

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

**NOTIFICATION**

January 7<sup>th</sup> 2010

**Preliminary Findings**

**Subject:- Anti-Dumping Investigation concerning imports of 'Barium Carbonate' originating in or exported from China PR.**

No. 14/18/2009-DGAD: - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

2. WHEREAS M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd., (hereinafter referred to as the applicants) have filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act and the AD Rules, alleging dumping of 'Barium Carbonate' (hereinafter referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country) and requested for initiation of an investigation for levy of anti-dumping duties on the subject goods. The subject country was informed about receipt of the application in accordance with the Rule 5(5) of the AD Rules.
3. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicants issued a public notice dated 16<sup>th</sup> June 2009, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigation concerning imports of the subject goods, originating in or exported from the subject country, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

**A. PROCEDURE**

4. The procedure described herein below has been followed with regard to the investigation after issuance of the public notice notifying the initiation of the above investigation by the Authority:
  - i. The Designated Authority sent a copy of initiation notification dated 16<sup>th</sup> June, 2009 to the Embassy of the subject country in India, known exporters from subject country, known importers / users and the domestic industry as per the addresses

made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

- ii. The Authority provided a copy of the non-confidential version of the application to the known exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the AD Rules.
- iii. The Embassy of the subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their country to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.
- iv. The Authority sent questionnaires to elicit relevant information to the following known exporters in subject country in accordance with Rule 6(4) of the AD Rules:

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

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

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

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

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

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

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

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

- viii A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters/producers and Embassy of China PR in New Delhi. For the purpose of initiation, the Normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, as the applicant pleaded that the information for market economy third country is not available to them. This claim has not been contested by any other interested party. The Authority informed known exporters that it proposes to examine the claim of the applicants in the light of paras 7 and 8 of Annexure I of the AD Rules. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in subparagraph (3) of paragraph 8 of the Annexure of the AD Rules to enable the

Authority to consider whether market economy treatment be granted to cooperative exporters/producers from China PR.

- ix The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- x Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigation.
- xi Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicants on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- xii Investigation was carried out for the period starting from 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2009 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2005-March 2006, April 2006-March 2007, April 2007-March 2008 and the POI.
- xiii \*\*\* in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

**B. Product under Consideration and Domestic Like Article**

5. The product under consideration in the present petition is 'Barium Carbonate' (hereinafter also referred to as "subject product" or "subject goods" or "product under consideration") originating in or exported from China PR.

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

- a) Purification of brine solution in caustic soda industry.
- b) In production of Hard Ferrite Ring Magnets, Television Glass Shell, Neutral glass, Lamps, Heat treatment salts and other barium salts, rat poison, ceramic glazes and welding flux.
- c) Acts as a flux, matting and crystallizing agent and combines with certain colouring oxides to produce unique colours not easily attainable by other means.
- d) In the manufacture of heavy clay ceramic products because of its property of converting soluble sulfuric salts in the raw material into insoluble barium sulfate.
- e) In the brick, tile, earthenware and pottery industries barium carbonate is added to clays to precipitate soluble salts (calcium and magnesium sulfates) that cause efflorescence.

6. The subject goods fall under Chapter 28 of the Act under subheading no. 28366000. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

#### **Issues raised by interested parties**

7. The applicants have claimed that there is no known difference between the product manufactured by them and the subject goods imported from the subject country, which can have any impact on price, usage, quality etc. The applicants also claim that the technology and primary production process employed by them and the foreign producers are comparable.
8. M/s Guizhou Redstar Developing Co. Ltd. (Redstar), co-operating exporter from China PR has submitted that they produce three grades of the product under consideration – calcined granules (high-value), compacted granules and powder (low value). M/s Redstar exports only powder grade to India through Guizhou Redstar Developing Import & Export Co. Ltd., their subsidiary company. Therefore, M/s Redstar has requested for grade-wise comparison of the product under consideration.
9. M/s Hubei Jingshan Chutian Barium Salt Corp. has stated that they produce three type of barium carbonate i.e. light powder, liquid and dry granules and that the company has exported only light powder barium carbonate to India.

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

10. With regard to like article, Rule 2(d) of the AD Rules provides as under: -

*"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;*
11. With regard to the possible difference between the product sold by the exporters in the Indian market and the product sold by the domestic industry, it has been contended by the domestic industry that any difference in the physical characteristics of the subject goods, i.e., granule or powdered form do not exhibit the difference in the essential characteristics. All the grades of the subject goods share the same chemistry and can be interchangeable both at producer and consumer level.
12. After considering the information on record, particularly submissions of a Chinese producer that all the materials and relevant inputs are same for all three forms of Barium Carbonate i.e. Powder form, Granule form and Calcined granules; the Authority is provisionally of the view that differences in grades do not show any significant difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject goods produced by

the domestic industry are comparable to the product under consideration in terms of chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable.

