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**No.15/1006/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan, New Delhi**

Dated the 4th September, 2013

**NOTIFICATION
(Final Findings)**

Subject: - Sunset Review anti dumping investigation concerning imports of 'Ductile Iron Pipes' originating in or exported from China PR.

No. 15/1006/2012-DGAD.– Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time, and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, the anti-dumping duty was originally imposed on import of Ductile Iron Pipes originating in or exported from China PR vide Notification No. 103/2007-Customs dated 14th September, 2007.

A. Background of the case

1. Whereas the Designated Authority (hereinafter also referred to as the Authority), 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, as amended from time to time (hereinafter also referred to as the Rules or the AD Rules or the Anti Dumping Rules), had initiated the original investigation on the imports of Ductile Iron Pipes (hereinafter also referred to as DI Pipes or the subject goods) originating in or exported from China PR (hereinafter also referred to as the subject country) vide Notification No. 14/14/2005-DGAD dated 24th February, 2006. The Authority issued its Final findings recommending imposition of definitive anti-dumping duty on imports of the subject goods originating in or exported from the subject country vide its Notification No.14/14/2005-DGAD dated 23rd August, 2007. The definitive anti-dumping duties were imposed by the Government of India vide Customs Notification No. 103/2007-Customs dated 14th September, 2007 on the imports of Ductile Iron Pipes originating in or exported from China PR.

2. Whereas in terms of Section 9A(5) of the Customs Tariff (Amendment) Act 1995, the anti-dumping duties 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 as to whether the expiry of the duty is likely to lead to continuation or recurrence of dumping and injury. M/s Electrosteel Castings Ltd., M/s Jindal Saw Ltd. and M/s Lanco Industries Ltd, constituting the domestic industry (hereinafter also referred to as the Domestic Industry or the DI), submitted a petition before the Authority in accordance with Section 9A(5) of the Act read with Rule 23 of the Anti-dumping Rules to initiate sunset review investigation in respect of the anti dumping duty imposed on the imports of the subject goods originating in or exported from the subject country vide Notification No.103/2007-Customs dated 14th September, 2007. Having satisfied itself of the prima facie evidence to initiate the sunset review, the Authority, in accordance with Section 9A(5) of the Act read with Rule 23 of the Anti-dumping Rules, initiated the sunset review vide Notification No. 15/1006/2012 dated 7th September, 2012 to examine as to whether cessation of the existing duty as notified vide Notification No.103/2007-Customs dated 14th September, 2007 would lead to continuation or recurrence of dumping and injury.
3. And whereas, the original antidumping duty has been extended by the Government of India up to 12th September, 2013 vide Notification No. 41/2012-Customs dated 13th September, 2012, in terms of Section 9(A)(5) of the Act.
4. The scope of the present sun set review investigation covers all aspects of the previous notifications.

B. Procedure followed in the Investigation

5. The procedure described below has been followed in this investigation:
 - i. The Authority notified the Embassy of the subject country in India about the receipt of a petition from the Domestic Industry alleging dumping of the subject goods from the subject country before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
 - ii. The Authority initiated the sunset review investigation vide Notification No. 15/1006/2012 dated 7th September, 2012 in accordance with Section 9A(5) of the Act read with Rule 23 of the Rules.
 - iii. The Authority forwarded copy of the Notification dated 7th September, 2012 to the Embassy of the subject country in India, known exporters, importers/users and the Domestic Industry and gave them an opportunity to make their views known in writing within forty days from the date of the letter communicating the initiation of the investigation in accordance with the Rule 6(2) of the Rules.

- iv. The Authority provided a copy of the petition as well as the exporter's questionnaire to the Embassy of the subject country in India and the following known exporters/manufacturers from the subject country in accordance with sub-rule (3) of Rule 6 supra with the request to provide relevant information to the Authority within the stipulated time:
1. Yongtong ductile cast iron pipe Co., Ltd
 2. Benxi Beitai Ductile Cast Iron Pipe Co., Ltd
 3. Beitai Iron and Steel Group Co., Ltd
 4. Chengdu Jinfeng
 5. Dalian Wantong Industrial Equipment Co., Ltd
 6. Hydera Machinery Limited
 7. Qian'anishi Jintang Ductile Iron Pipes Co., Ltd.
 8. Rizhao Zhufu Industry Co., Ltd.
 9. Shandong Ductile Iron Pipes Co., Ltd
 10. Shanghai Cast iron Pipe Plant
 11. Shanxi Guanghua Cast Pipe Co., Ltd.
 12. Shanxi Solid Industrial Co., Ltd
 13. Xinjiang Treasury Ductile Iron Pipe Co., Ltd.
 14. Xinxing Ductile Iron Pipes (Group) Co., Ltd.
 15. Saint Gobain (Xuzhou) Pipe Casting Co., Ltd.
- v. A Market Economy Treatment (MET) questionnaire was also provided to the known producers/exporters of the subject goods from the subject country and the Embassy of subject country in India with the request to provide relevant information to the Authority within the stipulated time.
- vi. M/s Saint Gobain (Xuzhou) Pipelines Co. Ltd. filed their exporter's questionnaire response (hereinafter also referred as SGPL or the responding producer). No other exporter/producer from the subject country filed the questionnaires' response.
- vii. Subsequently, at a much belated stage, i.e., subsequent to the public hearing, SGPL filed Part II of the questionnaire.
- viii. The Embassy of the subject country in India was also requested to advise other exporters/producers from that country who were not known to the Authority to respond to the initiation of investigation and the exporter's questionnaire within the prescribed time. A copy of the letter, petition and the exporter's questionnaire which was sent to the known exporters was also sent to the Embassy of the subject country in India.

- ix. The importer's questionnaire was sent to the following known importers/users/user associations of the subject goods in India for necessary information within the prescribed time in accordance with Rule 6(4) of the Rules:
1. Pratibha Industries Limited
 2. J V Gokal & Co. Pvt. Limited
 3. Gammon India Limited
 4. Larsen & Toubro Limited
 5. SPML India Limited
- x. None of the above mentioned importers/users/user associations or any other interested party responded to the questionnaire or the initiation notification.
- xi. The investigation was carried out for the period starting from 1st April 2011 to 31st March 2012 (12 months), i.e., the period of investigation (POI). The examination of trends in the context of injury analysis covered the period 2008-09, 2009-10, 2010-11 and the POI.
- xii. A copy of the non-confidential version of the petition was also provided to the other interested parties, wherever requested.
- xiii. The Authority kept a non-confidential version of the petition and other submissions presented by various interested parties from time to time in the form of a public file maintained by the Authority and kept the same open for inspection by the interested parties as per Rule 6(7) of the Rules.
- xiv. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties by the Authority.
- xv. The non-injurious price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of laid down guidelines under Annexure III of the AD Rules has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. An Oral Hearing was held on 28th June, 2013 by the Designated Authority to invite comments from the interested parties. This was attended by the representatives of the Domestic Industry and SGPL. The Authority has considered the written submissions and rejoinders received from these interested parties on the issues raised by them in the Oral Hearing.

- xvii. On the spot verification of the data provided by the domestic industry was carried out to the extent considered necessary by the Authority. No verification visit was carried out at the premises of SGPL as the Authority was of the view that the same was not necessary because the responding foreign producer SGPL had not exported the subject goods to India during the POI.
- xviii. The import data for the period of investigation and preceding three years was obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and considered to the extent found relevant to the investigation.
- xix. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 21.08.2013, so as to give them one more opportunity to submit comments and submissions, if any, on the contents and facts contained in the Disclosure Statement so as to examine these comments and submissions on their merits before the Final Finding could be issued. The post Disclosure Statement submissions received from the interested parties have been considered on merit, to the extent found relevant, in this Final Findings Notification.
- xx. *** in this Final Findings Notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.
- xxi. The exchange rate adopted by the Authority in this investigation is 1USD=48.14 as per the relevant customs notification.

