts such as continued imports despite duties in force and practices like circumvention indicates that the imports are likely to increase further in the event of cessation of duties.

137. Continued dumping in the presence of duty bolsters the view that such dumping and injury is likely to continue if the duties are expired. If companies continue to dump with an existing duty, it is reasonable to assume that dumping would continue if the duties are to be removed. There are no facts submitted by the producers/exporters to rule out such possibilities beyond doubt.

**vi. Persistent presence of exporters in the market and vulnerability of the domestic industry**

138. The Authority notes that the continued dumped imports and the facts found in the final findings of the Anti-circumvention investigation shows that the producers/exporters from China PR attempted to maintain their presence in the Indian market even after imposition of measures. Circumvention of the existent duty shows that the exporters are not able to compete with the domestic industry if an anti-dumping duty is in place and had to resort to circumvention to retain their market share. There are no facts adduced by the producers/exporters to show that the exporters shall not be inclined to continue dumping if the duty expires.

**vii. Likely injury margin in case of expiry of present duties**

139. As noted herein above, the injury margin for the PUC in the present investigation is negative. However, the same is significantly positive, if the circumvented imports are also taken into consideration as presented below;

**Injury Margin- PUC+PUI (During POI)**

Landed PUC+PUI (converted to PUC)	Rs./KG	113.27
NIP for PUC	Rs./KG	***
Injury Margin	Rs./KG	***
Injury Margin	% Range	10 to 20

140. Since imports of PUI is nothing but imports of PUC in CKD/SKD condition to circumvent the existing measures, it is appropriate to consider injury margin of both PUC and PUI while examining the likely injury margin in the event of expiry of present measures. Positive injury margin as above indicates a possible situation that imports of the PUC in the absence of present duties is likely to occur at injurious levels.

**viii. Exports to third countries vis-à-vis exports to Indian market and its attractiveness.**

141. The Authority notes the third country export details of the cooperating exporter namely Guangdong Fuwa Heavy Industries Co. Ltd as follows and the same is compared with the exports of subject goods to India by the Company;

Particulars	Unit	2017	2018	2019	POI
Export Sales – India	RMB/PCS	***	***	***	***
Trend	Indexed	100	111	130	132
Export Sales - Other Countries	RMB/PCS	***	***	***	***
Trend	Indexed	100	92	100	102
Export Sales – India	Pcs	***	***	***	***
Trend	Indexed	100	140	63	21
Export Sales - Other Countries	Pcs	***	***	***	***
Trend	Indexed	100	124	108	78



142. It is noted from the above table that while Guangdong Fuwa Heavy Industries Co. Ltd has exported \*\*\* units of PUC to India at a price of RMB \*\*\*/Unit during the POI, the company has exported \*\*\* units to third countries at a price of RMB \*\*\*/Unit. This shows that currently the export volumes to third countries are much higher than exports to India and is also at lower prices when compared to India.

143. In a recently concluded anti-circumvention investigation, the Authority established the erosion of the efficacy of existing anti-dumping duties and its injurious effect on the domestic industry. Considering the above scenario, exporters diverting such lower priced exports to India in the absence of present duties cannot be ruled out.

#### **ix. Likely effects of expiry of present measures**

144. It is noted from the facts as discussed above that, upon revocation of the existing anti-dumping duties, subject import volume would likely be significant and subject imports would likely have significant adverse price effects. Based on the information on the record, it is further noted that the likely significant volume and price effects of the subject imports would likely have a significant adverse impact on the production, sales, market share, employment, inventory levels etc. of the domestic industry. The likely declines in these factors would, in turn, likely have a direct adverse impact on the domestic industry's profitability.

### **M. POST-DISCLOSURE COMMENTS**

145. The Authority issued a disclosure statement on 20.10.2021 disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

#### **M.1. Comments of the Domestic Industry**

146. The Authority may confirm its views as disclosed in the subject disclosure on the PUC and like article and also standing of the applicant as domestic industry. The opposing parties could not adduce any factual evidences to show the need for review of product scope. Also, there are no facts submitted by the opposing parties to disprove the standing claims of the applicant other than making unsubstantiated claims.

147. It is reiterated that York made claims on standing based on estimate of total Indian production of subject goods based on the published data available from SIAM concerning prime movers wherein the subject goods is used and in view of the same, the names of certain other producers coined by the opposing parties have no consequences on the facts concerning total Indian production and standing.