13. Thus, the Authority is of the view that product under consideration produced by the applicant domestic industry is like article to the product under consideration in accordance with the AD Rules.

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

14. Rule 2(b) of the AD Rules defines domestic industry as under: -

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

15. The application has been filed by M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd. and supported by Small Scale Barium Manufacturer Welfare Association.
16. As per the evidence available on record, the production of the applicants, namely, M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd. account for a major proportion of the domestic production of like article, being significantly more than 50% of the Indian production. Further, the application has been supported by a number of domestic producers of the like Article, namely M/s. Amaravathi Chemicals & Fertilizers Pvt. Ltd., Hyderabad; M/s Bhargav Chemicals, Andhra Pradesh; M/s Jagadeeshwari Chemicals, AP; M/s Jaya Chemicals, Andhra Pradesh; M/s. Muruganatham Chemical & Co., Tamil Nadu; M/s Rahul Barium Salts, Hyderabad and M/s R.K. Industrial Chemicals, Hyderabad.
17. As per the evidence available on record, production of the applicants along with the supporters account for a major proportion of the domestic production and the same is more than 50% of the Indian production. The application thus satisfied the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Thus, M/s Athiappa Chemicals Pvt. Ltd., M/s Ellak Chem Industries Pvt. Ltd., M/s Prem Chemical Industries and M/s Victory Chemicals Ltd. are being treated as "domestic industry" within the meaning of Rule 2(b) read along with Rule 2(d) of the AD Rules for the purpose of the present findings.

**SUBJECT COUNTRY**

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

**D. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

**Normal Value in respect of producers/exporters from China PR**

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

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

**Submissions made by Chinese exporters/producers**

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

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

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

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

It has been further stated that the goods sold in domestic market are identical to those exported to India.

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

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

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

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

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

25. M/s Guizhou Redstar Developing Co. Ltd. (Redstar) has filed a questionnaire response and MET response in this matter as a producer. It has been stated that M/s Redstar is a producer and sells the product concerned domestically, but is not an exporter. M/s Redstar sells the product to Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I/E). M/s Redstar I/E resells (exports) the subject goods to India.
26. It has been stated that M/s Redstar produces three grades of the subject product namely calcined granules, compacted granules and powder. However, only powder grade is exported to India. Therefore, M/s Redstar has requested comparison of cost and price of powder grade only with the Indian product. All the materials and relevant inputs are same for all three forms and purchased locally from several suppliers, including from State owned companies.
27. The major shareholder of M/s Redstar is Qingdao Redstar Chemical Industry Group Co. Ltd. (\*\*\*)%, which is a State-owned company. It is noted from the response of M/s Redstar that out of 11 directors, Qingdao Redstar appoints 8

directors and only 3 are independent. It has been stated that M/s Redstar and M/s Dalong are the only two entities within the REDSTAR Group producing Barium Carbonate. The major raw material Barites is procured from an affiliate, namely M/s Red Butterfly Industry.

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

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

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

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

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

31. It is noted that M/s Tianzhu is a wholly State-owned company. M/s Tianzhu Chemical Industry Co Ltd is owned by M/s Haohua Northchem Corporation. M/s Hebei Xinji Chemical Group Co., Ltd., the original shareholder of M/s Tianzhu, transferred all of the shares of M/s Tianzhu to M/s Haohua Northchem Corporation on Jan. 15, 2008. The name of M/s Tianzhu was changed from China Haohua Chemical Industry Group, Tianzhu Xinji Barium Co., Ltd. to M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. on June 10, 2009.
32. It has been stated that M/s Tianzhu exported the product concerned to India directly during the POI as well. The channels of distribution were both direct exports to India to Indian end-user and as well through a trader. Besides, it also sold the subject goods to M/s Guangzhou (which is one of the company's customers) and that M/s Guangzhou resold the product concerned bought from

M/s Tianzhu to India during the POI. As a producer, M/s Tianzhu cooperates with M/s Guangzhou for the export sales to India by M/s Guangzhou.

33. It is further stated that there is no variation between the subject goods sold in the country of export and the product under consideration exported to India.

