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

**NOTIFICATION**

Dated 19<sup>th</sup> March, 2012

**Preliminary Findings**

**Subject: Anti-dumping investigation concerning imports of Plain Gypsum Plaster Boards, originating in or exported from China PR, Indonesia, Thailand, and UAE.**

**No. 14/45/2010-DGAD:** - Having regard to the Customs Tariff Act, 1975, as amended from time to time, (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the Rules) thereof;

1. Whereas M/s. Saint-Gobain Gyproc India Ltd (hereinafter referred to as the domestic industry) filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Act and the Rules for initiation of anti-dumping investigation concerning imports of “Plain Gypsum Plaster Board of all thicknesses and dimensions, excluding Gypsum Boards having water absorption up to and including 5%, generally referred to as Moisture Resistant Boards, and Gypsum Boards having a minimum breaking load of 24 Newtons in the transverse direction and 50 Newtons in the longitudinal direction per millimeter of thickness of the Board, characterized as Impact Resistant Boards or Fire Resistant Boards” (hereinafter also referred to as the subject goods), originating in or exported from China PR, Indonesia, Thailand and UAE (hereinafter also referred to as the subject countries) and requested for levy of anti-dumping duties on the subject goods.
2. And whereas, the Authority, on the basis of sufficient evidence submitted by the domestic industry, issued a public notice vide Notification No. 14/45/2010-DGAD dated 21st July, 2011, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5(5) of the Rules, to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject countries, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

**A. PROCEDURE**

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
  - i. The Authority notified the embassies of the subject countries about the receipt of the subject application from the domestic industry in terms of Rule 5(5) of the Rules.

- ii. The Authority sent a copy of the initiation notification dated 21st July, 2011 to the Embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the domestic industry and requested them to make their views known in writing within 40 days of the initiation notification.
- iii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
- iv. The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from their countries to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
- v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:

Sl.N.	Name of Producer/ Exporter
1	Gypsemna Company (L.L.C) PO Box 74682, Plot No. 51 MR2 Industrial City of Abu Dhabi (ICAD-II) Mussafah, Abu Dhabi, United Arab Emirates
2	The Siam Gypsum Industry (Saraburi) Co., Ltd. No.9, Pakin Bldg,5th Floor, Ratchadapisek Road, Dindang, Bangkok -10400, Thailand
3	Pt. Siam Indo Gypsum Industry Jl. Inspeksi, Kalimalang Km 2 kp Cikedokan RT/RW. 001/01 Cibitung, Bekasi 17520, Indonesia
4	Pt Petrojaya Boral Plasterboard Graha Mobisel building 4 <sup>th</sup> Floor, Mampang, Prapatanraya No 139 Jakarta, Selatan 12790 Indonesia
5	Shandong Baier Bbuilding Materials Ziqiu Pingri Linyi Shandong Linyi City , China PR
6	Linyi HuameiGypsum Building Materials Co.Ltd Luozhuang District, Linyi, Qingdao, China PR

7	CNBM International Corporation Floor 17th No.4 Building Zhuyu International Commercial Center No.9, Shouti South Road Haidian District, China PR
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- vi. The following producers/exporters from the subject countries filed exporters questionnaire response in the prescribed format:
- (a) M/s Gypsemna Co. L.L.C., Abu Dhabi, UAE,
  - (b) M/s Siam Gypsum Industry (Songkhla) Co. Ltd. Bangkok, Thailand,
  - (c) M/s Siam Gypsum Industry (Saraburi) Co. Ltd. Bangkok, Thailand.
- vii. M/s Knauf LLC, Dubai, UAE submitted only a letter informing the Authority that they have not exported the subject goods during the POI. But, the company did not submit any questionnaire response in the prescribed format. Similarly, Huston Intertrade Co Ltd, Thailand submitted authorization letter in favour of their solicitors, but did not file any questionnaire response in the prescribed format. In view of the above position, the Authority does not accept the above stated companies as cooperative exporters in the subject investigation.
- viii. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

S.No.	Name of Importers/Exporters
1	Sastha Senior Building Product 34 Spurtank Road, Chetpet Chennai 600 031
2	Lafarge Boral Gypsum India Private Limited, A-10 Green Park, New Delhi- 110016
3	Lafarge Boral Gypsum India Pvt Ltd Door No.34 Spurtank Road , Chetpet, Chennai 600 031
4	Vikash Trading Company No.10/12nd Floorold, Bangalore Road, Hosur 635 109, Tamil Nadu
5	Total Solutions Building Material Co,Head office 318,3rd Cross, Baba Lane,Dharga Mohalla, Old Madras Road, Bangalore-16

- ix. Importer's questionnaire response in the prescribed format were received from the following importers/users of the subject goods In India:

- (a) M/s Vikas Trading Company, Bangalore
  - (b) M/s Armstrong World Industries, Mumbai
  - (c) M/s Lafarge Boral Gypsum India, Gurgaon
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- x. M/s Total Solution Building Materials Co Ltd, Bangalore submitted authorization letter in favour of their solicitors, but did not file importer's questionnaire response in the prescribed format.
  - xi. Post initiation, submissions have been made by the producers/exporters namely M/s Siam Gypsum (Sarhuri) Co Ltd, Thailand, Siam Gypsum (Shonghkla) Co Ltd, Thailand, and M/s Gypsemna, UAE, and importers/users namely M/s Lafarge Boral Gypsum India Pvt Ltd, M/s Armstrong World Industries (India) Pvt Ltd and M/s India Gypsum, Cochin.
  - xii. Request for extension of time to file the questionnaires' response was received from some interested parties. The Authority granted extension of time, keeping in view the time constraints.
  - xiii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
  - xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide details of imports of subject goods for the past three years, including the period of investigation. The import data provided by the DGCI&S has been relied upon by the Authority in this finding.
  - xv. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
  - xvi. The period of investigation (POI) for the purpose of present investigation is 1<sup>st</sup> January 2010 to 31<sup>st</sup> December 2010 (12 months). The injury investigation period, however, covered the periods April 2007-March 2008, April 2008-March 2009, April 2009-March 2010 and the POI.
  - xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these preliminary findings on the basis of the facts available.
  - xviii. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
  - xix.** \*\*\* in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
  - xx.** The exchange rate adopted by the Authority for the subject investigation is 1 US \$ = Rs 46.44.

**B. Product Under Consideration and Like Article**

4. The product under consideration in the present investigation, as defined by the Authority in the initiation notification, is “Plain Gypsum Plaster Boards of all thicknesses and dimensions”, excluding the following:-
- (i) Gypsum Boards having water absorption up to and including 5%. These Boards are generally referred to as “Moisture Resistant Boards” which have specific application in places where moisture resistance is desired. These moisture resistant properties are acquired by addition of certain water-repelling additives.
  - (ii) Gypsum Boards having a minimum breaking load of 24 Newtons in the transverse direction and 50 Newtons in the longitudinal direction per millimetre of thickness of the Board. Boards that are typically designed for special application are characterized as “Impact Resistant Boards” or “Fire Resistant Boards.
5. Plain Gypsum Boards are also referred to as standard gypsum boards, regular gypsum boards or gypsum boards in common trade parlance across the world. The subject goods are used in interior construction in suspended ceiling and partition applications.
6. Plain Gypsum Boards are classified under chapter heading 68091100 as given below:

Tariff Item	Description of Goods
68	Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware
6809	Articles of plaster or of compositions based on plaster- Boards, sheets, panels, tiles and similar articles, not ornamented.
68091100	Faced or reinforced with paper or paperboard only

7. The domestic industry submitted that the subject goods are also being imported under other tariff headings 68099900 and 68091900, apart from 68091100. But, the Authority notes that as per the DGCI&S data, the subject goods are found to be imported only under the tariff sub-heads 68091100 and 68091900. However, customs classification is indicative only and is in no way binding upon the scope of the present investigation.

**Submissions made by Exporters, Importers, Users and other Interested Parties**

8. The following are the submissions made by the exporters, importers, users and other interested parties:
- i. Gypsum Boards are primarily of two types: Plain Boards and Technical Boards. The following varieties of technical gypsum plaster boards should be excluded from the scope of the PUC:
    - a) Fire Board: Gypsum Boards that meet the fire rating standard of more than 30 minutes on fire exposure as per BS 476: Part 20 and 22, including "shaft wall" boards. These Boards have specially formulated Core which gives superior fire resistance and higher strength. These boards are used for areas which require higher fire rating like Server Rooms, Lift areas etc.

