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**No. 14/18/2009 - DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES**

New Delhi, the 10th December 2010

Final Findings

Subject: Anti-Dumping investigations concerning imports of 'Barium Carbonate' originating in or exported from China PR -- Final Findings

No. 14/18/2009-DGAD- Whereas the Designated authority, 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 AD Rules); recommended imposition of Anti Dumping duty on the imports of 'Barium Carbonate' originating in or exported from China PR.

A. Background of the Case

2. 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 AD Rules), the Designated Authority (hereinafter referred to as the Authority) received a written application from M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd., (hereinafter referred to as the applicants) on behalf of the domestic industry, alleging dumping of 'Barium Carbonate' (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country).

3. The Authority on the basis of sufficient evidence submitted by the applicants on behalf of the domestic industry issued a public notice dated 16th June, 2009 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigation concerning imports of the subject goods originating in or exported from the subject country, in accordance with the sub-rule 6(1) of the AD Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

4. The Authority recommended imposition of Anti-Dumping duties concerning 'Barium Carbonate' originating in or exported from China PR (falling under ITC HS sub-heading 28366000 vide its Preliminary findings Notification No 14/18/2009-DGAD dated 7th January

2010. The anti-dumping duty was imposed by the Govt. of India vide Notification No. 37/2010-Customs dated 23rd March 2010.

B. PROCEDURE

5. In these proceedings the procedure described herein-below has been followed:
- i. The Designated Authority sent a copy of initiation notification dated 16th June, 2009 to the Embassy of the subject country in India, known exporters from the subject country, known importers / users and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - ii. The Authority provided a copy of the non-confidential version of the application to the known exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules.
 - iii. The Embassy of the subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their country to respond to the questionnaires within the prescribed time limit. A copy of the letter and questionnaires sent to the exporters was also sent to them along with the names and addresses of the known exporters.
 - iv. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with Rule 6(4) of the AD Rules:

S.N.	Name of Producer/ Exporter
1	Quinnngdao Rising Intl Co Ltd
2	Anhui Garments Shoes & Caps Industrial (Group) Co.
3	Hunan Mint Import &Export Co Ltd
4	Guizhou Redstar Development Import Export Co Ltd
5	Hunan Mec Machinery &Electronic Imp &Expcorp
6	Hongkong Jingjiu Industrial Coltd
7	Tianjin Port Free Trade Zone & Shangshun Int Trade Co
8	Hubei Jingshan Chutian Barium Salt Corp Ltd
9	China Haohua Chemical Industry Grp Tianzhu Xinji Barium Co Ltd
10	Shangs Intl Trade Co
12	Chemiskey Co Ltd

- v. In response to the above notification, following exporters/ producers from the subject country have responded:

S.N.	Name of Producer/ Exporter
1	M/s Guizhou Hongtai Chemical Co. Ltd.

2	M/s Anhui Garments Shoes & Caps Industrial (Group) Co.
3	M/s Hunan Wanfeng Chemical Co. Ltd.
4	M/s Hunan Mint Imp & Exp Company. Ltd.
5	M/s Guizhou Redstar Developing Co. Ltd.
6	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd.
7	M/s Guizhou Redstar Developing Import & Export Co. Ltd.
8	M/s Guangzhou Chemicals Import & Export Corporation
9	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)
10	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.

- vi Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

S.N.	Name of Importer	S.N.	Name of Importer
1	M/s Gujarat Alkalies & Chemicals Ltd	13	M/s DCW Ltd
2	M/s Hindalco Industries Ltd.	14	M/s Pratik Chemicals
3	M/s Hind Lamps	15	M/s Saral Chem
4	M/s Videocon Industries Ltd	16	M/s Maruthi Chemical Company
5	M/s United Chemical Industries	17	M/s Devanshi Impex (P) Ltd
6	M/s Sparkling Traders (P) Ltd	18	M/s Laopala Rg Ltd
7	M/s Mineral Udyog	19	M/s Krishna Associate
8	M/s DCM Shriram Consolidated Ltd	20	M/s Om Glass Works (P) Ltd
9	M/s Reliance Industries Ltd	22	M/s United Chemical Industries
10	M/s Tamilnadu Petro Products Ltd	22	M/s Rishi Enterprises
11	M/s Sri Krishna Fireworks	23	M/s Prakash Chemicals Agencies
12	M/s Jaysree Chemicals	24	M/s Piramal Glass Ltd.

- vii Responses to the Importer's questionnaire have been received from the following importers of the subject goods in India:

M/s Saral Chem, Mumbai; M/s Tirupati Industries, Alwar; M/s DCW Ltd.; Shri Krishna Chemical industries, Sivakasi and M/s Shriram vinyl & Chemical Industries, Kota.

Alkali Manufacturers' Association of India, *inter alia*, expressed its interest as a user of the subject goods and stated that imports of Barium Carbonate from China are being made because of the poor quality produced by the small scale manufacturers in the country. However, the Authority notes that the Association's claim has not been substantiated by any evidence.

Delayed response filed by M/s. Schott Glass India Pvt. Ltd.

Response from M/s. Schott Glass India Pvt. Ltd was filed much after the stipulated time period claiming that the company came to know about the present anti-dumping investigation on Barium Carbonate only after the issuance of the preliminary findings and hence they could not file any response within the prescribed period.

Submissions made by the domestic industry

The domestic industry has protested against acceptance of any response at such belated stage of the proceedings and stated that no amount of justification is sufficient in this regard contending that it cannot be accepted that a company came to know about the ongoing proceedings only after issuance of Preliminary Findings and that the statement made is false and fabricated and has been advanced merely as an excuse to get its response admitted. It has been further stated that the interested parties have to offer timely response.

Examination by the Authority

The Authority notes that it is responsibility of each interested party to submit its response by the stipulated period. However, considering that extension of time was obtained to complete this investigation, their submissions have also been examined.

- viii A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters/producers from the subject country and Embassy of China PR in New Delhi. For the purpose of initiation, the Normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, as the applicant pleaded that the information for market economy third country is not available to them. This claim has not been contested by any other interested party. The Authority informed known exporters that it proposes to examine the claim of the applicants in the light of paras 7 and 8 of Annexure I of the AD Rules. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 of the Annexure I of the AD Rules to enable the Authority to consider whether market economy treatment be granted to cooperative exporters/producers from China PR.
- ix 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;
- x Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation.
- xi. The Authority, having regard to the Act and the AD Rules; vide Notification No. 14/18/2009-DGAD dated 7th January 2010 recommended imposition of Anti Dumping

duty on imports of the subject goods from the subject country. The Anti-dumping duty on imports of subject goods from the subject countries was imposed vide Customs notification No. 37/2010 - Customs dated 23rd march 2010.

- xii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry and the co-operating producers/exporters.
- xiii. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 22nd April 2010. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally. Interested parties were provided opportunity for rejoinder submissions on the views expressed by opposing interested parties. The arguments made in the written submissions / rejoinders received from interested parties have been considered, wherever found relevant, in these findings;
- xiv. In accordance with Rule 16 of the AD Rules, the essential facts considered by the Authority were disclosed to the known interested parties and comments received on the same have been duly considered, wherever found relevant, in these final findings.
- xv. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicants 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. Investigation was carried out for the period starting from 1st April 2008 to 31st March 2009 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2005-March 2006, April 2006-March 2007, April 2007-March 2008 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 has recorded the information/data 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.
- xix. *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

C. Comments received on the Disclosure Statement

The following comments, in brief, and to the extent found pertinent have been made by the interested parties:

6. Post Disclosure Comments made by the Domestic industry

6.1 Product under consideration: The domestic industry has reiterated that it has provided evidence that granular form of Barium Carbonate is also produced in India. The information provided by M/s. Solvay Vishnu Barium Pvt. Ltd. establishes that the company had been manufacturing granular form of product under consideration. However, the company has suffered so significant injury that they had to drop production of granular grade during the period of investigation.

6.2 Normal value & Dumping Margin: It has been contended that the Authority should follow its established practice of the Authority to consider international prices of the raw material and not the lower price of the domestic industry.

6.3 Price undertaking offer: Domestic industry has contended that the Designated Authority should reject the price undertaking offer by M/s Guizhou Redstar Developing Co. Ltd. and M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. as the Chinese exporters MET claims have not been accepted on account of State interference in the operations of the companies and has further contended that State interference is such that circumvention of measures is inevitable, if price undertaking is accepted. The State can and will direct the company to take up orders/ business of other Chinese suppliers and there can be clear re-alignment of business between various Chinese producers at the instance/direction of the State.

6.4 Duties on fixed quantum basis: It has been contended that the anti dumping duty may be imposed only as fixed quantum of anti dumping duty (fixed form of duty), expressed as duty US\$/kg.

