

# MINISTRY OF COMEMRCE

## NOTIFICATION

NEW DELHI, the 22nd September, 1999

## FINAL FINDINGS

**Subject:-** Anti-Dumping investigation concerning imports of Low Carbon Ferro Chrome (LCFC) From China PR, South Africa and Macedonia-Final Findings.

**9/2/98-ADD** - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995, thereof:

### A. PROCEDURE

The procedure described below has been followed with regard to the investigations:

- i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s. Ferro Alloys Corpn. Ltd (FACOR), on behalf of domestic industry, alleging dumping of Low Carbon Ferro (hereinafter referred to as LCFC), originating in or exported from South Africa, China P.R. and Macedonia.
- ii. The preliminary scrutiny of the application filed by the petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was therefore, considered as properly documented;
- iii. The Authority, on the basis of prima fascia evidence submitted by the petitioner, decided to initiate investigations against imports of LCFC from South Africa, China PR and Macedonia (hereinafter also referred to as the subject countries).
- iv. The Authority noticed the Embassy of the subject countries about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
- v. The Authority issued a public notice dated 9th December, 1998 published in the Gazette of India, Extraordinary, initialing anti-dumping investigations concerning imports of LCFC classified under customs Sub-heading 7202.49 of schedule I of the Customs Tariff Act, 1975 originating in or exported from China P.R., South Africa and Macedonia.
- vi. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations

- and gave them an opportunity to make their views known in writing in accordance with rule 6(2),
- vii. The Authority forwarded a copy of the public notice to the known importers of LCFC in India and advised them to make their views known in writing within forty days from the date of the letter.
  - viii. Request was made to Central Board of Excise and Customs (CBEC) to arrange details of imports of LCFC for the past three years, including the period of investigations.
  - ix. The Authority provided a copy of petition to the known exporters and the Embassy of subject countries in accordance with rules 6(3) supra;
  - x. The Authority sent the questionnaire, to elicit relevant information, to known exporters from China P.R., South Africa and Macedonia, as mentioned below in accordance with the Rule 6(4)

### **China P.R.**

- M/s Jiangyyn Ferro Alloy Factory, China P.R
- M/s. Jilin Ferro Alloys Works, China PR.
- M/s. Nanjing Ferro Alloys Plant, China PR.

### **South Africa**

- M/s. Chrome Resources (Pty) Ltd , South Africa.
- M/s. Consolidated Metallurgical Industries Ltd (CMI), South Africa.
- M/s. Societe Anonyme DES Minerals, Luxembourg
- M/s. Syncret BV, Rottardam
- M/s Norc Alloy SA, Luxembourg.
- M/s. Compagine DES Mines ET Metaux SA, Luxembourg.
- M/s. Trans Commodities AG, Switzerland.
- M/s. Glencore International AG, Switzerland.
- M/s. Nynex Metal AB, Sweden
- M/s. Hernic Ferro Chrome (Pty.) Ltd., South Africa.
- M/s. Samancor Ltd., South Africa

### **Macedonia**

- M/s. Jugohrom, Mecedonia
- ix. The Embassies of subject countries in New Delhi were informed about the initiation of investigations in accordance with rules 6(2) with a request to advise exporters/producers from their country to respond to the questionnaire within prescribed time. A copy of the letter, petition and questionnaire within

sent to exporter was also sent to the Embassies, along with a list of known exporters/producers;

x. A questionnaire was sent to following known importers of LCFC in India calling for necessary information in accordance with rule 6(4);

- M/s. Himani Ferro Alloys Limited, New Delhi
- M/s. Shiva Alloys Pvt. Ltd., Delhi
- M/s. Jindal Strips Limited, Delhi Road, Hissar (India)
- M/s Sunhera Associates , New Delhi
- M/s. Balaji Industrial Products Limited, Jaipur, Rajasthan
- M/s. Shahu Refrigeration Industries Pvt. Ltd Delhi
- M/s. Indpol Links India, Delhi
- M/s. Munnet Industries Limited, New Delhi
- M/s Om Prakash Rakesh Kumar, Delhi.

The information was however filed by M/s. Om Prakash Rakesh Kumar only. No other importer responded to the questionnaire sent by the Authority.

