

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE & INDUSTRY

(DEPARTMENT OF COMMERCE)

DIRECTORATE GENERAL OF ANTI DUMPING & ALLIED DUTIES

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NOTIFICATION

FINAL FINDINGS

New Delhi 31st January 2007

No.53/1/2000/DGAD: Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A. BACKGROUND

2. WHEREAS, having regard to above Rules the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation on 2nd Feb., 2006 into alleged dumping of Dry Cell Batteries originating in or exported from China PR and provisional antidumping duty was imposed on imports of Dry Cell Batteries from China PR, vide customs notification dated 6th Feb., 2001 on the basis of the preliminary findings of the Authority dated 24th Jan., 2001. The final findings of the Authority were notified, vide notification dated 13th July, 2001 and the Department of Revenue imposed definitive anti dumping duties on the subject goods, imported from China PR, vide notification dated 2nd Aug., 2001.

3. On the basis of a duly substantiated application filed by the Domestic Industry in terms of Section 9A(5) of the said Act, requesting for continuation of the duty for a period of another five years, the Designated Authority initiated a sunset review proceedings against the said measure vide notification dated 2nd Feb., 2006 to examine whether the expiry of the duty would lead to continuation or recurrence of dumping and/or injury. Investigation was carried out for the period starting from April 04 – Sept 2005 (POI), however, injury examination was conducted for a period from 2001-02 onwards including POI.

B. GENERAL DISCLOSURE

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

- i) The Designated Authority (hereinafter referred to as Authority), under the above Rules, received an application filed by the domestic industry, requesting initiation of sunset review investigation for review, continuation and enhancement of anti dumping duties concerning imports of Dry Cell Batteries (hereinafter referred as subject goods) originating in or exported from China PR (hereinafter referred to as subject country).
- ii) The information provided by the applicant showed sufficient prima facie justification that there was a need for sunset review of anti dumping duties earlier imposed. On being satisfied, the Authority issued a public notice dated 2nd Feb., 2006 published in the Gazette of India, Extraordinary, initiating anti-dumping sunset review investigation concerning imports of the subject goods classified under Chapter 85 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from China PR.

iii) The Authority forwarded a copy of the public notice to the known producers and/or exporters in the subject country and gave them opportunity to provide relevant information and make their views known in writing within forty days from the date of the letter in accordance with the Rule 6(2).

iv) Requests were made to the Central Board of Excise and Customs (CBEC) and Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata to arrange details of imports of subject goods made in India for the period of investigation and preceding three years.

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

vi) The Authority sent a questionnaire to elicit relevant information to the Government of China including known exporters/producers, in accordance with the Rule 6(4): None of the exporters/producers filed any questionnaire response.

vii) The Authority provided opportunity to the industrial users of the product under consideration, and to the known representative consumer organizations, to furnish information considered relevant to the investigation regarding dumping, injury and causality.

viii) The Authority held a public hearing on 22nd August 2006 to provide an opportunity to the interested parties to present relevant information orally, which was attended only by the petitioner. No other interested party attended the oral hearing, except the domestic industry. The parties attending the public hearing were advised to file written submissions of the information presented orally. The interested parties were allowed to present rebuttal arguments on the views/information presented orally by other interested parties. Designated Authority has considered these written submissions received from petitioner. No other interested party has filed any written submission.

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

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

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

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

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

xiv) Investigation was carried out for the period starting from April 04 to Sept 2005 and has been referred to as the period of investigation (POI). The examination of trends in the context of injury analysis covered the period from 2001-02, 2002-03, 2003-04, and 2004-05 including the POI.

xv) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.

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

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

## C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

### C.1 VIEWS OF THE INTERESTED PARTIES

5. Domestic industry has submitted that the present review investigation is a sunset review investigation. The product involved in the original investigation and in the present sunset review investigation is Dry Cell Batteries. The product under consideration in the present sunset review should remain the same as the original investigations, as the present investigations are only review investigations. It is further argued that Dry Batteries produced by the domestic industry and imported from China are one like product. Authority has held in other investigation that there is no necessity of reviewing the scope of product under consideration and like article in a review case. Such being the case, Indian Producers have submitted that the scope of the product under consideration and like article is not required to be examined at this stage.

### C.2 VIEWS OF THE IMPORTERS, CONSUMERS, EXPORTERS AND OTHER INTERESTED PARTIES

6 None of the other interested parties have filed any submissions on issue regarding product under consideration and like article.

### C.3 EXAMINATION BY THE AUTHORITY

7. The product under consideration in the present review investigation is "Dry Cell Batteries", also known as primary cells batteries, zinc carbon pencil batteries, R6, AA, UM3 batteries etc. classified under custom sub-heading 850610 of Schedule I under Chapter 85 of the Customs Tariff Act, 1975. The classification is indicative only and is in no way binding on the scope of the present investigation.

8. Zinc Carbon pencil batteries technically and commercially known as "R6", "AA", "UM3" both in paper and metal (both heavy duty and super heavy duty) jacketed form are within the scope of investigation. Carbon Zinc batteries are produced for one time use and it includes Paper Clad, Metal & Plastic Clad (for heavy duty and super heavy-duty applications). The Paper Clad batteries have paper jacket whereas the Metal & Plastic Clad batteries have metal/plastic surface. There is no major difference in consumer perception regarding its use and all the above types can be and are being interchangeably used. Other types of batteries such as, alkaline batteries, rechargeable batteries etc are beyond the scope of the present investigation.

