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**Government of India**

MINISTRY OF COMMERCE & INDUSTRY

DEPARTMENT OF COMMERCE

(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

NEW DELHI, the 28<sup>th</sup> November 2007

**FINAL FINDINGS**

Subject: Anti-dumping investigations concerning imports of Flat base Steel Wheels originating in/exported from China PR.

**No.14/8/2005-DGAD:** - Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter 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, (hereinafter referred to as the Rules) thereof:

2. WHEREAS on the basis of an application filed by M/s. Kalyani Lemmerz Ltd, Pune and Wheels India Ltd, Chennai (herein after referred to as the Applicant) the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act and Rules made there under, issued a public notice dated 31<sup>st</sup> May 2006, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations into alleged dumping of flat base Steel Wheels (herein after referred to as subject product/goods), originating in or exported from China PR (herein after referred to as subject country).

3. The Authority notified its preliminary findings vide Notification dated 12<sup>th</sup> January 2007 and amendments dated 21<sup>st</sup> February 2007 and 12<sup>th</sup> March, 2007 recommending provisional anti-dumping duty on import of subject goods from the subject country and acting upon such recommendations of the Authority, the Department of Revenue, vide its notification No.51/2007-Customs dated 29<sup>th</sup> March, 2007, imposed provisional anti-dumping duty on the subject goods.

#### **A. PROCEDURE**

4. The procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the preliminary findings of the Authority.

- (i) The Designated Authority sent copies of preliminary findings dated 12<sup>th</sup> January 2007 to all known interested parties including, the responding exporter, importers and users of the subject goods, Embassy of the subject country in India, and the domestic industry and invited the comments of the interested parties on the preliminary findings. Parties to this investigation were requested to make their views known in writing within 40 days of the notification of the preliminary findings.
- (ii) The comments of the interested parties in response to the preliminary findings have been taken on record and the Authority has examined the issues raised therein in this disclosure statement.
- (iii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties.
- (iv) Optimum cost of production and cost to make and sell the subject goods in India was worked out based on the information furnished by the petitioner on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry.
- (v) The Authority held a public hearing on 14.02.2007 to provide an opportunity to all interested parties to present their view. Oral submissions made by the parties during the public hearing reproduced in writing have been taken on record for the purpose of this investigation.
- (vi) Confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated confidential. \*\*\* in this finding

represents information furnished by the domestic industry on confidential basis and so considered by the Authority under the Rules.

- (vii) The essential facts of the case were disclosed to all interested parties in the form of confidential and general disclosures on October 2007. Comments of the interested parties on the disclosure statement, to the extent they are relevant and supported by evidence, have been considered by the Authority.
- (viii) Investigation was carried out for the period starting from 1<sup>st</sup> January 2005 to 31<sup>st</sup> December 2005 (POI).
- (ix) For the sake of brevity, the comments of interested parties and issues raised prior to the preliminary findings and addressed therein have not been repeated in this finding.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

5. As recorded in the preliminary findings, the product involved in the current investigation is flat base steel wheels of size 16" to 20" nominal diameter used in tubed tyre applications in commercial vehicles. A wheel is an assembly of rim and disc with a demountable ring which is mounted on the axles of vehicles and fitted with tyres to enable vehicle movement. Commercial vehicles classified as light, medium and heavy vehicles comprise of buses, lorries including trucks, trailers and tempos. Wheels are defined under heading 8708.70 in Chapter 87 of the Customs Tariff Act and ITC HS classification. The Customs classification, however, is indicative only and is in no way binding on the scope of the present investigation. There is no issue raised by any interested party in this regard.

6. There is no difference in the subject goods produced by the domestic industry and the subject product imported from the subject country. The product is being directly imported by the consumers, who use the domestic and imported product interchangeably. The two are technically and commercially substitutable. The products produced by the domestic industry and imported from the subject country are identical in all essential characteristics and therefore, are like articles within the meaning of the term under the Rules. No issue has been raised by any interested party in this regard.

## **C. STANDING OF THE DOMESTIC INDUSTRY**

7. The application has been jointly filed by M/s. Kalyani Lemmerz Ltd. and Wheels India Ltd. The applicants are the only two domestic producers of the subject goods and account for 100% of domestic production. The petitioners, therefore, satisfy the standing to file the present petition and constitute

domestic industry within the meaning of the Rules. No interested party has raised any issue in this respect.

## **D. ISSUES RAISED BY INTERESTED PARTIES**

### **D.1 Confidentiality**

8. In addition to comments relating to various aspects of the case, both the domestic industry and the participating exporter from China PR have raised the issue of excessive confidentiality claimed by the other party. The domestic industry has argued that (a) the exporter has made a lot of submissions without simultaneously providing a non-confidential version; (b) the exporter has not disclosed a lot of information nor given any reason for claiming confidentiality (c) neither in law nor in fact can the business licence of a company be claimed confidential as the exporter had done and (d) given the manner of exporter response, they should be allowed to comment on the information provided to the Authority to rule out the possibility of the exporter filing incorrect information.. The exporter, however, has argued that the domestic industry has not provided a proper non-confidential version of its cost of production and other details or of submissions made subsequent to the initial application.

9. The Authority noted the degree and extent of cooperation and information submitted by the participating exporter and that non-confidentiality issues have been subsequently addressed by filing non-confidential versions of submissions made. The submissions filed by the exporter have been accepted though certain claims made have not been accepted, but the non-acceptance of certain claims or rejection of certain information by the Authority does not render the exporter non-cooperative. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties' along with non-confidential summary thereof, has been treated confidential.

### **D.2 On inputs and related aspects**

### **a) Prices of Steel**

10. In its post-preliminary findings comments, the domestic industry has charged that Chinese steel prices were lower than international prices and as the exporter had conceded the advantage of a lower price, market economy status could not be granted as prices of major inputs did not substantially reflect market values. The exporter has refuted this submission, stating that the law did not provide that prices prevailing in the exporting country should be higher than the international prices and the former should be considered irrespective of whether they were in line with international prices.

### **b) Subsidies on Steel**

11. The domestic industry has claimed that the Chinese Government provided support to the steel industry in the form of grants of cash and land, transfer of ownership rights on non-commercial terms, equity-conversion of and waiver of debt, inaction on non-performing loans, grant of preferential loans, directed credit and tax incentives including exemptions, targeted infra-structure development, manipulation of raw material prices and value of the Chinese renminbi (RMB), subsidies on inputs like coal, metallurgical coke, electricity, etc. Therefore, steel prices in China were not the result of any natural advantage enjoyed by that country but of ad-hoc interference in the industry by the Govt, to make steel cheaper. Such ad-hoc systems of subsidies that were not sector/industry/ product /region-specific and lacked well laid-down objective eligibility criteria typified State interference and did not lend themselves to countervailing duty investigations. Economic decisions of Chinese firms were, thus, not made in response to market signals and were with significant state interference. Besides, the United States has reportedly sought WTO ruling against China's steel subsidies.

12. The exporter has rejected these contentions, stating that the submissions of the domestic industry lacked merit, as they had not provided evidence about the alleged subsidies to the steel industry. Further, Chinese electricity prices were comparable to prices prevailing in a number of market economy countries. Ad-hoc subsidies, by nature, would be specific to industries/enterprises and have restricted availability, so that they were counter-vailable. Besides, subsidies did not make an economy non-market, as all countries grant them. The domestic industry could file a separate petition seeking levy of countervailing duties depending upon the subsidies.

### **D.3 Contradictory responses made by the exporter**

**a) On production process**

13. The domestic industry has claimed that the exporter has created a lot of confusion about the production process as below

Issue	Contradictory claims
Production process employed	<ul style="list-style-type: none"><li data-bbox="415 848 1325 884">➤ The product concerned is assembly of disc, rim and ring.</li><li data-bbox="415 915 1325 989">➤ The materials for production of disc is steel coin, for rim is steel of rim and for ring is steel of ring</li><li data-bbox="415 1020 1325 1056">➤ Raw materials required are steel coil, steel of ring and steel of rim</li></ul>

Initially, the manufacturing process was stated to be an assembly of disc, rim and ring, as established by statement of cost of production, which showed that 93% of the cost was on account of the raw material, steel, which could only be the case if the production process was an assembly line operation. Besides, the company had earlier claimed that the material of production of disc was steel coin but later claimed that the raw material used was HR coil. In addition, though the exporter had claimed earlier that it was purchasing all the inputs, they subsequently maintained that coin and coil were the raw materials. The domestic industry has held that coin and coil were two different products, coin being an intermediate stage in disc production. In response, the exporter has stated that due to certain translation errors, as clarified to the Authority. inputs have been denoted as steel **of** coin, rim and ring whereas it should have been steel **for** coin, rim and ring. In any case, they had provided a detailed production process chart that expressly shows that coin, rim and rings are manufactured by them and not bought out.

