

To be published in Part-I Section I of the Gazette of India Extraordinary

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES

NOTIFICATION

New Delhi the 20th November, 2009

Final Findings

(Sun Set Review)

Subject: Sunset review of Anti-Dumping duties imposed on imports of Melamine originating in or exported from China PR

No.15/29/2008-DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A Background and Procedure

1. The procedure described below has been with regard to the investigation:
 - i). Whereas the Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, initiated the original investigation vide Notification No. 14/16/2003-DGAD dated 10th Sep, 2003. The Authority issued its Final findings recommending imposition of definitive Anti Dumping Duty on imports of Melamine (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred as subject country), vide Notification No. 14/16/2003-DGAD dated 3rd Sep, 2004 and such definitive duty was imposed by the Govt. of India vide Customs Notification No. 107/2004 dated 16.11.2004.
 - ii). The Designated Authority initiated the sunset review investigation of anti-dumping duty imposed on imports of Melamine originating in or exported from China PR (hereinafter also referred to as subject country) following a request to this effect by the domestic industry comprising of M/s. Gujarat State Fertilizers & Chemicals Ltd., Vadodara. The request was based on the grounds that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The petitioner claimed provided prima facie evidence in this regard and requested for the extension of the anti dumping duty on subject goods from the subject country.
 - iii). Having satisfied on the basis of sufficient positive evidence submitted by the domestic industry substantiating the need for a review, the Designated Authority issued a Public Notice No. 15/29/2008-DGAD dated 21st November, 2008 published in the

Gazette of India, Extraordinary, initiating sunset review of the anti-dumping investigations to review the need for continued imposition of duties in force, whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury and whether the anti dumping duty in force was required to be extended further.

iv). After initiation of the review investigation, the Authority notified the domestic industry, all known exporters/producers in the subject country and known importers, calling for questionnaire responses and necessary information in accordance with Rule 6(4);

v). The Embassy of China PR in New Delhi was informed about the initiation of the investigation in accordance with Rule 6(2), with a request to advise the exporters/producers in their country to respond to the questionnaire within the prescribed time.

vi). Copy of the non-confidential version of the petition filed by the domestic industry was made available to the known exporters and the Embassies of the subject country in accordance with Rules 6(3) supra.

vii). The period of investigation for the purpose of the present review is 1st April 2007 to 31st June 2008(POI). However, injury analysis covered the periods April 2004 – March 2005, April 2005 – March 2006, April 2006 – March 2007 and POI.

viii). A copy of initiation notification along with exporters' questionnaires were sent to the following known exporters from subject country in accordance with the rule 6(4) to elicit relevant information:

- a. China Huaya Group Co. Ltd.
- b. Yingkou Tianyuan Elaborate Chemical Industry Co. Ltd.
- c. Inner Mongolia Ihjuchem Industrial Co. Ltd.
- d. Naier Chemical Co. Ltd.
- e. Henan Harvest International Co. Ltd.
- f. Henan Hongye Chemical Co. Ltd.
- g. Golden Elephant Chemical Co. Ltd.

None of the exporters responded to the Authority in response to the above notification.

ix). Initiation notification and importer questionnaire was sent to following known importers/consumers of the subject goods in India calling for necessary information in accordance with Rule 6(4). None of the interested parties filed any questionnaire response.

- a. Greenply Industries Ltd.
- b. Merino Industries Ltd.,
- c. Merino Panel Products Ltd.
- d. Golden Laminates Ltd,
- e. Surya Vikas Plywood Pvt. Ltd.
- f. Katyani Chemtech India Ltd.
- g. Rushil Décor Ltd.
- h. Sundek India Ltd.
- i. Bloom Dekor Ltd.
- j. HEF India Private Ltd.
- k. Century Plyboards India Ltd.
- l. Managlam Timber Products Ltd.
- m. Virgo Industries
- n. Alfa Ica Ltd.
- o. The Bombay Burmah Trading Co.

x). The product under consideration, Melamine, is classified under Chapter 29 under sub-heading 29336100. The DGCI&S data has been taken for the imports analysis over the injury period.

xi). The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the authority and kept open for inspection by the interested parties.

xii). M/s. Gujarat State Fertilizers & Chemicals Ltd., Vadodara, being domestic industry, submitted the information/data. Additional information was called from the domestic industry, which was also provided. The Authority examined the information furnished by the domestic industry to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to examine the injury suffered, to work out optimum cost of production, cost to make and sell the subject goods in India and so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.