148. The facts as disclosed show that the continued dumped imports and the circumvention of measures in force have been the key factors for the decline in performance of the DI after some improvement after levy of ADD. Continuation of

ADD is essential to ensure level playing field for the DI as the intended purpose of ADD in place was gravely vitiated due to circumvention of measures and also continuation of dumping which created serious price effects on the DI leading to continuation of injury as well. ○

149. The facts as disclosed show significant dumping margin in case of imports of the PUC which bolsters our submission that dumping is likely in all certainty if ADD has to expire. The Authority may confirm the basis of determination also in the final finding.
150. The facts as disclosed show that the injury margin is negative in case of imports of the PUC alone into India. However, it is submitted that the landed price along with the circumvented imports shows the true picture of injury margin and what is relevant is the injury margin determined after inclusion of circumvented imports also i.e. imports of the PUC in CKD/SKD condition. The Authority may determine landed price by also considering circumvented imports.
151. It is submitted that negative injury margin is not a key determinant in an SSR investigation as the requirement is of determination of likelihood of dumping and injury in the event of expiry of measures in force. The facts as disclosed show likelihood of dumping and injury in the event of expiry of duties. The Authority may note a few past precedence wherein continuation of duties was recommended even after negative injury margin in an SSR and a similar approach is relevant in this matter also;
- i. Sunset review anti-dumping investigation concerning imports of “Colour Coated/Pre-painted flat products of alloy or non-alloy steel” originating in or exported from China PR and European Union dated 8<sup>th</sup> October, 2021 wherein duties on both the subject countries are recommended to be continued even after negative injury margin.
  - ii. Sunset Review (SSR) anti-dumping investigation concerning imports of Clear Float Glass originating in or exported from Pakistan, Saudi Arabia and United Arab Emirates (UAE) dated 7<sup>th</sup> November, 2019 wherein duty on exporter from UAE was continued at original duty levels even after negative injury margin.
  - iii. Carbon Black used in Rubber Applications originating in or exported from China PR and Russia dated 22.12.2020 wherein duties were continued even after negative injury margin from China PR.
  - iv. PVC Suspension Grade Resin from China PR, Thailand and USA dated 18.07.2019 wherein duties were continued even after negative injury margin from cooperating exporters from China PR and USA.
  - v. Plain Medium Density Fibreboard having thickness 6mm or more originating in or exported from China PR, Malaysia, Thailand, Sri Lanka dated 08.01.2021 wherein duties were continued even after negative injury margin on cooperative exporter from Thailand.
152. Notwithstanding the above, the Hon’ble Gujarat High Court in Nirma Limited vs. UOI (Order dated 23.2. 2017) ruled that negative injury margin cannot form the basis for determining that there is no likelihood of dumping and/or injury.

153. Rejection of response of Shandong Jinsheng Axle Manufacturing Co., Ltd is fully justified as it becomes now evident that the company was supplying the PUC in CKD/SKD condition. One of the sources of the circumvented imports now becomes very clear.
154. The facts as disclosed show strong likelihood of dumped and injurious imports on the bases of information from cooperating exporter also. While the capacity of the cooperating exporter remained the same, production declined and inventories increased. This shows the exporter is saddled with excess unutilized capacities which will be diverted to India in the event of expiry of the present measures. The Authority may examine likely price effects based on third country export price of the exporter which is held confidential.
155. It is reiterated that the continuation of ADD has no significant impact on the users as the cost of subject goods in the end product is very insignificant at 2-3%. What is more important here is that the users/importers engaged in illegal practices like circumvention which has derailed the purpose of ADD put in place and any discontinuation of duty will amount to rewarding such illegal activities. Public interest may be considered only after the intended purpose of ADD put in place is met and not at this juncture when the legitimate interest of the DI stands vitiated.

## **M.2. Comments of the other interested parties**

156. It is clear that the dumping margin is lowest ranging from 10-20% and the injury margin is negative which further implies that the domestic industry is not suffering from any injury due to the imports from China PR.
157. Conclusion about surplus capacity at para 121 of the disclosure statement is not correct. Guangdong Fuwa Heavy Industries Co., Ltd. does not have surplus capacities. It may be seen that Fuwa consistently operating at more than 80% capacity utilisation which is the optimum capacity utilisation for the industry. Hence, Fuwa does not have any surplus capacity against the claims of the domestic industry.
158. As per the disclosure statement, the Authority has considered the name as "Guangdong Fuwa Heavy Industries Co. Ltd" instead of "Guangdong Fuwa Heavy Industries Co., Ltd.". So, it is requested to the Authority to consider the name as "Guangdong Fuwa Heavy Industries Co., Ltd." in the final findings.
159. Written application was made for a copy of the non-confidential version of the rejoinder filed by the Petitioner after the oral hearing. However, the rejoinder was never supplied to us. This is also contrary to the rules and regulations.
160. The disclosure statement does not include any information on imports made by York during the period of investigation or in the preceding years, especially for the products falling under PUI/PUC.
161. The disclosure statement has accepted the new formula for calculation of market share based on the sales of prime movers. Unfortunately, however, the entire York production data has been taken into account, whether sold or unsold. However, for

prime movers only the actual numbers sold are considered, not the total number produced. Likewise, for competitors also, only the actual sales figures are considered and not the total production. This has resulted in creating an illusion that York represents the domestic industry.

