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SECTION-1

Government of India

Ministry of Commerce & Industry

Department Of Commerce

Directorate General of Anti-dumping and Allied Duties

4th Floor, Jeewan Tara Building, Parliament Street, New Delhi

5th December, 2015

Final Findings (Sunset Review)

Subject: Sunset Review of Anti-Dumping duty on imports of ‘Melamine’ originating in or exported from China PR

No 15/17/2014-DGAD: - Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. Background of the case

2. Whereas, the Designated Authority (hereinafter referred to as the Authority) had recommended imposition of provisional duty on imports of Melamine originating in and exported from China PR vide notification No.14/16/2003-DGAD dated 27.02.2004 and such provisional duty was imposed by the Government of India vide Notification No.53/2004-Customs dated 02.04.2004. The Authority issued its final findings recommending imposition of definitive anti dumping duty on imports of Melamine (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as subject country), vide notification No. 14/16/2003-DGAD dated 03.09.2004 and such definitive duty was imposed by the Govt. of India vide customs notification No. 107/2004-Customs dated 16th November, 2004.

3. WHEREAS The Designated Authority thereafter vide notification No. 15/29/2008-DGAD, dated the 21.11.2008, had initiated sunset review in the matter of continuation of anti-dumping duty on imports of subject goods, originating in, or exported from, the subject country. The Designated Authority vide notification No. 15/29/2008-DGAD, dated the 20.11.2009, had recommended for continuation of the anti-dumping duty. Notification No. 10/2010-Customs was issued on 19.02.2010 imposing anti dumping duty on imports of Melamine from the subject country.

4. WHEREAS, M/s. Gujarat State Fertilizers & Chemicals Ltd has filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from the subject country and consequent injury to the domestic industry and have requested for review, extension of period, modification and enhancement of existing

anti dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject country.

5. WHEREAS in view of the duly substantiated application filed and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated a Sunset review investigation vide Notification No 15/17/2014-DGAD dated 09.12.2014 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject country and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry

B. Procedure

6. The procedure described below has been followed with regard to the investigation:

- i. The Authority sent copy of the initiation notification dated 9th December, 2014 to the embassy of the subject country in India, known exporters from the subject country and known importers, as per available information. The known interested parties were requested to file questionnaire responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to embassy of the subject country along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject country to respond within the prescribed time.
- ii. Copy of the non-confidential version of the application filed on behalf of the applicant was made available to the known exporters and the embassies of the subject country in accordance with Rule 6(3) of the Rules.
- iii. The Authority forwarded a copy of the public notice initiating the sunset review to the following known producers/exporters in the subject country and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules:
 - a) China Huaya Group Co. Ltd
 - b) Yingkou Tianyuan Elaborate Chemical Industry Co., Ltd
 - c) Inner Mongolia Ihjuchem Industrial Co., Ltd
 - d) Naier chemical Co. Ltd.
 - e) Henen Harvest International Co. Ltd.
 - f) Henan Hongye Chemical Co. Ltd
 - g) Golden Elephant Chemical Co. Ltd
- iv. In response to the initiation of the subject investigation, none of the producers/exporters from the subject country have responded by filing questionnaire response
- v. Market Economy Treatment (MET) questionnaire was also forwarded to the known producers/ exporters in China PR and the Embassy of China PR in India with the request to provide relevant information to the Authority within the prescribed time

limit. While for the purpose of initiation, the normal value in China PR was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed the known producers/exporters from China PR that it holds to examine the claim of the applicant in the light of Para 7 and Para 8 of Annexure I of Anti-dumping Rules, as amended. The exporters/producers of the subject goods from China PR were, therefore, requested to furnish necessary information/sufficient evidence as mentioned to enable the Authority to consider whether market economy treatment can be granted to the cooperative exporters/producers in China PR. However, none of the producers/exporters from China PR have filed MET questionnaire response rebutting the non-market economy treatment to China PR.

- vi. Questionnaires were sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with the Rules:
 - a) Greenply Industries Ltd
 - b) Merino Industries Ltd.
 - c) Merino Panel Products Ltd
 - d) Golden Laminates Ltd
 - e) Surya Vikas Plywood Pvt. Ltd
 - f) Katyani Chemtech India Ltd
 - g) Rushil Décor Ltd
 - h) Sundek India Ltd
 - i) Bloom Dekor Ltd
 - j) HEF India Private Ltd
 - k) Century Plyboards India Ltd
 - l) Managlam Timber Products Ltd
 - m) Virgo Industries
 - n) Alfa Ica Ltd
 - o) The Bombay Burmah Trading Co
- vii. In response to the above notification, following importers have filed questionnaire response through M/s Ernst & Young LLP
 - a) Meghdoot Laminart Pvt. Ltd.
 - b) Century Plyboards (I) Ltd.
 - c) Bloom Dekor Limited
- viii. Further, the Laminate Manufacturers Association has filed response to the petition through M/s Ernst & Young LL.P.
- ix. M/s Sandeep Organics filed submissions on 28th January, 2015 but did not file importer's questionnaire response. Further submissions were made vide email dated 20th October, 2015. The company did not participate in the oral hearing despite the notice of hearing served to them by the Authority.

- x. M/s Balaji Action Buildwell (through ITS Legal Advocates & Consultants) and M/s Exim Corp did not register themselves as interested parties within the stipulated time nor did they file any importer questionnaire response within the stipulated time but filed belated submissions only in October 2015. Thus, the parties have not availed opportunity provided to them in timely manner. M/s Balaji Action Buildwell desired to inspect the public file. The Authority notes that the company has not registered itself as an interested party and did not file any submissions/data on imports made by them. The Authority notes that anti-dumping duty investigations being time bound, require exchange of submissions being filed by registered interested parties and file comments, in order to assist the authority to arrive at a fair determination. In case of M/s Balaji Action Buildwell, the Authority notes that despite the fact that company did not cooperate in the investigation for 10 months and has approached the Authority only at the 11th month of investigation, the Authority taking a pragmatic view has however, decided to consider and dealt with their submissions appropriately. The submissions of M/s Eximcorp have also been dealt with appropriately.
- xi. Exporters, producers and other interested parties who have not responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperating.
- xii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and also DG Systems, Ministry of Finance to arrange for details of imports of subject goods for the past three years, including the period of investigation, which was received by the Authority. The Authority has, however, relied upon the DG Systems imports data for computation of the volume of imports and injury analysis for investigation for the reasons as enumerated below in this finding.
- xiii. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) 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. The NIP has been determined by the Authority in terms of the principles laid down under Annexure II to the Anti-dumping Rules.
- xiv. The period of investigation for the purpose of the present review is 1st April, 2013 to 30th June, 2014 (15 months). However, injury analysis covered the periods April, 2010-March, 2011, April, 2011-March, 2012, April, 2012-March, 2013 and the POI.
- xv. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 28th September, 2015. The parties, who presented their views in oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xvi. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
- xvii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has

accepted the confidentiality claims wherever warranted and such information has been considered as 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. 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 considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xx. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority on 23rd November 2015, to the known interested parties and comments received on the same, to the extent considered relevant by the Authority, has been considered in this final finding.
- xxi. “-**” represents information furnished by an interested party/ other party on confidential basis and so considered by the Authority under the Rules.
- xxii. The average exchange rate of 1US\$ = Rs 60.64 prevailing during the POI has been adopted by the Authority in this finding.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

7. The product under consideration in the present investigations is Melamine. In the original case, the Final Findings issued via Notification F.N0. 14/16/2003-DGAD, dated 3rd September, 2004 defined the product under consideration as follows.

“Product under consideration in the present investigation is Melamine, a tasteless, odorless, and non-toxic substance. Melamine is used for making melamine formaldehyde, which in turn is used in producing downstream products. Melamine formaldehyde resin used for laminates offer good hardness, resistance to scratch, stain, water and heat.

Melamine has a dedicated Custom Sub Heading 29336100 of Chapter 29 of the Customs Tariff Act. The product falls under OGL category and is freely importable.”

8. Since the present investigation is for sunset review, the scope of the product under consideration remains the same as that of the original investigation. The product under consideration, Melamine, is classified under Chapter 29 under subheading 29336100. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.

