

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

NOTIFICATION

NEW DELHI, the 4th April, 2007

Final Findings

Subject: Anti-dumping Sunset Review Investigation concerning imports of Zinc Oxide originating in or exported from China PR.

No.15/4/2005-DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A. Background

2. Whereas, having regard to above Rules the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation on 08.12.2000 into alleged dumping of Zinc Oxide originating in or exported from China PR and provisional antidumping duty was imposed on imports of Zinc Oxide from China PR, vide customs notification dated 09.04.2001 on the basis of the preliminary findings of the Authority dated 05.03.2001. The final findings of the Authority were notified, vide notification dated 05.10.2001 and the Department of Revenue imposed definitive anti dumping duties on the subject goods, imported from China PR, vide notification dated 02.11.2001.

3. On the basis of a duly substantiated application filed by the Domestic Industry in terms of Section 9A(5) of the said Act, requesting for continuation of the duty for a period of another five years, the Designated Authority initiated a sunset review proceedings against the said measure vide notification dated 07.04.2006, to examine whether expiry of the duty would lead to continuation or recurrence of dumping and/or injury. Investigation was carried out for the period starting from Jan 2005 – Dec 2005 (POI). However, injury examination was conducted for a period from 2002-03 onwards including POI.

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

i) The Designated Authority (hereinafter referred to as Authority), under the above Rules, received an application on behalf of the domestic industry, requesting initiation of sunset review investigation for review, continuation and enhancement of anti dumping duties concerning imports of Zinc Oxide (hereinafter referred as subject goods) originating in or exported from China PR (hereinafter referred to as subject country).

ii) The information provided by the applicant showed sufficient prima facie justification that there was a need for sunset review of anti dumping duties earlier imposed. On being satisfied, the Authority issued a public notice dated 07.04.2006 published in the Gazette of India, Extraordinary, initiating anti-dumping sunset review investigation concerning imports of the subject goods classified under Chapter 28 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from China PR.

iii) The Authority forwarded a copy of the public notice along with exporter's questionnaires and questionnaires on market economy treatment to the known exporters in the subject country and gave them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2).

iv) The Authority forwarded a copy of the public notice to all the known importers and consumers of subject goods in India and advised them to provide relevant information and make their views known in writing within forty days from the date of issue of the letter in accordance with the Rule 6(2).

v) Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to provide details of imports of subject goods made in India for the period of investigation and preceding three years.

vi) The Authority provided copies of the non-confidential version of the application to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra. A copy of the non-confidential application was also provided to other interested parties, wherever requested.

vii) The Authority held a public hearing on 22nd August 2006 to provide an opportunity to the interested parties to present relevant information orally. None of the interested parties except the domestic industry attended the oral hearing. The parties attending the public hearing were advised to file written submissions of the information presented orally. Designated Authority has considered these written submissions received from interested parties.

viii) Arguments raised and information/evidence provided by interested parties during the course of the investigation, to that extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.

ix) The Authority during the course of investigation satisfied itself as to the accuracy of the information supplied by interested parties upon which these findings are based. For that purpose, the Authority conducted on-the-spot verification of the domestic industry to the extent considered relevant and necessary. Additional/supplementary details regarding injury were sought from the domestic industry, which were also received.

x) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have been considered in the Final Findings.

xi) The Authority made available non-confidential version of the evidence presented by various interested parties through a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).

xii) Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the applicant so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

xiii) ****In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits.

xvi) Investigation was carried out for the period starting from 1st January 2005 – 31st December 2005 and has been referred to as the period of investigation (POI). The examination of trends in the context of injury analysis covered for the periods 2002-03, 2003-04, 2004-05 and the POI.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

B.1 VIEWS OF THE INTERESTED PARTIES

5. Domestic industry has submitted that the present review investigation is a sunset review investigation. The product involved in the original investigation and in the present sunset review investigation is Zinc Oxide. The product under consideration in the present sunset review should remain the same as the original investigations, as the present investigations are only review of the anti-dumping duty. It is further argued that Zinc Oxide produced by the domestic industry and imported from China are like product. They have submitted that the scope of the product under consideration and like article is not required to be examined in the sunset review. It is covered under two different customs classification - Zinc Oxide is an inorganic chemical classified under Chapter 28 and Chapter 38 of the Customs Tariff Act. The domestic industry has submitted that duty should be recommended on both the classifications.

