

MINISTRY OF COMEMRCE
(Directorate General of Anti-Dumping and Allied Duties)

NOTIFICATION

New Delhi, the 18th November, 1998

FINAL FINDINGS

Subject:- Anti Dumping Investigation concerning import of Hot Rolled Coils/Sheets/Plates/Strips from Russia, Kazakhstan and Ukraine- Final Findings.

14/1/97/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 Article and for Determination of Injury) Rules, 1995

A. PROCEDURE

1. The Procedure described below has been followed:

- i. The Designated Authority (hereinafter also referred to as the Authority) notified preliminary findings vide notification dated the 17th June, 1998 and requested the interested parties to make their views in writing within the forty days from the date of its publication;
- ii. The Authority forwarded a copy of the preliminary findings to all the known interest parties who were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter;
- iii. The Authority also forwarded a copy of the preliminary findings to the Embassy of Russia, Kazakhstan and Ukraine in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings;
- iv. The Authority provided an opportunity to all interested parties to present their views orally on 4th August, 1998. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any. A number of interested parties attended the hearing;
- v. The investigations have been concluded within the time limit extended by the Central Government. The one year time limit expired on 5th Oct., 1998. The same has been, however, extended by the Central Government by three months and the extended time limit to complete these Investigations expire on 5th Jan., 1999;

- vi. The Authority made available non- confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- vii. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties have been appropriately dealt in the preliminary findings and/or these findings;
- viii. In accordance with Rule 16 of She Rules supra, the essential facts/basis considered for these findings were disclosed to all known interested parties and comments received on the same have also been duly considered in these findings.

B. VIEWS OF PETITIONERS, EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY

2. The views expressed by the petitioners, importers, exporters and other interested parties on the product under consideration, standing of the petitioners to file the petition like article, domestic industry, dumping, injury and causal link have been discussed in the relevant paras herein below.

3. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in the relevant paras herein below.

C. PRODUCT UNDER CONSIDERATION

4. The products under consideration in the present investigations are hot rolled coils, hot rolled sheets, hot rolled plates and hot rolled strips, Classified under Chapter 7208, originating in or exported from Russia, Kazakhstan and Ukraine. Each of these items individually is being described as hot rolled product in this investigation.

5. It has been argued by some interested parties that each of hot rolled coils, sheets, plates and strips are different items and should not have been clubbed by the Designated Authority in this investigation. It has also been argued that boiler quality plates should be excluded from the scope of the present investigations as neither these items are being produced by the Indian industry nor the same is causing any injury to the domestic Industry in view of significantly higher export price. As stated in the Preliminary findings also, the Authority has treated each of the hot rolled product as a separate product. The Authority has merely initiated investigations jointly against

imports of all these hot roiled-products as the petitioners had alleged dumping of all these products from the subject countries, the production process for each of these items is largely the same upto a particular stage and these products are commercially collectively known as hot roiled products. Hot rolled sheets, plates or strips merely involve certain additional production process. Coils can be used to make strips, plates or sheets. The issue of each of these hot rolled products being different assumes importance only from the viewpoint of determination of dumping margin and injury margin. The Authority has, for the purpose of determination of dumping or injury margin, considered each hot roiled product as separate item for those exporters who have furnished necessary information separately. In case an exporter has furnished combined information, the Authority has had no choice but to assess such exporter collectively. The Authority has merely combined the four products for the purpose of assessment of Injury, as stated in the preliminary findings, for the reason set out in the Para relating to injury.

6. With regard to boiler quality plates (also called BQ plates), it has been argued that the same should be excluded from the scope of the present investigations in view of the following:

- a. The price of HR plates and particularly of BQ plates is much higher than price of coils, sheets or strips;
- b. The cost or production of plates and particularly of BQ plates is much higher than coils, sheets and strips;
- c. BQ plates differs vastly even from the ordinary plates with regard to control on its chemistry, grain refinement, mechanical property, testing requirements, standard of performance;
- d. BQ plates are not being produced by the Indian industry.

In view of the above, it has been argued that BQ plates should be excluded from the scope of the present investigations.

Authority' s position:

While it is true that BQ plates differs from the ordinary HR plates, it cannot be denied that the basic property of the material remains the same, i.e., BQ plates are also hot rolled products. With regard to production of BQ plates in India, the Authority notes that the exporter and importers seeking exclusion of such plates themselves have enclosed evidence that these plates are being produced in India. Mere difference in cost of production or prices does no make the two products different. It merely calls for price adjustment for comparison purposes. The Authority, therefore, holds that the exporters or importers seeking exclusion of BQ plates imported from the subject countries have failed to substantiate their claim that like articles is not being produced

in India. It would, therefore, not be appropriate to exclude BQ plates from the scope of the present investigations. However, the Authority has made comparisons for the purpose of determination of dumping margin and injury margin considering like article.

