

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
Jeevan Tara Building, 4th Floor,
5 Parliament Street, New Delhi-110001

Dated the 11th May, 2015

Final Finding

Subject: Sunset Review of Anti-dumping investigation concerning imports of Compact Fluorescent Lamps originating in or exported from China PR.

File No15/22/2013-DGAD Having regard to the Custom Tariff Act 1075 as amended from time to time (hereinafter also referred to as the Act) and the Custom tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Article and for Determination of injury) Rules 1995 thereof, as amended from time to time (herein also referred to as the Rules);

1. Whereas, the original investigation concerning imports of the subject goods from China PR, Sri Lanka and Vietnam was initiated by the Authority vide notification No. 14/1/2007-DGAD dated 30th August, 2007. The preliminary finding was issued by the Authority on 12th March, 2008, recommending provisional antidumping duty on the imports of Compact Fluorescent lamps (CFL) (hereinafter referred to as subject goods) originating in or exported from China PR and Vietnam. The provisional duties were imposed vide Customs Notification No 126/2008 dated 21st November, 2008. The Authority notified final findings on 27th February, 2009 recommending definitive antidumping duty on the imports of CFL originating in or exported from China and Vietnam. The definitive antidumping duty was imposed on the subject goods vide Customs Notification No. 55/2009 -Customs, dated 26th May, 2009.
2. Whereas, Electric Lamp and Component Manufacturers' Association of India (hereinafter also referred to as "*ELCOMA*" or "*Petitioner/Petitioner Association*" or "Applicant") filed an application on behalf of the producers of the product under consideration in the present case before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules for initiation of anti-dumping investigations concerning imports of Compact Fluorescent lamps(hereinafter also referred to as the subject goods), originating in or exported from China PR (here in referred to as subject country)and requested for extension of anti-dumping duties on the imports of the subject goods, originating in or exported from the said countries.
3. And whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a public notice vide Notification No. 15/22/2013 DGAD dated 14th Nov,

2013, published in the Gazette of India, initiated the subject investigations in accordance with the Rules to determine the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry and the need for continuation of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from China PR.

A. PROCEDURE

4. The procedure described herein below has been followed with regard to the subject investigation:
 - i. The Authority received a duly substantiated Sunset Review application from Electric Lamp and Component Manufacturers' Association of India, on the behalf of domestic industries, for review and continuation of the duty in force on imports of Compact Fluorescent Lamps originating in or exported from China PR.
 - ii. The petitioners submitted prima facie evidence in this regard requesting for review and continuation of the anti-dumping duty in force.
 - iii. The Authority intimated to the Embassy of China in New Delhi that it has received a petition from the domestic industry to initiate sunset review investigation against imports of the subject goods originating in or exported from China PR.
 - iv. The Authority, on the basis of prima facie evidence submitted by the petitioners to justify initiation of the investigation, initiated sunset review investigation against imports of the subject goods originating in or exported from China PR vide initiation notification dated 14th November, 2013.
 - v. The scope of the present review covers all aspects of Notification No. 14/1/2007-DGAD dated 30th August, 2007.
 - vi. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from China PR, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
 - vii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of China PR in India in accordance with Rule 6(3) of the Rules supra. A copy of the Application was also provided to other interested parties, wherever requested.
 - viii. The Embassy of China in India was informed about the initiation of the sunset review investigation in accordance with Rule 6(2) of the Rules with a request to advise the exporters/producers from China to respond to the questionnaire within prescribed time

limit. A copy of the letter and questionnaire sent to the exporters was also sent to the Embassy of China along with the names and addresses of the known subject producers/exporters.

ix. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR in accordance with Rule 6(4) of the Rules:

- a. M/s Changchun Electric Wire & Bulb, China
- b. M/s Hangzhou Hope Lighting Appliance Co., Ltd., China
- c. M/s Fujian Fuzhou Light Bulb Factory, China.
- d. M/s GungzhouPanyu Seagull Flash Light Industry Co., China
- e. M/s Henan Anyang Bulb Factory, China
- f. M/s Jiangsu Xuzhou Everlasting Lighting Electrical Equipment Holding Co. Ltd., China
- g. M/s Leging Electric Bulb Factory, China
- h. M/s Shanghai Yaming Electric Lamp Works Co. Ltd., China
- i. M/s ChanzhouRedsun Electricals Appliance Manufacturing Co Ltd.China
- j. M/s Zhejiang Sunlight Group Company Ltd.China
- k. M/s Lin'anLituo Electronics Co., Ltd.China
- l. M/s Lin An Edisun Electronics Co., Ltd.China
- m. M/s Jiangsu Shiny Lighting Electrical Appliance Co., Ltd.China
- n. M/s Fuzhou Reeyah Lighting CO.,LTD,China
- o. M/s Hangzhou Ecolight Industrial Co.China
- p. M/s Hangzhou jingjie electric Co. ltd.China
- q. M/s ZhongshanXiongtian Lighting Co. China
- r. M/s ZhongshanLongde Lighting S&T Co. Ltd. China
- s. M/s Yipu Lighting Electronic Co.China
- t. M/s LinanOubo Electronic Lighting Co. Ltd., China
- u. M/s Foshan ShundeSanhn Lighting Co Ltd - China (Guangdong)
- v. M/s. Philips &Yaming Lighting Co. Ltd., China.
- w. M/s. Guanghou Flash Light Industrial Corporation, China.

x. The exporter's questionnaire and MET questionnaire responses have been received from the following exporters of the subject goods from China PR:

- a. M/s Osram China Lighting Ltd., China PR
- b. M/s Osram Asia Pacific Ltd., ("OAPAC"), Hong Kong

xi. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- a. M/s Samay Electronics pvt. Ltd.
- b. M/s. WIPRO Ltd.

- c. M/s Hq Lamps Manufacturing Company
 - d. M/s Delta Electronics
 - e. M/s. Sonera Time & Light Mfg. Co.
 - f. M/s Ajanta Manufacturing Limited
- xii. No Importer's questionnaire response has been received from any of the importers/users of the subject goods in India.
- xiii. The Authority held an oral hearing on 7th October, 2014 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6) which was attended only by the domestic industry and their representatives. The domestic industry which alone presented its views in the oral hearing was advised to file written submissions of the views expressed orally. As there was no exporter or importer present in the hearing nor filed any submission, the applicant has not filed any rejoinder to the views/information presented by the other interested parties. The Authority has considered submissions received from the petitioner appropriately.
- xiv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis and the same were kept in the public file maintained by the Authority as per the Rules.
- xv. Additional information was sought from the applicant and other interested parties to the extent deemed necessary.
- xvi. The Non-injurious Price based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry;
- xvii. Investigation was carried out for the period; 1st April, 2012 – 31st March, 2013 (POI). The examination of trends, in the context of injury analysis, covered the period from April 2009-March 2010, April 2010-March 2011, April 2011 to March 2012 and the Period of Investigation (POI).
- xviii. 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.