Duty in US\$: It has been contended that the duty should be imposed in terms of US\$ only.

7. Post Disclosure Comments made by M/s. Schott Glass India Pvt. Ltd.

7.1 Standing of the domestic industry: It has been contended that apparently three categories of producers have been clubbed together while determining whether the applicants had the standing: Applicants, Producers who gave support letters before initiation and producers who gave support letters after initiation. Producers who approached the authority after the preliminary findings have been included as supporters of the application to determine whether the 'application was made by or on behalf of the domestic industry'. While determining the application has been made by or on behalf of the domestic industry, the question of including the supporters who made themselves known after the initiation be not considered.

- 7.2 It has been further contended that the law recognizes those domestic producers who fully support by giving injury details and not those who merely do a lip service by giving a simple letter of support. Those who support the petition should provide all details regarding injury and causal link. If they do not provide such complete details, they should be treated as non-cooperating domestic producers and should not be considered for the purposes of determining standing, injury etc. Therefore, standing of the petitioners should be determined based on the production made by the petitioners' vis-à-vis aggregate production by all producers in India.
- 7.3 It has been contended that the production of granular grade by Solvay Vishnu Barium has been considered as production by domestic industry. While domestic industry has been defined to consist of only the petitioners, it logically follows that there was no domestic producer of granular grade. Solvay Vishnu was not producing granular barium carbonate and had provided an email communication as a confidential attachment which suggested that Solvay was not interested in producing granular grade unless they manufacture at least 1000 MT. With low demand for granular grade and stringent company policies of Solvay, the production had to come down. In any case, the claim of Solvay Vishnu that fall in the production is due to dumping cannot be sustained as only dumping cannot be held responsible for fall in production.
- 7.4 Further, in terms of Section 9B(ii), injury should be determined for the domestic industry. The term domestic industry as defined in Rule 2(b) would cover domestic producers as a whole or those producers who account for a major proportion of total domestic production. In this case, the petitioners do not account for a major proportion as shown below:
- a. Applicants: 12,053 metric tons (46%)
 - b. Producers who gave support letters before initiation: 8,189 metric tonnes
 - c. Producers who gave support letters after initiation: 5,959 metric tones
- It has been contended that 46% is not a major proportion. Major proportion would require at least 50%.
- 7.5 Exclusion of granular grade: It has been reiterated that granular grade should be excluded from the scope of the present investigation. As far as Solvay Vishnu Barium is concerned, they did not expressly support the investigation at the time of initiation of investigation and have not provided any information in support of injury claim. Therefore, they cannot be considered as a part of domestic industry. The only information provided by them to the authority is their production figure. This information was also provided to the authority only recently. Furthermore, it is not disputed that only Solvay produces granular grade of Barium Carbonate and other producers forming the 'domestic industry' do not produce granular grade. As there is no production of the granular grade by the domestic industry, import of granular grade cannot injure it.
- 7.6 Reverse Substitutability: With regard to substitutability of powder grade with granular grade is concerned, the disclosure statement only contemplates a situation where granular grade can be used instead of powder grade but the reverse situation is not true. It is not

possible to substitute/use powder grade in place of granular grade as the end user industry requires granular grade for producing specialized glasses and tubes.

- 7.7 Computation of normal value and dumping margin: it has been contended that international prices of raw materials, conversion costs, SGA expenses etc. of the efficient domestic producer have been considered for determining constructed normal value; however, international prices have not been disclosed. Even the basic publicly available information such as the raw material used and source of their prices, conversion costs and even the indexed SGA expenses, have not been disclosed
- 7.8 The dumping margin determined for non-cooperating exporters: The dumping margin determined for cooperating exporters are in the range of 200 to 250%, while the dumping margin for non cooperating exporters has been arrived at 600-630%. Schott Glass, an importer is concerned about not only the cooperative exporters but also the non cooperative exporters as well. Such high dumping margin can be derived only by considering the 'adverse' facts available instead of reasonably considering all facts which are available before the authority. Rule 6(8) clearly provides that in the event of non-cooperation by the exporter findings has to be made based on the 'facts available' and not based on 'adverse' facts available.

Post Disclosure Comments made by M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.

- 7.9 M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd. has contended that it has been cooperating in all procedures of the investigation including in the stage of original questionnaire; in the stage of the supplemental questionnaire; in the verification stage and that adequate evidences were submitted by them. It has been contended that in the MET as well as Exporters questionnaires, there is no specific question/s requesting explicitly for information of date of establishment. Related questions in both of these two questionnaires are only focusing on the current form of company, legal status, and the shareholding structures in the last three years of the exporter, rather than of a predecessor of this company 20 year ago.
- 7.10 It has been further contended that expression about date of establishment of Chutian other than that recorded on the business certificate, if any, should not be taken as valid one from legal perspective. What had been established in 1987 in Songhe was a factory of collectively-owned enterprise rather than a SOE and that there is no concealment of material fact in regard to the history of Chutian from the investigating authority.

Post Disclosure Comments made by M/s Saral Chem.

- 7.11 It has been contended that some of the supporting parties (local manufacturers) have sold the goods below the selling price of the imported material in the period of investigation. The internal competition among the domestic manufacturers is intense due to which the price of the product under consideration was less. If some of the domestic manufacturers

are in a position to sell the material at such a low price, then a thorough investigation needs to be done on the same. At the same prevailing time, they could have easily sold the material at nearly 50% higher price.

- 7.12 It has been contended that the final users of Barium Carbonate usually complain about the irregular supply of the Domestic Manufacturers. Keeping this in view, they have themselves started importing Barium Carbonate. Irregular supply of Barium Carbonate by the domestic manufacturers creates artificial supply scarcity, which leads to unreasonable fluctuations in the prices of the product, which is harmful for the industries consuming Barium Carbonate.
- 7.13 It has been contended that the domestic industries manufacturing Barium Carbonate do not have the production capacity to fulfill the requirements of the consumers. The manufacturing capacity of the applicants and the supporting applicants does not match the demand of the domestic consumers of Barium Carbonate.

8. **Examination by the Authority**

- 8.1 The submissions made by the interested parties in response to the Disclosure statement have been examined as follows and in relevant sections of these findings.
- 8.2 As regards Standing of the domestic industry, it has been acknowledged by M/s. Schott Glass India Pvt. Ltd that the applicants account for 46% of the total domestic production of Barium Carbonate in India, which is a major proportion of total domestic production in terms of Rule 2(b) of the AD Rules. Further Rule 5(3) of the AD Rules require that the authority shall not initiate an investigation pursuant to an application made under sub-rule (1) unless it determines, on the basis of an (a) examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry and that the domestic producers expressly supporting the application account for more than 25% of the total production of the like article by the domestic industry. The Authority notes that as the applicants account for about 46% of the total domestic production of Barium Carbonate and further notes that no domestic producer has opposed the application; the 'Standing' requirement as per Rule 5(3) of the AD Rules is fully satisfied.
- 8.3 As regards exclusion of granular grade, the Authority notes that the granular grade of Barium Carbonate is being manufactured in India. Further the AD Rules, particularly stipulated in Annexure II of the AD Rules, require the Authority to, inter alia, determine injury by examination of the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and the consequent impact of these imports on domestic producers of such products. Besides, if the granular form is to be excluded from the scope of the AD measures then it would negate the impact of the measure as granular form would continue to be imported at dumped prices and cause consequent injury to the domestic industry. The communication received from the

Department of Chemicals & Petrochemicals that “Barium Carbonate Granules can be converted to powder by pulverization also supports this view.

- 8.4 As regards the issue of computation of normal value and dumping margin, the methodology of the same was duly shared with the exporters. The international prices of raw-materials, namely Barites, Limestone, coal etc were obtained from the DGCI&S data. Separate normal values have been determined for granular and powder grade.
- 8.5 As regards the dumping margin determined for non-cooperating exporters, the Authority notes that the relevant provisions amplify that non-cooperation may lead to adverse inference based on ‘facts available’.
- 8.6 As regards the submissions made by M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd., the Authority notes that the company failed to disclose that it was set up in 1987 as a collectively owned enterprise, even though a specific question no. General A of the Exporter’s questionnaire at the outset seeks information, *inter-alia*, when the company was established. The company not only concealed this fact but also failed to disclose the manner in which it was transformed / reformed despite an opportunity provided to them to explain the same.
- 8.7 As regards the issue that the applicants do not have the capacity to meet the demand, the Authority notes that the AD Rules do not require that the applicants domestic industry must meet the entire demand before seeking redressal of injury being caused to them on account of dumping. The Authority furtherer notes that the claim of irregular supply by the domestic manufacturers has not been substantiated by M/s Saral Chem.
- 8.8 As regards the issue of sales below the landed price by a domestic manufacturer is concerned, the Authority notes that it is a choice available to an enterprise either to lose the sale and take the impact on volume terms or match the price by taking the impact on price. However, in certain circumstances the impact may be on both the volume and price fronts.
- 8.9 As regards the nature of the proposed measure is concerned, the provisional duties were recommended in fixed form and in USD. The same has been followed in these final findings as well.