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

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

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

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

**Views of the domestic industry**

40. It has been contended by the domestic industry that China PR should be treated as non-market economy country, *inter alia*, stating that:

- **Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity** – It has been contended by the Domestic industry that the European Commission has consistently held that possibilities of State interference cannot be ruled out in cases, where there is significant share of a State owned/controlled entity. It is further contended that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant for granting market economy treatment.
- **Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values:** It has been contended by the Domestic industry that “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The Domestic Industry contends that the fact that such prices are comparable to the price prevailing in China PR is grossly insufficient.
- **Major inputs include utilities:** It has been contended by the Domestic industry that production of the products concerned require power and fuel as a major item of utility. Admittedly, while the power supplier is a State owned entity, insufficient information is available with regard to fuel supplier. It has not been established by the exporters that the price of utilities reflect fair market values.
- **Market economy status cannot be given unless the responding exporters establish that their books are audited in line with international accounting standards:** It has been contended by the Domestic industry that Chinese exporters have repeatedly disputed the treatment of European Commission to reject market economy treatment in such situations where Chinese exporters are unable to establish that their books are consistent with Chinese GAAP. Chinese companies in such cases have been contending that the requirement of insisting on compliance with International Accounting Standards is beyond law. The European Commission has held that the requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report. To quote the European Commission, reliability of the accounts is not established with regard to this aspect unless the books are consistent with International Accounting Standards.
- **Market economy status cannot be granted even if one of the parameters is not satisfied:** It has been contended by the Domestic industry that the European Commission has repeatedly insisted that market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the Rules.
- **Onus/obligations:** It has been contended by the Domestic industry that it is not for the Authority to establish that the responding companies are indeed operating under market economy environment and are entitled for market economy

treatment. On the contrary, it is for the responding Chinese exporters to establish that they are operating under market economy conditions.

- **Transformation**: It has been contended by the Domestic industry that in a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- **Response from group as a whole** – It has been contended by the Domestic industry that Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected, regardless of the fact whether or not the other companies of the group are involved in production or sale of the product under consideration. It has been contended that the Designated Authority has applied such a test in the matter of Vitrified Tiles cases where the whole group has filed response in order to seek market economy status.
- It has been contended by the Domestic industry that failure to satisfy a number of conditions mentioned above by the responding Chinese exporters, is sufficient to hold that market economy status cannot be granted to responding Chinese companies and thus the Normal value should be determined in accordance with Para-7 of the Rules.

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

41. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.
42. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether: -
  - the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting

supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- the exchange rate conversions are carried out at the market rate.

43. The Authority notes that consequent upon the initiation notice issued by the Authority; some Chinese producers and exporters have submitted their questionnaire responses including the market economy questionnaire responses and sought to rebut the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporter were examined for determination of Normal value of the responding producers/exporters of the subject goods from the subject country and deficiencies in the submissions were pointed out and clarifications were sought.

44. **M/s Hunan Wangfeng Chemical Co. Ltd**

The response filed by the company was perused and deficiencies were pointed out and clarifications sought. It has been noticed that the company had purchased an old plant from a State-owned company in 2006. In response to the query with regard to the process and valuation of the assets acquired from the erstwhile State-owned company, the company has stated that the documents of calculation of assets acquired by the company are not kept. It has also been submitted by the company that there is no depreciation charged during 2006 and 2007 and the same has been made effective from 2008 onwards. In view of the above fact it is not possible to ascertain whether the production cost and financial situation of the company are subject to significant distortion carried over from the former non-market economy system in relation to depreciation and other write offs. Besides, the company has not been able to establish that the purchase price of the raw materials/inputs reflect the market values. Therefore, subject to further examination and verification, it has been considered that M/s Hunan Wangfeng Chemical Co. Ltd is not operating under Market Economy system.

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

The response filed by the company was perused and deficiencies were pointed out and clarifications sought. It has been indicated by the company that \*\*\*% shareholding of the company is owned by M/s Haohua Northchem Corporation which is a State-owned company. It has also been stated that while transferring shares to the present shareholder valuation of the shares was not carried out. Further, the exporter company namely M/s Guangzhou Chemicals Imports &

Exports Corporation is \*\*\*% owned by a State-owned company. In view of the fact that both producer and exporter are \*\*\*% State-owned companies, it cannot be ruled out that their operations regarding prices, costs and inputs, cost of technology and labour etc., are carried out with significant State interference. Besides, the company has not been able to establish that the purchase price of the raw materials/inputs reflect the market values. Therefore, subject to further examination and verification, it has been considered that M/s China Haohua Chemical Industry Group and M/s Tianzhu Chemical Industry Co. Ltd. are not operating under Market Economy system.

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

The responses filed by the companies were perused and deficiencies were pointed out and clarifications sought. In response to the query about the identity of the shareholders and the source of raising funds, the Company has mentioned that the shareholders made capital contribution by their own funds. However, no justifiable supporting documents about the source and actual contribution have been submitted by the producer/exporter. Besides, the company has not been able to establish that the purchase price of the raw materials/inputs reflect the market values. Therefore, subject to further examination and verification, it has been considered that M/s Guizhou Hongtai Chemical Co. Ltd and M/s Anhui Garments Shoes and Caps Industrial (Group) Co. Ltd. are not operating under Market Economy system.

