NON CONFIDENTIAL

F. No. 7/25/2017-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5- Parliament Street, New Delhi 110001

Dated: 13th July, 2018

Subject: Anti- circumvention investigation concerning the alleged circumvention of anti-dumping duty imposed on the imports of "Glass Fibre", originating and exported from China PR vide Customs Notification No. 48/2016-Customs dated 1st September, 2016.

Sir,

In accordance with Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, I am directed by the Designated Authority to disclose the essential facts under consideration before the Designated Authority in the matter relating to Anti-circumvention investigation concerning the alleged circumvention of anti-dumping duty imposed on the imports of "Glass Fibre", originating and exported from China PR vide Customs Notification No. 48/2016-Customs dated 1st September, 2016..

2. This Disclosure Statement is in the following four Annexure:
   Annexure 1: General Disclosure
   Annexure 2: Evidence of Circumvention
   Annexure 3: Determination of Normal Value, Export Price and Dumping Margin
   Annexure 4: Assessment of Undermining Remedial Effect.

3. The Annexures cited above contain essential facts under consideration of the Designated Authority, which would form the basis for the Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/argument/submission. Arguments raised/submissions made by the interested parties during the course of the present investigation are reflected in this Disclosure Statement to the extent they are considered relevant to this investigation by the Authority.

4. Notwithstanding the facts given in this Disclosure Statement (including facts given on a confidential basis), the Designated Authority would consider all replies given, on merits, in order to arrive at a final determination.

5. Interested parties may offer their comments, if any, along with the soft of the same to the undersigned, latest by 23rd July 2018 (up to 05: 00 pm) in DGTR Jeevan Tara Building,

New Delhi-110001 and by email to asen@nic.in. Since anti-circumvention investigations are time bound, the Designated Authority shall not entertain any request for extension of time.

6. This is issued with the approval of the Designated Authority.

Yours sincerely,

(Agneshwar Sen)
Addl DGFT

Annexure 1

General Disclosure

Subject: Anti- circumvention investigation concerning the alleged circumvention of anti-dumping duty imposed on the imports of "Glass Fibre", originating and exported from China PR vide Customs Notification No. 48/2016-Customs dated 1st September, 2016.

No. 7/25/2017-DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof.

A. Background of the Case

1. Whereas having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred as the Rules), the Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation for imposition of anti-dumping duty on imports of certain glass fibre and articles thereof, originating in or exported from the China PR vide initiation notification dated 8th January 2010. The Authority issued the Preliminary Findings on 2nd June 2010 and provisional duties were imposed vide Customs Notifications dated 14th July, 2010. The Authority issued Final Findings on 6th January 2011 and definitive duties were imposed on 4th March 2011. The Authority thereafter initiated a Mid-term review investigation against imports of subject goods from subject country on 19th September 2013 and on the basis of the recommendation of the Authority in its final finding dated 10th February, 2014, micro Glass Fibre with fibre diameter in the range of 0.3 - 2.5 microns was excluded from the ambit and scope of the antidumping duty recommended, vide Customs Notification dated 9th May, 2014. Whereas, the Designated Authority, conducted a sunset review investigation and issued Final Findings vide Notification No 15/10/2015-DGAD dated 6th July, 2016, recommending continuation of anti-dumping duty on the imports of Glass Fibre originating in or exported from China PR, and the Ministry of Finance, vide Customs Notification No. 48/2016-Customs (ADD) dated 1st September, 2016, extended the antidumping duty on the imports of Glass Fibre, originating in or exported from China PR

2. Whereas, in terms of the Section 9A of the Customs Tariff Act 1975, read with Rule 25 of the Anti-Dumping Rules, M/s Owens-Corning (India) Pvt. Ltd. (hereinafter referred to as the Petitioner or the Domestic Industry), a major manufacturer of Glass Fibre in India, has filed a petition before the Authority alleging that Chopped Strand Mats or CSM, one of the types of Glass Fibre, which is the product subject to antidumping duty vide Customs

Notification No. 48/2016-Customs (ADD) dated 1st September, 2016, is being imported from Thailand and such imports constitute circumvention of ADD earlier imposed on imports from China. The petitioner contended that Asia Composite Materials (Thailand) Co., Ltd produce glass CSM (from assembled glass roving or AR, one of the forms of glass fibre) imported from China and then exports it to India to circumvent the anti-dumping duty imposed on the imports of Glass Fibre, originating in or exported from China PR.

3. Whereas, in view of the duly substantiated application filed by the petitioner under Rules 26 (1), the Authority initiated investigations vide notification no 7/25/2017-DGAD dated 12th February, 2018 to determine the existence and effect of the alleged circumvention of the ADD levied and to consider recommendation of extension of anti-dumping duty on imports of glass fibre to imports of CSM from Thailand**.**

B. Procedure

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

i. The Authority issued notification vide notification no. 7/25/2017-DGAD dated 12th February, 2018 initiating anti-circumvention investigation, which was published in the Gazette of India.

ii. The Authority sent copy of the initiation notification to the Embassies of China PR and Thailand in India, known exporters of product under consideration from Thailand and known importers of product under consideration in India, as per information available in the petition.

iii. The Authority sent questionnaires to the following exporters/producers of the product under consideration from Thailand and China and requested them to file their responses in the prescribed questionnaire and make their views known in writing within the time limit prescribed. Copies of the letter and questionnaires sent to the exporters were also sent to Embassy of China and Thailand along with a list of known exporters/producers, with a request to advise the exporters/producers from China and Thailand to respond to the Authority within the prescribed time.

   a. Asia Composite Material Co. Ltd, Thailand
   b. Sichuan Weibo New Material, China

iv. In response to the initiation of the subject investigation, none of the producers/exporters from China PR have responded by filing questionnaire response. Following producer/exporter from Thailand filed questionnaire response, claiming itself as the sole producer-exporter of CSM in Thailand.