D. Product under Consideration and Domestic Like Article

9. The product under consideration in this investigation is ‘Barium Carbonate’ (hereinafter also referred to as "subject product" or “subject goods” or “product under consideration”) originating in or exported from China PR.

Barium Carbonate is a harmful, non-flammable inorganic chemical in the form of a white powder and granules having chemical formula $BaCO_3$ manufactured out of Barytes, a mineral product. Barium Carbonate has the following applications:

- a) Purification of brine solution in caustic soda industry.
 - b) In production of Hard Ferrite Ring Magnets, Television Glass Shell, Neutral glass, Lamps, Heat treatment salts and other barium salts, rat poison, ceramic glazes and welding flux.
 - c) Acts as a flux, matting and crystallizing agent and combines with certain colouring oxides to produce unique colours not easily attainable by other means.
 - d) In the manufacture of heavy clay ceramic products because of its property of converting soluble sulfuric salts in the raw material into insoluble barium sulfate.
 - e) In the brick, tile, earthenware and pottery industries Barium Carbonate is added to clays to precipitate soluble salts (calcium and magnesium sulfates) that cause efflorescence.
10. The subject goods fall under Chapter 28 of the Act under subheading no. 28366000. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Submissions made by other interested parties

11. M/s Guizhou Redstar Developing Co. Ltd. (Redstar), has submitted that they produce three grades of the product under consideration – calcined granules (high-value), compacted granules and powder (low value). However, M/s Redstar exports only powder grade to India through Guizhou Redstar Developing Import & Export Co. Ltd., their subsidiary company. Therefore, M/s Redstar has contended that comparison of the product under consideration should be done on grade-wise basis.
12. M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd. has stated that they produce three type of barium carbonate i.e. light powder, liquid and dry granules and that the company has exported only light powder Barium Carbonate to India.
13. M/s. Schott Glass India Pvt. Ltd. has contended that powder grade is not suitable to make pharmaceutical glass tubes and that the domestic industry is not manufacturing granular Barium Carbonate and there was no other source in India who could cater to the granular grade demand and hence the same should be excluded from the scope of present investigation.

Submissions made by Domestic industry

14. The applicants have claimed that there is no known difference between the product manufactured by them and the subject goods imported from the subject country, which can have any impact on price, usage, quality etc. The applicants also claim that the technology and primary production process employed by them and the foreign producers are comparable.
15. Domestic industry has further contended that all the three forms are being produced in India and the injury in granule form was so high that M/s Solvay was forced to shut down the Plant. It has been contended that any reference to other cases is misplaced as there

was no domestic manufacturer in those cases producing the particular type. In the instant case, however, the product is being manufactured in India.

16. In response to M/s. Schott Glass India Pvt. Ltd. submissions, the domestic industry has submitted that the granular form of the subject goods could be easily consumed by those consumers, who otherwise required powder form. Submitting the transaction-wise imports data of the subject goods, it has been stated that a perusal of the same would show that the price difference between granular and powder form of Barium Carbonate is insignificant. In fact, once the current anti-dumping duties is added, it would be seen that the landed price of imports of granular form would become lower than powder form, in case granular form is excluded. Thus, possible exclusion of granular form would therefore imply that granular form would be cheaper than powder form. Since granular form can substitute powder form, it would imply continued dumping and continued injury to the domestic industry. Thus, any exclusion of the granular form of the subject goods would totally nullify the proposed measures. It has been further contended that if the granular form became cheaper than the powder form; it is a matter of common business sense that consumers would simply switch on to the granular grade. This way substitutability is clearly undisputed and therefore exclusion is vehemently opposed. It has been further stated that both granular and powder Barium Carbonate have the same customs classification.
17. The domestic industry has also drawn attention of the Authority to USITC AD determination in respect of Barium Carbonate and contended that the product scope included both the forms viz. Granular and Powder even though the US industry was not producing granular form. The ITC found that both granular and powder form of Barium Carbonate are used in specialty glass. The practical limit on interchangeability by the end customers are only in short term and the production process can be modified to accommodate a different form or grade of Barium Carbonate, if justified by cost and price difference. There is significant degree of overlap in the end-use and interchangeability between the two forms.

Examination by the Authority

18. From the submissions made by M/s Solvay Vishnu Barium Private Limited, it is seen that they do manufacture granular form of the subject goods in significant quantity. Besides, they have also claimed significant drop in their production and sale on account of dumping of the subject goods from China PR. Thus, there is no merit in the contention that granular form of the subject goods needs to be excluded from the ambit and scope of this investigation.
19. With regard to like article, Rule 2(d) of the AD Rules provides as under: -

"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 characteristics closely resembling those of the articles under investigation;

20. With regard to the possible difference between the product sold by the exporters in the Indian market and the product sold by the domestic industry, it is observed that any difference in the physical characteristics of the subject goods, i.e., granule or powdered form does not exhibit the difference in the essential characteristics. All the grades of the subject goods share the same chemistry and powder form can be interchanged into granular form. It is not disputed that granular form can be used where powder form is required. Besides, a reference was also made to the Department of Chemicals and Petrochemicals. In response the Department clarified that “Barium Carbonate Granules can be converted to powder by pulverization”.
21. After considering the information on record, particularly submissions of a Chinese producer that all the materials and relevant inputs are same for all three forms of Barium Carbonate i.e. Powder form, Granule form and Calcined granules; the Authority is of the view that differences in grades do not show any significant difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject goods produced by the domestic industry are comparable to the product under consideration in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. Thus, the Authority is of the view that product under consideration produced by the applicant domestic industry is like article to the product under consideration in accordance with the AD Rules.

E. SCOPE OF DOMESTIC INDUSTRY & STANDING

22. At the time of the initiation of this investigation, Rule 2(b) of the AD Rules read as follows:-

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry".

23. However, post initiation, this Rule has been amended as follows:

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

Submissions made by other interested parties

24. M/s Schott Glass India Pvt. Ltd. has contended that the applicants do not satisfy the ‘major proportion’ test. With the information available on record, the applicants account for only 35% of the domestic production. Even this percentage would be wrong if the production of the largest producer in India – Solvay Vishnu Barium is taken into account. Solvay Vishnu Barium was having a capacity of 40000 MTPA and was producing 30000MTPA of subject product. Solvay Vishnu Barium had not been considered as a producer of subject goods while arriving at the ‘other producers’ category as production figure for ‘other producer’ was a mere 6700 MT while Solvay was producing much more than that. There was no reason to exclude Solvay Vishnu Barium as a domestic producer.

Submissions made by Domestic industry

25. It has been contended that M/s. Schott Glass India Pvt. Ltd. has sought to substitute production by domestic production and that for ‘Standing’ determination; the domestic industry is required to be seen by considering production and not production meant for domestic market.
26. It has been further contended that without prejudice, there is no legal basis stating that 35% does not constitute a major portion. It is by now well settled law that major proportion merely means the significant portion.
27. It is reiterated that it is a very belated stage in the proceedings, when the Authority is being made to check Standing and scope of the domestic industry.

Examination by the Authority

28. The application has been filed by M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd. and supported by Small Scale Barium Manufacturer Welfare Association.
29. The submissions made by M/s Schott Glass India Pvt. Ltd. on ‘Standing’ issue have been examined. Necessary data in respect of domestic production of the subject goods during the POI by M/s Solvay Vishnu Barium was obtained and it has been noted that they produced *** MT of Barium Carbonate during the POI and in their communication they have supported the application of the AD Measures. The company has claimed that its production of granular form is quite significant and is meant for both domestic and export markets and that its production has declined steeply from *** MT in 2004-05 to *** in 2008-09 as a result of dumping.
30. As per the evidence available on record, it is seen that the applicants meet the ‘Standing’ requirements as per the AD Rules. The production of the applicants, namely, M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical

Industries and M/s Victory Chemicals Ltd. account for a major proportion of the domestic production of like article. Further, the application has been supported by a number of domestic producers of the like Article, namely M/s. Amaravathi Chemicals & Fertilizers Pvt. Ltd., Hyderabad; M/s Bhargav Chemicals, Andhra Pradesh; M/s Jagadeeshwari Chemicals, AP; M/s Jaya Chemicals, Andhra Pradesh; M/s. Muruganantham Chemical & Co., Tamil Nadu; M/s Rahul Barium Salts, Hyderabad M/s R.K. Industrial Chemicals, Hyderabad and M/s Solvay Vishnu Barium Private Limited.