162. While discussing the total production capacity the disclosure statement has permitted York to proceed based on reduced number of production shifts. Unfortunately, for concluding that Chinese companies have excess production capacity, the production cuts in China have not been considered. The figures supplied by York have been accepted blindly without any inquiry.

163. It is a matter of deep regret that response of GHMMC to the questionnaire is not considered only on the ground of late filing. We did not export the subject goods to India due to the heavy ADD, therefore it is established beyond any doubt that we did not cause any injury to the domestic industry.

164. Continuation of ADD will create a monopoly for York and it will seriously impact the transporter situation in the country by creating artificial scarcity and shortage of critical axles for trailers.

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

165. The Authority notes the submission of the domestic industry wherein it has submitted that the landed price should be considered by including circumvented imports i.e. the PUC in CKD/SKD condition. The Authority has adopted this approach for cooperating producer(s)/ exporter(s). Since this circumventing product is one of the major contributors of the likelihood of dumping and consequent injury, therefore, for non-cooperating (residual) producers/exporters, the Authority has computed the extent of dumping and consequential injury by considering the circumvented imports i.e. the PUC in CKD/SKD form only on the basis of facts available.

166. With regard to the comments that Guangdong Fuwa Heavy Industries Co., Ltd. does not have surplus capacities and was operating at the optimum level of 80%, it is noted that the company was operating at 80% utilisation in the POI whereas the capacity utilisation was 97% in the base year. Hence, the claim of operating at optimum level cannot be accepted. It is noted from the information provided by the company that about 20% of the capacity of the company is to produce subject goods and remained unutilised during the POI.

167. The availability of significant capacities with exporters and the attractiveness of the Indian market that has been evident through the practices of circumvention establish high likelihood of continuation of dumping and consequent injury to the Indian industry.

168. With regard to the correct name of Guangdong Fuwa Heavy Industries Co., Ltd, the same is incorporated at the appropriate places.

169. With regard to the contention that rejoinder submission of the applicant was not provided, as a matter of consistent practice, all the interested parties were directed to

share the written submissions between them and the same was adhered to by all the interested parties. The purpose of sharing written submissions is to allow the interested parties to rebut the claims made by one another. The rejoinder submissions of the interested parties to the extent relevant have been duly considered by the Authority in these final findings.

170. With regard to the contention that the disclosure statement does not include any information on imports made by York during the period of investigation or in the preceding years, it is noted that the petition contained the certification by the applicant that they did not import the subject goods from subject country and the same was recorded in the disclosure statement issued as well.
171. With regard to the contention that the disclosure statement has accepted the new formula for calculation of market share based on the sales of prime movers but the entire York production data has been taken into account, whether sold or unsold, the Authority notes that no changes in the formula were made for the purpose of disclosure statement. An alternative calculation based on the formula proposed by the exporter based on SIAM data was also provided in addition to what has been claimed in the petition. Also, requirement under Rule 2 (b) is to determine major proportion in the total domestic production and not domestic sales as contended. However, sales of prime movers have been considered so as to estimate the production of the subject goods during the POI. By considering the sales of prime movers, demand for subject goods has been derived and by doing the back calculation, production of the subject goods by the petitioner has been derived. A similar approach was adopted in the original investigation also.
172. With regard to the contention that while discussing the total production capacity the disclosure statement has permitted York to proceed based on reduced number of production shifts but the production cuts in China have not been considered, the Authority notes from the response of the cooperating exporter that the company has about 20% unutilised capacity and the exporter have not claimed any such production cut as contended.
173. With regard to the contentions about rejection of response of Guangzhou Huajing Machine Manufacturer Co. Ltd, the Authority notes that the issue is already addressed at the relevant paragraph of these final findings. It is further noted that the company has stated that they did not export the subject goods to India. In such a scenario, the export price for the said producer/exporter could not be arrived at and thereby not eligible for any individual margin in this case. However, the said producer/exporter is free to file an application for New Shipper Review under Rule 22 of the AD Rules subject to fulfilment of requirements of the said Rule.
174. With regard to the contention that continuation of ADD will create a monopoly for York and it will seriously impact the transportation situation in the country by creating artificial scarcity and shortage of critical Axle's for trailers, it is noted that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