xiii). In accordance with Rule 6(6), the Authority provided opportunity to all interested parties to present their views orally in a public hearing held on 23.09.2009. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally. Only domestic industry attended the oral hearing. The written submissions received from interested parties have been considered in this disclosure statement;

xiv). The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.

xv). In accordance with Rule 16 of the anti-dumping Rules, the essential facts/basis considered for these findings were disclosed to the known interested parties and comments received on the same have been examined in the final findings. Following the disclosure statement, only the domestic industry has made submissions which have been analysed at appropriate headings.

xvi). 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 granted confidentiality, wherever warranted, and such information has been considered confidential and not disclosed to other interested parties. Wherever necessary, parties provided information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xvii). Whenever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.

xviii).*** in this statement represents information furnished by the interested parties on confidential basis and so considered by the authority under the Rules.

B. Product Under Consideration And 'Like Article

B.1

2.1 The product under consideration in the original investigation as also in the present investigations is Melamine (also referred to as subject goods). The product under consideration, Melamine, is classified under Chapter 29 under subheading 29336100. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

2.2 Following issues are raised by the domestic industry with regard to product under consideration and like article:

- a. Present review investigation is a sunset review investigation, product under consideration remains the same as has been defined in the previous investigations.
- b. There is no material change or development in the product characteristics between the original investigation and product being produced and sold world-over at present.
- c. The goods produced by the domestic industry are like article to the imported product. The issue of product under consideration and like article was examined in detail by the Designated Authority in the original investigations and is required to be confirmed.

B.2 Views of the importers, consumers, exporters and other interested parties

3. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to product under consideration and like articles.

B.3 Examination by The Authority

4. The product under consideration in the original investigation as also in the present investigations is Melamine (also referred to as subject goods). The product was defined in the original investigation as follows:

“The product under consideration in the present investigations is Melamine, a tasteless, odourless, and non-toxic substance. Melamine is reacted with formaldehyde and made into resins or moulding powder for making innumerable products of beauty and utility. Melamine formaldehyde resin used for laminates offer good hardness, resistance to scratch, stain, water and heat. Laminates used in some electrical applications possess high mechanical strength, good heat resistance and good electrical insulating properties.”

In view of no argument from any interested party with regard to product under consideration, the Authority confirms the scope of the product under consideration as considered above and as has been stated herein.

5. The product under consideration, Melamine, is classified under Chapter 29 under subheading 29336100. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

6. There is no significant difference in the Melamine produced by the Domestic Industry and the Melamine exported from China PR. Melamine produced by the domestic industry and exported from China PR are comparable in terms of characteristics such as physical and chemical properties, functions & uses, product specifications, pricing, distribution & marketing. Even though there are different manufacturing process/technologies involved for production of Melamine, the end product has comparable specifications and is used interchangeably. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Melamine produced by the domestic industry and imported from China PR has been treated as like article in accordance with the Anti-Dumping Rules.

C. Standing and scope of the Domestic Industry

C.1 Views Of the Domestic Industry

7. In the present investigation, M/s Gujarat State Fertilizers & Chemicals Ltd. has filed the petition on behalf of domestic industry. The company is the sole producer of the subject goods in India. Thus, petitioner accounts for 100% of total Indian production”

and therefore, petition satisfies the requirement of standing within the meaning of the anti dumping rules.

C.2 Views of the Importers, Consumers, Exporters and Other Interested parties

8. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to domestic industry and its standing.

C.3 Examination by the Designated Authority

9. There is only one known producer of the subject product in India, namely M/s. Gujarat State Fertilizers & Chemicals Ltd., Vadodara. The present sunset review application for continued imposition of anti dumping duty has been filed by M/s. Gujarat State Fertilizers & Chemicals Ltd., Vadodara. The company being the sole producer of subject goods in India accounts for 100% of Indian Production.

10. Rule 2(b) under the Rules provides as follows: -

"(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 which case [such producers may be deemed] not to form part of domestic industry"

Petitioner is the only known producer of the subject goods in India, and thus constitutes domestic industry within the meaning of the Rules.

D Dumping Determination

Normal Value

D.1 Views of the Domestic Industry:

11. The views expressed by the domestic industry are as follows: -

(a) China PR is a non-market economy. No country has granted market economy country status to China PR after following elaborate evaluation parameters. China PR has been treated non-market economy by European Commission and United States in the past three years. European Union and United States are members of World Trade Organization. In India also, the Designated Authority has treated China PR as non-market economy.