- xix. The petitioner had relied upon import data as per Impex (Secondary Source) in the petition. The Authority had relied upon the said data provided by the petitioner prima facie for the purpose of initiation of present investigation. Post initiation, request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods from China PR, for injury period, including the period of investigation. The data was received from the DGCI&S which has been appropriately examined.
- xx. Exporters, producers, importers and other interested parties who have neither responded to the- Authority nor supplied information relevant to this investigation have been treated as non-cooperating parties by the Authority.
- xxi. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xxii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these findings on the basis of the facts available.
- xxiii. ***in this finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiv. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for this findings were disclosed to known interested parties vide disclosure statement dated 4th May 2015 and comments received thereon, considered relevant by the Authority, have been addressed in this notification.
- xxv. The exchange rate adopted by the Authority for the subject investigation is 1 US \$ = Rs 54.65

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Views of the Domestic industry

- 5. The views of the domestic industry are as follows:

The product under consideration is “Compact Fluorescent Lamps with or without ballast or control gear or choke, whether or not assembled, either in completely knocked down or semi knocked down conditions, including unassembled Compact Fluorescent Lamps without ballast or choke or control gear, sealed tubular shell with or without lamp base” also known as CFL originating in or exported from China PR.

Views of the other interested parties

6. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to product under consideration, and like articles.

Examination by the Authority

7. The Authority notes that none of the interested parties has contested the meaning and scope of the product under consideration as defined by the Authority. The Product under Consideration (PUC) in the present investigation, as defined by the Authority in the initiation notification, is “Compact Fluorescent Lamps with or without ballast or control gear or choke, whether or not assembled, either in completely knocked down or semi knocked down conditions, including unassembled Compact Fluorescent Lamps without ballast or choke or control gear, sealed tubular shell with or without lamp base”. Finished compact fluorescent lamps are:
 - (i) Integrated type with built in ballast or control gears or choke and
 - (ii) Integrated type without built in control gears or ballast or choke”.
8. The product under consideration remains the same as in the original investigation. However, for the present investigation, Product under consideration is upto 26 watt. The product is classified under Chapter 85 of the Customs Tariff Act under subheading no. 8539. The Customs classification is, however, indicative only and in no way binding on the scope of the present investigation.
9. With regard to like article, Rule 2(d) of the Anti-dumping 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;
10. The domestic industry has claimed that the subject goods produced by the domestic industry are identical to the product under consideration being imported into India. The domestic industry has claimed that there is no known difference in applicant's product and product under consideration exported from the subject countries and the two are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the applicant and those exported from the subject countries and both are technically and commercially substitutable.
11. The Authority further notes from the information available on record that the product under consideration produced by the domestic industry is like article to the goods imported from the subject country. Product under consideration produced by the domestic industry and imported from the subject country are comparable in terms of physical &

chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. It is further noted that the Designated Authority has examined the issue of product under consideration and like article in the previous investigation, which is relied upon. The goods produced by the domestic industry and imported from the subject country are like articles in terms of the Rules. The two are technically and commercially substitutable. The consumers are using the two interchangeably and are like article within the meaning and scope of Rule 2(d) of the Anti-dumping Rules.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Views of the Domestic industry

12. The views of the domestic industry are as follows:

- a. The petition has been filed by Electric Lamp and Component Manufacturers' Association of India (referred to as Petitioner/Petitioner Association/ELCOMA) which represents domestic producers of the product under consideration in India.
- b. M/s Havells India Ltd, M/s Surya Roshni Limited, M/s Crompton Greaves Limited, M/s Osram India Pvt. Ltd., and M/s NTL Electronic India Ltd. (hereinafter referred to as petitioner companies) are domestic producers of the product under consideration who have provided relevant information for review, continuation of anti-dumping duty and enhancement of the quantum of anti-dumping duty in force on imports of CFL from China PR.
- c. M/s Cenzer Industries Ltd., M/s Starlite Lighting Ltd., M/s Dixon Technologies India (Pvt) Ltd., M/s Halonix Technologies Ltd., M/s HPL Electric & Power Pvt Ltd., and M/s Philips Electronics India Ltd. have supported the present petition.
- d. M/s Osram India Pvt. Ltd. has imported volume *** Pcs of the product under consideration from its related companies in China.
- e. Rule 2(b) has been amended on 1st Dec., 2011 and the word "only" deleted from the Rules to clearly specify that the Designated Authority has discretion in such matters. The fact that the rules grant discretion to the Designated Authority is well established in the matter of Soda Ash before Madras High Court and in the matter of Melamine before Calcutta High Court.

Views of the other interested parties

13. None of the producers/exporters/importers/other interested parties has made any submissions in this regard.

Examination of the Authority

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 such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”

15. The Authority notes that the application in the present investigation has been filed by Electric Lamp and Component Manufacturers’ Association of India on behalf of the domestic producers of the subject goods. Havells India Ltd, Surya Roshni Ltd, Crompton Greaves Ltd , and Osram India Pvt. Ltd., as domestic producers of the product under consideration have provided relevant information for review, continuation of anti-dumping duty and enhancement of the quantum of anti-dumping duty in force on imports of CFL from China PR.
16. It is found that M/s NTL Electronic India Ltd. has produced the product under consideration only for other producers of the product under consideration in India. The company has not sold the material in the market. Since the company has sold its production to other Indian producers of the product under consideration, it is not appropriate to count production of NTL Electronic once again within the Indian production. Thus NTL Electronic has, therefore, not been considered a part of domestic industry.
17. The Authority notes that M/s Osram India Pvt. Ltd. has imported the product under consideration during the period of investigation (POI). Imports made by M/s Osram India Pvt. Ltd. in relation to their own production, imports into India and demand in India are as under;

Parameter	Volume in Pieces
Imports from subject country	21,90,504
Imports from other countries	1,18,682
Total imports by M/s Osram India Pvt. Ltd. From the subject country	*****
Imports into India from all sources	23,09,186
Production of M/s Osram India Pvt. Ltd.	*****
Demand in India	32,77,51,787
Share of imports in % by M/s Osram India Pvt. Ltd with regard to;	
Imports into India from subject country	10-20%
Production of M/s Osram India Pvt. Ltd.	Less than 2%
Demand in India	Less than 1%

18. The Authority notes that M/s Osram India Pvt. Ltd. and M/s Osram China Lighting Ltd., China PR are related to each other being sister companies with common shareholding. The Authority further notes that M/s Osram India Pvt. Ltd. had imported the subject goods from M/s Osram China Lighting Ltd., China PR in the POI of the original investigation also. However, in the original investigation, the imports share of the M/s Osram India Pvt. Ltd. was only about 0.5% of the total imports from China. In the POI of the current investigation, M/s Osram India Pvt. Ltd.'s share of the subject goods in the total imports from China PR is quite significant being about ****%. In view of this significant level of imports share of M/s Osram India Pvt. Ltd., the Authority does not consider it appropriate to include M/s Osram India Pvt. Ltd. as a part of the Domestic Industry. It, therefore, has excluded M/s Osram India Pvt. Ltd. from the scope of the Domestic Industry. M/s Philips India Ltd., a supporter of the petition has subsequently provided injury information and has therefore been included in the scope of domestic industry.
19. The authority notes that M/s Havells India Ltd., Surya Roshni Limited, Crompton Greaves Limited and M/s Philips Electronics India Limited who have provided injury information account for 44.45% of the production of the subject goods in the POI. Further the above producers along with the supporting companies viz Cenzer Industries Ltd., Starlite Lighting Ltd., Dixon Technologies India (Pvt) Ltd, Halonix Technologies Limited and HPL Electric & Power Pvt Ltd account for 60.66 % of the total Indian production. On the basis of the above, the Authority holds M/s Havells India Ltd., Surya Roshni Limited, Crompton Greaves Limited and M/s Philips Electronics India Limited the producers of the subject goods as domestic industry as per rule 2(b).