- xiii. Additional information regarding injury was sought from the petitioner, which was also received.
- xiv. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by interested parties;
- xv. The Authority conducted spot verification of domestic industry to the extent considered necessary.
- xvi. The Authority held a public hearing on 12.07.99. The interested parties were requested to submit their views in writing and the written submissions so received have been considered by Authority.
- xvii. Cost investigations were also 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 petitioner so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry;
- xviii. \*\*\*\* in this notification represents information furnished by the petitioner on confidential basis and so considered by the Authority under the Rules.
- xix. Investigation was carried out for the period starting from 1st April, 1997 to 31st September, 1998
- xx. A public hearing in the case was held on 24th February, 1999. Subsequently, based on responses of interested parties, a disclosure statement was issued on 25th May, 1999. However, on a request from petitioner, a second public hearing was held on 12th July, 1999. Accordingly, the Authority disclosed the

additional facts brought out vide disclosure statement dated the 9th August, 1999.

## **B. PETITIONER'S VIEWS**

2. The petitioner has raised the following issues in its petition:

- a. There were no imports of LCFC from the subject countries, during the financial year 1995-96. However, there has been significant increase in the quantum of imports from China P.R. and Macedonia during 1996-97 and 1997-98. The exports from South Africa into India have also been at value below its Normal value;
- b. The goods are being exported into India at a price much below its Normal value in the subject countries;
- c. The share of imports of LCFC from the subject countries has increased from nil in 1995-96 to 26% in 1996-97. It further increased to 72.45% in 1997-98:
- d. The market share in the total demand of the petitioner was 85.62% in 1996-97. It has declined in 1997-98 to 57.23% on account of dumped imports,
- e. The petitioner company has also suffered due to decline in the sales volumes. The company had a sales of \*\*\*\* MT in 1995-96 which declined to \*\*\*\* MT in 1996-97 and further declined to \*\*\*\* MT in 1997-98.
- f. The increased imports from these countries are at the cost of sales lost by FACOR.

## **C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES**

3. (i) **M/s. Visa Energy Resources Ltd**

- a. The major cost involved in the production of LCFC are Chrome Ore/Chrome concentrates and power. In case of China P.R. the excess power supply and the lower cost of power makes them most competitive. As regards Chrome Ore/concentrates, the same used in China P R is exported from India. There has been rapid decline in the prices of Chrome Ore since 1995.
- b. The prices of LCFC for China P.R. are in line with the prices of Chrome ore/Chrome concentrate from India as well as other international suppliers.
- c. The injury to the petitioner M/s FACOR. is on account of reasons other than the alleged dumping of LCFC.
- d. The reduction in sales volumes of petitioner has been on account of the depression affecting steel and casting industry world wide, resulting in India steel and casting industry reducing the level of consumption of LCFC.

- e. In the event of any imposition of Anti-Dumping duty on the imports of LCFC from China P.R. the Chinese Ferro Alloy producers will stop using Indian charge chrome. Thus, imposition of Anti-Dumping duty will put charge Chrome business at a grave risk

**(ii) M/s. MMTC Limited:**

MMTC Ltd. is a canalizing Agency for export of Chrome Ore India earns foreign exchange of the order of approximately US\$ 40 Million annually by selling Chrome Ore and Chrome concentrate to China P.R. China P.R. is emerging as a very important market for Indian Iron Ore and our exports to China P.R. is poised for substantial growth in the near future. It is understood that the quantity of LCFC being imported into India From China P.R. is of the order of 1200 MT per annum with a value of the little over US\$ 1.00 Million. In view of the above it would not be appropriate at this juncture to impose anti Anti-Dumping duty on the imports of LCFC from China P.R. However, MMTC have no objection to the imposition of Anti-Dumping, duty on imports of LCFC from South Africa and Macedonia subject to merit.

**(iii) M/s. MINE RAIS S.A. LUXEMBOURG**

It is stated that M/s. MINE RAIS S.A. have not exported any LCFC to India during the Period of Investigation.

**(iv) M/s. A.D. JUGOHRUM, Macedonia:**

Due to very bad market of LCFC, the company has stopped manufacturing LCFC since June, 1997. As regard sales of LCFC, company confirmed that in the last ten years, it has not sold any LCFC directly or through trader exporters of third countries into India.