(b) There are 15 conditions prescribed under the Rules each one of which an intending exporter has to satisfy in order to claim market economy treatment and the information and evidence relevant and necessary to establishment of such a claim. Petitioner has claimed China PR as non-market economy. Petitioner submits that unless the responding Chinese exporters satisfy all such 15 conditions, the Designated Authority is required to determine normal value in accordance with Para 7 of Annexure-I to the Rules.

(c) India is an appropriate surrogate country for Chinese producers. Not only consideration of India as a surrogate country would result in access to accurate and adequate information, there is no factual basis to consider that India would not be a proper surrogate country. India has been considered as an appropriate surrogate by other Investigating Authorities too.

(d) The normal value in China PR can thus be determined on the basis of (a) price in India, and (b) cost of production in India, duly adjusted, including selling, general and administrative expenses and profit. The normal value has been determined accordingly on the basis of cost of production, duly adjusted for selling, general & administrative expenses and profit.

(e) The goods are being exported from China PR at dumped prices and the same is established by the estimates of normal value and export price. The dumping margin is significantly high.

(f) Due to imposition of anti dumping duty on subject goods already the domestic industry has been able to improve production, sale, capacity utilization, profit/loss, return on investment, cash flow, etc.

(g) The authority may kindly extend the anti dumping duties at the earliest in order to check dumping being caused during the investigation.

D.2 Views of the Exporters/Importers/Other interested parties

12. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to export price, normal value and determination of dumping margin.

D.3 Examination by the Authority

13. 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 sub-section (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);

Normal Value in China PR

The Authority sent questionnaire to the known exporters from China PR, advising them to provide information in the form and manner prescribed. However, no response has been received to the questionnaires from any of the Chinese producer/exporter.

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.

The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.

As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of 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:-

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and 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;
- b) 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;
- c) Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d) the exchange rate conversions are carried out at the market rate.

The Authority notes that consequent upon the initiation notice issued by the Authority; none of the Chinese producers/exporters have submitted any response including the market economy questionnaire response and sought to rebut the non-market economy presumption. China PR is a non-market economy. The Authority has treated China PR as non-market economy unless the responding exporters satisfied each & every conditions prescribed under the Rules. Since none of the exporter from China PR have responded to the initiation notification and provided information in the form and manner prescribed, the Authority has determined the Normal Value in respect of China PR under para 7 of Annexure I of Anti-dumping Rules, considering China PR as non-market economy.

Under the Rules, the normal value in China PR can be determined on any of the following basis:

- (a) the price in a market economy third country,
- (b) constructed value in a market economy third country,

- (c) the price from such a third country to other country, including India.
- (d) the price actually paid or payable in India, adjusted to include a reasonable profit margin.

The Authority notes that none of the interested parties have provided normal value on the basis of price in a market economy third country, or constructed value in a market economy third country. Petitioner claimed that the prices of the subject goods in a market economy third country are not publicly available. No information is available with regard to the price from market economy third countries to other countries. The petitioner has claimed that even though there are imports of the subject goods in India, such prices were not in the ordinary course of trade for the reason that such prices were below estimates of cost of production. The Authority notes that the price from market economy third countries to India can be adopted only if such prices are above estimates of cost of production. Under the circumstances and in view of non cooperation from the concerned exporters and no other information having been made available by the interested parties, the Authority is constrained to determine normal value on the basis of price paid or payable in India, duly adjusted, to include profit margin. The normal value accordingly has been determined considering cost of production in India, duly adjusted to include selling, general & administrative expenses and reasonable profit.

15. For the purpose of determination of cost of production, the Authority has considered urea as the input for production of Melamine. Urea price has been considered on the basis of weighted average import price in India considering the data published by the DGCI&S. Utility cost and conversion cost has been taken on the basis of domestic industry. The normal value has been determined after additions for selling, general & administrative expenses and reasonable profit. Accordingly, the normal value at ex-factory level has been determined as US\$ *** per Kg.

D.4 Export Price

16. None of the exporters from China PR have responded to the initiation notification and provided information in the form and manner prescribed. None of the other interested parties have provided any other information that can be used for determination of export price. In the absence of information in the prescribed format, the Authority has relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the export price. Accordingly, export price has been determined on the basis of weighted average import price as per statistics available from DGCI&S.

