

NO.15/6/2004-DGAD
Ministry of Commerce & Industry
(Department of Commerce)
Directorate General of Anti-Dumping & Allied Duties
Room No. 216C, Udyog Bhawan, New Delhi,

Dated: 20th May 2005

Final Findings

Subject: Mid-term Anti-dumping Review investigations in the matter relating to imports of certain types/grades of alloy and non alloy steel billets, bars and rounds having 70 mm to 250 mm diameter from Russia and China PR : Final findings

A BACKGROUND OF THE CASE

1. The Designated Authority having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty on Dumped Articles and for Determination of Injury) Rules, 1995 issued public notice vide Notification No. 31/1/99-DGAD dated 9th December, 1999 for initiation of anti dumping investigation concerning certain seamless grade alloy and non alloy steel billets, bars and rounds originating in or exported from Russia, China and Ukraine. The Designated Authority recommended imposition of provisional Anti Dumping duty on imports of certain grades of alloy and non alloy steel billets, bars and rounds (hereinafter referred to as subject goods) originating in or exported from Russia and China PR (hereinafter referred to as subject countries) falling under sub-headings 7206.90, 7207.19 and 7207.20 and the findings were published vide Notification no. 31/1/99 dated 1st December, 2000. The Designated Authority came out with final findings on 1st June, 2001 and definitive anti dumping duty was imposed by Customs on 25th June, 2001.

2. Following the submission of a request by M/s Maharashtra Seamless Ltd which contained positive evidence necessitating the need for a mid term review, the Authority issued a public notice dated 24th May 2004, published in the Gazette of India, Extraordinary, initiating Anti-Dumping mid term review investigation under Rule 23 of the Antidumping Rules read with Article 11.2 of the Agreement on Antidumping, in respect of the duty in force against the subject countries as above, to determine whether the continued imposition of the duty is required to offset dumping, and whether injury would be likely to continue or recur if the duty were removed or varied, or both.

B. Procedure Adopted

3. The procedure described below has been followed with regard to this investigation:
 - i. After initiation of the review the Authority sent questionnaires, along with the initiation notification, to all known exporters/producers in the subject countries, and domestic industry in India in accordance with the Rule 6(4), to elicit relevant information;
 - ii. The Embassies/High Commissions/ Representatives of the subject countries in New Delhi were informed about the initiation of the review investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
 - iii. Questionnaires were sent to known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4).
 - iv. Investigation was carried out for the period starting from 01.01.2003 to 31.12.2003 (POI). However, injury examination was conducted for a period from AM 2001, AM 2002, AM 2003 and POI.
 - v. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigations;
 - vi. No response to the initiation notification was received from any other exporter, importer and associations except M/s Kunal corporation, Mumbai and M/s Federation of Indian industries (FII), Steel re-rolling Mills Association of India and the applicant for this review.
 - vii. M/s Indian Seamless steel and alloys Ltd, Pune and M/s Kalyani steel , Pune submitted their responses opposing the review on behalf of domestic industry.
 - viii. The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.
 - ix. 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;
 - x. The Authority verified the information furnished by the domestic industry to the extent possible examine the injury suffered and 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 applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
 - xi. The Authority held a public hearing on 7.12.2004 to hear the interested parties orally, which was attended by representatives of the various interested parties.

The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties along with the rejoinders and other submissions have been considered by Designated Authority in this disclosure statement. In accordance with Rule 16 of The Rule supra, the essential facts/ basis considered for these findings were disclosed to known interested parties on 10th May 2005 and comments received on the same are duly considered in Final Findings.

- xii. **** In the Notification represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND ‘LIKE ARTICLE’

4. The Product under consideration is "certain types/grades of alloy and non alloy steel billets, bars and rounds having 70 mm to 250mm diameter conforming to IS specification or any other international specification equivalent to IS standards". The list of grades as mentioned in the initiation notification (of the original investigation) dated 9.12.99 and corrigendum dated 21.1.2000 remains the same. Certain arguments have been raised in the written submissions by the petitioner importer that certain types/grades of the subject goods do not find mention in the corresponding IS classifications and hence they are required to be deleted from the scope of the product. However, no detailed submissions or evidence in support of their claim have been submitted to the Authority. Following the issuance of disclosure statement, the petitioner importer has once again reiterated the fact that not all 29 grades fall within the product scope and some of the IS specification have been deleted from BIS specification list and therefore, all 29 grades cannot be continued within the scope of product under consideration. The authority has examined the argument of the petitioner-importer and notes that their arguments are unsubstantiated and uncorroborated with any evidence. In view of the above, the Authority confirms the product under consideration and like article as decided and held in the original investigation and also in the initiation of the review (read along with corrigendum). The product under consideration is classified under sub-head 7206.90, 7207.19 and 7207.20 of Schedule I of the Customs Tariff Act, 1975 The Classification is, however, indicative only and is in no way binding on the scope of the present investigations.

D. Various issues raised by various interested parties and the examination by the Authority

D.1 Issues of standing, domestic industry and related parties - Views of the domestic industry, the petitioner and examination by the Authority

5. The petitioner for the Review M/s. Maharashtra Seamless Ltd (MSL) in their written submission followed by a rejoinder have claimed that both M/s. Kalyani Steels Limited (KSL) and M/s. Indian Seamless Steel Alloys Ltd (ISSAL) cannot be treated as domestic industry by reason of their relationship with the importer. In their argument, the petitioner has submitted that M/s. ISSAL has been a major supplier of subject goods to M/s. Indian Seamless Metal Tubes Ltd (ISMT) and with effect from 1st April 2003 both the companies have been undergoing a combined restructuring proposal which provides, inter alia, for merger of both the companies. They have claimed that under these circumstances there are grounds to believe that effect of relationship is such so as to cause both the companies to behave differently from non-related companies as required under explanation (a) to rule 2(b) and, therefore, both ISSAL and ISMT shall be treated as related to each other. Similarly, the petitioner has also stated that by virtue of the fact that M/s. KSL holds significant shares in ISMT and one of their director is common to both the companies, these two companies shall be deemed to be related to each other. In view of the above, it has been contended that both M/s. KSL and M/s. ISSAL are related to ISMT who is the importer of subject goods from the subject countries and therefore, in terms of Rule 2(b) they may be deemed not to form part of domestic industry.