   a. Asia Composite Material Co. Ltd, Thailand (also referred to hereinafter as ACM).

v. A copy of the non-confidential version of the application filed by the petitioner was sent to the producer/exporters in China and Thailand, and Embassies of China

and Thailand. A copy of the non-confidential version of the application was also made available to the interested parties, on request, through public file in accordance with Rules 6(3) supra.

vi. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with the Rules:

a) Kemrock Industries & Exports Ltd.
b) Pentair Water India P Ltd
c) Amiantit Fibreglass India Limited
d) Sundaram Brake Linings Ltd
e) Graphite India Limited
f) Indore Composite Pvt. Ltd.
g) Aksh Optifibre Limited
h) Balaji Fibre Reinforcement Pvt. Ltd
i) O. K. Glass Fibre Limited
j) Jushi (India) FRP Accessories Pvt. Ltd
k) Sky Fibreglass Solutions Pvt. Ltd.
l) Aarvi Composites Pvt. Ltd.

vii. In response to the initiation of the subject investigation, none of the importers of the product under consideration have responded to initiation, or filed response to the questionnaire.

viii. The period of investigation (POI) for the purpose of the present investigation is April, 2016 – March, 2017. The injury investigation period will, however, cover the periods April'2013- March'14, April'2014–March'2015, April'2015-March'2016 and the POI.

ix. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 24th May, 2018. The public hearing was attended by the representatives of domestic industry and M/s Asia Composite Material Co. Ltd. The parties, who presented their views in the oral hearing, were requested to file written submissions and rejoinder thereafter of the views expressed orally.

x. Exporters, importers other domestic producers and other interested parties who have not responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperating.

xi. Additional questionnaire was issued to Asia Composite Material Co. Ltd, Thailand seeking additional information and/or clarification on the information already filed on 25 April 2018. The responding exporter has filed reply to the additional questionnaire which is considered in the present document.

xii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange for details of imports of subject goods for the past

three years, including the period of investigation, which was received by the Authority and relied upon in the present investigation.

xiii. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.

xiv. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the petitioner at their premises. The Authority also conducted on the spot verification of the data provided by the responding exporter, at their premises.

xv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xvi. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.

xvii. *** represents information furnished by an interested party/any other party on a confidential basis and so considered by the Authority.

C. <u>Product Under Investigation</u>

C.1 Submissions by other interested parties

5. No submissions have been made by the other interested parties in this regard.

C.2 Views of the Petitioner

6. The domestic industry has made following submissions with regard to the product under consideration

i. The product under investigation in this case is same as the original product under consideration.

ii. The duty is being circumvented through imports of Chopped Strands Mat produced and exported by Asia Composite Materials (Thailand) Co., Ltd, Thailand and thereby undermining the remedial effects of the anti-dumping duty imposed.

iii. The product forming the object of circumvention is "**Chopped Strand Mat (CSM) produced by Asia Composite Materials (Thailand) Co**, **Thailand"**.

iv. The subject goods are classified under Chapter 70 of the Customs Tariff Act, 1975 under the Sub-heading 7019. The customs classification is indicative only and in no way binding on the scope of investigation.

C.3 Examination by Authority

7. The product under consideration attracting ADD in India, includes following forms of glass fibre:

a . Assembled Glass Rovings (AR),

b. Direct Rovings (DR),

c. Glass Chopped Strands (CS),

d. Glass Chopped Strands Mats (CSM).

Specifically excluded from the scope of the product under consideration are glass wool, fibre glass wool, fibre glass insulation in wool form, glass yarn, glass woven fabrics, glass fibre fabric, glass woven rovings and chopped strands meant for thermoplastic applications, micro glass fibre used in battery separator, surface mat/ surface veil/ tissue.

8. The product under investigation which is circumvented is glass Chopped Strands Mats (CSM) produced by Asia Composite Materials (Thailand) Co, Thailand.

9. Regarding the production process for CSM, it is noted that Glass fibre is first produced either as Assembled Glass Roving (AR) or as Direct Glass Roving (DR). AR is processed further to produce CSM. The production process of producing AR is described below

10. The production process of producing DR is described below

a) **Melting**: conveyor sends the mixture of raw material to a high temperature natural gas-fired furnace for melting. The first section receives the raw material batch, where melting occurs, and uniformity is increased, including removal of bubbles. The final section is the forehearth, beneath which is located a series of four to seven bushings that, in the next step, are used to extrude the molten glass into fibres. Large furnaces have several channels, each with its own forehearth.

b) **Fiberization**: Glass fibre formation, or fiberization, involves a combination of extrusion and attenuation. In extrusion, the molten glass passes out of the forehearth through a bushing made of an erosion- resistant platinum/rhodium alloy with very fine orifices, from 200 to as many as 8,000. Bushing plates are heated electronically, and their temperature is precisely controlled to maintain a constant glass viscosity. Water jets cools the filaments as they exit the bushing at roughly 1204°C/ 2200°F. The bushings are expensive, and their nozzle design is critical to fiberization. Bushing also controls the fibre yield or yards of fibre per pound of glass.

c) **Coating**: In the final stage, a chemical coating, or size, is applied

d) **Direct Roving Windings**: individual fibres are pulled directly from the bushing & then winding them into roving package ready to ship after removing moisture from

Ovens.

e) **Assembled Roving Windings**: Fibre glass roving is prepared by collecting a bundle of strands into a single large strand which is wound into a stable, cylindrical package. This is called Multi end roving process. The process begins by placing a number of oven dried forming cakes into a creel. The ends are then gathered together under tension & collected on a precision roving winder that has constant Traverse to winding ratio & is called way wind.