9. The Authority considered various relevant parameters such as physical & technical characteristics, production technology, manufacturing process, functions & uses, pricing, customer perception, etc. and notes that the goods manufactured by domestic industry are like article to the goods produced and/or exported from China. Both are technically and commercially substitutable to one another. None of the

interested parties have brought any new facts/evidence in this regard. The Authority holds that subject goods produced by the domestic industry are like articles, as per Rule 2(d) of rules Supra, to the product under consideration.

#### D. DOMESTIC INDUSTRY

##### D.1 VIEWS OF THE DOMESTIC INDUSTRY

10. The present petition has been filed by the Association of subject goods in India. There are five producers of Dry Cell Battery in India in the organized sector and three of the domestic producers have filed the present petition through this Association. The three participating companies should be considered as “domestic industry” since the production of these three companies constitute a major proportion in Indian production.

##### D.2 VIEWS OF THE EXPORTER, IMPORTERS, CONSUMERS AND OTHER INTERESTED PARTIES

11. None of the other interested parties have filed any submissions on issue regarding domestic industry.

##### D.3 EXAMINATION BY THE AUTHORITY

12. The application for the sunset review was filed by the association on behalf of the domestic industry. It is noted that the subject goods are produced in India in the organized sector by the following companies -

1. Eveready Industries Limited
2. Nippo Batteries Company Ltd.
3. Panasonic Battery India Company Limited (Previously known as Matsushita Lakhnapal Battery India Ltd.)
4. BPL Soft Energy Systems Limited
5. Jeep Batteries (India) Pvt. Ltd

It is noted that subsequent to the initiation of sunset review investigations, information with regard to costing and injury information was called from Indian Producers in the organized sector in view of the Supreme Court Judgement in the matter of Reliance Industries Ltd vs Designated Authority and others. While Eveready, Nippo and Panasonic Battery provided full information with regard to costing and injury information, no information was received from BPL Soft Energy and Jeep Batteries. Euro Solo Energy Systems Ltd. informed that the company has commenced commercial production of the product under consideration w.e.f. June, 2006 i.e. post investigation period. The Authority further reminded the petitioner association to provide information relevant to determination of injury, non injurious price and injury margin with regard to BPL Soft Energy and Jeep Batteries, however, no information was made available by BPL Soft Energy and Jeep Batteries with regard to injury, non injurious price and injury margin. Efforts were also made to collate information with regard to cost of production and non injurious price for BPL Soft Energy and Jeep Batteries from cost audit reports. The Authority was, however, informed that cost audit in respect of BPL Soft Energy and Jeep was not under the notified regulation of Govt. of India and therefore, cost audit reports were not available for the relevant period.

13. As per claims of the Association, a number of producers in the unorganized sector also produce the subject goods and the individual size of these producers is too small. Production of these produces in unorganized sector was estimated by the domestic industry in the region of 5% of the production in the organized sector. The Authority notes that none of the producers in the unorganized sector have

responded to the Authority and no published information is available with regard to production by these entities. It is also not known whether these entities undertake complete production activities, or are producing the product from semi-finished stage. Investigations at the premises of the domestic industry has shown that production of pre-mix powder is the basic manufacturing activity and once the pre-mix powder is prepared, production of the subject goods is just an assembly like operation. Therefore, it could not be established that these producers in the unorganized sector should indeed be considered as “producers” for the purpose of the present investigations. However, the Authority notes that regardless of whether or not their production is considered, production by the participating companies is significantly higher than 50% and it account about 85 % of Indian production, even if production by these unorganized sector units is considered as eligible production.

14. Having regard to the investigation conducted and evidence on record, the Authority notes that production by three participating companies constitutes a major proportion of Indian production and these participating companies constitute “domestic industry” within the meaning of the Rules.

## E OTHER ISSUES

### E.1 VIEWS OF THE DOMESTIC INDUSTRY

15. The Domestic industry has submitted that

a. Domestic industry has submitted that imports of 195 MT of pre-mix powder are sufficient to produce about 35 million during the investigation period. The price at which this pre-mix has been imported is a clear evidence of the likely prices of the product in the event of revocation of anti dumping duties.

b. Domestic industry has further argued that the product continues to be exported to India, through third countries, such as Malaysia, Korea and other East Asian Countries, circumventing the existing anti-dumping duty and requested that the duties are required to be imposed on all imports of subject goods originated in China. The product continues to be sold at the same or similar old prices as was found at the time of original investigations. Indian Producers had earlier made repeated complaints to the concerned authorities about mis-declaration of subject goods. While such mis-declaration incidents regarding subject goods declined after repeated complaints of the Indian Producers, however, market witnessed increased incidence of imports through third countries and 55 million batteries have been reported from such third countries during the investigation period.

### E.2 EXAMINATION BY THE AUTHORITY

16. The argument raised by the domestic industry was examined and it is noted that the anti dumping duty has been imposed on imports of dry cell batteries and not against pre-mix powder. It is further noted that scope of the product under consideration can neither be extended to import of pre-mix powder nor the volume and value of imports of pre-mix powder can be used for the purpose of determination of dumping of subject goods from China.

17. As regards imports from third countries, Authority reiterates its established practice that the anti dumping duties are recommended on the product under consideration originating in the subject country, regardless of the country of export and in that situation even if the Chinese origin batteries are exported from third countries, the same will be subject to anti dumping duties levied on that product. As regards the possible circumvention of the product raised by the domestic industry, it is noted that the aggrieved parties may raise their concern before appropriate Authority, since AD Rules does not cover circumvention proceedings in the course of anti dumping investigations.