9. Rule 2(d) with regard to like article 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;

10. The application filed is for the review, continuation and enhancement of the quantum of the anti-dumping duty in force, and the issue of like article has been already dealt with in the previous investigations. In the earlier investigations the Authority has already held that

the subject goods produced by the domestic industry is like article to the subject goods imported from the China PR

11. As regards the argument of different grades of product under consideration, it is noted that none of the exporters of the product under consideration cooperated or provided any information regarding different grades of product under consideration.

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

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

13. The application for the sunset review has been filed by M/s. Gujarat State Fertilizers & Chemicals Ltd. As per the information available, the petitioner company is not related (neither directly nor indirectly) to any exporter in the subject country or importer of product under consideration in India. The petitioner has not imported the subject goods from subject country during period of investigation. However the petitioner has made some imports from subject country during the base year. The Authority is of the view that the focus of the company continues to be of a producer and do its own production. The company is therefore held to be domestic industry within the meaning of the Rules.

14. The petitioner company is the sole producer of the product under consideration in India. The Authority after examining the information on record has determined that the petitioner company constitutes domestic industry within the meaning of the Rule 2(b) and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

E. Other Issues

Submissions made by the Exporters/Importers/ users/ other Interested Parties/ other parties

15. Following submissions have been made by the exporters/importers/ users/other interested parties/ other parties

- i. Authority has relied on DGCIS data for determination of export price as it is a government source rather than a private data source. A report by the Ministry of Chemicals and Petrochemicals on the imports of the subject goods in the most recent period exhibits a much higher import price as compared to even the DGCIS data.
- ii. As regards Domestic Industry's submitting an Alert Circular issued by the DRI, it is stated that that this Alert is merely to make the field formations aware of such a practice; however it is not a blanket and conclusive finding on all import transactions

concerning the subject goods. It is not an acknowledgement that the import prices are necessarily being manipulated by importers but merely a warning to the field formations to be careful about potential manipulation of the import prices with an intent of avoiding anti-dumping duty.

- iii. The sanctity of import transactions which are subject to the control and surveillance of the customs is unwarranted. If at all any complaint has to be made challenging the mechanism of customs procedures which allegedly failed to check fictitious import transactions, the complaint must be lodged with the appropriate forum, that is, the Department of Customs. To challenge the accuracy of imports data alleging that the import prices are fictitious tantamount to questioning the database or information of the DGCIS which been considered as accurate and reliable by the Authority in several anti-dumping investigations.
- iv. Initiation Notification is not based on duly substantiated application and that on basis of fair and objective examination of the evidence.
- v. The applicant has forwarded its information in the pro-forma, which is actually meant for the original application and not for SSR investigation. This has led to an anomalous situation as the kind of information that is required in an original investigation is simply not suitable for the kind of analysis that is required to be undertaken by the Authority in a SSR investigation
- vi. Neither the initiation notification is based on suo motu basis; nor is there a duly substantiated application before the Hon'ble Authority, to justify initiation of the instant investigation
- vii. The imports under advance license/authorisation are squarely governed by the Standard Input output norms as per the Foreign trade Policy
- viii. There is a huge demand and supply gap so far as the subject goods is concerned. However, despite the existence of significant demand, the domestic industry claims to have linked its prices with that of the imported goods. Imports under the advance license mechanism which are not meant for sales in the Indian domestic market at all and not in any competition with the domestic sales made by the domestic industry.
- ix. 1/3rd of the imports have been made admittedly under the duty-free schemes that do not attract anti-dumping duty and 2/3rd of the imports have been made at above the reference price of \$ 1400, thereby meaning at undumped prices. If the import price were fictitious the domestic industry ought to have filed Mid-term review
- x. As regards reference price duty being ineffective, then the domestic industry ought to have filed Mid-term review application for change in quantum and form of duty. No evidence have been provided by the domestic industry to substantiate the claim.
- xi. Chinese customs data would also include those transactions that have been made under the duty-free mechnasim, which do not attract anti-dumping duty and therefore must be excluded from the ambit and scope of both dumping and injury analysis. Whereas for

the purpose of injury analysis, landed price would be required, which is already available in the form of Bill of entries data

Submissions made by Domestic Industry

16. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry

- i. The DRI finding is conclusive in nature and Designated Authority cannot ignore the findings of other Government department. Based on the DRI investigation, Customs department found that certain importers were indulging in overvaluation of Melamine, imported from China in order to avoid payment of anti-dumping duty leviable on such imports. DRI, after conducting investigation, submitted in its finding that the importers are overvaluing the product to evade anti-dumping duty.
- ii. The domestic industry has given detailed reasoning with the supporting evidence for finding of DRI to prove that the price stated in the import data is fictitious price and not the actual one.
- iii. The DGCI&S average import price cannot be considered for the reasons well explained in the petition and written submissions.
- iv. The petition clearly shows positive price undercutting. The statements in the Annual Report are with regard to deterioration in performance of the domestic industry for a year. The Annual Reports are however focused only on the period under consideration. The Designated Authority is concerned with performance of the domestic industry over the injury period. Designated Authority's decision is not based on POI alone. Designated Authority's decision is based on performance over injury period.
- v. Imports under advance license are causing injury to the domestic industry. The imports entering in the Indian market under advance license are the imports which are governing the price of the domestic industry and market as a whole. Import for export production are exempted by the Govt. of India from purview of anti dumping duty under advance authorization scheme does not imply that these imports are not causing injury. It only implies discretion of the Govt. of India while imposing anti dumping duties.
- vi. Domestic Industry has filed detailed reasoning as to why either imports under Category I or China customs data should be adopted to determine import price.

Examination by Authority

17. The Authority notes the submissions made by the various interested parties/ other parties on actual price of imports of product under consideration into India. The domestic industry argued that import price as per Indian customs is not the actual price and therefore requested to adopt either price as per China Customs or the price of imports under advance license. To support their argument the Domestic Industry has provided an Alert Circular by DRI wherein DRI had found that certain trader importers were declaring higher values in comparison to the import value of actual user importer. The opposing interested party argued that DRI alert letter is merely to make the field formations aware of such a practice; however it is not a blanket and conclusive finding on all import transactions concerning the subject

goods and the sanctity of import transactions which are subject to the control and surveillance of the customs is unwarranted and therefore DGCI&S data should be adopted by the Authority for determination of volume and value of imports,

18. As regards the argument that Authority can only rely on DGCI&S data and not on a private source or other source, the Authority notes that in the past it has adopted private source data and also China Customs for determination of volume and value of imports after appropriate correlation of facts keeping in view the nature of data, its availability, context and reliability. The adoption of IBIS data at the time of initiation, for determination of volume of imports is also consistent with the past practice of Designated Authority.

19. As regards determination of import price, the Authority noted the details of investigation conducted by DRI and requested information from DRI with regard to the actual value of imports determined by them so as to conduct dumping and price effect analysis.

20. The Authority, therefore, noting the submissions made by various interested parties on referencing different sources of import data for volume and price of the imports product under consideration, holds that in the past it has adopted various data sources appropriately to the extent of details available in a data source, its reliability and context as stated above and to the extent possible, ensures correctness of various secondary source data with inter se correlation amongst various sources and also responses filed by cooperating exporter/importer. In the instant case, the Authority has considered data from DGCI&S as well as DG Systems. Further, the Authority, based on the submissions of the domestic industry on the alert circular issued by DRI, obtained relevant details from DRI on the alleged circumvention of the anti-dumping duty by certain traders /importers. The Authority correlated the data obtained from DGCI&S, DG Systems and China Customs and the information obtained from DRI. The Authority notes that the quantity of imports of product under consideration as per DGCI&S, DG Systems and China Customs broadly correlates. As no exporter of the product under consideration from subject country has responded and only three importers with total imports of 645 MT have provided data, therefore the price as per the importer's questionnaire response would not be reflective of the total imports of the product under consideration. As per DG Systems data, the Authority notes that there is a wide variation in the import price under duty free imports and non duty free imports. The Authority notes that this is occurring despite the fact that the import product is same under both the routes. The DRI's alert circular and the information provided by DRI to the Authority evidence non- reliability of the import price of non duty free imports when compared to the advance license prices during the POI. Further, the Authority examined the overall imports price as per China Customs data and the import price of duty free imports as per DG Systems data and observes that the prices broadly correlate. Further, the investigation conducted by DRI so far also corroborates the reliability of these two prices. Therefore the Authority holds that adoption of import price of duty free imports as per DG Systems data for both dumping and injury determination is fair and appropriate.