- (b) Heat Board: Gypsum Boards with polyester metalized foil firmly bonded on to the backside which gives at least 75% solar reflectance. These boards are used as partition around places where large amount of heat radiation is generated like generator rooms or in places which need insulation from a hot atmosphere around it, like top floor of a building.
  - (c) Fire Heat Board: Gypsum Boards that meet the Fire rating standards of more than 30 minutes on Fire Exposure as per BS 476: Part 20 and 22 (copies enclosed as Exhibit 1B and Exhibit 1C) and also have a polyester metalized foil firmly bonded on to the backside that gives at least 75% solar reflectance. These Boards have a specially formulated Core which gives superior Fire resistance and higher strength and also have a polyester metalized foil firmly bonded on to the backside to reduce the risk of condensation forming on the back of the board. These boards are used for protection around places that are exposed to risk of fire and also as wall lining.
  - (d) ECHO Board: Gypsum Boards that have square or circle perforations on their sides which provides them special sound absorption properties. These boards have a Noise Reduction Coefficient ('NRC') in the range of 0.65 to 0.80 as per IS 8225-1987 in reverberation room. These boards are used in Cinema Halls, Recording rooms and other places where reverberation effect of sound has to be minimized.
  - (e) Impact Board: Gypsum Boards with high density core giving them higher breaking load strength than a regular Standard Board. This is mainly used in high traffic zone areas like foot-steps, stair cases etc., where there is frequent heavy weights movement. These boards weigh 12.5 kilograms per meter square of 12.5 mm thickness (+/- 0.35 kg/m<sup>2</sup>) as against a standard board that weighs around 9 kilograms per meter square of 12 mm thickness. Thus the Impact Boards are 50 percent heavier than the standard boards and hence are used in places where heavy loads are to be stored or moved.
  - (f) Anti-mold Board or Weather Board: Gypsum Boards with certain special additives added to the core and a special paper liner added to the surfaces to give them enhanced protection against mold or fungus growth falling within Anti Mold standard (ASTM Standard) D 3273. These boards find special use in hospitals, warehouses and other areas which are exposed to moisture or abnormal environmental conditions.
  - (g) Thermal Board: Gypsum Boards with XPS Composite Panel at the back side using PVA Glue which offers additional thermal Insulation with the lower thickness of the Board.
- ii. 'Gypsum Ceiling Boards with Moisture Barrier', being imported by M/s Armstrong, falls under the excluded category of the PUC and therefore should be specifically excluded from the scope of the present investigation. Similarly, 'Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film' should also be excluded from the scope of the PIUC.

- iii. The definition of the product under consideration in the present case is highly selective and abusive of anti dumping law. Petitioner has very selectively considered scope of the product under consideration and excluded those product types which the petitioner is not producing in India and which are being imported by the petitioner from its affiliated plants overseas.
- iv. The petitioner has specifically excluded 'moisture resistant boards' and 'fire resistant boards'; as petitioner itself is importing these excluded category from its own subsidiary/sister concern, in Thailand.

**Submissions made by the Domestic industry**

9. The following are the submissions made by the domestic industry:

- i. The product under consideration is "Plain Gypsum Plaster Boards of all thicknesses and dimensions", excluding the following:
  - a. Gypsum Boards having water absorption up to and including 5%. These Boards are generally referred to as "Moisture Resistant Boards" which have specific application in places where moisture resistance is desired. These moisture resistant properties are acquired by addition of certain water-repelling additives.
  - b. Gypsum Boards having a minimum breaking load of 24 Newtons in the transverse direction and 50 Newtons in the longitudinal direction per millimetre of thickness of the Board. Boards that are typically designed for special application are characterized as "Impact Resistant Boards" or "Fire Resistant Boards".
- ii. Plain Gypsum Boards are also referred to as standard gypsum boards, regular gypsum boards or gypsum boards in common trade parlance across the world.
- iii. The subject goods are used in interior construction in suspended ceiling and partition applications.
- iv. The subject goods are classified under chapter heading 68091100. The subject goods are also being imported under tariff headings 68099900 and 68091900.
- v. There is no known difference in the subject goods produced by the Indian industry and the subject goods exported from the subject countries. The subject goods produced by the Indian industry and imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.
- vi. The so-called interested parties have not filed sufficient grounds justifying their claim of exclusion. It is a settled principle of law that the onus to prove exclusion from the Product under Consideration rests completely on the party who makes

such claim. Further, the so-called interested parties have referred to technical specifications, but the same have been kept confidential.

- vii. As per the consistent practice of the DGAD, Authority may not take cognizance of the submissions made by an importer who has not filed the prescribed importer's questionnaire response.
- viii. Moisture resistant boards of water absorption upto and including 5% have not even been claimed as the "Product under Consideration". Therefore, the question of exclusion of Gypsum Ceiling Boards with Moisture Barrier', simply does not arise.
- ix. *Fire Boards and "shaft wall" boards* are already excluded from the purview of the "Product under Consideration". However, the Domestic Industry has no comments if the Fire boards meeting the specifications in the table below are excluded:

Properties	Specifications	Test Method	End Use
Weight	Minimum 9.8Kg/m <sup>2</sup> for 12.5mm & 11.7Kg/m <sup>2</sup> for 15mm	IS 2542	Areas requiring higher fire rating like server room, lift area etc . Complies with EN 520 Type F
Branding on Board	Type of board to be mentioned		
Strength of board (Longitudnal)	9.5mm- Min 400 N	IS 2542	
	12.5mm- Min 550 N		
	15mm- Min 650 N		
Fire Rating	Min 60 Minutes for 80mm thick system	BS 476 Part 6 Bs 476 Part 7 BS 476 part 20 & 22	

- x. The Heat board with the specification given by the interested parties should not be excluded as this board is a like article to the product under consideration and can commercially and technically substitute the same. Further there was no material import, if any, of this board into India during the POI from subject countries.
- xi. *Fire Heat Board or fire resistant boards* are already excluded from the "Product under Consideration" provided they fulfill the technical criteria mentioned therein and, therefore, there is no question of making any specific exclusion. However, the Domestic Industry has no comments if the Fire boards meeting the specifications in the table below are excluded:

Properties	Specifications	Test Method	End Use
Weight	Minimum 9.8Kg/m <sup>2</sup> for 12.5mm & 11.7Kg/m <sup>2</sup> for 15mm	IS 2542	Wall lining & ceiling system to give increased fire system with vapour control. Complies with EN 14190
Branding on Board	Type of board to be mentioned		
Strength of board (Longitudnal)	9.5mm- Min 400 N	IS 2542	
	12.5mm- Min 550 N		
	15mm- Min 650 N		
Fire Rating	Min 60 Minutes for 80mm thick system	BS 476 Part 6 Bs 476 Part 7 BS 476 part 20 & 22	
Thermal conductivity	Min 0.24 W/Mk		

- xii. The Echo boards having the below mentioned specification may be excluded from the PUC:

Properties	Specifications	Test Method	End Use
Weight	Minimum 9.8Kg/m <sup>2</sup> for 12.5mm & 11.7Kg/m <sup>2</sup> for 15mm	IS 2542	Wall lining & ceiling system to give increased fire system with vapour control. Complies with EN 14190
Branding on Board	Type of board to be mentioned		
Strength of board (Longitudnal)	9.5mm- Min 400 N	IS 2542	
	12.5mm- Min 550 N		
	15mm- Min 650 N		
Fire Rating	Min 60 Minutes for 80mm thick system	BS 476 Part 6 Bs 476 Part 7 BS 476 part 20 & 22	
Thermal conductivity	Min 0.24 W/Mk		

- xiii. Domestic Industry has no comments if the impact boards meeting the specifications in the table below are excluded:

Properties	Specifications	Test Method	End Use
Weight	Minimum 9.8Kg/m <sup>2</sup> for 12.5mm & 11.7Kg/m <sup>2</sup> for 15mm	IS 2542	Wall lining & ceiling system to give increased fire system with vapour control. Complies with EN 14190
Branding on Board	Type of board to be mentioned		
Strength of board (Longitudnal)	9.5mm- Min 400 N	IS 2542	
	12.5mm- Min 550 N		
	15mm- Min 650 N		
Fire Rating	Min 60 Minutes for 80mm thick system	BS 476 Part 6 Bs 476 Part 7 BS 476 part 20 & 22	
Thermal conductivity	Min 0.24 W/Mk		

- xiv. The Anti-mold or weather board mentioned by the respondents should not be excluded as this board is a “like article” to the product under consideration and can commercially and technically substitute the same. Further, the interested parties have not made out a cogent case as to how these boards are not technically and commercially substitutable with the Product under Consideration.
- xv. The thermal board mentioned by the respondents should not be excluded as this board is a “like article” to the product under consideration and can commercially and technically substitute the same. Further, the interested parties have not made out a cogent case as to how these boards are not technically and commercially substitutable with the Product under Consideration.
- xvi. As regards the submission for exclusion of 'Gypsum Ceiling Boards with Moisture Barrier', being imported by M/s Armstrong, from the purview of the PUC, Authority's attention is invited to the Product under Consideration defined by the applicant wherein moisture resistant boards of water absorption upto and including 5% have not even been claimed as the “Product under Consideration”.
- xvii. It is a well-settled principle that anti-dumping is a special measure and the protection sought to be restricted only where dumping is taking place and injury is caused to the Domestic Industry. It is preposterous to suggest that the Domestic Industry has been selective in defining the Product under Consideration. As regards the products being manufactured by the Domestic Industry, full information has been provided to the Authority.

- xviii. Imports of *moisture resistant boards and fire resistant boards* had been taking place at much higher prices which did not have any adverse effect on the domestic industry. Had the domestic industry included these products in the scope of the “Product under Consideration”, the same interested parties would have raised the issue as to why those products which are not “Like Article” and which do not cause injury to the Domestic Industry have been included. Further, such specialty products constitute a very small portion of the domestic industry’s turnover and also the total domestic market.