6. The petitioner has further disputed the claim of the domestic industry that M/s. KSL, ISSAL and M/s Jindal Steel and Power Ltd (JSPL) account for 100% of the production of the subject goods in India. They have claimed that in the total domestic production, other domestic producers like MUSCO and SAIL Durgapur have not been taken into account in their domestic industry. Further, they have stated that they are not related to M/s. JSPL within the meaning of antidumping rules. Thus, they have requested the authority to treat JSPL as a domestic producer who opposes the petition and thus, the authority is requested to examine the standing of KSL and ISSAL in terms of relevant antidumping rules.

7. The authority has examined the contention of the petitioner and the domestic industry. A look at the transaction wise import statistics from the secondary sources indicate that a small quantity of 412 MT of the subject goods was imported by the ISMT during the POI from the subject countries. However, this quantity is considered as insignificant as it amounts to less than 2% of the subject goods imported into India and is negligible as compared to the production of domestic industry during the POI and of the total demand of the subject goods during the POI. Accordingly, the Authority concludes that very small quantity of imports of the subject goods have been made from the subject countries during the period of investigation by ISMT and hence the arguments regarding the relationship of M/s. KSL and ISSAL with importer (ISMT) does not hold ground. Further no evidence has been placed before the Authority by the petitioner importer that there are grounds to believe that the effect of

the relationship between the domestic industry and importer is such as to cause both the companies to behave differently from non related companies. In view of the above, both M/s. KSL and M/s. ISSAL are being treated as domestic industry within the meaning of antidumping rules. With regard to allegation of relationship between the JSPL and MSL, the authority concludes after examining relevant records placed before it that M/s. MSL and M/s. JSPL are not related parties within the meaning of antidumping rules and therefore, M/s. JSPL is treated as a domestic producer who has, however, not taken part in the investigation. The Authority, therefore, has examined M/s KSL and M/s ISSAL for the purpose of injury as mentioned in the Annexure III of this disclosure statement. Following the issuance of disclosure statement, the petitioner-importer has submitted that the injury has been determined based on the data pertaining to M/s. Kalyani Steel Limited and M/s. ISSAL only. They have added that details regarding selling prices of JSPL along with the Chartered Accountant Certificate has already been submitted to the authority and the prices submitted by them should be considered for the purpose of determining price undercutting and price depressions etc. The authority has examined the contention of the petitioner-importer and again notes that adequate opportunity was extended to M/s. JSPL to submit the information pertaining to their selling prices and cost of production as per the domestic industry proforma. However, they have chosen not to participate in the subject investigation and, therefore, the authority has examined M/s. KSL and M/s. ISSAL for the purpose of injury as mentioned in the annexure III of the disclosure statement.

D.2 Other Issues: Initiation of review : arguments by the petitioner importer, domestic industry and examination by the Authority

8. The domestic industry has argued that under Article 11.2 of ADA read with Rule 23 of Indian Antidumping Rules, substantiation of grounds of review are mandatory and the applicant has failed to do so. Therefore, the initiation of the review is flawed. The applicant importer has argued that the Indian Law requires the Authority to review the need for continuation of duty from time to time and does not cast an obligation on the party seeking a review to provide substantial evidence. However, they had provided positive information, as required under Article 11.2 of ADA, on several grounds and sufficient information was available with the Authority to initiate a review. The domestic industry has further claimed that onus of establishing need for withdrawal is on petitioner, as the review investigations are being undertaken to examine the need for continued imposition. Since the petitioner has failed to establish the need for withdrawal, the anti dumping duties in force must be continued.

9. The Authority has carefully examined various submissions made by the interested parties in connection with the initiation of this review investigation.

10. Article 11.2 of the Agreement provides that the Authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti dumping duty is no longer warranted, it shall be terminated immediately. The Authority has examined these arguments and is of the view that what is required for initiating a review is positive information with the Authority on which the Authority can rely upon to decide whether a review is required to examine the need for continued imposition of the duty. In the instant case the applicant had filed sufficient positive information before the Authority in its review application and the review was initiated based on the positive information filed. Production of evidence to substantiate the claims and counter claims by various parties are the matter of investigation and are to be submitted by the parties including the party making a request for review during the course of investigation. The outcome of the review will however, depend upon the quality of evidence submitted by various parties to the review.

D. 3 Other issues: issues raised by Steel re-rolling Mills Association of India and other importers

11. The Steel re-rolling mills Association of India has submitted that billets is the main raw material for the steel re-rolling mills across the country which cater to 58% of the finished steel demand in the country and large number of downstream industries rest on the production of steel re-rollers. They have requested for increased availability of billets for steel re-rollers and downstream industries. They have also stated that antidumping duties on all types of steel and from all countries should be removed immediately as the dumping duties were levied at the time of glut in the world steel prices to protect the local steel industries.

Examination by the Authority

12. The authority has examined the claim in its analysis in the para relating to conclusions on injury in these findings.

E. DUMPING DETERMINATION

13. Under Section 9A (1) I of the Customs Tariff Act 1975, 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 as determined in accordance with the rules made under sub-section (6); or

When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:-

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

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 transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

14. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). None of the exporters have responded to the initiation and questionnaire in any form and consequently, they have been treated as uncooperative in this investigation.