21. As regards the contention that Applicant has not filed a 'duly substantiated' petition in terms of Rule 23(1B) of the Anti-Dumping Rules by providing sufficient and accurate

information, the Authority notes that the present investigation was initiated on the basis of sufficient prima facie evidence furnished by the domestic industry showing dumping, injury and causal link and the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and justifying initiation of the investigation in accordance with the Act and Rules. The data as available at this stage upholds the correctness of the approach adopted at the time of initiation.

22. With regard to exclusion of imports under advance license for dumping and injury determination, it is noted that these imports have been taken into account for the purpose of working out dumping and injury as these dumped imports adversely affect the opportunities available to domestic industry to increase their supplies to these exporters and to that extent, the demand of the subject goods declines. It is noted that it is the consistent practice of the Authority to include imports under duty exemption for the purpose of assessment of injury to the domestic industry.

23. With regard to form of duty and alleged over invoicing, the Authority has considered the facts of the present case for deciding an appropriate form of measure.

F. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

Submissions made by exporters, importers and other interested parties/ other parties

24. Following submissions have been made by the exporters, importers and other interested parties/ other parties with regard to normal value, export price and dumping margin

- i. India cannot be considered as surrogate country for determination of normal value for China because (a) The scale of operations of producers in China is much larger as compared to producers in India. (b) Production capacities of manufacturers in China are significantly higher than that of the Applicant. (c) The cost of production of the subject goods in China is much lower than that in India as a result of economies of scale. (d) China produces its Melamine by use of Coal Gas which is cheaper and more efficient as compared to Urea which is used in India.
- ii. The construction of the normal value is impermissible and the export value has been incorrectly calculated, the Authority must disregard the consequent dumping margin computed by the DI.
- iii. There are a number of judicial proceedings pending against the Applicant for use of natural gas procured at APM prices for production of products other than fertilizers. In particular, the proceedings relate to the illegal use of natural gas procured at APM prices for production of products such as Melamine. Use of the Applicants data is not suitable or appropriate for construction of normal value

Submissions made by Domestic Industry

25. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry

- i. China is a non-market economy. It has been treated so by European Union and United States in the past. No country has granted market economy country status to China after following detailed evaluation procedure and examination. In India also, the Designated Authority has treated China as non-market economy. In practically all the investigations initiated against China after the amendment dated 31st May, 2002.
- ii. AD Rules have prescribed certain conditions that have to be satisfied in order to establish the claim of market economy treatment. Each and every condition must be fulfilled by an intending exporter in order to claim market economy treatment.
- iii. In the present case, Normal Value cannot be determined on the basis of price or constructed value in a market economy third country for the reason that the relevant information is not publicly available
- iv. The Domestic Industry has relied upon the IBIS data to assess the volume and value of subject import in India. However, IBIS provides import value as assessable value. According to the WTO Agreement on Anti Dumping and Indian Rules, comparison of normal value and export price should be done at same level of trade. Therefore, the export price has been adjusted for Ocean Freight, Marine Insurance, Commission, Port Expenses, Bank Charges, Inland Freight Expenses and VAT adjustments.
- v. The dumping margin is above de minimus and is significant, despite existing duties
- vi. The Normal value estimated, has been artificially contrived upwards to achieve the domestic industry's self-serving objective to somehow continue to garner the benefits of antidumping.

Examination by Authority

26. Under section 9A (1) (c), the normal value in relation to an article means:

- (i) *The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- (ii) *When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*
 - (a) *Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6):*
Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of exporter there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

27. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. However, none of the Chinese producers/exporters have filed any response.

28. 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 Rules.

29. As per Paragraph 8 of Annexure I of the Anti-dumping 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:

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

30. The Authority notes that consequent upon the initiation notice issued by the Authority, none of the Chinese companies have filed exporter's questionnaire response. Therefore, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the Chinese companies and has to proceed in accordance with Para 7 of Annexure- I to the Rules. According to these Rules, the normal value in China PR can be determined on any of the following basis:

- a. On the basis of the price in a market economy third country, or
- b. The constructed value in a market economy third country, or

- c. The price from such a third country to other countries, including India.
- d. If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

31. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. Since no information with regard to prices and costs prevalent in these markets could be accessed and also the opposing interested parties have provided no information with regard to an appropriate market economy third country, the normal value in respect to China PR has been worked out on other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Thus, the Authority determines to construct the normal value for the product under consideration imported during the POI from China as follows:

- (a) The best utilisation norm of the raw materials based on the best information available has been considered.
- (b) Cost of utilities, conversion cost, SGA expenses and interest have been considered on the basis of the best information available.
- (c) 5% of cost of sales excluding interest has been allowed as a reasonable profit.

32. Accordingly, the Constructed Normal Value computed at ex-factory level has been determined as US\$ *** per MT (Rs.*** per MT).

Export Price of Subject Country

33. As none of the exporters of the subject country has provided any information that can be used for determination of the export price, the Authority holds to determine the export prices for all exporters from subject country on the basis of CIF price of duty free imports into India as per DG Systems data, duly correlated with the export prices of China customs data. The Authority while adopting this approach keeps in mind the findings of DRI's investigation on circumvention of ADD under non- advance license imports and the disclosure of prices by traders/ importers of PUC from China PR and voluntary deposition of ADD by them, which renders the import prices of the PUC under non duty- free route as unreliable.

34. Accordingly, export prices from the China PR are calculated on the basis of CIF price of product as stated in para 33 above with applicable adjustments for Ocean freight, Marine insurance, Port expenses, Commission, Inland transportation and Bank Charges, have been made to arrive at the ex-factory export price. Accordingly, the net export price has been determined as US\$ *** per MT (Rs.*** per MT).

Determination of Dumping Margin

35. Considering the normal values and net export prices as determined above, dumping margins are determined as follows:

Particulars	Units	China PR (POI)
Constructed Normal Value	US\$/MT	***
Net Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin	%	***
Dumping Margin	% Range	40%-50%

36. The above evaluation indicates that the subject goods continue to enter the Indian market, from China PR, at dumped prices and that the margin of dumping is quite significant.

G. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions made by the exporters, importers and Other Interested Parties/ other parties

37. Following are the submissions made by exporters, importers and other interested parties/ other parties:

- i. Applicant's production has increased by 7% in the POI as compared to 2010-11. Capacity utilization has not decreased even though there is increase in the capacity. In particular, the capacity utilization shows an increase as against the base year and as against the immediately preceding year.
- ii. A company that is allegedly suffering injury would not be in a position to increase its capacity. Therefore, the data relating to production, capacity, capacity utilization and inventory do not indicate any injury caused to the Applicant.
- iii. The sales of the DI have increased significantly in POI registering a growth of 15.3%. In addition, the sales value has also increased.
- iv. Decrease in the market share is due to the fact that it did not have the capacity to increase its production of the like product as it utilized its full capacity. The domestic industry failed to meet the domestic demand; the domestic users of the like product were compelled to fulfill their requirements by imports. It is highly unjust on the part of the Applicant to blame imports from the subject country for the decline in the market share of the domestic industry
- v. DI has been able to maintain a low level of inventories. In fact inventories have not increased and have rather declined till the POI.
- vi. Employment, productivity and wages will definitely be impacted if dumping has the effect of injuring the domestic industry. The wages have consistently increased every year of the injury period and the POI. In addition, even the employment has increased over the injury investigation period. Were the Applicant truly suffering injury, it would have no reason to increase employee wages and moreover, continue to hire additional employees. On the converse, an industry that is facing injury or threat of injury would be expected to lower wages and/or downsize its employee base. The productivity has also increased.