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

10. The Authority initiated the subject investigation by defining the product under consideration as Plain Gypsum Plaster Boards of all thicknesses and dimensions, excluding the Gypsum Boards having water absorption up to and including 5% and the Gypsum Boards having a minimum breaking load of 24 Newtons in the transverse direction and 50 Newtons in the longitudinal direction per millimetre of thickness of the Board.
11. The Authority notes that the Plain Gypsum Plaster Boards are also referred to as Standard Gypsum Boards, Regular Gypsum Boards or simply Gypsum Boards in common trade parlance across the world. The subject goods are used in interior construction in suspended ceiling and partition applications.
12. The Authority notes that the Gypsum Plaster Boards that are typically designed for special applications to provide moisture resistance or fire resistance or impact resistance are characterized as “Moisture Resistant Boards”, “Impact Resistant Boards” or “Fire Resistant Boards”, respectively and are as such beyond the scope of the product under consideration in the present investigation.
13. The Authority notes that broadly there are two types of Gypsum Plaster Boards viz. Plain Gypsum Plaster Boards and Specialized or Technical or Value Added Gypsum Plaster Boards. The production process of the various types of the Gypsum Plaster Boards is more or less same. However, specific inputs/additives are added to obtain desired properties in the end product.
14. Post initiation, the interested parties claimed exclusion of Fire Boards, Heat Boards, Fire Heat Boards, ECHO Boards, Impact Boards, Anti-mold Boards or Weather Boards, Thermal Boards, Gypsum Ceiling Boards with Moisture Barrier and Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film’, from the scope of the product under consideration. The matter is examined as below:

#### **Fire Boards**

- i. The interested parties submitted that “Fire Boards” are gypsum plaster boards that meet the fire rating standard of more than 30 minutes on fire exposure as these boards have specially formulated core which gives superior fire resistance and higher strength to the product and requested for their exclusion from the purview of the PUC. The domestic industry also agreed for the exclusion of this type of boards subject to the specifications provided by them. The Authority

notes that the product under consideration in the subject investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and Fire Boards or “Fire Resistant Boards” are as such excluded from the purview of the product under consideration”.

### **Fire Heat Boards**

- ii. The interested parties have submitted that “Fire Heat Boards” are gypsum plaster boards that meet the fire rating standards of more than 30 minutes on Fire Exposure as per BS 476: Part 20 and 22 (copies enclosed as Exhibit 1B and Exhibit 1C) and also have a polyester metalized foil firmly bonded on to the backside that gives at least 75% solar reflectance. These boards are used for protection around places that are exposed to risk of fire and also as wall lining. The domestic industry submitted that *Fire Heat Boards* or fire resistant boards are already excluded from the “Product under Consideration” provided they fulfill the technical criteria mentioned by them and, therefore, there is no question of making any specific exclusion. The Authority notes that the product under consideration in the subject investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and the “Fire Heat Boards” being fire resistant boards are as such excluded from the purview of the product under consideration.

### **Impact Boards**

- iii. The Authority notes that “Impact Boards” are that type of gypsum plaster boards that have high density core which give them higher breaking load strength. As submitted by the interested parties, such type of gypsum boards having higher breaking load strength are mainly used in high traffic zone areas like foot-steps, stair cases etc., where there is frequent heavy weights movement. The interested parties have further submitted that these boards weigh 12.5 kilograms per meter square of 12.5 mm thickness (+/- 0.35 kg/m<sup>2</sup>) as against a standard board that weighs around 9 kilograms per meter square of 12 mm thickness. The domestic industry submitted that the “Impact Boards” are already excluded from the “Product under Consideration” provided they fulfill the technical criteria mentioned by them and, therefore, there is no question of making any specific exclusion. The Authority notes that the product under consideration in the subject investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and the “Impact Boards” are as such excluded from the purview of the product under consideration.

### **Gypsum Ceiling Boards with Moisture Barrier**

- iv. The Authority notes that the interested parties have requested for exclusion of “Gypsum Ceiling Boards with Moisture Barrier”. The Authority further notes that the domestic industry has also informed that the moisture resistant boards of water absorption up to and including 5% have already been excluded from the purview of the “Product under Consideration” and therefore, the question of specific exclusion of Gypsum Ceiling Boards with Moisture Barrier, does not arise. The Authority notes that the product under consideration in the subject investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and “Gypsum Ceiling Boards with Moisture Barrier” being moisture resistant

boards are as such excluded from the purview of the product under consideration.

### **ECHO Boards**

- v. The Authority notes that “ECHO Boards” are gypsum plaster boards which provide special sound absorption properties. The interested parties have submitted that “ECHO Boards” have square or circle perforations on their sides and a Noise Reduction Coefficient (‘NRC’) in the range of 0.65 to 0.80 as per IS 8225-1987 in reverberation room, that provide special sound absorption properties. They have further submitted that due to their special sound absorption properties, these boards are used in Cinema Halls, Recording rooms and other places where reverberation effect of sound has to be minimized. The Authority further notes that the domestic industry has also agreed for the exclusion of the “ECHO Boards” from the purview of the PUC, with specifications as provided by them. The Authority notes that the PUC in the present investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and the “ECHO Board” is a special/value added variant of gypsum plaster board. The Authority further notes that the domestic industry has not provided any documentary evidence to substantiate production of “ECHO Board” by them during the injury period including POI, in conformity with the technical specifications being claimed by them. In view of the above position, the Authority notes that “ECHO Board”, being a special/value added variant of the gypsum plaster boards, is excluded from the purview of the PUC.

### **Heat Boards**

- vi. The interested parties stated that “Heat Board” is gypsum plaster boards with polyester metalized foil firmly bonded on to the backside which gives at least 75% solar reflectance and claimed its exclusion from the purview of the PUC. But, the domestic industry has argued that this type of board is a like article to the product under consideration and can commercially and technically substitute the same. Further, domestic industry has submitted that there was no material imports, if any, of this board into India during the POI from subject countries and requested not to exclude the “Heat Boards” from the purview of the PUC. The Authority notes that the product under consideration in the present investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and “Heat Board” is a special/value added variant of gypsum plaster board. The Authority further notes that the domestic industry has not furnished any documentary evidence to substantiate production and supply of the same variety during the injury period including POI. In view of the above position, the Authority notes that “Heat Board”, being a special/value added variant of the gypsum plaster boards, is excluded from the purview of the product under consideration.

### **Anti-mold Boards or Weather Boards**

- vii. As submitted by the interested parties, the “Anti-mold Boards or Weather Boards” are gypsum plaster boards with certain special additives added to the core and a special paper liner added to the surfaces to give them enhanced protection against mold or fungus growth. They have further submitted that

these boards find special use in hospitals, warehouses and other areas which are exposed to moisture or abnormal environmental conditions. The interested parties have requested for the exclusion of such type of gypsum plaster boards from the purview of the PUC. On the contrary, the domestic industry has submitted that it is a “like article” to the product under consideration and can commercially and technically substitute the same. The Authority notes that the product under consideration in the present investigation is Plain Gypsum Plaster Boards of all thicknesses and dimensions and “Anti-mold Board or Weather Board”, is a special/value added variant of the gypsum plaster board. The Authority further notes that the domestic industry has not furnished any documentary evidence to substantiate production and supply of this variety of gypsum plaster board during the injury period including POI. In view of the above position, the Authority notes that “Anti-mold Boards or Weather Boards”, being a special/value added variant of the gypsum plaster boards, is excluded from the purview of the product under consideration.

### **Thermal Boards**

- viii. The interested parties have submitted that “Thermal Boards” are gypsum plaster boards with XPS Composite Panel at the back side using PVA Glue which offers additional thermal insulation with the lower thickness of the Board and therefore be excluded from the purview of the PUC. On the contrary, the domestic industry has submitted that thermal board should not be excluded as this board is a “like article” to the product under consideration and can commercially and technically substitute the same. The Authority notes that the product under consideration in the present investigation is plain gypsum plaster board and “Thermal Board”, is a special/value added variant of the gypsum plaster boards. The Authority further notes that the domestic industry has not furnished any documentary evidence to substantiate production and supply of “Thermal Boards” during the injury period including POI. In view of the above position, the Authority notes that “Thermal Board”, being a special/value added variant of the gypsum plaster boards, is excluded from the purview of the PUC.

### **Gypsum Ceiling Board with Aluminium Edges Sealed in White Film**

- ix. The interested parties requested for exclusion of “Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film” from the purview of the PUC. The domestic industry has also not furnished any documentary evidence to substantiate production and supply of the same variety during the injury period including POI. The Authority notes that the product under consideration in the present investigation is plain gypsum plaster boards of all thicknesses and dimensions and “Gypsum Ceiling Board with Aluminium Edges Sealed in White Film”, being a special/value added variant of the gypsum plaster board, is excluded from the purview of the PUC.

### **Like Article**

15. Rule 2(d) of the Anti-dumping Rules defines like article as follows:

*“like article” means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such*

*article, another article which although not alike in all respects, has the characteristics closely resembling those of the articles under investigation.*

16. The domestic industry has claimed that the subject goods, which are being dumped into India, are identical to the domestic like product being produced by them. The domestic industry has further claimed that there is no known difference in their product and the subject goods exported from the subject countries and are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods and there is no significant difference in the subject goods produced by the domestic industry and those exported from the subject countries and both are technically and commercially substitutable. The interested parties have also not disputed the likeness of the subject goods being produced by the domestic industry and those exported from the subject countries.
17. The Authority notes that there is no known difference in the subject goods produced by the domestic industry and those exported from the subject countries. The subject goods produced by the Indian industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. None of the interested parties have raised any objection in this regard. In view of the above, the subject goods produced by the domestic industry are being treated as domestic like articles to the product under consideration imported from subject countries in terms of the Rules.
18. After considering the information on record, the Authority is of the view that there is no known difference between the product under consideration exported from subject countries and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. Thus, the two are considered to be technically and commercially substitutable and therefore like articles in terms of the Rules.

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

19. The interested parties submitted that the petitioner has its related entity in UAE and Thailand, exporting gypsum boards to India. This makes the petitioner 'related to the exporters' and as per Rule 2 (b) of the Anti-dumping Rules, such producers would not form part of the domestic industry.
20. The domestic industry submitted that neither they are related to the exporters of the subject goods from the subject countries or importers of the subject goods in India, nor they have imported the subject goods from the subject countries during the injury period including the POI.