**v. M/s. Samancor Ltd., Johannesburg, South Africa**

M/s. Samancor Ltd., Johannesburg, in their response to petitioner stated as under:-

- a. There has been very large increase in volume of imports from China P.R. and Macedonia during the Period of Investigation (POI).
- b. The exports from South Africa have been the most expensive among subject countries.
- c. The petitioners may have suffered injury, if any, on account of aggressive market behaviors of Chinese and Macedonian exporters rather than South Africa.

- d. There has been a decline in the level of Customs duties in the last few years and same have its impact on market structure.
- e. The Ferro Alloys industry is power intensive. The South Africa manufacturer enjoys both cheap and reliable power supply. Therefore the petitioner are at a severe competitive disadvantage internationally due to dependency on expensive and unreliable source of power.
- f. The demand for the product i.e. LCFC has fallen significantly. The product is used by stainless steel producers in the induction furnace sector which did not have capacity to use High Carbon Ferro Chrome. The induction furnace sector has since introduced AOD converters which do not use LCFC. This has a major impact on the demand of LCFC.

**(vi) M/s. All India Induction Furnaces Association:**

The Association opposed any imposition of Anti-Dumping Duty on LCFC stating that M/s FACOR is the sole producer of LCFC in India and any anti-dumping duty would adversely affect the induction furnace industry.

(vii) M/s. Om Prakash Rakesh Kumar stated that he is an importer of LCFC for trading purposes and indicated import figures for the POI.

## **D. EXAMINATION OF THE ISSUES RAISED**

4. The submission made by the exporters, importers, petitioner and other interested parties have been examined, considered and have been dealt at appropriate places hereinafter.

## **E. PRODUCT UNDER CONSIDERATION & SCOPE OF INVESTIGATION**

The product involved in the present investigation is Low Carbon Ferro Chrome originating in or exported from China P.R., South Africa and Macedonian classified under Customs Sub-heading 7202.49 of the Customs Tariff Act, 1995 in the "others" category LCFC is issues in the production of stainless steel. It is one of the important element in the production of stainless steel. The quality of LCFC is specified in terms of percentage content of carbon and chrome. LCFC has a carbon content ranging from 0.03% to 0.20% and the chrome content various between 60% to 70%. The functions, uses and tariff classification are, however, indicative only and are in no way binding on the scope of the present investigations.

## **F. LIKE ARTICLES:**

6. The petitioner has claimed that the LCFC produced and sold by Domestic Industry and those imported from the subject countries are being used inter-changeably by customers in India. The world over LCFC is produced by Ferrin's Technology. There is no difference in technology adopted by petitioner and exporters in subject countries for manufacture of LCFC. None of the interested party has disputed claim made by petitioner with regard to Like Article.

In view of the same, Authority holds that the LCFC being produced by domestic industry and those being imported from the subject countries are technically and commercially substitutable and are like articles within the meaning of the rules.

### **G. DOMESTIC INDUSTRY:**

7. The petition has been filed on behalf M/s. Ferro Corpn. Ltd., Hindustan Times House, 8th Floor, 18-20 Kasturba Gandhi Marg, New Delhi having its Registered Office at Shreeram Nagar, Tumsar (Maharashtra) and works at Shreeram Nagar, Distt. Vizainagaram, Andhra Pradesh. The other company, M/s. Orissa Industrial Development Corpn. Ltd which had created capacity for manufacture of LCFC has since stopped production for the last three years. Therefore, the petitioner account for majority of LCFC in India and fulfils the requisite criteria to represent domestic industry, as required under the rules.