7. Petitioners, domestic industry and like articles: The petition has been filed by M/s. Steel Authority of India Ltd. (SAIL) and Essar Steel Ltd. (referred to as Essar also in this notification) and is supported by M/s. Tata Iron & Steel Co Ltd. (TISCO) and Lloyds Steel industries Ltd. There are no other producers of the subject goods in India. The petitioners, therefore, satisfy the standing to file the present petition.

8. Arguments have been raised that TISCO and Essar are related companies within the meaning of Rule 2(b) and therefore, should be excluded from the purview of the domestic industry. The Authority, however, notes that none of the interested parties have disputed the preliminary findings that there is no evidence to suggest that Essar controls Steelco or that Steelco controls Essar or that both of them are controlled by a third company. With regard to TISCO, however, the Authority notes that Tata SSL is a Subsidiary company of TSSCO. TISCO is in a position to control Tata SSL, and, therefore, needs to be excluded from the purview of domestic industry.

9. The production of SAIL and Essar constitutes a major proportion of the domestic production of the subject goods in India. SAIL and Essar, therefore, form domestic industry within the meaning of the Rule 2(b).

10. With regard to like article, it has been argued that each of the hot rolled products is not a like article to any other hot rolled product. It has also been argued that each of the hot rolled products being produced by the domestic industry is not a like article to the hot rolled product being imported, originating in the subject countries. For instance, it has been argued that hot rolled plate is not a like article to hot rolled coils and hot rolled coils exported from the subject countries is not a like article to hot rolled coils produced by the domestic industry.

The Authority clarifies that mere joint initiation of these hot rolled products in the present investigations does not imply that the Authority has considered that hot rolled plate is a like article to hot rolled coils either for determination of dumping margin or for injury margin. Those exporters who have furnished separate information with regard to these products, such as Ispat Karmat, have been assessed separately for different products. However, in a situation where an exporter has not furnished relevant information separately, the Authority is prevented from assessing separate dumping margin for different goods, even though the Authority had requested separate information for each type/grade.

11. With regard to the arguments that each of the hot rolled product produced by the domestic industry is not a like article to the net rolled products exported from the subject countries, the Authority notes that none of the interested parties have demonstrated that the two are not like articles with reference to parameters such as physical characteristics (size, chemical composition, raw material), manufacturing process and technology functions and uses, product specifications, pricing, distribution & marketing and tariff classification. Considering these parameters the Authority finds that the goods produced by the domestic industry and the goods exported from the subject countries have characteristics closely resembling each other with reference to these parameters and there is sufficient evidence available that the two are technically and commercially substitutable and are substituted by the consumers.

12. In view of the foregoing, each of the hot rolled products, i.e. hot rolled coils, hot rolled sheets, hot rolled plates, and hot rolled strips produced by the domestic industry are being considered as like article to hot rolled coils, hot rolled sheets, hot rolled plates and hot rolled strips respectively imported originating in or exported from the subject countries within the meaning of the Rule 2(d). The Authority confirms preliminary findings with regard to domestic industry and like articles and confirms that SAIL and Essar constitute the domestic industry for the purpose of present investigations and that the goods produced by the domestic industry are like articles to the products under consideration.

D. DUMPING

13. The following exporters have been assessed separately for determination of separate dumping margins:

- a. Ispat Karmat
- b. JSC Severstal
- c. Novolipstsk Iran & Steei Corpn.
- d. Zaporizhstai Jnint-Stoc Co.
- e. Azovstal Iron & Steel Works
- f. Magnitogorsk Metallurgic Plant

14. The dumping was determined at the time of preliminary determination on the basis of the information furnished by the above mentioned exporters. Non of the exporters except Novolipstsk Iron & Steel Corpn. and Zaporizhstal Joint-Stoc Co disputed provision determination of dumping. However, a representative of these exporters and detailed discussions on the methodology adopted by the Designated Authority for determination of dumping and dumping margin in the preliminary findings. These

exporters have not disputed the methodology adopted by the Authority in the preliminary findings after the discussions. The preliminary findings with regard to dumping in respect of these exporters is, therefore, confirmed.