C. Product Under Consideration and the Like Article

Submissions by the Domestic Industry

- 6. The following preliminary submissions had been made by the domestic industry with regard to the scope of the product under consideration (PUC) and the like article:
 - (i) The present investigation being a sunset review, the scope of the product under consideration has to remain the same as that of the original investigation in terms of Section 9A(5) of the Act read with Rule 23(1B) of the Rules. This is also the consistent practice of the Authority.
 - (ii) There is no difference in subject goods produced by the domestic industry and the subject goods produced in and exported from China PR and the subject goods are like articles in terms of the Rule 2(b) of the Rules.

- (iii) There is no material difference in the production process employed by the Chinese producers and the Indian producers of the subject goods.

Submissions by the responding foreign producer

- 7. The only responding foreign producer, SGPL, China PR, had made the following preliminary submissions:
 - (i) There is no manufacturing of DI Pipes of above 1.2 meter diameters in India and accordingly, all such pipes of higher diameter ought to be excluded from the purview of anti-dumping duties.
 - (ii) The Authority is required to examine all the factors in the sunset review investigation including the product scope.
 - (iii) Foreign producers producing higher diameters pipes are unable to export to India because of existing anti-dumping duties.

Examination by the Authority

- 8. In the original investigation, the product under consideration was defined as under:
 - 5. *"The product under consideration is Ductile Iron Spun Pipe as defined under clause 3.1 and 3.2 of International Standard, ISO 2531 (for water and gas) and ISO:7186 (for sewage applications). These are often also described as Spheroidal Graphite Iron Pipes or Ductile Cast Iron Pipes or Ductile Iron Spun Pipes. These are classifiable within 73030030 and 73030090 of the Customs Tariff Act.*
 - 6. *DI Pipes performs the function of transporting liquid object at long distances at high pressure. It is primarily used for transporting water or sewerage disposal and gas, transmission of domestic and industrial effluent, fire-fighting systems on shore and off-shore. The various applications of DI Pipes are:
 - 1. *Transmission of raw, potable and sea water at high pressures.*
 - 2. *Distribution of potable water and gas.*
 - 3. *Disposal of domestic and industrial effluent.*
 - 4. *Fire-fighting systems on shore and off shore"*.*
- 9. Ductile Iron Pipes are commonly known as DI Pipes-Ductile Iron Spun Pipe- as defined under clause 3.1 and 3.2 of International Standard, ISO 2531 (for water and gas) and ISO: 7186 (for sewage applications)-classifiable within 73030030 and 73030090 of the Customs Tariff Act, 1975. These are often also described as Spheroidal Graphite Iron Pipes or Ductile Cast Iron Pipes or Ductile Iron Spun Pipes. DI Pipes perform the function of transporting liquid object at long distances at high pressure. These are primarily used for transporting water or sewerage disposal and gas, transmission of domestic and industrial effluent, fire-fighting systems on shore and off-shore. The various applications of DI Pipes are transmission of raw, potable and sea water at high pressures, distribution of potable water and gas, disposal of domestic and industrial effluent and fire-fighting systems on shore and off shore.

10. The Authority noted that with regard to the Product Under Consideration the responding foreign producer had submitted that since there is no manufacturing of DI Pipes of 1.2 meter and above diameters in India, all such pipes of higher diameter ought to be excluded from the purview of anti-dumping duties. The domestic industry, on the other hand, had submitted that the present investigation being a sunset review, the scope of the product under consideration legally has to remain the same as that of the original investigation in terms of Section 9A(5) of the Act read with Rule 23(1B) of the Rules and that this is also the consistent practice of the Authority.
11. The Authority had examined these preliminary counter arguments on the product under consideration on the basis of submissions made by the responding producer and the domestic industry to the Authority before issuance of the Disclosure Statement and other information and records available to the Authority at that time and in accordance with that the Authority had noted that (i) the responding interested party from China PR, SGPL, has not exported DI Pipes (including DI Pipes of diameter 1.2 meter and above) to India in the POI, post POI as well as the injury period; (ii) no importer or any other opposing interested party has imported DI Pipes from any source and responded in the investigation at all- neither by way of importer questionnaire and/or any other submissions etc, including any request for exclusion of DI Pipes of any particular diameter; (iii) at the same time, during the course of the investigation the Authority also noted that the domestic industry is not manufacturing DI Pipes of 1.2 meter and above diameters; and (iv) in the final findings in the original investigation as well as the corresponding customs notification, the product was described as "*Ductile Iron Pipes*", falling under customs tariff items 73030030 and 73030090 which do not limit the scope of the Ductile Iron Pipes to any particular diameter. In view of the aforesaid, the Authority in the Disclosure Statement issued in this investigation had proposed to conclude that the contention of SGPL is misplaced as the present investigation is only a sunset review investigation and in a sunset review, in terms of Section 9A(5) of the Act read with Rule 23(1B) of the Rules, the scope of the product under consideration will remain the same as that in the original investigation. In view of the aforesaid, the Authority had proposed to determine that the scope of the Product under Consideration in the present investigation remains the same as that of the original investigation, i.e., Ductile Iron Pipes of all Diameters falling under customs tariff items 73030030 and 73030090.
12. The Authority had issued a Disclosure Statement to invite further comments on the contents contained therein from the interested parties. The Authority notes that in response to Disclosure Statement, SGPL has provided the following arguments to elaborate their point of view to exclude DI Pipes above 1100mm diameter:
 - (i) Even though it is an admitted position that the petitioner domestic industry cannot produce Ductile Iron Pipe above 1100 mm dia, Saint Gobain submits that production of Ductile Iron Pipe above 1100 mm dia is not possible for the domestic industry for the reason that the domestic industry lacks necessary manufacturing facilities in the form of required type of plant and equipment. Production of Ductile

Iron Pipe above 1100 mm dia requires deployment of the plant & machineries of requisite specifications. The process of manufacture of Ductile Iron pipe consists of a centrifugal casting machine where the liquid metal is poured into moulds which is spun at high speeds to produce pipes of required diameter and length. The pipes are then extracted from the mould and sent to the annealing furnace where it is heat treated. It is then coated on both inside and outside on special finishing lines which also have inspection devices to check the leak proof nature of the pipes. The casting machine, annealing furnace and finishing lines are all built for certain specific range of diameters and it is not feasible to use the set up flexibly to make pipes outside of this design range. The largest pipe that the Indian industry can produce with its current facilities is 1.1 meters. If they want to produce pipes of larger size, they need to invest in larger casting machines, larger annealing furnaces and larger finishing lines which in effect mean a totally new plant. The current plant & machineries cannot handle this process required for producing pipes above 1100 mm dia. This requires large capital expenditure not only for the equipment but also for the building and utilities to support the machines. This project will also take long time for execution. No customer can order the pipes and wait for the new plant to be set up and pipes made.

(ii) It is a misplaced legal position that the Authority cannot review scope of product under consideration in a sunset review. The Designated Authority has in the past reviewed the scope of product under consideration during sunset review. In the matter of Sunset Review investigation of anti dumping duty imposed on imports of PVC Paste Resin, the Authority not only reviewed the scope of product under consideration but also exempted one product type from the scope of the product under consideration. In this matter, the disclosure statement issued before CESTAT order included PVC Paste/Emulsion Resin with K value below 60 and with K value above 78 but post CESTAT order, the interested parties sought exclusion of PVC Paste/Emulsion Resin with K Value above 78 and after elaborate investigations, the Authority excluded PVC paste resin with K value below 60 and included PVC paste resin with K value above 78.