31. Post Disclosure it has been contended that the applicants must account for the major proportion (50%) of the domestic production. However, the Authority notes that the law on the subject is clear and mandates that the Rule 2(b) of the AD Rules is satisfied if the applicants constitute a major proportion of the total domestic production of Barium Carbonate. In the instant matter, it is noted that the applicants by themselves account for As per the evidence available on record, production of the applicants along with the supporters account for a major proportion of the domestic production and the same is more than 50% of the Indian production. The application thus satisfied the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd. are being treated as “domestic industry” within the meaning of Rule 2(b) read along with Rule 2(d) of the AD Rules.

F. Subject Country

32. The investigation was initiated concerning imports of the subject goods originating in or exported from China PR.

G. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Normal Value in respect of producers/exporters from China PR

33. The Authority sent questionnaire to the known exporters from the subject country, advising them to provide information in the form and manner prescribed. Response to the questionnaires were received from the following companies –

S.N.	Name of Producer/ Exporter
1	M/s Guizhou Hongtai Chemical Co. Ltd.
2	M/s Anhui Garments Shoes & Caps Industrial (Group) Co.
3	M/s Hunan Wanfeng Chemical Co. Ltd.
4	M/s Hunan Mint Imp & Exp Company. Ltd.
5	M/s Guizhou Redstar Developing Co. Ltd.
6	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd.
7	M/s Guizhou Redstar Developing Import & Export Co. Ltd.
8	M/s Guangzhou Chemicals Import & Export Corporation
9	M/s China Haohua Chemical Industry Group, Tianzhu Chemical

	Industry Co. Ltd. (Tianzhu)
10	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.

Submissions made by Chinese exporters/producers

M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai)

34. It has been stated that M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) is the Producer and domestic seller of product concerned, but is not an exporter. M/s Guizhou Hongtai Chemical Co. Ltd sells the product concerned to a Chinese trading company namely M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui). Then M/s Anhui resells (exports) the product to India. M/s Hongtai has responded to the questionnaire along with M/s Anhui.
35. It has been stated that there is no variation between the subject goods sold in the country of export and the product under consideration exported to India. All the materials and relevant inputs are purchased locally from several suppliers, including from State owned companies.

M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)

36. It has been stated that M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui) is an exporter/trader of the subject goods, but is not a producer of the product concerned. As a trader, M/s Anhui exported the subject merchandise to India during POI. All Barium Carbonate manufactured by M/s Hongtai is in the form of powder. It has been stated that during the POI M/s Anhui neither sold the subject merchandise in home market nor exported it to countries other than India.
37. It has been further stated that the subject goods sold in domestic market are identical to those exported to India.

M/s Hunan Wanfeng Chemical Co. Ltd. (Wanfeng)

38. M/s Hunan Wanfeng Chemical Co. Ltd. (Wanfeng) is a producer and domestic seller of the product concerned, but is not an exporter. M/s Wanfeng sells the product concerned to a Chinese trading company namely M/s Hunan Mint Imp & Exp Co. Ltd. (Mint). Then, M/s Mint resells (exports) the product to India. M/s Wanfeng is the producer and supplier, whereas M/s Mint is the exporter. The two are not related.

M/s Hunan Mint Imp & Exp Co. Ltd. (Mint)

39. M/s Hunan Mint Imp & Exp Co. Ltd. (Mint) has filed a questionnaire response and MET response in this matter as an exporter. It has been stated that M/s Mint is an exporter/trader of the subject goods, but is not a producer of the product concerned.

M/s Guizhou Redstar Developing Co. Ltd. (Redstar)

40. M/s Guizhou Redstar Developing Co. Ltd. (Redstar) has filed a questionnaire response and MET response in this matter as a producer. It has been stated that M/s Redstar is a producer and sells the product concerned domestically, but is not an exporter. M/s Redstar sells the product to Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E). M/s Redstar I/E re-sells (exports) the subject goods to India.
41. It has been stated that M/s Redstar produces three grades of the subject product namely Calcined granules, Compacted granules and Powder. However, only powder grade has been exported to India. Therefore, M/s Redstar has requested comparison of cost and price of powder grade only with the Indian product. All the materials and relevant inputs are same for all three forms and purchased locally from several suppliers, including from State owned companies.
42. The major shareholder of M/s Redstar is Qingdao Redstar Chemical Industry Group Co. Ltd. (51.86%), which is a State-owned company. It is noted from the response of M/s Redstar that out of 11 directors, Qingdao Redstar appoints 8 directors and only 3 are independent. It has been stated that M/s Redstar and M/s Dalong are the only two entities within the REDSTAR Group producing Barium Carbonate. The major raw material Barites is procured from an affiliate, namely M/s Red Butterfly Industry.

M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong)

43. It has been stated that M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) is a producer and domestic seller of the product concerned, but is not an exporter. M/s Dalong sells the product to M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E). M/s Redstar I/E then re-sells (exports) the subject goods to India. It is stated that M/s Dalong is a subsidiary of Guizhou Redstar Developing Co. Ltd. (Redstar)

M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E)

44. M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E) has filed a questionnaire response and MET response in this matter as an exporter. It has been stated that M/s Redstar I/E is an exporter/trader of the subject goods produced by M/s Redstar and M/s Dalong.
45. M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E) is also subsidiary company of M/s Guizhou Redstar Developing Co. Ltd. (Redstar). M/s Redstar I/E takes charge of import and export activities of the entire REDSTAR Group, and it is the only exporter of Barium Carbonate of REDSTAR Group. M/s Redstar I/E neither produces the product concerned nor sells the same in domestic market,

M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)

46. It is noted that M/s Tianzhu is a wholly State-owned company. M/s Tianzhu Chemical Industry Co Ltd is owned by M/s Haohua Northchem Corporation. M/s Hebei Xinji Chemical Group Co., Ltd., the original shareholder of M/s Tianzhu, transferred all of the shares of M/s Tianzhu to M/s Haohua Northchem Corporation on Jan. 15, 2008. The name of M/s Tianzhu was changed from China Haohua Chemical Industry Group, Tianzhu Xinji Barium Co., Ltd. to M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. on June 10, 2009.
47. It has been stated that M/s Tianzhu exported the product concerned to India directly during the POI as well. The channels of distribution were both direct exports to India to Indian end-user and as well through a trader. Besides, it also sold the subject goods to M/s Guangzhou (which is one of the company's customers) and that M/s Guangzhou resold the product concerned bought from M/s Tianzhu to India during the POI. As a producer, M/s Tianzhu cooperates with M/s Guangzhou for the export sales to India by M/s Guangzhou.
48. It is further stated that there is no variation between the subject goods sold in the country of export and the product under consideration exported to India.

M/s Guangzhou Chemicals Import & Export Corporation (Guangzhou)

49. M/s Guangzhou Chemicals Import & Export Corporation (Guangzhou) has filed a questionnaire response and MET response in this matter as an exporter. It has been stated that M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. (Tianzhu) is the supplier of M/s Guangzhou and that the entire product concerned exported to India during the POI was supplied by M/s Tianzhu.
50. M/s Guangzhou is a State-owned enterprise. M/s Guangzhou does not operate the domestic sales of the product concerned and only engages in the exports of the product concerned. M/s Guangzhou purchases the product concerned from domestic supplier and then resells it to India through a Hong Kong based trader, which acts as the agent of the Indian customer.
51. It has been stated that the subject goods sold in domestic market by the supplier M/s Tianzhu and the subject goods purchased from M/s Tianzhu and then exported to India by M/s Guangzhou are identical.

M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.

52. It has been stated that M/s Hubei Jingshan Chutian Barium Salt Corp. is the producer of product concerned. M/s Hubei Jingshan Chutian Barium Salt Corp. sells the product concerned in domestic market and also sells to India.
53. Though the company produces three type of Barium Carbonate i.e. light powder, liquid and dry granules, but has exported only light powder Barium Carbonate to India. The Company acquires major raw materials from several suppliers, including from State owned companies.
54. M/s Hubei Jingshan Chutian barium Salt Corp has contended that it has been granted market economy treatment (“MET”) by EC in its antidumping investigation against imports of Barium Carbonate from China in mid 2005 and that the company therefore requests to grant MET to it pursuant to Article 8 in the annexure I of the AD Rules.