### **Examination by the Authority**

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

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

22. The Authority notes that in the subject investigation the application was filed by M/s. Saint-Gobain Gyproc India Ltd, on behalf of the domestic industry. As per the information furnished by M/s. Saint-Gobain Gyproc India Ltd, there is another producer of the subject goods in India namely M/s Lafarge Boral Gypsum India Pvt. Ltd. (LBGI). The share of the applicant company in the total domestic production of the subject goods was claimed to be 79% and the balance accounted for by M/s Lafarge Boral Gypsum India Pvt. Ltd. However, as claimed by the applicant company, M/s Lafarge Boral Gypsum India Pvt. Ltd is a regular importer of the subject goods and has also imported the subject goods in the period of investigation, thereby making them ineligible for the status of domestic industry under the Rules. The Authority notes that none of the interested parties, including M/s Lafarge Boral Gypsum India Pvt. Ltd, have disputed this fact.

23. The Authority further notes that none of the interested parties have substantiated their claim by furnishing documentary evidence that M/s. Saint-Gobain Gyproc India Ltd’s related companies in the subject countries have exported the subject goods to India during the POI. It may be the position that some of their related companies in the subject countries may have exported certain excluded variety of the Gypsum Plaster Boards, but that does not make them ineligible for the status of domestic industry under the Rules. In view of the above position, the Authority considers M/s. Saint-Gobain Gyproc India Ltd as commanding a major proportion of the production of the subject goods in India and therefore constituting domestic industry under the Rules.

#### **D. De Minimis Limits**

24. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources, as well as the data furnished by the cooperating exporters from the subject countries, the imports of the subject goods from the subject countries are above the de minimis level.

#### **E. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

25. The following are the submissions made by the interested parties:

- i. The statement of the petitioner that the prices of the subject goods in Thailand are beyond its reach is false since one of its subsidiaries namely M/s Thai Gypsum Products Plc is engaged in production of the subject goods.

- ii. The claim of the petitioner that the domestic selling price of Gypsum in Thailand is Government controlled, is unsupported by any documentary evidence. Certain communications state that the Government shall fix a minimum export price for gypsum to conserve the natural resource to be unduly exported abroad. Thus, what is being controlled by the Government of Thailand is the minimum export price of Gypsum for sales outside Thailand and not the domestic selling price.
- iii. The Constructed Normal Value (CNV) presented in the petition does not meet the requirement of the law. The price of primary raw material – Gypsum has been considered on the basis of ‘*experience of the domestic industry*’. Such a methodology for constructing CNV is unheard of.
- iv. The petitioner has not even disclosed the materials that have been considered by it as raw material and their price considered in determining CNV. Even the consumption factor adopted by the petitioner has not been disclosed. The evidences on the basis of which such prices were constructed have also not been provided. One other important component of cost is electricity cost. The petitioner has not provided the norms used for power consumption nor has stated the per unit cost of electricity considered in determining CNV.
- v. In determining the ex-factory export price, the petitioner has adjusted the CIF export price available from IBIS with inter alia ocean freight that would be incurred in transporting the subject goods from the exporting country to India. The petitioner has claimed that, as per the information available with it, the ocean freight from Thailand to India is USD 55 per meter cube. The freight cost has been inflated. The freight charges during the POI have been significantly lower than USD 55 per meter cube.
- vi. Petitioner has *constructed* normal value for UAE/Thailand. This is despite the fact that they have their own subsidiaries in UAE/ Thailand producing Gypsum Plaster Boards. Such being the case, petitioner deliberately did not provide evidence of normal value on the basis of actual selling price in these countries.
- vii. Siam Sarburi has exported to India Plain Gypsum Plaster Boards of the made to order LaGyp brand with the dimension of \*\*\* mm width and \*\*\* mm thickness. However, in the domestic market of Thailand, Siam Sarburi has sold Plain Gypsum Boards of Standard Board type with \*\*\*,\*\*\*,\*\*\* and \*\*\* mm thickness, \*\*\*, \*\*\* mm weidth and \*\*\*-\*\*\*mm length. As the goods being exported are different from the goods domestically sold, the domestic selling price cannot be used for determining the normal value for Siam Sarburi. However, Siam Sarburi has exported the \*\*\*mm thickness boards to other countries. Therefore,

as per the relevant provisions of Customs Tariff Act, the normal value for Siam Sarburi should be determined on the basis of the price of \*\*\* mm thickness boards exported to other countries. If, however, the Authority is of the opinion that normal value is to be determined based on domestic sales of Gypsum boards with other thickness, then the same can be done by taking the domestic sales price of the board having \*\*\* mm thickness, which is a similar product.

- viii. Siam Songkhala has neither sold \*\*\* mm thickness board in the domestic market, nor exported the same to other countries. In view of that, the Authority should compare the selling price of \*\*\* mm thickness boards exported to India with \*\*\* mm thickness boards sold in the domestic market of Thailand.

26. The following are the submissions made by the domestic industry with regard to the normal value, export price and dumping margin:

- i. The producers in Thailand enjoy undue advantage with respect to raw material pricing, essentially on account of government intervention. The notification Ref. No.OR.KO.0516/193 Dated January 16, 2009 issued by the Mining Industry Council of Thailand regarding determination of minimum export price of gypsum indicates that the prices of gypsum, the major raw material for the subject goods, cannot be accepted on their face value on account of differential pricing policy followed in Thailand. Moreover, this is not reflective of fair market price of gypsum in Thailand. The Authority is requested to take in to account the market price of gypsum while computing the cost of production for the purpose of determining normal value in Thailand.
- ii. Thailand, one of the subject countries, may be taken as an appropriate market economy third country for determination of normal value for China PR, as the capacity in China PR for manufacturing the subject goods is close to the manufacturing facility in Thailand. Moreover, the industry structure, the average capacity of plants, the cost structure, the production process and the technology are reasonably and fairly close to that found in China. The relevant information regarding the determination of normal value, therefore, can be obtained from Thailand by the Authority during the course of the investigation.
- iii. The various companies within the group are different legal entities with independent management. While the same may be considered as affiliates for a particular purpose, there is no practice of sharing the information across entities within the group due to differing shareholding patterns. Further, even within the group companies, sharing of cost and pricing information cannot be insisted unless one company is a 100% subsidiary of the other. In any case, the onus on the applicant is only to provide the sufficient evidence for the purpose of initiation and it is the actual cost and price of the cooperating exporter which shall be taken into account for the purpose of calculating the dumping margin.

- iv. The statement that Constructed Normal Value (CNV) presented in the petition does not meet the requirement of the law, **is** misplaced. Under the law, the applicant is required to give only evidence which is sufficient to justify the initiation of the investigations in terms of Rule 5 of the Anti-dumping Rules.
- v. The information of the Domestic Industry is routinely being taken by the DGAD as a valid basis for estimating the CNV and the dumping margin. The real test in law as well as in practice is whether the information relied upon by the Hon'ble Authority is sufficient to initiate the investigation or not.
- vi. The information relating to the cost/consumption of raw material and electricity are business sensitive information and hence are confidential.
- vii. The relevant document for substantiating the claim in the context of ocean freight is enclosed with the application.
- viii. The methodology of determination of normal value, suggested by *Siam Sarburi and Siam Songkhla*, is not in accordance with the methodology prescribed by the law.
- ix. The domestic as well as export price from UAE should be rejected as they do not reflect the full cost of production and sales, as per admissions by the exporters themselves that they enjoy certain benefits in the form of incentives / subsidies for being located in SEZ.

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

27. The submissions made by the interested parties with regard to normal value, export price and dumping margin are addressed by the Authority as follows:

- i. The Authority notes that the Notification Ref. No.OR.KO.0516/193 Dated January 16, 2009 of the Mining Industry Council of Thailand, furnished by the domestic industry, shows that it is the export price of raw material i.e. Gypsum which is regulated by the Govt. of the subject country. However, no evidence has been furnished to substantiate that the said order by the Govt. of the exporting country also impact the domestic prices of raw material. Therefore, the contention of the domestic industry in this regard has not been accepted by the Authority.
- ii. The Authority notes that in terms of Para 7 of Annexure I of the Anti-dumping Rules, 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 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. The Authority further notes that neither Thailand can be considered as at the same level of development as China PR, nor any reliable information has been made available by any interested party in this regard. In view of the above, the submission of the domestic industry to take Thailand, one of the subject countries in the present investigation, as an appropriate market economy third country for determination of normal value for China PR, is not accepted by the Authority.

- iii. The domestic industry has submitted that their related companies in the subject countries have not exported the subject goods to India during the POI. As a result, such related companies have also not responded in the present investigation. Moreover, the domestic industry has stated that the various companies within the group are different legal entities with independent management and therefore, information regarding cost and pricing being confidential in nature, are not shared.
- iv. As regards the submission by domestic industry that incentives / subsidies are available to the exporters from UAE on account of being located in SEZ, the Authority at this stage have accepted the claims of respondent exporter from UAE subject to verification of its submissions on all accounts.
- v. As regards the claim of the domestic industry for adjustment of transportation cost for determination of ex-factory export price, based on submissions made by the cooperating exporters from the subject countries, the Authority notes that the claim apparently appears to be excessive. Therefore, in the determination of normal value, the Authority has considered transportation costs based on the claims of the cooperating exporters in this regard.
- vi. The methodology of determination of normal value and export price adopted by the Authority is in terms of the laid down Rules and as such explained in this finding.

28. The exporter's questionnaire responses submitted by the following cooperative exporters/producers have been accepted by the Authority, subject to verification of their claims, and considered for the purpose of determination of normal value, export price and dumping margin in this preliminary finding. In respect of other producers/exporters from the respective subject countries the Authority has relied upon the best information available on record.