15. With regard to Ispat Karmat, the Authority notes that the petitioner have disputed the claims of Ispat Karmat that the domestic sales are in the ordinary course of trade, whereas the exporters has sought to establish the same by arguing that the company has made profits and the sales in the home market are more than 200% of the exports to India. The petitioner have pointed out that Ispat Karmat and JSC Severstal have not furnished their cost of production and therefore, the information filed by them should be disregarded. These exporters have, however, pleaded that the sales in the home market are in the ordinary course of trade as the exporters has made profits and the sales are in substantial quantities. The Authority notes that total sales of Ispat Karmat in the home market was *** MT and total exports to India were *** MT. The exporter has claimed export price on the basis of average selling price of all exports to India, whereas the selling price in the home market is based only on ***MT, which is 5.49% of total domestic sales. No explanation is provided by the company for the different sales adopted by the company for determination of selling price. The sales in the home market are therefore, not 200% of export sales to India; as claimed by the exporter. However, the selling price in the home market is based on ***MT, which is 13.84% of exports to India. The sales in the home market are, therefore, in substantial quantities. With regard to the profits made by Ispat Karmat and adjustment made by the exporter on account of negative goodwill, the Authority notes that the negative goodwill arose as the fair value of the, assets acquired was higher than the cost of acquisition. The company has charged depreciation higher by an amount equal to the income shown on this account in view of the above, the Authority confirm the preliminary findings with regard to dumping margin in respect of Ispat Karmat.

16. With regard to JSC Severstal, Russia, the Authority notes that the sales of the company in the home market is about 15.85% of total sales. Though the sales are in significant volumes, it has not been established by the company that the same are above cost of production. The company has claimed that it has made profit in 1996 and quarter 1 of 1997. However; the company has not furnished details of various items it has produced and sold in the relevant period and it is not clear from the information furnished whether the company exclusively carries activities relating to production and sales of Hot Relied products. In view of the same, it is not feasible to determine normal value- based on the prices at which goods have been sold by the company

17. Under Section 9A(1)(c), normal value in relation to an article means the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory. Though it would be more

appropriate to determine” normal value based on the prices at which goods have been sold by the company in its home market, normal value is the price at which goods are sold for consumption in the exporting country. It would, therefore, still be appropriate in case the normal value is determined based on the prices at which goods have been sold for consumption in the home market of the exporter, particularly in view of insufficient information furnished by the company within the time limits prescribed and to be just and fair to other co-operating exporters. The Authority notes that the deficiencies in the response are in the nature of that information which the exporter has knowingly preferred to withhold and are clearly not acts of omissions.

18. In view of the; above, it is considered appropriate to determine normal value for JSC Severstal based on information furnished by other co-operating exporters from Russia.

19. The Authority notes that in case of Ispat Karmat the situation is different as the company is the sole producer of hot rolled items in Kazakhstan.

20. With regard to other exporters, there is no argument raised by any interested party. The preliminary findings are, therefore, confirmed with regard to other exporters from the subject countries.

21. The dumping margin comes as under-

S.No.	Name of the Exporters	Dumping Margin (% of export price)
IN CASE OF RUSSIA		
1.	JSC Severstal	113.37
2.	Novolipstsk Iron & Steel Corpn.	78.37
3.	Maqnitogorsk Metallurgic Plant	56.71
IN CASE OF KAZAKHSTAN		
4.	Ispat Karmat Hot Rolled Coils Hot Rolled Sheets	De-minimus 18.46
IN CASE OF UKRAINE		
5.	Azovstal Iron & Steel Works	8.96

E. INJURY AND CAUSAL LINK

22. As noted in the preliminary findings also, 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 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.

Further it was noted by the Authority in the preliminary findings that for the examination of the impact of imports on the domestic industry in India the Authority may consider such further indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure 11 (iv) of the rules supra. The list of the parameters is not exhaustive nor any of the parameters listed therein individually must show injure The Authority may evaluate relevant economic parameters.

The effect of the dumped imports should be assessed, in accordance with para (vi) of the Annexure II to the Rules, in relation to the domestic production of the like article when available data permit identification of that production on the basis of such criteria as the production process, producers sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which necessary information can be provided.

In the instant case, it is observed that separate classification of demand of each Product would be difficult. Demand for hot rolled strips, for instance would be influenced by the supply/consumption of hot rolled coils. Further, production, capacity utilisation and sales volumes of a particular hot rolled products, say hot rolled strips would be influenced by production, capacity utilisation and sales volumes of hot rolled coils. It would be inappropriate to assess injury to the domestic industry in terms of individual hot roiled product. Injury to the domestic industry in totality for all hot relied products has been considered more appropriate under the present circumstances. However, the Authority has considered selling prices separately for each product for the purpose of fair comparison.