11. The production process of producing CSM is described below:

a) **Chopping**: chopping of AR and spreading of the same evenly on a moving conveyor.

b) **Binding**: The binder either as powder or as emulsion (depending on the order received) is spread on the chopped stands and then the same is thereafter baked. The resultant mats are rolled and packed.

12. It is seen that major production process involved in producing glass fibre is in producing AR or DR. Once AR is produced, the production process involved in producing CSM is only incremental. ADD was earlier imposed on imports of these forms as one article, being produced and sold in different forms. The investment details provided by the petitioner also showed that more than 95% of the investment is involved up till the stage of AR.

13. The scope of the product under consideration in the present investigations is limited to exports of CSM by Asia Composite Materials (Thailand) Co, Thailand. The scope of the product under consideration covered under the present circumvention investigations does not include other forms of glass fibre, viz. AR, DR and CS.

14. Asia Composite Materials (Thailand) Co, Thailand stated that they are the sole producer of CSM in Thailand. The scope of the present investigations relates to all imports of CSM from Thailand, whether or not invoiced by Asia Composite Materials (Thailand) Co, Thailand.

D. <u>Domestic Industry/ Standing</u>

D.1 Views of the exporter/other interested parties are as follows:

15. The opposing interested parties have raised following issues with regard to domestic industry

i. The eligibility of petitioner as domestic industry has not been examined at the time of initiation. Petitioner has admitted that they are related to a party namely OCV (Thailand) Co., Ltd which sells the goods in Thailand. This relationship was not examined by the Authority at all at the time of initiation.

ii. It is also not clear whether the petitioner has imported the good themselves directly or through third parties. Authority should examine the eligibility of petitioner as domestic industry based on Rule 2 (b) and also as per its consistent practices.

iii. The petitioner has imported 25,517 MT of "Glass Fibre" during the POI. Further, one of the related company of M/s Goa Glass Fibre Ltd., namely M/s ONS Impex Traders Pvt. Ltd. had imported the subject goods from the subject exporter in Thailand. M/s Goa Glass Fibre Ltd. had supported the previous petition regarding the SSR investigation in 2015/16

D.2 Views of the domestic industry are as follows:

16. The domestic industry has made following submissions with regard to the domestic industry

i. The Petitioner has a related company in Thailand, namely, OCV (Thailand) Co. Ltd. However, OCV (Thailand) Co. Ltd is not a manufacturer of subject goods in Thailand. It only sells the subject goods in Thailand. The Company has not exported the product under consideration into India.

ii. The exporter has itself claimed that it is the sole producer of the product under consideration in Thailand and yet the exporter has made this claim. This clearly shows desperate situation with the exporter in impeding the present investigations.

iii. Rule 2 (b) of the AD Rules clearly states that for determining eligibility, the relationship with the "exporter" or "importers" is required to be seen. The related company has not exported the product under consideration to India.

D.3 Examination by Authority

17. The petition for anti-circumvention investigation and extension of existing ADD on imports of CSM has been filed by M/s Owens-Corning (India) Pvt. Ltd. Rule 26(1) reads as under.

"(1) Except as provided herein below, the designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the anti-dumping duty levied under section 9A of the Act, upon receipt of a written application by or on behalf of the domestic industry."

18. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under: -

"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".

19. It is not in dispute that production of petitioner constitutes a major proportion in the Indian production. The Thai exporter has however disputed eligibility of the petitioner to claim status of domestic industry within the meaning of Rule 2(b) on the grounds that the petitioner has a related company in Thailand named OCV (Thailand) Co. Ltd. Asia Composite has not even claimed that this company OCV Thailand is a producer of glass fibre or CSM in

Thailand or has exported CSM to India. In fact, Asia Composite Materials (Thailand) Co, Thailand has claimed that they are the sole producer of CSM in Thailand, the product under consideration of the present case. The Authority notes that the existence of relationship between the petitioner and some Thai entity becomes important and relevant only if such Thai company is a producer of the product under consideration of the present case and has exported the same to India. When there is not even a claim of production by such entity and exports to India, it is immaterial whether there is some related entity of the petitioner in Thailand.

20. Regarding import of "Glass Fibre" by the petitioner, the Authority notes that this matter was also examined in the final finding issued following the Sunset Review investigation. Therein, the Authority had concluded that *"...As regards imports by the petitioner company from third countries, the authority notes that these imports are from countries not under investigation. These imports are by the petitioner from their global affiliated producers and therefore under the Rules, authority is required to consider the resale price of the products in order to examine the effect of these imports on the domestic prices. Further, under Rule 2(b), imports of the products from subject countries alone are required to be considered. Imports from third countries are not relevant of the purpose of determining eligibility of the petitioner as a domestic industry."* Consequently, the standing of the petitioner as the domestic industry was accepted by the Authority.

21. The Authority notes that the petitioner is not related (either directly nor indirectly) to an exporter of CSM produced in Thailand or an importer of CSM produced in Thailand and imported into India. The Authority notes that the petitioner has not imported the product under investigation from China or Thailand during period of investigation. The applicant, M/s Owens-Corning (India) Pvt. Ltd., is a major producer of the product under consideration in India, commanding about 68% of Indian production and therefore its production constitutes a major proportion of the product under consideration in India within the meaning of Rule 26(1) read with Rule 2(b) of the AD Rules.