- (a) Gypsemna Co. L.L.C., UAE
- (c) The Siam Gypsum Industry (Songkhla) Co. Ltd, Thailand
- (d) The Siam Gypsum Industry (Saraburi) Co. Ltd, Thailand

29. The Authority has determined normal value, export price and dumping margin as follows:

**NORMAL VALUE**

**CHINA PR**

30. The Authority notes that none of the producers/exporters from China PR have submitted questionnaire responses and are therefore non-cooperative. In the absence of any response and China PR being a non-market economy, the Authority therefore considers it appropriate to proceed with para-7 of Annexure-I to the Rules for determination of normal value for China PR. Para 7 of Annexure I of the 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.”*

31. The domestic industry proposed that Thailand be taken as an appropriate market economy third country for determination of normal values for China PR, without making available any reliable information as required under the Rules. Moreover, the Authority notes that China PR and Thailand cannot be considered as at the same level of development. In view of the above, in terms of Para 7 of Annexure I of the Rules, the Authority provisionally determines the constructed normal value (CNV) *“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”*. Accordingly, the Authority has determined CNV in respect of China PR as US \$ \*\*\* per MT.

**Indonesia**

32. The Authority notes that none of the producers/exporters from Indonesia have submitted exporter's questionnaire response. Therefore, the Authority has relied upon the best available information in terms of Rule 6(8) of the Rules for the determination of normal value in respect of Indonesia and determined the normal value as US\$ \*\*\* per MT.

**Determination of Normal value in respect of Co-operative Exporters/Producers from Thailand and UAE**

**UAE**

**M/s Gypsemna, UAE:**

33. The Company submitted details of sales of the subject goods in the domestic market. The Authority notes that the company sold a total quantity of \*\*\* cubic meter of the subject goods in the domestic market. The Authority further notes that the thickness of the subject goods sold in domestic market varied from \*\*\*mm to \*\*\*mm. An analysis of the domestic sales of the petitioner company during the POI revealed that there were significant differences in the sales price based on thickness of the goods sold to the consumers. The ex-factory sales price of the subject goods in the domestic market ranged from US \$ \*\*\* per cubic meter to US \$ \*\*\* per cubic meter. Therefore, for the purpose of arriving at the normal value and for comparison on like-to-like basis, the domestic sales price of thickness of the Gypsum Plaster Board, as exported by the company to India, has been considered. Accordingly, the average CIF price of domestic sales of subject goods during the POI was US \$ \*\*\*. The company has claimed further adjustments on account of local transportation and credit cost. It has also been claimed by M/s Gypsemna, UAE that in the domestic market the subject goods are being sold to the customers at varying levels of trade. Accordingly the company allows substantial discounts to the customers based on quantities of subject goods sold. Subject to verification of the information submitted by the company and its substantiation with documentary evidence, the Authority does not accept the claims of the company with regard to normal value at this stage. Accordingly the normal value in case of M/s Gypsemna, UAE has been determined by the Authority as US \$ \*\*\*/meter cube.

**Thailand**

**M/s Siam Gypsum Industry (Songkhla) Co. Ltd, Thailand**

34. The company submitted details of sales of the subject goods in the domestic market. The Authority notes that the company sold a total quantity of \*\*\* meter cubes of the subject goods in the domestic market. The Authority further notes that the thickness of the subject goods sold in domestic market varied from \*\*\*mm to \*\*\*mm. An analysis of the domestic sales of the petitioner company during the POI revealed that there were significant differences in the sales price based on thickness of the goods sold to the consumers. The ex-factory sales price of subject goods, based on thickness varied from US \$ \*\*\* per cubic meter to US \$ \*\*\* per cubic meter. Therefore, for the purpose of arriving at the normal value and for comparison on a like-to-like basis, the domestic sales price of the thickness of the Gypsum Plaster Board, as exported by the company to India has been considered. Accordingly, the average CIF price of domestic sales of subject goods during the POI was USD \*\*\* per cubic meter. The company has claimed further adjustments on account of inland transportation, ocean freight, insurance, port handling charges, customs fees, credit cost and Bank charges. Subject to verification of the information submitted by the company, the Authority accepts the claims of the company with regard to normal value. Accordingly the normal value in case of M/s Siam Gypsum Industry (Songkhla) Co. Ltd has been determined by the Authority as US \$ \*\*\* per meter cube.

**M/s Siam Gypsum Industry (Saraburi) Co. Ltd**

35. The company submitted details of sales of the subject goods in the domestic market. The Authority notes that the company sold a total quantity of \*\*\* meter cubes of the subject goods in the domestic market. The Authority further notes that the thickness of the subject goods sold in domestic market varied from \*\*\*mm to \*\*\*mm. An analysis of the domestic sales of the petitioner company during the POI revealed that there were significant differences in the sales price based on thickness of the goods sold to the consumers. The ex-factory sales price of subject goods, based on thickness varied from US \$ \*\*\* per cubic meter to US \$ \*\*\* per cubic meter. Therefore, for the purpose of arriving at the normal value and for comparison on like-to-like basis, the domestic sales price of the thickness of the Gypsum Plaster Board, as exported by the company to India has been considered. Accordingly, the average CIF price of domestic sales of subject goods during the POI was USD \*\*\* per cubic meter. The company has claimed further adjustments on account of inland transportation, ocean freight, insurance, port handling charges, custom fees, credit cost and Bank charges. Subject to verification of the information submitted by the company, the Authority accepts the claims of the company with regard to normal value. Accordingly, the normal value in case of M/s Siam Gypsum Industry (Saraburi) Co. Ltd has been determined by the Authority as US \$ \*\*\* per meter cube.

**Determination of Normal value in respect of Non-Cooperative Exporters/Producers from Thailand and UAE**

**Non Cooperative exporters, UAE**

36. The Authority has determined normal value of US\$ \*\*\* per MT for non-cooperative producers/exporters from UAE, on the basis of best available information as per the Rules.

**Non Cooperative exporters, Thailand**

37. The Authority has determined normal value of US\$ \*\*\* per MT for non-cooperative producers/exporters from Thailand, on the basis of best available information as per the Rules.

**EXPORT PRICE**

**UAE**

**M/s Gypsemna Co. (L.L.C.), Dubai**

38. The company submitted details of its exports of subject goods to India in the prescribed proforma. The Authority notes that the company has only sold the subject goods of the thickness of \*\*\* mm to Indian market. The company sold a total quantity of \*\*\* meter cube of subject goods in the Indian market at an average export price of US \$ \*\*\*. In the export price, the company has claimed adjustments on account of credit cost, local transportation, documentation charges and ocean freight. Subject to verification of the information, the claim of the company with regard to export price is accepted by the Authority for the purpose of preliminarily findings. Accordingly, subject to verification,

the net export price of subject goods exported by M/s Gyosemna Co. (LLC), Dubai to India during the POI is worked out by the Authority as US \$ \*\*\* per cubic meter.

**Non Cooperative exporters from UAE**

39. The Authority notes that no other exporter from UAE has submitted exporter's questionnaire response. Therefore, the Authority has adopted the lowest representative net export price to India of the cooperative exporters from UAE i.e. US\$ \*\*\* per MT, for non-cooperative exporters from the same country.

**Thailand**

**The Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand**

40. The company submitted details of its exports of subject goods to India in the prescribed proforma. The Authority notes that the company has sold the subject goods of the thickness of \*\*\* mm and \*\*\* mm to Indian market. The company sold a total quantity of \*\*\* meter cube of subject goods in the Indian market at an average export price of US \$ \*\*\* per cubic meter. In the export price, the company has claimed adjustments on account of ocean freight, port handling charges, credit cost and bank charges. Subject to verification of the information, the claim of the company with regards to export price is accepted by the Authority for the purpose of preliminarily findings. Accordingly, subject to verification, the net export price of subject goods exported by M/s Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand to India during the POI is worked by the Authority as US \$ \*\*\* per cubic meter.

**The Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand**

41. The company submitted details of its exports of subject goods to India in the prescribed proforma. The Authority notes that the company has only sold the subject goods of the thickness of \*\*\* mm to Indian market. The company sold a total quantity of \*\*\* meter cube of subject goods in the Indian market valuing US \$ \*\*\*. In the export price, the company has claimed adjustments on account of inland transportation, Ocean freight, port handling charges, credit cost and bank charges. Subject to verification of the information, the claims of the company with regards to export price are accepted by the Authority for the purpose of preliminarily findings. Accordingly, subject to verification, the net export price of subject goods exported by M/s Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand to India during the POI is work out by the Authority as US \$ \*\*\* per cubic meter.

**Non Cooperative exporters from Thailand**

42. The Authority notes that no other exporter from Thailand has submitted exporter's questionnaire response. Therefore, the Authority has adopted the lowest representative net export price to India of the cooperative exporters from Thailand i.e. US\$ \*\*\* per MT, for non-cooperative exporters from the same country.

**Determination of Export Price in respect of China PR and Indonesia**

43. The Authority notes that none of the exporters/producers of subject goods from China PR and Indonesia has responded to the Authority in the form and manner prescribed.

In the absence of response from the producers/exporters from the said countries, the Authority has determined the export price in respect of these countries on the basis of best information available on record in terms of Rule 6(8) of the Anti-dumping Rules. The Authority has relied upon DGCI&S import data for the purpose of arriving at the weighted average CIF value of imports from the said countries during the POI. Adjustments on account of ocean freight, insurance, port expenses have been considered, based on available information and on the basis of claims made by the domestic industry, to arrive at the net export price in respect of the said countries. Accordingly, export price at ex-factory level for all exporters of China is determined as US\$ \*\*\* per MT and for all exporters of Indonesia as US\$ \*\*\* per MT.