D. Methodology and Determination of Dumping Margin, Normal value, Export Price and Market Economy Treatment,

Market Economy Claim

20. The Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known exporters for rebutting presumption of non-market economy in accordance with criteria laid down in para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise producers/exporters in their country to provide information. As per Paragraph 8, Annexure I to the Anti-Dumping Rules as amended, 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) in Paragraph 8 and establish to the contrary. The exporter/ producer of the subject goods from 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 Designated Authority to consider the following criteria as to whether:-

- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labor, 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;
- ii. 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;
- iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- iv. The exchange rate conversions are carried out at the market rate.

21. M/s Osram China Lighting Co. Limited, China PR (OCL) and their associated exporter M/s Osram Asia Pacific Ltd., (“OAPAC”) responded to the questionnaire.

Views of the Domestic industry

22. Following are the submissions made by the domestic industry:

- a. The subject country should be treated as non-market economy. The normal value in China be determined on the basis of the constructed value in terms of Para 7 & 8 of the Annexure 1 to the Rules.
- b. CFL can be with choke or without choke. Further, these are produced having different wattage. In view of significant difference in the costs and prices of the product under consideration having different wattage, the petitioners have determined separate normal value and export price for different watts.
- c. Export price has been determined as weighted average price of imports of all known imports into India after making due adjustments. Export price has been determined as Rs.****/per piece.
- d. Dumping Margin calculated is substantial.

Views of the interested parties

23. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to dumping margin.

Examination by Authority

24. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent

copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. M/s. Osram China Lighting Co. Limited, (OCL) along with its related exporter - M/s Osram Asia Pacific Ltd. Hong Kong, (“OAPAC”) responded to the questionnaire.

25. The Authority notes that M/s. Osram China Lighting Ltd., China PR, the producer of subject goods, has exported the subject goods during POI through M/s. Osram Asia Pacific Ltd., Hong Kong. Both the producer and the exporter have filed questionnaire responses along with MET response claiming market economy status. The authority further notes that M/s. Osram China Lighting Ltd., China PR exports through M/s. Osram Asia Pacific Ltd., Hong kong have been exclusively made to M/s Osram India Pvt. Ltd. only. However, M/s Osram India Pvt. Ltd. who have imported the subject goods has not filed any response as an importer and therefore, the Authority, in view of the absence of information on the entire value chain cannot establish that the transaction between M/s. Osram China Lighting Ltd., China PR and M/s Osram India Pvt. Ltd. are at arm’s length. The Authority, therefore, does not consider it appropriate to accept the response filed by M/s. Osram China Lighting Ltd., China PR, to accord individual dumping margin to them by separately evaluating its ex- factory export price and normal value. The Authority therefore has adopted the same methodology for M/s. Osram China Lighting Ltd., China PR for constructing the normal value and evaluating the ex- factory price as for other non-responding producers/exporters as detailed below.

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

- (i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
 - (a) *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is

no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Normal value –All producer/Exporters of China PR

27. The Authority notes that none of the other producers and exporters of the subject goods from the subject country has submitted the exporter's questionnaire response and market economy questionnaire response, (M/s. Osram China Lighting Ltd., China PR, whose response has not been accepted by the Authority), consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. In view of the above position and in absence of rebuttal of non-market economy presumption by the respondent Chinese company, the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR which provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis if 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.”

28. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering consumption of major raw materials as per information provided by the domestic industry, international prices for major raw materials, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry along with a reasonable profit on the cost of production.

29. The Authority has determined separate normal value for CFL with integrated choke and CFL without integrated choke for each group of wattage of the product. The weighted average constructed normal value is determined as *** \$/ pc

Export price- All producer/Exporters of China PR

30. The weighted average ex-factory export price has been determined on the basis of import price of subject goods during POI available through secondary sources in India appropriately adjusted with relevant per pc adjustments on Ocean freight, Marine insurance, Commission, handling charges, Port expenses and Bank charges to an extent of Rs. ***/pc, ***% of CIF, ***% of FOB, ***% of FOB, ***% of FOB and ***% of FOB respectively as claimed by the petitioner and allowed by the authority. The ex-factory weighted average export price is determined as **** \$/ pc.

Determination of Dumping Margin

31. In view of the above analysis of the data, the dumping margin is worked out as mentioned in the table below.

Particulars	Units	All Producer/ Exporter of China PR
Normal Value	US\$/ pc	***
Export price	US\$/ pc	***
Dumping Margin	US\$/ pc	***
Dumping Margin	%	49%
Dumping Margin- Range	Range	45-55

METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

E. Injury Determination and Examination of Injury and Causal Link

Views of Domestic Industry

32. The domestic industry has submitted that:
- There is continued dumping of the product under consideration from China.
 - Dumping of the product under consideration is likely to intensify from the subject country should the current anti-dumping duty cease.
 - Volume of dumped imports has increased in spite of current anti-dumping duties.
 - The performance of the domestic industry has improved in terms of various economic parameters.
 - Volume of import has declined in absolute terms and in relation to production and consumption in India. Even though the China customs data also shows decline in imports, yet, the volume of imports as per China customs is significantly higher than the volume of imports considered at present.
 - The imports are undercutting the domestic price and the injury margin so determined is positive.

- g. The imports are undercutting the domestic price and effect of cessation of anti-dumping duty shall be significant depressing effect on the prices of the domestic industry in the market.
- h. The domestic industry has not suffered injury during the period of duty because of the existing anti-dumping duty.

Views of other interested parties

33. None of the importers, consumers, exporters and other interested parties has filed any comment or submissions with regard to injury.

Examination by the Authority

34. In consideration of the various submissions made by the domestic industry in this regard, the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
35. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
36. As regards the impact of the dumped imports on the domestic industry Para (iv) of Annexure-II of the Anti-dumping Rules states as follows.

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

37. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity

utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.

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

39. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

F. Volume Effects of Dumped Imports

Import volumes and market share in imports

(a) Demand and market share

40. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. The demand so assessed is given in the table below:

i. Demand

Figures (numbers in '000)

Particulars	Units	2009-10	2010-11	2011-12	2012-13 (POI)
Sales of Domestic Industry	Nos ('000)	88,514	1,12,462	1,21,806	1,32,553
Trend	Indexed	100	127	138	150
Sales of Supporters	Nos ('000)	45,906	67,755	81,670	76,660
Trend	Indexed	100	148	178	167
Sales of Other Indian Producers	Nos ('000)	82,427	1,05,292	1,08,545	1,16,230
Trend	Indexed	100	128	132	141
Imports from China	Nos ('000)	4,621	1,946	1,233	2,191
Imports from Other Countries	Nos ('000)	3,185	645	82	119
Demand/consumption	Nos ('000)	2,24,654	2,88,100	3,13,336	3,27,752

41. The Authority notes that the demand for the product under consideration has shown a positive trend during the injury period. The demand during the POI has increased by around 46% as compared to the base year.

ii. Market Share in Demand

42. Market share of imports from subject countries and other interested parties in demand/consumption of the product under consideration in India were as shown in table below:

Market Share in Demand	Units	2009-10	2010-11	2011-12	2012-13
Domestic Industry	%	39.40%	39.04%	38.87%	40.44%
Supporters	%	20.43%	23.52%	26.06%	23.39%
Other Indian Producers	%	36.69%	36.55%	34.64%	35.46%
China-Subject Country	%	2.06%	0.68%	0.39%	0.67%
Other imports	%	1.42%	0.22%	0.03%	0.04%

43. It is seen from the above table that market share of imports from the subject country declined till 2011-12 due to the anti-dumping duty imposed and increased once again in 2012-13.