## F. DUMPING AND LIKELIHOOD OF CONTINUATION OF DUMPING

### F.1 VIEWS OF THE DOMESTIC INDUSTRY

18. The Domestic industry has submitted that

The volume of imports declined with the imposition of anti dumping duties. The product continues to be exported to India through third countries, such as Malaysia, Korea and other East Asian Countries. Batteries of Brands such as Telesun, PowerBase, BravePower, Shaktiman, Royal, Max, Maxpower, Maxell, Sambatt etc can be easily seen in the major trading markets, i.e., Sadar Bazar, New Delhi, and Masjid Bunder and Crawford Market at Mumbai. The product continues to be sold at the same or similar prices as was found at the time of original investigation.

Huge import of pre-mix powder has been reported from China with the sole purpose of which was production of the subject goods in India. Indian Producers could trace imports of at least 278 Mt. Pre-mix powder, which was sufficient to produce about 50 million subject batteries. The price at which this pre-mix has been imported is a clear evidence of the likely prices of the product in the event of revocation of anti dumping duties.

There is sufficient reason to believe that the exporter would shift their exports to India should the present duties be revoked, considering the fact that the demand of the product in the subject country is significantly below the capacity created by the producers in their country as they are having huge unutilized capacities.

In order to examine whether expiry of the duty will allow the exporters from these countries to export the subject good to India once again at dumped prices, the Designated Authority must examine whether exports from China to third countries are at dumping prices and how those export prices compare with (a) the import price from other sources in India; (b) selling price of the Indian Producers. Indian Producers submit that in a situation where exports to third countries are at dumping prices and (a) such export prices are comparable to the export price from other countries to India; and (b) landed price of imports considering such prices are significantly below the selling price of the Domestic Industry, it must be held that the producers in this country would resort to dumping the material in Indian market, should the present anti dumping duties be revoked.

It is the practice of other investigating authorities to examine possibilities of dumping in respect of third country exports particularly when there have been no exports to domestic country in the proposed investigation period. However, even in a situation of continued exports to India at dumping prices, the Designated Authority should examine whether exports to third countries are at dumped prices. Should such exports be at dumped prices, the Authorities have held that dumping would recur in the event of revocation of anti dumping duties. This may be seen in the light that dumping margin continues to be significant in case of Chinese exporters.

There is significant export of subject product from China to world over. The web-based extensive search done by the petitioner on Chinese producer or supplier showed existence of more than 2000 potential suppliers of the product in China. The price at which AAA batteries are being imported from China is a good evidence of the price at which Chinese producers are likely to sell AA batteries to India in the event of revocation of anti dumping duty. AAA batteries are the miniature version of AA batteries. Although the material cost of AAA batteries is slightly lower compared to that of AA batteries, its

manufacture involves assembly of critical miniature components and precision technology, the product is, therefore, priced at almost the same level as AA batteries.

Mining of Zinc and its price movement is under control of Chinese Government. Further, Chinese Govt. is resorting to ad-hoc control over pricing of zinc by imposing export duties on zinc and as per Accession Treaty the Govt. of China has imposed export duty on this product. Cost on account of zinc represents the major share in total cost of production of Dry Cell Battery, therefore, any preferable or favorable pricing of Zinc would naturally result in unfair advantages to the Chinese producers, making it possible for them to dump the material in foreign markets.

The anti-dumping duty earlier imposed by the Government of India against China is required to be continued further to address the likely injury to the Domestic Industry from likelihood of continuation or recurrence of dumping and injury to the domestic industry.

## F.2 EXAMINATION BY THE AUTHORITY

19. The Authority has noted the arguments made by the petitioner on the methodology and practices adopted by various Authorities in their Sunset Reviews and the relevant WTO jurisprudence on the subject. It also notes that in a sunset review investigation, the Authority is required to examine likelihood of continuation or recurrence of dumping in the event of withdrawal of anti dumping duty.

## F.3 CONTINUATION OF DUMPING

20. The Authority sent copies of the questionnaire to all the known exporters/producers for the purpose of determination of normal value in accordance with Section 9A (1)(c). The copy of the questionnaire was also sent to the Embassy of China. Neither the exporters/ producers from China nor the Chinese Government has filed any questionnaire response. In view of no cooperation from any of the exporters/producers from China the Designated Authority has proceeded on the basis of best information available on records under Rule 6(8) of the Rules, which provides that

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

## NORMAL VALUE

21. In anti-dumping investigations, normal value shall be determined in accordance with the Rules which provides that : -

*(c) “normal value”, in relation to an article, means-*

*(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6);  
or*

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the*

*particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

*Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.*

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

*7. In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, 1 keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.*

*8. (1) The term "non-market economy country" means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in*

*accordance with the criteria specified in sub-paragraph (3)*

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

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

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

*(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;*

*(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate.*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.*

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

*23. It is noted that none of the Chinese producers/exporters have responded in this matter and did not claim the market economy status. Under these circumstances, the Authority was not in a position to apply para 8 of Annexure 1 to the Rules and proceeded in accordance with para 7 of Annexure 1 to the Rules for determination of normal value.*