**DUMPING MARGIN**

**Dumping Margin for Related Entities.**

44. The Authority notes that M/s Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand and M/s Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand are related parties since majority of the share holding of both the companies is held by a single entity namely M/s Siam Gypsum Industry Co. Ltd. It has been a consistent practice of the Authority to consider related exporting producers or exporting producers belonging to the same group as one single entity for the determination of a dumping margin and thus to establish one single dumping margin for them. This is in particular because calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related exporting producers to channel their exports to India through the company with the lowest individual dumping margin.

45. Considering the Normal Values and Export Prices, as determined above, the dumping margins have been determined as follows:

In US\$/Cubic Meter					
S. No.	Country	Producer/ Exporter	Dumping Margin	Dumping Margin %	DM (range)
1.	Thailand	M/s Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand	***	***	70-80
		M/s Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand	***	***	50-60
		<b>Group</b>	***	***	45-55
		Any other producer/exporter	***	***	85-95
2.	UAE	M/s Gypsemna Co. (L.L.C.), Dubai	***	***	8-16
		Any other producer/exporter	***	***	15-25

3.	China	All producers/exporters	***	***	35-45
4.	Indonesia	All producers/exporters	***	***	1-10

## **INJURY AND CAUSAL LINK**

### **Injury Related Submissions made by the interested parties**

46. The following are the submissions made by the interested parties concerning injury to the domestic industry:

- i. The injury allegedly suffered by domestic industry is due to increased cost of production caused by excessive production capacity as compared to demand.
- ii. The application for imposition of anti-dumping duty is intended to drive away competition from the market. The Competitive Commission of India has already initiated an investigation against the petitioner company in this regard.
- iii. The subject petition is flawed since the petitioner has failed to establish prima facie that there was dumping, injury and causal link.
- iv. Amortization of the cost of petitioner's Chennai plant that has discontinued production has caused the alleged injury to the petitioner.
- v. Advantages gained out of captive consumption have not been analyzed. Any injury caused due to uneconomical usage of internally consumed goods shall not be attributed to the subject imports.
- vi. NIP of the petitioners should be determined with a reasonable profit margin.
- vii. The imports are made by a related company in India which incurs all the selling expenses like advertisement expenses, sales promotion expenses, warehousing charges etc. to sell the product. Hence, in order to arrive at a fair comparison, what is to be compared is the net selling price of the trading company in India with the selling price of the petitioner.
- viii. Imports from subject countries have increased only because of fresh production and resultant exports from UAE. If imports from UAE are excluded, the volume of imports is in the same region.
- ix. During the period of 2008-09 and 2009-10, the market share of imports decreased. Despite this, market share of the domestic industry declined. At the same time, the market share of the other Indian producer, Lafarge Boral Gypsum India Pvt. Ltd, increased in the same period. This shows that the loss of market share to the Domestic industry is on account of internal domestic competition i.e., Lafarge Boral Gypsum Indian Pvt. Limited and not because of alleged dumping by the subject countries.

- x. It is submitted that there was a decrease in the production of the petitioner for the period 2008-09 and 2009-10, but the production has in fact increased substantially in the POI. It is also observed from the above table that the loss in the production of the petitioner was because of the other Indian producer, which started manufacturing in 2008-09.
- xi. There is no correlation between the increase in the alleged dumped imports and the alleged injury. In fact, when the imports declined in 2008-09 and 2009-10, the injury parameters for the petitioner declined too, inter alia, profits, cash profit and return on investment. Therefore, the existence of causal link between the imports and the alleged injury is absent.

**Submissions made by the domestic industry**

47. The following are the submissions made by the domestic industry concerning injury:

- i. The contention raised by the interested parties that injury allegedly suffered by domestic industry is due to increased cost of production caused by excessive production capacity and not because of imports is incorrect. The capacity decisions are made based on the development of the market in terms of the size and growth rates of the preceding years. The data in table below gives the estimated size of the market and the market growth in % terms for the years 2003 to 2006:

<b>Quantity in M3</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>Market growth</b>	85000	123750	173750	225000
<b>Market growth year to year</b>		45.65%	40.4%	29.5%

The above table shows that there is a steady average market growth of 30 - 40% over the years that determined the decision of domestic industry for expansion of the capacity.

- ii. The increase in the cost of production is overwhelmingly due to the increase in the variable cost of production, as increase in the fixed cost per unit is marginal. Thus, the increase in costs has no relation with the increase in capacity.
- iii. The contention that petitioner is intending to drive competition from the market is misplaced. The basic premise of anti-dumping duty is to protect against unfair practice of dumping. Moreover, there is no enquiry either against the petitioner or with regard to the Product under Consideration by the CCI.
- iv. It is only on the basis of sufficient evidence of dumping, injury and casual link that the Authority initiates investigations. The information in the context of the injury, casual link and dumping has already been provided in the application filed by the domestic industry.
- v. The amortization cost due to discontinuation of production of the Chennai plant has not been considered either to calculate the injury related factors or the normal value.

- vi. The quantity of captive consumption is in the nature of boards utilized as samples or mock ups. The total quantity of boards utilized for this purpose in 2009-10 was \*\*\* MT which is equivalent to \*\*\* M3 which is merely \*\*\* % of total sales during 2009-10. The cost for the same has been considered under the sales promotion expenses.

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

48. The Authority notes that the contention made by the interested parties that the injury, allegedly suffered by domestic industry, is due to increased cost of production caused by excessive production capacity and not because of imports, is incorrect. As the domestic industry has rightly pointed out, the decisions for capacity expansion are not made by companies overnight but rather on the basis of market size and growth observed over the preceding years. The data provided by the domestic industry show a steady average market growth of 30 - 40% during 2003 to 2006.
49. The Authority notes that the intent for imposition of anti-dumping duty is not to drive away competition from the market, but rather to create a level playing field characterized by fair competition. The Authority further notes that the interested parties have not furnished any documentary evidence in support of their submission that the Competitive Commission of India has already initiated an investigation against the petitioner company in this regard. The domestic industry has also denied any such investigation by the CCI against their company. Nevertheless, the Authority notes that the investigations initiated by the Competitive Commission of India are beyond the scope of Anti-dumping investigations.
50. The Authority notes that the amortization cost on account of discontinuation of production of the Chennai plant has not been considered either to calculate the injury related factors or the normal value. Therefore, the submission made by the interested parties in this regard has no relevance.
51. The Authority notes that as per the information provided by the domestic industry the total quantity of captive consumption of the subject goods by the domestic industry is merely \*\*\* % of the total sales during 2009-10 and thus negligible.

#### **Cumulative assessment**

52. Annexure II para (iii) of the Anti-dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts for more than seven percent of the import of like article and

- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

53. The Authority notes that:-

- The subject goods are being dumped into India from a number of countries.
  - The margins of dumping from each of the subject countries are more than the *de-minimis* limits prescribed;
  - The volume of imports from each of the subject countries is more than the *de-minimis* limits prescribed;
  - Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market, which is evident from the following:-
- a. The products manufactured by the producers from the subject countries and the products manufactured by the domestic industry have comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are *inter-se* like articles.
  - b. There are common parties who are resorting to use of the imported subject goods from various sources and the goods produced by the domestic industry. Both, the imported and the domestic subject goods, are being used interchangeably and there is direct competition between the domestic product & imported products and *inter-se* amongst imported products.
  - c. The exporters from the subject countries and domestic industry have sold the product in the same periods to the same set of customers. The sales channels are comparable.
  - d. The volume of imports from each of the subject countries is significant.

54. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

55. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...." In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the AD Rules.

#### **Volume Effects of Dumped Imports:**

#### **Import volumes and market share of subject countries**

56. The following table shows that the share of imports from the subject countries, in the total imports in to India, is as high as 99.13% during the period of investigation. Moreover, in absolute terms, the Authority notes that during the POI import from the subject countries has increased significantly by 194% as compared to base year.

**Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08-March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Imports from Subject Countries	54076	49851	53823	105134
Imports from Other Countries	6	-	182	928
Total Imports	54082	49851	54005	106062
% Share of Subject countries In Total Imports	99.99	100	99.66	99.13

**Market Share of Imports from the Subject country**

57. The Authority notes from the table below that there has been decline in the share of domestic production in the total demand during the POI over the year 2007-08. On the other hand the share of imports from the subject countries has increased from 19.24% to 27.65%. The Authority also notes that there has been inter se change in the market share of the domestic producers due to addition of new capacity by the petitioner company and the other domestic producers of the subject goods. However, the inter se change in the share of domestic producers has been examined by the Authority in the context of the other parameters on dumping, price effect etc of the imports and the consequent injury to the domestic industry.

**Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Total Imports	54082	49851	54005	106062
Production of petitioner company	226982	211235	198999	216092
Production of other producers		30000	45000	58125
Total demand	281010	291086	298004	380279
% Share of Subject countries	19.24	17.13	18.06	27.65
Share of other countries	-	-	0.06	0.24
Share of domestic production	80.75	83.88	81.88	72.10

**Imports from the subject countries in relation to domestic production**

58. The Authority notes from the table given below that imports from the subject countries, as a percentage of domestic production, have increased from 27.26 % in the base year to 45.27% during the POI, thereby signifying that the imports from subject countries have

increased not only in absolute terms but have also increased in relation to total domestic production.

**Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Imports from Subject countries	54076	49851	53823	105134
Imports from other countries	6		182	928
Total imports	54082	49851	54005	106062
Total Production PUC	226928	214235	243999	274217
% Share	23.8	23.2	22.1	38.7

**Effect of Dumped Imports on Domestic Prices**

59. The details relating to landed value of imports from the subject countries as well as domestic selling prices along with the cost are given in the following table:

**Rs/Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Landed Value	***	***	***	***
Indexed	<b>100</b>	<b>121</b>	<b>106</b>	<b>108</b>
Domestic Selling Price	***	***	***	***
Indexed	<b>100</b>	<b>109</b>	<b>112</b>	<b>106</b>
Cost	***	***	***	***
Indexed	<b>100</b>	<b>124</b>	<b>135</b>	<b>120</b>

60. The Authority notes that the average landed value of the subject goods from subject countries has been fluctuating over the injury investigation period. However, the average landed value, after rising in the year 2008-09 has sharply declined in the period of investigation in spite of the fact that the cost to manufacture subject goods has been increasing. On the other hand, throughout the investigation period, the domestic industry seems to be forced to offer the subject goods at lower prices resulting in losses during the POI from a profit making situation in the base year 2007-08. It indicates that the domestic industry was not able to increase its prices to fully recover the increase in cost due to the presence of dumped imports. It therefore indicates that the prices of the domestic industry have been suppressed and undercut by the import prices throughout the investigation period.

**Consequent Effect of Dumped Imports on the Domestic Industry**

**Changes in Market Share held by the Indian Producers.**

61. The Authority notes that the demand in the domestic market has increased by about 30% over the injury investigation period. However, the market share of the domestic industry has declined significantly over the injury investigation period. Similarly, the market share of the total domestic sales has declined over the same period by \*\*\*%. It implies that the increase in the demand has directly been taken over by imports from the subject countries. Thus, the imports have caused injury to the domestic industry with respect to market share.

### Output & Capacity Utilization

62. The Authority notes that there are no dedicated capacities for the subject goods. The goods other than subject goods are also produced from the same capacity. However, the Authority further notes that the subject goods constitute more than 92% of the total production of all products. The details relating to capacity and production of the domestic industry during the injury period and the POI are given in the following table:

#### Meter Cube (M3)

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Capacity	287500	350000	412500	412500
Total Production	226987	210860	204675	219882
Capacity Utilization %	79%	60%	50%	53%

63. The Authority notes from the table above that the capacity utilization of the domestic industry over the injury investigation period has come down by 26%. The Authority further notes that there has been capacity addition by the domestic industry during the injury period. Further, during the same period the other domestic producers have also commenced production of the subject goods. Therefore, there has been a decline in the market share of the petitioner company. This was reflected in the change in the production and capacity utilization of the domestic industry. Therefore, this factor alone has not been considered by the Authority as a parameter for injury to the domestic industry in the present investigation.

### Productivity

64. The per-employee productivity of the domestic industry during the period of investigation has marginally increased as compared to base year.

#### Meter Cube (M3)

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Production	226987	210860	204675	219882
Employees	***	***	***	***
Production per Employee	***	***	***	***
Indexed	<b>100</b>	<b>93</b>	<b>96</b>	<b>102</b>

### Sales Volume & Value

65. The sales volume of the domestic industry has come down by about 5% over the injury investigation period. The decline in the sales volume of the domestic industry has occurred in spite of a 74% increase in the overall demand for the subject goods. The decline in the volume of sales, in spite of increase in the demand for subject goods, coupled with significant surge in the volume of exports and the market share of exports from the subject countries demonstrates the presence of dumped imports from the subject countries.

**Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Total Sales Volume – Domestic	226928	211235	198999	216092
Indexed	<b>100</b>	<b>93</b>	<b>88</b>	<b>95</b>

**Employment and Wages**

66. The Authority notes that the number of employees engaged by the domestic industry has come down over the injury investigation period. However, the wages paid to them have increased.

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
No of Employees	***	***	***	***
Indexed	<b>100</b>	<b>100</b>	<b>94</b>	<b>95</b>
Wages Total (Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>121</b>	<b>122</b>	<b>123</b>

**Profitability**

67. The Authority notes that the profitability of the domestic industry has been severely affected in the period of investigation due to dumped imports from subject countries. The domestic industry started to suffer losses during 2008-09 onwards as compared to significant profit making situation in the base year 2007-08. The Authority notes that while there was increase in the cost of production of the domestic industry to the extent of \*\*\*, on the other hand the sales realization of the domestic industry increased at the maximum during the injury period of \*\*\*, which further declined in the POI. This signifies that the domestic industry was not able to increase the selling prices to the extent of increase in the cost of production resulting in decline in its profitability.

**R/s Meter Cube (M3)**

	<b>April 07- March 08</b>	<b>April 08- March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Selling Price- Rs./ M3	***	***	***	***
Indexed	<b>100</b>	<b>109</b>	<b>112</b>	<b>106</b>
Cost -Rs. / M3	***	***	***	***
Indexed	<b>100</b>	<b>124</b>	<b>135</b>	<b>120</b>
Profit (Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>-32</b>	<b>-135</b>	<b>-49</b>
Profit/Loss- Rs. / M3	***	***	***	***
Indexed	<b>100</b>	<b>-36</b>	<b>-117</b>	<b>-31</b>

**Return on Investment (Capital Employed)**

68. The return on capital employed (ROCE) of the domestic industry has also followed the same trend as that of profitability.

	<b>April 07- March 08</b>	<b>April 08-March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Capital Employed	***	***	***	***
Profit Before Interest	***	***	***	***
ROCE (%)	***	***	***	***
<b>Indexed</b>	<b>100</b>	<b>24</b>	<b>34</b>	<b>9</b>

### **Inventories**

69. The inventories of the domestic industry have marginally come down over the injury investigation period. The same have declined in view of the fact that the domestic industry does not want to get further injured on account of excess investment in the inventory.

	<b><u>Meter Cube (M3)</u></b>			
	<b>April 07- March 08</b>	<b>April 08-March 09</b>	<b>April 09 - March 10</b>	<b>POI</b>
Opening stock	***	***	***	***
Closing Stock	***	***	***	***
Average stock	***	***	***	***
<b>Indexed</b>	<b>100</b>	<b>81</b>	<b>77</b>	<b>93</b>

### **Price Undercutting and Price Underselling**

70. Basing on the import data received from the DGCI&S source, the Authority notes from the table given below that there was significant undercutting effect of the dumped imports from the subject countries.

		<b><u>R/s Meter Cube (M3)</u></b>				
Sl. No.	Details	UAE	China	Indonesia	Thailand	Subject countries
1.	Sales Price of domestic industry	***	***	***	***	***
2.	Landed value	***	***	***	***	***
3.	Undercutting	***	***	***	***	***
4.	Undercutting %	***	***	***	***	***
5.	Undercutting % range	35-25	40-30	30-20	40-50	42-30

### **Price underselling**

71. The price underselling effect on the basis of the available data for the POI is positive and significant for all the subject countries and is tabulated as follows:

Sl. No.	Details	UAE	China	Indonesia	Thailand	Subject countries
1.	NIP of domestic industry	***	***	***	***	***
2.	Landed value	***	***	***	***	***
3.	Underselling	***	***	***	***	***
4.	Underselling %	***	***	***	***	***
5.	Underselling % range	30-40	40-50	25-35	45-55	35-45

### **Actual and potential negative effect on cash flows**

72. The table below clearly indicates that the cash flow position of the applicant has significantly deteriorated over the injury investigation period.

	April 07- March 08	April 08- March 09	April 09 - March 10	POI
Profit/ Loss (Rs. Lacs)	***	***	***	***
Add: Depreciation (Rs. Lacs)	***	***	***	***
Cash Flow (In Rs. Lacs)	***	***	***	***
Indexed	<b>100</b>	<b>31</b>	<b>-18</b>	<b>32</b>

### **Growth**

73. The Authority notes that the growth of the domestic industry is severely negative with respect to profitability and cash flow during the injury period including POI as detailed in this finding.

### **Ability to Raise Capital Investments**

74. The domestic industry is a multi product company having significant turnover generated from activities other than the production and sale of the PUC. Although the profitability/cash flows and returns on capital employed were significantly affected due to dumped imports, considering the fact that the domestic industry has in the recent past undertaken major expansion of capacities and for the present it has no plans for capital investment/expansion, no conclusion can be drawn by the Authority in this regard.

### **Conclusion on material injury**

75. The demand of the subject goods has increased from 100 (Index) in base year to 105 (Index) in POI, i.e., increase by 35%. During the same period, the domestic sales have declined by \*\*\*%. Thus the domestic industry has not been able to take advantage of the increase in demand of the subject goods in the Indian market.

76. It is seen that the imports have increased significantly in absolute terms and in relation to production & consumption in India. The imports are significantly undercutting the prices

of the domestic industry. As a result, of the significant increase in imports and price difference between the imported and domestic product, the performance of the domestic industry has deteriorated in terms of parameters such as production, sales volumes, capacity utilization and market share during the POI in comparison to the base year. The above analysis shows that the domestic industry has suffered material injury.

### **Causal Link**

77. As per the Rules, the Authority is, inter alia, obligated to also examine any known factors other than the dumped imports, which at the same time are injuring the domestic industry, so that the injury caused by these other factors are not attributed to the dumped imports. Factors which may be relevant in this respect include the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. The Authority has examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry.

- a. **Imports from Third Countries:** - The Authority notes that imports from third countries are negligible and thus could not have caused injury to the domestic industry.
- b. **Contraction in Demand:** - The Authority notes that there is no contraction in the demand over the injury period. On the contrary, overall demand for the subject goods has shown significant positive growth during the POI as compared to the base year.
- c. **Pattern of consumption:** - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.
- d. **Conditions of competition:** - It has been argued by the interested parties that the performance of domestic industry has been adversely affected due to commencement of commercial production by another unit in the domestic industry and the same is due to the condition of competition in the domestic industry. The Authority notes that some of the market share of the domestic demand of the subject goods has no doubt shifted to the new entrant in the market but it has been admitted by the responding exporters that the subject goods have been sold in the domestic market in India at dumped prices.
- e. **Developments in technology:** - The investigation so far has not shown that there was any significant change in technology, which could have caused injury to the domestic industry.
- f. **Export performance of the domestic industry:** - Since there are no exports of the domestic industry of the subject goods during the period of investigation, no injury analysis of the export performance of the domestic industry has been carried out by the Authority.