**b) On wastage**

14. The domestic industry states that the exporter has charged the domestic industry with higher wastage, but in truth, the exporter has not provided actual information on steel consumed and has under-stated consumption by resorting to apportionment of cost between the subject product and other products on product weight basis. Initially, the exporter had stated that they did not prepare standard cost reviews, but later they reported wastage which could not flow from the company's system and was, therefore, unreliable. The domestic industry has alleged that wastage from the stage of steel coil differed entirely from the stage of coil production, being lower. Besides, the company's investment plans testified that there had been no effort to add the press required for coin forming. Hence, the company was not undertaking production from the stage of steel coil, but starting with steel coin, which would be costlier to account for the wastage and the conversion costs involved in its production.

**c) On affiliated companies**

15. The domestic industry has highlighted contradictions made by the exporter as below and

Issue	Contradictory claims
Related companies	<ul style="list-style-type: none"> <li>➤ The company is the parent company of the group</li> <li>➤ Pl. see attachment 2, the list of all companies in the group</li> <li>➤ The company is not under common control of any other entity</li> <li>➤ The company has a number of related companies/ subsidiaries, some involved in production/ sale of the product under consideration.</li> </ul>

has stated that the exporter's response clearly showed the existence of a number of affiliated companies, some involved in the production and sale of the subject product. All the related companies were required to file the questionnaire response. The exporter has argued that on the one hand, the domestic industry claimed that the subject goods were not available off-the-shelf and on the other, that related companies should file the questionnaire response, when only one company has developed the product to meet the Indian importer's specifications, production and quality control requirements. Hence, the question of supplying material produced in other companies, even if affiliated, did not arise. Further, the companies were located very distant.

**D.4 Process of Transformation**

16. The domestic industry has alleged that the company’s conversion from collective ownership to private was not transparent in that no settlement took place between the three owners at the time of conversion, that the exporter had not disclosed that the company was not privately owned until recently. The name “Zhangzhou Zhengxing Wheel Factory” indicated that it was a wholly state-owned enterprise. A company held by three persons could not be collectively owned and the response of the exporter could not be relied upon. Besides, there was the issue of contradictions on the legal identity of the company as follows:

Issue	Contradictory claims
Legal identity of the company	<ul style="list-style-type: none"> <li>➤ The company has all along been owned by 3/5 persons</li> <li>➤ the company was “collectively owned” earlier and is a private legal entity now</li> </ul>

The exporter has denied suppression of any information about ownership.

#### **D.5 Capacity expansion**

17. The domestic industry has claimed to have expanded their capacity for wheel production including for the subject product, based on an earlier indication by Tata Motors Ltd (hereinafter referred to as TML), which importing company, however, has resorted to dumping threatening idling of capacities set up. TML has refuted this, stating that the size of orders placed with the domestic producers had never been lower than the indicative quantities discussed with them and hence, the statement was factually incorrect.

### **E. DETERMINATION OF DUMPING AND DUMPING MARGINS**

#### **E.1 Market Economy Treatment (MET)**



18. The Authority, noted in its preliminary findings that in the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by WTO members such as European Union, the United States of America and India. Therefore, in terms of paragraph 8 (2) of Annexure 1 of the Anti Dumping (AD) Rules, China PR was treated as a non-market economy country for the purpose of provisional assessment of the normal value.

19. Paragraph 8, Annexure I to the Rules as amended provides that the presumption of non-market economy against a country can be rebutted by individual exporters for individual treatment if they provide information and sufficient evidence, on the basis of the criteria specified in paragraph 8(3) and prove the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China were asked to furnish necessary information/sufficient evidence as per paragraph 8(3) in response to the MET questionnaire to enable the Authority to consider the following criteria as to whether:-

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

20. Only one manufacturer of the subject goods in China i.e., M/s Zhengxing Group Wheels Company Ltd (ZGWCL) filed their questionnaire response and Market Economy Questionnaire response claiming market economy status and individual treatment.

## **E.2 Views of the interested parties on MET**

21. The domestic industry has argued that rebuttal of the presumption that China PR was a non-market economy country and claiming market economy status (MES) by establishing that individual producer/exporter(s) satisfy the various criteria laid down under the Rules should be on the basis of **“evidence and information”**, not mere bald statements. The onus that the company deserved MES rested solely on the exporter. Besides, as per the Accession treaty signed by China before the WTO, only the industry as a whole could claim MES, not individual firms. Even the present legal provisions implied that a claim of MES could be considered only if it was made by producers who were representative of the industry. Hence, MES treatment could not be granted to the responding Chinese producer. All information relevant and necessary to establish that the exporter was operating under market economy environment as below had to be provided.

22. **Legal form of company:** The domestic industry has argued that the exporter has stated that the company was held by three persons all along and was sometime “collectively owned”. The exporter has to establish the interplay of market forces and lack of/ insignificant state interference in their economic decisions. Insufficient and misleading information has been provided about past ownership and how a collectively owned enterprise became a private entity. In the absence of proper disclosure, it cannot be concluded that State-owned shares have been sold freely at market price during the process of transformation. Assets valuation report was only a starting document in the process. The appropriateness of the process of transformation itself had to be examined, whether the company was made available to any interested party or it was decided to hand over ownership to specified individuals and then valuations effected. Such a valuation would not be reliable unless it had been offered in the market.

23. The domestic industry has further stated that the transformation of the company from very small and with a very low capital to one of the largest wheels producers in China over 10 years as well as the large investments of over RMB 110 million made in subsidiaries when possessed of income of less than RMB 10 million was evidence of Govt. support. Besides, the capital employed was enhanced to RMB 90 million, 85% contributed by one person alone, which considering profits in 2004, represented 53 years of profits. Therefore, the source of these funds must be investigated.

24. The exporter has denied the charge of suppressing information. The Authority had been informed of the company having been originally sponsored by the Association but invested by three private individuals. At the time of the company’s incorporation, the promoters sought the Association’s sponsorship, feeling that a collective form of organization was socially more acceptable to labourers and others. But as the Association was not investing funds, an agreement on funds to be invested by the promoters and their role was entered into with the Association. The investors brought in substantial additional capital and expanded capacity after it became private. The capital and asset base of the

company before transformation were insignificant, as seen from the financial statements at the time of conversion and the asset valuation reports. Even if they had benefited under the erstwhile status, the carry-over effects would be negligible considering the current capital and assets base of the company. Further, the WTO law did not require that a transformation from state ownership should be made only by offering it to the public at large and not to specified individuals. In any case, the promoters held the company right from the beginning and only their association with the sponsor was cut off. As regards source of funds, the Authority could examine the same to the extent necessary.

25. **Shareholding beyond 5%** - The domestic industry has demanded that exporter should provide information on companies where they directly/ indirectly held more than 5% shareholding, shareholders with 5 % or more of the company's outstanding voting stock and disclose whether the company was under common control of or controlled another legal entity as well as of affiliation with another company with the potential to manufacture the subject goods. Further, that State interference was not restricted to the "fact of actual interference by the State", but also if the State was legally or operationally "in a position to exercise restraint or direction over the company". The exporter had made contradictory statements by admitting on the one hand, having a number of subsidiaries and on the other, that the company was under no common control with another entity.

26. The exporter has denied any contradictions in their response. Zhengxing was the parent/holding company of the group and they had provided a list of and information on all companies in the group. As the parent company, Zhengxing was not under the control of any other company, but controlled other companies in the group. The criterion for defining affiliated companies under the customs law had no application in anti-dumping.

27. **Identity of shareholders** – The domestic industry has held that information on each shareholder, viz., individual/ company, nationality, legal, operational and organizational structure, ownership pattern and shareholders who made the company collectively owned, etc., was vital. The exporter has claimed that the identity of shareholders had already been provided.

28. **Articles of Association (AOA)**: The domestic industry has charged that the exporter has not made it available, which violated the trade notice with regard to non confidential version. The exporter has claimed that the Articles of Association was not a public document and was confidential, not being susceptible of summarization.