Views of the domestic industry

55. It has been contended by the domestic industry that China PR should be treated as non-market economy country, *inter alia*, stating that:
 - **Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity** – It has been contended by the Domestic industry that the European Commission has consistently held that possibilities of State interference cannot be ruled out in cases, where there is significant share of a State owned/controlled entity. It is further contended that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.
 - **Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values:** It has been contended by the Domestic industry that “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.
 - **Major inputs include utilities:** It has been contended by the Domestic industry that production of the products concerned require power and fuel as a major item of utility. Admittedly, while the power supplier is a State-owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the price of utilities reflect fair market values.
 - **Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards:** It has

been contended by the Domestic industry that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law. The European Commission has held that the requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report. To quote the European Commission, reliability of the accounts is not established with regard to this aspect unless the books are consistent with International Accounting Standards.

- **Market economy status cannot be granted even if one of the parameters is not satisfied:** It has been contended by the domestic industry that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the Rules.
- **Onus/obligations:** It has been contended by the domestic industry that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.
- **Transformation:** It has been contended by the domestic industry that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- **Response from group as a whole** – It has been contended by the domestic industry that Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected, regardless of the fact whether or not the other companies of the group are involved in production or sale of the product under consideration. It has been contended that the Authority has applied such a test in the matter of Vitriified Tiles cases where the whole group has filed response in order to seek market economy status.
- It has been contended by the domestic industry that failure to satisfy a number of conditions mentioned above by the responding Chinese exporters, is sufficient to hold that Market economy status cannot be granted to responding Chinese companies and thus the Normal value should be determined in accordance with Para-7 of the Rules.

Examination of Market Economy claims in respect of China PR by the Authority

56. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.
57. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether: -
- the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - the exchange rate conversions are carried out at the market rate.
58. The Authority notes that consequent upon the initiation notice issued by the Authority; some Chinese producers and exporters have submitted their questionnaire responses including the market economy questionnaire responses and sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporter were examined for determination of Normal value of the responding producers/exporters of the subject goods from the subject country and deficiencies in the submissions were pointed out and clarifications were sought. Verification to the extent deemed necessary was conducted at the Office/plant of the Chinese respondents.

M/s Hunan Wanfeng Chemical Co. Ltd

59. The response filed by the company was perused and deficiencies were pointed out and clarifications sought. It has been noticed that the company had purchased an old plant from a State-owned company in 2006. In response to the query with regard to the process and valuation of the assets acquired from the erstwhile State-owned company, the

company has stated that the documents of calculation of assets acquired by the company are not kept. It has also been submitted by the company that there is no depreciation charged during 2006 and 2007 and the same has been made effective from 2008 onwards. In view of the above fact it is not possible to ascertain whether the production cost and financial situation of the company are subject to significant distortion carried over from the former non-market economy system in relation to depreciation and other write offs.

60. During the course of the on-spot verification, the company's representatives gave in writing that they choose not to further press their claim of Market Economy Status. In view of above, the company has been declared as the one which is operating under Non-Market conditions.

M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd.

61. The response filed by the company was perused and deficiencies were pointed out and clarifications sought. It has been indicated by the company that 100% shareholding of the company is owned by M/s Haohua Northchem Corporation which is a State-owned company. It has also been stated that while transferring shares to the present shareholder valuation of the shares was not carried out. Further, the exporter company namely M/s Guangzhou Chemicals Imports & Exports Corporation is 100% owned by a State-owned company. In view of the fact that both producer and exporter are 100% State-owned companies, it cannot be ruled out that their operations regarding prices, costs and inputs, cost of technology and labour etc., are carried out with significant State interference.
62. During the course of the on-spot verification, the company gave in writing that they choose to forego their Market Economy claim. In view of the above, the company has been declared as the one which is operating under Non-Market conditions.

M/s Guizhou Hongtai Chemical Co. Ltd and M/s Anhui Garments Shoes and Caps Industrial (Group) Co. Ltd.

63. The responses filed by the companies were perused and deficiencies were pointed out and clarifications sought. In response to the query about the identity of the shareholders and the source of raising funds, the Company has mentioned that the shareholders made capital contribution by their own funds. However, no justifiable supporting documents about the source and actual contribution have been submitted by the producer/exporter.
64. During the course of the on-spot verification, the company's representatives stated that they did not want to press their claim of MET. Therefore, the company gave in writing that they choose to forego their claim of Market Economy Status. In view of above, the company has been declared as the one which is operating under Non-Market conditions.

M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.

65. The response filed by the company was perused and deficiencies were pointed out and clarifications sought. During the course of investigation, the Company reiterated its claim for the market economy status on account of granting MET status by the European

Commission for their Company for the same product investigated earlier. The company further claimed that they were operating under Market economy conditions and that all the parameters considered for granting MET status by DGAD are similar to parameters adopted by EC for granting the MET status.

66. The company Hubei Jingshan Chutian Barium Salt Co. Ltd. was established on 24.03.1998 as a Limited Liability Company (Private) with registered capital of RMB ***. The business license in original was seen during the investigation, which showed that the company was in 1998. However, subsequently it came to the notice of the Authority that it was set up in 1987 and it became a private company through reformation. Accordingly, a letter dated 19th November 2010 was sent to the company seeking clarifications with relevant back up on the issue of transformation of the company to private company at each level of transformation. In response thereto, the company acknowledged, *inter alia*, that it was established in 1987 in Songhe town, Jingshan County was a factory of Collectively-owned enterprise. However, the company failed to reveal the process of transformation with relevant backup papers.
67. It is noted that the material fact that it was set up in 1987 was concealed from the Authority; and the manner in which it was transformed into a private company has not been revealed to the Authority despite an opportunity provided to them in this regard.
68. In view of the above, the company has been treated as non-cooperative for the purposes of this investigation.

M/s Guizhou Redstar Developing Co. Ltd; M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. and M/s Guizhou Redstar Developing Import & Export Co. Ltd.

69. The responses filed by the companies were perused and deficiencies were pointed out and clarifications sought. It has been stated that M/s Qingdao Redstar Chemical Industry Group Co. Ltd., which is a State-owned company holds 51.86% of the shares of M/s Guizhou Redstar Developing Co. Ltd. Whereas M/s Dalong has two shareholders, namely M/s Guizhou Redstar Developing Co. Ltd and M/s Guizhou Redstar Developing Import & Export Co. Ltd. In view of the fact that the producers and exporter are State-owned companies, it cannot be ruled out that their operations regarding prices, costs and inputs, cost of technology and labour etc., are carried out with significant State interference.
70. At the time of on-spot verifications, initially the companies had reiterated their claim for the market economy status. However, considering significant State share-holding in the companies, they were advised to demonstrate that there is no significant State interference in their operations, drawing their specific attention to the measures meant for Supervision and Administration of State-Owned Assets of enterprises, particularly Articles 4, 5 6, 12, 13 etc. After detailed discussions, the companies could not demonstrate that State is not having significant interference in the affairs of the company

and it was acknowledged by the companies in writing that they could not demonstrate the MET claims up to the satisfaction of the investigation team.

71. However, M/s Guizhou Red Star Developing Co. and M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. in their comments to the verification report have very surprisingly re-stated their MET claim.
72. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the respondents from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and **establish the facts to the contrary**. The cooperating respondents are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether: -
- the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and **without significant State interference in this regard**, and whether costs of major inputs substantially reflect market values;
 - the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - the exchange rate conversions are carried out at the market rate.
73. Thus, in a situation where the companies are State owned/controlled entities, possibilities of State interference cannot be ruled out, particularly in the context of specific measures meant for Supervision and Administration of State-Owned Assets of enterprises wherein the State Council and the local governments perform the contributor's duties and enjoy the owner's rights and interests which includes administration of personnel and affairs.
74. Therefore, it has been considered that M/s Guizhou Redstar Developing Co. Ltd; M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. and M/s Guizhou Redstar Developing Import & Export Co. Ltd. are not operating under Market Economy system.
75. Besides, the companies have offered price undertakings of USD ***/MT for all future export transactions of the subject goods. However, considering that the respondents' have not been granted MET status and consequently their production data has not been considered for the determination of their Normal values and dumping margins; there are likely to be practical difficulties in effectively monitoring the same; hence considering the facts and circumstances of the case, their offer of price undertaking is not being accepted.

Other issues raised by Interested Parties

76. It has been contended by the Redstar group of companies that Normal Value could have been alternatively determined on the basis of M/s Redstar exports to other Market economy countries.
77. M/s Schott Glass India Pvt. Ltd. has, *inter alia*, has questioned that calculation of Normal value and dumping margin and requested the Authority to revisit the methodology used for determining Normal value.

M/s Guizhou Redstar Developing Co. Ltd. (Redstar)

78. The exporter has contended that there is difference in the production process of the Indian manufacturers and the Chinese producer leading to difference in cost.