### **H. MARKET SHARE AND QUANTUM OF IMPORTS:**

8. The Authority notes that the LCFC is categorized under Customs heading 7202.49 of Scheduled 1 of Customs Tariff under category "others". There is no dedicated Customs Sub-heading for LCFC. Therefore, the official statistics of DGCI&S do not reflect a true and fair picture of quantum of imports of LCFC in India. The petitioners have furnished the information on quantum of exports based on secondary sources compiled by Steel Trade Intelligence. The Authority observes that there were no imports of LCFC from subject countries during 1995-96. The quantum of imports during 1996-97 was 100.70 MTs, which increased to 1136.70 MTs in 1997-98. The quantum of imports from the subject countries for six months ending September, 1998, was 431.70 MTs. The percentage share of subject countries in the total imports which was 27.7 % in 1996-97 has increased to 62.4% in 1997-98. The share of subject countries in the total imports in six months ending September, 1998 was 54%. The market share of petitioners which was 89.87% in 1996-97 has declined to 54% in 1997-98. The market share of petitioners was 59.65% in six months ending September, 1998.

### **I. COMPARISON:**

9 (i) The Anti-Dumping Rules, requires, that Designated Authority shall make a fair comparison between Export Price and Normal Value. Due allowances shall be made in each case, on its merits, for differences which affect the price comparability on various accounts. It has been claimed by petitioner that as per international practices, prices of LCFC are sensitive to Chrome content i.e. the higher the Chrome content the higher would be price of LCFC. Therefore, the petitioner requested for appropriate adjustment to export price for Chrome content. It is claimed by the petitioner that LCFC being produced by it has a Chrome content of 65%. Therefore, all exports may be appropriately adjusted to same level of Chrome content for the purpose of a fair comparison.

ii) The authority agrees with arguments of petitioner that the comparison of export price should be on a like to like basis. However, Authority notes that as per Technical specifications furnished by petitioner. LCFC may have a Chrome content varying from 60 to 70%. While claiming the normal value for individual countries, petitioners had claimed the average Chrome content of 66.6% in case of M/s FACOR. Thus, Authority notes that LCFC being produced and sold by petitioner in domestic market has the Chrome content of varying levels, some of which is higher than 66.6%. In order to make an analysis of the Chrome content of the LCFC being sold by petitioner in the domestic market, Authority made an analysis of sales of petitioner in selected months in the period of investigation. The Authority notes that in the months of November, 1997, March, 1998 and September, 1998, petitioners have sold LCFC with Chrome content varying from 60.30% to 69.95%. The weighted average of Chrome content of LCFC sold by petitioners during selected period was 66.11%. Therefore, the same has been considered by Authority as the Chrome content of sold by M/s. FACOR. The Authority made adjustments in export price for chrome content accordingly.

(iii) The Authority notes that LCFC with Chrome content varying from 61% to 70% is being exported to India. The petitioners have relied upon the data compiled by secondary sources for the purpose of establishing export price. The secondary sources do not reflect Chrome content of LCFC being exported to India. The petitioner have claimed adjustments in export price for chrome content based on copies of some of the invoices for export from China P.R. and Macedonia. The Authority notes that no response has been received in the investigation from exporters from China P.R. and Macedonia. In view of non-co-operation Chrome content based on the best available information. Accordingly, the Authority has made adjustments for Chrome content to all the exports to India from China P.R. and Macedonia, based on the average Chrome content of invoice furnished by petitioner. Accordingly, the average Chrome content of exports from China P.R. and Macedonia has been considered by Authority as 69.16% and 69.8% respectively. In case of non-co operative exporters from South

Africa, Authority has considered Chrome content at 65% based on invoice furnished by the petitioner. However, in case of M/s. Samancor, the adjustments have been made for chrome content based on actuals as per details made available by M/s. Samancor i.e. at 61.90%.

## **J. DUMP ING:**

10. Under Section 9A(1)(c), normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6). Or
- ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such as do not permit a proper comparison, the normal value shall be either:-
  - a. Comparable representative price of the like article when exposed 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 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

11. The Authority sent the questionnaire to exporters from subject countries in terms of the Section cited above. The claims made by the exporters with regard to normal value and export price are as under:-

### **Exporters from South Africa:**

The response was received only from M/s Samancor Ltd., who furnished the details of export made to India during the POT and domestic sales. The claims made by the exporter with regard to Normal value and export price are discussed herein under -

**Normal Value:** M/s. Samancor have made sales in domestic market through three different channels i.e. direct sales Ex-factory level, sales through Agents and sales through related company M/s. Columbus. The exporter furnished the month wise details of domestic sales of LCFC of the grade LM05 with average chrome content of 62.5%. The exporter have claimed adjustment from domestic sales on account of commission. Early Settlement discount, Packing and Inland freight in respect of sales through agents. No adjustments have been claimed in respect of direct sales at ex-factory level. The details of sales through M/s. Columbus have also been furnished. The sale through M/s. Columbus are ex-factory level and no adjustment have been claimed. Accordingly M/s. Samancor have claimed domestic price of LCFC at US\$ \*\*\*/MT.