29. **Applicable Chinese laws** – The domestic industry has held that there was no information on these laws in the questionnaire response or that the exporter has followed the laws, despite a request in the petition itself for such information. The exporter has stated that they had already provided the information. The objective of examining the laws was to assess if they provided a reasonable degree of operational freedom, continuity and certainty to enterprises in China without undue governmental interference and an examination if the exporter has complied with the law was unwarranted. Also, the exporter's questionnaire did not seek information about provincial laws; of which none related to areas concerned with company formation and administration relevant for examination in an anti-dumping investigation.

30. **Raw materials and other inputs** - The domestic industry has stated that the exporter has to demonstrate that input prices paid reflect fair market values, as prevailing in the international market and disclose if there was freedom to source inputs (without interference) in response to the market, supplier identity, their legal & operational status, the source of and rate paid for power and details of the power companies. The exporter has countered this demand stating that the contention that 'in response to market signals' had to be considered as the prices prevailing in the international market and not in China was contrary to the express text, that the identity of its raw material suppliers had already been made known, that the actual price of power paid was not lower than those prevailing in many market economy countries and finally that requirement of details of the power companies was uncalled for.

31. **Industrial property rights and legal requirements**- The domestic industry has said that the exporter must indicate product-related contractual links of any kind with other companies/ authorities/ governments on R&D, production, licensing, agreements etc, authorizations required for domestic production and sale, exports, terms, conditions and obligations. The exporter has denied that any authorization was required from any governmental authority for producing/ selling/ exporting the product and has stated that all decisions were made without any State interference.

32. **Bankruptcy & Property Laws, on distribution of profits, repatriation of capital invested, labour policies**: On the domestic industry's demand for information on all these, the exporter has stated that they have already provided the relevant information.

33. The domestic industry has stated that restrictions on production, domestic & export sales, freedom in setting prices which are not State-influenced or set by State-owned/controlled enterprises should be indicated, supported with a complete list of all Chinese steel wheel producers and details of

ownership, capacity, production, domestic and export sales. The exporter has stated that details of other producers to establish State interference in price setting was an impossible demand, as no individual exporter had information about all the other producers in his country. The domestic industry has further argued that OEM customers would demand low prices and the prices of all suppliers to them would be in the same band, so that the supplier would not be able to set prices on its own. This statement has been dismissed by the exporter as lacking merit since when a supplier met the price demands of its customers, it was in response to market signals, which action could not be treated as non-market and prices of different suppliers to an OEM or prices of the same product by one supplier to different OEMs and actions of government and non-government controlled OEMs may vary. Just because big volume customers had a bargaining power in price setting, it could not be held that supplier prices were not reflective of market conditions, as precisely for this reason, prices should be treated as such.

34. **Accounts information-** The domestic industry has demanded that the exporter should provide copies of financial statements, disclose if they were audited and if statutory books of accounts were maintained., in line with GAAP and IAS, accounting rules followed, valuation of assets and if reflected in books of accounts, outstanding loans, their special terms & conditions, source of investments: whether capital additions/ loans, banks' financing policies, loan applications made, terms of and actual repayments. The exporter has stated that they had furnished complete details of their annual audited accounts as per China's GAAP and of investments. The mere fact of huge investments having been made in recent years did not imply govt support and hence, ruled out State interference.

35. The domestic industry has also claimed that Chinese GAAP differed from the international GAAP (IAS), and information required to be disclosed under IAS were not required under Chinese GAAP. Even then, annual reports of Chinese companies did not fully comply with their GAAP. The exporter has claimed that their annual reports fully complied with Chinese GAAP and that the domestic industry has not shown where the difference between the two accounting standards lay.

36. **Foreign Exchange:-** The domestic industry has asked whether the exporter obtained exchange rate as per prevailing market rates in China; regulations impacting the business, to which the exporter has responded that they had already provided information about the exchange rate system followed in China which is primarily market driven. China was a signatory to Article VIII of IMF charter and did not undertake any administrative setting up of exchange rates.

37. The domestic industry has stated that even if one condition was not satisfied, the exporter cannot be granted MES, to which the exporter has claimed that they have provided adequate information and evidence to rebut the presumption of NME.

38. In their comments post-preliminary findings, the exporter has claimed that the Authority had rejected their market economy claim on the ground that raw material prices were significantly lower than the prevailing market rates in China and the international market, and the exporter had so far not established that prices of major inputs substantially reflected market values. In this context, there was no evidence on record which market rate in China and in international markets was considered. Steel had been procured from seven domestic suppliers during the POI, one being state-owned and all details of quantity and value of purchases made had been provided. The actual prices reported reflected the correct market prices prevailing in China PR during POI. Besides, prices labelled as 'international prices' were designated as FOB or CIF and by definition would be higher than the domestic selling price, so that for comparison, suitable adjustments to the international prices were required, which had not been done. Therefore, the determination that their procurement prices were lower than international prices was without any basis.

39. The domestic industry, on the other hand, has claimed that the Authority's preliminary findings were fully justified as the exporter had provided no evidence to establish that the prices of major inputs substantially reflected market values, so that a vital condition for MES was not satisfied. Though the company had purchased steel from a number of suppliers, mostly private, it did not imply that the supplier prices reflected market values. Barring their own purchase prices, there was no evidence provided. Besides, the Authority had information on domestic prices paid by producers of steel wheels in a number of countries and in China, to state steel prices paid by the exporter are substantially lower compared with the price in China.

40. The domestic industry has further submitted that steel prices had increased in the post-POI by over \$ 60 PMT but the exporter still maintained the same price levels for the subject product, despite the raw material constituting a very significant proportion of total cost, implying operations under non-market economy conditions. Producers in a market economy country would pass on cost increases in the form of higher product prices. The exporter has dismissed these submissions as unsubstantiated and meaningless.

### **E.3 Examination by the Authority**

41. The Authority has noted the arguments of the interested parties. The questionnaire response and Market Economy Response of the Company were examined and an on-spot investigation and verification was carried out in the premises of the exporter.

### E.3.1 Salient features emerging from the exporter verification

42. Zhangzhou Xiangcheng Xiaoxi Automobile Wheel Factory was registered on \*\*\* as “collective enterprise” supervised by Economic United Association of \*\*\* having registered capital of RMB of \*\*\* which was increased to RMB \*\*\* on \*\*\*. On \*\*\*, it became a sole proprietorship, having registered capital of RMB \*\*\*. The Association organized an evaluation and auditing of all assets of the enterprise and the profits were paid to the Association and the principal invested by the investors was repaid to them. The restructured enterprise was solely owned by \*\*\*, one of the original investors. On \*\*\*, Zhangzhou Xiangcheng Zhengxing Automobile Wheel Factory was converted into a joint stock cooperative, having registered capital of RMB \*\*\*. As per business license of \*\*\*, it was registered as “limited liability company” having registered capital of RMB \*\*\*, which was increased from time to time and became RMB \*\*\* during \*\*\*.

43. On being asked why a private individual had to start the company as a collective form of enterprise, the exporter attributed this to the fact that the private individuals did not have land use rights and the investors had to go to the Association to get these. The rights, which were with another company, were transferred to the exporter through an agreement in \*\*\* for a total payment of \*\*\* RMB paid in instalments from \*\*\* to \*\*\*. The Authority noted, however, that the exporter had claimed that a collective form of organization was socially more acceptable to labourers and others.

44. The exporter was asked why in the business licence of \*\*\*, the enterprise was depicted as Zhangzhou Xiangcheng Xiaoxi Automobile Wheel Factory, but in the fund raise agreement of \*\*\* the word “Xiaoxi” was missing. The response was that Zhangzhou and Xiangcheng represented names of geographical locations in China, and the investors had planned to use these names, but at the time of registration, Xiaoxi was included to distinguish it from others likely to be set up in the same location, an inclusion that was itself indicative of private ownership, as it would not have been required of a state-owned enterprise. Xiaoxi was replaced by Zhengxing in \*\*\*.

45. The verification showed that as per the asset evaluation report of \*\*\*, there was a huge revaluation from \*\*\* RMB to \*\*\* RMB when the enterprise was restructured from collectively owned to sole proprietorship through (a) an unexplained re-valuation of inventory by RMB \*\*\*. (b) increase in quantity of wheels, without clarifying if these were the company’s own or purchased from others. (c) revaluation of building at RMB \*\*\*, though, as per the books of accounts, there was none. (d) unexplained increase in accounts payable of RMB \*\*\*. The exporter held that some part of the inventory and buildings had not been accounted for prior to revaluation, which admission itself raised

doubts on the reliability of the audited accounts. Further, that the increase in net assets after revaluation was only RMB \*\*\*, the rest being the investment by \*\*\* from personal sources. It was found that the total asset value went up by RMB \*\*\*, funded through creditors to the extent of RMB \*\*\*. Besides, the details of financing of the capital base of the sole proprietorship by \*\*\* were not divulged during the verification.