B.2 EXAMINATION BY THE AUTHORITY

6. The product under consideration in the present investigation is Zinc Oxide of all grades as was in the original investigation. It is classified under custom sub-headings 2817 of Chapter 28 and 3812 Chapter 38 of Schedule I of the Customs Tariff Act, 1975. The classification is indicative only and is in no way binding on the scope of the present investigation.

7. Zinc Oxide is a white/off white powder with chemical formula ZnO. It is used in manufacturer of automobile tyres, rubber goods, high purity zinc chemicals, such as sulphate, chloride etc. It is also used as a raw material in ceramic industry and a supplement in animal feed formulations.

8. The goods manufactured by domestic industry and exported from the subject country are identical and technically, commercially substitutable, therefore, the Authority holds that subject goods produced by the domestic industry are like articles, as per Rule 2(d) of rules Supra, to the product under consideration.

C. DOMESTIC INDUSTRY

C.1 VIEWS OF THE DOMESTIC INDUSTRY

9. The domestic industry has submitted that there is no published information available with regard to production of zinc oxide in the country. At the time of original investigation also, Designated Authority had determined production of zinc oxide in India by assessing consumption of raw material required, i.e, Zinc for production of zinc oxide and consumption of zinc oxide by the consumer segment. Petitioner has adopted the same methodology for determination of Indian production of Zinc Oxide in this review investigation also as held by the Authority in the original investigation. Additionally, the association of the Indian Producers has provided company wise details of production of the subject goods by various Indian Producers. They have submitted that production of participating companies account for a major proportion of total Indian production. Participating companies therefore, constitute domestic industry within the meaning of the Rules.

C.2 EXAMINATION BY THE AUTHORITY

10. It is noted the submissions of the domestic industry regarding scope of domestic industry and also the information filed by association of zinc oxide producers regarding the names of various producers and their production. Based on the information of the association it is noted that the Indian production of Zinc Oxide has been assessed as 56903 MT in the period of investigation. The following Indian Producers have filed the costing and injury information in the prescribed proforma,

- i. Transpek Silox Industry Limited
- ii. Demosha Chemicals Limited (Western India Industries)
- iii. Zincolied India
- iv. J G Chemicals
- v. Metalco
- vi. Rubamin Limited

It is noted that the production of applicant companies account for 41% of total Indian production and constitute domestic industry within the meaning of the Rules.

D. DUMPING AND LIKELIHOOD OF CONTINUATION OF DUMPING

D.1 VIEWS OF THE DOMESTIC INDUSTRY

11. Domestic industry has submitted that

(i) the imports of Zinc Oxide has declined with the imposition of anti dumping duties but in case of revocation of anti dumping duty there would be likelihood and recurrence of intensified dumping. The present volume of exports has been made at prices significantly below the assessed normal value. There are significant exports of subject product from the subject country to world over at dumping prices. The Chinese producers have been exporting at dumped prices, therefore, decline in import volumes during the period of the anti dumping duty can not be considered sufficient to allow expiry of the existing duties.

(ii) In order to examine whether expiry of the duty will allow the exporters from China to export the subject good to India once again at dumped prices, the Designated Authority should examine whether exports from country of exports to third countries are at dumped prices and how those export prices behave with (a) the import price from other sources in India; (b) selling price of the Indian Producers.

Volume of exports from China:

Year	EU		India		Other Countries		Total	
	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT
2000-01	54018	747.90	3299	767.31	83400	724.82	140718	734.68
2001-02	24473	676.28	510	714.72	49685	738.23	74667	717.77
2002-03	30917	628.32	459	656.83	65285	655.05	96661	646.51
2003-04	28944	680.22	345	706.33	55988	734.77	85277	716.14
2004-05	12798	895.40	139	944.28	54118	969.85	67055	955.59
Jan-Dec, 2005	2573	1035	771	804	58614	1121	61958	1114

12. It would be seen that Chinese exports to EU have significantly declined after imposition of anti dumping duties. Domestic industry has also submitted that EU had extended anti dumping duties on imports of Zinc Oxide of Chinese origin from Vietnam and it was also found by the EU that the Chinese producers resorted to circumvention of anti dumping duties by exporting ZnO mixed with silica. It has been submitted that producers in China are having significant production capacity, whereas demand of product is significantly lower. They further submitted a market research paper on Zinc Oxide stating that the Chinese capacity for production of the subject goods is around 3260000 MT whereas the domestic demand is in the region of 496700 MT and exporting about 61000 MT materials, which shows huge production capacity remained unutilised with them.