23. The arguments raised by the interested parties on injury and causal link are as under:

- a. The comparison of average sales realisation of ESSAR and SAIL done by the Authority in the preliminary findings is inappropriate.

Authority's position:

The comparison of average sales realisation of Essar and SAIL done by the Authority in the preliminary findings was based on the information furnished by these companies. These companies furnished information after preliminary findings, which was verified by the Authority to the extent deemed necessary. Additional information furnished by the two companies reveals that comparison of sales realisation of Essar and SAIL done by the Authority in the preliminary findings was inappropriate in view of the following reasons:

- i. Average sales realisation is an average of realisations from each of the hot rolled products. Sales realisation on Coils and Plates are significantly different. Since different quantities of sales in respect of these products are involved for the two companies, a comparison based on the average is bound to be inappropriate. As noted earlier, the Authority has adopted separate selling prices of different hot rolled products for the purpose of fair comparison;
 - ii. Average sales realisation of ESSAR included huge amounts of discounts in various forms given by the company. The company has given discounts on account of ****, The sales realisation shown by the company includes these amounts, because of which the realisation is much higher;
 - iii. ESSAR has sold goods on ex-godown basis. Freight recovered by the company from the customers (in those cases where paid by the company on behalf of its customers) are also included in its sales realisation. As against this, sales realisation shown by SAIL is exclusive of any freight expenditure;
 - iv. ESSAR has sold goods on significantly longer credit as compared to SAIL. The selling price is, therefore, inclusive of credit costs incurred by the company;
 - v. Sales realisation of ESSAR includes finance expenses, such as ***** which the company has borne on behalf of its customers;
 - vi. ESSAR had sold goods considering its competitive advantages compared to SAIL in terms of transportation costs. The company had higher realisation to the extent its customers would have had to incur expenditure on transportation of goods;
 - vii. SAIL sells goods directly as also through stockyards. 70% of its sales are through stockyards. In case of sales through stockyards, SAIL has to bear transportation cost from its plants to stockyards, The sales realisation shown by SAIL is an average of sales realisation of sales made directly, through stockyards and exports made. Further, it is inclusive of all forms of hot rolled products sold by the company, and includes defectives and seconds.
- b. The production of ESSAR in 1995-96 was 6806S4 MT and not nil, as has been considered by the Authority.

Authority's Position:

The Authority had considered production of Essar in 1995-96 as nil in the preliminary findings as per the information furnished by the company. The company had not claimed any production in 1995-96 in the petition. The company declared commercial production from 1st April, 1996. The company has, however, now furnished information that it had produced 330634 MT during the trial runs in 1995-96.

The Authority notes that what is relevant for the purposes of present investigations is the volume of goods produced by a company, whether it is declared as a trial production or as commercial production. Trial production also goes into the market and fetches a price. What is more important for the purpose of injury is the goods produced and sold by the constituents of the domestic industry, whether the production was a trial production or commercial production. Moreover, 680634 MT goods produced by the company represents 34% of its annual capacity and is a significant quantity to assess injury to the domestic industry. The Authority has, therefore, considered production during the trial runs as production for the purpose of injury assessment.

- c. The Authority should consider the domestic industry as it exists. All companies forming part of the domestic industry should be considered for injury determination. No Company forming part of the domestic industry should be examined in isolation, as has been done by the Authority.

Authority's position:

While it is appreciated that the Authority should consider the domestic industry as it exists and all companies forming part of the domestic industry should be considered cumulatively for injury determination, the argument of petitioners that no Company forming part of the domestic industry should be examined in isolation is not correct. Performance of individual companies forming part of domestic industry is important to establish causal link between the dumped imports and injury to the domestic industry. In case some company forming part of the domestic industry has net performed well for reasons other than dumping, the same cannot be attributed to dumping.

- d. Increased availability from domestic sources was not the cause of injury to the domestic industry. Profitability of the domestic industry increased in 1995-96, in spite of increase in production in that year as compared to previous year. However, profitability declined significantly in investigation period as compared to previous year in spite of much lower increase in production as compared to previous year.