46. The capital base was reduced to RMB \*\*\* in less than a month on conversion from sole proprietorship to a joint stock cooperative and then enhanced to RMB \*\*\* in \*\*\* on further restructuring to a limited liability company. The exporter has denied any special reason why the sole proprietorship was converted in to a limited liability company in two stages, instead of directly, stating that the sole proprietor had the freedom to choose the form of organisation. The enhanced capital base of the limited liability company was contributed in kind of RMB \*\*\* and in cash of RMB \*\*\* (as per the capital verification report of \*\*\*). In a short span of 4 months, as per the capital verification report of \*\*\*, there was an increase in registered capital to RMB \*\*\*, contributed as RMB \*\*\* in cash and RMB \*\*\* in assets. In Jan 2005, \*\*\* contributed physical assets valuing RMB \*\*\*, raising the registered capital of the company to \*\*\*.

47. Further, as per capital verification report of \*\*\*, in \*\*\*, \*\*\* had consigned \*\*\* school to pay RMB \*\*\* into the company's bank account and later paid RMB \*\*\*, thus enhancing the capital contribution to RMB \*\*\*, including assets valued at RMB \*\*\*. The reason for transferring the money through the school was held to be that borrowings from companies could not be directly transferred to the individual private accounts due to limitation on cash withdrawal. Besides, \*\*\* owned the school, too.

48. During the verification, the source of funds from which \*\*\* drew money for investment could not be verified. Subsequently it was said that loans totalling RMB \*\*\* had been taken from \*\*\* to \*\*\*, at \*\*\* interest rates, repayable over \*\*\* years, which transactions did not appear to be of a commercial nature, since there was no annual repayment schedule for the loans in the agreements submitted to the Authority. Instead, there were only fixed dates of repayment.

49. The producer/exporter claimed that there were no controls on export of the subject goods, on production or sale of the subject goods in the domestic market or price controls on domestic or export sales or any export quotas. The raw material, steel, was subject to the system of 'designated trading' whereby only designated enterprises were permitted to import or export steel, but this system was abolished just prior to the POI, as seen from the public notice of 8<sup>th</sup> December, 2004 issued by China's Ministry of Commerce. In addition, the company had stated that they procured local inputs through spot



contracts, and enjoyed 17% VAT return on export sales. Profits from exports were distributed among shareholders after the obligatory statutory and discretionary requirements were met.

50. During the plant visit, the production process for the manufacture of the subject product was seen. For the manufacture of steel coils, HR coils were used and from end 2004, steel coils were punched using an asymmetric multiple-punching process, for which, the company itself designed and developed a new shearing machine. For the manufacture of steel rim, the company purchased steel profiles of varying thickness at different points for conversion into rims and slotted angles for manufacturing rings. Finally, the steel disc, rim and ring were welded / assembled together to make the wheel. A cross section diagram of the rim profile and engineering drawings of disc, rim and ring were produced. Consequently, consumption norms and wastage were held to be lower.

51. The company was asked why there was no fund outflow towards repayment of loans of one year duration in the cash flow statement, to which they replied that they applied for extensions with the bank for loans due within the year. Thereafter, the company was requested to provide details of credit policy and applications for grant of short term loans and on their deployment. Though these were not furnished during the verification, they were made available subsequently.

52. During verification, the reasons for the exponential growth in current liabilities of the company since 2003, and particularly during the POI, could not be explained. The exporter held the growth to be commensurate with the growth in the volume of business and that the current ratio had reduced during 2005 compared to the previous year and all their activities were fully disclosed in the financial statements.

53. Details on \*\*\* of the notes payable to and \*\*\* of current assets receivable from a subsidiary in \*\*\*, could not be furnished. The exporter stated that in the annual accounts, by error, notes payable to the subsidiary had been shown as for purchase of goods, but the explanation did not tally with the audited annual accounts.

54. The company could not furnish supporting evidence during the verification that the actual steel price paid by them or prevailing in China were reflective of international prices, a requirement that was very critical for grant of MET. Later, details of the international steel price from UN-COMTRADE were made available to prove that Chinese steel price was fairly close to the international price. These prices pertained to flat rolled products based on the data of a single country and ranged from \$0.378/ kg to 0.677 /kg, which rendered them unacceptable.

55. In view of the foregoing, the Authority conclude that the company costs and prices are significantly distorted due to carry-over effects from the erstwhile non-market economy system and therefore, do not qualify for consideration for the purpose of determination of normal value of this company. Accordingly, the Authority proceeds to determine the normal value for this exporter in terms of para 7 of annexure I to the Rules.

### **E.3.2 Consideration of a surrogate market economy country**

56. Para 7 of Annex 1 to the Rules provides that In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, "keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time for 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.

57. In the initiation notification, the interested parties were intimated that the domestic industry had suggested that in view of non-market economy situation in China, Germany should be considered as the appropriate market economy third country for the purpose of determination of normal value and evidence on price of the subject goods therein during the period of investigation had been furnished. Alternatively, the domestic industry had determined normal value as the price payable in India, considering the cost of production in India, duly adjusted to include selling, general and administrative expenses and reasonable profit.

58. TML had opposed the choice of Germany as an appropriate market economy country at the outset on the ground that it violates the statutory principle for selection of such a third country enjoined in para 7 of Annexure 1 of the Rules. TML also opposed the alternative suggestion of of using the cost of production in India for the like product, stating that para 7 provided for basing normal value on the price actually paid or payable in India for the like product with due adjustments for a reasonable profit

margin. No other interested party submitted any comments or names of the producers/exporters in analogue countries willing to submit the data to the Authority.

59. The domestic industry then proposed Turkey as an alternative market economy country to Germany citing comparability to the Chinese product, willingness of the Turkish producer to co-operate and the consideration of Turkey as a surrogate country for China by the European Commission in several investigations. However, the exporter held that the comparison would be inappropriate, given the insignificant domestic sales in Turkey, the lack of customization of the Turkish product to the requirements of the Indian importer, the inadequate skeletal data provided, the relationship with the domestic industry and the likelihood of selective data distorting results.

60. Taking due note of all arguments by the interested parties and keeping in view the differential levels of economic development and the level of development of the subject product, the Authority rejected the choice of Turkey as a surrogate market economy country and proceeds to construct normal value on the basis of cost of production in India.

### **E.3.3 Construction of Normal Value**

61. In formulating the preliminary findings in the case, the Authority had considered it appropriate to use wheel size and weight as essential product parameters for the purpose of comparison between the normal value and export price, as these parameters had been identified by both the domestic industry and the exporter. Accordingly, the normal value had been constructed taking into account the cost of production in India, duly adjusted to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit.

#### **E.3.3.1 Views of the interested parties**

62. In the post-preliminary submissions, the exporter has contended that this construction was incorrect as the Authority has used the consumption norms of the Indian domestic industry to arrive at the raw material costs, though they had submitted details of their actual consumption for different sizes of wheels exported to India, which should have used. The actual quantity of raw materials consumed depended upon the production process and efficiency of the manufacturer and the consumption by the domestic industry was significantly higher than the exporter's. Besides, the details

of international prices and profit margin adopted in determining the normal value should not be kept under wraps

63. The domestic industry has justified the findings of the Authority, stating that it had not been established that the consumption norms of the exporter had been correctly worked out, as the exporter had made several contradictory claims and even the basic raw material has not been correctly identified, so that the consumption norms claimed could not be admitted. Besides, variation in consumption norms can at best arise out of the production process, not on efficiency. They claimed that the domestic industry's consumption norms were realistic, but those of the exporter were understated and vital information had been suppressed. Further, estimated conversion costs for the production of the subject product could not be lower than US \$ 300 PMT, excluding raw material costs.

64. The exporter had provided details of the international steel price from UN-COMTRADE to prove that Chinese steel price was fairly close to the international price, pertaining to flat rolled products based on the data of a single country, which ranged from \$0.378/ kg to 0.677 /kg. The Authority had rejected this data as it pertained to only one country's export trade data and the Authority had relied on an alternative data base. In their post-disclosure comments, the domestic industry supported the Authority's rejection of the UN-COMTRADE data on the grounds of the nature of the product and significant variation in steel prices with thickness and grade. The exporter, however, disagreed with the Authority's rejection of the aforesaid data base. The position has been re-examined and the Authority re-visited the UN-COMTRADE data base and collected export data pertaining to major market economy countries (as against the single country data provided by the exporter) and re-worked the dumping margin relying on the said database.