(i) Zinc is a major input in the production of the product under consideration and its prices are governed by the prices declared by London Metal Exchange. As per information released by London Metal Exchange, prices of zinc moved very steeply during the proposed investigation period. The import information and movement of zinc prices shows that the export price from China in Oct.-Dec., 2005 did not increase proportionate to the increase in the cost of production on account of zinc. Even though the above was only in one quarter of the proposed investigation period, nevertheless, it is clearly indicative of the likely situation and the fact that the Chinese producers can export the product at such prices that the same can have suppressing effect on the prices of the domestic industry and no correlation was found between the zinc prices and ZnO import prices.

(ii) Mining of Zinc and its price movement is under control of Govt. in China. Further, Chinese Govt. is resorting to ad-hoc control over pricing of zinc by imposing export duties on zinc. As per Accession Treaty the Govt. of China has imposed export duty on this product. Cost on account of zinc represents the majority of the direct costs and total cost of production in production and sale of the ZnO. Therefore, any preferable or favourable pricing of Zinc would naturally result in unfair advantages to

the Chinese producers, making it possible for them to dump the material in foreign markets.

D.2 EXAMINATION BY THE AUTHORITY

13. The Authority has noted various arguments made by the domestic industry on the methodology and practices adopted by various Authorities in their Sunset Reviews and the relevant WTO jurisprudence on the subject. The Authority notes that this being a sunset review investigation, it is required to determine continuation and likelihood of continuation and/or recurrence of dumping in the event of withdrawal of duty.

D.3 CONTINUATION OR RECURRENCE OF DUMPING

14. The Authority sent copies of the questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A (1)(c). In addition to that, questionnaires on market economy status were also sent to them for rebutting the presumption of non-market economy as per para 8 (3) of Annexure 1 of the Anti-Dumping Rules. None of the exporters/producers from China PR filed any questionnaire response and cooperated in the investigation. In view of non cooperation, the Designated Authority has no option but to proceed on the basis of best information available on records under Rule 6(8) of AD Rules for non-cooperative exporter, which provides that

“In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances”.

Normal Value

15. In anti dumping investigations concerning imports from non market economy countries, normal value has to be determined in accordance with paragraphs 7 & 8 of the Annexure 1 of the AD Rules, which states as under:

Para7. 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.

Para 8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country.

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).

(3) The designated authority shall consider in each case the following criteria as to whether:

(a) the decisions of the concerned firms in such country 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.

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may

apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.

- (4) *Notwithstanding, anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti dumping investigations, by a country which is a member of the World Trade Organization.”*

16. It is noted that none of the Chinese exporters/producers have responded to the questionnaire nor submitted response to the market economy treatment questionnaire to rebut the presumption of non-market economy as per para 8(3) of Annexure 1 of Anti-Dumping Rules. In view of absence of cooperation and rebuttal regarding market economy treatment from the Chinese exporters/producers, the Authority has proceeded to determine normal value by treating exporters from China PR as working under non-market economy and determined normal value in accordance with para 7 of Annexure 1 to the Rules.

Normal Value

17. It is noted that applicant did not provide evidence of price or constructed value in a market economy third country. Prices from market economy third country to other countries are also not available. None of the any other interested party made claim nor submitted any evidence either with regard to price or constructed value in a market economy third country.

18. Under the circumstances, the Authority is left with the only option to construct the price 'on any other reasonable basis'. The Authority has relied on the prices, consumption norms of raw material, conversion cost and SGA of the efficient domestic producer. Profit @ 5% on the cost of production has been added to arrive at the constructed normal value. By adopting this method, normal value is calculated as US\$*** PMT.