Annexure 2

Existence of Circumvention

Submissions by Interested Parties

22. Submissions made by the other interested parties in this regard are as follows:

i. Initiation is made in violation of Rule 25(3) of AD Rules and therefore is bad in law. Rule 3 of the law is unique and requires what the mandatorily needs to be proved to establish circumvention. It provides consideration of the remedial effect of anti-dumping in terms of the price and/or the quality of like products.

ii. Asia Composite Materials (Thailand) Co, Ltd is a producer cum exporter of Fiberglass Chopped Strand mat from Thailand.

iii. The company is producing and selling CSM like any other producer of Glass Fibre and is targeted by the applicant at this juncture as they feel that no dumping and consequent injury can be established against ACM on its exports to India.

iv. Land has been purchased and civil works to establish the furnace/plant is being taken place and ACM shall be an integrated producer very soon. Thus, ACM has all the credential of a producer of subject goods in Thailand and our exports cannot be put in the bracket of having circumvention effects.

v. The value addition carried out in ACM's production facility is significantly higher than thresholds set in the AD Rule. Even India in the past has conducted AD investigations wherein domestic industry imported many key raw materials.

vi. Importing raw material cannot be strait away interpreted as any model to circumvent duties etc. as alleged by the applicant.

vii. Even if there have been no duties on subject goods exported from China PR to India, still ACM would have come into force as a producer in Thailand during such times and the mere fact that ACM imports its raw materials from other countries including from the related producer in China PR cannot be seen as factor of any alleged circumvention.

viii. There’s no case of circumvention initiated by any Authorities across the world wherein circumvention is alleged since original imposition and anti-circumvention investigation is initiated much after Sunset review or so.

ix. The CSM offered by ACM has a value addition of more than 35% from a raw material stage to the finished product stage and contentions of the applicant to the contrary are only figments of their imagination.

x. The grounds of initiation make it clear that the applicant's concerns pertain to the exports to India made by ACM only and effectively the present Anti Circumvention investigation are only against the exports made by ACM from Thailand.

xi. In the initiation notification the subject line uses the term "originating in and exported from" apparently indicated the export of subject goods by ACM to India.

xii. Exports of subject goods made by ACM in all legality qualifies as originating in and exported from Thailand itself and any other terminology would amount to uncalled for insinuations, any such usage which prejudices our case may kindly be reconsidered.

xiii. The application lacks any material evidence to explain how the remedial effects of ADD were undermined. Information of sales to show how market share moved and data on price undercutting alone cannot be relied upon to conclusively opine that the remedial effects of ADD were undermined.

xiv. In fresh or in review cases only two parameters cannot be sole yardsticks of injury and examination of all parameters of injury. The AD was not imposed to increase sales volume and to ensure negative undercutting alone.

xv. The applicant ought to have provided complete injury information to establish whether remedial effect of AD duty has undermined. Injury cannot be cherry picked by the applicant. Same was followed in the investigation of imports of Indolinone. ln the past cases, the Authority conducted a full-fledged examination of injury and any reason to deviate from such practice is not clear.

xvi. No injury information is provided by the petitioner in the petition and the sales figure provided by them shows improvement.

xvii. Applicant has claimed that they continue to suffer injury on account of circumvention, no facts relating to injury has been provided to the Authority.

xviii. The finding dated 06.07.2016, which is part of POI in the present case, does not show any adverse impact on the performance of the domestic industry, but the alleged petition talks that imports have undermined the remedial effect of ADD.

xix. Positive price undercutting cannot be a sole ground of price injury. It basically means import price is lower than the NSR of the domestic industry. The petitioner has not proved how price undercutting is undermining the remedial effect of AD duties. The petitioner should have given information on profitability, price suppression/ depression.

xx. Shift in trade pattern needs to be seen in light of the actual volume trend of imports and in the present case imports of CSM from China PR and also Thailand has increased over the base year. The issue in the context of a circumvention case is not increase in imports per se but shift in import which is not evident in the present case.

xxi. The selection of POI is not correct as it is a year-old period, a financial year has gone by. The petitioner should have given more recent data.

xxii. The petitioner did not mention about circumvention in the recently concluded full-fledged sunset review investigation. In fact, it was recorded that imports from third country cannot be cause of injury.

xxiii. The Authority in SSR investigation did not even took cognizance of imports from Thailand. The petitioner has alleged circumvention right from the year 2012 but has filed petition after 7 years of imposition of original duty in 2012 and the MTR and SSR both were silent on this topic.

xxiv. ACM is an established producer of PUI in Thailand and is known for its goods. An investment decision in Thailand was taken based on the economic policies of Thailand and it was not to subvert any duties which could not have been a long term or prudent business model for ACM.

xxv. ACM sourced its raw materials from many producers of raw materials including related party in China PR as investment in roving production was found to be taking more resources initially when ACM was established in Thailand. However, the company remained much focused on its own production of roving in Thailand itself and substantial progresses have been made in establishing a plant to produce roving.

xxvi. As a short cut arrangement and to misuse the fact that ACM is related to a Chinese producer of PUC, an anti-circumvention petition has been brought on record.

Views of the Domestic Industry

23. Submissions made by the domestic industry in this regard are as follows

i. The anti-dumping duty was imposed by India on glass fibre including glass roving (AR, DR, CS, CSM).

ii. Sichuan Weibo New Material Group Co., Ltd (China) was attracting residual duty which was 40.91% as compared to individual duty of 7.46% in 2012 which was increased to 47% in the sunset review investigation.

iii. Asia Composite Materials (Thailand) Co., Ltd is the sole producer of glass fibre product under investigation, i.e., CSM in Thailand. It came into existence in 2012 i.e. after imposition of anti-dumping duty against China PR by India and Europe. The circumvented products started entering India in 2012-13.

iv. Asia Composite Materials (Thailand) Co., Ltd, a branch of Sichuan Weibo New Material Group Co., Ltd (China). The producer i.e., Asia Composite Materials (Thailand) Co., Ltd imports glass rovings from its parent company i.e., Sichuan Weibo New Material Group Co., Ltd, China and converts it into CSM and exports it to India.