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

The response filed by the company was perused and deficiencies were pointed out and clarifications sought. The Company was asked to provide shareholding pattern, origin of the company etc. In response to the same, no detailed and justifiable response has been received. Accordingly, it is not clear who ultimately owns the company. It has been claimed by the company that there is a Board of Supervisors. The role of such Board is not clear in the overall management of the company. It is also not clear whom the Board of Supervisors represents. In view of the above, it cannot be ruled out that their operations regarding prices, costs and inputs, cost of technology and labour etc., are carried out with significant State interference. Besides, the company has not been able to establish that the purchase price of the raw materials/inputs reflect the market values. Therefore, subject to further examination and verification, it has been considered that M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd. is not operating under Market Economy system.

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

The responses filed by the companies were perused and deficiencies were pointed out and clarifications sought. It has been stated that M/s Qingdao Redstar Chemical Industry Group Co. Ltd., which is a State-owned company holds 51.86% of the shares of M/s Guizhou Redstar Developing Co. Ltd. Whereas M/s Dalong has two shareholders, namely M/s Guizhou Redstar Developing Co. Ltd and M/s Guizhou Redstar Developing Import & Export Co. Ltd. In view of the fact that the producers and exporter are State-owned companies, it cannot be ruled out that their operations regarding prices, costs and inputs, cost of technology and labour etc., are carried out with significant State interference. Besides, the company has not been able to establish that the purchase price of the raw materials/inputs reflect the market values. Therefore, subject to further examination and verification, it has been considered that M/s Guizhou Redstar Developing Co. Ltd; M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. and M/s Guizhou Redstar Developing Import & Export Co. Ltd. are not operating under Market Economy system.

49. Thus, the preliminary examination indicates that there is considerable State holding and State control over some of the responding companies and the cost and prices of the exporters are affected by such State control of the activities of the exporters. The Authority therefore notes that in a situation where one the company is a State owned/controlled entity, possibilities of State interference cannot be ruled out, requiring further investigation, including spot verification.
50. Further, the responding Chinese producers have not provided any evidence to establish that prices of basic inputs substantially reflect market values, particularly in the context that some inputs have also been procured from State-owned companies. The respondents have not provided any evidence to establish that the inputs have been procured at prevailing international prices. These also call for further investigation, including spot verification.
51. In view of the above, pending examination of the above issues regarding ownership and control, its impact on the cost and prices and business decisions of the enterprise etc, and verification of the same, the Authority is of the view that the producers / and exporters from China PR have not been able to rebut the NME presumption and hence they cannot be granted market economy status for the preliminary determination of their Normal Value.
52. Considering China PR as NME for the purposes of these preliminary findings, the Authority has determined Normal values for the product that are like articles to the exported product. No difference has been claimed between the product sold by the exporters in their domestic market and the product exported by them to India, except by some respondents that the comparison should be grade-wise.

### **Other issues raised by Interested Parties**

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

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

#### **Views of the Domestic industry**

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

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

55. The Authority has taken note of the submissions made by the interested parties and would verify the claims and counter claims made by them in this regard during the course of the investigation.

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

57. As noted above, there are significant issues of market economy determination in respect of the responding producers/ and exporters from the subject country that require further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporters and producers from China PR, in respect of their market economy claims and individual treatment claims; for the purposes of the preliminary finding, the Authority has provisionally estimated the Normal value in China on the basis of Para-7 to Annexure-I to the Rules.

Para 7 of Annexure I of the AD Rules provides that

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

58. The Authority indicated, in the initiation notification that the applicant has claimed that China PR should be treated as Non Market Economy and therefore

Normal value in case of China PR should be determined in accordance with Para 7 and 8 of Annex-I of the Rules. The applicant has submitted that India can be considered as an appropriate market economy third country for determination of normal value in China PR, pleading that information for market economy third country is not available to them. This claim has not been contested by any other interested party.

59. For the purpose of preliminary determination, the Authority proceeds to provisionally determine the Normal value in China PR on available reasonable basis, in terms of second proviso of para 7 of Annexure 1 to the AD Rules. Accordingly, the ex-works Normal Value of the product under consideration have been provisionally determined based on constructed costs of production, duly adjusted. The Normal Values have been constructed as per the methodology described below:

**Methodology adopted for constructing Normal Value in case of China PR**

60. The Authority has constructed Normal value for the Chinese producers at this stage on the following basis –
- Prices of major inputs have been considered on the basis of international price of particular raw material prevailing during the POI.
  - Consumption norms have been adopted on the basis of most efficient responding Chinese producer's information/data.
  - Conversion costs have been adopted on the basis of information/data of efficient producer of the domestic industry.
  - Selling, general & administrative costs have been taken on the basis of information/data of efficient producer of the domestic industry.
  - Profit has been taken @ 5% of ex-factory cost excluding interest.