17. The following adjustments have been made to arrive at the net export price: -

- (a) Ocean freight @ US\$ 60 pmt
- (b) Marine insurance @ 0.57% of CIF value
- (c) Port expenses @ 0.5% of FOB value
- (d) Inland freight @ 0.5% of FOB value
- (e) Adjustment on account of VAT 12%

18. On the basis of normal values and net export prices determined as above , the dumping margins for all exporters from subject country are as follows –

Particulars	Units	China PR
Normal Value	US\$/KG	***
Export Price	US\$/KG	***
Dumping Margin	US\$/KG	***
Dumping Margin	%	32.48

E. INJURY AND CAUSAL LINK DETERMINATION

E.1 Views of the Domestic Industry

19. The domestic industry has raised a number of arguments with regard to injury and causal link, which are summarized below. The main arguments are that:

a. The performance of the domestic industry improved in terms of volume parameters as well as price parameters which clearly shows that the domestic industry is trying its best to compete in the market and sustain its operations. This is due to imposition of duty on subject goods to increase after imposition of duty against China. . Injury to the domestic industry will occur again in the event of revocation of anti dumping duties.

b. There is significant increase in exports of the product under consideration in the present proposed investigation period from China PR. This shows continued dumping by Chinese exporters.

c. The prices of the domestic industry are based on the import prices. Therefore, should the anti dumping duty be revoked, the domestic industry would be faced with significant price undercutting & underselling.

E.2. Views of exporters, importers, users etc

20. There has been no response from any producer/exporter in China PR. Nor has any arguments been advanced on any aspect of the present investigations, including on injury & causal link from any exporters.

E.3. Examination by the Authority

21. Article 3.1 of the WTO Agreement and Annexure-II of the Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

22. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure- II of the Anti Dumping Rules states 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 margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”

23. The Authority has taken note of the arguments on injury examination and addressed the issues raised at appropriate places. The Authority has examined the injury parameters objectively taking into account the facts and the arguments of the interested parties.

24. For the purpose of current injury analysis the Authority has examined the volume and prices effects of imports of the subject goods from the subject country on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any.

Assessment of Demand

25. The Authority has determined demand or apparent consumption of the product in the Country as the sum of domestic sales and imports from all sources. The demand so assessed can be seen in the table below.

	Units	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Sales of domestic industry	MT	15,373	16,717	15,563	18,696	14,956
Trend	Indexed	100	109	101	97	97
Sales of Other Indian Producers	MT	-	-	-	-	-
Trend	Indexed	-	-	-	-	-
Imports from China PR	MT	1,321	281	1,747	9,455	7,564
Trend	Indexed	100	21	132	573	573
Imports from Other countries	MT	4,648	4,050	5,693	9,401	7,521
Trend	Indexed	100	87	122	162	162
Demand/consumption	MT	21,342	21,048	23,002	37,552	30,042
Trend	Indexed	100	99	108	141	141

The Authority notes that the demand of the product in the country has shown a positive trend and grew over the injury period. The demand for the product under consideration has increased by 41% as compared to the base year.

Import Volume & market share

26. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure-II (ii) of the Anti-dumping rules provides as under: -

“While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India

27. The information regarding the imports volume and market share is given in the following table:

	Unit	2004-05	2005-06	2006-07	April'07- June'08	Annualised
Sales of Domestic industry	MT	15,373	16,717	15,563	18,696	14,956
Trend	Indexed	100	109	101	97	97
Sales of Other Indian Producers	MT	-	-	-	-	-
Trend	Indexed	-	-	-	-	-
Subject Country-China	MT	1,321	281	1,747	9,455	7,564
Trend	Indexed	100	21	132	573	573
Other countries	MT	4,648	4,050	5,693	9,401	7,521
Trend	Indexed	100	87	122	162	162
Total Imports	MT	5,969	4,331	7,440	18,857	15,085
Trend	Indexed	100	73	125	253	253
Imports in relation to Indian Production	%	8.91	1.83	11.39	51.92	51.92
Demand	MT	21,342	21,048	23,002	37,552	30,042
Trend	Indexed	100	99	108	141	141
Market Share in Demand						
➤ Domestic industry	%	72.03	79.42	67.66	49.79	49.79
➤ Other Indian	%	-	-	-	-	-

Producers						
➤ Subject Country- China	%	6.19	1.33	7.59	25.18	25.18
➤ Other countries	%	21.78	19.24	24.75	25.04	25.04
Total	%	100%	100%	100%	100%	100%

28. The Authority notes that the volume of Chinese imports was considerably lower than third countries till 2006-07. During this period, the landed price of imports was below the benchmark. During the POI, however, landed price of imports crossed the benchmark and the volume of Chinese imports jumped substantially from 281 MT (2005-06), 1747 MT (2006-07) to 9455 MT during the POI. Domestic industry stated that the product under consideration is also being imported under advance licence. The Authority holds that whereas the volume of imports remained quite low so long as landed price of imports was below the benchmark (i.e., so long as anti dumping duty was payable on imports), the same increased substantially once import prices increased to such an extent that the anti dumping duty was not payable.