13. The Authority further notes that in response to Disclosure Statement, the domestic industry has maintained that they are currently manufacturing DI Pipes up to 1200mm diameters and also provided the following arguments to elaborate their point of view as to why DI Pipes above 1200mm diameter should not be excluded:

(i) The present investigation is only a sunset review investigation in terms of Section 9A (5) of the Act read with Rule 23(1B) of the Rules where the scope of the product under consideration remains the same as that in the original investigation. Seeking a review of the Product under Consideration in a sunset review is not only ill-advised but also illegal.

(ii) As regard the observation of the Authority that Domestic Industry is not manufacturing DI Pipes of 1.2 meter and above diameters in India, it is submitted that

any part of the Final Findings which is not specifically mentioned in the review initiation notification cannot be addressed. This would be against the provisions of the anti-dumping laws. The initiation notification in the present sunset review investigation itself restricts the scope and it is neither open nor permissible to address issues which do not form part of the initiation notification. Amending the Product under Consideration would amount to carrying out changes which were not even a part of the initiation notice. Domestic Industry would also like to submit that this very issue was in existence during the initial investigation in 2007 wherein it was mentioned that in India, DI Pipes are made in several sizes varying from 80mm to 1100mm diameters. Large sizes of pipes can also be made. No comments and/or objection was recorded/observed on this statement that “Large sizes of pipes can also be made” during the initial investigation in 2007. No appeal was also filed against the Final Findings by any of the interested parties.

(iii) Further, presently there is no demand of DI pipes exceeding 1200 mm diameter in India. To the best of the information of the Domestic Industry, no tenders of DI pipes exceeding 1200mm diameter have been floated so far in the Indian market. Further, the domestic industry understands that no imports of even higher dias has taken place in the Period of Investigation. Currently, the Domestic Industry has been producing DI pipes up to 1200 mm diameter in India because so far there has been no demand for higher dias in India. It may be noted that for higher size DI pipe, liquid metal and various other facilities are common and some additional investment is required only in spinning machine and annealing furnace. Production flow chart submitted indicates the stage where updation is required.

(iv) It is reiterated that the Indian industry is in the advanced stage of setting up a Greenfield Steel Project at Bokaro, Jharkhand. This project includes a plant for manufacturing DI pipes in sizes above 1200 mm also. It is important to note that substantial investments have already been made. Out of the estimated project cost of Rs.400 crores for this DI pipe plant, Rs 300 crores has been already invested. This clearly proves that any such exclusion would not only be contrary to law but also detriment to the interests of the Domestic Industry.

(v) It may be recalled that the principles set out by the Authority in the case of SDH Equipment [Final Findings No. 14/2/2009-DGAD dated 19.10.2010] are fully applicable in the facts of this case. In the said case (even though it was a fresh investigation), the Authority concluded that no product can be excluded unless it is exported to India during the investigation period in order to prove that domestic industry is not capable of supplying the said product. It also held that exclusions cannot be sought if there have been substantial investigations to produce those products by the Domestic Industry during the relevant period. From this case, it is clear that even in the fresh investigation, the Authority has not excluded the product on the grounds that the product has not been exported in the country by the exporters

and on the premise that significant investments were made by the Domestic Industry to develop the product.

14. The Authority has examined all these facts and post Disclosure Statement submissions and past precedence with respect to changing the scope of the product under consideration in a sunset review investigation and concludes the following:

(i) As regards the reference of SGPL and the domestic industry to certain previous investigations dealing with the change in the product scope by the Authority, the Authority is of the view that an investigation is conducted on the individual facts and merits of each case which may differ. Still, as regards the contention of the responding exporter that in the matter of PVC Paste/Emulsion Resin referred above (Sunset Review Investigation of anti dumping duty imposed on imports of PVC Paste Resin originating in or exported from European Union-Final Findings No 15/27/2008-DGAD dated 4th April, 2013), in which the product scope was changed/curtailed by the Authority in a sunset review, the Authority notes that the facts in that case and the present case are different. In the above referred case, the Authority had excluded certain product type not because the domestic industry was not manufacturing that certain type of product but because the Authority had already excluded the concerned product type in a parallel investigation (Anti dumping investigation concerning imports of PVC Paste Resin originating in or exported from China PR, Japan, Korea RP, Malaysia, Russia, Taiwan and Thailand).

(ii) As regards the contention of the responding exporter that the production of Ductile Iron Pipes above 1100 mm dia is not possible for the domestic industry for the reason that the domestic industry lacks necessary manufacturing facilities in the form of required type of plant and equipment, the Authority notes that the issue that Domestic Industry manufactures DI Pipes up to 1100 mm dia only was in existence during the original investigation in 2007 as well but no comments and/or objection were recorded/observed on the statement that "Large sizes of pipes can also be made." The Authority notes that in the present sunset review investigation, though admittedly the Domestic Industry is manufacturing DI Pipes up to 1100mm dia only and SGPL has raised this issue, these are also the facts that (i) in the absence of demand, neither the responding interested party from China PR, SGPL, has exported DI Pipes (including DI Pipes of diameter 1.2 meter and above) to India in the POI, post POI as well as the injury period nor the domestic industry has manufactured higher dia pipes; and (ii) no importer or any other opposing interested party has imported DI Pipes from any source and responded in the investigation at all- neither by way of importer questionnaire nor by any other submissions etc, including any request for exclusion of DI Pipes of any particular diameter.

15. After careful consideration of the above facts and submissions as well as the past precedence, the Authority maintains its stand that the scope of the product under consideration remains Ductile Iron Pipes of all diameters falling under customs tariff items 73030030 and 73030090.

16. No argument has been raised by any interested party on the issue of “like article”. In view of above, the Authority holds that the DI pipes manufactured by the domestic industry and those produced in China PR are “like articles” in terms of Rule 2(d) of the Anti-dumping Rules.

D. Scope of the Domestic Industry and Standing

Submissions by the Domestic Industry

17. M/s Electrosteel Castings Ltd., M/s Jindal Saw Ltd. and M/s Lanco Industries Ltd, constituting the domestic industry. The following submissions have been made by the domestic industry with regard to the scope of the domestic industry and its standing:
- (i) The applicants' share of production of subject goods constitutes 72% of the total Indian production which constitutes a major proportion of the total domestic production in the country. Further, they have not imported the subject goods from the subject country and hence they constitute the eligible domestic industry in terms of Rule 2(b).
 - (ii) As regards the issue of “Standing”, it is submitted that the test of “Standing” is not applicable in any proceeding under Section 9A(5) and, therefore, irrelevant. Nevertheless, they meet with all the criteria of “Standing” in terms of Rule 5.

Submissions by the responding foreign producer

18. SGPL is not disputing the share of the petitioners in the total domestic production, but raises certain issues regarding the computation of the total demand in the country. They have submitted when the share of Domestic Industry in production is 72%, they could not have computed the total demand based only on their sales figures.

Examination by the Authority

19. The Authority notes that no relevant submission has been made by any interested party with regard to the status of the domestic industry to the present case. The Authority, therefore, has examined the merits of the information of the applicants, namely, M/s Electrosteel Castings Ltd., M/s Jindal Saw Ltd. and M/s Lanco Industries Ltd., and considers them as eligible domestic industry for the purpose of the present sunset review investigation within the meaning of the Rules.

E. Issues relating to Confidentiality

Submissions made by the responding foreign producer

20. The following are the submissions made by the responding foreign producer concerning confidentiality:
- (i) Excessive confidentiality claimed by the domestic industry and allowed by the Authority.
 - (ii) Consolidated information of domestic industry should not be allowed to be kept confidential.
 - (iii) Information available in the public domain should not be allowed to be kept confidential.