15. None of the known exporters has responded to the exporters’ questionnaire by giving information with regard to various appendices mentioned in the exporters’ questionnaire.

(a) Normal Value & Export Price:

16. The Authority notes that the none of the exporters from subject countries have submitted any information as required under the exporter’s questionnaire. It is also noted that they have also not supplied any information rebutting the presumptions as mentioned in the 8(3) of the Annexure I of the Anti Dumping Rules pertaining to Non

market economy. As no information has been submitted under various Appendixes, the Authority cannot determine whether the domestic sales have made in the ordinary course of trade. In the absence of relevant information from the exporter, the Authority has constructed the normal value as per para 7 of the Annexure 1 of the AD Rules for all producers/exporters from China PR and Russia. Export price at the ex. factory level has been determined by taking weighted average export price to India after taking account total volume of imports from Russia with applicable adjustments. As no export price is available in case of imports from China PR, no dumping margin is proposed to be determined in this review. After the issuance of disclosure statement, the importer-petitioner has requested the designated authority to disclose the components of normal value and the basis on which these components were arrived at. The authority has examined the contention of the petitioner-importer and notes that the constructed normal value arrived at for the purpose of determining the normal value, has been constructed as per para 7 of the annexure 1 of the antidumping rules for all producers/exporters from China PR and Russia and while constructing the normal value, the cost of production in India, duly adjusted including the selling general and administrative overheads along with reasonable profit has been taken into account. As some information pertain to the cost of production of the domestic industry, the details pertaining to the normal value has not been disclosed.

(b) Comparison

17. For the purpose of a fair comparison between the normal value and export price at an ex factory level, due allowance in the form of adjustments was made for differences which affect prices and price comparability.

(c) Dumping Margin:

18. In accordance with Rule 6(iv) of annexure I to the anti dumping rules, the dumping margin was established on the basis of weighted average normal values with the weighted average export price. The comparison showed the existence of dumping of the subject goods by the exporter from Russia during the POI. The weighted average dumping margin, expressed, as a percentage to the export price has been determined and is 36.56% from Russia. As no exports have taken place from China PR during the POI, no new dumping margin is determined during the review investigations and dumping margin as determined during the original investigations (105%) have been considered in this review investigations.

	Normal Value US\$/ MT	Export Price US\$/ MT	Dumping Margin US\$/ MT	Dumping Margin %
Russia	****	*****	****	36.56

F. INJURY DETERMINATION

F.1 Cumulative Assessment of Injury

19. The Annexure II (iii) of the Anti Dumping Rules requires that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that

- i. the imports from individual countries are either above de minimis or cumulatively account for more than 7% of imports:
- ii. the dumping margin against individual countries are above 2%; and
- iii. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles

20. In this connection the Authority has verified the import statistics from the subject countries and has found that there are no imports from China PR during the POI and also three years prior to that. As no imports from China PR have come into this country, the Authority has examined the impact of dumped imports from Russia only with regard to various parameters as illustrated in the article 3.4 of the ADA and in terms of rule 11 of the Anti dumping rules.

F.2 Continuation of Injury

F.2.1 Views of the interested parties and Examination by the Authority

21. The domestic industry has argued that exporters from Russia continued dumping of material in the Indian market. Increase in export price is a reflection of the increase in the cost of production. However, even full increase in the cost of production has not been adequately taken care of by the exporters and dumping margin has in fact increased. It has been further argued that exporters from China have not been able to export the material due to imposition of anti dumping duty. Dumping would commence once again the moment the duties are removed. In other words, injury to the domestic industry is likely to recur in the event of revocation of anti dumping duty. It has been further argued that domestic industry is suffering continued injury, even though the same has improved. Further, should the anti dumping duties in force be revoked, the injury to the domestic industry would intensify. The domestic industry has submitted that landed price of imports from subject countries is significantly lower than selling price of the domestic industry causing severe price undercutting in the Indian market.

22. With regard to the production, sales and capacity utilization of domestic industry, it has been contended by the domestic industry that production, sales and capacity utilization of domestic industry has increased. It has been added that increase in production, capacity utilization and sales is the result of anti dumping duty imposed earlier, which prevented the decline in sales volume of domestic industry and helped the domestic industry improve its sales volumes. However, should the anti dumping duty be withdrawn, the sale volumes and consequently production & capacity utilization are likely to suffer, as the imports would become significantly cheaper with the revocation of anti dumping duty. With regards to productivity of the domestic industry, it has improved as a result of imposition of anti dumping duty and increase in production. Should the present anti dumping duties be revoked, the productivity of the domestic industry is likely to deteriorate.

23. With regard to the Profit/Loss, cash flow and return on capital employed, the domestic industry contends that imposition of anti dumping duty has helped the domestic industry improve its performance in terms of these parameters. However, since the anti dumping duty imposed on OEMK was not sufficient to remove injury to the domestic industry, the domestic industry has not been able to post profits, leave aside reasonable profits.

24. It has been submitted by the domestic industry that the cost of production as also selling price of the domestic industry increased during the period under consideration. Though the industry was not earning reasonable profits, profitability did improve over the period. However, in case the existing duties are revoked, it is natural that the imports would become cheaper. Under the circumstances, given price sensitivity of the product, it is obvious that the domestic industry must either reduce its prices (which imply deterioration in profits, cash flow and return on investments) or face loss of sales. In either situation, the domestic industry is likely to suffer material injury. Further, given the level of market share enjoyed by the dumped imports, it is likely that the market share of the domestic industry would reduce should the present anti dumping duties be withdrawn.