- vii. There is no price undercutting as per data of DGCI&S. As per page 53 of 52nd Annual Report 2013-14 the Applicant's total Melamine sales was Rs. 13,920.61 lacs for 2013-14. Further, as per page 23 of the 52nd Annual Report, the Applicant has sold 15,378 MT of the like product during 2013-14. Thus, unit selling price of the like product works out to Rs. 90,520 per MT. Request the Authority to consider the above calculation relating to price undercutting which is based on DGCIS's import data
- viii. The underlying reason for not levying anti-dumping duty on imports under advance license is to promote exports from India and therefore any imports covered under the advance license must not be regarded as inflicting injury to the domestic industry. It will therefore be grossly incorrect to consider imports of the PUC under advance license for the purpose of computing price undercutting as claimed by the Applicant.
- ix. There has been an increase in the selling price as well as the cost of sales. An increase in the cost of sales has in turn resulted into an increase in the selling price of the subject goods. The selling price has been increasing consistently over the years as per the Annual Reports of the DI for 2013-14, 2012-13 and 2011-12. The consistent increase in the selling price of the like product cannot be denied on any premise, as it is fully evident from the published Annual Reports of the Applicant.
- x. The landed price of imports from the subject country increased by 29% in the POI as compared to the base year. The landed value of imports from China in the POI was 7% higher than the selling price of the DI.
- xi. The selling price of the Applicant is and has been increasing and there has not been any price undercutting. Therefore, the imports from the subject country has not at all contributed to the loss being suffered. Any losses suffered by the Applicant can only be explained by certain extraordinary expenses.
- xii. The Applicant's Annual Report for 2013-14 provides that there have been higher dependence on imported raw materials viz. Ammonia and from countries in Middle East and Africa where political unrest had impacted the supply chain and that too to an extent affecting GSFC's production and profitability. In addition, depreciation of rupee against USD increased the cost of production of fertilizers as well as imports. Applicant's expenses such as power and fuel, depreciation, wages, finance cost and other expenses have increased significantly during the injury period. The Applicant could have certainly earned profits and any losses (net profits) or declining return on investment it suffered was exclusively on account of significant increase in expenses such as other expenses, depreciation and wages
- xiii. As there is no existing injury, the possibility of continuation of injury, under Article 11.3 of the WTO ADA and Rule 23(1B) of the Indian AD Rules, is ruled out and not relevant in the present investigation.
- xiv. India is not a key market for exports from China. In particular, only 11.3% of the total exports of subject goods from China are exported to India. The exports to India have rather decreased. An increase in exports of the subject goods from China is unlikely regardless of the capacities of Chinese exporters. The data pertaining to total capacities

of Chinese exporters relates to its production capacity for the Chinese markets as well as to markets across the world.

- xv. The existence of large capacities in itself does not demonstrate that dumping would be probable or likely. In fact, the existence of large capacities in China has no bearing on the likelihood of dumping in India particularly when evidence demonstrates that the exports from China are destined for other markets where drastic increase in exports have been witnessed and exports to India have rather decreased
- xvi. Even after imposition of duty for 10 years, there has been no improvement in its performance, it is clear that the DI has been suffering any alleged injury as a result of its own inefficiencies. The fact that the reason for decline in its profits and return on investment is as a result of expenses that are intrinsic only to the DI.
- xvii. The present positive performance of the Applicant, which is evident from the improvement on all the key injury parameters, has resulted from its own strategic decisions such as increase in capital investments and capacity
- xviii. Despite the continued injury, the domestic industry has thought about expanding just now and it has never sought to move a Mid-term review application seeking modification and enhancement of the anti-dumping duty in force
- xix. the imports must be seen in the context of huge demand and supply gap. Undoubtedly, the imported goods must come in at undumped prices, which precisely has been happening in the present matter, once we exclude the transactions that have been made under the duty-free mechanism
- xx. the Applicant has failed to provide “positive evidence” that establishes that dumping and consequent injury would be “probable” if the duty is terminated
- xxi. that the injury margin that is determined by the Hon’ble Authority must take into consideration the ‘landed value’ of only those transactions that have not been made under the duty-free schemes. Besides, it must take into account the conversion rate (of Dollars to Indian Rupees) when the goods have been cleared
- xxii. Applicant has enjoyed the benefits accruing to them by virtue of the continued imposition of Anti-dumping duties for really a long time (for over 10 years) and now again seek its further continuation for another period of 5 years. The anti-dumping duties must not continue, as India has taken an in-principle stand before the WTO not to extend the measure beyond a period of 10 years.
- xxiii. M/s GSFC has capacity of 15,000 ton per annum and has planned for increase.
- xxiv. It is incurring expenses on know-how technology as well as on technology selection process;
- xxv. Consumption of power has increased whereas consumption of steam and gas has decreased;

- xxvi. Production, sales and stock in trade have increased whereas inventory has decreased. Trading has resulted in increase from Rs. 1179.11 lakhs in 2013 to Rs. 2010.08 in 2014. Foreign exchange earned is Rs. 15.18 lakhs in the year 2013-2014.
- xxvii. There is difference in quality. Nitrogen and coal are raw material in Chinese material;
- xxviii. GSFC is importing melamine and trading;
- xxix. There are many grades with regards to quality;
- xxx. GSFC is government backing company and enjoys privileges and is also in monopolistic situation. The duty is 12.36 in GSFC. The DGAD is requested to take into account the number of shut downs in GSFC and GSFC's capacity, demand and supply and also of the fact that there is new management in GSFC recently;
- xxxi. The DGAD is requested by M/s Sandeep Organics to provide it non- confidential version submissions made by all parties.
- xxxii. The DGAD is also requested to issue Preliminary Findings & call for oral meeting before Final Findings.
- xxxiii. The duty is 1% landing cost, 2% cess, 1% cess, 7.5% basic duty, 12% custom duty & 4% special additional duty;
- xxxiv. It charges 2% CST and freight for out station sales which add to the cost to the buyer, but there is no CST and freight in imports.
- xxxv. It doesn't give credit to buyers and incur commissions & incentives to agents;
- xxxvi. Already there is AD duty from past 11 years and same flexible AD duty should be continued;
- xxxvii. Disclosure statement should be provided to M/s Sandeep Organics and Preliminary Findings should be issued before Final Findings.
- xxxviii. ICIS report should not be considered as it is a private & commercialised report;
- xxxix. China export data should not be considered and Indian import data should be considered;
 - xl. Fluctuation in raw material ammonia, coal, urea, natural gas & fertilizers as well as in wood panel & adhesive should be considered;
 - xli. Fluctuation in crude & currency (USD- INR & RMB- INR) should be considered
 - xlii. DRI investigation is not concluded;
 - xliii. There is AD duty on imports from other countries;
 - xliv. Many China factories are closed now;
 - xlv. Quality of china is very inferior;
 - xlvi. Recently imports have decreased and the domestic industry has raised prices;
 - xlvii. The domestic industry faces problems of frequent shut down and is importing & trading;

- xlvi. Domestic industry is government controlled & gets subsidy. It is not professionally managed and is giving vague reasons of imports. There is non capitalisation of resources by it.
- xlvii. It faces raw material & electricity shortage problem, and the machines are also old;
 - 1. Now imports under DFIA is also stopped making imports not viable;
 - li. Customs is passing Chinese cargo after paying ADD;
 - lii. There is 4% special additional duty on import and 2% central sales tax in the domestic industry.
 - liii. There is no domestic industry as M/s GSFC Ltd, the importer- producer of the subject goods is the sole domestic producer;
 - liv. The methodology followed by DGAD while recommending the duty table is flawed as by converting the NIP to US Dollars, a serious distortion has been created to confer windfall gains on domestic industry;
 - lv. The quantum of AD duty on market economy exporters must not exceed the amount of ocean freight involved as any constructed cost for the exporter is a fallacy on presumptions which are not validated.
 - lvi. When there are so many grades of domestic producer, the weighted average sales realisation is not fair. Domestic grades must be correlated to the correspondent grade of the imported melamine in order to draw a fair comparison.
 - lvii. The injury to domestic industry from factors other than dumping must be quantified and separated before arriving at any fair comparison.
 - lviii. There exists a situation of dumped imports not sold in India on dumped prices. DGAD doesn't have a practice to exclude such dumped imports not on dumped prices. This violates the restrictions and prohibitions under ADA and AD Rules.

SUBMISSIONS MADE BY THE DOMESTIC INDUSTRY

38. Following are the submissions made by the domestic industry in this regard:
- i. The apparent consumption of the subject goods has increased throughout the injury period. Market share of domestic industry has slightly increased 2011-12 from the base year and then declined thereafter. The market share of imports from China has increased throughout the injury period.
 - ii. Imports from subject country have substantially increased in spite of Anti-dumping duty in existence in absolute terms and in relation to production and consumption in India.
 - iii. Imports are significantly undercutting the prices of the domestic industry.
 - iv. Imports are suppressing the domestic prices.