**Export Price:** The exporter have furnished invoice wise details of export made to India during the POI. The separate details have been furnished in respect LCFC of the grade LM03 and LM05. From the invoice value, adjustment have been claimed in respect of commission to India Agents, Overseas freight and Insurance to arrive at FOB value of exports. Further. M/s Samancor have claimed adjustment on account of Inland freight, the documentation fees, Shipping Liner charges, container charges. Wharfage, Port charges, Forwarding Agent Commission, Provisions for moving the empty containers and tracking their progress to stocks, cartage and packaging charges. Accordingly. M/s. Samancor Ltd have claimed average Ex-factory export price of US\$\*\*\*\* /MT with average Chrome content of 61.90%

**China P.R.:**

No response was filed by any of the exporters from China PR.

**Macedonia:**

One of the manufacturers of LCFC from Macedonia, M/s A.D. JUGOHRUM, Macedonia, in their response stated that they have not exported any LCFC to India during POI. Hence, no details on information called for by Designated Authority was furnished by the exporter. No response was received from other exporters from Macedonia.

**EXAMINATION OF THE CLAIMS BY AUTHORITY- EXPORTERS FROM SOUTH AFRICA**

M/s. Samancor Ltd:

**Normal Value**

As claimed by exporter, the sales in domestic market takes place through three distribution channels i.e. Direct Sales to unrelated parties, sales through Agent and Sales through M/s Columbus, a joint venture company of Samancor Ltd. The sales through related company in the domestic market have not been considered by the Authority for the purpose of determining normal value. Besides the claims on account of Early Settlement Discount have been disallowed. Based on the above, a normal value of US\$\*\*\*\*/MT has been considered.

### **Export Price**

In respect of Export Price to India, the exporter have furnished separate details of LCFC of grades LM03 and LM05. The Authority notes that these grades differs in respect to their carbon content. Therefore, for the purpose of Ex-factory export price, the Authority has considered average export price of LCFC of grades LM03 and LM05. The adjustment claimed by exporter in respect of Documentation fees, Shipping liner charges, Wharfage, Port charges, provision for moving the empty containers and tracking their progress to the stocks and cartage are stated to be on actual basis. The same have been accordingly, considered by Authority while working out Ex-factory export price for sale to India. Accordingly, the Ex-factory export price for sales to India has been considered at US\$ \*\*\*\*/M.T. In view of the variance in Chrome content in the domestic sales and export sales, Authority has made appropriate adjustment and the Ex-factory export price has been considered as US\$ \*\*\*/M.T.

### **13. OTHER EXPORTERS FROM SOUTH AFRICA**

#### Normal Value:

No response has been received from the other exporters of LCFC from South Africa. Therefore, in respect of other exporters of LCFC from South Africa, the Authority has considered normal value based on the best available information, as provided under the rules. Accordingly, normal value as claimed by the petitioner have been considered after allowing reasonable returns. Accordingly, Normal value in respect of other exporters has been considered based on the constructed cost of production in South Africa at US\$ \*\*\*/M.T.

#### Export Price:

In respect of export price for other exporter from South Africa, the Authority has relied upon information made available by petitioner. Accordingly, average CIF export price for South Africa has been considered as US\$\*\*\*\*/MT. The petitioners have claimed the following adjustments from the export price:-

Sl. No.		South Africa
1.	Ocean Freight	****
2.	Marine Insurance	****
3.	Inland Freight	****
4.	Special Packing	****
5.	Commission	****
6.	Transport, Loading and Unloading	****
7.	Port Expenses	****
	Total Adjustment:	****

The adjustment claimed by petitioner have not been contested by any of exporters from South Africa. After considering the adjustments from CIF price, as claimed by the petitioner, the Ex-factory export price has been considered as US\$\*\*\*/MTs. This has been further adjusted by Authority for chrome content as per normal value. Accordingly, the Ex-factory export price in case of Non-co operative exporters has been considered as US\$\*\*\*\*/M.T.