Authority's position:

Position of production of the domestic industry, its profitability and import prices from the subject countries is as under:

	change in 1995-96 as compared to previous year	change in 1996-97 as compared to previous year
Production (MT)	(+) 849925	(+) 411901
Profit (Rs. Crs.)	(+) ***	(+) ***

The Authority notes that the increase in production (and hence availability) of the subject goods in the Indian market did not affect the profitability of the domestic industry, as profits increased significantly in 1995-96 as compared to previous year in spite of significant increase in production. However; the profits declined significantly in investigation period as compared to previous year even though the increase in the production in the investigation period was lower than the increase in the same in the previous year. The significant decline in profitability the investigation period was due to significant decline in the selling prices of the domestic industry in that year as compared to the previous year. The selling price of the domestic industry declined significantly in the investigation period as compared to the previous year as the import prices declined significantly, as notes elsewhere in this notification.

e. Increase in stocks with SAIL has not affected its profitability.

Authority's position:

The position of stocks with SAIL and its profitability is as under

	change in 1995-96 as compared to previous year	change in 1996-97 as compared to previous year
Stocks (MT)	***	***
Profit (Rs. Crs.)	***	***
Cost of production (Rs. pmt)	***	***
Average sales realisation (Rs. Pmt)	***	***

In view of the above, the Authority accepts the contention of the domestic industry that increases in stocks with SAJL has not affected its profitability. The increase in stocks have a bearing on inventory carrying costs and hence cost of production. However, profitability of SAIL declined in the investigation-period as compared to the previous year primarily because its selling prices declined (in line with decline in the import prices) in spite or increase in its cost of production.

f. The CIF export price from subject countries is much lower compared to the export price from ail other countries put together.

Authority's position:

Weighted average CIF export price from the subject countries and other than the subject countries were as follows:

	1995-96 Rs. Pmt	1996-97 Rs. Pmt
Subject countries	10730	10424
Other than subject countries	14652	13267

The Authority notes that the GIF export price from the countries other than the subject countries were significantly higher than the subject countries. It cannot, therefore, be held that imports from other countries caused material injury to the domestic industry.

- g. Comparison of injury parameters in this case with' other cases, such as PTA, metallurgical coke, etc. investigated by the Designated Authority would show that the domestic industry has suffered material injury in this case also.

Authority's position:

It would not be appropriate to compare this case with other cases, as each case is examined on the basis of specific parameters relevant to that industry. Injury assessment by the Authority: is based on air the parameters collectively and cumulatively and not on some particular parameter.

- h. The domestic industry has been forced to resort to various sales promotion schemes In fact, the domestic industry has been forced to invent newer forms of sales promotion schemes to keep the purchasers away from imports.

Authority's position:

The principles governing injury, while specifying certain economic parameters indicating injury to the domestic industry, clearly states that the list of the parameters indicated therein is not exhaustive nor any of the parameters listed therein individually must show injury. Parameters such as various sales promotion schemes, volume discounts, reimbursement of expenses of the purchasers, preferred customer discounts, etc. may also indicate injury. However, the domestic industry had neither claimed injury on account of any such factors nor furnished necessary information before the preliminary findings. In fact, the Authority had requested the petitioners to furnish information with regard to net average sales realisation earned by the domestic industry from sale of its products. The net sales realisation is net of all such senses expenses as taxes and duties, discounts, commissions, various incentives give to the purchasers. Since necessary information was not furnished by the domestic industry

before the preliminary findings, the Authority was prevented from analyzing whether the domestic industries suffered injury on these accounts.

- i. Steel is so price sensitive that even small difference in the price may result in loss of customer. The domestic industry has to, therefore, ensure price parity with the imported price. Imports at dumped price result in benchmarking of prices, and it becomes difficult for domestic industry to realise better price once prices are reduced by the exporters. The dumping from subject countries resulted in demands for same price levels even by those customers who had been traditionally purchasing from domestic sources and have not imported any material nor had any intentions to imports. Such purchasers have insisted on giving the same prices as are available to other who have resorted to imports so that their competitiveness is maintained. The industry has, thus, suffered injury not only from those customers who have imported material, but also from those who had to be offered lower prices in view of imports at dumped prices.

Authority Position:

The Authority appreciates the contention of the domestic industry. In the subject industry, even a single purchase at a lower price may force other to reduce the prices to match the lower prices offered by the exporter or lose the sale. Such lower price offered by even a single supplier to a single customer may, therefore, set a benchmark for other suppliers and customers and other suppliers may be left with an option of either losing the market or reducing their prices effectively. Since curtailment of production may be economically more disadvantageous compared to selling at reduced prices, it can be expected that other suppliers would also reduce their prices or offer other incentives to other customers to retain them.

- j. The export price from the subject countries declined significantly. Imports from subject countries resulted in price undercutting in the Indian market. There is clear evidence that importers forced the domestic industry to reduce the selling prices in view of cheaper imports.