v. The import volumes of circumvented product were not significant in the year 2012-13 and 2013-14 so it did not undermine the remedial effect of the anti-dumping duty to such an extent as it has undermined thereafter.

vi. The Chinese producer started exporting CSM not directly from China, but indirectly from Thailand, by sending AR to Thailand, so that it can obtain a Thai certificate of origin to avoid antidumping duty.

vii. The website of Asia Composite Materials (Thailand) Co., Ltd itself declared that they do not have full-fledged production facilities in Thailand. It also declares that the company is the only glass fiber chopped strand mat and woven roving manufacturer in Thailand.

viii. CSM is the only sub type of glass fibre which requires a two stage processing. Other sub-type of glass fibre attracting anti-dumping duty does not involve two stage processing.

ix. The manufacturing process from AR to CSM requires low manufacturing facilities. A minimal investment of approximately US$ 2 to 3 Million (i.e., less than INR 20 crores, as against Rs. 1000 crores required for full-fledged production facilities) is involved in setting up these manufacturing facilities.

x. Setting up a plant for manufacturing glass fibre involves approx. Rs. 1000 crore investment as compared Rs. 20 crore investments required for setting up CSM plant.

xi. It takes much lower time to set up CSM plant (4-6 months) as compared to 15 months for full manufacturing set up.

xii. The manufacturing facilities have been set up in Thailand in view of the FTA concessions that are available to the product under the FTA. The product under investigation attracts zero customs duties in India when imported from Thailand.

xiii. The exporter has set up a plant in Sino-Thai Rayong Industrial Park which is a Chinese overseas industrial site. The company enjoys several benefits like exemption from corporate income tax, exemption from import duties on imports of plant and machinery, raw material, export benefits, tax exemptions etc. under Investment Promotion Act.

xiv. Chinese company attracting residual duty established a production facility in Thailand for processing AR to make CSM and exporting CSM into India. Volume of exports of glass fibre from China to Thailand has increased.

xv. AR is being exported from China to Thailand. AR is being processed into CSM in Thailand. Both AR and CSM are within the scope of the product under consideration attracting ADD in case of imports from China. The responding exporter has already admitted this fact in its response to questionnaire.

xvi. Imports of CSM from Thailand into India have increased since imposition of anti-dumping duty.

xvii. Asia Composite Materials (Thailand) Co., Ltd is buying AR from its own affiliates from China. Since AR is subject to ADD in India, the value of AR for the purpose

of determination of value addition should be determined after adding the anti-dumping duty that is payable on imports of AR in India.

xviii. Imports of AR in India the Chinese exporter is attracting ADD at the rate of 47.15%. Had this AR been imported into India, it would have attracted ADD of 47.15%. Since this is the ADD payable on imports of AR in India, no value addition can be determined without adding this ADD.

xix. The price of AR is required to be considered on the basis of international price of AR. This is the price at which Korea is exporting to India.

xx. Cost of production of the Chinese producers in any case cannot be considered, considering that the Chinese producers are in a non-market economy country. the exporter has claimed the cost of production as the transfer price, in any case, since the cost of production cannot be adopted, this is additional reason for considering international price for AR.

xxi. The petitioner has considered the normal value of the original case, after appropriate adjustments and compared the same with the export price of product under consideration from Thailand. The circumvented imports from Thailand are at dumped prices.

xxii. The cost and price of the responding exporter should not be accepted for determination of normal value because a major raw material is being imported from its affiliate (parent) company in China and the parent company is not working under market economy condition.

xxiii. The law clearly states that the evidence of remedial effect of anti-dumping duty being undermined has to be seen in terms of price and/or quality. Therefore, the law mandates information, only with respect to price and quality and does not require information with regard to all 14 parameters as prescribed under Annexure II of the AD Rules.

xxiv. European Union considers parameters (a) Price underselling (b) Market share in demand (c) Market share in imports, while determining whether the circumvention practice has undermined the remedial effect of the anti-dumping duty or not.

xxv. Designated Authority in past have decided two investigations on circumvention, and in both the investigations they considered two parameters for undermining remedial effect viz. Market share and price undercutting.

xxvi. Since imposition of anti-dumping duty, the share of Thailand in total imports of CSM has increased whereas share of China in total imports of CSM has declined. Share of other countries have remained similar.

xxvii. There’s change in pattern of trade since the imposition of anti-dumping duty on glass fibre from China and the intention of the Chinese producer to route the CSM exports from Thailand to India by undertaking lower investment in Thailand

xxviii. Market share of the domestic industry and China has declined and that of Thailand has increased since the imposition of anti-dumping duty. The domestic industry is unable to even maintain its market share despite imposition of anti-dumping duty.

xxix. Imports consigned from Thailand are significantly undercutting the prices of the domestic industry in the market.

xxx. Due to circumvention of CSM from Thailand, the remedial effect of the anti-dumping duty imposed on glass fibre against China PR is undermined.

xxxi. Petitioner has alleged circumvention of anti-dumping duty by one Chinese producer through Thailand. Chinese company has reduced its export of CSM to India and has increased its export of CSM to Thailand.

xxxii. Since it is only one Chinese company who is resorting to circumvention, only their exports from China to India should be seen. Since the said information is either with the exporter or with the Designated Authority, the petitioner requests the Designated Authority to kindly consider the same and make a determination.

xxxiii. Share of China in total imports have declined from 85% to 37% whereas the share of Thailand has increased from 3% to 49%. This clearly shows change in patter of trade and diversion of imports from China and Thailand.