Views of the Domestic industry

79. The domestic industry has claimed that by-product Sulphur, generated during the production process followed by the Chinese producer, is a low value product. However, Sodium sulphide generated as a by-product in the production process followed by the domestic industry is comparatively a high value product.

Examination by the Authority

80. As regards the issue that determination of Normal Value could be on the basis of M/s Redstar exports to other Market economy countries is concerned, the Authority notes that that no discretion lies with the exporters to choose the option of the determination of the Normal Value, if the Normal value is not to be based on the domestic sales criteria. Rather, the choice lies with the Authority to do so. Therefore, the Authority has considered it appropriate to construct the Normal value for the Chinese respondents in terms of para 7 of Annexure 1 of the AD Rules.
81. The Authority has taken note of the submissions made by the interested parties and has constructed the Normal values of the Chinese respondents considering their consumption norms and process to the extent feasible.
82. It is further pointed out that disclosure of facts is contemplated under Rule 16 and the same has already been done to the concerned Chinese respondents vide the Disclosure statement.

Determination of Normal value in respect of Exporters / Producers from China PR

83. As noted above, there are significant issues of market economy determination in respect of most of the responding producers/ and exporters from the subject country and considering that these respondents have either not pressed their MET claims or have

foregone the same / or have not been able to rebut the NME presumption, during the course of the on-spot verification, the Authority has determined the Normal value in their case on the basis of Para-7 to Annexure-I to the AD Rules.

84. Para 7 of Annexure I of the AD Rules provides that

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

85. The Authority indicated, in the initiation notification and the preliminary findings that the applicants have claimed that China PR should be treated as Non Market Economy and therefore Normal value in case of China PR should be determined in accordance with Para 7 and 8 of Annex-I of the Rules. The applicants have submitted that India can be considered as an appropriate market economy third country for determination of Normal value in China PR, pleading that information for market economy third country is not available to them. This claim has not been contested by any other interested party.

86. For the purposes of this investigation, the Authority has determined the Normal values for the Chinese producers on available reasonable basis, in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Values of the product under consideration have been determined based on constructed costs of production, duly adjusted. The Normal Values have been constructed as per the methodology described below:

Methodology adopted for constructing Normal Value in case of China PR

87. The Authority has constructed Normal value for the Chinese producers on the following basis –

- Prices of major inputs have been considered on the basis of international price of particular raw material prevailing during the POI.
- Consumption norms have been adopted on the basis of responding Chinese producer’s information/data.

- Conversion costs have been adopted on the basis of information/data of efficient producer of the domestic industry.
 - Selling, general & administrative costs have been taken on the basis of information/data of efficient producer of the domestic industry.
 - Profit has been taken @ 5% of ex-factory cost excluding interest.
88. For the purposes of this investigation, Normal values have been determined for the powder and granular forms of the subject goods.

Determination of Normal value in respect of Non-Co-operative Exporters /

89. Since, no other response has been received from any other producer/exporter of the subject goods from the subject country; the Authority has decided to determine their Normal Value as per facts available in terms of Rule 6(8) of the AD Rules.

H. EXPORT PRICE

Export price for the responding exporters

M/s Hunan Wanfeng Chemical Co. Ltd. (Wanfeng) through M/s Hunan Mint Imp & Exp Co. Ltd. (Mint)

90. M/s Hunan Wanfeng Chemical Co Ltd is a Chinese producer of Product concerned. M/s Wanfeng does not directly export product concerned to India and sells the product concerned to unrelated Chinese trading companies, one of which is M/s Hunan Mint Imp & Exp Co Ltd (Mint). M/s Mint then exports the subject product to India.
91. It is noted that M/s Wanfeng has submitted that it produces two grades of Barium Carbonate viz. granular and powder and does not sell the products to India. But Mint has stated that it exported three grades of Barium Carbonate viz. granular, powder and high reaction efficiency powder. However, M/s Wanfeng has provided the relevant data for only the two grades.
92. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The Authority notes that M/s Mint has apparently procured the goods from various sources and only one of its suppliers, namely M/s Wanfeng has cooperated with them in this investigation. During the course of the on-spot verification, M/s Mint identified the transactions that have been procured by it from M/s Wanfeng during the POI.
93. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested

parties. The export prices have been allowed as claimed by the responding exporter/producer, subject to minor corrections made in the data during the course of the on-spot verification.

94. Export price to India has thus been determined for the subject goods after making adjustments on account of inland freight, ocean transportation, ocean insurance, handling charges, negotiating charges, credit costs and bank charges. Besides, adjustment for VAT has also been made. Further the SGA expenses for the exporter have also been adjusted for the determination of ex-factory export price. The net export price so determined works out to US \$ *** MT.

M/s Guizhou Redstar Developing Co. Ltd. (Redstar) through M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I&E)

95. M/s Guizhou Redstar Developing Co Ltd (Redstar) is a Chinese producer of product concerned. M/s Guizhou Redstar Developing Co Ltd does not directly export product concerned to India, and sells the product concerned to their subsidiary Chinese trading company, which is M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I&E). M/s Redstar I&E then exports the product to India. All the subject goods exported by REDSTAR Group to India were in powder form.

96. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporter/producer, subject to minor corrections made in the data during the course of the on-spot verification.

97. Export price to India has thus been determined for the subject goods after making adjustments on account of ocean transportation, ocean insurance, handling & auxiliary fees and credit costs. Besides, adjustment for VAT has also been made. Further the SGA expenses and profit margin for the exporter have also been adjusted for the determination of ex-factory export price. The net export price so determined works out to US \$ *** MT.

M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou Redstar Developing Import & Export Co. Ltd.(Redstar I&E)

98. M/s Guizhou Redstar Developing Dalong Manganese Industry Co Ltd (Dalong) is a Chinese producer of product concerned. M/s Dalong does not directly export product concerned to India and sells the product concerned to their subsidiary Chinese trading company, which is M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I&E). M/s Redstar I&E then exports these products to India. M/s Dalong only produced and sold powder form of the subject goods during the period of investigation (“POI”).

996. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding

exporter/producer, subject to minor corrections made in the data during the course of the on-spot verification.

100. Export price to India has thus been determined for the subject goods after making adjustments on account of ocean transportation, ocean insurance, handling & auxiliary fees and credit costs. Besides, adjustment for VAT has also been made. Further the SGA expenses and profit margin for the exporter have also been adjusted for the determination of ex-factory export price. The net export price so determined works out to US \$ *** MT.

M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)

101. M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) is a Chinese producer of product concerned. M/s Hongtai does not directly export product concerned to India and sells the product concerned to unrelated Chinese trading companies, one of which is M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui). M/s Anhui then exports the product to India.

102. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporter/producer, subject to minor corrections made in the data during the course of the on-spot verification.

103. Export price to India has thus been determined for the subject goods after making adjustments on account of port charges, inland transportation, overseas transportation, insurance, bank charges and credit costs. Besides, adjustment for VAT has also been made. Further the SGA expenses for the exporter have also been adjusted for the determination of ex-factory export price. The net export price so determined works out to US \$ ***/ MT.

M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. (Tianzhu)

104. It has been stated that M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. (Tianzhu) exported the product concerned to India directly during the POI as well. The channels of distribution were both direct exports to India to Indian end-user and as well through a trader.

105. The Authority examined whether the export prices in respect of respondent could be determined on the basis of questionnaire responses filed by them. The export prices have been allowed as claimed by the respondent, subject to minor corrections made in the data during the course of the on-spot verification.

106. Export price to India has thus been determined for the subject goods after making adjustments on account of overseas freight, overseas insurance, export packing, inland

freight & port expenses and bank charges as claimed by the respondent. Besides, adjustment for VAT has also been made; which works out to *** US \$ /MT.

M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu) through M/s Guangzhou Chemicals Import & Export Corporation (Guangzhou)

107. Besides selling directly, M/s Tianzhu also sold the subject goods to Guangzhou, which were resold by M/s Guangzhou to India during the POI. As a producer, M/s Tianzhu cooperates with M/s Guangzhou for the export sales to India by M/s Guangzhou.
108. The Authority examined whether the export prices in respect of respondents could be determined on the basis of questionnaires responses filed by them. It has been noted that all the transactions were of the Granular form of the subject goods. The export prices have been allowed as claimed by the responding exporter/producer, subject to minor corrections made in the data during the course of the on-spot verification.
109. Export price to India has thus been determined for the subject goods after making adjustments on account of export packing, port expenses, overseas freight and bank charges. Besides, adjustment for VAT has also been made. Further the SGA expenses for the exporter have also been adjusted for the determination of ex-factory export price. It is also noted that the subject goods have been supplied through a Hong Kong based entity, whose details of expenses etc were not provided. Thus, the SGA expenses and profit margin have been determined for the trader on a reasonable basis @ ***% for the determination of ex-factory export price; which works out to *** US \$ / MT.