Export Price

19. The Authority notes that the quantity of exports from China PR as per World Trade Atlas is significantly higher than what has been reported in the data of DGCI&S. The Authority, therefore, has not relied upon the imports data of DGCI&S for ascertaining the export price. For the purpose of export price, export data from the World Trade Atlas has been relied upon. To determine the ex-factory export price, adjustment on account of inland freight @ 1%, port expenses @ 0.50% and back charges @ 0.90% have been made. After making the adjustments, the ex-factory export price has been calculated as US\$ *** PMT.

Dumping Margin

20. Considering the normal value and export price as calculated above, dumping margin comes to US \$ *** per MT, which is 71.80% of export price.

LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

21. The Authority has noted the following:-

- (a) The dumping margin in the original investigations was 42.30%
- (b) Dumping margin determined in the present investigation is 71.8%, which is significant.
- (c) Based on the research paper on Zinc Oxide submitted, the Authority takes note of the following information:-

	In MT
Capacity in China	3260000
Chinese domestic demand	496700
Freely disposable surplus capacity	2763300

22. The Authority notes that in China PR there is a huge surplus capacity available on Zinc Oxide.

23. The Authority has taken note of the fact that the export from subject country was being affected at significant dumped prices during POI. It is further noted that after imposition of anti-dumping measures, the export of subject goods from subject country declined to 15.46% in 2001-02 as compared to 2000-01. The imports during POI was 23.37% as compared to 2000-01. It has also been noted that on the basis of export price during POI, the undercutting without factoring in anti-dumping duty was in the range of 25-35% of the weighted net selling price of the domestic industry. It has already been noted that there is a surplus capacity available with the subject country for the subject goods.

24. Keeping in view the above facts, particularly, the undercutting range of 25-35%, the Authority is of the view that there is a likelihood of surge of dumped imports in case of withdrawal of anti-dumping duty.

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

25. It is noted that this being a sunset review of antidumping duty already in force, continuation of material injury to the domestic industry, as well as likelihood of continuation or recurrence of material injury needs to be examined in the context of actual or likely imports of the subject goods from subject country.

E.1 CONTINUATION OF INJURY

26. The Authority has examined the injury, if any, suffered by the domestic industry during the period of anti dumping duties were in force.

E.2 VIEW OF THE DOMESTIC INDUSTRY

27. Domestic industry submitted that:

- i. Performance of the domestic industry improved with the imposition of anti dumping duties and it is reflected in terms of improvements in production,

sales, capacity utilization, profits, profits in relation to costs, return on capital employed, cash profits, growth, etc.

- ii. The improvement in performance of the domestic industry with the imposition of anti dumping duties also establishes that the cause of injury to the domestic industry at the time of original investigations was due to dumped imports from China and Nepal.
- iii. The low volume of imports over the injury period is due to the fact that the price undercutting with anti dumping duty is negative and once the duties are revoked, the volume of imports would increase substantially.
- iv. With the imposition of anti dumping duties on China, their exports to Europe as well as India have significantly fallen,

Year	EU		India		Other Countries		Total	
	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT	Qty MT	Price US\$/MT
2000-01	54018	747.90	3299	767.31	83400	724.82	140718	734.68
2001-02	24473	676.28	510	714.72	49685	738.23	74667	717.77
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Jan-Dec, 2005	2573	1035	771	804	58614	1121	61958	1114

Source – China Customs data

- v. Imposition of anti dumping duties by the EC has led to creation of significant freely disposable capacities with the Chinese producers.
- vi. Chinese producers have been found to be involved in circumvention of anti dumping duties through Vietnam. A copy of the final findings notified by the EC confirming circumvention of anti dumping duties is enclosed.
- vii. The landed price of imports undercut the selling price of domestic industry and possible revocation of anti dumping duty would lead to significant price undercutting.
- viii. The imports would thus enter at a price which would have significantly depressing or suppressing effect on domestic prices, and would likely increase demand for further imports. Should the duty be allowed to lapse, the landed price of imports would not be only below the selling price of the domestic industry, but also cost of production of the domestic industry.
- viii. It is evident that the effect of the possible revocation would have very significant adverse impact on the domestic industry. The domestic industry

would be forced to face huge financial losses, negative cash flow and hugely negative capital employed.