iii. Import volume and market share

44. Imports volume from China PR and other countries were as under:-

Particulars	Units	2009-10	2010-11	2011-12	2012-13
Volumes					
Subject Country- China	Nos ('000)	4,621	1,946	1,233	2,191
Others	Nos ('000)	3,185	645	82	119
Total imports	Nos ('000)	7,807	2,591	1,315	2,309
Market Share In Imports					
Subject Country- China	%	59.20%	75.10%	93.78%	94.86%
Other	%	40.80%	24.90%	6.22%	5.14%
Total imports	%	100.00%	100.00%	100.00%	100.00%

45. It is seen from the above table that imports have declined till 2011- and increased once again in 2012-13.

iv. Imports in relation to production/ consumption

46. Authority observes that the imports from China have declined in relation to the production and consumption in India, as is evident from the following table:

Particulars	Units	2009-10	2010-11	2011-12	2012-13
China	Nos ('000)	4,621	1,946	1,233	2,191
Total imports	Nos ('000)	7,807	2,591	1,315	2,309
Total Indian production	Nos ('000)	2,25,786	2,90,814	3,12,433	3,29,240
Total Indian consumption	Nos ('000)	2,24,654	2,88,100	3,13,336	3,27,752
Imports in relation to total imports	%	59.20%	75.10%	93.78%	94.86%
Imports in relation to production	%	2.05%	0.67%	0.39%	0.67%
Imports in relation to consumption	%	2.06%	0.68%	0.39%	0.67%

47. It is seen from the above table that imports of the product under consideration have shown decline till 2011-12 and again increased in 2012-13. The volume of imports is low vis-à-vis production and consumption in India. The low volume of imports during the current period is due to imposition of anti-dumping duty.

v. Price Effect of the Dumped imports on the Domestic Industry

48. 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 product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the cost of production, Net Sales Realization and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries.

Price Undercutting

49. Price undercutting has been assessed by comparing the export price with the domestic selling price in India of the subject goods during the period of investigation. It would be seen that the landed price of imports is lower than the selling price of the domestic industry, as shown in the following table:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Landed price of imports	Rs./No.	66.79	44.78	48.83	52.28
Trend	Indexed	100	67	73	78
Net Selling Price (Avg.)	Rs./No.	***	***	***	***
Trend	Indexed	100	105	111	120
Price Undercutting	Rs./No.	***	***	***	***
Trend	Indexed	100	589	595	662
Price Undercutting (%)		5-15	35-45	30-40	35-45

50. The Authority notes that the weighted average import prices of the product concerned have been below the selling prices of the domestic industry, resulting in positive price undercutting.

Price suppression/depression

51. The Authority has further examined whether the effect of such imports was to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree as shown in the table below:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Landed price of imports	Rs./No.	66.79	44.78	48.83	52.28
Cost of Sales	Indexed	100	106	115	118
Selling price	Indexed	100	105	111	120

52. It is seen from the above table that the landed price of imports is below the cost of production of the domestic industry throughout the injury period. The landed price of imports is below both the selling price and cost of production of the domestic industry. Thus, cessation of anti-dumping duty is likely to lead to price depression in the market.

Price Underselling

53. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules. The analysis shows that the landed value of subject imports was below the non-injurious price as can be seen from the table below.

Particulars	Unit	POI
Non injurious price	Rs./No.	***
Landed price of imports	Rs./No.	48.87
Under Selling margin	Rs./No.	***
Under Selling margin	%	***
Under Selling margin %	Range	30-40

* Landed and non-injurious prices are based on weighted average of wattage wise comparison.

54. It is noted from the above table that imports from the subject country is having underselling effect on the prices of domestic industry.

Economic parameters of the domestic industry

55. Annexure II to the Anti-dumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic

producers of like product. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. An examination of performance of the domestic industry reveals that the domestic industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

i. **Production, Capacity, Capacity Utilization & Sale Volume**

56. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Capacity	Nos ('000)	1,87,720	2,02,444	2,08,144	2,39,944
Trend	Indexed	100	108	111	128
Production	Nos ('000)	1,02,004	1,26,748	1,33,133	1,46,344
Trend	Indexed	100	124	131	143
Capacity Utilization	%	54%	63%	64%	61%
Trend	Indexed	100	115	118	112
Sales of Domestic Industry	Nos ('000)	88,514	1,12,462	1,21,806	1,32,553
Trend	Indexed	100	127	138	150
Demand	Nos ('000)	2,24,654	2,88,100	3,13,336	3,27,752

57. It is noted from the above table that production and capacity utilization of the domestic industry has improved over the injury period. It is further observed that the domestic industry has enhanced the capacity during 2010-11, 2011-12 & 2012-13. It is also noted that sales of the domestic industry has showed increasing trend over the injury period.

ii. **Profit/Loss, Return of Investment**

58. The profitability of the domestic industry is given in the following table:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Profit/(Loss) – Domestic	Rs./Unit	100	72	31	155
Profit/(Loss) – Domestic	Rs.Lacs	100	92	43	232
Cash Profit -Domestic	Rs.Lacs	100	100	55	228
Profit before Interest and Tax - Domestic	Rs.Lacs	100	103	82	222
Return on Capital Employed- NFA basis-Dom.	%	100	81	60	167

59. It is seen from the above table that the domestic industry profit has decreased till 2011-12 and increased in the POI. Return on investment and cash profits have shown the same trend as that of profits. The performance of the domestic industry therefore improved on these account.

iii. **Inventories**

60. Inventories with the domestic industry moved as follows:

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Closing Stock	Nos ('000)	2,943	5,225	6,587	5,997

It is noted that inventories with the domestic industry have increased till 2011-12 and declined during POI. However, the inventory during POI has increased as compared to the base year.

iv. **Productivity**

61. From the information given below, the Authority notes that productivity of the domestic industry shows same trend as that of production. Productivity per employee has increased throughout the injury period.

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
Productivity Per Employee	Nos ('000)	100	109	128	127
Productivity Per Day	Nos ('000)	291	362	380	418

v. **Employment and Wages**

62. It is seen that employment level has increased in the injury period as shown in the table below. Wages paid by the domestic industry have also shown an increasing trend during the injury period with a slight decline in POI.

Particulars	Unit	2009-10	2010-11	2011-12	2012-13
No of Employees	Nos.	100	114	102	113
Wages	RsLacs	100	117	163	142

vi. **Magnitude of Dumping**

63. The dumping margins determined in respect of the producers/exporters from China are above de minimis. The dumping margins in the previous investigations were also found at quite significant levels. Positive dumping margin in the present investigations establishes the likelihood of dumping in the event of cessation of anti-dumping duty, particularly considering that the product under consideration is attracting a benchmark form of duty.

vii. **Growth**

64. The Authority notes that growth of the domestic industry is positive in terms of sales, production, capacity utilization, profits and return on investment because of the anti-dumping duty protecting them from injury due to dumped subject imports.