*24. It is noted that first two options for determination of normal value are not possible due to the fact that none of the exporters/importers cooperated in this investigation and did not file any information with regard to determination of normal value. It is noted that price from any third country to India can also not be considered, since in absence of cost of production of the product in the exporting country, the ordinary course of trade can not be done which is required to be carried for determination of normal value based on the profitable sales. Since none of the exporters / producers from China have filed the submissions for determination of normal value, the normal value for all exporters / producers has been constructed based on facts available as per Rule 6(8) of AD Rules. The Authority has, therefore, determined the normal value on the basis of price of the subject goods payable in India, duly adjusted for possible differences, such as customs duties and profit. For determination of normal value the raw material prices have been taken at the international level and the consumption norms of the most efficient constituents of the domestic industry was considered in view of non cooperation from any of the interested party except the domestic industry. The normal value so determined comes to US \$ \*\*\*\* /000 pieces.*

#### EXPORT PRICE

*25. The export price has been determined on the basis of transaction wise import statistics provided by DGCI&S. On examination of import data, it was found that the transaction wise data provided by the DGCI&S were having data pertaining to other products also. Therefore, import data was analyzed and segregated for the product under consideration. As per DGCI&S import statistics China has exported 1483 thousand pieces of subject goods during the POI. To arrive at the ex-factory export price, adjustments were considered as facts available, in the absence of any response from the exporters/producers from China and any information from other interested parties. The ex-factory export price was determined as US\$ \*\*\*\*/000 pieces for all exporters/producers from China.*

#### DUMPING MARGIN.

*26. The Authority notes that both the normal value and export price should be at the same level of trade. Based on the normal value and export price as determined above, the Authority assessed the dumping margin as under:*

Exporter/Producer	Normal Value (US\$/000'piece	Export Price (US\$/000'piece	Dumping margin as % of Export Price
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LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

27. In order to determine whether the continued imposition of the duty is necessary to offset dumping, the Authority considered the following parameters: -

*Dumping margin determined in the original investigations,*

*Dumping margin determined in the present investigations,*

*Surplus capacities in China,*

*Potential availability of the subject goods for export from China in event of revocation of anti dumping duty.*

28. On examination of these factors it is noted that

*(a) The dumping margin in the original investigation was 693%, which was quite significant.*

*(b) The current dumping margin during the investigation is determined 65.93%, which is also significant .*

*(c) The export price from China is significantly below not only the normal value but the landed value is also below the selling prices in India and non injurious price determined for the domestic industry during the POI.*

*(d) Domestic industry has submitted that there are about 2000 potential producers of various kinds of batteries in China, including the subject batteries. They have submitted that the nature of the product is such that any producer can enhance capacity in a short period and the investment involved in production of the subject goods is not significant. Based on the information filed by the domestic industry regarding the production and sales from the Web sites of Chinese producers of subject goods, it is noted that Chinese producers have potential and surplus available for exports. Based on the information provided by domestic industry, it is also noted that 8 Chinese producers were found to have production capacity of 6 billion pieces of batteries with average 65% export volume.*

29. In view of the above, it is noted that it would be difficult to conclude that the exports would not likely to continue to enter the Indian market from China PR at dumped prices in event of revocation of the duty.

G. METHODOLOGY FOR DETERMINATION AND EXAMINATION OF INJURY & CAUSAL LINK

30. It is noted that in a sunset review, the Designated Authority is required to determine the continued injury to the domestic industry and subsequently likelihood of continuance or recurrence of injury to the domestic industry in event of withdrawal of anti dumping duties. The Authority has thus examined continued injury and thereafter likelihood of continuation or recurrence of injury to the domestic industry.

### G.1 CONTINUATION OF INJURY

#### G.2 VIEW OF THE DOMESTIC INDUSTRY

31. *The Domestic industry has submitted that*

*a. Performance of the domestic industry improved with the imposition of anti dumping duties.*

*b. The improvement in performance of the domestic industry with the imposition of anti dumping duties establishes that the cause of injury to the domestic industry at the time of original investigations was dumping of the product from China.*

*c. Performance of the domestic industry improved in terms of production, sales, capacity utilization, profits, return on capital employed, cash profits, growth, market share, employment, wages, productivity, etc.*

*d. Performance of the domestic industry deteriorated somewhat during the investigation period as compared to previous period, which is directly attributable to Chinese imports from third countries.*

*e. Once the duties are revoked, the volume of imports would increase substantially and possible revocation of anti dumping duty would therefore lead to significant price undercutting. The imports would enter at a price which would have significantly depressing or suppressing effect on domestic prices, and would likely increase demand for further imports, which is visible from the trends in imports from 2001-02 till investigation period. Should the duty be allowed to lapse, the landed price of imports would continue to be below the selling price of the domestic industry, but also the cost of production of the domestic industry. The domestic industry would be forced to suffer huge financial losses, negative cash flow and negative capital employed.*

#### G.3. EXAMINATION BY THE AUTHORITY

32. *The Authority has taken note of arguments raised by interested parties with regard to the material injury to the domestic industry. The Authority has examined the submissions made by interested parties regarding the likelihood of continuation or recurrence of injury to the domestic industry in case of revocation of duty. It is noted that definitive duty was originally imposed on reference price basis on all imports of subject goods from subject country. It is also noted that a sunset review was initiated in terms of Section 9A(5) of Customs Tariff Act which requires the Authority to examine whether the duty is required to be continued for a further period of five years and to examine the degree and extent of likelihood of continuance or recurrence of dumping and injury and the need for revocation for duty based on the information provided and arguments raised by interested parties during the course of the investigation.*

33. *For the purpose of assessing current injury in the period of investigation, the Authority has examined the volume and price effects of dumped imports on domestic industry. The dumping margin has been established from the subject country. Entire exports from subject country have been treated as dumped imports for the purpose of injury and causation analysis. The Authority has taken note of various arguments raised by domestic industry with regard to the material injury to the domestic industry and examined the submissions made regarding the likelihood of continuation or recurrence of injury to the domestic industry in case of revocation of duty.*