Authority Position:

Export price from the subject countries were as shown in the following graph:

Note: The above show export price in 1994-95, 1995-96 and export price in each of the month in the investigation period of 1996-97. The prices are in US\$ and Rs. Per MT.

The Authority notes that there is no significant decline in the export price from the subject countries in the investigation period as compared to previous years. However, the export price declined significantly in the investigation period itself. Moreover what is relevant for the purpose of injury to the domestic industry is the landed price of imports and not the CIF export price. The Authority has, therefore, compared the landed price of imports with the average selling price of the domestic industry, and the position is discussed in the following sub-para (k)

- k. The landed price of imports from the subject countries was significantly below the selling prices of the domestic industry. Imports forced the domestic industry to sell below its fair selling price.

Authority Position:

Landed price of imports from the subject countries and net sales realisation are as shown in the graph below:

Notes: The above shows landed value of imports and average sales realisation in 1995-96 and in each of the month in the investigation period of 1996-97.

The Authority notes that the landed price was higher than the selling price of the domestic industry in 1995-96. The same, however, declined significantly in the investigation period. Further, the landed prices declined to such an extent in the investigation period that the same were below the selling prices of the domestic industry since July, 1996. The imports were thus undercutting the prices in the Indian market in the investigation period, forcing the domestic industry to reduce its prices. Further, the selling prices of the domestic industry were significantly lower than the fair selling price of the subject ion India.

1. In view of the manufacturing process involved for production of hot rolled products, the domestic industry has no choice but to optimise its production so as to minimize the incidence of fixed expenditure per unit of production, which is significantly higher in this kind of industry. Once produced, the industry has no choice but to sell the produce, even at the cost of reduced prices to avoid high inventories and their holding costs. The industry has to therefore, make all out efforts to sell whatever it can and check imports. Had the Indian industry not resorted to various pricing schemes and price reduction measures, the imports would have increased significantly. Price effects, and not the volume effects, are true indicators of material injury in this kind of case.

Authority Position:

As discussed elsewhere, the domestic industry has a choice of either losing a customer or reducing its realisation once lower prices are offered by some other supplier. It is appreciated that losing the market involves curtailing the production, which would result in increase in the incidence of overhead expenditure per unit of production. This would lead to further deterioration and affect competitiveness of the domestic industry. The better choice before the domestic industry is to reduce the prices and keep the customer. The Authority is, therefore, inclined to agree with the petitioners that the domestic industry increased its production and sales at the cost of reduced selling prices in view of the lower prices offered by the dumped imports.

- m. Essar submitted that even though it could sell its produce, it had to offer increasingly higher credits to the customers. The average credit period of the company increased from **** days (1995-96) to **** days (1996-97). Significantly higher credit rates: have had severe impact on the liquidity of the company and its ability to raise funds, and eventually results in increase in its cost of production. The increase in production and sales should, therefore, be considered in the light of these impacts on the company.

Authority's position:

With regard to- longer credits offered by Essar, as pointed out elsewhere in these findings, sales on credit is also an indicator of injury. However, the onus to prove that the domestic industry has suffered injury on this account is on the domestic industry. While furnishing information on net average selling prices, the domestic industry did not indicate that it was forced to offer increasingly higher credits to retain the customers. The information was furnished subsequent to the preliminary findings, which was verified by the Authority to the products and average outstanding balances for some of its major customers increased considerably.

- n. Total imports from the subject countries constituted only 2.8% of the total demand in the country'. Article 9(3) read in conjunction with Article 5(7) of the EC Basic Regulation provides that injury shall normally be regarded as negligible where imports concerned represents a market share of below 1%, unless such countries collectively account for 3% or more of the community consumption.

Authority's position:

Under the Indian Rules, volume of imports from a country is more than de-minimis in case the same is more than 3% of the imports of the like product, unless, the countries which individually account for less than three percent of the imports collectively

account for more than 7%. In the instant case, the imports are more than de-minimus limits and, therefore, it cannot be held that the injury is negligible.

- o. Imports from the subject countries declined in absolute terms in the investigation period as compared to previous year Imports from subject countries declined relative to production as also consumption of the subject goods in India, There is, therefore, no injury suffered by the domestic industry from the dumped imports.

Authority's position:

It is factually incorrect that the imports from the subject countries have not increased in absolute terms, As observed by the Authority in the preliminary findings, the imports from the subject countries were 77827, 234147 and 191854 MT in 1994-95, 1995-96, and 1996-97. In fact, the imports were nil in the years 1992-93 and 1993-94 as per the information published by DGCI&S. While analyzing injury to the domestic industry, the Authority is required to assess the trends of imports over a period of time and not with the immediate preceding year. The Authority; therefore, holds that imports have increased in absolute terms.