**14. EXPORTERS FROM CHINA P.R. AND MACEDONIA:**

Normal Value:

The Authority provided opportunity to exporter from China P.R. and Macedonia to furnish information relevant to the investigations and offer comments, if any, in accordance with the Section cited above. The Authority wrote to the Embassies of subject countries in India also. However, none of the exporters from China P.R. has responded to the Authority's request for information. As regards, Macedonia one of the exporter M/s. A.D. JUGOHORM, responded stating that they have not exported any LCFC to India during the POI.

None of the exporters from China P.R. and Macedonia have furnished the information called for by Designated Authority despite being provided with an opportunity to do so. Besides, the claim made by the petitioner with regard to determination of normal value has also not been disputed by any interested party(ies). The Authority has, therefore, proceeded on the basis of Rule 6(8), i.e. best information available. The Normal was determined at the time of initiation of investigation on the basis of constructed cost of production of LCFC in China P.R. and Macedonia. The Authority has considered the same as basis for determination of Normal Value. The cost of production of LCFC, as made available by the petitioner, has been adopted as the basis for constructed cost in China P.R. and Macedonia after allowing for reasonable

margins for the profits. Accordingly, normal value per MT of LCFC has been taken at US\$ \*\*\*\* and US\$\*\*\*\* for China P.R. and Macedonia respectively.

Export Price:

None of the exporter from China P.R. and Macedonia have responded to notice of initiation and furnished information requested by Authority. The petitioner have furnished some copies of invoices in respect of import of LCFC from China P.R. and Macedonia, during the POI. The petitioners have also furnished details of the exports from subject countries during the POI based on the Steel Trade Intelligence Statistics as well as Iron and Steel News letter(s). In the absence of any response from exporters from these countries, Authority has considered export price based on best available information. Accordingly for export prices, the information made available by petitioner(s) has been relied upon by Authority. The CIF value of exports from China P.R. and Macedonia have been considered by Authority are as under:-

S.No.	Country	CIF Value/ MT (In US\$)
1.	China P.R.	****
2.	Macedonia	****

15. The rules relating to comparison provides as follows:

"While arriving at Margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade, normally at ex-works level, and in respect of sales made at as early possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics and any other differences which are demonstrated to affect price comparability."

16. The petitioner have claimed the following adjustments from the export price:-

**US\$/MT**

SI. No.		China P.R.	Macedonia
1.	Ocean Freight	****	****
2.	Marine Insurance	****	****
3.	Inland Freight	****	****
4.	Special Packing	****	****
5.	Commission	****	****
6.	Transport, Loading and Unloading	****	****
7.	Port Expenses	****	****

	<b>Total Adjustment:</b>	****	****
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17. For the purpose of fair comparison between normal value and export price, the information furnished by petitioner and other published information available with Authority has been relied upon. Since none of interested parties have disputed export price and adjustment as claimed by petitioner, the Authority has allowed adjustments, as claimed. Accordingly, Ex-factory export price in case of China P.R and Macedonia has been considered by Authority as US\$\*\*\*\* and US\$\*\*\*\*M.T. The Authority furthers notes that Normal Value of LCFC has been considered with a Chrome content of 66.6%. However, the average Chrome content of LCFC exported to India from China P.R. and Macedonia is 69.16% and 69.8%, respectively. Therefore, for a fair comparison on a like lo like basis, the Authority has made appropriate adjustments in Ex-factory export price and Ex-factory export price has been considered as US\$\*\*\*\* /MT in case of China PR. and US\$\*\*\*\* /MT in case of Macedonia.

## L. DUMPING MARGIN:

Accordingly, the dumping margin in case of subject countries and that in respect of individual exporters are as under-

US\$/MT

	South Africa		China P.R.	Macedonia
	M/s. Samancor	Other Exporters	All Exporters	All Exporters
Normal Value	****	****	****	****
Export price	****	****	****	****
Dumping Margin	****	****	****	****
Dumping Margin %	--	26.71	42.70	61.79

## M. INJURY AND CAUSAL LINK:

19. Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "..taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles-..". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article 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.