25. It has been further submitted that landed price of imported material from Russia and Ukraine is below the selling price of the domestic industry causing price undercutting in the Indian market. Though the CIF price has increased, the selling price and cost of production of the domestic industry also increased. The domestic industry has submitted that the present investigations are review investigations and injury to the domestic industry is required to be examined in the context of the requirements under review. In this regard, domestic industry submits that the imports are already undercutting the prices of the domestic industry to a significant extent. Should the present duties be revoked, the extent of price undercutting would further increase, which would most likely result in further increased import. Amongst other

factors, the domestic industry has cited factors as Vulnerability of the domestic industry, Significant price undercutting by imports with current measures, Ample production capacity of exporters, significant market share of imports, market conditions and circumstances of exporters, Export orientation of foreign producers, Price attractiveness of Indian market.

26. With regards to the volume and value of imports not sold at dumping prices, It has been added that there are no imports other than dumped imports, i.e., volume and value of undumped imports are within de-minimus limits. Further, the demand of the product under consideration has registered a positive growth. With regard to changes in the patterns of consumption, it has been added that the pattern of consumption with regard to the product under consideration has not undergone any change. There is no trade restrictive practice which could have contributed to the injury to the domestic industry and Technology for production of the product has not undergone any change. With regard to the Productivity, as measured in terms of production per manpower, it has increased. Thus, the domestic industry has submitted that anti duties should not be revoked in the review investigation.

27. The petitioner M/s Maharashtra Seamless Ltd (MSL) and other interested parties in their various submissions have claimed that performance of the domestic industry has improved and the domestic industry does not suffer material injury. For the sake of brevity various arguments raised by the interested parties in their various written submissions have not been repeated in this finding. They have contended that imports have come down from 39830 MT in 2000 to 27857 MT during 2003. During the same period, CIF prices have gone up from Rs.10390 PMT to Rs.14702 PMT. In the year 2004, import quantity went up to 41802 PMT and the prices increased to Rs.19634 PMT. While the quantity increased by about 5% in the past 5 years, the prices have increased by over 89%. Further, even while prices were increasing by leaps and bounds, the volume of imports went up and did not go down. This is clear indication that the prices do not act on volumes. The impact of prices on volumes is very marginal if not altogether nil. While examining the impact of import prices on import volumes, one should also look at the prices prevailing in India. MSL has submitted data showing clearly that in each of the months from July 2003 to April 2004, the import prices were higher than the average selling of the Indian domestic industry. This also proves that import volumes increased not because of prices but because of other reasons. If volume had been a function of prices, then import volume should have come down –

- i. When import prices increased significantly; and/or
- ii. When domestic prices were lower than the import prices.

- a. Import volumes did not come down under both the situations. Further, since the domestic industry was selling at prices much below that of import prices, there is no price undercutting by the imports goods.
- b. Thus, the domestic industry cannot claim that imported goods caused injury to them. In the absence of price undercutting, causal link will be conspicuously absent.

28. During the year 1999-2000, MSL met 70% its requirement through imports and 30% through purchase from the Indian domestic industry. Year after year, the situation changed and in the year 2002-03, imports constituted only 6% as MSL was purchasing over 94% of its requirements from the Indian domestic industry. Yet, there was some increase in imports. This is mainly because of the inability of the Indian domestic industry to supply the required quantities to MSL. The Indian domestic industry has not been meeting their delivery commitments of late. One of the reasons could be that Indian domestic industry is now concentrating more on value added products rather than on the product concerned which is semi-finished steel. The domestic industry has every right to have their own product priority but when their priority clashes with the requirement of its users, the users have to look out for other sources of supply. This is precisely the reasons as to why the imports are on the rise in spite of the fact that they are costlier than the goods supplied by the domestic industry. Thus, the increase in imports is caused by a demand-supply gap and not by reasons of price – be it import price or price of indigenous goods.

29. At the time of original investigation, the steel industry was at its lowest ebb throughout the world. Globally, steel prices had hit the bottom and the steel companies were reeling under tremendous pressure. In the past 5 years, the situation has undergone a sea change. Steel prices have recovered much more than what was expected. Steel industry is earning significantly higher profits.

30. A look at the balance sheet of JSPL and Kalyani Steel shows the profit after tax reported by the two domestic industry units in their annual accounts. The profits have gone up by 35% and 51% in the year 2002-03 for Jindal and Kalyani respectively. Again, the profits more than doubled in the year 2003-04 as compared to 2002-03 for both the companies. Such huge profits indicate that the domestic industry is in a very good shape.

31. The importer has enclosed email correspondence with Kalyani indicating that their refusal to supply the quantities asked for and committed by them. Kalyani has not been making supplies in spite of firm commitments made by them. When supply is not forthcoming from Kalyani in required quantities, MSL is left with no option but to import the subject goods, that too by paying excessive prices. It has also been submitted that landed values of imports made by MSL have been consistently higher

than the price at which they procured the material from the domestic industry. This is a classic case of 'reversal causal link', i.e. an Indian user is forced to import the goods at much higher prices compared to the price at which the domestic industry is selling the goods for the reason that domestic industry does not supply the goods in required quantities.

F 2.2 Examination by the Authority

32. Indian Rules as also WTO Agreement provides standards to conduct review investigations. Basic purpose of mid term review provision is that anti dumping duties should be withdrawn if there is no justification for continued imposition of anti dumping duty. Article 11.1 to 11.3 of ADA states as under in this regard:

1. An anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.
2. The authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has lapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review. Interested parties shall have the right to request the authorities to examine whether the continued imposition of the duty is necessary to offset dumping, whether the injury would be likely to continue or recur if the duty were removed or varied, or both. If, as a result of the review under this paragraph, the authorities determine that the anti-dumping duty is no longer warranted, it shall be terminated immediately.