Submissions by the Domestic Industry

21. The following are the submissions made by the domestic industry with regard to the issue of confidentiality:
- (i) That the petitioner has claimed confidentiality in accordance with the provisions of the law and the Trade Notice issued by the Authority in this regard. The claim of confidentiality has been made with proper justification and so permitted by the Authority.
 - (ii) On the contrary, the responding foreign producer has itself claimed confidentiality without providing statement of confidentiality which is a prerequisite under the Rules and the procedure. No claim of confidentiality can be allowed unless and until such claim is supported by proper justification. The foreign producer has claimed confidentiality even on its product brochure and product catalogues which cannot be permitted in terms of the Rules and the Trade Notice issued in this regard. In any case, since the foreign producer has failed to fulfill its obligations under the Rules, their claim for confidentiality and all the information submitted by them ought to be rejected.
 - (iii) SGPL has not disclosed that one of their related companies is also engaged in the production of subject goods in China PR and, to that extent, has withheld the information even from the Authority.
 - (iv) In support of its claim to confidentiality, the Domestic Industry argues that even the consolidated injury information cannot be disclosed considering that out of three companies constituting domestic industry, two companies are related to each other. Disclosure of information in the non-confidential version would make it possible for competitors to infer each other's commercially

sensitive information. Furthermore, disclosure of price related information such as profit, return on capital employed, cash flow, cost of production, selling price, etc. would cause serious prejudice to the interest of the domestic industry.

Examination by the Authority

22. The Authority made available to the interested parties the public file containing non-confidential version of evidences / information submitted by the interested parties for inspection, upon request, as per Rule 6(7). The Authority examined the confidentiality claims of the interested parties and on being satisfied with regard to the claim on confidentiality, the same has been allowed in accordance with the rules and the standard practices of the Authority.

F. Miscellaneous Submissions

Other submissions by the responding foreign producer

23. The responding foreign producer SGPL has submitted that adequate protection of anti dumping duty has been given to Domestic Industry for 5 years during which the Domestic Industry should have improved its position.

Other submissions by the Domestic Industry

24. The responding foreign producer SGPL at many times during the course of investigation attempted to mislead the Authority by addressing themselves as exporter of the subject goods at some places and foreign produces at other places. In fact, they had not been able to clarify as to why they are opposing the duties if their ultimate plan is to set up production facility in India.
25. During the public hearing the responding foreign producer SGPL has accepted that they have not submitted Part II of exporter questionnaire. Domestic Industry is unable to appreciate how in the written submissions they can claim they have submitted all the information to the Authority. It is the consistent practice of the DGAD not to accept any response by any party after the public hearing. It is further submitted that in several cases the Authority rejected the information because the information was filed first time after the public hearing. Acceptance of responses at this belated stage of the investigation would be against all the principles of pleadings and natural justice. As regards the contention of SGPL that neither the Designated Authority nor the Domestic Industry pointed out the deficiency for such a long time, it is submitted that such an approach is a feeble and mischievous attempt by the party to shift its burden on other parties. Further, this is not a case of deficient information but complete failure to file the prescribed format itself. It is clear that despite the assistance of

professionals, the said party has not fulfilled its legal responsibility. This surely is not a case of error, but a deliberate attempt to withhold the information to mislead the Authority.

Examination by the Authority

26. The Authority notes that the purpose of a sunset review is to examine as to whether there is any likelihood of continuation or recurrence of dumping or injury in the event the anti-dumping duties are not extended and for this purpose all the relevant information is to be examined by the Authority.
27. The Authority notes that the responding foreign producer has not provided the relevant Part II questionnaire response. The Authority also notes that, admittedly, the responding exporter is not the major exporter of the product under consideration from China and, therefore, in any case their questionnaire response is not useful in deciding likelihood of dumping and injury in the event of cessation of anti dumping duty. Therefore, their questionnaire response cannot be considered as sufficient for the purpose of the present investigation. Once the investigation has been initiated and the Authority has sent notices to all the interested parties to provide the relevant information, the onus of submitting the information in all the prescribed formats is on the interested parties. The major Chinese companies have not cooperated with the Designated Authority with questionnaire response and, therefore, the Authority is required to determine likelihood of dumping and injury based on best available information. Further, since there is no export from China during the current period, the Authority is required to determine likelihood of injury on the basis of cumulative exports from China. It is also noted that since the purpose of the present review is to determine likelihood of dumping and injury in the event of cessation of anti dumping duty, in a situation like the present where there were no exports from China to India, the likelihood of dumping and injury is required to be determined based on extent of dumped and injurious imports from China. Thus, individual questionnaire response from China in a sunset review case where there are no exports is of limited relevance.

G. Assessment of Dumping – Methodology and Parameters

Dumping Margin and Likelihood of Dumping

Normal Value

Submissions made by the Domestic Industry

28. The Domestic Industry has made the following submissions:
 - (i) Normal value for China PR has to be determined in terms of the provisions for non-market economy countries.
 - (ii) After the determination of the fact that Chinese producers are not entitled for market economy treatment, the Authority shall follow Para 7 of Annexure I of

the AD Rules for the determination of Normal Value. Normal Value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available. In order to arrive at Normal Value on this basis, the Authority shall require complete and exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country along with its cost of production and all other associated information and evidences (including all information in the ordinary course of trade). Principles of fair comparison as laid down under Article 2.4 of the Anti Dumping Agreement are also relevant in this respect. Petitioners have not been able to procure such information from a producer in the market economy third country.

- (iii) In the original investigation, the Authority had not granted market economy treatment to any of the exporters from China and determined the Normal Value in China on the basis of the constructed Normal Value based on the estimated cost of production of the subject goods in China with reasonable profit in terms of Para 7 & 8 of the Annexure 1 to the said Rules as amended. The petitioners request the Authority to consider the same methodology to calculate the Normal Value for China PR in the current investigation.
- (iv) The proposed Normal Value in China has been computed on the basis of cost of production in India, duly adjusted. The raw material cost for DI Pipes has been calculated on the basis of the weighted cost of raw material of the domestic industry as the same is indicative of the international prices.
- (v) As regards the submission of the respondent that their cost of production is not lower than that of the domestic industry in India, the domestic industry submits that if the contention of the respondent is true then it would only lead to a higher dumping margin. With the high level of likely dumping margin, it is almost certain that in the event duties are removed, there is every chance that exporters from China would again start dumping of the subject goods in India.

Submissions by the responding foreign producer

29. Following submissions have been made by sole responding foreign producer SGPL:

- (i) The petitioner has claimed significantly higher normal value in an attempt to establish dumping when none exists.
- (ii) The petitioner has considered “weighted average cost of raw material for the Domestic Industry” which is clearly against established practice. The Designated

Authority considers international prices for raw material and not the consumption price of the Domestic Industry. This is more so in the present case when there are significant imports of one of the key raw materials, i.e., iron ore and other raw material involved in the production of the product.

- (iii) The Authority has not followed the consistent practice of considering the lowest normated cost and lowest NIP for constructing normal value.
- (iv) The petitioner has claimed China as non market economy country and further, claimed that the normal value is required to be constructed based on Para 7 of annexure 1. Therefore, the prices prevailing in China are totally irrelevant to the petitioner and yet the petitioner has proceeded by considering Chinese cost.
- (v) The erroneous and inflated working of the normal value becomes very obvious when compared with the prices at which Domestic Industry is exporting to countries like Qatar, Singapore, Spain or even the prevailing market prices.

Examination by the Authority

30. As a part of the proceedings in this investigation, the Authority had sent questionnaires to the known exporters/producers from the subject country advising them to provide information in the form and manner prescribed. As mentioned above, there has been no response to the questionnaire nor has there been any submission by the any of the major Chinese producers/exporters except SGPL. Only SGPL, who incidentally does not account for the major share of exports from China to other countries, has responded and that too partially after the oral hearing. It is also noted that SGPL has not exported the subject goods to India during the POI. The major Chinese companies have not cooperated with the Authority with questionnaire response and, therefore, the Authority is required to determine likelihood of dumping and injury based on cumulative exports from China. It is also noted that since the purpose of the present review is to determine likelihood of dumping and injury in the event of cessation of anti dumping duty, in a situation like the present where there were no exports from China, the likelihood of dumping and injury is required to be determined based on extent of dumped and injurious imports from China. Thus, individual questionnaire response from China in a sunset review case where there are no exports is of limited relevance.
31. The Authority notes that in the past three years, China PR has been treated as a non market economy country in the anti-dumping investigations by India subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.

32. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s)/producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in subparagraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from China PR are required to furnish necessary information/sufficient evidence as mentioned in sub paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology, labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- ii. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and
- iv. The exchange rate conversions are carried out at the market rate.

33. It is noted that none of the Chinese exporters/producers, except SGPL, has responded to the prescribed questionnaires nor submitted complete questionnaire responses. SGPL has submitted part information. However, the company is not a major exporter of the product under consideration from China. In the absence of cooperation from the Chinese exporters/producers, it would not be appropriate to take cognizance of the part information supplied by the sole respondent, namely, SGPL. The Authority, therefore, determines the normal value in accordance with para 7 of Annexure 1 to the Rules.

34. Para 7 of Annexure I of the AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due

account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”.

35. As regards questionnaire response filed by SGPL and market economy treatment claimed by them, the authority notes that the likelihood of dumping and injury in the present case is based on total exports from China and the same cannot be based on exports by individual Chinese company. Therefore, the Authority has not determined normal value for SGPL. Claim of market economy treatment by SGPL becomes relevant only if the Authority decides normal value for SGPL. In the absence of any exports to India, the Authority has not determined individual dumping margin for Chinese exporters. Market economy treatment and normal value claimed by SGPL is therefore of no relevance in the present case in the absence of questionnaire response from major Chinese exporters. The AD Rules remaining un-rebutted, the Authority has determine the constructed Normal Value in accordance with para 7, Annexure I of the AD Rules for the reasons mentioned earlier. In the absence of sufficient information on record regarding the other methods as are stipulated in para 7 of Annexure I of the AD Rules, the Authority determines the Normal value by adopting the method “any other reasonable basis”.
36. The Authority has relied on the international prices of major raw material along with the consumption norms, conversion cost and SGA of the most efficient domestic producer. Profit @ 5% on the cost of production has been added to arrive at the constructed normal value. By adopting this method, the constructed normal value is determined as US\$ *** per MT.

Export Price

37. The Authority notes that there are no exports of the subject goods to India from the subject country in the entire injury investigation period including the POI and the post POI. In the absence of exports to India by any of the Chinese exporters including the responding producer/exporter SGPL from China, the Authority has not been able to determine the ex-factory export price for the POI and the post POI period.

Dumping Margin

38. Since there are no exports of the subject goods to India from the subject country in the entire injury investigation period including the POI, the Authority has not been able to determine the ex-factory export price and the dumping margin for the POI and the post POI period.

H. Assessment of Injury and Examination of Causal Link

Assessment of Injury

Submissions made by the Domestic Industry

39. Domestic Industry has submitted as follows:

- (i) Since there have been no imports of the subject goods either during the Period of Investigation or the injury investigation period, no injury analysis can possibly be made of current injury. In any case, the analysis of current injury recedes into insignificance in case of a sunset review particularly when there are no imports.
- (ii) Domestic Industry further submits that the mandate of the law for the Authority is only to carry out likelihood analysis as envisaged in Section 9A (5). Further, the Domestic Industry has been able to collect data of exports by the Chinese exporter to other countries during this period. There is sufficient indication that if the export price to other countries is taken as an estimate of the likely export price to India (once the anti-dumping duties are removed), it would be clear that the Chinese exports will injure the Domestic Industry. The price undercutting as well as price underselling analysis would reveal that if the duties are not extended, the injury to the domestic industry is imminent.

Submissions made by the responding foreign producer

40. SGPL has made the following submissions:

- (i) Domestic Industry is suffering injury because of the internal competition and some other factors such as non-availability of coal, delay in projects etc. Domestic Industry has straightaway jumped to likelihood without commenting about the current status of injury to them. It is further submitted that the current injury cannot be attributed to import as there are no imports of the subject goods in India.
- (ii) SGPL further submits that if the Domestic Industry matches the prices of exports from China, their profitability will increase. Further, SGPL submits that cessation of anti-dumping duties cannot lead to deterioration of profitability as their likely landed price of imports shall be higher than that of the Domestic Industry prices.
- (iii) Future imports of SGPL will not lead to price suppression in the market. Further, Domestic Industry will never reach the non-injurious price because of huge surplus capacity and cut-throat competition in the market.

Examination by the Authority

41. The Authority notes that there have been no imports of the subject goods either during the Period of Investigation or the injury investigation period in this sunset review investigation. The Authority's emphasis, therefore, is on analysing the likelihood of dumping and injury though the Authority analyzed the factors in relation to the current injury as well. Further, the Authority notes that SGPL has not exported the subject goods to India during the entire injury investigation period and also not provided the relevant data as required by the Authority in the stipulated timelines.

Volume Effect and Price Effect of the dumped imports

42. The Authority notes as per the Rules, the Authority is required to do the analysis of the volume effect of the dumped imports on the market share of the domestic industry and the effect of the dumped imports on the prices of the domestic industry to determine price undercutting/price underselling/price suppression/price depression.

Economic parameters relating to the domestic industry

43. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down as follows:-

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments”

Production, Capacity, Capacity Utilization and Sales

44. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry cannot be examined in terms of total production, capacity utilization and domestic sales of the domestic industry as there are no imports of the subject goods during the entire injury investigation period. However, the Authority notes capacity, production, capacity utilization and sales volumes of the domestic industry as under:-

Particulars	Unit	2008-09	2009-10	2010-11	April 2011 to March 2012 (POI)
Capacity-DI	MT	760000	760000	760000	805000

Production-DI	MT	626955	661231	668004	641504
Production-Others	MT	47401	67627	128309	250000
Capacity Utilization-DI	%	82%	87%	88%	80%
Domestic Sales-DI	MT	526608	554930	532699	459512
Domestic Sales-Others	MT	31518	67527	107701	205116
Imports from all Sources	MT	Nil	Nil	Nil	Nil
Export Sales-DI	MT	***	***	***	***
Total Demand (MT)	MT	558126	622456	640400	664628

45. The Authority notes that:-

i. The Domestic Industry increased its capacity to meet the increasing demand of the product in India. The production of domestic industry has also increased in the POI as compared to the base year, i.e., 2008-09.

ii. Capacity utilization of the domestic industry during the POI has declined as compared to the base year as well as the previous year.

iii. The Authority further notes that the domestic sale of the domestic industry has also declined during the POI as compared to the base year as well as the previous year.

iv. It is also seen that the production of other producers in India has increased in the POI as compared to the base year.

Profits, return on investment and cash profit

46. The profits, cash profit and return on investments earned by the domestic industry from the sales of the subject goods in the domestic market were as under: -

Particulars	Unit	2008-09	2009-10	2010-11	POI
Per unit profit/loss	Rs./MT	***	***	***	***
Trend	Index	100	288	173	-29
Profit/loss on domestic sales	Rs Lacs	***	***	***	***
Trend	Index	100	303	175	-25
Profit before interest & tax	Rs Lacs	***	***	***	***
Trend	Index	100	217	141	14

Cash Profit	Rs Lacs	***	***	***	***
Trend	Index	100	249	159	2
Return on Investments	%	***	***	***	***
Trend	Index	100	255	211	15

47. The Authority notes that:

- i. Domestic industry's profitability has improved in 2009-10 and then declined in 2010-11 and then further declined in the POI.
- ii. Similar trend is observed in case of cash profit and return on investment also.