xxxiv. Scope of SSR and anti-circumvention investigations are completely different. The SSR concerned Chinese imports. The present investigations concern only Asia Composite's exports from Thailand.

xxxv. The opposing interested parties is trying to mislead the Authority by equating "Material Injury" and "remedial effect of anti-dumping duty is undermined". The other interested parties want to imply that the present POI fixed by Authority has no relevance and the POI for SSR still holds field, despite there is increase in imports from Thailand.

xxxvi. It is not required to give full injury information otherwise the framers of the law would have written the word material injury. The lawmakers have used the words undermining the remedial effect of AD duty.

xxxvii. A careful reading of the law will show that wherever the Designated Authority wished to examine injury, it has specifically mentioned that. In NSR or circumvention law there is no reference of Rule 11 i.e. determination of injury.

xxxviii. Imports of CSM from Thailand has steeply increased after the period of investigation of the sunset review investigation. The imports have increased 260% more in POI of the present case since the previous period of investigation.

Examination by Authority

24. The Authority has noted the aforesaid submissions and alleged circumvention activity under relevant Act/Rules i.e. Section 9A(1) of the Customs Tariff Act, 1975 and Rule 25 of the AD Rules which state as follows:

Section 9A(1A) of the Customs Tariff Act where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such antidumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be."

25. Rule 25 of AD Rules regarding "Circumvention of anti-dumping duty" reads:

(1) Where an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in such country, such assembly, finishing or completion shall be considered to circumvent the antidumping duty in force if, -

(a) the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of antidumping duty;
and
(b) the value consequent to assembly, finishing or completion operation is less than thirty-five percent of the cost of assembled, finished or complete article.

Explanation I. – 'Value' means the cost of assembled, complete or finished article less value of imported parts or components
Explanation II. - For the purposes of calculating the 'value', expenses on account of payments relating to intellectual property rights, royalty, technical know- how fees and consultancy charges, shall not be taken into account

(2) Where an article subject to anti-dumping duty is imported into India from country of origin or country of export notified for the levy of anti-dumping duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered to circumvent the anti-dumping duty in force if the alteration of the description or name or composition of the article subject to anti-dumping duty results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any.

(3) Where an article subject to anti-dumping duty is imported into India through exporters or producers or country not subject to anti-dumping duty, such exports shall be considered to circumvent the anti-dumping duty in force if the exporters or producers notified for the levy of anti-dumping duty change their trade practice, pattern of trade

or channels of sales of the article in order to have their products exported to India through exporters or producers or country not subject to anti-dumping duty.

Explanation. - For the purposes of this sub-rule, it shall be established that there has been a change in trade practice, pattern of trade or channels of sales if the following conditions are satisfied, namely: -
(a) absence of a justification, economic or otherwise, other than imposition of anti-dumping duty;
(b) evidence that the remedial effects of the anti-dumping duties are undermined in terms of the price and or the quality of like products.

26. It was contended by the petitioner that the Sichuan Weibo New Material Group Co., Ltd (China) is attracting residual duty and has established a production facility in Thailand in the name of Asia Composite Materials (Thailand) Co, Thailand for processing AR to make CSM and exporting CSM to India to circumvent the ADD. Further, volume of exports of glass fibre from China to Thailand has increased in recent period.

27. The Authority after due verification in the premises of both domestic industry and Asia Composite Materials (Thailand) Co, Thailand notes as follows:

A. Ownership

28. Asia Composite Materials (Thailand) Co., Ltd or ACM is a step down subsidiary of Sichuan Weibo New Material Group Co., Ltd (China) through one of its subsidiaries, Chengdu Sincerity Huatian Composite Materials Co Ltd., China PR. The information provided by ACM shows following are the shareholders of ACM, Thailand

Sl. No	Company	No of Share
1.	Chengdu Sincerity Huatian Composite Materials Co Ltd., China PR	***
2.	Sichuan Sincere & Long-term Complex Material Co Ltd, China PR	***
3.	Chengdu Ju Teng Materials Co. Ltd., China PR	***

29. All the shares of ACM are held only by these three Chinese companies. Sichuan Sincere & Long-term Complex Material Co Ltd, China PR is a subsidiary company of Chengdu Sincerity Huatian Composite Materials Co Ltd., China PR. Chengdu Sincerity Huatian Composite Materials Co Ltd., China PR is a subsidiary company of Sichuan Weibo New Material Group Co., Ltd. Sichuan Sincere & Long-term Complex Material Co Ltd, is the manufacturer of the subject goods in China. Thus, both the Thai and Chinese producers are subsidiaries of Sichuan Weibo New Material Group Co., Ltd (China).

30. The Authority also notes that Sichuan Weibo New Material Group Co., Ltd (China) did not cooperate with the Designated Authority either at the time of original investigations or at the time midterm review and sunset review and therefore is currently attracting residual duty @ 47.15% on its exports of product under consideration into India.

B. Business Activities of Asia Composite Material (ACM)

31. The Authority notes that the company is located in the Rayong Province of Thailand, near Amata City. The plant is located in an industrial zone that has been developed by the Chinese and houses mainly Chinese companies. The company gets several investments related benefits for investing in this area, which include *inter alia* low cost of land; zero import duty benefit for both capital goods and raw materials; full dividend repatriation; no restrictions on recruitment of the required manpower; etc.

32. In terms of plant and machinery, the company has established three lines for the production of CSM from AR. The manufacturing process constitutes chopping of AR and spreading of the same evenly on the moving conveyor. The binder either as powder or as emulsion (depending on the order received) is spread on the chopped strands and then the same is baked. The resultant mats are rolled, packed and exported.

33. The Authority further notes that the company is producing glass fibre CSM while importing AR from China PR. The company has imported around 90% of roving from its affiliate company in China and balance from other manufacturers in China. Binder required for production of CSM is either imported from Japan or locally purchased.