33. With regard to conducting review investigation, the Rules states as under:

1. The Designated Authority shall, from time to time, review the need for the continued imposition of the anti-dumping duty and shall, if it is satisfied on the basis of the information received by it that there is no justification for the continued imposition of such duty recommended to the Central Government for its withdrawal.
2. Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.
3. The provisions of rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 shall be mutatis mutandis applicable in the case of review.

34. It is evident from the above that the anti dumping duty imposed shall be withdrawn in case it is found that there is no justification for the continued imposition of such duty. Further, injury to the domestic industry, in a review, has to be examined, "mutatis mutandis", in accordance with the Rule 11. The Designated Authority is

required to therefore examine whether there is justification for continued imposition of anti dumping duty, i.e., whether there is no injury to the domestic industry any longer and withdrawal of anti dumping duty is likely to result in continuation or recurrence of injury to the domestic industry.

35. The Authority has taken note of various arguments raised by various parties in their submissions and issue of continuation of injury to the domestic industry has been examined in the light of these arguments made before the Authority. The Authority notes that since a review has been initiated in terms of Rule 23 of the Antidumping Rules which requires the Authority to examine the need for continuation of the duty from time to time, the Authority has conducted this review to examine the degree and extent of dumping and injury and the need for continuation of the duty in view of various arguments raised by various interested parties during the investigation regarding the dumping and injury aspects of the case.

36. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

37. For the purpose of current injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

38. Since positive dumping margin has been established for the exports from the subject countries, entire exports from those countries has been treated as dumped imports for the purpose of injury analysis and causal links examination. Further, it has been represented before the Authority that imported subject goods are Non alloy steel billets, rounds and bars and they are competing with the Non alloy billets, rounds and bars manufactured and sold by the domestic industry in the domestic market. It is further noted that prices of the subject goods in the domestic market vary a great deal and the prices of the Non alloy grades of the subject goods are considerably less than the prices of the alloy grades of the subject goods. Therefore, for determining the price undercutting margin, the Authority has compared the landed value of the subject

goods (all of which are of Non alloy grade) from subject countries with the net sales price for the domestic industry (Non alloy grade). However, for all other price effects of the domestic industry, the cost of the production and net sales realization of the domestic like product (consisting of all the grades) have been taken into account. Subsequent to the issue of disclosure statement, the petitioner-importer has submitted that all the price effects of domestic industry should be compared by non-alloy import prices. They have further requested the authority to determine injury by evaluating cost of production and net sales realization of alloy and non-alloy products separately. The domestic industry in reply to the disclosure statement has requested the authority to examine the price effect on the monthly basis as against weighted average basis as determined by the authority. The authority has examined the contention of both the interested parties and notes that for the price undercutting margin, it has examined the domestic import prices (all of which are non-alloy) with the selling prices of the non-alloy subject goods of the domestic industry for the period of investigation. It is also noted that the data pertaining to the earlier periods were not separately available and hence the authority has evaluated the other price effects on the domestic like product as a whole.

VOLUME EFFECT and PRICE EFFECT: Volume of the dumped imports and the effect of dumped imports on prices in the domestic market for like products.

Import Volumes and share of subject countries and total demand

39. The domestic industry as well as petitioner (importer) had requested that segregation of subject goods is difficult from the DGCI&S transaction-wise data because of the fact that DGCI&S data does not reflect complete description of the product and this product is not exclusively classified in 6 or 8 digits level in the ITC HS classification. . Therefore, they have relied upon the import data published in the secondary sources like IBIS and IMPEX statistics for the relevant period.

Quantity in MT

Domestic consumption / Demand				
	2000-01	2001-02	2002-03	Jan-Dec'03
Subject countries	31,095	18,384	3,460	27,312
Non Subject Countries	-	-	-	1,496
Total Imports	31,095	18,384	3,460	28,808
Domestic Industry	166695	176644	184977	165343
Other producers	59687	75274	110313	109216
Domestic Demand	257,477	270,302	298,750	303,367

40. From the above table, it follows that the domestic demand has increased during the POI as compared to base year by 17%. However, the share of imports from the subject countries in the total imports has declined by 5.2% during the POI as compared to the base year. Of the two subject countries, the imports from China PR have been nil during the POI as also during the three years prior to POI.

Market Share of Imports from subject countries in Total imports				
Actual data & Market share in Imports				
	2000-01	2001-02	2002-03	Jan-Dec'03
China (Quantity)	-	0	0	0
Market Share			0.00	0.00
Russia (Quantity)	31095	18,384	3460	27312
Market Share	100.00	100.00	100.00	94.80
	Change %	-	-	(5.20)
Total Imports(Subject Countries)	31,095	18,384	3,460	27,312
Total market share	100.00	100.00	100.00	94.80
	Change from base year	-	-	(5.20)
Other Countries	-	0	0	1497
Total Imports	31,095	18384	3460	28809
Other market share	0.00	0.00	0.00	5.20

Evolution of the Import prices

Average price of dumped imports (CIF) and domestic prices of the Domestic Industry				
	2000-01	2001-02	2002-03	Jan-Dec'03
Indexed (Import Price)	100.0	102.1	102.6	139.8
Domestic Prices (indexed)	100.0	94.8	101.9	115.9

41. From the above table, it follows that CIF prices of the dumped imports have increased by more than 39% during the POI as compared to base year while that of domestic prices have increased by more than 15% during the same period.