- v. Performance of the domestic industry deteriorated in terms of profits, return on investments, cash flow. Consequent impact of dumping on the domestic industry has been significantly adverse.
- vi. The domestic industry suffered huge financial losses despite anti-dumping duties in existence only due to continued dumping and form of duty. With significant dumped imports entering the Indian market, the domestic industry, in order to sustain in the market, were left with no option but to sell the goods at sub-optimal prices. The domestic industry was prevented from raising its prices in proportion to increase in costs
- vii. In view of the demand supply gap of Melamine in the country, the petitioner is in the process of expansion wherein the company plans to expand its capacities further by 40,000MT. However, in view of the significant dumping and consequent injury to the domestic industry, in the event of the revocation of the anti-dumping duty, the expansion plans for the domestic industry would be significantly affected
- viii. Given the level of price undercutting, it is evident that the demand for the imported product would substantially increase in the event of revocation of anti dumping duties. This would directly imply decline in the demand of the domestic industry product, which is likely to result in decline in production of the domestic industry.
- ix. Domestic Industry has not claimed volume injury rather claimed price injury, which is clearly established by the decline in profits, cash flow and return on investment. Considering the level of price undercutting, it is evident that the demand for the imported product would substantially increase in the event of cessation of anti dumping duties.
- x. Capacity enhancement is long term decision and the domestic industry in this case has taken steps to enhance the capacity in order to meet the demand of the users.
- xi. If the exporters want to supply the goods to meet the requirement in Indian market that could be done by exporting the goods at normal value and not at dumped prices. There is no bar in imposing anti-dumping duty if there is demand supply gap.
- xii. Domestic Industry has not claimed injury on account of inventories but injury in the form of profits, return on investment and cash flows.
- xiii. Domestic Industry has not claimed injury on account of wages, employment and productivity. The Domestic Industry being a Government Company cannot hire and fire the employees as and when required.
- xiv. Domestic industry was compelled not to increase their price in proportion to increase in cost of sales thereby suffering huge losses. Increase in the selling price was never disputed.
- xv. The Domestic Industry uses its own Urea for manufacturing of Melamine and there is no shortage of the same. Wage cost has declined since base year. Extraordinary expenses have been excluded from injury analysis.

- xvi. Domestic industry has been significantly adverse owing to Dumping. Imports from subject country have substantially increased in spite of Anti-dumping duty in force. These imports are significantly undercutting the prices of the domestic industry and suppressing the domestic prices.
- xvii. The nameplate capacity in China for melamine is around 1.8m tones/year against the consumption of around 1m tones/year which meant the average plant operating rate is at 50-60%. Therefore in the event of cessation of anti-dumping duty, the exporters from subject country would export to India in huge volumes in order to improve their utilization. Further, the oversupply in China forced their major producers to seek more exports to overseas markets to cope with poor local demand.
- xviii. The importers are resorting to overvaluation in order to evade anti-dumping duty and benchmark form of duty has remained ineffective. Therefore it is all the more reason to extend the anti-dumping duty with enhanced quantum and fixed form.
- xix. Requested the authority to consider, for the purpose of assessing injury, the Non APM price of natural gas for determining cost of ammonia which is required for the production of urea which is in turn required for the production of Melamine. Natural gas made available to the company at pre-determined price by the Government for eventual production of fertilizer is wholly irrelevant for the purpose.
- xx. The dumping margin with respect to the subject country in previous investigation as well as present investigation is not only above de minimus but also substantial.
- xxi. European Union has imposed anti-dumping duty against the imports of subject goods from subject country. The exporters from subject country are habitual to dumping practices since many years and have been dumping not only into India but also to third country. The dumping is likely to continue in India as well in the event of revocation of anti dumping duty on imports of subject goods from subject country
- xxii. volume of imports in case of subject country have significantly increased despite imposition of anti dumping duty. When the imports from subject country are showing the increasing trend even in the presence of anti dumping duty, there are all the probabilities that the volume would increase in the event of revocation of anti dumping duty
- xxiii. Producers in subject country maintain huge capacities to produce subject goods
- xxiv. Imports from subject country are likely to undercut the prices of the Domestic Industry in the event of revocation of anti dumping duty. The price undercutting is likely to force the Domestic Industry to reduce its prices further.
- xxv. The Chinese producers are exporting huge volume of subject goods to third countries at dumped prices
- xxvi. DRI after conducting investigations against imports of product under consideration came to the conclusion that importers of the product under consideration are importing the product by overvaluing it in order to evade anti-dumping duty. It is apprehended by the petitioner that if such practices of duty evasions are prevailing when anti-dumping

duty in force, there is a strong likelihood that in the event of cessation of anti-dumping duty, the dumped imports from subject country would enter the Indian market at significant volumes

- xxvii. The market share of Chinese imports is quite significant in spite of the existing anti dumping duties. In fact the market share of the imports has increased over the years and that of domestic industry have declined
- xxviii. the exporters from the subject countries have very high export orientation worldwide
- xxix. The price undercutting without prevailing anti-dumping duties is positive.
- xxx. The import prices are materially below selling price of the domestic industry. The consumers would therefore switch to imported product in the event of cessation of anti-dumping duty which will lead to significant increase in imports of the product.
- xxxi. The domestic industry is already suffering price suppression due to dumped import prices which are even below cost of sales of the domestic industry. In case of revocation of anti-dumping duty, the domestic industry shall have to reduce their selling price further to compete with dumped imports, driving it even below the cost of sales; leading to severe price injury.
- xxxii. The reference form of anti dumping duty has been ineffective in preventing dumping.

Examination by the Authority

39. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.

40. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree. 31.

41. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the Anti-dumping Rules states as follows:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting

domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

42. 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 rules supra.

43. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

44. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from China PR are required to be considered while examining injury to the domestic industry. The Authority has examined whether the existing antidumping measure is sufficient or not to counteract the dumping which is causing injury.

45. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s. Gujarat State Fertilizers & Chemicals Ltd. constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:

Volume Effect of dumped imports and Impact on domestic Industry

Volume Effect

Demand and market share

Particulars	Units	2010-11	2011-12	2012-13	POI	Annualized POI
Demand						
China PR	MT	17,580	16,718	19,095	30,780	24,624
Countries attracting ADD	MT	11,976	12,222	15,443	16,339	13,071

Other Countries	MT	731	1,797	5,861	6,741	5,393
Domestic Industry	MT	13,319	15,284	14,022	18,537	14,830
Other Indian Producers	MT	-	-	-	-	-
Total Demand	MT	43,606	46,021	54,422	72,397	57,918
Market share						
China PR	%	40.31	36.33	35.09	42.52	42.52
Countries attracting ADD	%	27.46	26.56	28.38	22.57	22.57
Other Countries	%	1.68	3.91	10.77	9.31	9.31
Domestic Industry	%	30.54	33.21	25.77	25.61	25.61
Other Indian Producers	%	-	-	-	-	-

46. The Authority has considered the transaction-wise import data provided by DG Systems for the assessment of volume and value of imports from the subject country and other countries. Demand for the product under consideration has been determined as the imports of the product under consideration into India from all countries and sales of all domestic producers in India.

47. The Authority notes that demand for the subject goods has shown consistent increase over the injury period. The above data indicates that the market share of the domestic industry has increased during 2011-12 but declined thereafter. The market share of China PR has increased consistently.

Import volumes and share of subject country:

48. With regard to 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. Annexure II (ii) of the anti dumping rules provides as under:

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

49. The import volumes for the injury period are as under:

Particulars	Units	2010-11	2011-12	2012-13	POI	Annualized POI
Imports Volume						
China PR	MT	17,580	16,718	19,095	30,780	24,624
Countries attracting ADD	MT	11,976	12,222	15,443	16,339	13,071
Other Countries	MT	731	1,797	5,861	6,741	5,393
Total	MT	30,287	30,737	40,399	53,860	43,088
Imports from subject countries						
In Relation to Total Imports	%	58.04	54.39	47.27	57.15	57.15

Particulars	Units	2010-11	2011-12	2012-13	POI	Annualized POI
In Relation to Indian Consumption	%	40.31	36.33	35.09	42.52	42.52
In Relation to Indian Production	%	131.99	109.38	136.18	166.05	166.05

50. From the above, the Authority notes that:

- i. The imports from China PR have consistently increased throughout the injury period. During the annualized POI, it has registered an upward trend.
- ii. The share of imports of the product under consideration from China PR out of the total imports is quite huge throughout the injury period including the POI.
- iii. Imports from subject country as a whole have remained significant in relation to production and consumption in India.