20. For the examination of the impact of the imports on the domestic industry in India, the Authority considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation dumping etc. in accordance with Annexure II(iv) of the rules supra.

## **21. INJURY PARAMETERS TO THE DOMESTIC INDUSTRY:-**

Profitability: The petitioner company is engaged in a number of activities like manufacture of various Ferro Alloys (other than LCFC). Charge chrome, Steel products etc. The share of LCFC in overall sales of the company is only \*\*\*\*% during 1997-98, Therefore, the overall profitability of FACOR could not be considered by the Authority as an appropriate basis for assessment of injury to petitioner company.

The profitability of M/s. FACOR for domestic sales of LCFC indicates that the company earned a profit of Rs. \*\*\*\* lacs during 1995-96 on the domestic sales of LCFC which increased to Rs. \*\*\*\* lacs in 1996-97 and was Rs. \*\*\*\* lacs in 1997-98. However, total profit from domestic sales of LCFC was (-) Rs. \*\*\*\* lacs during six months period ending Sept., 1998.

Production: The company produced \*\*\*\* Mt of LCFC during 1995-96, which increased to \*\*\*\* MT during 1996-97. However, the production declines to \*\*\* MT during 1997-98. There was a significant decline in the production of LCFC during six months ending Sept., 1998. The decline in the production was 14.8% in 1997-98 and was as much as 50% in six months ending 30th Sept., 1998 on an annualised basis.

Capacity Utilisation: The capacity utilisation of the company was \*\*\*\* % in 1996-97 which declined to \*\*\*\* during the POI.

Sales Volume: There has been a constant decline in the quantum of sales of the petitioner in the domestic market during last three years. The sales of LCFC in domestic market has declined from \*\*\*\* MT in 1995-96 to \*\*\*\* MT in 1996-97 and further to \*\*\*\* MT in 1997-98. The annualised decline in sales volume during POI was 31% over 1996-97.

Closing Stocks: The level of closing stock of Petitioner Company has declined in terms of values since 1996-97. However closing stocks as on 31.03.1997 represented \*\*\*% of the sale, which increased to \*\*\* % of the sales in 1997-98. The closing stock as on 30th September, 1998 represented \*\*\*% of the sales on an annualised basis.

The Authority notes from the above that there has been substantial increase in the volume of exports from the subject countries during the period of investigation. The

LCFC has been exported at a price below its Normal value. Consequently, there has been decline in the capacity utilisation, production and profitability of the petitioner Company. Due to increase volume of imports from subject countries, the sales volume of petitioner has declined significantly leading to fall in the market share of Petitioner Company. Thus, Authority concludes that the injury to domestic industry has been caused due to dumped imports.

## **22. LANDED VALUE**

The landed value of imports has been determined on the basis of export price of LCFC, determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

## **23. NON-INJURIOUS PRICE FOR THE DOMESTIC INDUSTRY:**

To ascertain the extent of anti-dumping duty necessary to remove injury to domestic industry, the Authority rely upon Non-injurious price of LCFC in India for domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for domestic industry. The information provided by petitioner with regards to the cost of production and non-injurious selling price of domestic industry was verified by Designated Authority. Subsequent to verification of information, the petitioner submitted additional information and claimed revised costs in manufacture of LCFC in domestic market. The petitioners has claimed additional cost an account of certain elements of cost in domestic sales. The Authority notes that additional claims of petitioner are contrary to claimed on cost of production made earlier during verification. Thus, Authority holds that additional claims of petitioners on account of certain elements of cost appears to be an afterthought and not substantiated with facts. In view of the same, Authority has disregarded additional claims made by petitioner. The Non-injurious selling price for petitioner has, therefore, been arrived at based on the information as verified by Designated Authority.

## **N. OTHER ISSUES RAISED BY INTERESTED PARTIES:**

### **24. ARGUMENT BY M/S MMTC LIMITED:**

India earns substantial amount of foreign exchange by selling Chrome ore and Chrome concentrate to China P.R. China P.R. is emerging as a very important market for Indian Iron ore and Chrome ore. On the other hand the quantum and value of LCFC being imported to India from China P.R. is very low. Therefore, it would not be appropriate to impose Anti-Dumping Duty on import of LCFC from China P.R. This

may result in retaliatory action in the shape of stoppage of Chrome ore/Chrome concentrate imports from India by the Chinese buyers.