Market share of China PR in consumption of the product under consideration remained low till 2006-07, when the landed price of imports was below the benchmark. However, during POI, when landed price of imports from China PR became comparable or higher than the benchmark, the market share of Chinese imports in demand in India increased substantially.

Price Effect

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

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

30. In the present case, the Authority notes that:

- (a) Export prices from China PR has increased over the period. However, petitioner submitted that (a) the increase in the import prices is far lower than the increase in the prices by the domestic industry; (c) increase in prices was a result of increase in the input costs.
- (b) Comparison of selling price of the domestic industry with the landed price of imports shows that the domestic industry prices moved in tandem with the import prices and caught up with the landed prices in the POI. The price undercutting is marginally negative in the POI, which clearly shows that the domestic industry prices are linked to import prices.
- (c) However, the landed price of imports is significantly below the non injurious price determined for the domestic industry. It is also noted that the selling price of the domestic industry is below the non injurious price. Imports are thus having suppressing effect on the prices of the product under consideration in the market. It is claimed that the revocation of duty could result in price underselling in the market.

	Unit	2004-05	2005-06	2006-07	April'07- June'08
Net Sales Realization	Rs/MT	***	***	***	***
Trend		100	96	102	120
Landed Price	Rs/MT	***	***	***	***
Rend		100	109	95	111
Price undercutting	Rs/MT	***	***	***	***
Price undercutting	%	(5-15)	(20-30)	(5-10)	(0-5)
Non Injurious Price	Rs/MT				***
Price Underselling	Rs/MT				***
Price Underselling (%)	%				8-12%

Economic Parameters relating to the Domestic Industry

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

Production, sales, capacity and capacity utilization

32. Actual production, capacity and capacity utilization of the domestic industry were as shown in the following table-

	Unit	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Sales of Domestic Industry						
Domestic	MT	12,873	15,817	15,543	18,696	14,956
Exports	MT	2,500	900	20	-	-
Total Sales	MT	15,373	16,717	15,563	18,696	14,956
Trend	Indexed	100	109	101	97	97
Production of domestic industry	MT	14,823	15,323	15,335	18,210	14,568
Trend	Indexed	100	103	103	98	98
Capacity	MT	15,000	15,000	15,000	18,750	15,000
Capacity utilization of domestic industry	%	98.82	102.15	102.23	97.12	97.12

It is noted that production and consequently capacity utilization of the domestic industry improved upto 2006-07, but declined in POI. Sales of the domestic industry increased upto 2005-06, but declined thereafter in 2006-07 and then POI. Comparison of the imports with the production, sales and capacity utilisation shows that whereas imports increased in the POI, production, sales & capacity utilisation of the domestic industry declined in the same period. However, these declines are not considered significant during the POI.

Market share

33. Share of the domestic industry and various other parties in demand in India was as under:

(Figures in %)

Particular	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Domestic industry	72.03	79.42	67.66	49.79	49.79
Other Indian Producers	-	-	-	-	-
Subject Country-China PR	6.19	1.33	7.59	25.18	25.18
Other countries	21.78	19.24	24.75	25.04	25.04

34. The Authority notes that the share of the domestic industry in total demand decreased significantly in POI. After the imposition of anti-dumping duties, the share of domestic industry improved and that of China PR declined in 2005-06 as compared to preceding year. However, thereafter, whereas the share of imports increased significantly, that of the domestic industry declined. Further, even though share of third countries imports also increased, the increase in share of China PR was significantly higher than the increase in the share of third countries. At the same time, the domestic industry lost sales volumes in absolute terms as well especially during the POI. The domestic industry has claimed that even when there are some imports of the product under consideration under advance license, not all imports are made because of duty exemption granted by the Govt. of India. The domestic industry has further claimed that it would have sold more in the absence of Chinese imports.