#### ASSESSMENT OF DEMAND AND MARKET SHARE

34. Demand for the product has been assessed by considering sales of Indian producers and known imports of the product and the demand so assessed is shown in the following table,

	Unit	2001-02	2002-03	2003-04	POI(Annualised)
Sales of Domestic Industry	000'Pcs	****	****	****	****
Indexed	Trend	100	122	113	144
Production of Domestic industry	000'Pcs	728120	919829	857747	1072829
Indexed	Trend	100	126	118	147
Total Imports	000'Pcs	3139	80	1349	5506
Indexed	Trend	100	3	43	175
China	000'Pcs	3029	76	435	989
Indexed	Trend	100	3	14	33
Other Countries	000'Pcs	10	1	900	4485
Indexed	Trend	100	12	9050	45093
Sales of Other Producers	000'Pcs	****	****	****	****
Indexed	Trend	100	100	102	115
Unorganized Sector	000'Pcs	****	****	****	****
Indexed	Trend	100	100	91	119
Demand	000'Pcs	877352	1029954	964724	1214985
Indexed	Trend	100	117	110	138

35. It is seen that demand of the subject goods has shown a positive trend during the injury period and both sales and production of the domestic industry have also improved during the injury period.

#### VOLUME AND MARKET SHARE OF DUMPED IMPORTS

36. Volume of imports from subject country as well as of other countries over the injury period are shown in the table below,

	Unit	2001-02	2002-03	2003-04	POI(annualized)
China	000'Pcs	3029	76	435	989
Indexed	Trend	100	3	14	33
Other Countries	000'Pcs	10	1	900	4485
Indexed	Trend	100	12	9050	45093
Imports	000'Pcs	3139	80	1349	5506
Indexed	Trend	100	2.54	42.97	175
Market Share in Imports	%				
China	%	96.50	95.35	32.21	17.95
Other Countries	%	0.32	1.51	66.72	81.45

37. It is noted that dumped imports from China has declined significantly during the POI whereas imports of the product from other countries have increased. The share of subject imports in total imports has declined whereas the share of other countries has significantly increased during the POI. As a result of decline in Chinese imports, share of Chinese imports in total demand has also declined and the share of imports from other countries increased during the same period. The domestic industry has argued that the imports from third countries were nothing but exports of Chinese origin but it was not substantiated with evidence for their claim, therefore, the Authority did not find appropriate to consider the claim of the domestic industry.

#### PRICE EFFECT

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

*"With regard to the effect of the dumped imports on prices as referred in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which other wise would have occurred to a significant degree."*

39. In a sunset review investigation, it is required to be examined whether there has been a significant price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of adverse price effect in case of revocation of anti dumping duty. The selling price of the domestic industry and landed price of imports during the POI are shown below,

	Unit
Net Sales realization of Domestic	Rs. / ****

industry	Pc	
Landed value without subject goods	Rs. / Pc	****
Price Undercutting amount		****
Price undercutting %	%	40- 44

*The net sales realization of the domestic industry has been determined considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Entire sales volumes of the domestic industry have been considered for determination of net sales realization and landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. A comparison for subject goods during the period under investigation was made between the weighted average landed value of dumped imports and the net sales realization of the domestic industry. It is found that the landed value of imports from China was lower than the net sales realization of the domestic industry for the subject goods during the POI and undercutting to the domestic prices of the domestic industry. The level of price undercutting was found that the price undercutting is in the range of 40-44%.*

*40. The non-injurious price determined for the domestic industry was compared with the landed value of imports to determine the extent of price underselling in the event of revocation of anti dumping duty. The non-injurious price has been evaluated for the domestic producers by appropriately considering the cost of production for the product under consideration during the POI, the actual capacity utilization and providing reasonable profit on the capital employed. The analysis shows that the weighted average landed value of subject goods from China is less than the non-injurious price determined for the domestic industry during the period of investigation and found that the price undercutting is in the range of 50-56%.*

	Unit	
Non Injurious Price	Rs. / Pc	****
Landed price of imports	Rs. / Pc	****
Price underselling amount	Rs. / Pc	****
Price underselling %	%	50- 56

#### ECONOMIC PARAMETERS RELATING TO THE DOMESTIC INDUSTRY

*41. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Further Annexure II (iv) of the Rules lays down various factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.*

### Capacity and Production

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

#### PROFIT TABLE:

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Capacity of domestic industry	000'	868000	868000	1022000	1063333
Indexed	Trend	100	100	118	123
production of domestic industry	000'	728120	919829	857747	1072897
Indexed	Trend	100	126	118	147
Capacity Utilization of domestic industry	%	84	106	84	101
Indexed	Trend	100	126	90	113
Sales of domestic industry	000'	****	****	****	****
Indexed	Trend	100	122	113	144

43. It is noted that production, capacity utilization and sales of the domestic industry have shown a positive trend during the injury period. Production of the domestic industry has increased from 100 during 2000-01 to 147 during the POI whereas a domestic sale has increased from 100 to 144 during the same period. Resultantly, capacity utilization of the domestic industry has also improved during the injury period.

#### PRODUCTIVITY

44. Productivity of the domestic industry is given in the table below,

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Productivity per employee (000')	No	****	****	****	****
Indexed	Trend	100	119	105	154

45. The productivity of the domestic industry has improved during the injury period from 100 during 2000-01 to 154 during the POI.