65. Thus, the Authority constructed the Normal Value, based on the international steel price of flat rolled products, the actual consumption norms of the exporter, and the conversion costs, selling, general and administrative expenses of the most efficient domestic producer, with a reasonable margin (5%) of profit. The normal value has been constructed for each grade and the weighted average constructed normal value then determined. The constructed normal value thus works out as Rs \*\*\* per kg.

#### **E.3.4 Export Prices**

##### **a) For the co-operating exporter**

66. The export price as indicated by the exporter has been adopted in each grade with suitable modification for conversion of number to weight. A weighted average export price to India has been determined for the subject product. Price adjustments claimed on account of adjustments like freight and bank charges have been allowed. The weighted average export price has been taken as US \$ \*\*\* PMT and adjusting for inland freight and bank charges, the ex-factory export price for the co-operating exporter comes to \$ \*\*\*.PMT or Rs \*\*\* per kg.

**b) For others**

67. The lowest export price of the co-operating exporter has been adjusted for obtaining the export price for other producer/exporter(s). The adjusted export price for others works out to Rs. \*\*\* per kg.

**E.3.5 Dumping Margins**

**a) For the co-operating exporter**

68. The Authority has worked out the dumping margin for the co-operating exporter by making a comparison between the normal value and export prices at ex-factory level, based on the weighted average of the grade-wise constructed normal value and the export prices determined for the product. The weighted average overall dumping margin thus determined is seen to be significant.

**b) For others**

69. For the other exporters, the weighted average constructed normal value and the lowest export price has been taken and the dumping margin computed. This is as shown below:-

in Rs / kg

Grade	6.0-16	7.0-20	7.5-20	Wtd avg

<b>Zhengxing</b>				
Quantity	***	***	***	***
Constructed NV	***	***	***	***
Export Price	***	***	***	***
Dumping margin	***	***	***	***
Dumping margin %	35-45%	35-45%	50-60%	50-60%
<b>Others</b>				
Constructed NV				***
Export Price				***
Dumping margin				***
Dumping margin %				70-80%

Source: Exporter, DGAD.

70. The dumping margin determined is significant and above de minimis.

## **F. INJURY DETERMINATION**

### **F.1 Views of the interested parties**

71. The domestic industry has submitted that a product like wheels is a critical safety item for a vehicle and takes around 6-12 months for development and production. It requires preliminary design, customer approval, testing of stress analysis, tooling development and testing in-house as well as by the certifying authorities and customers. Therefore, it is infeasible to immediately replace loss of business due to imports in a short time. Though market development was an on-going process for all products, to look for alternate avenues for the subject product was not feasible, given its limited demand in the export market. Dumping by the Chinese producers has severely undermined the efforts of the domestic industry.

72. In its post-preliminary findings, the exporter has claimed that the injury determination in the findings was highly skewed and did not appear to be objective. The findings revolved around two

basic parameters of injury. The first parameter was that volume of imports have increased while production and sales volumes of the domestic industry have come down during POI as compared to the previous year 2004-05. The exporter contended that when there were no imports of wheels into India earlier, any import would necessarily show reduction in the market share of the domestic industry. Under such circumstances, fall in market share would not necessarily indicate injury to the domestic industry. In terms of actual sales, domestic industry has recorded an increase as shown below:

	2002-03	2003-04	2004-05	POI
Sale by domestic industry (DI)	52702	70757	88560	80817
Variation in the sales of DI				
a) During POI over 2004-05				-7743
b) During POI over 2003-04				10060

Compared to 2003-04, domestic sales had increased by 10060 units during POI, though it is less by 7743 units compared to 2004-05.

73. To the argument advanced by the exporter, the domestic industry has responded that the fact that imports increased from 0% to 18.26% in a short period established the extent of injury. The European Commission considered even a 1% increase in market share significant, even if Indian law had no similar legal provision. Besides, while the share of imports in demand increased, sales and market share of the domestic industry declined and that too, in a situation of rising demand. Moreover, evaluation of economic parameters had to be done in the context of the dumped imports, which started primarily in the POI. Hence, any meaningful comparison would be at best with the preceding year when there were no imports. When the domestic sales volumes improved up to 2004-05, their drastic fall in the POI, when they should have increased, given the increased demand was the presence of dumped imports. In any event, the European Commission held that to establish existence of injury to the domestic industry, *inter-alia*, the preceding years and the developments and trends found between them and the POI serve as reference, rather than an end-point to end-point analysis.

74. The second parameter of injury was that the domestic industry suffered a loss during POI compared to 2004-05 despite increase in selling prices. The exporter has contended that the domestic

industry had a loss of 45 units during POI compared to a loss of 100 units during 2002-03 and yet they claimed injury due to dumped imports.

	2002-3	2003-4	2004-5	POI	Variation in POI vis-à-vis	
					2003-4	2004-5
Cost of Prodn	100	101	115	126	25	11
Selling Price	100	104	120	129	25	-104
Profit/Loss	(100)	-2	72	-45	-43	-117

The table showed that while both costs and selling prices increased by 25 units during POI as compared to 2003-04, losses have mounted during POI. Further, costs increased by 11 % points during POI over 2004-05 while sales prices increased by 9 % points. A mere 2 % increase in costs could not have lead to a change in the loss of 117 % points. Hence, the only conclusion possible was that the domestic industry's method of determining profits/ losses has not been consistent and they have changed their method during POI to show unduly high loss.

75. The exporter further argued that cash profit had come down from 221 in 2003-04 to 184 during POI, so that it appeared that the domestic industry might have included certain fixed assets which they had not yet put to use for claiming depreciation during POI.

76. The exporter has claimed that the prices of both the Indian producers were almost equal and their order book position enviable, so that just because they earned a cumulative loss, it could not be attributed to imports from China. The domestic industry has responded that the order book position as reflected in sales volumes was falling and hence, the cumulative losses were more attributable to dumped imports.

77. The exporter has also alleged that even with lower capacity utilization, domestic industry was unable to deliver on agreed schedules and customers had often to wait before deliveries were made. The domestic industry has refuted inability to deliver on schedule and has stated that contrarily, in the subject product which had well-laid down production and procurement schedules of consumers, it was the consumers who had turned to ad-hoc placement and cancellation of orders.



78. TML held that the contention of injury to the domestic industry was incorrect as the domestic selling price was above the non-injurious price (NIP). The constructed normal value based on the petitioners' costs of Rs.46.65 per kg or Rs. 2100 per set was also the NIP since it took into account actual cost of production plus 5% profit margin. During the POI, TML purchased about 6.6 lakhs wheel sets of specification 7.5-20 from the domestic industry at an average price of Rs.2327.10, which was at the NIP adjusted for basic customs duty for raw materials. Absence of injury was corroborated from the indexed profits during the POI being 44% higher than in the base year 2002-03 and though lower in the POI compared to 2004-05, they were still adequate from the perspective of the NIP. In addition, as net sales realisation was close to the NIP, the domestic industry was not injured. Besides, the constructed normal value which depicted a healthy dumping margin would be lower if domestic industry's actual costs were verified and correctly determined. The industry appeared to have realized a price equal to or greater than the NIP and hence has suffered no injury.

## **F.2 Examination by the Authority:**

79. The Authority has noted the views expressed by the interested parties in respect of the injury claims of the domestic industry and proceeds to examine the issues raised and injury claims of the domestic industry as follows:

### **F.2.1 Examination of Injury**

80. Rule 11 of Antidumping Rules read with Annexure –II provides that a determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. Further, while examining the volume of dumped imports, the Authority "shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices ...the designated authority shall consider whether there has been 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". The Rules further provide that "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 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.”

81. For the purpose of injury analysis, the Authority has examined the volume and price effects of dumped imports on the subject goods on the domestic industry and its effect on the prices and profitability. To examine the existence of injury and causal links between dumping and injury, if any, since positive dumping margin has been established for the exports from the subject country, entire exports from the subject country has been treated as dumped imports for the purpose of injury analysis and causal link examination.

#### **F.2.1.1 Volume Effect of Dumped Imports: Import volumes and market shares**

##### **a) Import Volumes**

82. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

83. The domestic industry has submitted the import data compiled from IBIS data source, which shows that imports have taken place from only the subject country and during the second half of injury investigation period and has also claimed that the product has been reported under customs classifications 8708.7000 and 8708.9100. DGCIS transaction-wise import data has also been obtained for examination. The domestic industry claim that both these sources understate the quantity of dumped imports, basing this statement on the production data of vehicles in the period of investigation reported by the Society of Automotive Manufacturers (SIAM) and have assessed imports at 18405 MT.