Price Undercutting (PUC) from Subject and other countries	
Actual data	
	Jan-Dec'03 (Rs/MT)
Landed Price (Others)	16436.29
Selling price(Non Alloy grade	****
PUC and PUC% from Others	**** 10-20%
Landed Price from subject countries	18883
Selling price (Non Alloy grade)	****
Price Undercutting for Non alloy steel	****
Price undercutting percentage	1-2%

42. It has been represented before the Authority that imported subject goods are Non alloy steel billets, rounds and bars and they are competing with the Non alloy billets, rounds and bars manufactured and sold by the domestic industry in the domestic market. It is further noted that prices of the subject goods in the domestic market vary a great deal and the prices of the Non alloy grades of the subject goods are considerably less than the prices of the alloy grades of the subject goods. Therefore, for determining the price undercutting margin, the Authority compared the landed value of the subject goods (all of which are of Non alloy grade) from subject countries with the net sales price for the domestic industry (Non alloy grade). The price undercutting though positive has not been considered significant (less than 2%). Here the landed value of the subject goods have been determined without taking into account the existing anti dumping duty.

Price depression

Price Depression of domestic industry from dumped imports				
	2000-01	2001-02	2002-03	2003-04
Selling prices	****	****	****	****
Indexed	100.00	95	102	117

43. As seen above, there is no price depression of the domestic like products of the domestic industry on account of dumped imports from subject countries..

Price suppression

Rs/MT	AM01	AM02	AM03	POI
Landed value Dumped Imports	14591	14901	14971	18883
Index	100	102.125	102.604	129.42
Net sales realization	****	****	****	****
Index	100	94.5822	108.181	114.18
Cost of goods sold	****	****	****	****
Index	100	95.916	98.1771	110.31
COGS/Sales ratio	****	****	****	****
Index	100	101.416	95.9396	94.43

44. As seen above, there does not appear to be any price suppression of the domestic like products of the domestic industry on account of dumped imports from subject countries.

**Consequent impact on these imports on domestic producers of such products-
Analysis of the all factors and indices having a bearing on the state of the
domestic industry**

Market Share of Domestic Industry in demand				
	2000-01	2001-02	2002-03	Jan-Dec'03
Domestic Industry Sales	166695	176644	184977	165343
Other sales	59687	75274	110313	109216
Imports - Known	31,095	18,384	3,460	28,808
Total Merchant Market	257477	270302	298750	303367
<u>Changes in Mkt Share</u>				
Total Merchant Market	257477	270302	298750	303367
Changes in Total Mkt		4.98	16.03	17.82
Domestic Industry production	166705	177624	189908	168363
Changes in Dom Prod		6.55	13.92	0.99
Dumped Import	31,095	18,384	3,460	27,312
Changes in Dump Imp		-40.88	-88.87	-12.17
Other Import	-	-	-	1,496
Changes in Other Imp				
<u>% Share held by</u>				
Domestic industry	64.7	65.4	61.9	54.50
Other Producer	23.2	27.8	36.9	36.00
dumped imports	12.1	6.8	1.2	9.50
Impact on domestic industry - Market Share Data				
	2000-01	2001-02	2002-03	Jan-Dec'03
Dom Consump Qty				
Domestic industry Share	64.7	65.4	61.9	54.5
Cumulated Imp Share	12.1	6.8	1.2	9.0
Other Industries share	23.2	27.7	36.9	36.0
Total Imports share	12.1	6.8	1.2	9.5
Total %	100	100	100	100
Dom Consump Val				
Dumped Import	3328.00	2009.00	380.00	4085.00
Undumped Import	0.00	0.00	0.00	195.00
Indian industry sale	44307.49	46743.38	58866.06	62261.74
Amount	47635.49	48752.38	59246.06	66541.74
Indian industry Share	93.01	95.88	99.36	93.57
Cumulated Dumped Imp Share	6.99	4.12	0.64	6.14
Others import share	0.00	0.00	0.00	0.29
Total Imports share	6.99	4.12	0.64	6.43
Total %	100	100	100	100

45. The demand of the like products in the country has increased by 17% during the period of review (in the POI as compared to the base year). The share of the domestic industry has declined by 10% over the period, however, the share of the dumped imports from the subject countries have also declined. Significantly, the share of the other Indian producers in the total demand has increased by the same amount. In fact,

there has been small rise in the share of the Indian production during the review period.

Sales Volumes and inventories

Actual and Potential Negative Effects on Inventories				
	2000-01	2001-02	2002-03	Jan-Dec'03
Inventories/Stocks	17507	15530	15208	10468
Sales Volume MT	166695	176644	184977	165343
Invent % to Sales Vo	10.50	8.79	8.22	6.33
Indexed Stocks	100.00	83.71	78.28	60.28

46. As seen above, sales volume of the like products has not undergone any significant change from the base year though the inventories as compared with the sales volume have gone down during the review. The closing stocks have declined during the period of review.

Production, capacity and Capacity utilization

47. The capacity of the domestic industry is not exclusive for this subject goods and in addition to the subject goods, the plant also manufactures other goods for use in the Automobile and in the forging units and these goods are being sold in the domestic market. The Authority has worked out capacity utilization of the plant as a whole and also the capacity utilization for the subject goods separately.

Plant as a whole

		AM01	AM02	AM03	POI
Capacity		293450	293450	293450	293450
Plant capacity Utilisation	%	77.08336	87.39506	99.39719	104.6081
Kalyani		****	****	****	****
ISSAL		****	****	****	****
Trend	Index	100	113.3773	128.9477	135.7078

Production capacity and utilization (taking into account production of the subject goods)

	2000-01	2001-02	2002-03	Jan-Dec'03
Capacity	293450	293450	293450	293450
Production of the subject goods (domestic industry)	166705	177624	189908	168363
Capacity Utilization% for the subject goods	56.81	60.53	64.72	57.37

48. As shown above, the total capacity has not undergone any change during the period of review. The production of the subject goods has gone up marginally during the POI and the capacity utilization, therefore, has increased only marginally during the POI as compared to base year. However, when taking the plant utilization into account, it is seen that the capacity utilization is over 100%. The Authority has determined that in addition to the subject goods, the plant also manufactured other goods for use in the Automobile or in the forging units and these goods are being sold profitably in the domestic market though the domestic industry has claimed that their profitability would still have been better had they manufactured and sold the subject goods in the domestic market.