For the purposes of these preliminary findings, Normal value has been determined for the powder form of the subject goods produced and sold to India and the same has been adopted for the granular form of the subject goods exported to India as well, subject to further investigation and spot verification.

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

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

## **EXPORT PRICE**

### **Export price for the responding exporters**

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

62. M/s Hunan Wanfeng Chemical Co Ltd is a Chinese producer of Product concerned. M/s Wanfeng does not directly export product concerned to India and sells the product concerned to unrelated Chinese trading companies, one of which is M/s Hunan Mint Imp & Exp Co Ltd (Mint). M/s Mint then exports the subject product to India.
63. It is noted that M/s Wanfeng has submitted that it produces two grades of Barium Carbonate viz. granular and powder and does not sell the products to India. But Mint has stated that it exported three grades of Barium Carbonate viz. granular, powder and high reaction efficiency powder. However, M/s Wanfeng has provided the relevant data for only the two grades. The other suppliers of the subject goods to M/s Mint have not cooperated in the investigation so far.
64. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The Authority notes that M/s Mint has apparently procured the goods from various sources and only one of its suppliers, namely M/s Wanfeng has cooperated in this investigation. M/s Mint has not identified the transactions that have been procured by it from M/s Wanfeng in its response. In the circumstances, it is not feasible for the Authority to determine M/s Mint's export price of the subject goods that have been procured by it from M/s Wanfeng at this stage. The Authority would examine the data further, if M/s Mint provides the details of the subject goods that have been procured from M/s Wanfeng to determine its export price, subject to further investigation and spot verification.

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

65. M/s Guizhou Redstar Developing Co Ltd (Redstar) is a Chinese producer of product concerned. M/s Guizhou Redstar Developing Co Ltd does not directly export product concerned to India, and sells the product concerned to their subsidiary Chinese trading company, which is M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I&E). M/s Redstar I&E then exports the product to India. All the subject products exported by REDSTAR Group to India is in powder form.
66. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporter, subject to further investigation and spot verification.

67. Export price to India has been determined for the subject goods exported after making adjustments on account of ocean transportation, ocean insurance, handling and auxiliary fees as claimed by the exporter and adjustment for VAT has also been made for the purposes of the preliminary findings. Further the SGA and profit margin for the exporter have not been adjusted at this stage for the determination of ex-factory export price, subject to further investigation and spot verification. The net export price so determined works out to US \$ \*\*\*MT.  
**M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou Redstar Developing Import & Export Co. Ltd.( Redstar I&E)**
68. M/s Guizhou Redstar Developing Dalong Manganese Industry Co Ltd (Dalong) is a Chinese producer of product concerned. M/s Dalong does not directly export product concerned to India and sells the product concerned to their subsidiary Chinese trading company, which is M/s Guizhou Redstar Developing Import & Export Co. Ltd. (Redstar I&E). M/s Redstar I&E then exports these products to India. M/s Dalong only produced and sold powder form of the subject goods during the period of investigation (“POI”).
69. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporter, subject to further investigation and spot verification.
70. Export price to India has been determined for the subject goods exported after making adjustments on account of ocean transportation, ocean insurance, handling and auxiliary fees as claimed by the exporter and adjustment for VAT has also been made for the purpose of the preliminary findings. Further the SGA and profit margin for the exporter have not been adjusted at this stage for the determination of ex-factory export price, subject to further investigation and spot verification. The net export price so determined works out to US \$ \*\*\*MT.  
**M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)**
71. M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) is a Chinese producer of product concerned. M/s Hongtai does not directly export product concerned to India and sells the product concerned to unrelated Chinese trading companies, one of which is M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui). M/s Anhui then exports the product to India.
72. The Authority examined whether the export prices in respect of responding exporter could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporter, subject to further investigation and spot verification.

73. Export price to India has been determined for the subject goods exported after making adjustments on account of port charges, inland transportation, overseas transportation, insurance, bank charges as claimed by the exporter and adjustment for VAT has also been made for the purpose of the preliminary findings. Further the SGA and profit margin for the exporter have not been adjusted at this stage for the determination of ex-factory export price, subject to further investigation and spot verification. The net export price so determined works out to US \$ \*\*\*MT.