Particulars	Unit	2009-10	2010-11	2011-12	POI
Production	%	-	24%	5%	10%
Capacity Utilization	%	-	8%	1%	-3%
Domestic sales	%	-	27%	8%	9%
Inventory	%	-	78%	26%	-9%
Profit/ No	%	-	-28%	-57%	395%
ROI	%	-	-3%	-3%	18%

viii. **Ability to raise capital investment**

65. It is noted that the domestic industry's ability to raise additional investments in the product depends upon the market situation. The domestic industry added capacities during the period, which shows that the domestic industry was able to raise capital investment with the anti-dumping duty being in force.

ix. **Factors Affecting Domestic Prices**

66. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc shows that the landed value of imported material from the subject country is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. It is also noted that the demand for the subject goods was showing significant increase during the injury period including the POI and therefore it could not have been a factor affecting domestic prices. Thus, the principal factor affecting the domestic prices is the landed value of the imports of dumped subject goods from subject countries.

x. **Conclusion on material injury**

67. After examining and analysing the facts and figures concerning injury to the domestic industry, the Authority concludes that the dumped imports of the subject goods from the subject country has declined over the injury period in absolute terms as also in relation to production and consumption of the subject goods in India. It is however noted that imports of the product from subject country are undercutting the prices of the domestic industry in the market. With regard to consequent impact of the dumped imports on the domestic industry, it is noted that demand for the subject goods in the domestic market increased significantly. Production and sales of the domestic industry have also increased in tandem with the increased demand. The domestic industry was able to improve its

performance in terms of profits, return on investments, and cash flow. Thus, the analysis of various parameters relating to domestic industry shows that the domestic industry has been able to improve its performance due to the presence of anti-dumping duty.

Likelihood of dumping and injury

Submissions by the domestic industry

68. Following are the submissions made by the domestic industry:

- i. Exporters in the subject country have capacities far in excess of Indian demand. In case of revocation of anti-dumping duty, the volume of subject goods’ imports is bound to increase further. World’s 80% production of CFL is in China.
- ii. China is the supplier of major raw material for the product under consideration. China is the major supplier of Tri Band Phosphor. In fact, so significant is the supply of the Tri Band Phosphor from China that Govt. of China had earlier imposed hefty export duty on the product so that global producers of CFL become uncompetitive and Chinese producers practically become the only source of supply of CFL.
- iii. The time required for setting up new production facilities or for enhancing capacities is too low. Therefore, the Chinese producers can enhance capacities or set up new production lines, if they find significant market for the product. Significant demand for the product under consideration in the Country can therefore be a significant attraction to the Chinese producers to enhance their capacities in no time.
- iv. Dumping margins in the previous investigations were significantly high.
- v. The performance of the domestic industry was sub-optimal despite anti-dumping duty was in force.
- vi. Imports from the subject country would undercut the prices of the domestic industry in the Indian market in the absence of anti-dumping duty.
- vii. The subject foreign producers are holding huge surplus production capacities,

SN	Name of known foreign producer/exporter	Capacity/ Production (<i>in pieces</i>)
CHINA		
1.	Hangzhou Hope Lighting Appliance Co.	10 mn/yr
2.	Lin’anLituo Electronics Co. Ltd.	1. 5 mn/yr
3.	Lin’anEdisunElectonics Co. Ltd.	1.2 mn/yr
4.	Jiangsu Shiney Lighting Electrical Appliance Co. Ltd.	8 mn/month
5.	Fuzhou Reeyah Lighting Co. Ltd	3.6 mn/yr
6.	Hangzhou Ecolight Industrial Co.	36 mn/ yr

SN	Name of known foreign producer/exporter	Capacity/ Production (<i>in pieces</i>)
7.	Hangzhou Jingjie Electric Co. Ltd.	7.2 mn/yr
8.	ZhongshanXiongtian Lighting Co.	43.2 mn/yr
9.	ZhongshanLongde Lighting Co.	14.4 mn/yr
10.	Zhongdazhengguang Electricity & Lighting Factory	3.6 mn/yr
11.	Yipu Lighting Electronic Company	10.2 mn/yr
12.	LinanOubo Electronic Lighting Co. Ltd.	12 mn/yr
13.	Jiangmen Zhanyu Lighting Company Limited	54 mn/yr
14.	Hangzhou Tiger Electron and Electric Company Ltd	36 mn/yr
15.	FoshunShundeSanhn Lighting & Electrical Co. Ltd.	6.6 mn/yr

- x. China is a large exporter of the product under consideration and the Chinese producers are highly export centric. The following table shows percentage of exports in total turnover of exporters in the subject country. The foreign producers are intensively focused on exports.

SN	Name of known foreign producer/exporter	Export Orientation %
	CHINA	
1.	JiayingShengfeng Electronics Co. Ltd.	95
2.	Lin'anLituo Electronics Co. Ltd.	91-100
3.	Lin'anEdisunElectronics Co. Ltd.	71-80
4.	Jiangsu Shiney Lighting Electrical Appliance Co. Ltd.	91-100
5.	Fuzhou Reeyah Lighting Co. Ltd	91-100
6.	Hangzhou Ecolight Industrial Co.	91-100
7.	Hangzhou Jingjie Electric Co. Ltd.	81-90
8.	ZhongshanXiongtian Lighting Co.	71-80
9.	ZhongshanLongde Lighting Co.	61-70
10.	Zhongdazhengguang Electricity & Lighting Factory	81-90
11.	Yipu Lighting Electronic Company	81-90
12.	LinanOubo Electronic Lighting Co. Ltd.	91-100
13.	Jiangmen Zhanyu Lighting Company Limited	81-90
14.	Hangzhou Tiger Electron and Electric Company Ltd	91-100
15.	FoshunShundeSanhn Lighting & Electrical Co. Ltd.	61-70

- xi. The landed price of imports is substantially below the cost and selling price of the domestic industry. Thus, in the event of cessation of current anti-dumping duty and if the domestic industry chooses to sell at the import prices, the domestic industry would suffer significant financial losses.
- xii. The exporters and producers from the subject country have continued to export the material at the dumped prices even after the imposition of the antidumping duty.

There is no reason to consider that revocation of duties in the present case would not result in intensified dumping from China PR.

- xiii. In the event of revocation of the anti-dumping duty, the product is likely to be dumped more intensively and undercut the prices of the domestic industry.

Submissions by producers/exporters/importers/other interested parties

69. None of the producers/exporters/importers/other interested parties has made any submissions in this regard

Examination by the Authority

70. None of the Chinese producers, barring M/s. Osram China Lighting Co. Ltd, China PR (OCL) has cooperated with the Designated Authority. The information on records shows existence of very large number of producers in China. The volume of exports made by Osram constitutes only about 20% of total imports in India and 0.12 % of estimated production in China. Thus, on the basis of quantum of exports by M/s OCL the likelihood of dumping and injury in the event of cessation of anti-dumping duty cannot be evaluated.

71. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination as to whether the duty imposed is serving the intended purpose of eliminating injurious dumping. In the present investigation, there are continued dumped imports. The dumping margin in the original as well as the present investigation is positive, which clearly shows that the dumping margin is likely to remain positive in the event of cessation of anti-dumping duty. There are favourable market conditions in the Indian market as far as demand and price for the subject goods are concerned. The Authority has reason to believe that dumping is likely to intensify if the anti-dumping duty is ceased. It is a matter of fact that despite the anti-dumping measures in force, the subject country could still dump the subject goods in the Indian market. The following analysis show likelihood of continuation/intensification of dumping and recurrence of injury to the domestic industry in the event of revocation of anti-dumping duty:

i. **Level of current and past dumping margin**

72. The level of dumping margin both in the original as well as present investigation is significant. The dumping margin is likely to increase should the present anti-dumping duties are allowed to cease.

ii. **Price attractiveness of Indian market**

73. The price at which the subject goods are being exported by China PR to India is an indicator of the likelihood of continuation/intensification of dumping. At the current level of landed price of imports in India, there is positive price undercutting during POI.