PRICE EFFECT

Price effect of dumped imports and impact on domestic industry

51. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of imports from the subject country. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry in terms of Annexure III of the Anti-dumping Rules. The position is as follows:

Price Undercutting and Underselling

52. The Authority has made price undercutting and price underselling analysis both with and without anti-dumping duty after evaluating the Landed Value of inputs under the duty free imports for the reasons as mentioned in the foregoing paras.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Net Selling Price	Rs./MT	***	***	***	***
Landed Value	Rs./MT	74,293	75,240	77,815	83,783
Price undercutting	Rs./MT	***	***	***	***

Particulars	Unit	2010-11	2011-12	2012-13	POI
Price undercutting	%	***	***	***	***
Price undercutting	% Range	0-10	0-10	0-10	0-10

53. The above data indicates price undercutting, without taking into account the antidumping duty in force, is significant.

Price Underselling

54. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out non-injurious price of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. For examining the underselling effects of the dumped imports the landed value of imports as per para 52 above, without taking into account the antidumping duty in force, has been compared with the Non Injurious Price determined.

Particulars	Unit	POI
Non-Injurious Price	US\$./MT	***
Landed Value	US\$./MT	***
Price underselling	US\$./MT	***
Price underselling	%	***
Price underselling	% Range	20-30%

From the above table, the Authority notes that during the POI, the price underselling was positive for China.

Price suppression and depression effects of the dumped imports:

55. To examine whether the domestic prices are suppressed or depressed due to the presence of dumped imports from subject country the trend of weighted average sales realization of the domestic industry has been compared with the cost of sales and the landed values as mentioned in Para 52 above.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Landed Value	Rs./MT	74,293	75,240	77,815	83,783
<i>Trend</i>	<i>Indexed</i>	100	101	105	113
Cost of Sales	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	105	134	167
Selling price	Rs/MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	100	95	103	113

56. From the above information, the Authority notes that there was significant increase in both cost of sales as well as selling price over the injury period. However, the increase in selling price was not in proportion to the increase in cost of sales over the injury period. This shows price suppression effect whereby the domestic industry has not been able to increase the selling price commensurate with increase in the cost of sales.

Examination of Economic Parameters relating to Domestic Industry

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

Capacity, production, capacity utilization and sales

58. Performance of the domestic industry with regard to production, sales, capacity and capacity utilization are as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualized POI
Capacity	MT	15,000	15,000	15,000	18,750	15,000
Production	MT	13,938	15,280	13,998	18,102	14,482
Capacity Utilization	%	92.92%	101.87%	93.32%	96.54%	96.54%
Domestic Sales	MT	13,319	15,284	14,166	18,558	14,847

59. From the information given above, the Authority notes that the capacity of the Domestic Industry has remained the same throughout the injury period. However the petitioner submitted that in view of the demand supply gap of Melamine in the country, the petitioner is in the process of expansion of its capacity further by 40,000MT. The production, sales and capacity utilization of the domestic industry has increased in POI as compared to both base year and preceding year.

60. As regards the argument that GSFC is unable to meet the demand in India and there is wide demand supply gap, it is noted that the purpose of anti-dumping duty is to redress unfair trade practices and not restrict imports of the product under consideration in Indian market. It is further noted 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 reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers. The Authority refers to its past consistent position in this regard and also relies upon the decision of the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority. If the exporters want to supply the goods to meet the requirement in Indian market that could be done by exporting the requirement at un-dumped prices.

Inventories

61. From the information given below, the Authority notes that the inventory position of domestic industry has declined during period of investigation.

Particulars	Unit	2010-11	2011-12	2012-13	POI
Average Stock	MT	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>183</i>	<i>160</i>	<i>75</i>

Profits, return on investment and cash flow

62. Performance of the domestic industry with regard to profits, return on investment and cash flow over the injury period was as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualised POI
Cost of Sales	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>105</i>	<i>134</i>	<i>167</i>	<i>167</i>
Selling price	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>95</i>	<i>103</i>	<i>113</i>	<i>113</i>
Profit/(Loss)	Rs/MT	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>71</i>	<i>28</i>	<i>-18</i>	<i>-18</i>
Profit/Loss	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>29</i>	<i>-20</i>	<i>-20</i>
PBIT	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>31</i>	<i>-19</i>	<i>-19</i>
Cash Profit	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>83</i>	<i>38</i>	<i>-6</i>	<i>-6</i>
ROCE	%	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>67</i>	<i>28</i>	<i>-17</i>	<i>-17</i>

63. From the above information, the Authority notes that Profit/Loss and profitability of domestic industry has deteriorated throughout the injury period. Whereas both cost of production and selling price increased over the period, the increase in the cost of production was more than the increase in selling price. Resultantly, the profitability of the domestic industry steeply deteriorated over the injury period. The domestic industry started suffering financial losses during period of investigation. Similarly, the cash profits and return on capital employed also followed the same declining trend.

Employment, wages and productivity

64. From the information given below, the Authority notes that the employment position of the domestic industry has increased during period of investigation as compared to base year. Wages paid have declined in period of investigation as compared to base year but increased as compared to the preceding year. Productivity in terms of production per day and production per employee remained within the same range over the period.

Particulars	Unit	2010-11	2011-12	2012-13	POI	Annualized POI
Employment	Nos.	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>98</i>	<i>98</i>	<i>104</i>	<i>104</i>
Wages	Rs.Lacs	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>118</i>	<i>50</i>	<i>86</i>	<i>86</i>
Productivity per day	MT/day	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>110</i>	<i>100</i>	<i>104</i>	<i>104</i>
Productivity per employee	MT/Nos	***	***	***	***	***
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>112</i>	<i>102</i>	<i>100</i>	<i>100</i>

Magnitude of dumping

65. The Authority notes that the dumping margin of the imports of the subject goods from the China PR is not only positive but also significant.

Growth

66. The Authority notes that the growth of domestic industry in terms of sales, production, and capacity utilization was positive whereas growth in respect of profits, return on investment and cash profits was negative.

Growth	Unit	2010-11	2011-12	2012-13	POI
In Production	%	-	9.63	(8.39)	3.46
In Domestic Sales	%	-	14.75	(7.31)	4.80
In Capacity Utilization	%	-	9.63	(8.39)	3.46
In Cost of Sales	%	-	***	***	***
In Selling Price	%	-	***	***	***
In Profit /Loss	%	-	***	***	***
In ROI %	%	-	***	***	***

Ability to raise Capital Investment

67. The domestic industry contended that it has planned capital investment of Rs.*** crores, which is for a number of products. This includes substantial capacity expansion for Melamine. The company has argued that it intends to enhance the capacity for Melamine by 40,000 MT. The domestic industry argued that continued dumping of Melamine is adversely impacting the expansion plan of the company with regard to the product. It is noted that continued dumping of the product and financial losses in the product are bound to adversely impact the ability of the domestic industry to raise capital investments. Though the domestic industry is a multi-product company, the adverse impact on the operating performance of the domestic industry on account of this product could affect the ability of the domestic industry to raise capital investment for the subject goods

Causal Link

68. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

Volume and prices of imports from third countries

69. The Authority notes that during POI, imports of the subject goods from countries other than the subject country are either attracting anti-dumping duty or are not significant.

Contraction of demand and changes in the pattern of consumption

70. The Authority notes that there is no contraction in the demand during injury period. Demand for the product has increased over the injury period.

Developments in technology

71. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the DI.

Conditions of competition and trade restrictive practices

72. The Authority notes that the subject goods are freely importable. The domestic industry is the sole producer of the subject goods.

Export performance of the domestic industry

73. The export performance of the domestic industry is not relevant since price and profitability in the domestic and export market has been segregated by the Authority for the purpose of assessing injury to the domestic industry.

Performance of other products

74. Claimed injury to the domestic industry is on account of product under consideration. The petitioner has provided information which pertains only to the product under consideration. Thus, the financial information provided with regard to product under consideration clearly shows the position of the domestic industry with regard to like article produced and sold by the domestic industry.