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

74. It has been stated that M/s Hubei Jingshan Chutian Barium Salt Corp.(JCBS) is the producer of product concerned. M/s JCBS sells the product concerned in domestic market and sells to India (Export) as well. M/s JCBS produces three type of Barium Carbonate i.e. light powder, liquid and dry granules but has exported only light powder Barium Carbonate to India.
75. The Authority examined whether the export prices in respect of respondent could be determined on the basis of questionnaire responses filed by them. The export prices have been allowed as claimed by the respondent, subject to further investigation and spot verification.
76. Export price to India has been determined for the subject goods exported after making adjustments on account of ocean freight, inland transportation, insurance charges, credit charges and other expenses as claimed by the respondent and adjustment for VAT has also been made for the purpose of the preliminary findings. , subject to further investigation and spot verification; which works out to US \$ \*\*\*MT.

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

77. It has been stated that M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co., Ltd. (Tianzhu) exported the product concerned to India directly during the POI as well. The channels of distribution were both direct exports to India to Indian end-user and as well through a trader.
78. The Authority examined whether the export prices in respect of respondent could be determined on the basis of questionnaire responses filed by them. The export prices have been allowed as claimed by the respondent, subject to further investigation and spot verification.
79. Export price to India has been determined for the subject goods exported after making adjustments on account of overseas freight, overseas insurance, export packing, inland freight & port expenses and bank charges as claimed by the respondent and adjustment for VAT has also been made for the purpose of the preliminary findings, subject to further investigation and spot verification, which works out to US \$ \*\*\*MT.

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

80. Besides selling directly, Tianzhu also sold the subject goods to Guangzhou, which were resold by M/s Guangzhou to India during the POI. As a producer, M/s Tianzhu cooperates with M/s Guangzhou for the export sales to India by M/s Guangzhou.
81. The Authority examined whether the export prices in respect of respondents could be determined on the basis of questionnaires responses filed by them. The export prices have been allowed as claimed by the respondents, subject to further investigation and spot verification.
82. Export price to India has been determined for the subject goods exported after making adjustments on account of overseas freight, port expenses bank charges as claimed by the respondent and adjustments for overseas insurance & adjustment for VAT has also been made for the purpose of the preliminary findings, subject to further investigation and spot verification. Further the SGA and profit margin for the exporter have not been adjusted at this stage for the determination of ex-factory export price, subject to further investigation and spot verification. It is also noted that the subject goods have been supplied through a Hongkong based entity, whose details of expenses etc have not been provided. Thus, the SGA and profit margin have been determined for the trader on a reasonable basis @ 5% for the determination of ex-factory export price, subject to further investigation and spot verification, which works out to US \$ \*\*\*MT.

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

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

**Dumping Margin – comparison methodology**

**Dumping Margin**

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

Sr. No	Exporter	Country	Dumping Margin US\$ per MT	Dumping Margin range %
--------	----------	---------	----------------------------	------------------------

1.	M/s Guizhou Redstar Developing Co. Ltd. (Redstar) through M/s Guizhou Redstar Developing import & Export Co. Ltd.	China PR	***	150-155
2.	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou Redstar Developing import & Export Co. Ltd.	China PR	***	148-153
3.	M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)	China PR	***	205-210
4.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	China PR	***	145-150
5.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu) through M/s Guangzhou Chemicals Import & Export Corporation	China PR	***	90-95
6.	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.	China PR	***	115-120
7.	All other Chinese producers/exporters except as mentioned above.	China PR	***	225-230

## **F. INJURY AND CAUSAL LINK**

### **Views of domestic industry**

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

### **Examination by the Authority**

86. Rule 11 of the AD Rules read along with its Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a

significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

87. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the AD Rules.

**A) Volume Effects of Dumped Imports:**

**Demand and market share**

88. Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

<b>Demand</b>	<b>Unit</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>POI (2008-09)</b>
Sales of Applicants domestic producers	MT	13122.20	10402.75	10631.60	8110.65
Sales of Supporting domestic producers	MT	7843.00	7913.25	7669.50	8189.00
Sales of other domestic producers	MT	17913	10019	15359	6700
Imports from Subject Countries	MT	4921.00	18011.50	13539.21	25513.11
Imports from Other Countries	MT	44.70	368.77	6.99	251.35
<b>Total Demand</b>	<b>MT</b>	<b>43843.90</b>	<b>46715.27</b>	<b>47206.30</b>	<b>48764.11</b>

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

**Import volumes and market share**

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

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

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

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

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Dumped imports in relation to Indian production	%	35.92	139.02	109.68	211.68
Dumped imports in relation to consumption in India	%	11.22	38.56	28.68	52.32

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

<b>Market Share in Demand</b>	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Applicants	%	29.93	22.27	22.52	16.63
Supporters	%	17.89	16.94	16.25	16.79
Other Indian producers	%	40.86	21.45	32.54	13.74
Subject country	%	11.22	38.56	28.68	52.32
<i>Other Countries</i>	%	0.10	0.79	0.01	0.52

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

decreased over the injury period. The share of imports from the subject country, which was 11.22% in the base year, has gone up to 52.32% in the POI.