Further, with the revocation of anti-dumping duty, the price undercutting is likely to increase further. Indian prices would be too attractive for the Chinese producers to intensify their exports to India at dumped prices and there is strong likelihood that Indian consumers would resort to large scale imports of the subject goods from China.

iii. **Export orientation of Chinese producers**

74. From the available information, it is evident that the Chinese producers /exporters are very much export oriented. Considering the high demand and favorable market conditions for the subject goods in India and the high production capacity and export orientation of the Chinese producers, the Authority holds that if the existing antidumping duties are withdrawn, the entire demand for the subject goods in India can be catered by the Chinese producers.

iv. **Huge Production Capacity in China**

75. As per the information furnished by the domestic industry, the producers of the subject goods in China hold production capacity of the subject goods far more than Indian demand. In the event of revocation of anti-dumping duty and considering the Chinese export orientation, the producers in China are capable of overtaking the Indian manufacturing sector engaged in subject goods. Authority notes in this regard that China commands worlds' 80% of production of CFL and is thus the major producer of the product under consideration.

Conclusion on likelihood of dumping and injury

76. Consideration of factors such as the difference in the volume and price of imports reported in Indian customs and China customs coupled with the form of measure earlier imposed, positive dumping margin, price undercutting & injury margin in the present and original investigations, significant production capacities in China to the extent of world's 80% production, high export orientation of the Chinese producers, de-facto complete control on the key raw material collectively and cumulatively show that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti-dumping duty. The quantity of dumped imports from the subject country has reduced, because of the Anti-dumping duty enforced. Even if the, imports are at dumped price, the domestic industry is able to improve their performance. In the case of cessation of duty there is every possibility of likelihood that the dumped imports will again increase and injure the domestic industry.

Magnitude of Injury and injury margin

77. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority in terms of Annexure III to the AD Rules has been compared with the landed value of the exports from the subject country for determination of injury margin during the POI and the injury margin so worked out is as under. It is noted that the weighted average injury margin is quite significant.

Particulars	Unit	All producers/ Exporters from China PR
Non injurious Price	Rs/No	***
Landed Value	Rs/No	48.87
Injury margin	Rs/no	***
Injury margin	%	***
Injury margin	Range	30-40

Causal Link

78. The Authority examined whether other known factors could have caused injury to the domestic industry.

i. **Injury due to other listed known factors:**

79. The authority examined whether known listed factors could have caused injury to the domestic industry.

- a. **Imports from third countries** - It is noted that the import price from third countries are higher than the import price from China. It is thus not a case that the imports from third countries could have caused injury to the domestic industry.
- b. **Changes in the patterns of consumption:** - The Authority notes that no significant change in the pattern of consumption for the subject goods has come to the knowledge of the Designated Authority.
- c. **Trade restrictive practices of and competition between the foreign and domestic producers:** - The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the injury to the domestic industry.
- d. **Developments in technology:** - The Authority also notes from the information available on record that the investigation has not shown that the claimed injury could be due to changes in technology.
- e. **Export performance:** The export performance of the domestic industry is not relevant since the price and profitability of the domestic industry has been segregated by the Authority for domestic and export markets separately for the purpose of assessing injury to the domestic industry
- f. **Performance of other products being produced and sold by the domestic industry:** The authority also notes that claimed injury to the domestic industry is on account of product under consideration. Petitioner companies have not included any information for other products. Thus, the financial information provided with regard to product under consideration clearly shows the position of the domestic industry with regard to like article produced and sold by the domestic industry.

ii. **Factors establishing causal link:** -

80. 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 is likely by dumped imports in the event of cessation of anti-dumping duty:

- a. Imports are undercutting the prices of the domestic industry. Further, the landed price of imports is below not only selling price of the domestic industry but also cost of production and non-injurious price of the domestic industry.
- b. If the consumers switch over to the imported product, the same would imply decline in demand for the domestic industry product and increase in demand for the Chinese product. Thus, cessation of duty is likely to result in displacement of domestic industry market by Chinese imports.
- c. Should the demand for the domestic industry product decline in the market, the domestic industry sales will decline.
- d. Should sales for domestic industry decline, it would directly impact production and consequently capacity utilization. Thus, cessation of anti-dumping duty is likely to adversely impact market share, domestic sales, production and capacity utilization of the domestic industry.
- e. Should the domestic industry respond to the Chinese competition after cessation of anti-dumping duty by reducing the prices, it shall imply significant adverse price effect on the domestic industry. Should the domestic industry sell at prices comparable to Chinese prices, the domestic industry will not be able to recover its cost of production and thus would suffer financial losses, negative cash flow and negative return on investment.
- f. Buyers decide their procurement on the basis of relative prices offered by the foreign producers and domestic industry. If the prices offered by the foreign producers are lower, the buyers would increasingly switch over to foreign product. In the present case, if anti-dumping duties are removed; the exporters from subject country shall capture the market for subject goods in India on account of their high production capacities and low export prices.

Response to disclosure statement by Domestic Industry-

81. The post disclosure comments made by the Domestic Industry are as follows:-

- a. The product under consideration has been exported at prices below normal value, resulting in dumping.
- b. The domestic industry is likely to suffer injury in the event of cessation of antidumping duty presently in force.
- c. The dumping margin and the injury margins are quite significant.
- d. The domestic industry's performance has become positive in respect of a number of parameters due to imposition of anti dumping duty on the subject good.
- e. The foreign producers have not fully cooperated with complete questionnaire response. The Designated Authority is fully justified in proceeding with the best

available information. Petitioner refers to and relies upon the Rules and numerous investigations in this regard.

- f. The imports from the subject country have declined in absolute terms as well as in relation to production and consumption in the country on a cumulative basis. However, imports are significant enough to establish whether dumping is likely to continue in the event of cessation of anti dumping duty and whether import price is so low as to cause injury to the domestic industry in the event of cessation of anti dumping duty.
- g. The imports from the subject country were undercutting the domestic prices.
- h. As the landed price of imports is below the cost of production of the domestic industry throughout the injury period the imports are likely to lead to price depression in the market in the event of cessation of anti dumping duty.
- i. Overall growth of the domestic industry over the injury period has improved due to the imposed anti dumping duty.
- j. The Authority has rightly held that M/s NTL Electronic India Ltd. has produced the product under consideration but has not sold the material in the market. Since the company has sold its production to other Indian producers of the product under consideration, it is not appropriate to count production of NTL Electronic within the Indian production.
- k. M/s Osram India Pvt. Ltd. and M/s Osram China Lighting Ltd., China PR are related to each other and M/s Osram India Pvt. Ltd. had imported the subject goods from M/s Osram China Lighting Ltd., China PR in both the POI of the original investigation as well as sunset review investigations. Though, in the original investigation, the imports share of the M/s Osram India Pvt. Ltd. was only about 0.5% of the total imports from China, whereas in the POI of the current investigation, M/s Osram India Pvt. Ltd.'s share of the subject goods in the total imports from China PR has been considered significant. Petitioners have submitted that Osram should be considered eligible domestic industry despite the imports made by them, given the low volume of imports.
- l. M/s Philips India Ltd., a supporter of the petition has subsequently provided injury information and therefore it may be included in the scope of domestic industry. Petitioners have realized while reviewing the disclosure statement issued by the Authority that in fact production of Dixon has been accounted twice – once as production of Dixon as a supporting company and again as production of Philips. Therefore, production of Dixon is not required to be included in the production of eligible domestic production while determining share of companies providing injury information.
- m. The authority has rightly held that M/s Havells India Ltd., Surya Roshni Limited, Crompton Greaves Limited and M/s Philips Electronics India Limited who have provided injury information account for 44.45% of the production of the subject goods in the POI. Further the above producers along with the supporting companies viz., Cenzer Industries Ltd., Starlite Lighting Ltd., Dixon Technologies India (Pvt) Ltd, Halonix Technologies Limited and HPL Electric & Power Pvt hgLtd account for 60.66 % of the total Indian production. thus, the Authority holds that M/s Havells

India Ltd., Surya Roshni Limited, Crompton Greaves Limited and M/s Philips Electronics India Limited producers of the subject goods as domestic industry as per rule 2(b).