Employment, wages and productivity

48. The number of employees employed by the domestic industry, wages paid and its productivity shows as follows:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Employment	Nos	***	***	***	***
Trend		100	100	109	84
Wages	Rs. Lacs	***	***	***	***
Trend		100	113	133	128
Productivity per employee	MT/Nos.	***	***	***	***
Trend		100	105.	98	121
Productivity per day	MT/day	***	***	***	***

49. The Authority notes that:

- (i) Productivity per employee has increased in the POI as compared to the base year and productivity per day in POI has increased as compared to the base year. However the same has decreased as compared to the previous year.
- (ii) Wages paid to the employees increased till in 2010-11 and then declined in POI. However, overall wages paid increased in the POI as compared to the base year.

Inventories

50. Inventory position of the domestic industry is given in the table below:

Particulars	Unit	2008-09	2009-10	2010-11	POI
Average Stock	MT	***	***	***	***
Trend		100	122	181	291

51. It is noted the average inventory of the domestic industry increased during the entire injury investigation period.

Magnitude of Dumping Margin

52. The Authority notes that dumping margin from the subject country cannot be examined as there are no imports of the subject goods during the entire injury period. However, the likelihood of dumping has been analysed in the latter part of this Final Finding.

Ability to raise capital

53. The condition of the Domestic Industry will become worse once the anti-dumping duties in force are withdrawn as this will provide a stimulus to the manufacturers and exporters of the subject goods from the subject country to dump the subject goods at dumped prices in the domestic market. Therefore, Domestic Industry will face serious problem to raise capital from the market or from financial institutions.

54. The petitioning companies are multi-product companies. However, the present analysis has been done only for the Product under Consideration and the performance of other products does not have any bearing on the performance of the Product under Consideration.

Growth

55. The Authority notes from the table below that the growth of the domestic industry in respect of production, sales, market share, demand, profitability and ROC had declined during the injury period.

Particulars	2008-09	2009-10	2010-11	POI
Production (%)	-	5.5%	1.0%	-4.0%
Sales (%)	-	5.4%	-4.0%	-13.7%
Market Share(%)	-	-5.5%	-6.7%	-16.9%
Demand(%)	-	11.5%	2.9%	3.8%
Profitability(Rs in lakh%)	-	203.2%	-42.2%	-114.3%
ROC(%)	-	154.8%	-17.0%	92.7%

Examination of Causal Link:

Submissions made by the Domestic Industry

56. The domestic industry submits that:

- (i) It is a settled position of law that causal link analysis is not mandatorily required to be done in sunset review investigations. In this connection, the domestic industry invites the attention of the Authority to the following excerpts from the Appellate Body decision in the case of Oil Country Tubular Goods from Mexico (WT/DS282/AB/R dated 2 November 2005):

“118. We therefore agree with Mexico that this fundamental principle is expressed in Article VI of the GATT 1994 and in various provisions of the Anti-Dumping Agreement. The United States does not question this principle per se. However, this does not mean that a causal link between dumping and injury is required to be established anew in a "review" conducted under Article 11.3 of the Anti-Dumping Agreement. This is because the "review"

contemplated in Article 11.3 is a "distinct" process with a "different" purpose from the original investigation."

119. The Appellate Body has underlined that "the nature of the determination to be made in a sunset review differs in certain essential respects from the nature of the determination to be made in an original investigation", and that "[t]he disciplines applicable to original investigations cannot, therefore, be automatically imported into review processes."

X. Findings and Conclusions

219. for the reasons set forth in this Report, the Appellate Body:

(a) in relation to causation:

(i) finds that there is no requirement to establish the existence of a causal link between likely dumping and likely injury, as a matter of legal obligation, in a sunset review determination under Article 11.3 of the Anti-Dumping Agreement and that, therefore, the USITC was not required to demonstrate such a link in making its likelihood-of-injury determination in the sunset review at issue in this dispute;"

- (ii) It is further submitted that there are good technical and logical reasons for not applying the requirement of causal link in a sunset review case. If duties can be extended even if there are no imports, the question of carrying out the causation analysis does not arise. Further, the test for extension of the period of duties under Section 9A(5) is only to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

Submissions made by the responding foreign producer

57. The Authority notes that the foreign producer has claimed that domestic industry has not provided information on causal link as it is not mandatory in the sunset review cases. This approach is contradictory to the established practice of the DGAD. In view of this, the responding interested party requests the Authority to kindly follow the consistent practice followed by the DGAD in every case. Further, domestic industry is facing material injury despite no imports from the subject countries.

Examination by the Authority

58. Annexure 2 to the Rules provides as follows with regard to Causal Link:

“It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the Designated Authority. The Designated Authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must 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 dumping 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.”

59. As far as the analysis of injury caused by the other factors is concerned, the Authority notes as under:

Volume and value of imports not sold at dumping prices:

60. There are no imports of the subject goods from the subject country in the entire injury period. Further, there are no imports from other countries also. Therefore, volume and value of imports and its impact on the domestic industry cannot be analysed.

Contraction in demand:

61. Demand of the product under consideration has not registered any negative growth. Instead, it has increased and shown a positive growth. Thus, contraction in demand is not a possible reason which could have contributed to the injury to the domestic industry. Further, there is no reason to believe that demand is likely to decline.

Changes in the patterns of consumption:

62. The DI pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

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

63. There is no trade restrictive practice which could have contributed to the injury to the domestic industry. It is also seen that the production of other producers in India has increased in the POI as compared to the base year. It indicates that the decline in the

production of the domestic industry seems to be due to the competition from the other domestic producers.

Developments in technology:

64. Technology for production of the product has not undergone any change nor are there any likely changes in the coming future. Developments in technology are, therefore, not a factor of injury.

Export performance:

65. The petitioning companies export the product under consideration. However, only information relating to domestic sales has been taken into consideration for assessment of injury.

I. Likely Export Price, Likelihood of Continuation/Recurrence of Dumping and Likelihood of Continuation/Recurrence of Injury

Submissions made by the domestic industry

66. The following submissions have been made by the domestic industry regarding the likely export price, likelihood of continuation/recurrence of dumping and likelihood of continuation/recurrence of injury:
- (i) The present duty is to be continued to protect the interest of domestic industry from the adverse effect of dumping of the subject goods from the subject country. Since there have been no exports of the subject goods during the Period of Investigation or in the preceding years, the Domestic Industry has submitted that the Authority needs to determine the likely export price to India on the basis of the export prices of the said goods from China to other appropriate third countries. It is submitted that export price to Saudi Arabia can be considered as the most appropriate as China exports 32% of D I Pipes to Saudi Arabia and the significance of water distribution is similar in the two countries. Similarly, the Domestic Industry had also considered the prices to Pakistan and Bangladesh for likely export price to India. It is submitted that the prices to these countries, which are geographically in the same region, are also comparable even though the volumes to these countries are small. Without prejudice, it is submitted by the Domestic Industry that the proposition of the foreign producer to consider weighted average export price to the rest of the world as an estimate of the likely export price to India, does not have any legal or economic justification. The anti-dumping rules and jurisprudence provides enough indication that “appropriateness” is the criterion to be used when it comes to third country prices.