**Price effect of imports**

92. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like articles in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. It is seen that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting. The position is as follows.

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Landed value	Rs./MT	22,118	17,506	15,201	18,642
Net Sales Realisation	Rs./MT	***	***	***	***
Price undercutting	Rs./MT	***	***	***	***
Price undercutting	Range %	(35-40)	0-5	20-25	20-25

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

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Cost of Sales	Rs./MT	***	***	***	***
Trend	Index	100	160	165	238
Net Sales Realisation	Rs./MT	***	***	***	***
Trend	Index	100	132	139	167

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

**Sales volumes**

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

<b>Domestic Sales volume (Mt)</b>	2005-06	2006-07	2007-08	POI (2008-09)
Applicants Domestic producers	13122	10,403	10,632	8,111
Supporting Domestic	7,843	7,913	7,670	8,189

producers				
Applicants with Supporting Domestic producers	20,965	18,316	18,301	16,300
Other Domestic producers	17,913	10,019	15,359	6,700
Indian Industry	38,878	28,335	33,660	23,000

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

#### **Capacity and Capacity Utilization**

	Capacity	Production	Capacity utilization
Unit	Mt	Mt	%
2005-06	16,200	13,701	85
2006-07	16,200	12,956	80
2007-08	18,600	12,344	66
POI(2008-09)	18,600	12,053	65

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

#### **Factors affecting prices:**

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

Particulars	Unit	2005-06	2006-07	2007-08	2008-09 (POI)
Cost to make & sell	Rs\MT	***	***	***	***
Trend	Index	100	160	165	238
Net Selling price	Rs\MT	***	***	***	***
Trend	Index	100	132	139	167
Profit/loss	Rs\MT	***	***	***	***
Trend	Index	100	-441	-392	-1281

Landed price of dumped import	Rs\MT	22,118	17,506	15,201	18,642
Trend	Index	100	79	69	84

99. It is observed that the landed price of imports of the subject goods is significantly below the selling price of domestic industry, except during 2005-06. Thus, significant price undercutting is seen during the POI. Besides, the domestic industry has not been able to increase the prices of the product in proportion to the cost increases. While the cost of subject goods has gone up by 238% whereas the selling price of domestic industry has gone by only 167% thus leading to significant price suppression as well.

**Profit/Loss, return on investment and cash profits**

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

		2005-06	2006-07	2007-08	2008-09 (POI)
Profit loss	Rs./lacs	***	***	***	***
Trend	Index	100	-350	-317	-791
Return on Investment	%	***	***	***	***
Trend	Index	100	-194	-170	-516
Cash profit	Rs. Lacs	***	***	***	***
Trend	Index	100	-201	-178	-510

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

**Inventories:**

102. Data relating to inventories shows as follows

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Average Stock	MT	541	270	302	920
Trend	Index	100	50	56	170

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

**Employment, wages and productivity**

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

	Unit	2005-06	2006-07	2007-08	POI(2008-09)
Number of employees	Nos	155	190	184	153
Trend	Indexed	100	123	119	99
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	97	117	65
Wages per unit of production	Rs./MT	***	***	***	***
Trend	Indexed	100	103	129	74
Productivity per employee	MT	88	68	67	79
Trend	Indexed	100	77	76	89

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

**Dumping Margin:**

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

**Growth**

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

**Ability to raise funds:**

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

**Conclusion on material injury**

109. The demand of the subject goods has increased from 100 (Index) in base year to 111 (Index) in POI, i.e., it increased by 11%. During the same period, the domestic sales have declined by 38%. Thus, the domestic industry has not been able to take advantage of the increase in demand of the subject goods in the Indian market.
110. It is seen that the imports of the subject goods have increased significantly in absolute terms and in relation to production & consumption in India .The imports

are significantly undercutting the prices of the domestic industry. As a result, of the significant increase in imports and price difference between the imported and domestic product, the performance of the domestic industry has deteriorated in terms of profits, return on investments, cash profit, inventories and market share. The parameters such as production, sales volumes, and capacity utilization have also declined during the POI. The deterioration in the performance during the current period is quite significant and material.