## SALES

### 46. PRESENT SALES OF THE DOMESTIC INDUSTRY HAS BEEN AS UNDER,

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Sales of Domestic industry	000'Pcs	****	****	****	****
Indexed	Trend	100	122	113	144
Imports From subject country	000'Pcs	3029	76	435	989
Indexed	Trend	100	3	14	33

*The sales of the domestic industry has increased during the entire injury period were as the imports from subject country has declined from 100 during 2001-02 to 33 during the period of investigation.*

### 47. PROFITS, RETURN ON INVESTMENT AND CASH FLOW

*Status of domestic industry with regard to profits, return on investment and cash flow over the injury period was examined and the position was found as under,*

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Profit Before Tax	Rs. Lacs	****	****	****	****
Indexed	Trend	100	230	204	158
Profit before interest and tax	Rs. Lacs	****	****	****	****
Indexed	Trend	100	170	149	129
Return on capital employed - NFA Basis	%	****	****	****	****
Indexed	Trend	100	167	120	102
Cash Profit	Rs. Lacs	****	****	****	****
Indexed	Trend	100	174	157	120
Net sales realization	per pc.	****	****	****	****

Indexed	Trend	100	96	94	85
Cost of sales	Per pc.	****	****	****	****
Indexed	Trend	100	89	87	83
Profit/Loss	Per pc.	****	****	****	****
Indexed	Trend	100	187	180	110

*It is noted that the profits earned by the domestic industry has increased during the entire injury period, however, gradual increase in imports from other countries has started impacting the profits of the domestic industry. The Authority notes that the marginal decline in profitability, return on investment and cash profits of the domestic industry during the POI compared to earlier years may be due to increase in imports from other countries. It is noted that a domestic industry profit per unit has also showing a positive trend during the entire injury period, however, it is noted that the profit per unit has declined by 70% during the period of investigation compared to the earlier period.*

MARKET SHARE IN DEMAND

*48. Designated authority has examined actual and potential changes in the market share of the domestic industry in demand of the product in the country.*

Unit	2001- 02	2002- 03	2003- 04	POI (annualized)
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<u>Market share in Demand</u>					
Domestic industry	%	78.81	82.24	81.13	82.09
Other producers	%	14.96	12.74	13.85	12.42
Producer unorganized sector	%	5.88	5.01	4.88	5.04
Imports	%				
Subject country	%	0.35	0.01	0.05	0.08
Other countries	%	0.00	0.00	0.09	0.37

*It is noted that market share of the domestic industry has increased during the entire POI, whereas the market share of dumped imports has declined from 0.35% during 2001-2002 to 0.08% during the POI whereas the market share of imports from other countries have increased from 0.0% during 2001-2002 to 0.37% during the POI.*

#### EMPLOYMENT AND WAGES

*49. It is noted that there may not be direct adverse effect on employment levels of the domestic industry due to dumped imports, as sales, production and productivity of the domestic industry has improved. These parameters were, nevertheless, examined and status of employment levels and wages have been as under,*

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Employment	No	****	****	****	****
Indexed	Trend	100	106	113	96
Wages	Rs. Lacs	****	****	****	****
Indexed	Trend	100	108	102	119

*The employment levels with the domestic industry show a decline during the POI, but no substantial argument was raised on this account. Wages do not show decline, rather showing an increase over the period, which is reflective of the increments in wages.*

#### PRICE UNDERCUTTING AND UNDERSELLING

*50. With regard to the effect of the dumped imports on prices, the Designated 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.

51. In a sunset review investigation, it is required to be examined whether there has been a significant price effect by the dumped imports as compared with the price of the like product in India, or whether there is likelihood of adverse price effect in case of revocation of anti dumping duty. It is observed that import price of the subject goods reported from subject country was significantly lower than the net sales realization determined for the domestic industry. It was found that the landed value of imports were significantly undercutting the domestic sales price and it was found in the range of 40 to 44%.

	Unit	
Net Sales realization of Domestic industry	Rs. / Pc	****
Landed value without subject goods	Rs. / Pc	****
Price Undercutting amount		****
Price undercutting %	%	40-44

52. The net sales realization of the domestic industry has been determined considering selling price, excluding taxes & duties, rebates, discounts and freight & transportation. Entire sales volumes of the domestic industry have been considered for this purpose. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The comparison is done between net sales realization and landed price of imports. In order to determine the extent of price underselling, the non injurious price has been determined and compared with landed price of imports. It was observed that the weighted average landed value of subject goods from China is less than non injurious price determined for the domestic industry during the period of investigation and it was in the range of 50 to 56%.

	Unit	
Non Injurious Price	Rs. /Pc	****
Landed price of imports	Rs. / Pc	****
Price underselling amount	Rs. / Pc	****
Price underselling %	%	50-56

53. The non-injurious price has been evaluated for the domestic industry by appropriately considering the cost of production of the product under consideration during the POI, the actual capacity utilization and providing reasonable profit on the capital employed. The Authority considers that the non injurious price so determined is now representative of the non injurious price for the domestic industry as a whole.

### INVENTORIES:

54. Authority has examined the inventory level of the domestic industry, which is given in the following table,

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Inventory	000'Pcs	****	****	****	****
Indexed		100	97	93	116
Inventories asa% of sales	%	****	****	****	****
Indexed		100	79	81	81

55. It is noted that the inventory level of the domestic industry has increased during the injury period, but as a percentage of sales it has declined during the POI.