Profit/loss, return on investment and cash flow

35. The return on investment, profit/loss before and after interest, return on investment and cash profit has moved as shown in the table below:

	Unit	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annual ised
Profit /(Loss)						
Cost of Production – Domestic	Rs/Mt	***	***	***	***	***
Trend	Indexed	100	87	107	119	119
Selling price	Rs/Mt	***	***	***	***	***
Trend	Indexed	100	95	101	119	119
Profit/(Loss)	Rs/Mt	***	***	***	***	***
Trend	Indexed	100	116	85	118	118
Profit/(Loss)	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	143	102	137	137
Profit before Interest and Taxes	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	124	83	105	105
Cash Profit	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	134	102	130	130
Return on Capital Employed on NFA basis	%	***	***	***	***	***
Trend		100	127	85	100	100

36. The Authority notes that the domestic industry is able to earn profits after imposition of anti dumping duties (the industry was suffering financial losses in the POI at the time of original investigation). Further profitability improved between 2004-05 and

2005-06. Even though the profitability declined in 2006-07, the same once again improved in POI. The domestic industry claimed that the domestic industry was suffering financial losses in the POI at the time of original investigations and the same situation would occur once again if the present duties are revoked. The petitioner argued that the Chinese prices of Melamine had temporarily increased due to Olympics in China PR.

The domestic industry claimed that its profits with regard to the product under consideration must be determined after considering natural gas at market price. Domestic industry claimed that it gets natural gas at much lower price for fertilizers producer. Such low priced natural gas, domestic industry claimed, was exclusively for fertilizer production and it was not open for the domestic industry to get this natural gas at such concessional price for production of urea required for manufacturing melamine. The domestic industry claimed in their submission that the difference in the price of natural gas was significant which had an impact of about Rs. *** per kg in melamine. In other words, the profitability of the domestic industry would be significantly lower should natural gas not be taken at the average price paid by the company.

The contention of the domestic industry has been examined and it is noted that the Authority has determined profits considering average natural gas prices which are based on the records kept by the company.

37. In order to analyze the impact of dumped imports on cash flow, the Authority has considered the trends in cash profits, as the domestic industry is a multi product company and cash flow situation of the company would not be indicative of the situations in the subject product. The cash profit has been determined by addition of amount of depreciation to the profit (profit before tax). The data shows the same trend as that of profits. Cash profits increased in 2005-06 and thereafter declined in 2006-07. Cash profits increased once again in POI.

In order to analyse the impact of dumped imports on return on capital employed, the Authority determined profit before interest and compared the same with the capital employed by the domestic industry in the product under consideration. It is found that return on capital employed increased in 2005-06 and thereafter declined in 2006-07. Even though return on capital employed increased once again in POI, the same was lower than the levels achieved in 2005-06.

Inventories

38. Average stock of finished products with the domestic industry has shown a declining trend, as shown below. It has been claimed that the low level of inventories and decline in production shows the policy of the company to restrict the inventories and regulate the production.

	Unit	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Average stock	MT	***	***	***	***	***
Trend	Indexed	100	60	27	10	10

Employment and wages

39. The Authority notes that since the petitioner is a multi product company and anti dumping duty is in place. These parameters per se do not show significant injury. Both employment and wages have shown increase.

	Unit	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Employment	Nos	***	***	***	***	***
Trend	Indexed	100	98	97	108	108
Wages	Rs.Lacs	***	***	***	***	***
Trend	Indexed	100	110	122	139	139

Productivity

	Unit	2004-05	2005-06	2006-07	April'07- June'08 (POI)	Annualised
Productivity per day	MT/day	42	44	44	42	42
Productivity per employee	MT/Nos	232	243	247	211	211

40. Productivity of the domestic industry shows similar trend as that of production. With decline in production in POI, productivity has also shown some decline.

Growth

41. Growth of the domestic industry is negative in respect of sales volumes, production and capacity utilization. However, price parameter shown positive growth.

	Unit	2004-05	2005-06	2006-07	April'07 -June'08 (POI)	Annualised
Growth						
In Production	Y/Y		500.00	12.00	(767.00)	(767.00)
In Domestic Sales	Y/Y		2,943.35	(274.23)	(586.04)	(586.04)
In Capacity Utilization	Y/Y		3.33	0.08	(5.11)	(5.11)
In Cost of Sales Rs/MT	Y/Y		***	***	***	***
Trend			-100	154	97	97
In Selling Price Rs/MT	Y/Y		***	***	***	***
Trend			100	117	376	376
In Profit /Loss Rs/MT	Y/Y		***	***	***	***
Trend			100	-194	207	207
In Profit /Loss Rs.Lacs	Y/Y		***	***	***	***
Trend			100	-95	82	82
In PBT Rs/MT	Y/Y		***	***	***	***
Trend			100	-170	92	92
In PBIT Rs/MT	Y/Y		***	***	***	***
Trend			100	-95	83	83
In ROI	Y/Y		***	***	***	***
Trend			100	-157	58	58

Dumping margin

42. The Authority notes that the dumping margin determined in the previous investigation was quite significant. The dumping margin determined in the present investigation is also quite significant.