75. The Authority concludes that while the known other factors listed above do not appear to have caused the injury determined, the following parameters show that injury to the domestic industry is caused by the dumped imports in the event of cessation of anti dumping duty.

- i. The volume of imports of the subject goods from the subject country is quite significant.
- ii. Imports of the subject goods from the subject country are undercutting domestic industry's prices.
- iii. The consumers switching over to the imported product would imply decline in demand for the domestic industry product and increase in demand for the dumped product.
- iv. Despite the existence of anti-dumping duties in force on the imports of the subject goods from the subject country, significant volume of dumped imports continues from

this source. This indicates that should the measures be allowed to expire, dumping will intensify and cause further injury to the domestic industry.

- v. In case of cessation of anti dumping duties the subject country exporters shall be able to further capture the market in view of their high production capacities and low export prices.

Conclusion on Injury and Causation

76. The investigation has thus shown that the volume of dumped imports from China PR has increased consistently throughout the injury period. With regard to the effect of the dumped imports on prices, there has been significant price undercutting and underselling effect by the dumped imports from China PR as compared with the price of like product in India, and the effect of such imports was to suppress prices to a significant degree. With regard to consequent impact of the dumped imports from China PR on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated significantly in terms of parameters such as market share, profits, cash profits and return on investment. The investigation has thus shown that the domestic industry has suffered injury from the dumped imports of subject goods from China PR

Magnitude of Injury and Injury Margin

77. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. Further, the Authority has verified the financial records of Domestic Industry to ensure that APM gas has not been diverted for manufacturing of Melamine and that only non APM gas has been used in the manufacturing of Melamine. The injury margin determined for subject country, during POI is as follows:

Particulars	Unit	China PR (POI)
Non-Injurious Price	US\$./MT	***
Landed Value	US\$./MT	***
Injury Margin	US\$./MT	***
Injury Margin	%	***
Injury Margin	% Range	20-30

From the above table, the Authority notes that during POI, the injury is positive and significant.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

78. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping.

79. The Authority notes that in the present investigation, there is continuous dumping of the subject goods from China PR, causing continued injury to the domestic industry, which ipso facto indicates likelihood of dumping and injury from subject country. In view of the above position and due to favourable market conditions prevailing in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that in the event of revocation/cessation of anti-dumping duties, dumping may intensify from China PR. The following analysis would show about the likelihood of continuation/intensification of dumping and injury to the domestic industry in the event of revocation of anti-dumping duties:

(i) **Level of current and past dumping margin**

80. The level of dumping margin in respect of China in the earlier as well as present investigations is significant. Given the level of price undercutting and price underselling effects from the imports of subject goods from China PR, the volume of dumped imports is likely to increase further in the event of revocation of anti-dumping duty. The dumping margin in the original investigation final findings were determined in the range of ***%-***% and in the sunset review investigation the dumping margin determined was around ***%.

(ii) **Anti-dumping duty European Union**

81. European Union has imposed anti-dumping duty against the imports of subject goods from subject country. The Authority notes that Chinese are exporting the product to third countries at dumped prices and the volume of dumped imports is likely to increase further in the event of revocation of anti-dumping duty.

(iii) **Price undercutting, suppression, depression in the absence of measures**

82. The prices at which subject goods are being imported from China PR are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in the event of revocation/cessation of the anti-dumping duties, it is likely that exporters from these countries may channelize their output in the Indian market in view of the significant capacities being held by them.

(iv) **Huge production capacity in the subject country**

83. The evidence provided by the domestic industry, shows nameplate capacity in China for melamine is around 1.8m tonnes/year against the consumption of around 1m tones/year which implies the average plant operating rate is at 50-60% and thus evidences the existence of excess capacities in China PR.

(v) **Dumping margin in respect of exports to third countries**

84. The evidence submitted by the domestic industry on record shows that the producers/exporters in China are exporting huge volume of subject goods to third countries at dumped prices.

Conclusion on Likelihood of dumping and injury

85. Considering the current level of imports from the subject country despite the imposition of anti dumping duties, the Authority concludes that there exists likelihood of intensified dumping and consequent injury to the domestic industry in the event of cessation of anti dumping duty. It is further noted that the import prices had undercut the domestic prices and also have a significant suppressing effect on the domestic prices.

Post disclosure submissions of the interested parties

86. The authority notes that the disclosure statement was sent to the domestic industry and other interested parties. The following comments have been filed by M/s TPM (on behalf of the domestic industry), M/s Lakshmikumaran & Sridharan (on behalf of M/s Eximcorp), M/s E&Y (representing M/s M/s Century Plyboards (India) Ltd., M/s Bloom Dekor Limited, M/s Meghdoot Laminart Pvt. Ltd., Laminate Manufacturers Association) and M/s Sandeep Organics.

Comments by Domestic Industry

87. M/s Balaji Action Buildwell has filed significantly delayed submissions on 30th October, 2015. At the 11th Month as well, the interested party has only filed its opposition and has not filed any information which they are required to file in the form of importer's questionnaire response. Entire submission made by M/s Balaji Action Buildwell deserves to be rejected in light of the Trade Notice No. 01/2012 dated 9th January 2012, time limits specified in the Initiation Notification, past practice of Designated Authority and various WTO Panel and Appellate Body reports.

88. The anti dumping duty may be imposed as fixed quantum of anti dumping duty (fixed form of duty), expressed as duty in US\$/kg. in order to serve the purpose for which anti dumping duties are imposed. There has been significant increase in raw material prices, which led to increase in export price because of increase in cost. However reference price remained same, and therefore anti dumping duty has become totally ineffective. NIP is significantly higher than reference price due to increase in raw material cost

Comments by Importers, Consumers and other Interested Parties on disclosure statement

89. The Authority is requested to examine whether the petitioner, who imports from the subject country under review or from other countries, deserves the protection of the Anti-dumping Duty, particularly in light of Rule 2(a) of the Indian AD Rules and Article 4.1 of the WTO AD Agreement recognize the fact that importers of the subject goods may be excluded from the definition of domestic industry.

90. The claim of the domestic industry (DI) that the imports under the advance license mechanism are governing the price of the domestic industry and the market as a whole merits summary rejection.

91. Before constructing the Normal Value, the Authority is also required to examine the level of trade by Chinese manufacturers and the domestic producer in India. The domestic

producer in India has limitation on production and sales due to licensing of its technology to produce. Whereas the Chinese producer uses their own technology and knowhow and free to decide about production, sales and export.

92. The DGCIS data is representative of the price at which imports of the subject goods are entering India and this is further substantiated by a report by the Ministry of Chemicals and Petrochemicals on the imports of the subject goods in the most recent period exhibits a much higher import price as compared to even the DGCIS data.

93. Reliance on an Alert Circular by the DRI to exclude 2/3rd of the import transaction is erroneous as issuance of an Alert circular by DRI merely is a cautionary direction to field formations and nothing else. DRI findings are not over/ concluded and the matter is sub-judice. DRI has not issued show cause. Also the DRI Alert as submitted by GSFC was not on their or their representative's letter head.

94. It has been the consistent practice of the Authority to use non-duty free import prices for the dumping and injury analysis and there exists no rationale for changing its practice in the subject investigation.

95. It is not clear when the domestic producer specifically stated that it has not claimed any volume injury as it has not any such injury, then why the Designated Authority examined such volume injury and came to the conclusion that in fact such injury exist.

96. There exists a huge demand and supply gap in India as regards the subject goods. Therefore, the proposition that because the imports of the subject goods from China have been significant despite the imposition of anti-dumping and hence the duty ought to be continued is grossly fallacious.

97. Adopting the import price of only duty free imports as per DG Systems data is inappropriate for determining dumping margin and injury margin. All import (duty & duty free) data should be considered along with export data.

98. Import of melamine is of syntan grade and the weighted average sales realization for the purpose of comparison is not fair.

99. The domestic producer is procuring the raw material from a source which is overcharging it. The main raw material is available to the domestic producer at very low price for manufacturing fertilizers. Therefore, the use of highly inflated price of raw material is illegal.