111. The above analysis shows that the domestic industry has suffered material injury.

### **Causal Link**

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

113. It was examined whether these other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It was found that:

- a. Imports from Third Countries: - The Authority notes that imports from third countries are negligible and thus could not have caused injury to the domestic industry.
- b. Contraction in Demand: - The Authority notes that the overall demand for subject goods has shown positive growth during the injury period.
- c. Pattern of consumption: - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.
- d. Conditions of competition: - The domestic industry has contended that the conditions of competition or trade restrictive practices are not responsible for the injury claims of the domestic industry. No other interested party has disputed this claim.
- e. Developments in technology: - The investigation so far has not shown that there was any significant change in technology, which could have caused injury to the domestic industry.
- f. Export performance of the domestic industry: - While the export volumes of the domestic industry have increased till 2007-08 and then declined in the

POI, the price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment. Therefore, the analysis in respect of injury is not misrepresentative due to possible inclusion of export performance. In fact, the domestic industry has contended that they are being forced to export only because of lack of demand for their product in the Country because of presence of the dumped imports in the Indian market.

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

- (a) The imports from China PR are available at prices lower than the prices of the domestic industry. Consequently, the consumers are increasingly switching over to imports, thus leading to loss of market share for the Indian Producers in general and domestic industry in particular.
- (b) The domestic industry has lost sales volumes. Consequently, market share of the domestic industry and Indian Producers declined and that of the imports increased.
- (c) As a consequence of decline in market share of the domestic industry, production & capacity utilization of the domestic industry deteriorated materially. The deterioration in these parameters is apparently due to presence of the dumped imports.
- (d) The imports are occurring at dumped prices and are undercutting and suppressing the prices of the domestic industry. Consequently, the domestic industry has suffered injury in terms of profits, return on investment and cash flow.

115. The Authority is of the view that material injury to the domestic industry has been caused by the dumped imports.

**Magnitude of injury and injury margin**

116. The Authority has determined non-injurious prices of the subject goods for the domestic industry taking into account the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margins have been worked out as follows:

Sr. No	Exporter	Injury Margin US\$ per Kg	Injury Margin Range %
1.	M/s Guizhou Redstar Developing Co. Ltd. (Redstar) though M/s Guizhou Redstar Developing import & Export Co. Ltd	***	65-70
2.	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd. (Dalong) through M/s Guizhou	***	70-75

	Redstar Developing import & Export Co. Ltd		
3.	M/s Guizhou Hongtai Chemical Co. Ltd. (Hongtai) through M/s Anhui Garments Shoes & Caps Industrial (Group) Co. (Anhui)	***	30-35
4.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	***	40-45
5.	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu) through M/s Guangzhou Chemicals Import & Export Corporation	***	30-35
6.	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.	***	30-35
7.	All other Chinese producers/exporters except as mentioned above	***	75-80

**H. Conclusions:**

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

**I. Indian industry's interest & other issues**

118. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product to the consumers.

119. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

**J. Recommendations**

120. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and consequent injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of the subject goods from the subject country in the form and manner described hereunder.
121. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of the notification to be issued by the Central Government, on all imports of subject goods originating in or exported from subject country.

S.No.	Heading/ Subheading	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Redstar Developing Co. Ltd.	M/s Guizhou Redstar Developing Import & Export Co. Ltd	200.24	MT	US \$
2.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Redstar Developing Dalong Manganese Industry Co. Ltd.	M/s Guizhou Redstar Developing Import & Export Co. Ltd	206.26	MT	US \$
3.	28366000	Barium Carbonate	China PR	China PR	M/s Guizhou Hongtai Chemical Co. Ltd.	M/s Anhui Garments Shoes & Caps Industrial (Group) Co.	122	MT	US \$
4.	28366000	Barium Carbonate	China PR	China PR	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	147.88	MT	US \$
5.	28366000	Barium Carbonate	China PR	China PR	M/s China Haohua Chemical Industry Group, Tianzhu Chemical Industry Co. Ltd. (Tianzhu)	M/s Guangzhou Chemicals Import & Export Corporation	121.31	MT	US \$

6.	28366000	Barium Carbonate	China PR	China PR	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.	M/s Hubei Jingshan Chutian Barium Salt Corp. Ltd.	121.74	MT	US \$
7.	28366000	Barium Carbonate	China PR	China PR	Any other than combination at Sr. No.1 to 6.		213.34	MT	US\$
8.	28366000	Barium Carbonate	Any other than China PR	China PR	Any	Any	213.34	MT	US \$
9.	28366000	Barium Carbonate	China PR	Any other than China PR	Any	Any	213.34	MT	US \$

**K. Further Procedure**

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

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) The exporters, the importers, the applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold a hearing to hear the views of various interested parties orally;
- (d) The Authority would conduct further verification to the extent deemed necessary;
- (e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

(P.K. Chaudhery)  
Designated Authority