- ix. Significant changes in Chinese import volumes before and after imposition of anti dumping duties and increase in imports during the current POI clearly shows likelihood of substantial increase in imports with revocation of duty, as would be seen from the table below –

	Import volumes MT	Change in import volumes vis-à-vis previous year
2000-01	3299	-
2001-02	510	15.46%
2002-03	459	90.00%
2003-04	345	75.16%
2004-05	139	40.29%
Jan-Dec, 2005	771	554.68%

It would be seen that -

- a) There was steep decline in the imports with the imposition of anti dumping duties;
 - b) There is a steep increase in imports in the current investigation period with the duty paid imports becoming quite attractive.
- xi. The injury to the domestic industry would recur in the event of revocation of anti dumping duties.

E.3. EXAMINATION BY THE AUTHORITY

28. The Authority has taken note of various arguments raised by interested party with regard to the material injury to the domestic industry. The Authority had written to the Association to provide information/data for all the producers so that injury analysis could be done for all the producers keeping in view the judgment of Supreme Court in Reliance Industries Ltd. vs. the Designated Authority (Civil Appeal No.1294/2001). The association did not provide the information stating that they have provided data as per the Rules. Data from other sources are not available as producers are small scale units, therefore, analysis has been done on the basis of information available. The production data for all the producers have been provided by the Association. The same has been treated as sale for the purpose of assessing demand and other analysis.

29. For the purpose of assessing current injury in the period of investigation, the Authority has examined the volume and price effects of dumped imports on the domestic industry. The dumping margin has been established from China PR. Entire exports from China PR have been treated as dumped imports for the purpose of injury and causation analysis.

Assessment of demand and market share

30. It is noted based on the submissions made by the domestic industry that there is no published information available with regard to demand and consumption of product in India as most of the producers are small-scale producers. In view of this, production has been determined based on the information/data of the applicant and the information filed by the Association. The demand so assessed is shown in the following table:-

	Unit	2002-03	2003-04	2004-05	POI
Sales of Domestic Industry	MT	16,582	18,596	18,255	19,480
Sale of Other Producers	MT	31,903	32,143	33,659	33,371
Total Domestic Industry	MT	48,484	50,739	51,914	52,851
Trend	Indexed	100.00	104.65	107.07	109.01
Production of Domestic industry	MT	20,282	23,538	23,926	23,532
Production of other producers	MT	31,903	32,143	33,659	33,371
Total Indian Production	MT	52,185	55,682	57,585	56,903
Trend	Indexed	100.00	106.70	110.35	109.04
Total Imports	MT	1316	661	1086	2225
Trend	Indexed	100.00	50.24	82.57	169.10
China	MT	459	345	139	771
Trend	Indexed	100.00	75.14	30.34	168.05
Other Countries	MT	857	316	947	1454
Trend	Indexed	100.00	36.92	110.51	169.66
Demand	MT	49,800	51,400	53,000	55,076
Trend	Indexed	100.00	103.21	106.43	110.59

31. It is seen that demand of the subject goods has shown a positive trend during the injury period. The sale of the domestic industry has improved during the injury period, which shows that the domestic industry is recovering from the effects of past dumping.

Market share in Demand

32. Designated Authority has examined actual and potential increase in dumped imports and its impact on market share of the domestic industry in demand. Status of imports from subject country and share of imports in relation to production/consumption in India is given in the table below:-

Imports volume	Unit	2002-03	2003-04	2004-05	POI
China	MT	459	345	139	771
Trend	Indexed	100.00	75.14	30.34	168.05
Other Countries	MT	857	316	947	1454
Trend	Indexed	100.00	36.92	110.51	169.66
Total imports	MT	1,316	661	1,086	2,225
Trend	Indexed	100.00	50.24	82.57	169.10

	Unit	2002-03	2003-04	2004-05	POI
Market share in Demand					
Domestic industry	%	33.30	36.18	34.44	35.37
Other producers	%	64.06	62.54	63.51	60.59

China	%	0.92	0.67	0.26	1.40
Other Countries	%	1.72	0.62	1.79	2.64
Imports (subject country) in relation to sales of domestic industry	%	0.95	0.68	0.27	1.46
Market share in imports					
Market share in imports – Subject Country	%	34.85	52.12	12.80	34.63
Market share in imports –Other Countries	%	65.15	47.88	87.20	65.37

33. It is noted that market share of dumped imports from China in total imports remained more or less same and the market share of dumped imports from China in total demand has increased from 0.92% to 1.40% during the POI. The market share of the domestic industry has increased from 30.30% in 2002-03 to 35.37% during POI. The share of other producers had fallen from 64.06% to 60.59% during the same period.