- (ii) The said foreign producer has accepted that they are not major exporters from China. Therefore, their submissions/information cannot be of any significance as it cannot be considered as representative data from China to determine the likely export price to India.
- (iii) Calculation of export price has been done strictly as per the consistent practice of the DGAD. Further, for reaching landed value, the domestic industry has added ocean freight, insurance, landing charges and custom duty to the FOB value. The same ocean freight and insurance is deducted to arrive at the ex-factory price. Therefore, there are no errors in the methodology used by the domestic industry to determine ex-factory price of subject goods in China.
- (iv) China is having huge production capacity to meet the entire domestic demand in India. Moreover, China had made substantial capacity addition. The capacity addition itself is more than the total production capacity of the Domestic Industry. Furthermore, huge capacity additions are in the pipeline.
- (v) Export prices to other countries clearly indicate the likely behavior of the exporters from China. Further, the sole respondent has admitted the fact that they would be selling the subject goods into the Indian market at prices lower than the domestic prices in India in order to capture the market. That being the case, the increased level of price undercutting is imminent.
- (vi) Dumping margin calculated on the basis of the likely export price is in the range of 50%-60%. In such a situation, withdrawal of anti-dumping duties will only worsen the situation of the Domestic Industry as it will encourage free flow of dumped imports which will definitely have an adverse impact on the domestic selling price, market share and ultimately on profits of the domestic industry.
- (vii) With the huge surplus capacities available in China and the low price at which the subject goods are being supplied to other countries, it is clear that the domestic producers in India will have no option but to match such Chinese prices. According to the export statistics of China, the FOB price to Saudi Arabia is Rs. 36190 per MT. Adding the other elements of landed value, namely, freight, handling charges and basic customs duties, the landed value works out to be 40472 Per MT. The said estimated landed value has a significant price underselling of 36% and price undercutting of 11%.
- (viii) Similar position would emerge even if the analysis is carried out on the basis of the export prices to countries like Pakistan, Bangladesh and Sri Lanka.
- (ix) If the goods are sold at the likely landed value, it is imminent that the Domestic Industry will suffer huge losses on their sales. The likelihood of

recurrence of dumping and continuation of injury and the injurious effect on the prices of the domestic industry is, therefore, imminent.

- (x) Domestic Industry reiterates that the Chinese products are not competitive unless and until they indulge in dumping practices. Further, the present level of anti-dumping is only about 15% of CIF value, which is very nominal by any standards. Despite this, no exporter has exported the subject goods nor did they participate in any of the tenders floated by the customers. Last but not the least, if the stated objective of the said exporter is to eventually establish a manufacturing facility in India, it is far from clear as to why they are interested in opposing the anti-dumping duties. Despite categorical questioning by the Designated Authority during the course of the public hearing, SGPL is silent on the issue. This clearly establishes the ulterior and nefarious intent of the said party.

Submissions by the responding foreign producer

67. The following are the submissions made by SGPL with regard to likely export price, likelihood of continuance or recurrence of dumping and likelihood of continuance or recurrence of injury:
- (i) For the purpose of likely export price to India, the Authority should consider weighted average price of exports from China to the rest of the world instead of taking the export price to a few selected countries, as suggested by the Domestic Industry.
 - (ii) Calculations done to establish likely injury and dumping to the domestic industry are based on mere assumptions without substantiating the same with proper facts and evidence.
 - (iii) Construction of export price is erroneous as the domestic industry has deducted ocean freight and insurance from the FOB import data collected from some Chinese agency.
 - (iv) Domestic Industry has not provided details regarding excess capacity available with the Chinese exporters as also not clarified as to whether it is talking about current capacity or capacity in the next 1 or 2 years. The domestic industry should provide year-wise details of capacity, production, etc. to establish excess capacity in China.
 - (v) SGPL is not a major exporter and hence they would not indulge in dumping once the anti-dumping duties are revoked. Further, they only want to exclude higher diameters pipes from the product scope.
 - (vi) Domestic Industry has not provided valid evidence to prove the likelihood of continuance or recurrence of injury.

- (vii) Saint Gobain is not a major exporter from China. They only want cessation of anti-dumping duties on higher diameter pipes for seed marketing. They further admit that they have no significant price advantage to flood Indian market with subject goods.
- (viii) Due to logistics difficulties, it is very difficult to export DI pipes to India. Saint Gobain only wants to export subject goods of higher diameters which, according to them, are not manufactured in India.
- (ix) It is further submitted that no other country has levied anti-dumping duty on the product under consideration from China. Therefore, there is no need to extend the period of duties.
- (x) India is not a price attractive market because of the internal competition among the domestic producers. Further, the Chinese products are more expensive as compared to the Indian producers. In view of this, it is most likely that no Indian consumer will buy the subject goods from China. Even Chinese exporters will not make any money with such low prices being offered in the Indian market and given the custom duty and the freight.

Examination by the Authority

- 68. While the questionnaire response filed by SGPL has not been accepted by the Authority for reasons already explained above, the Authority has dealt with their submissions to the extent considered relevant.
- 69. In the present investigations, it is important to note that none of the producers/exporters from the subject country, except SGPL, has filed the questionnaire response. Only SGPL, who is not a significant exporter from China even to other countries, has filed the partial response. However, since the company is not a significant exporter of the product under consideration and further since the Designated Authority is required to determine likelihood of dumping and injury considering the volume of exports which were at dumped price and volume of exports which were at injurious price, individual questionnaire response is of limited consequence to such an extent. The likelihood of dumping and injury is required to be determined on the basis of total exports from China to various countries globally.
- 70. Further, as per SGPL's own admission, they are not a major exporter of the subject goods. Therefore, the price data of SGPL cannot be considered as indicative of the likely behaviour of other major producers, let alone a conclusive factor. The Authority notes that the data and information of SGPL cannot be considered as representative for analyzing the likelihood analysis.
- 71. All other interested parties who could have given valuable information to the Authority have preferred not to cooperate with the Authority in the present investigations. The Authority notes that the relevant information from the interested

parties is more important in sunset review investigations where an assessment of likelihood is required to be made.

72. In the response submitted by the domestic industry, they have used the import data of HS International Inc (impexp.com) - Sydney, Australia to estimate the likely export price to India in view of the fact that there have been no imports reported to India either as per the DGCIS data or in the import data from secondary sources. They have submitted that export price to Saudi Arabia may be considered as the most appropriate by the Authority as China exports 32% of D I Pipes to Saudi Arabia and the significance of water distribution is similar in the two countries. The Authority does not find any merit in this submission made by the Domestic Industry and considers exports to world as per the transaction wise data of HS International Inc (impexp.com) - Sydney, Australia. As regards the submission of SGPL that only the weighted average price to rest of the world should be taken into consideration for the purpose of estimating the likely export price to India, the Authority notes that even if weighted average price of exports from China to globally is above normal value, the same does not mean that dumping from China is unlikely in the event of cessation of anti dumping duty, particularly in a situation where a significant part of these exports are at dumped prices and are likely to cause injury to the domestic industry. Thus, any determination made on the basis of weighted average price of exports could be highly misleading. The facts of the present case in fact have established that even when weighted average price of exports is above normal value, a significant portion of these exports are at dumped and injurious price. The Authority thus considers to take into account the average export price of dumped and injurious transactions from China to all countries (other than India).
73. The Authority considers it appropriate to take into account the average export price of dumped and injurious transactions from China to all countries (other than India) based on the transaction-wise exports data submitted by the domestic industry from HS International Inc (impexp.com) - Sydney, Australia. The Authority has adopted this method because in the absence of actual exports to India, the Authority is determining the likely export price at which subject goods if diverted to India are likely to cause dumping and injury to the domestic industry.
74. The likely ex-works export price of the exports from China PR is determined by the Authority by making appropriate adjustments to the likely net export price on account of inland freight and insurance, commission, port expenses, bank charges and VAT adjustment. After making these adjustments, the likely adjusted ex-factory export price determined is as US\$ *** per MT.

Likely Dumping Margin during POI

	US\$ (per MT)
Normal Value	***

Net Export Price	***
Likely Dumping Margin	***
Likely Dumping Margin %	***
Likely Dumping Margin% Range	0-10

75. For the purpose of determining likelihood of dumping and injury, the Authority has analyzed the transaction wise export prices of Chinese producers to countries other than India as submitted by the Domestic Industry from HS International Inc (impexp.com) - Sydney, Australia.