### GROWTH

56. On examination of various economic parameters of the domestic industry, it is noted that various volume parameters of the domestic industry have shown positive trend during the injury period. It is further noted that the domestic industry has improved its performance with regard to profits, cash flow and return on capital employed during the entire injury period.

### MAGNITUDE OF DUMPING

57. It is noted that the current dumping margin during the POI is more than limits prescribed for de-minimis determination and dumping margin determined in the original investigation was also significant.

### ABILITY TO RAISE CAPITAL AND INVESTMENT

58. It is noted that product under consideration forms a significant portion of operation of the domestic industry. The profitability of the company has improved during the injury period, after a decline during the POI, the domestic industry is found to in a position to raise capital and investment.

### MAGNITUDE OF INJURY AND INJURY MARGIN

59. The non-injurious price determined for the domestic industry has been compared with the landed value of exports for determination of injury margin. The weighted average injury margins have been found to be significant.

	Unit	POI (annualized)
Non Injurious price	Per Pcs	****

Landed value	Per pcs	****
Injury Margin	Per pcs	****

FACTORS AFFECTING DOMESTIC PRICES

60. Change in cost structure if any, competition in the domestic industry have been examined for analyzing the factors other than dumped imports that might affect the prices in the domestic market. It is noted that the landed value of imports is significantly below the selling price of the domestic industry causing severe price undercutting. It is also noted that there is no viable substitute to this product and the domestic prices compete with one another along with the landed value of the imports and the prices could be affected due to dumped prices.

OTHER KNOWN FACTORS AND CAUSAL LINK

61. Based on the arguments raised by the interested parties, the Authority has examined the current injury and causal link between the current injury and dumped imports from the subject country as well as likelihood of injury simultaneously. The Authority examined whether other listed known factors could have caused or are likely to cause injury to the domestic industry.

VOLUME AND PRICES OF IMPORTS FROM OTHER SOURCES

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

000,piece	2001-2002	2002-2003	2003-2004	POI(Annualized)
Subject country	3029	76	435	989
Countries Not attracting ADD	10	1	900	4485
Total imports	3039	77	1335	5506
Share in imports	%			
Subject country	99.67	98.45	32.56	18.06
Countries Not attracting anti dumping duty	0.33	1.55	67.44	81.94

During the POI, in addition to the imports of subject goods from subject country, imports have taken place from number of other countries also. Total import from other sources increased from 3029 ,000 pieces during 2001-2002 to 5506,000 pieces during POI. On examination, it is further noted that the weighted average import price from sources not attracting anti dumping duty was higher than the dumped from the subject country. Therefore, it is held that imports from the other sources did not appear to have had significant adverse effect on the domestic industry, both in terms of volume and value.

### CONTRACTION IN DEMAND AND / OR CHANGE IN PATTERN OF CONSUMPTION

000,pieces	2001-02	2002-03	2003-04	POI
Demand	877352	1029954	964724	1214985
Indexed	100	117	110	138

Total domestic demand of the product under consideration has increased from 877352 ,000 pieces during 2001-2002 to 1214985,000 pieces during the POI. It is noted that the demand has consistently increased during the entire injury period. Thus, possible contraction in demand is not a factor that could have caused injury to the domestic industry.

### TRADE RESTRICTIVE PRACTICES AND COMPETITION BETWEEN THE FOREIGN AND DOMESTIC PRODUCERS

63. The subject goods are freely importable and there are no trade restrictive practices in the domestic market. The domestic industry consists of 3 major producers of the subject goods out of 5 producers of caustic soda in the Country. The Indian Producers competes among one another and at the same time compete with the landed price of imports of the subject goods. Present situation of injury to the domestic industry cannot be attributed to trade restrictive practices or unfair competition between foreign and domestic producers.

### DEVELOPMENTS IN TECHNOLOGY AND EXPORT PERFORMANCE

64. Technology or technology related issues have not been raised by any interested parties as a possible cause of injury to the domestic industry. It is noted that the domestic industry has exported small quantity of subject goods during the POI that does not substantially affect the operations of the company. The export performance of the domestic industry is, thus, insignificant if compared with the entire sales of the domestic industry, therefore, export turnover does not affect performance of the domestic industry and can not be the cause of injury.

	Unit	2001-02	2002-03	2003-04	POI (annualized)
Export	000'Pcs	****	****	****	****
Indexed		100	124	130	119

### PRODUCTIVITY OF THE DOMESTIC INDUSTRY

65. Productivity of the domestic industry in terms of labour output and daily output has shown a growth during the POI compared to the base year. It is also noted that productivity has shown a growth during the entire injury period along with growth in production and sales.

66. It is noted that market share of the domestic industry has improved during the entire injury period . The landed value of the subject goods during the period of investigation was below the net sales realization and the non injurious price determined for the domestic industry and was thus significantly

*undercutting the domestic selling prices. Should the exports undercut the prices of the domestic industry, the same is likely to have adverse volume and/or price effect and would be at dumped prices.*

#### LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

*67. The domestic industry has argued that the requirement under sunset review is to examine whether revocation of anti dumping duty is likely to lead to continuance or recurrence of injury to the domestic industry. The domestic industry has also submitted that if the listed injury parameters do not show injury, the same only imply that the domestic industry has not suffered injury. This, however, does not establish that injury to the domestic industry is unlikely to recur in the event of revocation of anti dumping duties. The Authority has determined that the subject goods are continuing to enter the Indian market at dumped prices or are likely to be exported at dumped prices from the subject country in the event of withdrawal of anti dumping duties. It has already been established that the actual landed value of imports from the subject country were below the domestic selling price and non injurious price determined for the domestic industry. The Authority examined the likelihood of continuation or recurrence, considering the parameters relating to the threat of material injury in terms of Annexure II (vii) of the Rules, which states as under:*