100. Respondent questions the basis of the Authority's conclusions that performance of the domestic industry has deteriorated significantly when market share of the domestic producer increases in a situation (i) where demand of the subject goods increases; (ii) domestic producer is operating at near 100% production capacity and able to sale whole; and (iii) imports takes place to fill the gap in consumption and supply by the domestic producer.

101. The Authority is also requested to take into account that there have been shut-downs in M/s GSFC, and in present it is expanding its capacity, importing the subject goods from Qatar and enjoys monopolistic situation.

102. The injury to domestic industry has occurred from factors other than dumping, which must be quantified and separated before arriving at any fair comparison, as has been laid down by the WTO's DSB Appellate Body in the *US- Hot Rolled Steel* matter.

103. The Designated Authority recommends duty in terms of US Dollar, though the currency of India is INR. The ADA does not provide for imposition of Anti-dumping Duty in terms of currency of other countries.

104. Even while converting the NIP to US Dollars, the Authority conferred windfall gains on the domestic industry by taking into account highly depreciated Indian Rupee. The Authority must rather take into consideration the current conversion rate and not that one that was prevalent during the POI.

105. The Authority may prescribe a method to link the reference price with index of the raw material, so that the duty collection should not exceed the prevalent injurious dumping margin.

106. It is incorrect on the part of the domestic industry to claim that the form of duty should be in the form and manner as requested. The form of duty is expected to be chosen by the Hon'ble Authority after taking into cognizance interests of all the stakeholders on the subject and merits of each case.

107. Despite global fall in the prices of Natural gas and urea, existence of anti dumping duty still continues on the subject goods on the basis of rigged data.

108. Landed cost of imports is higher and importers are suffering losses; and there should not be any change in ADD, as already this product has ADD for more than 10 years.

109. Fixation of NIP for 5 years is arbitrary and absurd. This should be reviewed and changed every three months in line with the indexed cost of sole input that goes in to making of the final product. Fixing a NIP disproportionate on whimsical and doctored/fabricated data is conduct unbecoming of the position the Authority holds.

110. If the import of the subject goods by the petitioner was casual and only to fulfill the gap when the facility was shut down, then why was AD duty allowed to operate during the time of the shut down because there was no injury to them as such during the closure periods.

111. In law, there is no concept of public or oral hearing, rather the obligation is to hear and this refers to personal hearing against the issues framed. We must know what Authority's exact finding is before a rebuttal or counter view is pressed.

112. Cost of production as reflected in the value of closing stock of the DI is a public document; and the Authority may also provide a reason for keeping the *artificial* landed price as confidential.

113. The proceedings are carried out administratively rather than quasi judicially, and also Preliminary finding should be issued by the Authority.

EXAMINATION BY THE AUTHORITY

114. The Authority notes that M/s GSFC, the domestic producer has imported the subject goods from non subject countries and not from the subject country to an extent of 13.48% in relation to production, 4.53% in relation to total imports and 3.37% in relation to Indian consumption in the POI.

115. The Authority notes that in the Final Finding dated 01st June' 2012 of the same product from EU, Iran, Indonesia and Japan, similar level of imports was made by the DI. The Authority in that final determination had also held that even though M/s GSFC had imported and sold the subject goods, the focus of M/s GSFC has not turned to imports and the company is not behaving like an importer trader. The focus of the company continues to be that of a producer and do its own production. The Authority holds that M/s GSFC's behaviour even now is that of a producer and that it also has its plans to enhance its production capacity further by 40,000 MT.

116. The Authority in the instant investigation in view of nil imports of the subject goods from the subject country in the POI, holds that M/s GSFC constitutes domestic Industry within the meaning of the Rule 2(b).

117. The Authority holds that the grades and quality issues raised have not been demonstrated and quantified by the interested parties with any data or evidence. None of the producers/exporters from China PR have cooperated and provided any response on these issues. The Authority notes that the product under consideration has not been segregated into different grades and that the goods imported from subject country and the goods manufactured by the domestic industry are held as 'like article'.

118. As regards contentions of various interested parties on referencing the import price under advance license route, the Authority holds that most of the non- advance license route import prices do not appear to be fair and realistic in light of the DRI's investigation. The Authority has noted that the export prices to India available under the China Customs data correlate only with the import prices to India under Advance License route and not with the non advance license route. The Authority has held consistently in past that even the prices under advance license lead to injury since even these imports adversely affect the opportunities available to domestic industry to increase their supplies to exporters and to that extent, the demand of the subject goods also declines. It is also noted that it is the consistent practice of the Authority to include imports under duty exemption for the purpose of assessment of injury to the domestic industry.

119. As regards Normal Value, the submission on the production technology and cost advantage of Chinese goods by various interested parties, mainly importers, cannot be considered as none of the producers/ exporters from China has cooperated. Without any response on manufacturing process and production details, the Authority has no choice but to use best available information.
120. In view of the above, the Authority has constructed the normal value in terms of second proviso of Para 7 of Annexure 1 to the Rules in accordance with its consistent practice by using the best available information on referring the best utilization norm of the raw materials and the optimum cost of utilities, conversion cost, SGA expenses and interest cost of domestic industry.
121. The Authority further notes that the quantity of imports of subject goods in Period of Investigation as available under DGCI&S, DG Systems and China Customs by and large correlate. Thus the injury evaluation on volume effect based on the import quantity of the subject goods from the subject country for various volume related parameters does not vary the data available under the three sources.
122. For the price effect, in view of the over invoicing phenomenon adopted by importers as also investigated and reported by DRI, the Authority has adopted the prices of advance license route which broadly correlates with the China Customs data.
123. The Authority further holds that the landed value of imports as per the CIF prices adopted in the investigation is appropriately correlated with China custom export price (WTA data). This has led to significant undercutting and a significant injury margin. As dumping and consequential injury are continuing in the POI, the Authority holds that the withdrawal of the ADD may lead to reoccurrence of dumping of the subject goods from the subject country.
124. The Authority notes that the same interested parties have made submissions on the procedure of carrying out investigation, especially public hearing, procedure being administrative in nature rather than quasi judicial; data in China not being verified irrespective of cooperation; etc. The Authority holds that the entire investigation was carried out strictly as per AD Rules and by adopting consistent practice on procedural issues with no exceptions. The non-cooperating producers/ exporters have been treated strictly in accordance with the stipulated Rules. The Authority holds that in fact it has made exceptions in the present investigation by accommodating various interested parties to consider their submissions made at an extremely belated stage even though these interested parties did not file requested response in the prescribed form. Thus the investigation has been carried out by observing all possible natural justice principles to the extent they were relevant and were covered under Rules.
125. The Authority maintains a public file containing all non-confidential version submissions made by various interested parties for the reference of all interested parties.
126. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will

not be reduced by the imposition of anti dumping measures. On the contrary, imposition of antidumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The purpose of imposing 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.

RECOMMENDATIONS

127. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:
- i. There is continued dumping of the product concerned from China PR, causing injury to the domestic industry.
 - ii. Both price undercutting and underselling effects of dumped imports from China PR are positive.
 - iii. The financial performance of the Domestic Industry has deteriorated in terms of profitability, return on investment due to price undercutting effect of dumped imports from China PR. These dumped imports continue to cause injury to the domestic industry.
 - iv. Dumping of the product under consideration from China PR is likely to continue/intensify should the current antidumping duty be revoked.

Recommendations

128. Having concluded as above, the Authority is of the view that the antidumping measure is required to be extended as specified in the duty table below. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry.
129. With regard to duty structure, keeping into account factual matrix of the case and having regard to contentions raised, information provided and submissions made by interested parties, it is deemed appropriate to recommend a fixed form of anti dumping duty. Accordingly, the anti dumping duty equal to the amount indicated in the table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from the subject country.

Duty Table

S. No.	Tariff Item	Description of goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of measurement	Currency
1	2933 6100	Melamine	China PR	China PR	Any	Any	331.10	MT	US\$
2	2933 6100	Melamine	Any country other than those subject to anti-dumping duty	China PR	Any	Any	331.10	MT	US\$
3	2933 6100	Melamine	China PR	Any country other than those subject to anti-dumping duty	Any	Any	331.10	MT	US\$

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

Further Procedure

131. An appeal against the order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

132. The Authority may review the need for continuation, modification or termination of the measure as recommended herein from time to time as per the relevant provisions of the Act, Rules and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

A K Bhalla
Designated Authority