Production and Sales

34. Status of the domestic industry with regard to actual capacity, production, capacity utilization and sales volumes over the injury period has been as under:-

	Unit	2002-03	2003-04	2004-05	POI
Capacity of domestic industry	MT	27,200	27,200	30,800	30,800
Capacity Utilization of the domestic industry	MT	74.57	86.54	77.68	76.40
Trend	Indexed	100.00	116.06	104.18	102.46
Production of domestic industry	MT	20,282	23,538	23,926	23,532
Production of other producers	MT	31,903	32,143	33,659	33,371
Total Indian Production	MT	52,185	55,682	57,585	56,903
Trend	Indexed	100.00	106.70	110.35	109.04
Sales of Total domestic industry	MT	48,484	50,739	51,914	52,851
Trend	Indexed	100.00	104.65	107.07	109.01
Export Sales	MT	3772	4607	5953	4556
Trend	Indexed	100	122	158	121

35. It is noted that production, capacity utilization and sales of the domestic industry showed a positive trend during the injury period. Production of the domestic industry has increased in response to increase in sales. The production and sales have risen by 9% during POI as compared to base year. During the same period, the demand has risen by 11%.

Price Effect

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

"With regard to the effect of the dumped imports on prices as referred in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with

the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

37. In a sunset review investigation, it is required to be examined whether there has been a significant price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of adverse price effect in case of revocation of anti dumping duty. It is noted that price undercutting without anti dumping duties was significant during the investigation period.

	Unit	China
Net Sales realization of Domestic industry	Rs. / MT	***
Landed Value without anti dumping duties	Rs. / MT	44,155
Price Undercutting amount	Rs. / MT	***
Price Undercutting range	%	25-35

38. The net sales realization of the domestic industry has been determined considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Entire sales volumes of the domestic industry have been considered for this purpose. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison is done between net sales realization and landed price of imports for subject goods. A comparison for subject goods during the period under investigation was made between the weighted average landed value of dumped imports and the selling price in the domestic market. The undercutting margins from China during POI was in the range of 25 to 35%.

Underselling

39. For the purpose of ascertaining underselling, the weighted average landed price of the subject goods from the subject country was compared with the non-injurious price (NIP) determined for the Indian industry. For calculating landed value, freight from China PR, insurance, 1% landing charge and basic custom duty were added to the weighted average export price from the subject country. The underselling during POI was in the range of 25-35% of the NIP.

Other Economic parameters relating to the domestic industry

Productivity

40. Productivity (production per employee) of the domestic industry is given in the table below:-

	Unit	2002-03	2003-04	2004-05	POI
Productivity per employee	MT/No	66	71	73	79
Trend	Indexed	100.00	107.87	112.07	120.55

41. The data indicates that the productivity of the domestic industry improved during the injury period.

Profits, return on investment and cash flow

42. The present status of profits, return on investment and cash flow of the domestic industry has been examined and status of these parameters of the domestic industry has been as under:

	Unit	2002-03	2003-04	2004-05	POI
Profit/Loss per unit	Rs./MT	***	***	***	***
Trend	Indexed	100	279	227	288
Profit before interest and tax	Rs. Lacs	***	***	***	***
Trend	Indexed	100.00	243.85	200.29	265.96
Cash Profit	Rs./lacs	***	***	***	***
Trend	Indexed	100	280	230	293
Return on capital employed - NFA Basis	%	***	***	***	***
Trend	Indexed	100.00	204.61	151.03	176.00

43. The data indicates that profitability increased by 188% during POI as compared to the base year. Profit (PBIT) also shows similar trend. It increased by 166% during the same period. The cash profit increased by 193% during POI as compared to base year. Return on net capital employed increased by 76% during POI as compared to base year.