#### **25. EXAMINATION BY AUTHORITY**

The argument is generic in nature and is not relevant to the present investigation. The Designated Authority has carried out Anti-Dumping investigation, in accordance with the Anti-Dumping Rules.

#### **26. ARGUMENT BY M/S VISA ENERGY RESOURCES LIMITED**

The present duty structure is more than sufficient to protect the domestic industry to compete with the imported product. At the present import prices from China P.R. and prevalent exchange rates, import price is no longer cheaper than the price being offered by M/s FACOR in domestic market.

#### **27. EXAMINATION BY AUTHORITY**

As per Anti-Dumping Rules, the Designated Authority considers the relevant factors as were prevalent during the period of investigation. Therefore, Designated Authority has considered import prices, duty structure and exchange rates as were prevalent during the period of investigation for assessment of dumping and injury to domestic industry.

#### **28. ARGUMENT BY M/S. SAMANCOR LIMITED**

The injury to the petitioners may be for other reasons like fall in demand from customers as a result of worldwide trends and technological changes.

#### **29. EXAMINATION BY AUTHORITY:**

The Authority notes that there has been a significant increase in the quantum of imports from subject countries during the period of investigation. Any technological changes or other world-wide trends on demand should be reflected by decline in sales of domestic industry as well as decline in imports. However, this is not so in the present case.

#### **30. ARGUMENT BY PETITIONERS**

The Anti-Dumping Duty is already in force against imports of LCFC from Russia and Kazakhstan. To evade the Anti-Dumping Duty, LCFC of Russia and Kazakhstan origin are actually being re-routed under documents of dubious credibility, as if such

goods have originated from Macedonia. In order to prevent the dumping of LCPC from Macedonia, Anti-Dumping Duty be imposed.

### **31. EXAMINATION BY AUTHORITY:**

In case there is any attempt by the exporters from Russia and Kazakhstan to evade the Anti-Dumping Duty by re-routing the subject goods under documents of dubious credibility, petitioners nifty take up the issue with appropriate customs authority for remedial action. The Authority does not consider, it is as sufficient ground for imposition of Anti-Dumping Duty as per Anti-Dumping rules.

### **32. ARGUMENT BY PETITIONERS**

M/s. FACOR is the only producer of LCFC in India, as the other producers have since closed their operation. The petitioner would also face the same fate, if the imposition of Anti-Dumping Duty is delayed. The company is already referred to BIFR and has eroded its net worth.

### **33. EXAMINATION BY AUTHORITY:**

The argument by the petitioners is not relevant to the scope of the present investigation.

## **O. FINAL FINDINGS:**

34. The Authority, after considering the foregoing, concludes that:

- a. Low Carbon Ferro Chrome originating in or exported from South Africa, China PR. and Macedonia has been exported to India below its normal value,
- b. the domestic industry has suffered material injury;
- c. the injury has been caused to domestic industry by dumping of subject goods originating in or exported from South Africa, China P.R and Macedonia

35. It was considered whether a duly lower than the dumping margin would be sufficient to remove the Injury. The average landed price of the imports, for the purpose, was compared with the non-injurious selling price of the petitioner company, determined for the period of investigation. The Authority notes that the Landed price of imports from S. Africa are higher than the non- injurious selling price for domestic industry. Therefore, no duties are proposed against imports from S. Africa. However, Authority proposes imposition of Anti-Dumping Duty on all imports of Low Carbon Ferro Chrome originating in or exported from China P.R. and Macedonia falling

under Custom heading 7202.49 of the Customs Tariff Act. The Anti-Dumping shall be the Amount mentioned in col. 3 below-

S.No.	Country	Amount of Anti-Dumping Duty in Rs./ MT
1.	China P.R. – All Exporters	911
2.	Macedonia – All Exporters	6512

36. 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 Additional duty of Customs levied under Section 3, 3A, 8B, 9 and 9A of the Customs Act, 1975

37. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act supra.

**RATHI VINAY JHA...**  
Designated Authority