- p. Landed value of imports as per the petition itself is higher than the average sales realisation from Russia and Kazakhstan. There is, therefore, no evidence of price undercutting from the dumped imports.

Authority's position:

The argument is factually incorrect. As already observed elsewhere, the landed value of imports was lower than the selling price in the investigation period. Imports from the subject countries were, therefore, resulting in price undercutting in the Indian market.

- q. Imports from the subject countries have not resulted in any price suppression, The reason for inability of the domestic industry to increase the prices is lower selling prices of SAIL. which account for approx. 45% of the market share. Since the primary market player was selling at prices lower than the imports, imports cannot be said to have caused any price suppression in the market. Further, the increase in the cost of production is primarily because of Essar, whose cost of production is higher. SAIL was able to price its product competitively in view of certain cost advantages.

Authority's position

It would be incorrect to say that SAIL was selling at lower prices as compared to others. As discussed elsewhere, the terms and conditions of sales of SAIL and other, including Essar were different. Since the average sales realisation of Essar and SAIL is influenced by a number of factors, the Authority has analysed sales realisations of two companies in detail and has found that the sales realisations of the two companies are comparable. The Authority refrains from discussing further details in this regard as the same involves information which is confidential in nature.

It would also not be appropriate to say that a major player in the market would be selling at prices lower than competitors, particularly when the market is price sensitive. Even if it is accepted that the cost of production of SAIL is lower than others, it does not follow that it should be selling at lower prices merely because its costs are lower.

It is also not factually correct that the cost of production increased because of Essar. Cost of production of SAIL also increased in the investigation period as compared to the previous year SAIL was however, forced to reduce its prices, as it was suffering price undercutting from the imports, as shown in the table below:

S.No.	Parameter	1994-95	1995-96	1996-97
1.	Cost of production	***	***	***
2.	Average selling price	***	***	***

It is evident from the above that cost of production of SAIL increased over the years and in the investigation period. The selling prices also increased over the year. The same however declined in the investigation period, and in fact, went below the cost of production in some of the months in the investigation period, imports from the subject countries have, therefore, resulted in price suppression in the Indian market.

- r. Stockyard prices of SAIL cannot be compared with the landed prices as the stockyard prices are inclusive of inland freight from the factory to the stockyard as also storage & handling charges, whereas the landed prices are exclusive of these charges. Only the ex-factory prices of SAIL should be considered for comparison with landed prices.

Authority's position:

The Authority normally considers landed price of imports at port level and selling prices of the domestic industry at ex-factory level. However, it cannot be denied that the purchasers would place their orders considering landed cost of the goods at their godown. Ideally, therefore the Authority should consider landed price of imports at customers godown to examine whether there was any price undercutting or price

suppression or price depression. Since it is difficult to examine landed prices at the customers' godown, the Authority normally does effect comparisons at ex-port and ex-factory level. However, in a situation like the present. SAIL as a major market stockyards located at several places in the country. SAIL bears transportation COSE upto these godown. These stockyards are in the nature of godown maintained by the producers at the plants. Transportation cost from these godowns to customers' godown is borne by the customers. Customers, therefore, ideally have a choice of buying either from SAIL'S nearby godown or from import at the nearest port. It may not, therefore, be inappropriate to compare the selling prices of SAIL at stockyard level with the landed price of imports at port level, though it is not denied that actual transportation costs to be incurred by the customers may vary whether comparison is done on ex-factory basis or ex-stockyard basis. The Authority has, however, as noted elsewhere in these findings, compared the average net realisations of Essar and SAIL in detail and has found that the two are in the same region. The Authority has, therefore, compared net sales realisation of Essar with landed price of imports.

- s. Production, capacity utilisation, sales volumes, market share held by the Indian industry does not indicate that domestic industry has suffered any injury.

Authority's position:

As economic parameters rotating to the domestic industry need not indicate injury nor can one or several of these economic parameters necessarily give decisive guidance with regard to injury suffered by the domestic industry. Examination of the impact of dumped imports on the domestic industry includes evaluation of all relevant economic factors. Cumulative assessment of all relevant economic factors can only indicate whether the domestic industry has suffered material injury.

- t. SAIL has always maintained high level of inventory, Also the increase in inventory by SAIL is on account of entry of Essar in the market.

Authority's position:

As held by the Authority in the preliminary findings, the increase in the inventory with SAIL does not appear to be on account of dumped imports. However, as noted in the previous para, all economic parameters affecting the domestic industry need not show injury.