- n. **Confidentiality** - The rules permit confidentiality on such information disclosure of which would be of significant competitive advantage to a competitor. The petitioners have claimed only such information as confidential, confidentiality of which is permitted under the Rules and the practices being followed by the Authority in this regard.
- o. **Market Economy Treatment, Normal Value, Export Price And Dumping Margin**- Authority has held that in view of the absence of information on the entire value chain it cannot establish that the transaction between M/s. Osram China Lighting Ltd., China PR and M/s Osram India Pvt. Ltd. are at arm's length. It is for Osram China and Osram India to address this issue. Petitioners submit that the prices at which Osram China has exported the product to India establish existence of significant dumping margin and injury margin . The Authority has considered it appropriate not to accept the response filed by M/s. Osram China Lighting Ltd., China PR, to accord individual dumping margin to them by separately evaluating its ex-factory export price and normal value. The Authority has adopted the same methodology for M/s. Osram China Lighting Ltd., China PR for constructing the normal value and evaluating the ex- factory price as for other non-responding producers/exporters.

The petitioners have reiterated that subject country has capacities far in excess of Indian demand and it is the supplier of major raw material for the product under consideration. The Authority has rightly upheld that China commands worlds' 80% of production of CFL and de-facto the sole supplier of the critical raw material required for production of the product under consideration.

The Authority has rightly stated that positive dumping margin, price undercutting & injury margin in the present and original investigations, significant production capacities in China to the extent of world's 80% production, high export orientation of the Chinese producers, de-facto complete control on the key raw material collectively and cumulatively show that the dumping and consequent injury to the domestic industry is likely in the event of cessation of anti-dumping duty.

- p. **Magnitude of injury and injury margin** - The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Annexure III of the Anti-dumping Rules. The non-injurious price so determined has been compared with the landed prices of imports from the subject country, which shows existence of significant injury margin. While the disclosure statement shows existence of significant injury margin, petitioner submits that the non injurious price determined may be reviewed, as this is too low to protect legitimate interests of the domestic industry.
- q. **Duties on fixed quantum basis** - Petitioner has submitted that anti dumping duty may be continued as fixed quantum of anti dumping duty (fixed form of duty), expressed in USA. Followings are relevant in this regard—

- i. There is only one product with different watts involved in the present case and the Designated Authority has done wattage wise comparison appreciating the significant difference in the costs and prices of different product types. Given these significant differences, fixed quantum of anti dumping duty may be recommended in the instant case. Benchmark form of duty is infeasible in the facts of the present case.
- ii. The Anti dumping legislation has been created in consonance and in conformity with the WTO Agreement on Anti Dumping, which explicitly permit authorities to impose anti dumping duties in the form and manner requested.
- iii. Experience generated out of fairly large number of investigations (more than 300 investigations have been conducted so far spread over more than 15 years) that attempts are made to evade anti dumping duty imposed. A large number of complaints made by spectrum of industries over a long period with regard to circumvention of anti dumping duties are relevant in this regard.
- iv. Customs port authorities lack a mechanism to ensure correctness of import price reported by an importer. It is neither feasible nor practicable for the port authorities to verify the import price.
- v. The duty should be imposed in a manner where it does not become futile.
- vi. In the following cases, the order of the DA has been modified by CESTAT on the grounds of incorrect form of measures –
 - in the case of NBR from Korea, the Hon'ble CESTAT modified variable anti-dumping duty recommended by Designated Authority to fixed duty based on the appeal filed by an exporter, M/s. Kumho Petro-Chemicals Co. Ltd. (2004(170)E.L.T. 274)
 - in the case of Metcoke, the CESTAT, vide their decision 2000(116) E.L.T. 67 modified the anti-dumping duty from variable to fixed.
 - in the case of Vitrified files, the CESTAT upheld the decision of the Designated Authority to impose fixed quantum of duty.

In view of the above, petitioners have requested the Designated Authority to recommend fixed quantum of duty in the present case.

- r. Domestic industry has submitted that the duty should be imposed in terms of US\$. The Designated Authority has already expressed anti dumping duty in terms of US\$ in the original investigation as well as in number of other investigations. We request the same in the present case as well. Rupee has depreciated significantly and therefore, the definitive duties may kindly be expressed in US\$. The depreciation of INR has impacted the cost of production.

82. The post disclosure comments made by other interested parties - The authority notes that only Osram has offered comments on the disclosure statement. No other interested party has offered any comments. Comments made by Osram are briefly as follows

- a. The Authority's proposal to reject the response of M/s Osram China Lighting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong and treat it as non cooperative is incorrect.
- b. Exporters Questionnaire responses filed by M/s Osram Asia Pacific Ltd., Hong Kong, with Authority clearly mentioned that *"During the investigation period, all the subject products sold by the company fall in the scope of goods under consideration as indentified by the Designated Authority in this Anti-dumping proceeding. OSRAM Asia Pacific buys the products from OSRAM China Lighting Ltd., and OSRAM Korea Co., Ltd., for sale to OSRAM India"*
- c. Resorting to facts available by treating a producer/exporter as non cooperative is permitted only under specified conditions laid down under the Law. In the instant investigation the Designated Authority has not fulfilled those conditions.
- d. In *US—Hot-Rolled Steel*, the Appellate Body concluded that, according to paragraph-3 of Annex-II, investigating authorities are directed to use information if three, and, in some circumstances, four, conditions as enumerated are satisfied.

These conditions are that the information is (i) verifiable, (ii) appropriately submitted so that it can be used in the investigation without undue difficulties, (iii) supplied in a timely fashion, and, where applicable, (iv) supplied in a medium or computer language requested by the authorities.

The Appellate Body concluded that, in its view, "if these conditions are met, investigating authorities are *not* entitled to reject information submitted, when making a determination".

- e. The proposal to reject the questionnaire response is violative of Para-6 of Annex-II of Agreement on Implementation of Article-VI of the General Agreement on Tariffs and Trade 1994, which provides that *if evidence or information is not accepted, the supplying party should be informed forthwith of the reasons therefore, and should have an opportunity to provide further explanations within a reasonable period, due account being taken of the time-limits of the investigation. If the explanations are considered by the authorities as not being satisfactory, the reasons for the rejection of such evidence or information should be given in any published determinations.* Para 6 casts a responsibility on the Investigating Authority to intimate immediately the reasons for proposed rejection of data and must give an opportunity to further give explanation within a reasonable period. The same has been held by Appellate Body and Panel in number of its decisions.
- f. WTO Appellate Body judgments clearly require that before rejecting response of an exporter, the Authority must notify the said exporter and also give an opportunity to provide explanation within a reasonable period of time. The provision of law has been enshrined in the WTO Agreement so as to ensure that Principle of Natural Justice is followed by the Investigating Authority. In the instant investigation, the Designated Authority has violated the Principle of Natural Justice by not informing M/s Osram China Lingthing Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong in advance about its decision to reject its response. The Designated Authority should have granted an opportunity to M/s Osram China Lingthing Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong to explain its position. No such

opportunity was ever granted to M/s Osram China Linghting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong.