Ability to raise capital investments

43. The Authority notes the domestic industry is a multi product company in which the subject goods constitutes only 3% of total turnover. The petitioner has claimed that they intend to expand the capacity for which company is making efforts. This fact has been reported in their annual report as well. The petitioner therefore claimed that fair market conditions are vital for such expansions to remain feasible. At present, the company has very low incidence of interest & depreciation. However, once the expansion is completed, the same is bound to result in increase in interest & depreciation costs.

F Likelihood of continuation or recurrence of dumping and injury

44. The present investigation is a review investigation and the Designated Authority is required to examine whether revocation of duty is likely to lead to continuation or recurrence of dumping and injury. In this case there are continued dumped imports, the Designated Authority is required to examine whether revocation of duty is likely to lead to continued dumping of the product. The Authority notes that the current dumping margin is very significant. It is also noted that in the previously concluded investigation also dumping margin was significant. Further, with the landed price of imports increasing beyond the prevailing benchmark, there is a sharp increase in the volume of imports.

45. To examine the margin of dumping in a sunset review investigation, the Authority applied the same methodology and the procedure as are applied in original investigations. The dumping margin is thus recalculated for the POI and it showed continuation of dumping during the POI and the margin is considered significant.

46. The Authority noted that the subject goods are still being exported to India in significant volumes and the Chinese exporters have continued dumping even after the imposition of anti-dumping duties. Further, the volume of imports is significant in spite of present duties. It has been claimed that the present situation is clearly suggestive that (a) the dumping would continue in the event of revocation of anti dumping duty; (b) the volumes would further increase, once the present anti dumping duties are revoked. It has been claimed that there are no changes in the parameters/circumstances prevailing at the time of original investigation as well as at present. The matter has been examined and it is noted that dumping margins are not only more than de-minimus but also significantly high during the review POI. It is, thus, noted that the circumstances, which were prevalent at the time of original investigations, are very much in existence even in the present review period.

In order to examine whether the dumping and consequent injury would occur rather at aggravated level in the event anti-dumping duties are revoked or not extended for the next five years, the exports of Melamine from China PR to various global countries on the basis of information published have been analysed. The analysis of China PR customs export data shows as under –

(a) China PR is exporting the product under consideration to a large number (more than 70) countries.

(b) Export price from China PR to India is in general much higher than exports to other countries. The Chinese exports of the product under consideration into (a) prices above Indian prices and prices below Indian prices have been analysed. The table below shows the factual position.

	Volume	Price	Value (Rs. 000)	Share in total imports
Exports to India	7,424	50.81	377,258	5.58%
Exports to other countries				
➤ At prices above India	6,671	52.46	349,974	5.02%
➤ At prices below India	118,863	45.48	5,405,706	89.40%
Total exports	132,958	46.13	6,132,937	100.00%

It was seen that almost 90% Chinese exports are at prices more than 10% lower than price to India.

(c) It has been claimed that since exports to India are at dumped prices, exports to third countries are also at dumping prices. The Authority notes that with the export price of subject goods from China PR to other countries being much lower than export price to India, the likelihood of further and increased dumping of subject goods to India from China PR and causing injury looks real and significant.

(d) The Authority notes that the Chinese producers would be willing to divert their exports to third countries in the Indian market, given that the prices in third countries are lower and the selling price of the domestic industry is still higher than the landed price of Chinese exports. It is also noted that though current exports are not undercutting the prices of the domestic industry in the market, there is a strong possibility that in the event of revocation of anti dumping duties, the landed prices are likely to undercut the prices of the domestic industry in the market given the fact that exports to other countries are at lower prices.

(e) The current exports to third countries are significantly higher than established demand of about 40,000 MT in the Indian market. The petitioner claimed that the demand in the current POI was aberrational high, as is clearly established by demand in the subsequent period. Thus, the Chinese exports are capable of meeting entire Indian demand.

(f) The current landed price of imports are materially lower than the non injurious price determined for the domestic industry. It has been claimed that the likely import price would be lower than the current import prices and the exports are likely at prices below non injurious price. The Authority has examined the contention of the domestic industry and it notes that underselling margin is significant during the POI of the review investigation and there remains a strong likelihood that the revocation of anti dumping duty is likely to lead to continued price underselling in the market.