76. From the data/information available with the Authority, it is noted that the total volume of exports from China PR to other countries during the POI was 4,88,530 MT at an average FOB price of Rs 39,196 per MT, out of which 1,13,641 MT (23%) was at dumped prices as well as at prices which are lower than the non-injurious price of the Domestic Industry. The demand of the subject goods in India during the POI was 6,64,628 MT. This 23% of the total exports from China which are at dumped as well as injurious prices constitute 17% of the total demand in India. This 17% is substantial volume and assumes great significance considering the fact that there is huge capacity available in China; none of the major producers/exporters from China as well as importers in India have responded to the investigation and if the total demand in India is seen, there is every likelihood that if the anti-dumping duties are revoked, the percentage of dumped as well as injurious exports to India are likely to increase and take away major portion of the Indian demand. Further, even if the export behaviour and production capacity of the only responding interested party SGPL is seen, it is noted that as per the information available with the Authority, the known capacity of SGPL is 17,00,000 MT and the production during the POI is only 3,25,367 MT. This leaves surplus capacity of 13,74,633 MT with SGPL alone which is almost double the demand in India. This available surplus capacity can be utilised by SGPL for likely exports to India at the minimum dumped and injurious export price to the world so determined above.

77. The Domestic Industry has provided the information with regard to the capacities available in China in respect of the following producers/exporters:

Sl.No.	Plant	Production Capacity (in MT)
1	Xing Xing Pipe Co.	18,00,000
2	Benxi Beitai Pipe Co.	6,00,000
3	Longkhau Fanlin Pipe Co.	2,50,000
4	Saint Gobain(xuzhou) Pipe Casting Co., Ltd.	17,00,000
5	Dalian Kunda Pipe Co.(2)	1,50,000

6	Jincheng Chunchen Xinghui Industries Ltd	1,80,000
7	Sun Pipelines Co. Ltd.	1,50,000
8	Xuzhou Everbright Ductile Iron Pipes Co Ltd	2,00,000
9	Shandong Ductile Iron Pipes Co Ltd	3,00,000
10	Rizhao Zhufu Industry Co.Ltd	2,00,000
11	Qian'an Shi Jintang Iron Pipes Co, Ltd	90,000
12	Shanxi Guanghua Casting Pipe Co Ltd	3,00,000
13	Yongtong Ductile Cast Iron Pipes Co Ltd	4,00,000
14	Xinjiang Treasury Ductile Iron Pipes Co Ltd	2,00,000
15	GRAND TOTAL	65,20,000

78. On the basis of the information made available by the Domestic Industry from the websites of some producers/exporters as also other reliable websites of some other producers/exporters, it is seen that the Chinese producers/exporters have ample production capacities with them. They are also exporting Ductile Iron Pipes around the world. No other interested party has either controverted the information or provided any counter-factual information. Moreover, it is noted that the interested parties have failed to give any additional factual information which they wanted the Authority to consider while determining the issue of excess capacities. Thus, there is ample evidence to conclude that the Chinese producers have substantial production capacities. These capacities are in themselves more than the total production capacity of the domestic industry. The importance of such huge production capacities and exports by the Chinese producers/exporters cannot be ignored.
79. Considering the facts available on record with regard to the likely prices to India and the fact that there are huge production capacities in China and that none of the major producers/exporters from China as well as importers in India have responded to the investigation, the Authority determines that if the existing duties are removed, there is every likelihood of the subject goods coming to India at dumped prices which are further likely to cause injury to the domestic industry.
80. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury, the Authority determines that:
- (i) The constructed Normal Value and the likely net export price to India clearly indicate the likelihood of dumping from China PR if the existing duties are allowed to be revoked.

- (ii) The likely export prices from China PR clearly indicate the likelihood of injury to the Domestic Industry in the form of price undercutting as shown below.

Likely Under Cutting During POI

	US\$(per MT)
NSR	***
Landed Value (Likely)	***
Likely Under Cutting Margin	***
Likely Under Cutting Margin%	***
Likely Under Cutting Margin% Range	5-15

- (iii) The likely export prices from China also clearly indicate the likelihood of injury to the Domestic Industry in the form of price underselling as shown below.

Likely Under Selling During POI

	US\$(per MT)
NIP	***
Landed Value (Likely)	***
Likely Under Selling Margin	***
Likely Under Selling Margin%	***
Likely Under Selling Margin %Range	0-10

- (iv) Further, by taking likely prices to India from the same data, the injury margin is also positive.
- (v) Based on the analysis of information on production capacity of the subject goods of the Chinese producers/exporters; non-cooperation of the major Chinese producers/exporters in the investigation and the price attractiveness of the domestic market in India, there is every likelihood that if the duties are revoked, the volume of dumped and injurious exports from China to India is likely to increase and likely to cause injury to the domestic industry.

J. Indian Industry's Interest

81. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured by using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the 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. The consumers could still maintain two or even more sources of supply.

K. Post Disclosure Statement Submissions by the Interested Parties

K.1 Post Disclosure Statement submissions by the Domestic Industry

82. In view of their submissions made on the PUC and legal position in terms of Section 9A(5) of the Act read with Rule 23(1B) of the Rules, the Authority is requested to maintain the stand that scope of product cannot be changed/alterd in the sunset review investigations.

K.2 Post Disclosure Statement submissions by the opposing Interested Parties

83. Only SGPL made the post Disclosure Statement submissions which, in brief, are as follows:

- a. The company may be considered as cooperative exporter;
- b. Normal value and dumping margin in respect of exports by the company may be determined on the basis of questionnaire response of the company;
- c. Ductile iron pipes above 1100 mm dia may be exempted from the scope of the product under consideration;
- d. The Authority may hold that the petitioners have not established that dumping in significant volumes is likely to occur in the event of cessation of anti dumping duty;
- e. The Authority may hold that the domestic industry is already suffering injury without imports;
- f. The Authority may hold that the domestic industry is unlikely to suffer injury from imports in the event of cessation of anti dumping duty on imports from Saint-Gobain China.

- g. Saint Gobain has earlier responded to the notice of initiation and provided all relevant information. Saint-Gobain remains fully committed to totally cooperate with the Designated Authority.

K. 3 Examination by the Authority

84. The Authority notes that the post Disclosure Statement submissions by Domestic Industry are essentially with regard to the product under consideration. The Domestic Industry has contended that on the basis of submissions made on the product under consideration and legal position in terms of Section 9A(5) of the Act read with Rule 23(1B) of the Rules, the Authority is requested to maintain the stand that scope of product cannot be changed/alterd in the sunset review investigations. The Authority has dealt with all these submissions and legal position appropriately in this Notification under the heading "Product Under Consideration and the Like Article". Other submissions made by the domestic industry and submissions made by SGPL have also been addressed in relevant part of these Findings. The Authority reiterates that since SGPL is admittedly not a major exporter of the product under consideration from China, the information provided by the company is not useful in determining likelihood of dumping and injury from China in the event of cessation of anti dumping duty.

L. Conclusion and Recommendation

85. Having regard to the contentions raised, information provided and submissions made by the domestic industry and the opposing interested party and facts available before the Authority and on the basis of above analysis including analysis of likelihood of continuation of dumping and injury, the Authority concludes and recommends that:
- i) The scope of the product under consideration and the recommendation in the present sunset review cover Ductile Iron Pipes of all diameters.
 - ii) There is clear evidence that if the existing duties are allowed to be revoked, the volume of dumped and injurious exports of the subject goods from the subject country to India is likely to increase and likely to cause injury to the domestic industry. The volume of such dumped and injurious exports is significant considering demand for the product under consideration in India. There is every likelihood of dumping and consequential injury to the domestic industry from China PR if the existing duties are allowed to be revoked.
 - iii) The Authority, thus, considers it necessary to recommend continuation of definitive anti dumping duty levied by the Central Government vide its Notification No. 103/2007-Customs dated 14th September, 2007 on all imports of Ductile Iron Pipes of all diameters from the subject country.

M. Further Procedure

86. An appeal against the order of the Central Government arising out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J S Deepak)
The Designated Authority