- u. Landed price at BQ plates being much higher than the alleged CIF export price relied upon by the petitioners, there can be no dumping or injury to the domestic industry from the imports of BQ plates.

Authority's position:

Dumping is the difference between the export price of the subject goods and normal value of the like goods, it would be inappropriate to compare landed value of BQ plates with the average OF price claimed by the petitioner to arrive at existence or dumping, the only relevant factors being the normal value and export price of the subject goods. For injury, the landed price of BQ plates and fair selling price of like article produced by the domestic industry are the relevant parameters. The Authority has compared the landed value of SQ plates with the fair selling price of BQ plates for the domestic industry and has found that the landed value is significantly lower than the fair selling price.

- v. Government of India has imposed 4% special additional duty on all imports, which has reduced the injury, if any, to the domestic industry. Further the Indian Rupee has depreciated by about 20% from April, 1997 till date, which has also reduced the injury, if any, to the domestic industry.

Authority's position:

The Authority does not consider post investigation period factors. However, the Authority has recommended duty considering the landed value of imports. The determination of landed value of imports has also been defined in the relevant para in these findings.

- w. As TISCO has been excluded from the purview of the domestic industry, the imports made by the related company should be reduced from total imports from the subject countries.

Authority's position:

The argument is unsupported by law and therefore, is liable to be rejected.

- x. Imports from the subject countries would be less if the imports under Duty Exemption Entitlement Schemes are excluded.

Authority's position:

The argument is unsupported by law and therefore, is liable to be rejected. Moreover, injury may be caused by such imports, as these may set the bench mark prices, which the domestic industry may have to offer to even those purchasers who have been traditionally buying from domestic sources and who do not have any intention of imports (though such companies are also free to import under the relevant regulations

of the Government of India) to keep their competitiveness. Further, as noted elsewhere in these findings, price effect and not the volume affect is the primary form of injury suffered by the domestic industry from the imports from the subject countries.

- y. The Authority has not quantified injury in the preliminary findings and has merely found that the domestic industry has suffered some injury.

Authority's position:

The Authority is required to give its findings in affirmative or otherwise with regard to the injury to the domestic industry. It is not required under the law to quantify the injury. The Authority finds that the domestic industry has suffered material injury.

24. In view of the forgoing, the Authority finds that the domestic industry has suffered material injury from the dumped imports and the same is evidenced from the following:

- a. Imports from the subject countries forced the domestic industry to reduce its selling prices, significantly below a level which would have provided a fair return to the domestic industry on the investments made by it.
- b. Imports from the subject countries were undercutting the prices of the domestic industry, particularly towards the end of the investigation period. The Authority notes that selling prices were even below the average cost of production, resulting in financial losses to the domestic industry.
- c. Imports from the subject countries at reduced prices forced the domestic industry to introduce newer forms of financial considerations to keep their customers. The domestic industry was forced to offer such schemes even to those customers who otherwise did not import any material.
- d. The domestic industry was prevented from increasing its selling prices in the investigation period, which was legitimate in view of increase in cost of production.

In view of the foregoing, the Authority holds that the domestic industry has suffered material injury from dumped imports.

FINAL FINDINGS

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

- a. Hot rolled coils, plates, sheets, and strips originating in of exported from Russia, Kazakhstan and Ukraine have been exported to India below their

normal value, except for hot rolled coils-originating in Kazakhstan, resulting in dumping;

- b. The domestic industry has suffered material injury;
- c. The injury has been caused to the domestic industry by the exports; of the subject goods originating in or exported from the subject countries.

26. The Authority confirms the preliminary findings and recommends imposition, of definitive anti-dumping duties on all imports of the product under consideration falling under custom sub-heading 7208, as specified in the para relating to product under consideration, originating in or exported from the subject countries, except for hot rolled coils originating in or exported from Kazakhstan. The anti-dumping duty shall be the difference between amount mentioned in column 3 and the landed price of imports per MT, subject to a minimum of Rs. 481 per MT.

S.No.	Item Description	Amount (Rs. Per Mt)
1.	Hot Rolled Coils	14300
2.	Hot Rolled Strips/Sheets/Plates	15000
3.	Boiler Quality Plates	22000

27. The Authority has recommended the same amount for all the exporters in view of significantly higher dumping margins involved, no information furnished by the exporters with regard to the CIF export price and in view of the other facts and circumstances of this case.

28. 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 levied under Section 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

29. Subject to above, the Authority confirms the preliminary findings dated 17.6.1998.

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

RATHI VTNAY JHA,
Designated Authority & Addl. Secy.