78. The Authority notes that while listed known other factors do not show injury to the domestic industry, the following parameters indicate that injury to the domestic industry has been caused by dumped imports.

- i. The dumped imports of the subject goods from the subject countries causing loss of market share for the domestic industry.
- ii. The domestic industry has lost sales volumes. Its market share has declined, whereas that of imports from the subject countries has increased.
- iii. As a consequence of decline in the market share of the domestic industry, production & capacity utilization of the domestic industry deteriorated significantly.
- iv. The dumped imports are undercutting the prices of the domestic industry. There is a case of significant price-depression as well, if its net selling prices are seen *vis a vis* the preceding year.
- v. Besides, the domestic industry's performance in terms of profits, return on investment and cash flow is far from satisfactory. In fact its performance has significantly deteriorated, if analysed *vis a vis* its performance during the preceding period.

79. In view of the above, the Authority is of the view that injury to the domestic industry has been caused by dumped imports.

**Magnitude of injury and injury margin:**

80. The Authority has determined non-injurious prices of the subject goods for the domestic industry taking into account the cost of production of the domestic industry for the POI. The non-injurious price of the domestic industry has been compared with the landed values of the subject goods to determine the injury margins. Since M/s Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand and M/s Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand are related entities, for the reasons already explained in this finding, the Authority has determined one single injury margin for the said related entities. The injury margins have been worked out by the Authority as follows:

US \$/Meter Cube (M3)

Sl. No.	Country	Producer/ Exporter	Injury Margin	Injury Margin %	IM% Range
1.	Thailand	The Siam Gypsum Industry (Songkhla) Co. Ltd. Thailand	***	***	45-55
		The Siam Gypsum Industry (Saraburi) Co. Ltd. Thailand	***	***	65-75
		Group	***	***	65-75
		Any other producer/exporter	***	***	90-100
2.	UAE	M/s Gypsemna Co. (L.L.C.), Dubai	***	***	40-50

		Any other producer/exporter	***	***	40-50
3.	China	All exporters / producers	***	***	70-80
4.	Indonesia	All exporters / producers	***	***	35-45

### **Miscellaneous Submissions**

81. The following are the miscellaneous submissions made by the interested parties:

- i. The appropriate unit of measurement for the subject goods is meter square and not meter cube. The thickness of the boards is not of material importance in determining the selling price of the subject goods. Since petitioner has provided costing and financial information on the basis of cubic meter, analysis based on petitioner's data will be a distorted analysis.
- ii. The subject investigation is without jurisdiction since the person holding the office of the Designated Authority as on the date of initiation of the investigation was of the rank of Additional Secretary to Government of India, whereas as per the Rules, the Designated Authority should have been of the rank of Joint Secretary to the Government of India.
- iii. The investigation has been initiated without examining the adequacy and accuracy of the information provided by the petitioner in the petition.
- iv. The computation of NIP by the petitioner is incorrect, as the petitioner has claimed an exorbitant 22%. The Authority should not allow rate of return more than 3%.
- v. Subject goods are concerned with the infrastructure sector. In the interest of macro-economic growth, anti-dumping duty should not be imposed on the imports of the subject goods from the subject countries.
- vi. The petition is intended to create monopoly for the petitioner company in the Indian market at the cost of the consumers. The imports from the subject countries give a choice to the consumers for procuring better quality material at cheaper price.

82. The following are the miscellaneous submissions made by the domestic industry:

- i. Authority may kindly disregard any submission made by any party who has failed to provide the information called for by the Designated Authority in the prescribed format.
- ii. Thickness of the board is a key element which has effect on the cost and price of the product under consideration. The interested parties have themselves accepted that the price of 15mm board is more than the 12 mm board. Thus M3 is the only unit of measurement which can take care of the variation in the thicknesses of the boards having a direct impact on the cost and prices of the boards.
- iii. The issue concerning jurisdiction of the Authority was raised before the Hon'ble Bombay high Court in the case of "Hamilton Housewares Pvt Ltd V/s DA" [2012

(276) E.L.T. 191]. The Hon'ble Bombay High Court dismissed the petition vide order dated 14.10.2011.

- iv. The investigation has been initiated by the Authority on the basis of detailed analysis of the injury factors to establish injury, causal link and dumping given by the domestic industry in the application. The interested parties have no right to raise these issues at this stage of the investigations.
- v. It is the consistent and uniform practice of the Authority to allow a return of 22% of capital employed.
- vi. The mere fact that the subject goods may find their application in the infrastructure sector, cannot and has never been a ground for decision-making in anti-dumping matters. In fact, even from a policy perspective, if the goods belong to the infrastructure sector, then there is all the more reason to ensure that the infrastructure industry of the country is not injured by the dumped goods.

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

83. The miscellaneous submissions made by the interested parties and the domestic industry are addressed by the Authority as under:

- i. The Authority notes that whenever thickness of a product is factor of analysis, it is appropriate to cause such analysis on the basis of meter cube (M3) and not meter square.
- ii. As regards the submission made by the interested parties that the subject investigation is without jurisdiction since the person holding the office of the Designated Authority as on the date of initiation of the investigation was of the rank of Additional Secretary to Government of India, whereas as per the Rules, the Designated Authority should have been of the rank of Joint Secretary to the Government of India, the Authority notes that Hon'ble High Court of Mumbai, vide their order dated 14.10.2011, in the WP No. 6791 of 2011 of "Hamilton Housewares Pvt Ltd V/s DA" [2012 (276) E.L.T. 191], dismissed a petition with similar prayer.
- iii. The Authority notes that the subject investigation has been initiated by the Authority having been satisfied prima facie with the evidences submitted by the applicant concerning dumping, injury and causal link of the subject goods, originating in or exported from the subject country. Establishing adequacy and accuracy of the information submitted by the interested parties and the domestic industry are matters of verification and investigation.
- iv. As regards the submission made by the interested parties that subject goods are concerned with the infrastructure sector and in the interest of macro-economic growth, anti-dumping duty should not be imposed on the imports of the subject goods from the subject countries, the Authority notes that the argument has no logic under the anti-dumping provisions. The Authority further notes that the intent behind anti-dumping provisions is not to curb imports but rather to create a level playing field for the domestic industry vis-a-vis the dumped imports.

### **Conclusions:**

84. After examining the submissions made by the interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority provisionally concludes that:
- a. The product under consideration has been exported to India from the subject countries below associated normal values, thus resulting in dumping of the subject goods.
  - b. The domestic industry has suffered material injury.
  - c. The material injury to the domestic industry has been caused by the dumped imports from subject countries.

### **Indian industry's interest & other issues**

85. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the subject goods to the consumers.
86. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping 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 the subject goods.

### **Recommendations**

87. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information, *inter alia*, on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the Anti-dumping Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.
88. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional anti-dumping duty as per amount specified in Col 8

of the table below is recommended to be imposed from the date of this notification in the event of acceptance of these recommendations by the Central Government, on all imports of the subject goods originating in or exported from the subject countries.

**Duty Table**

1	2	3	4	5	6	7	8	9	10
Sl. No.	Sub Heading of Tariff item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount	Unit	Currency
1	68091100, 68091900	Plain Gypsum Plaster Board	China PR	China PR	Any	Any	32.85	Cubic Meter(M3)	US \$
2	do	do	China PR	Any	Any	Any	32.85	do	US \$
3	do	do	Any	China PR	Any	Any	32.85	do	US \$
4	do	do	Indonesia	Indonesia	Any	Any	7.25	do	US \$
5	do	do	Indonesia	Any	Any	Any	7.25	do	US \$
6	do	do	Any	Indonesia	Any	Any	7.25	do	US \$
7	do	do	Thailand	Thailand	Siam Gypsum Industry (Saraburi) Co. Ltd.	Siam Gypsum Industry (Saraburi) Co. Ltd.	30.40	do	US \$
8	do	do	Thailand	Thailand	Siam Gypsum Industry (Songkhla) Co. Ltd.	Siam Gypsum Industry (Songkhla) Co. Ltd.	30.40	do	US \$
9	do	do	Thailand	Thailand	Any Other	Any	51.70	do	US \$

					Combinati on	Other Combinat ion			
10	do	do	Thailand	Any	Any	Any	51.70	do	US \$
11	do	do	Any	Thailand	Any	Any	51.70	do	US \$
12	do	do	UAE	UAE	M/s Gypsemna Co. (L.L.C.), Dubai	M/s Gypsemna Co. (L.L.C.), Dubai	9.46	do	US \$
13	do	do	UAE	UAE	Any Other Combinati on	Any Other Combinat ion	16.66	do	US \$
14	do	do	UAE	Any	Any	Any	16.66	do	US \$
15	do	do	Any	UAE	Any	Any	16.66	do	US \$

89. The following products are excluded from the scope of the anti-dumping measures as recommended in the duty table given above:

- Fire Boards
- Fire Heat Boards
- Impact Boards
- Gypsum Ceiling Boards with Moisture Barrier
- ECHO Boards
- Heat Boards
- Anti-mold Boards or Weather Boards
- Thermal Boards
- Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film.

### **Further Procedures**

90. The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of these preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would conduct further investigation and verification to the extent deemed necessary;
- d. The Authority would disclose essential facts as per the Anti-dumping Rules before determining the final findings.

**(Vijaylaxmi Joshi)**  
**Designated Authority**