84. Examination of DGCIS data as well as the data reported by the cooperating exporter indicate that the DGCIS has underreported the import data of the POI to a very large extent. The cooperating exporter and importer has reported significantly higher quantities of exports during the POI compared to imports reported by DGCIS as shown in the tables below:.

Summary data from secondary sources

<b>Wheels imports, 2005</b>	<b>Volume (MT)</b>	<b>Value (Rs. Lacs)</b>	<b>Avg price (Rs/kg)</b>
DGCI&S	9245.65	3653.46	39.52
IBIS	7399.60	2605.67	35.21

Source: DGCI&S, domestic industry.

Data from the exporter and importer

As per exporter	<b>Grade</b>	<b>2004-05</b>	<b>POI</b>
		<b>Indexed</b>	<b>Indexed</b>
	6.00-16"	0.02	18.17
	7.00-20"	0.01	0.98
	7.50-20"	16.23	213.93
	Total	16.26	233.08
As per importer	16" rim	-	2.50
	20" rim	4.14	97.50
	Total	4.14	100

Note: \*: Computed, based on weight of the wheel indicated by exporter as: (a) 6.0-16": 20.5 kgs; (b) 7.0-20": 40 kgs; (c) 7.5-20": 47 kgs.

85. Therefore, for the purpose of injury analysis, the import volumes as reported by the cooperating exporter have been used as follows:

<b>Parameter (in MT)</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>POI</b>
Total Imports			***	***

Imports from China			***	***
Indexed			100	1489
Market share of Chinese imports (%)			100	100
Total sales of domestic industry	52702	70757	88560	80818
Demand (indexed)	100	134	171	191
Share of Chinese imports in demand (%)			1.49	19.75
Production of domestic industry	***	***	***	***
Chinese imports relative to production			1.50	24.44

Source: Domestic industry, exporter.

The Authority noted that the imports increased in absolute terms from the subject country from just \*\*\* MT in 2004-05 to \*\*\* MT in the period of investigation (POI). Further, relative to the domestic demand, the imports from the subject country increased from 1.49% in 2004-05 to 19.75% in the POI, while relative to domestic industry's production, they increased from 1.50% to 24.44% respectively. Moreover, while the share of Chinese imports in demand increased in 2005 to 19.75%, the domestic industry's share declined correspondingly. In view of this and there being no other domestic producer in India, the Authority concludes that the dumped imports from the subject country show adverse volume effect.

86. The decline in the market share of the domestic industry is also observed when considering the quarter-wise purchases of the product made by TML, a major consumer of the subject product from the domestic industry as below:

Qty indexed, value in Rs. lakhs						
Quarter	20" rim			16" rim		
	TML purchases from DI		Exports	TML purchases from DI		Exports
	Qty	Value	Qty	Qty	Value	Qty
Jul-Sep 04	238	***		67	***	
Oct-Dec 04	312	***		83	***	

Jan-Mar 05	310	***	14.62	94	***	0.02
Apr-Jun 05	197	***	53.13	72	***	---
Jul-Sep 05	121	***	76.68	76	***	5.07
Oct-Dec 05	151	***	70.49	70	***	13.08

Source: Importer, exporter.

87. The Authority noted that purchases of 20" rim wheels by TML from the domestic industry of about \*\*\* pieces in the 4<sup>th</sup> quarter of 2004 fell to \*\*\* pieces in 2<sup>nd</sup> quarter of 2005, while in the 16" rim segment, TML purchases of about \*\*\* pieces in the 1<sup>st</sup> quarter of 2005 plummeted in the 2<sup>nd</sup> quarter. Further, imports were more in the 20" rim segment than the 16" rim, soaring from a modest \*\*\* pieces in the 1<sup>st</sup> quarter of 2005 to almost \*\*\* pieces in the 3<sup>rd</sup> quarter.

**b) Actual and potential effects on capacity, output and capacity utilization of the domestic industry**

88. The performance of the domestic industry has been examined with reference to its capacity, output, capacity utilization and impact of dumped imports on these parameters, if any.

Parameter	2002-03	2003-04	2004-05	POI
Capacity in No. ('000)	2380	2380	2724	2724
Indexed	100	100	114	114
Production in No. ('000)	***	***	***	***
Indexed	100	131	162	157
Capacity Utilization (%)	***	***	***	***
Indexed	100	131	142	137
Domestic Demand (MT)	***	***	***	***
Indexed	100	134	171	191

Note: Being multi-product plants, capacity and production are shown in numbers to compute capacity utilization.

Source: Domestic industry.

The domestic industry increased its installed capacity in 2004-05, but capacity utilisation has declined in POI as production declined. The industry has submitted that though they were exploring alternative markets, the process of developing new market was elaborate and time-consuming, and even then, the gap created by the loss of home market business would be difficult to fill. Besides, at present only TML has begun importing from the subject country, but the continuation of the trend would result in others following suit, in which case, they would have to close down capacities for the production of the product. They submitted that capacity expansion effected in 2004-05 in anticipation of demand, on the basis of the importer's indication, has been rendered of no utility due to resort to imports and attempts made to redeploy un-utilized capacity of component production lines for the subject product to manufacture components for other products adversely affected profitability. The Authority noted that demand has been consistently increasing, but the increase was being met by rising imports, rather than increased domestic production.

**c) Actual and potential effect on sales and market share of the domestic industry:**

89. The volume of domestic sales and effects of dumped imports on the domestic sales have been examined in terms of absolute sales of the domestic industry, demand and market shares. For calculation of the domestic demand of the subject goods, the Authority added the sales volume of the domestic industry to the total imports into India, relying upon the exporter data for the purpose of import statistics on the quantity and price of the subject goods. Sales volume of the domestic industry (DI) has been as under:

<b>Volume (in MT)</b>	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>POI</b>
DI- Domestic Sales	52702	70757	88560	80818
Indexed	100	134	168	153
Imports from Subject country			***	***
Indexed (2004-05 = 100)			100	1489
Domestic Demand	***	***	***	***
Indexed	100	134	171	191

% share of DI in demand	100%	100%	98.51%	80.25%
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Source: Domestic industry, exporter.

90. The sales volume of the domestic industry has increased till 2004-05 and then declined in the POI, although concurrently there has been a consistent increase in demand for the subject goods in India of about 91% in the POI. However, the domestic industry did not benefit from this increased demand, as seen by the loss of its market share by about 20% due to imports from the subject country, which increased by almost 1400%. The Authority has taken cognizance of the fact that the subject product was in use only in very few countries in the world and requirements were limited, so that dedicated capacities created could not be redeployed effectively nor the gap created by dumped imports bridged by exports.

91. The foregoing analysis shows that the dumped imports from the subject countries have increased in absolute terms as also relative to imports into India and production and consumption in India.

#### **F.2.1.2 Price effect of dumped imports**

92. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like 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.

##### **a) Price undercutting and Price underselling**

93. The net sales realization of the domestic industry has been determined considering selling price, excluding taxes & duties, rebates, discounts & commissions and freight & transportation. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The net sales realization of the domestic industry was compared with the landed value of the dumped imports to examine whether the dumped imports have significant price undercutting effect on the domestic industry.

94. For the purpose of price underselling analysis, the non-injurious price of the domestic industry has been determined taking in to account verified cost and SGA expenses of the industry with a reasonable profit margin. The landed value of dumped imports was also compared with the non-

injurious prices of the subject goods to determine the price underselling effect of the dumped imports as follows:

Parameter (Rs. /kg)	2002-03	2003-04	2004-05	POI
Landed Price			38.09	39.71
Net Sales Realization of Domestic industry	***	***	***	***
Price undercutting <sup>1</sup>			***	***
Price undercutting %			15-25	15-25
Non-injurious price (NIP)				***
Price under-selling <sup>2</sup>				***
Price under-selling %				30-40

Note: <sup>1</sup> NSR minus landed price of imports; <sup>2</sup> NIP minus landed value

Source: Domestic industry, importer.

95. The Authority noted that the landed value of imports from the subject country has been significantly below the net sales realization of the domestic industry resulting in significant price undercutting. Further, the non-injurious price for the domestic industry in the POI was Rs \*\*\*per kg, against which the landed value was Rs. 39.71 per kg, indicating significant price under-selling suffered by the domestic industry.