Employment and wages

44. Information regarding employment and wages of the domestic industry is given in the following table.

	Unit	2002-03	2003-04	2004-05	POI
Employment	No	***	***	***	***
Trend	Indexed	100	108	105	96
Wages	Rs. Lacs	***	***	***	***
Trend	Indexed	100	116	130	139

45. Data shows that there is a decline in number of employees by 4% during POI as compared to base year. The wages has increased by 39% during the same period.

Inventories

46. Designated Authority has examined the inventory level of the domestic industry, which is given in the following table:-

	Unit	2002-03	2003-04	2004-05	POI
Average Inventory	MT	1643	1915	1974	2038
Trend	Indexed	100.00	116.56	120.15	124.05
Inventory as No. of sale days	No.	36.17	37.79	39.47	38.19

Trend	Indexed	100.00	103.93	109.14	105.59
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47. The data shows that the inventory level of the domestic industry has increased during the injury. The inventory as number of sale days increased from 36 in 2002-03 to 38 days during POI.

Growth

48. On examination of various economic parameters of the domestic industry, it is noted that various parameters of the domestic industry showed positive trend. It is further noted that the domestic industry has improved its performance with regard to profits, cash flow and return on capital employed as also various volume parameters including capacity, sales, production, capacity utilization.

Magnitude of dumping

49. It is noted that the dumping margin determined in this review investigation is significant and dumping margin determined in earlier investigation was also significant.

Ability to raise capital and investment

50. It is noted that the domestic industry has added capacity for the subject goods during the injury period.

Conclusion on Injury Parameters

51. During POI, the demand of subject goods grew by 11% as compared to base year i.e. 2002-03. The production, capacity utilization and sales of the domestic industry improved during the same period. The market share in demand of the domestic industry and other producers have declined to 95.96% during POI as compared to 97.36% in 2002-03. The profitability, profits and return on investment of the domestic industry improved considerably during POI as compared to base year. The evaluation of injury parameter shows that the performance of the domestic industry has improved significantly after imposition of the anti-dumping duty.

E.4 OTHER KNOWN FACTORS AND CAUSAL LINK

52. The Authority examined whether other listed known factors could have caused or are likely to cause injury to the domestic industry.

Volume and prices of imports from other sources

53. Imports from various countries have been as under:-

	Unit	2002-03	2003-04	2004-05	POI
Imports volume					
China	MT	459	345	139	771
Trend	Indexed	100.00	75.14	30.34	168.05
Other Countries	MT	857	316	947	1454
Trend	Indexed	100.00	36.92	110.51	169.66

Total imports	MT	1,316	661	1,086	2,225
Trend	Indexed	100.00	50.24	82.57	169.10
Market share in imports					
China	%	34.85	52.12	12.80	34.63
Other Countries	%	65.15	47.88	87.20	65.37

54. During the POI, in addition to the imports of subject goods from subject country, imports have taken place from number of other countries also. The import from other sources has increased from 857 MT to 1454 MT during POI, however, the import price from other countries were higher than the import price from China.

Contraction in demand and/or change in pattern of consumption

55. Demand over the period was as under -

	Unit	2002-03	2003-04	2004-05	POI
Demand	MT	49,800	51,400	53,000	55,076
Trend	Indexed	100.00	103.21	106.43	110.59

56. The domestic demand of the product under consideration has increased by 11% during POI. It is noted that the demand has consistently increased during the entire injury period. Thus, possible contraction in demand is not a factor that could have caused injury to the domestic industry.

Trade restrictive practices of and competition between the foreign and domestic producers

57. The subject goods are freely importable and no evidence of trade restrictive practices causing injury to the domestic industry have been noticed during the course of the investigations.

Developments in technology and export performance

58. There is no evidence on records which suggests that development in technology or export performance of the domestic industry is a reason of injury to the domestic industry.

Productivity of the Domestic Industry

59. Productivity of the domestic industry has been positive during the POI and therefore does not appear to be a cause of likely injury to the domestic industry.