Sales and Profits

Actual and Potential decline in profits				
	2000-01	2001-02	2002-03	Jan-Dec'03
Sales Value Lacs Domestic industry	****	****	****	****
Index	100	100.227	113.541	115.88
Sales quantity Domestic industry (MT)	****	****	****	****
Index	100	105.968	110.967	99.19
Selling price Rs per unit	****	****	****	****
Index	100	94.5822	102.32	116.83
Cost of production Rs. MT	****	****	****	****
Index	100	95.916	98.1771	110.31
Profit/loss Per unit	****	****	****	****
Index	-100	-118.55	-27.8733	0.27
Profit (Rs lacs) on Sales	****	****	****	****
Index	-100	-125	-30.9	0.27

49. The production of the domestic industry has not changed much during the period under review as shown above. However, the profitability of the domestic industry has improved.

Employment, Wages and productivity

Actual and Potential Negative Effects on Employment and Wages				
	2000-01	2001-02	2002-03	2003-04
No of Employees	****	****	****	****
% Change		4.77	-0.42	-2.13
Volume of sales/Emp	****	****	****	****
Index	100.00	101.15	106.37	97.14

Salary and Wages

		AM01	AM02	AM03	POI
Salary & Wages	Rs Per MT	****	****	****	****
Kalyani		****	****	****	****
ISSAL		****	****	****	****
Trend	Index	100.0	112.8	120.1	122.2

Productivity

	2000-01	2001-02	2002-03	Jan-Dec'03
Turnover Lakhs - domestic industry	****	****	****	****
Index	100	101.21	114.34	116.94
Employees	****	****	****	****
Index	100	105	104	102
Productivity % in turn over basis	****	****	****	****
Index	100	96.6	109.6	114.5

50. As shown above, the productivity has increased during the period of review. The number of employees have not changed much during the period of review though the ratio of volume of sales to the employee has marginally declined during the same period. Salary and wages have shown consistent rise during the review period.

Ability to raise capital, return on investment and other financial indicators

		AM01	AM02	AM03	POI
Profit/loss per MT	Rs./MT	(****)	(****)	(****)	****
Kalyani		(****)	(****)	****	****
ISSAL		(****)	(****)	(****)	(****)
Trend	Index	100	119	28	0 (marginal profit)
Total Profit/loss	Rs. Lacs	(****)	(****)	(****)	****
Kalyani		(****)	(****)	****	****
ISSAL		(****)	(****)	(****)	(****)
Trend	Index	100	126	31	0(marginal profit)
		AM01	AM02	AM03	POI
Return on Capital Employed NFA		****	****	****	****
Kalyani		****	****	****	****
ISSAL		****	****	****	****
Trend	Index	100.00	46	98	114
		AM01	AM02	AM03	POI
Cash profit	Rs. Lacs	****	****	****	****
Kalyani		****	****	****	****
ISSAL		****	****	****	****
Trend	Index	(100.0)	(140.1)	87.3	143.5

51. As shown above, the profitability of the company has improved during the POI and the domestic industry has achieved a small profit during the POI as compared to the losses it was incurring during the earlier years of the review period. The cash profit of the domestic industry is positive and has increased during the POI as compared to the preceding year. Return on capital employed has increased during the POI during the period of review and this has been consistent trend during the review investigation.

Factors effecting prices and growth

52. The factors effecting prices have already been examined in detail in the paras pertaining to the price undercutting, price depression and price suppression. The actual and potential effects on various growth parameters of the domestic industry have been explained in the earlier paragraphs pertaining to the trends of various injury parameters.

Magnitude of margin of dumping

53. The margin of dumping of the subject goods from subject countries into India is determined in the earlier paragraphs and is considered significant.

Ability to raise capital

54. After examining the records of the domestic industry, it is concluded that no adverse effect has been demonstrated which would affect the ability of the domestic industry to raise capital.

Conclusions on injury to the domestic industry

55. Following the imposition of antidumping measures, the situation of the domestic industry has stabilized. Between 2000-01 and the POI, dumped imports from the subject countries did not increase in volume and in fact reported a decline in the volume by more than 10% and as a proportion of the demand, they declined by 20% during the injury period. As regards the export prices, they increased substantially during the whole period under consideration and the undercutting margin on account of these imports from subject countries were insignificant. It is also noted that no significant price undercutting has been caused by dumped imports. Further, domestic industry prices were not depressed and in fact there is a consistent rise in the domestic selling prices of the domestic industry during the injury period. No price suppression was evident on account of dumped imports from subject countries. All this coincided with the improvement of the situation of the domestic industry in terms of price increases as well as small profit to the domestic industry. Prices of dumped imports

(excluding the anti dumping duty) were similar to those of the domestic industry throughout the period under consideration and did not exert any pressure on them which helped the domestic industry to increase prices more than the rise in the cost of production. Though the capacity has not changed during the injury period, the plant utilization or capacity utilization of all goods produced by the plant has increased by 35%. Though the production and sales volume have not change much during the injury period, the inventories or stocks have gone down significantly during the same period and inventory as a proportion to sales have declined significantly. Though the market share of domestic industry has gone down during this period, this share has been taken up by the other producers who have not taken part in this investigation. The domestic industry is back into the profit from the position of significant losses during 2000-01. The turnover of the domestic industry has increased and the productivity has also increased by 15% during the same period. The return on the capital employed has increased by 14% during the same period and the cash profit relating to the subject goods of the domestic industry has improved and has grown by 50% from the preceding year. The injury indicators, therefore, do not reflect injury to the domestic industry in this subject investigation. Though injury parameters like decline in the market share of the domestic industry, production and inadequate return on the capital show a negative trend, a situation of continuation of injury caused by the dumped imports could not be established.