## N. PUBLIC INTEREST

175. The Authority issued a gazette notification inviting views from all the interested parties, including importers, consumers, and exporters for a comprehensive redressal of concerns of various stakeholders emanating from this investigation.
176. The domestic industry has made submissions on producer's interest, impact on eventual end products and benefits of imposition of duties. Domestic industry has submitted that the prices being offered by it is reasonable and the Anti-dumping duty will have very minimal impact on the end user. It has also been claimed by the domestic industry that the cost of subject goods with the end user will not be more than 2-3% of the total cost of the end product and an ADD in such a situation will not impact the cost of the end product in any significant manner.
177. Keeping above in view, the Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product to the consumers.
178. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly, if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, any imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
179. It is also noted in this context that there have been practices to evade the ADD imposed on the subject goods and it was found in the recently concluded anti-circumvention investigation concerning ADD on subject goods that the ADD on PUC have been getting circumvented by importing PUC in CKD/SKD condition as parts for Trailer axles and such practices have undermined the duties imposed originally. The adverse effects of such practices on the domestic industry are reflected in the facts as examined above and the said context is also very relevant for this review.

## O. CONCLUSION

180. Having regard to the contentions raised, information provided, submissions made and the facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:

i. The applicant domestic producer constitutes domestic industry under Rule 2(b) of the Rules and the application filed by the applicant on behalf of domestic producers satisfies the criteria of standing in terms of Rule 5(3) of the Rules as it holds a major proportion i.e. \*\*\*%

ii. There is continued dumping of the subject goods from the subject country in spite of the duties in force. The dumping margin is positive and the injury margin is also positive after considering the circumvented imports.

iii. The imports have been undercutting the price of the domestic industry and the price effects would have been higher in the absence of the present duties. Price effects of the imports is more evident as there has been circumvention taking place to evade the duties already in force.

iv. The production, capacity utilization and sales of the domestic industry have declined during the period of investigation. It is further noted that market share of the dumped imports continued at same levels in the Indian demand even when there has been some temporary fall in the demand in India.

v. The profitability of the domestic industry has deteriorated, and the domestic industry is suffering losses. The improvement in profitability which started after the levy of anti-dumping duty has once again started to deteriorate with the circumvention of anti-dumping measures in force and also with the continuation of dumped imports.

vi. The domestic industry is earning negative return on capital employed which was positive in the previous years after the levy of current anti-dumping duties.

vii. The response of the co-operating exporter shows idle capacity to the tune of 20% in the POI which was only about 3% in the base year. The information also shows increase in inventory with the exporter. These facts show that the exporters have the potential to increase the exports at dumped levels in a short span of time if the existing anti-dumping duties are revoked.

viii. As noted from the response filed by the cooperating producer/exporter, currently the export volumes to third countries are much higher than exports to India and is also at lower prices when compared to India which shows that at present the existing anti-dumping duties are acting as a barrier to the unfair practices of the producer/exporter but, if the current anti-dumping duties are revoked, there is all the likelihood that the subject goods will be diverted to India at lower prices and in huge volumes considering the circumvention of anti-dumping duties on the subject goods from the subject country that has already been established through the recent findings.

ix. The fact that the dumped imports continued even after anti-dumping duties and there are practices like circumvention to evade the duties in place show a

strong likelihood situation that rate of imports may increase significantly if the existing anti-dumping duties are revoked.

x. The Authority accordingly concludes that there is a likelihood of continuation/recurrence of dumping and injury to the domestic industry in the event of cessation of duties at this stage.

## P. RECOMMENDATIONS

181. The Authority notes that the sunset review was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, exporters, importers/users and other interested parties to provide information on the aspects of dumping, injury and the causal link and likelihood of continuation or recurrence of dumping and injury. Having initiated and conducted the sunset review into dumping, injury and causal link and likelihood of continuation or recurrence of dumping and injury in terms of provisions laid down under the Rules, the Authority is of the view that continued imposition of anti-dumping duty is required on subject goods from subject country for the co-operating producer/exporters. The anti-dumping duty has accordingly been continued/imposed in accordance with the relevant provisions of sunset review.

182. Under these circumstances, the Designated Authority considers it appropriate and recommends continuation of anti-dumping duty on the imports of the subject goods originating in or exported from the subject country equal to the amount mentioned in Column 7 of the duty table below to be imposed from the date of notification issued in this regard by the Central Government for a further period of five years.

**DUTY TABLE**

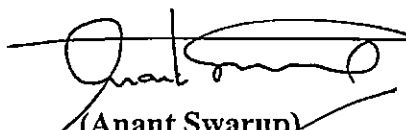
S. No	Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)		(5)	(6)	(7)	(8)
1	87169010	Axle for Trailers	China PR	Any country including China PR	Guangdong Fuwa Heavy Industries Co., Ltd.	0.16	Kg	US\$
2	87169010	Axle for Trailers	China PR	Any country including China PR	Any producer other than serial no 1	0.31	Kg	US\$
3	87169010	Axle for Trailers	Any country other than China PR	China PR	Any producer	0.31	Kg	US\$



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

**Q. FURTHER PROCEDURE**

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

  
(Anant Swarup)  
Designated Authority