C. Production Facility of Asia Composite Material (Thailand) Co. Ltd (ACM)

34. During verification, it was noted that ACM does not have a plant for production of AR or DR or CS in Thailand. ACM claimed that they are now in the process of backward integration and are setting up their own furnace. At the time of on the spot investigations at the premises of ACM, the ACM informed that the company has already started work for setting up this plant and the same is expected to be completed by March 2019. ACM hopes to commence commercial production of AR, DR and CS in Thailand immediately thereafter. Till then, ACM intends to import AR from China, produce CSM in Thailand and export to various countries. On the spot verification at the premises of the petitioner also showed significant investment required for setting up glass fibre plant as compared to production facilities required only for production of CSM.

35. For the present, the manufacturing setup at Thailand appeared to be a continuation of its production line, whereby AR manufactured in China was simply sent to its own affiliate company in Thailand for the final conversion into CSM. It is underlined that the activity being undertaken in Thailand is nothing but an extension of production facilities in Thailand. Further, there is no disputing the fact that the AR produced in China and exported to Thailand for conversion into CSM and exports to India would have been subjected to ADD, had it been supplied to India as AR or CSM, directly.

36. The Authority, based on the information submitted by the ACM, observes that 93% of CSM is being exported and only 7% of CSM is being sold domestically. ACM is exporting most of the product under investigation. Further it is noted that there is only one domestic company, a trader, that is buying the CSM. It was not confirmed that this company is not

exporting the product but selling it further to the domestic users in Thailand. This clearly shows that ACM is an export oriented unit.

D. Form of Circumvention

37. The Authority notes that in the present case:

a. The Thai company, ACM, is a step down subsidiary of Sichuan Weibo New Material Group Co. China PR;

b. The Chinese principal is also a producer which is attracting anti-dumping duty in India;

c. CSM being exported from Thailand to India is being produced by importing AR from its affiliated group company in China PR into Thailand.

d. Both AR and CSM when exported directly from China PR are subject to the same level of anti-dumping duty in India.

e. The investment in Thailand is very small when compared to the level of investment required in a glass fibre plant.

Annexure 3

Change in Pattern of Trade and Dumping Margin

A. Change in Pattern of Trade

39. The Authority under Rule 25, examined whether there is change in pattern of trade and whether this change has stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of duty. Following table depicts the trade pattern.

Particulars	2013-14	2014-15	2015 - 16	2016-17
Imports of AR into Thailand from related company				
Roving – Weibo	***	***	***	***
Exports of CSM from Thailand				
to India	162	2,182	5,775	6,854

40. The Authority notes that volume of imports of roving into Thailand has increased after imposition of anti-dumping duty and simultaneously volume of exports of CSM from Thailand has increased. Further, the exports of CSM by ACM to India have increased while exports to third country and domestic sales have declined.

Particulars	2015	2016	POI
Export to India	***	***	***
Sales in the Domestic Market	***	***	***
Export to Other Countries	***	***	***
Total Sales of the Company	***	***	***
% of exports to India	***	***	***

41. It is seen that the majority of the exports of ACM is to India and the share of its sales to India is increasing on year on year basis.

42. The Authority also examined market share of China and Thailand in imports of CSM in India. With the imposition of anti-dumping duty, the market share of China has declined whereas that of Thailand has increased.

Market Share in imports of CSM				
	2013-14	2014-15	2015-16	2016-17
China	85%	51%	34%	37%
Thailand	3%	24%	41%	49%
Other countries	12%	26%	25%	14%

43. It is seen that there is a significant increase in imports of CSM from Thailand and decline in imports from China with increase in exports of Roving from China to Thailand.

B. Dumping Margin

B.1 Normal value of ACM

44. The Authority noted that the ACM does not have SAP based real time accounting system to enable accurate determination of cost of production. The accounting data/ transactions are manually compiled using commonly available accounting/ data software. The company is located in the Rayong Province of Thailand, near Amata City. The plant is in an industrial zone that has been developed by the Chinese and houses mainly Chinese companies. The Govt. of Thailand provides several investments related benefits to ACM for investing in Thailand, this *inter alia* includes income tax and import duty exemption/ benefits; dividend repatriation; land ownership rights; and freedom to recruit foreigners.

45. Based on the cost data submitted by the exporter and as verified by the Authority, the normal value has been calculated in the instant case by taking into account the fair market price of AR as obtained from the exporters records and allowing other costs of ACM as claimed and verified. On the cost of sales so arrived at, the average profit margin has been considered. Normal value for CSM has been determined accordingly and worked out as US $ 1.44 /Kg by the Authority.

B.2 Export Price

46. ACM has filed the questionnaire response, which shows that they have exported 7434 MT CSM. The company has reported price adjustment on account of freight and insurance and the same have been considered, after due verification in order to arrive at ex-factory export price. Accordingly, the weighted average export price has been determined as shown in dumping table.

B.3 Dumping margin

47. Based on the normal value calculated, the dumping margin established (see table below) is above the *de minimis level* laid down in the AD rules.

Particulars	UOM	
Normal Value	$/KG	***
Export price	$/KG	***
Dumping Margin	$/KG	***
Dumping Margin	%	***
Dumping Margin	Range %	0-10

Annexure 4

Undermining Remedial Effect of ADD Existing on PUC by Circumvention

A. Justification of Action

48. The Authority notes the commercial and economic advantages that have accrued due to the establishment of the Rayong plant in Thailand. That ACM has received a variety of investment related benefits from the Govt. of Thailand, which have been described in previously in this Statement, relating to its establishing the CSM plant in Rayong Thailand, is an important indicator to the reason behind this investment decision.