E.5 LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

60. The domestic industry has argued that the requirement under sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry. The Authority has determined that the subject goods are continuing to enter the Indian market at dumped prices and are likely to be exported at dumped prices from China in the event of withdrawal of anti dumping duties. It is pertinent to examine whether injury to the domestic industry is likely to recur due to these dumped imports if the duty is removed. It has already been

established that the actual landed value of imports from China without the antidumping duty were below the non-injurious price determined for the domestic industry.

61. In absence of any laid down parameters to examine the likelihood of continuation or recurrence of injury, the Authority considered the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules, which states as under:

“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances, which would create a situation in which the dumping would cause injury, must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the Designated Authority shall consider, inter alia, such factors and;

- (a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.*
- (b) Sufficiently freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports.*
- (c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports and,*
- (d) Inventories of the article being investigated.”*

62. The domestic industry contended that the exporters from China continued to export the subject goods at dumped prices in the Indian market and producers in China are likely to resort to dumping of subject goods in the Indian market due to excess capacities in subject countries and surplus available with them. The domestic industry repeatedly stressed that the price difference between the domestic and imported material has been so huge that there is no reason to believe that China would not divert significant volumes of the subject goods to the Indian market in case the anti dumping duties are withdrawn, more so when freely disposable capacities exist with the foreign producers.

E.6 Examination by the Authority

63. The Authority notes that the financial performance of the domestic industry has improved considerably after imposition of anti-dumping duty. The production, capacity utilization and sales of the domestic industry similarly improved during POI as compared to base year. Similarly, profitability, profits and return on the capital employed have also improved during POI and continuation of the anti-dumping duty.

64. The Authority further notes that imports from the subject country is continuing at the dumped prices. The undercutting and underselling without factoring in the anti-dumping duty were in the range of 25-35% during POI. However, it has been noted that imports from the subject country declined significantly and were in the range of 15-23% in 2001-02 to 2004-05 and POI as compared to imports in 2000-01.

65. In view of the foregoing, the Authority is of the view that in case of withdrawal of anti-dumping duty, the dumped material from the subject country would surge and keeping in view the undercutting the net selling price of the domestic industry would be adversely impacted. Consequently, profitability, profit and return on investment would have adverse effect. The Authority, therefore, holds that in case of withdrawal of anti-dumping duty, the injury to the domestic industry is likely to recur.

F. Conclusions

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

- i) the subject goods are entering the Indian market at dumped prices and dumping margin from subject country is significant and above de-minimis. The subject goods are likely to enter the Indian market at dumped prices, should the present measures be withdrawn.
- ii) even though the domestic industry has improved its performance over the injury period, the injury to domestic industry may recur, should the present anti-dumping duties be withdrawn, injury to the domestic industry is likely to continue or recur.

67. Having concluded that the situation of the domestic industry has improved due to anti-dumping duty in place, there is likelihood of continuation or recurrence of dumping and injury on account of imports from subject country if the duties are revoked, the Authority is of the opinion that continuation of the measure is necessary against import from China PR.

68. The Authority considers it necessary to continue with an anti-dumping duty on all imports of subject goods from subject country in order to remove the injury to the domestic industry. The Authority recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports has been compared with the weighted average non-injurious price of the domestic industry determined for the period of investigation.

G. Recommendations

69. It is considered necessary to impose definitive anti-dumping duty on the imports of subject goods. Accordingly, the Authority recommends imposition of anti dumping duty on the imports of Zinc Oxide.

70. It is decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic

industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. In this case dumping margin is less than injury margin, accordingly, anti-dumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed by the Central Government, on all imports of subject goods originating in or exported from the subject country.

Duty Table

Sl. No	Sub-Heading Or Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28170010, 38123030	Zinc Oxide all Grades 99.5% purity	China PR	China PR	Any	Any	430.93	MT	USD
2.	Do	Do	China PR	Any country other than China PR	Any	Any	430.93	MT	USD
3.	Do	Do	Any country other than China PR	China PR	Any	Any	430.93	MT	USD

71. The above duties on Zinc Oxide with purity 99.5%. In case lower content/purity of subject goods are exported from subject country, the anti-dumping duties would vary proportionately.

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

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

74. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

Christy L. Fernandez
The Designated Authority