(g) Evidence made available by the domestic industry showed installed capacities in the region of 4,26,800 MT in the Chinese market. The Authority has noted the arguments of the domestic industry and it is noted that considering current exports of the order of 1.33 lacs MT and growth rate of about 46% between 2005-06 and 2007-08, the Chinese producers could be faced with significant unutilized capacities.

In view of above, the Authority thus concludes that revocation of anti dumping duty shall lead to continued dumping and consequent injury to the domestic industry.

G. Other Known factors and Causal Link

47. The Authority examined the issue of causal link and other non-attributive factors as laid down in the Rules to segregate injury, if any, caused by other factors. In this regard, the following indicative factors as laid down in the Rules have been examined.

(a) Volume and Prices of imports not sold at the dumped prices

The Authority notes that imports from third countries were being reported throughout the injury period. The volume of imports was almost similar levels between 2004-05 and 2005-06. Imports increased in 2006-07 and POI. However, increase in third countries imports in POI was far lower than increase in imports from China PR. Whereas the Chinese imports grew by more than 300% between 2006-07 and POI, imports from third countries increased only by 32% over the same period.

(b) Trade restrictive practice and competition between the foreign and domestic producers

The Authority has not found any trade restrictive practice followed by the domestic industry and other Indian producers. The Authority notes that the subject goods are freely importable and there are no trade restrictive practices in the domestic market. There being no other producer of the product under consideration in the country, the pricing of the domestic industry is directly linked to imports.

(c) Contraction of demand or Changes in the pattern of consumption

There is no contraction in the overall demand during the period under consideration. Therefore, any possible decline in demand is not a factor, which could have caused injury to the domestic industry. There is no argument by interested parties regarding the change in the pattern of consumption, nor does it appear that changes in the pattern of consumption could have inflicted the injury to the domestic industry. On the contrary, demand for the product under consideration increased just by 8% between 2004-05 and 2006-07 and by 31% between 2006-07 and POI.

(d) Export performance

Export sales of the domestic industry has declined. However, the data with respect to domestic sales has been examined separately. Further, price parameters have also been examined only for the domestic operations in the product. Therefore, decline in exports is not a responsible for the injury to the domestic industry in the domestic market.

Particulars	Unit	2004-05	2005-06	2006-07	POI	Annualised
Exports Sales	MT	2,500	900	20	-	-

(e) Productivity of the Domestic Industry

Productivity of the domestic industry has slightly declined in the POI. However, even if the productivity of the domestic industry is considered at the best possible levels, it is seen that the same would not have any significant material impact on the performance of the domestic industry in the domestic market.

H. FINAL FINDINGS

48. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- i) The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from China PR is substantial and above de-minimis.
- ii) The subject goods are likely to continue to enter the Indian market at dumped prices.
- iii) While the performance of the domestic industry improved after imposition of anti dumping duties, situation of the domestic industry is fragile and injury to the domestic industry is likely in the event of revocation of anti dumping duties.

Recommendations:

49. In view of positive determination of likelihood of dumping and injury on account of dumped imports from China PR, the Authority is of the opinion that continuation of the measure is required against imports from China. However, considering the current level of dumping from China PR and performance of the domestic industry, the Authority is of the opinion that the measure in force needs to be revised. Authority considers it necessary and recommends anti-dumping duty on imports of subject goods from subject countries in the form and manner described hereunder.

50. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Considering that the duty in the original investigation was imposed on benchmark duty basis the Authority recommends continuation of definitive antidumping duty. Accordingly, definitive antidumping duty equal to the difference between the amount indicated in Column-9 of the table below and landed price of imports is recommended to be imposed, on all imports of melamine originating in or exported from the subject country.

Duty Table

Sl. No .	Tarif f item	Descripti on of goods	Specif icatio n	Countr y of origin	Count ry of Expor t	Prod ucer	Ex por ter	Amo unt	Unit of measu remen t	Curre ncy
-1	-2	-3	-4	-5	-6	-7	-8	-9	-10	-11
1	2933 61 00	Melamine	Melam ine	People's Republic of China	Any	Any	An y	1681 .49	Metric tonne	US Dollar
2	2933 61 00	Melamine	Melam ine	Any country other than People's Republic of China	People's Republic of China	Any	An y	1681 .49	Metric tonne	US Dollar

51. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

52. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

R. Gopalan
Designated Authority