#### **b) Price suppression and depression**

96. To examine the price suppression effect of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales. The domestic industry has claimed that since the input cost was arising, the industry was prevented from effecting price increases as imports were suppressing their prices. From the table below, it is observed that though both cost of sales and NSR of the subject goods increased in the POI, the increase in sales



realization has been significantly lower than that in the cost of sales, so that full recovery of costs could not be made. However, there is no price depression as yet.

Parameter (Rs/kg)	2002-03	2003-04	2004-05	POI
Cost of Sales of the domestic industry	***	***	***	***
Indexed	100	101	115	126
Net Sales Realization	***	***	***	***
Indexed	100	104	120	130
Landed Value of Chinese imports			38.09	39.71
Indexed			100	104

Source: Domestic industry, importer.

97. The above analysis indicates that landed price of imports from the subject countries have been significantly below the net sales realization and non-injurious price of the domestic industry, thus resulting in significant price undercutting and price underselling and price suppression..

### F.2.2 Examination of other injury factors

98. Some of the injury factors i.e. actual and potential decline capacity, production, capacity utilization, sales and market shares; were examined in the previous section along with actual and potential increase in volume of imports and it was noted that

- ❖ Production and sales of the domestic industry for the domestic market has decreased in the POI after showing significant increase upto 2004-05 in spite of the increase in the domestic demand. The domestic industry has been prevented from increasing the production to the extent it could, in spite of good demand in the domestic market.
- ❖ While the domestic industry has increased the capacity to produce and sell the subject goods in the domestic market, it has not been able to utilize the capacities adequately.
- ❖ Sales of the domestic industry decreased substantially after healthy growth upto 2004-05, which also resulted in declining the market share of the domestic industry. The domestic industry has not benefited from the increase in demand.

**a) Actual and potential effects on profits**

99. Profitability position of the domestic industry has been as under:

Parameter (in Rs. Lakhs)	2002-03	2003-04	2004-05	POI
Cost of Sales of the DI	***	***	***	***
Selling price of the DI	***	***	***	***
Profit/Loss (Rs./Kg). <sup>1</sup>	***	***	***	***
Indexed	(100)	(2)	72	(46)
Profit/Loss on Domestic sales	***	***	***	***
Indexed	(100)	(2)	121	(68)
Interest	***	***	***	***
Indexed	100	62	74	99
PBIT	***	***	***	***
Indexed	100	183	469	161

Note: <sup>1</sup>: Selling Price – Cost of Sales

Source: Domestic industry.

The Authority has observed that while the performance of the domestic industry had improved till 2004-05, it deteriorated steeply in the POI. Intensified dumping of the subject product in the POI impacted the financial parameters of the domestic industry. As for the exporter's contention that the domestic industry's method of determining losses, which were unduly high in the POI, was inconsistent, the Authority found that the increase in the cost of sales and selling prices in the POI compared to 2003-04 were 24.71% and 23.69% respectively. This resulted in cost under-recovery of 1.02%, which coupled with the higher volume of sales in the POI, lead to increase in the quantum of loss.

**b) Actual and potential effects on Employment and wages**

100. Employment level of the domestic industry has been as under:

Parameter	2002-03	2003-04	2004-05	POI
Employees (No:)	***	***	***	***
Indexed	100	124	128	130
Wages (Rs. Lakhs)	***	***	***	***
Indexed	100	118	122	138
Production (MT)	***	***	***	***
Wages/ unit of production	3.89	3.54	2.77	3.41

Source: Domestic industry.

The Authority noted that the employment level of the domestic industry has remained fairly stable from 2003-04. The domestic industry being multi-product companies, employment levels per se may not be a conclusive indicator of injury. The domestic industry has submitted that though the deleterious effects of dumping are not visible so far, sustained dumping would have a significant adverse impact. A constituent of the domestic industry had to re-deploy employees from the production of the subject product to that of other products. The Authority also noted that wages of the domestic industry in absolute terms had increased and that simultaneously, domestic production has also increased resulting in reduction of wages per unit of production. Therefore, this parameter is not a cause of injury to the domestic industry.

**c) Actual and potential effects on productivity**

101. The productivity of the domestic industry is given in the table below. The Authority noted that productivity and sales per employee of the domestic industry, has been increasing till 2004-05, after

which both these parameters declined. Thus, there is evidence of injury in the POI which can be attributed to the dumped imports.

Parameter	2002-03	2003-04	2004-05	POI
Production (MT)	***	***	***	***
Productivity per Employee	***	***	***	***
Indexed	100	107	146	129
Domestic Sales (Rs. Lakhs)	***	***	***	***
Indexed	100	140	201	197
Sales per Employee (in Rs)	***	***	***	***
Indexed	100	112	169	158

Source: Domestic industry.

#### d) Actual and potential effects on Cash Flow, Profits and Return on Investment

102. All the constituents of the domestic industry are multi product companies; therefore, examination of cash flow of the entire company may not be appropriate for the injury purposes. The Authority therefore, has examined cash profit situation of the domestic industry, capital employed and return on investments

Parameter (in Rs. Lakhs)	2002-03	2003-04	2004-05	POI
PBT	***	***	***	***
Indexed	(100)	(2)	121	(68)
Depreciation	***	***	***	***

Cash profit	***	***	***	***
Indexed	100	221	374	184
PBIT	***	***	***	***
Indexed	100	183	469	161
Capital Employed (NFA)	***	***	***	***
Indexed	100	109	142	142
Return on capital empl (NFA) (%)	***	***	***	***
Indexed	100	168	331	113

Source: Domestic industry.

It is observed that from a position of loss of Rs \*\*\* in 2002-03, the domestic industry reduced the loss significantly the next year. In 2004-05, which marked a turnaround, the domestic industry made profits of Rs \*\*\*, which again deteriorated in to a loss in the POI of Rs \*\*\* indicating significant deterioration compared to 2004-05 and even 2003-04. The cash profit situation of domestic industry, which had consistently improved up to 2004-05, deteriorated during the period of investigation, due to the increased depreciation and interest costs arising from capacity addition. Return on capital employed improved till 2004-05, but declined steeply in the POI.

#### e) Inventories

103. Inventories position with the domestic industry has been as under:

Parameter (in MT)	2002-03	2003-04	2004-05	POI
Average stock of inventory	***	***	***	***
Indexed	100	124	116	173
Sales volume	52702	70757	88560	80818

Source: Domestic industry.

The Authority noted that the sales volume of the domestic industry declined in the POI after increasing up to 2004-05. Inventories have remained a small percentage of sales as the product is made to order and effort to avoid lock-in of working capital is consciously adopted by the domestic industry. This parameter is being ignored for injury analysis in view of the industry's submission of production made-to-order.

**f) Ability to raise capital**

104. No evidence has been placed before the Designated Authority to substantiate the fact that the domestic industry has been facing problems with regards to the ability to raise capital.

**g) Growth**

105. The Authority notes that though there is a healthy growth in demand the performance of the domestic industry in terms of parameters, such as production, sales, market share, profits, cash flow and return on investments shows significant decline.

**h) Degree of dumping margin**

106. The Authority notes that dumping margins from the subject country, as an indicator of injury, has been found to be significant and above de minimis.

### **F.2.3 Overall assessment**

107. The above analysis of the factors shows that in spite of the good demand in the domestic market, the industry suffers injury on account of decline in production, sales; low net sales realization; higher inventory build-up; declining return on investments and profits. Majority of the injury parameters have been adversely affected in the POI

after improving up to 2004-05 and are showing negative growth. Imports resulted in significant price undercutting and the domestic industry suffered price suppression and price underselling. The injury suffered is material and significant. Therefore, the arguments of the interested parties that the petitioner domestic industry does not suffer any material injury are not valid.

### **F.3 Threat of injury**

108. The domestic industry has submitted that the continuing imports of the product from the subject country posed threat of material injury to it in the following ways:

- (i) Increase in imports in absolute terms has reduced their market share.
- (ii) The potential increase in imports is greater in view of lower prices offered by the exporter, resulting in increased orders placed on the exporter.
- (iii) The product demand has consistently increased and as it is not available off-the-shelf, supply orders have to be placed well in advance.
- (iv) Significant price undercutting would prompt consumers to increase the off-take from the foreign producer(s) or force the domestic industry to reduce prices.
- (v) Capacities created by exporters in their home country exceed home market demand.