49. The Authority also notes the intent of ACM to expand its investment in this regard and set up a furnace to produce glass fibre in Thailand in close proximity to its existing CSM plant.

50. The Authority has also taken on record the evidence provided by the petitioner of a screen shot the website of the Thai company, which stated as follows:

> *"We can provide a good service to our domestic customers in Thailand and also serve our customers all over the world, particularly the areas where there need to add anti-dumping tax for CSM made in China."*

51. While the above statement has since been removed from the website, ACM during the course of investigation never refuted the above statement as evidence provided by petitioner.

B. Undermining Remedial Effect

52. The Authority has considered export data of ACM, Thailand for exports of CSM to India and compared the same with the selling price of the domestic industry. Summarized table is as follows. It is seen that the extent of price undercutting is quite significant.

Particulars	UOM	CSM
Import Volume	MT	6,854
CIF Value	Rs/KG	99.36
Landed Price	Rs/KG	99.36
NSR of domestic industry	Rs/KG	***
Price Undercutting	Rs/KG	***
Price Undercutting	%	***
Price Undercutting	Range	20-30%

53. The Authority also examined whether the imports of CSM have increased in significant volume, both in absolute terms and in relation to production and consumption of CSM in India. It is seen that the volume of CSM from Thailand increased significantly in absolute terms and in relation to total imports in India. It is also seen that whereas imports

from China have remained in similar region in absolute terms, volume of imports from related entity of ACM have declined

Particulars	**2013-14**	**2014-15**	**2015-16**	**2016-17**
Volume of imports of CSM (MT)				
China total	5,093	4,676	4,837	5,226
Thailand	162	2,182	5,775	6,854
Other Countries	740	2,385	3,500	1,911
Total Imports	5,996	9,243	14,112	13,991
Market Share in Import of CSM				
China	85%	51%	34%	37%
Thailand	3%	24%	41%	49%
Other countries	12%	26%	25%	14%

54. The exporter has claimed based on import data that:

i. The export price of Asia composite Materials (Thailand) Co., Ltd to India were at a price higher than the landed price of imports of subject goods from China PR after imposition of anti-dumping duty.

ii. The landed price from China PR with anti-dumping duty is effectively the price which is non injurious to the domestic industry. Imports from ACM at a price significantly higher than such price from China PR ought not to have caused any injury to the domestic industry or not have compromised the remedial effects AD duty put in place against China PR.

iii. Petitioners are a big importer of the subject goods from China PR and therefore their claims to be a domestic industry need to be subjected to scrutiny – no evidence on this claim has been submitted.

55. In response, the domestic industry has contended that:

i. With regard to the landed price of imports from China being lower than the landed price of imports from Thailand, the respondents have considered landed price of all types of glass fibre imports from China, not just CSM. Further transaction wise details of these imports as per DGCI&S would show from product description that there are significant imports are of B and C grade products. The landed price of imports from Thailand is materially below the landed price of imports from China as far as A grade material is concerned.

ii. Even when petitioner has been selling category B and C product in the market, the selling price (of the petitioner) is not as low as being reported in these transactions. This clearly appears a case of avoidance/ under-invoicing of various duties.

iii. The market share of China in total imports has declined from 85% to 37% whereas that of Thailand has increased from mere 3% to 49%. The question therefore is as to how the exporter is able to sell its products to India and increase its market share so significantly if the prices of Thailand are far higher than China, as claimed by the respondent.

56. The Authority has examined the import data and notes, based on the product description that the there is a variation in the grade of the CSM imported from China and Thailand respectively. The import data shows:

	China PR			Thailand		
Grade	**Value (Rs.)**	**Qty. (Kg.)**	**Rate (Rs./Kg)**	**Value (Rs.)**	**Qty. (Kg.)**	**Rate (Rs./Kg)**
CSM A Grade	8,22,82,100	8,37,283	98	61,58,57,226	60,73,793	101
CSM Other Grades	12,41,88,775	42,07,010	30	6,37,42,776	7,56,076	82
Total	20,64,70,875	50,44,293	41	67,96,00,002	68,29,869	100

57. It is noted that the 83% of the import from China PR, is of CSM of several inferior grades, thereby affecting the landed value as a whole.

58. One important determinant about undermining of the remedial measures is examination of the market shares of the domestic industry *vis-à-vis* imports. One of the intentions of the anti-dumping duty is to prevent any undue deterioration of the domestic market share of the petitioner. Regarding market shares, the Authority has examined the trends in market share in demand of CSM in India, in the table below:

Particulars	**2013-14**	**2014-15**	**2015-16**	**2016-17**
Volume of Imports of CSM (MT)				
China	5,093	4,676	4,837	5,226
Thailand	162	2,182	5,775	6,854
Other Countries	740	2,385	3,500	1,911
Domestic industry	***	***	***	***
Other Indian producers	2,283	2,423	2,145	2,145
Total demand	***	***	***	***
Market Share in Demand of CSM (%)				
China	***	***	***	***
Thailand	***	***	***	***
Other Countries	***	***	***	***
Domestic industry	***	***	***	***
Other Indian producers	***	***	***	***

59. It would be seen from the table above that the market share of domestic industry and China has declined whereas that of Thailand has increased.

60. The essential facts gathered by the Designated Authority during the course of the investigation, and as established by the Designated Authority on the basis of information received from various sources are hereby disclosed in the present disclosure statement, in order to enable the various interested parties to offer their comments on these facts gathered

by the Designated Authority. The Authority will however make the final determination on various aspects of the investigation on the basis of the comments received thereof from the interested parties to this disclosure statement to the extent they are relevant.

61. The Authority will conclude on the matter after receiving the comments of the interested parties on this disclosure statement.