Determination of Export Price in respect of Non-Co-operative Exporters/Producers

110. Since, no other response has been received from any other producer/exporter of the subject goods; the Authority has decided to determine their Export Price as per facts available in terms of Rule 6(8) of the AD Rules. The data has been collated as per the information provided by the Applicants and the information provided by the co-operative exporters.

I. Dumping Margin

111. Considering the Normal values and Export prices as determined above for the product subject to investigation, the dumping margins have been determined as follows:

Sr. No	Exporter	Country	Dumping Margin US\$ per MT	Dumping Margin as % range
1.	M/s Guizhou Redstar Developing Co. Ltd. (Redstar) through M/s Guizhou Redstar	China PR	***	220-260%

	Developing import & Export Co. Ltd.			
2.	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou Redstar Developing import & Export Co. Ltd.	China PR	***	270-310%
3.	M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)	China PR	***	210-250%
4.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	China PR	***	230-270%
5.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu) through M/s Guangzhou Chemicals Import & Export Corporation	China PR	***	120-160%
6.	M/s Hunan Wanfeng Chemical Co. Ltd. (Wanfeng) through M/s Hunan Mint Imp & Exp Co. Ltd. (Mint)	China PR	***	50-90 %
7.	All other Chinese producers/exporters except as mentioned above.	China PR	***	470-500 %

J. INJURY AND CAUSAL LINK

112. Submissions made by other interested parties

- M/s. Schott Glass India Pvt. Ltd. has requested to consider the impact of recession on the outcome of present investigation.
- It was further contended that the landed value, net sales realization arrived by domestic industry in their written submission was incorrect.
- It has further requested the Authority to consider the latest developments that has taken place in the last few months and were having an impact on the subject investigation.
- Some interested parties have questioned the calculation of injury margin and appropriateness of percentage of return on capital employed for computing NIP. It has been contended that the policy of adopting 22% return on capital employed has been borrowed from NPPA, which gives undue protection to domestic industry.

Submissions made by domestic industry

113. The domestic industry has claimed that they have suffered material injury as a result of dumping of the subject goods from China PR. The imports of the product under consideration have increased in absolute terms and in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry. Continued presence of the Chinese suppliers in the Indian market has forced the domestic industry to reduce its domestic prices. The performance of the domestic industry has deteriorated, as a consequence, in terms of market share, production, capacity utilization, sales, profits, return on investment and cash flow.

The domestic industry has disputed the contention of the interested parties regarding the computation of the NIP and has stated that there is no reason why the Authority should re-consider well established practice in this regard.

In a situation where the demand and import volumes have increased and domestic sales have declined, there is no basis for the argument that recession could have been one of the possible factors for injury. It is by now well settled law that the Authority is required to examine only those factors which are made known to the Designated Authority. Further, while making such factors known to the Designated Authority, the obligation to establish injury on account of such factor and quantify the quantum of injury due to such other factors is on the interested parties and not on to the domestic industry and the Authority.

Examination by the Authority

114. Rule 11 of the AD Rules read along with its 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.
115. 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. It is clarified that the examination of trends, in the context of injury analysis, covered the periods April 2005-March 2006, April 2006-March 2007, April 2007-March 2008 and the POI; and any post POI development could be duly considered in a review investigation after giving due opportunity to all interested parties.

116. As regards issue regarding computation of the NIP is concerned, the Authority considers that it has appropriately determined NIP as per its well established practice.
117. As regards impact of recession, the Authority finds merit in the submissions of the domestic industry that in a situation where the demand and import volumes have increased and domestic sales have declined, recession could not be considered as singularly impacting the domestic industry alone. In fact, the interested parties have not substantiated that the manner in which recession has adversely impacted the product under consideration.

K. Volume Effects of Dumped Imports:

Demand and market share

118. The demand of the subject goods in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

Demand	Unit	2005-06	2006-07	2007-08	POI (2008-09)
Sales of the Applicants domestic producers	MT	***	***	***	***
Sales of Supporting domestic producers	MT	***	***	***	***
Sales of other domestic producers	MT	***	***	***	***
Imports from Subject Countries	MT	4921.00	18011.50	13539.21	25513.11
Imports from Other Countries	MT	44.70	368.77	6.99	251.35
Total Demand	MT	47850	51984	52570	50063

It is noted that demand for the product consistently increased over the injury period.

Import volumes and market share

119. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.
120. The Applicant has provided information with regard to imports based on published data of DGCI&S for 2005-06, 2006-07 and 2007-08 and IBIS data for 2008-09. Further, a number of producers/exporters from the subject country have responded to the Authority. The Authority requested the office of DGCI&S for making available the relevant import

details as regards the subject goods. Thus, the volume of imports reported by DGCI&S has been adopted. It is seen that: -

a) The imports of the subject goods from the subject country have increased substantially in absolute terms during the injury period as shown below:

Particulars	2005-06	2006-07	2007-08	POI (2008-09)
Imports Volume (MT)				
China PR	4,921	18,011.50	13,539.21	25,513.11
Other Countries	44.70	368.77	6.99	251.35
Total Imports	4,965.70	18,380.27	13,546.20	25,764.46
Market Share in imports				
China PR	99.10	97.99	99.95	99.02
Other Countries	0.90	2.01	0.05	0.98

b) The imports from the subject country have increased significantly in relation to production and consumption of the subject goods in India as compared to the base year.

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Dumped imports in relation to domestic industry production	%	35.92	139.02	109.68	211.67
Dumped imports in relation to consumption in India	%	10.28	34.65	25.75	50.96

c) While the market share of the subject country has increased, the share of Indian producers has declined.

Market Share in Demand	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Applicants	%	27.42	20.01	20.22	16.20
Supporters	%	55.93	38.86	48.30	29.94
Other Indian producers	%	6.27	5.77	5.71	2.37
Subject country	%	10.28	34.65	25.75	50.96
Other Countries	%	0.10	0.71	0.02	0.53

121. It is seen from the above table that volume of import of the subject goods from the subject country has increased significantly. The share of domestic industry has decreased

over the injury period. The share of imports from the subject country, which was 10.28 % in the base year, has gone up to 50.96 % in the POI.

L. Price effect of imports

122. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like articles 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. It is seen that the landed price of imports of the subject goods was much higher than the Net Sales Realisation during the 2005-06 and 2006-07 periods; however, it became significantly below the selling prices of the domestic industry, resulting in significant price undercutting during the POI. The position is as follows.

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Landed value	Rs./MT	***	***	***	***
Net Sales Realisation	Rs./MT	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***
Price undercutting	as %	(84.16)	(15.62)	5.64	18.12

123. It is further seen that the domestic industry could not increase its selling prices of the subject goods in line with the increase in cost of sales leading to the situation of price suppression.

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	150	153	201
Net Sales Realisation	Rs./MT	***	***	***	***
Trend	Index	100	126	134	190

124. The other injury parameters relating to the domestic industry are discussed below:

Sales volumes

125. Sales volumes of the domestic industry were analyzed over the injury period. The position is as follows:

Domestic Sales volume (Mt)	2005-06	2006-07	2007-08	POI (2008-09)
Applicants Domestic producers	***	***	***	***

Supporting Domestic producers	***	***	***	***
Applicants with Supporting Domestic producers	***	***	***	***
Other Domestic producers	***	***	***	***
Indian Industry	***	***	***	***

126. The Authority notes that the domestic sales volume have decreased significantly over the injury period. The decline in sales has been noted in spite of increase in demand for the subject goods in the country.

Capacity and Capacity Utilization

	Capacity	Production	Capacity utilization
Unit	Mt	Mt	%
2005-06	***	***	85
2006-07	***	***	80
2007-08	***	***	66
POI(2008-09)	***	***	65

127. The Authority notes that both the production and the capacity utilization have declined over the injury period. Ordinarily the production and the sales of the domestic industry should have increased with the increase in demand of the subject goods in India but it has shown a decline instead. The production of the domestic industry has declined by about 12% during the period of investigation whereas the capacity utilisation of the domestic industry has declined by about 23%. Apparently, the Domestic industry is not able to utilize its production capacity, and the capacity utilization is at lowest level during the period of investigation.

Factors affecting prices:

128. The Authority notes that imports are undercutting the domestic prices. Comparison of cost of production and selling price of the domestic industry along with the landed price of the imports shows that the imports are also suppressing prices of the domestic industry.