109. In their post-preliminary findings, the exporter has stated that no information furnished by domestic industry regarding threat of injury. Anti-dumping rules provided that a determination of threat of material injury shall be based on facts and not merely on conjectures or surmises. As in their written submissions, the domestic industry has not provided any evidence or data in their support, such unsubstantiated allegations should be rejected

110. The domestic industry, however, has reaffirmed their fears of threat of injury, holding that the rate at which imports have grown is phenomenal. Besides, as the product is an OEM product with consumers well aware of the cost advantages, they had reason to believe that the consumer would increasingly switch over to the imported product, as established by the post-POI facts, with imports coming in at prices that would have a significant depressing/ suppressing effect on domestic prices, and further increase demand for imports. The loss in sales revenue due to price under-cutting has been

computed to be substantial. The domestic industry has further claimed that the fact that Chinese producers were holding huge surplus capacities was established by the rate at which TML and other Indian producers have placed orders for the imported product, which reinforced the threat continued unchecked dumping was likely to cause. TML have gradually increased off-take to 65,000 wheels a month, which would increase in near future to 100,000 wheels a month, equivalent to over 55-60% of its requirement and post-POI events confirmed imports by other Indian producers. Therefore, if the dumping was allowed to continue, the situation would lead to closure of Indian plants. In addition, the domestic industry has held that where the product imported by naturally price-conscious OEMs undercut the domestic prices by 21%, and were required on a long term basis, threat was not a conjecture, but a business reality. The exporter has dismissed these fears as highly speculative, baseless and being post-POI occurrences, as irrelevant to the case.

111. The domestic industry has submitted that the consumers of the subject project should disclose when they first decided to source the subject product from the subject country, details of their internal decisions leading to that decision, volume and price advantages in sourcing from China and the period for sourcing, as such disclosures would reveal their long-term business plans to source the subject product. The exporter has dismissed this demand as uncalled for and irrelevant and a tool to collect market intelligence from its customers.

#### **F.4. Conclusions on injury**

112. The Authority noted that there has been both volume and price effects of dumped imports from the subject country. Sub-optimal increase in respect of parameters in period of investigation, such as production (30% lower than increase in demand), capacity utilization (lower than optimum), slump in profits in POI, decline in market share (19.75%), positive price undercutting, low levels of return on capital employed, significant dumping margin, negative growth in a number of parameters show significant deterioration in the performance of the domestic industry. Parameters such as employment and wages do not reflect injury. On the basis of the above analysis, the Authority concludes that the domestic industry has suffered material injury.

### **G CAUSAL LINK**

113. Existence of material injury and volume and price effects of dumped imports on the prices of the domestic industry have been confirmed in the previous section. However, on issues of non-attribution, the mandatory factors have been examined as follows



- ❖ **Contraction in Demand:** - Demand for the subject goods have increased substantially during the injury examination period. Therefore, possible contraction in demand cannot be attributed to the injury to the domestic industry.
- ❖ **Pattern of consumption:** - No significant change in the pattern of consumption has been alleged by any interested party.
- ❖ **Imports from other countries-** Total subject product imports originating in countries other than the subject country are nil and therefore, they are considered not to have had any impact on the domestic industry.
- ❖ **Conditions of competition:** - The goods are freely importable. The petitioners are the only producers of the subject goods. Therefore, domestic competition could not be attributed to the injury to the domestic industry.
- ❖ **Developments in technology:-** There is no allegation of significant changes in technology which could have caused injury to the domestic industry.
- ❖ **Export performance of the domestic industry-** The domestic industry's exports during the injury period formed a very insignificant part of their total sales. The performance of various economic indicators has been determined with respect to domestic sales only. Hence, the Authority holds that material injury suffered by the domestic industry may not as a result of the export performance of the domestic industry.

Exports	2002-03	2003-04	2004-05	POI
In MT	***	***	***	***
Indexed	100	187	140	223

114. The domestic industry has submitted that the improvement in their performance up to 2004-05 in the absence of imports and deterioration in the POI in the presence of imports establishes both injury to the domestic industry and causal link between dumped imports and injury to the domestic industry. The imports from subject country increased in absolute terms, resulting in increase in market share of imports and loss of domestic industry market share. Profitability started declining due to price undercutting and price underselling caused by the dumped imports and they were prevented from

effecting legitimate price increases. Besides, the decline in market share of domestic industry prevented them from increasing their sales volumes and production, leading to decline in capacity utilization and thereby hampering growth, even as demand increased. Thus injury to the domestic industry has evidently been caused by the dumped imports.

## **F.1 Factors establishing causal link**

115. Examination of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject country. The increase in the volume of dumped imports resulted in significant decline in market share of the domestic industry, prevented increase in sales commensurate with the increase in the demand in the market and affected growth in production, sales and capacity utilization of the domestic industry. The dumped import prices and consequently the landed price of imports from the subject countries resulted in significant price undercutting and price underselling. Price under cutting has resulted in significant erosion in the market share of the domestic industry and reduction in absolute volume of sales of the domestic industry. It is also seen that the price pressure of the dumped imports has prevented the domestic industry from increasing its prices to recover its cost of production, increasing its sales volume and realizing its full capacity in spite of a very healthy demand situation in the domestic market. Resultantly, profits, cash flow and return on investment of the domestic industry deteriorated in the POI after showing consistent improvement.

116. The above non-attribution analysis shows that the dumped imports from the subject countries, through their volume and price effects, have caused significant injury to the domestic industry. The Authority, therefore, conclude that the injury caused to the domestic industry on account of such dumped imports from the subject countries is significant and material.

## **H. MAGNITUDE OF INJURY AND INJURY MARGIN**

117. The Authority has determined the non-injurious price for the domestic industry taking into account the cost of production and other associated costs of the domestic producer during the POI taking into account the principles laid down in the Supreme Court Judgment in Reliance Industries Vs Designated Authority which works out to Rs \*\*\* per Kg, marginally higher than the NIP determined at the time of the preliminary findings based on part verification of the domestic industry.

Injury margin calculations (in Rs/kg)			
Non-Injurious price	Landed value	Injury Margin	IM %
	39.71	***	30-40
***	37.45	***	40-50

**I. INDIAN INDUSTRY'S INTEREST.**

118. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practice of dumping and to re-establish a situation of open and fair competition in the Indian market, in the general interest of the country. The imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and have some influence on their relative competitiveness, but would not affect fair competition or the availability of the product in the Indian market.

**J. CONCLUSIONS:**

119. The Authority has, after considering the foregoing, come to the conclusion that:

- ❖ The subject goods have entered the Indian market from the subject country at prices below their normal value.
- ❖ The dumping margin of the subject goods imported from the subject country are substantial and above de-minimis.
- ❖ The domestic industry suffers material injury;
- ❖ Injury has been caused by dumped imports of the subject goods from the subject country.

## **K. RECOMMENDATIONS:**

120. Having initiated and conducted investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having established positive dumping margin against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive duty is required to offset dumping and injury to the domestic industry. Therefore, Authority considers it necessary and recommends imposition of definitive anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder

121. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of the margin of dumping or of injury, so as to remove the injury to the domestic industry. The margin of injury is lower than the margin of dumping. Accordingly, the Authority recommends that definitive anti-dumping duties be imposed in rupee terms on a fixed basis as requested from the date of notification to be issued in this regard by the Central Government on all imports of the subject goods falling under chapter 87 of Custom Tariff Classification Act 1975, originating in or exported from China PR, to be collected definitively from the date of imposition of the provisional duty. The Anti-Dumping duty shall be the amount mentioned in column 9 of the annexed table.

122. Subject to the above, the provisional findings, notified vide notification dated 12<sup>th</sup> January, 2007 and subsequently modified vide corrigenda dated 21<sup>st</sup> February and 12<sup>th</sup> March 2007, are hereby confirmed

## **L. FURTHER PROCEDURES**

123. 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.

124. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act

and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

**R. Gopalan**  
**Designated Authority**

**Duty table**

S.No:	Sub-Head -ing/ Tariff Item	Description of Goods	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Amt	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	8708.70	Steel Wheels	Of nominal diameter 16"- 20"	China PR	China PR	M/s Zheng- xing Wheel Group Co:	M/s Zheng- xing Wheel Group Co:	14710	MT	INR
2	-do-	-do-	-do-	-do-	-do-	Any combination of producer / exporter (other than above)		16970	MT	INR
3	-do-	-do-	-do-	China PR	Any country other than China PR	Any	Any	16970	MT	INR
4	-do-	-do-	-do-	Any country other than China PR	China PR	Any	Any	16970	MT	INR