- g. The rejection of complete response of M/s Osram China Linghting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong, by the Designated Authority is not in accordance with the Law. Response filed by M/s Osram China Linghting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader) Hong Kong should be accepted and separate individual dumping margin may please be granted to M/s Osram China Linghting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)HongKong, based on its response filed.

Examination by authority

83. The authority notes the post disclosure comments of the interested parties and holds as under.
- a. The authority notes that most of the submissions of the domestic industry are repetitive and have already been addressed in the disclosure statement and also in the present findings. The authority notes that the post disclosure comments by the Domestic Industry in Para 81 (a) to (d) are reiteration of their earlier submissions which have been dealt appropriately under the relevant heads in this finding.
- b. As regards submissions in Para 81 (e), the authority has appropriately examined this aspect in Para 24 to 27 of this finding. Submissions in 81 (g) to 81 (j) by Domestic Industry are also merely factual submissions and reiterations requiring no further examination. As regards DI's request to include M/s Osram India Private Limited within the scope of DI, the authority reiterates that given the magnitude of imports made by M/s Osram India Private Limited from M/s Osram China Lighting Ltd. China and its relationship with the aforesaid exporter, it cannot be treated as part of Domestic Industry, as already examined and held in Para 18 of this finding.
- c. The authority notes that submissions by the Domestic Industry in Para l, m, and n are merely submissions on confirmation of relevant examination reported in the disclosure statement. As regards Para 81 (o) the authority has examined the issue relating to capacity of subject goods in China and the likelihood of dumping and consequential injury in the Para 74 & 75 of this finding. As regards the contention of the domestic industry concerning non injurious price determination submitted in para 81(p), the authority holds that the non injurious price has been determined in accordance with Annexure-III to the Rules as per its consistent practice. As regards the submissions of the domestic industry for form of measures and anti dumping duty in US\$ in para 81(q) and (r), the authority has considered the same appropriately in the light of the facts of the case.
- d. As regards submissions of M/s Osram Lighting Private Limited China in Para 82 (a) that rejection of questionnaire response of Osram China is not correct , the authority holds that the dumping margin cannot be determined on the basis of questionnaire response of M/s Osram Lighting Pvt. Ltd. China as M/s Osram India Pvt. Ltd., the importer of the subject goods has not filed the questionnaire response and therefore the entire value chain cannot be

established and the transactions between M/s Osram China Lighting Ltd., China PR and M/s Osram India Pvt. Ltd., cannot be treated as at arm's length. In the absence of complete value chain and questionnaire response of M/s Osram India Private Ltd., the authority could not determine dumping margin in respect of exports made by M/s Osram Lighting Ltd. China PR.

- e. As regards submissions by M/s Osram Lighting Private Limited China in Para 82 (b) contending that exporters questionnaire responses filed by producer and exporter shows the channel of sales adopted by the exporter, the authority notes that the producer and exporter are required to ensure that all entities in their value chain involved in production, sale and imports have filed questionnaire response. As no questionnaire response has been filed by M/s Osram India Pvt. Ltd., the export price itself cannot be established on arm's length basis.
- f. As regards contention of M/s Osram Lighting Pvt. Ltd. China in Para 82 (c) that the use of facts available is not appropriate when the exporter has cooperated with the authority, the authority notes that when the questionnaire responses itself are deficient as entire value chain have not been completed, with related entities having preferred non cooperation, the authority has no choice but to resort to best available information.
- g. As regards submissions in Para 82 (d), the authority notes that this WTO Appellate Body decision is not applicable to the facts of the present case, as in this case the related importer has not filed questionnaire response.
- h. As regards the contention that the WTO Agreement requires the authority to intimate the exporter about the gaps in the questionnaire response, the authority notes that the situation stated in the Agreement is one where the exporters have filed questionnaire response and some part of the information is missing. In the present case, the response is missing from the related importer and as the exporter has himself declared that the exports have been made entirely to the importer and therefore this fact was very much within the knowledge of the exporter. The exporter should have ensured that its value chain for exports to India is complete.
- i. As regards the WTO requirement that the authority must inform the exporter about rejection of information, the authority notes that the requirement is with regard to rejection of information. In the instant case the questionnaire response itself is deficient as response of related importer has not been filed.
- j. As regards the argument that the authority should give opportunity to the exporter to explain its position, the authority notes that the issue involved is not with regard to the position of the exporter and importer. The questionnaire response itself identifies lists of related entities and Osram India Pvt. Ltd. has been identified as related entity. Further, the response shows that all the exports have been made to the related entity. In the absence of the information about the resale price of the imported goods by M/s Osram India Private limited, the Authority is not in a position to determine whether the importer has in fact sold the product at a price which may be below the cost of import after adding all expenses of M/s Osram India Pvt. Ltd.
- k. As regards the contention that the rejection of complete response of M/s Osram China Lighting Ltd., China PR and M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)Hong Kong, by the Designated Authority is not in accordance with the Law, the authority notes that

the rules clearly require the authority to determine that the export price claimed by the exporter as reliable, particularly when the goods have been imported by a related entity. The Rules provide that where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may have to be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules. However, when the related importer has not even filed importer's questionnaire response, the authority is unable to construct the export price.

In view of the above, the authority holds that the authority is not in a position to determine individual dumping margin for M/s Osram China Lighting Ltd., China PR, M/s Osram Asia Pacific Ltd.,(Exporter/ Trader)Hong Kong and Osram India Pvt. Ltd. (Importer) as stated in Para 25 of this finding.

Indian industry's interest and other issues

84. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the continuation of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

FINAL FINDINGS:

85. Having regard to the issues raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties including those made as comments to the disclosure statement or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury, the Authority concludes that:

- i. Subject goods exported from the subject country are at prices below their normal value, thus resulting in dumping.

- ii. Subject goods originating in China PR are taking place at dumped prices and are likely to cause material injury to the domestic industry in the event of cessation of anti dumping duty.
- iii. Subject goods exported from the subject country are at prices below cost of production, Non Injurious Price and selling price of the domestic industry, and are likely to cause injury to the domestic industry in the event of cessation of anti dumping duty.
- iv. Injury to the domestic industry is likely from the dumped imports from China PR in the event of cessation of anti dumping duty.

86. Having regard to the lesser duty rule followed by the authority, the Authority recommends extension of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount mentioned in Col 9 of the table below be imposed on all imports of subject goods originating in or exported from China PR.

Table

SN	Heading	Description	Specification and Sub specification	Country of origin	Country of export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	8539	Compact Fluorescent Lamps (see note below)	Any upto 26 watts	China PR	Any	Any	Any	0.302	Per pc	USD
2.	8539	Compact Fluorescent Lamps (see note below)	Any upto 26 watts	Any	China PR	Any	Any	0.302	Per pc	USD

Note - Scope of the product subject to duty is Compact Fluorescent Lamps with or without ballast or control gear or choke, whether or not assembled, either in completely knocked down or semi knocked down conditions, including unassembled Compact Fluorescent Lamps without ballast or choke or control gear, sealed tubular shell with or without lamp base. Finished compact fluorescent lamps are:

- a. integrated type with built in ballast or control gears or choke and
- b. integrated type without built in control gears or ballast or choke

Explanation: For the purpose of this notification, “landed value” means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Customs Tariff Act.

87. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.
88. The Authority may review the need for continuation, modification or termination of the measure as recommended herein from time to time as per the relevant provisions of the Act, Rules and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

J. K. Dadoo
The Designated Authority