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

*(a) a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.*

*(b) Sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports.*

*(c) Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports and,*

*(d) Inventories of the article being investigated.”*

*68. The Authority notes that while it is true that these parameters have been listed for examination of threat of injury, nonetheless, these can be useful, in their application on mutatis mutandis basis, for an assessment whether injury to the domestic industry is likely to recur in the event of revocation of anti dumping duties.*

*69. It is noted that none of the exporters/producers from China have responded in this review investigation. The domestic industry has filed information based on the web sites of the Chinese producers regarding capacity and sales. The Authority notes since information with regard to surplus unutilized capacity, production and demand of subject goods in China has not been made available either by the Chinese exporters/producers or by Govt. of China, the Authority has proceeded with best available information as per Rule 6(8) of AD Rules. In the absence of any response and comments from the interested parties and cooperation from Chinese exporters, the Authority has relied upon the information provided by the domestic industry and information available on websites as the best available information.*

*70. The domestic industry has submitted that the exporters from China continued to export the subject goods at dumped prices in the Indian market through third countries and revocation of anti dumping*

*duties would result in direct shipments and substantial increase in imports. The domestic industry further argued that the price difference between the domestic and imported material would be so huge in the event of revocation of anti dumping duties, there is no reason to believe that China would not divert significant volumes of the subject goods to the Indian market, more so when freely disposable capacities available with the foreign producers and capacities can be set up in a very short period.*

*71. The arguments and submissions were examined with regard to the information made available by the domestic industry about the production and sales. In order to determine whether the continued imposition of the duty is necessary to offset dumping, the Authority considered the following parameters –*

*Dumping margin determined in the original investigation,*

*Dumping margin determined in the present investigation,*

*Potential for export of the subject goods from China in the event of revocation of anti dumping duty.*

*72. On examination of these factors it is noted that*

*(e) The dumping margins in the original investigation was 693%, which was quite significant.*

*(f) Likely dumping margin in case of revocation of anti dumping duty determined in the present investigation is 65.93, which is also quite significant.*

*(g) Likely export price from China are significantly below not only the normal value but also below the prevailing selling prices in India and non injurious price determined for the domestic industry;*

*(h) Since none of the producer and exporter responded, it could not be demonstrated that withdrawal of anti dumping duty would not lead to likelihood of recurrence of dumping and injury to the domestic industry and continued imposition of the duty was unnecessary to offset dumping.*

*(i) Web sites information prescribed by domestic industry on Chinese producers of the subject goods show a huge potential for exports. 8 Chinese producers are found to have production capacity of 6 Billion batteries with average 65% export orientation, since none of the exporters/producers cooperated in this investigation and did not provide information with regard to production, sales, demand and surplus available in the country of exports, however, domestic industry has provided the information from the secondary sources i.e. Chinese Batteries news. As per the information 243535250,000 pcs of subject goods were produced during 1999 and 10.47 billion pcs were exported during that period. This conservative figure based on the information of year 2000 still shows that China has huge potential for exports and in case of revocation of anti dumping duty already in place they may like to export the subject goods at dumped price.*

*(j) Investigation has shown that the nature of the product is such that any producer can enhance capacity in a very short period, since investment involved in production of the subject goods is not quite significant.*

(k) The price difference between the Chinese supplies and Indian supplies is so significant that huge imports are likely in case of revocation of anti dumping duties.

73. It is noted that the producers/exporters from China did not cooperate, and they did not place any evidence on record that injury will not recur in event of withdrawal of measures.

H. FINAL FINDINGS:

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

i) the subject goods are entering the Indian market at dumped prices and dumping margin from subject country is significant and above de-minimis. The subject goods are likely to enter the Indian market at dumped prices, should the present measures be withdrawn. Thus, it has not been established that the continued imposition of the duty to offset dumping is unnecessary,

ii) even though the domestic industry has improved its performance over the injury period, the injury to domestic industry may recur, should the present anti dumping duties be withdrawn, injury to the domestic industry is likely to continue or recur.

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

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

77. Accordingly, the Authority recommends that definitive anti dumping duties as set out below be imposed by the Central Government on all imports of subject goods falling under customs heading 850610 of Schedule I under Chapter 85 of Customs Tariff Act originating in or exported from subject country. The anti-dumping duty shall be the difference between the amount mentioned in column no.9 of the following table and the landed value of imports per MT on all imports of subject goods falling under chapter 85 of the Customs Tariff, originating or exported from the subject territory/countries mentioned below:-

Sl No	Sub-heading	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Amount (US\$)	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

1	<u>85061</u> <u>0</u>	Dry Cell Batteries	zinc carbon pencil batteries, R6, AA, UM3, etc	China	China	Any Producer	Any Exporter	54.59	1000, piece	USD
2	<u>85061</u> <u>0</u>	Dry Cell Batteries	zinc carbon pencil batteries, R6, AA, UM3, etc	Any country other than China	China	Any Producer	Any Exporter	54.59	1000, piece	USD
3	<u>85061</u> <u>0</u>	Dry Cell Batteries	zinc carbon pencil batteries, R6, AA, UM3, etc	China	Any country other than China	Any Producer	Any Exporter	54.59	1000, piece	USD

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

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

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

(CHRISTY FERNANDEZ)

DESIGNATED AUTHORITY