Particulars	Unit	2005-06	2006-07	2007-08	2008-09 (POI)
Cost to make & sell	Rs\MT	***	***	***	***
Trend	Index	100	150	153	200
Net Selling price	Rs\MT	***	***	***	***
Trend	Index	100	126	134	190
Profit/loss	Rs\MT	***	***	***	***
Trend	Index	100	-310	-280	-275

Landed price of dumped import	Rs\MT	***	***	***	***
Trend	Index	100	79	69	84

129. It is observed that the landed price of imports of the subject goods is significantly below the selling price of domestic industry, except during 2005-06 and 2006-07 periods. However, significant price undercutting is seen during the POI. Besides, the domestic industry has not been able to increase the prices of the product in proportion to the cost increases. While the cost of subject goods has gone up by 100% whereas the selling price of domestic industry has gone by only 90% thus leading to significant price suppression as well.

Profit/Loss, return on investment and cash profits

130. The position of Profit/Loss, return on investment and cash profits is as follows:

		2005-06	2006-07	2007-08	2008-09 (POI)
Profit loss	Rs./lacs	***	***	***	***
Trend	Index	-100	-246	-227	-170
Return on Investment	%	***	***	***	***
Trend	Index	-100	-239	-229	-164
Cash profit	Rs. Lacs	***	***	***	***
Tend	Index	-100	-264	-241	-174

131. It is observed that the profitability was positive till 2005-06. However, the profitability started declining thereafter significantly to such an extent that the domestic industry suffered losses thereafter. Return on investment and cash profits have followed a similar trend.

Inventories:

132. Data relating to inventories shows as follows

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Average Stock	Mt	***	***	***	***
<i>Indexed</i>	Trend	100	50	60	174

133. It is noted that inventories have increased in the POI. Apparently, the domestic industry is not able to sell its produce completely resulting in increase in the inventories.

Employment, wages and productivity

134. The data relating to employment, wages and productivity is as follows:

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Number of employees-	Nos	***	***	***	***
Trend	Indexed	100	123	119	99
Wages-	Rs.Lacs	***	***	***	***
Trend	Indexed	100	97	117	65
Wages per unit of production-	Rs./MT	***	***	***	***
Trend	Indexed	100	103	129	74
Productivity per employee-	MT	***	***	***	***
Trend	Indexed	100	77	76	89

135. It is seen that there was some decline in number of employees. The Applicants have contended that producers are in small-scale sector and cannot afford to hold employment and pay wages, unless the production continues. It has been contended that any loss of production therefore directly leads to loss of employment in the Country. Total Wages paid and productivity shows a declining trend as compared to the base year.

Dumping Margin:

136. It is observed from the section pertaining to Dumping Margin above that dumping margins in respect of the subject country are significantly positive.

Growth

137. It is noted that the growth of the domestic industry shows a declining trend in respect of volume as well as price parameters. In fact, parameters relating to profitability have become negative.

Ability to raise funds:

138. The Authority notes that the domestic producers are in small-scale sector and cannot afford to invest further, should the present operations remain non-profitable.

Conclusion on material injury

139. The demand of the subject goods has increased from 100 (Index) in the base year to 104.62 (Index) in POI, i.e., it increased by 4.62 %. During the same period, the domestic sales have declined by 44%. Thus, the domestic industry has not been able to take advantage of the increase in demand of the subject goods in the Indian market.

140. It is seen that the imports of the subject goods 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 profits, return on investments, cash profit, inventories and market share. The parameters such as production, sales volumes, and capacity utilization have also declined during the POI. The deterioration in the performance during the period of investigation is quite significant and material. The above analysis shows that the domestic industry has suffered material injury.

M. Causal Link

141. As per the AD 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, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.
142. It was examined whether these other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found that:
- 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 the overall demand for subject goods has shown positive growth during the injury period.
 - 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: - The domestic industry has contended that the conditions of competition or trade restrictive practices are not responsible for the injury claims of the domestic industry. No other interested party has disputed this claim.
 - e. Developments in technology: - The investigation 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: - While the export volumes of the domestic industry have increased till 2007-08 and then declined in the POI, the price and profitability in the domestic and export market has been segregated by the Authority for the purpose of the injury assessment. Therefore, the analysis in respect of injury is not misrepresentative due to possible inclusion of export performance. In

fact, the domestic industry has contended that they are being forced to export only because of lack of demand for their product in the Country because of presence of the dumped imports in the Indian market.

143. The Authority notes that while listed known other factors do not show injury to the domestic industry, the following parameters show that injury to the domestic industry has been caused by dumped imports.
- (a) The imports from China PR are available at prices lower than the prices of the domestic industry. Consequently, the consumers are increasingly switching over to imports, thus leading to loss of market share for the Indian Producers in general and domestic industry in particular.
 - (b) The domestic industry has lost sales volumes. Consequently, market share of the domestic industry and Indian Producers declined and that of the imports increased.
 - (c) As a consequence of decline in market share of the domestic industry, production & capacity utilization of the domestic industry deteriorated materially. The deterioration in these parameters is apparently due to presence of the dumped imports.
 - (d) The imports are occurring at dumped prices and are undercutting and suppressing the prices of the domestic industry. Consequently, the domestic industry has suffered injury in terms of profits, return on investment and cash flow.
144. The Authority is of the view that material injury to the domestic industry has been caused by the dumped imports.

N. Magnitude of injury and injury margin

145. 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. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margins have been worked out as follows:

Sr. No	Exporter	Injury Margin US\$ per Kg	Injury Margin as %
1.	M/s Guizhou Redstar Developing Co. Ltd. (Redstar) through M/s Guizhou Redstar Developing import & Export Co. Ltd	***	70-90
2.	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou Redstar Developing import & Export Co. Ltd	***	70-90
3.	M/s Guizhou Hongtai Chemical Co. Ltd.	***	30-50

	(Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)		
4.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	***	40-60
5.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu) through M/s Guangzhou Chemicals Import & Export Corporation	***	20-40
6.	M/s Hunan Wanfeng Chemical Co. Ltd. (Wanfeng) through M/s Hunan Mint Imp & Exp Co. Ltd. (Mint)	***	10-20
7.	All other Chinese producers/exporters except as mentioned above	***	80 - 100

O. Conclusions:

146. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority notes that the product under consideration has been exported to India from the subject country below its associated Normal value, thus resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by dumped imports of the subject goods from the subject country.

P. Indian industry's interest & other issues

147. 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 country in any way, and therefore, would not affect the availability of the subject goods to the consumers.
148. It is recognized that the imposition of anti-dumping duties might affect the price levels of the products 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. With a view to minimize the impact on the downstream industry, the Authority has considered it appropriate to recommend anti-dumping duty based on the

lower of the dumping and injury margins. The Authority notes that the imposition of anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.

Q. Recommendations

149. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the Act and the AD Rules and having established definitively positive dumping margins concerning imports of the subject goods originating in or exported from the subject country and as well as material injury thereof to the domestic industry caused by such dumped imports; the Authority is of the view that imposition of definitive duty is required to offset the dumping and ‘injury’ in the instant matter. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duties concerning imports of the subject goods from the subject country in the form and manner described hereunder.
150. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed concerning all imports of the subject goods originating in or exported from the subject country.

S.No.	Heading/ Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Redstar Developing Co. Ltd.	M/s Guizhou Redstar Developing Import & Export Co. Ltd.	210.33	MT	US \$
2.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd.	M/s Guizhou Redstar Developing Import & Export Co. Ltd.	205.92	MT	US \$
3.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Hongtai Chemical Co. Ltd.	M/s Anhui Garments Shoes & Caps Industrial (Group) Co.	122	MT	US \$
4.	28366000	Barium Carbonate	China PR	China PR	M/s China Haohua Chemical Industry	M/s China Haohua Chemical Industry	147.88	MT	US \$

					Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)			
5.	28366000	Barium Carbonate	China PR	China PR	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	M/s Guangzhou Chemicals Import & Export Corporation	102.19	MT	US \$
6.	28366000	Barium Carbonate	China PR	China PR	M/s Hunan Wanfeng Chemical Co. Ltd.	M/s Hunan Mint Imp & Exp Company. Ltd.	76.06	MT	US \$
7.	28366000	Barium Carbonate	China PR	China PR	Any other than combination at Sr. No.1 to 6.		236	MT	US\$
8.	28366000	Barium Carbonate	Any other than China PR	China PR	Any	Any	236	MT	US \$
9.	28366000	Barium Carbonate	China PR	Any other than China PR	Any	Any	236	MT	US \$

151. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under Sections 3, 3A, 8B, 8C, 9 and 9A of the Customs Tariff Act, 1975.
152. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

P.K. Chaudhery
The Designated Authority