G. LIKELIHOOD OF RECURRENCE OF INJURY

Submission by domestic industry

56. The domestic industry has submitted various arguments with regard to the likelihood of continuation or recurrence of dumping and injury. It has been submitted by the domestic industry that since the present investigations are review investigations, injury to the domestic industry is required to be examined in the context of the requirements under review. In this regard, domestic industry submits that the imports are already undercutting the prices of the domestic industry to a significant extent. Should the present duties be revoked, the extent of price undercutting would further increase, which would most likely result in further increased import. The domestic industry has submitted that domestic industry has suffered continued material injury from the dumped imports from subject countries. There is a great possibility that revocation of duty will result in flooding of the material in the Indian market. This is evident from the continued dumping in the market. In other words, the Indian Market is vulnerable to imports, should the prices offered by the exporters be lower. Such being the case, the domestic industry is vulnerable to injury. It has also been submitted that the Petitioner is one of the major consumer of the subject goods. The sole factor for the petitioner to decide the source

is the price. Such being the case, revocation of anti dumping duty would instantly result in flooding of market and loss of sales by the domestic industry. The Domestic industry maintains that the production capacity in subject countries for the product under consideration are significantly higher than demand in their respective Countries. Should the current measures be allowed to lapse, there is a threat that a significant proportion of unused production capability would be used to flood the Indian market. It has been contended that market share of imports is significant. Revocation of duty would, therefore, result in further increase in market share of Foreign Producers with consequent decline in the market share of the domestic industry. With regard to market conditions and circumstances of exporters, it has been contended that an analysis of OEMK (exporter) clearly shows that the company is facing very stiff situation. Losses to the company have increased many folds. At the same time, gross fixed assets of the company have also increased. Dumping practices have unfortunately resulted in financial losses to the company. Due to significant surplus production capacity, company always remains under pressure to sell its product. There is a great possibility that withdrawal of duty will lead to significant opportunity to the exporter to export huge quantities to India. It has also been maintained that exporters in the subject countries have built capacities far in excess of their domestic demand. Russia is amongst leading producer and exporter in the world in respect of steel in general and the subject goods in particular. Such being the case, revocation of duty would provide a great opportunity to the Foreign Producers to flood the market. It has been further added that whilst the current duties are insufficient to remove the injury to the domestic industry from these imports and are significantly lower than the dumping margin and injury margins, it is submitted that withdrawal of measures would lead to further importation of the product in the Country, thus resulting in intensified injury to the domestic industry.

57. Subsequent to the issuance of disclosure statement, the importer-petitioner has refuted the allegations made by domestic industry with regard to recurrence of injury. They have added that the domestic industry has not submitted any evidence other than arguments before the authority to come to a finding with regard to recurrence of injury. In this regard, they have drawn the attention of the authority to para (vii) of annexure II to the antidumping rules and have added that none of the criteria specified in the rules are applicable in this case.

Examination by the Authority

58. The authority has examined the contention of both the interested parties. The authority notes that claim of the domestic industry that production capacities in the subject countries for the subject goods are significantly higher than the demand in the respective countries has still not been substantiated by them. It is further added that the claim of significant proportion of excess production capability in these countries

being used to flood the Indian market, has not been substantiated with any evidence. With regard to the claim of the domestic industry that revocation of antidumping duty would result in further increase in the market of the foreign producers, the authority notes that the fall in the market share of the domestic industry has been absorbed by increase in the market share of other Indian domestic producers and not by dumped imports from abroad.

59. With regard to the recurrence of injury to the domestic industry, the Authority has taken into account paragraph (vii) of Annexure 2 to the Anti Dumping Rules which deals with threat of injury and which is considered relevant in the present analysis of likelihood of injury.

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

- a. *a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;*
- b. *Sufficient freely disposable, or an imminent, substantial increase in , capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;*
- c. *Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and*
- d. *Inventories of the article being investigated.”*

60. It is noted that the above rule prescribes a four-point test. The first one relates to increase in the dumped imports. The facts determined by the authority show that dumped imports have actually come down from subject countries. Further, the production capacity being in excess of production in the subject countries have not been substantiated. With regards to the import prices of the subject goods from the subject countries, it is noted that export prices have increased significantly during the review period. With regard to the inventories, no evidence has been made available regarding buildup of inventories with the producers in the exporting countries. In view of the above, the claim of the domestic industry that there will be recurrence of injury is not sustained.

Conclusions

61. After considering the foregoing, the Authority concludes that -

- i. The subject goods have been exported below their Normal Values from Russia during the period of investigation. There were no imports from China PR during the period of investigation, hence, dumping margin established during the original investigation for China PR was considered in this review investigation.
- ii. However, a situation of continuation of injury caused by the dumped imports to the domestic industry could not be established.
- iii. Injury is not likely to recur if the anti dumping duty imposed on the subject goods from subject_countries were removed

G. Recommendations

62. Having concluded that no material injury to the domestic industry has been established on account of dumped imports of subject goods from the subject countries and there is no likelihood of recurrence of injury on account of import of subject goods from subject countries , the Authority finds no justification for continuation of the duty against subject countries and therefore, in terms of Rule 23 of the said Rules recommends revocation of anti dumping duty in force against subject countries i.e. China PR and Russia. Hence, in view of the above, the Authority recommends withdrawal of the anti dumping duty imposed vide notification No. 65/2001-Customs dated 25.6.2001 with effect from the date of notification issued by the Central Government.

H. Further Procedures

63. An appeal against this order shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(CHRISTY L. Fernandez)
DESIGNATED AUTHORITY