

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)**

NOTIFICATION

New Delhi, the 7th December 2004

Final Findings

(Mid-term Review)

Subject: Anti-Dumping (Mid-Term Review) investigations concerning imports of Lead Acid Batteries originating in or exported from Chinese Taipei, Hong Kong and Singapore.

No. 15/11/2004- DGAD - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

A. PROCEDURE

1. The procedure described below has been followed:

- i. The Designated Authority (hereinafter also referred to as the Authority) notified final findings vide Notification No. 59/1/2001- DGAD dated 31/01/2003 recommending imposition of anti-dumping duties on all imports of lead acid batteries originating in or exported from Chinese Taipei, Hong Kong and Singapore.
- ii. The Customs Tariff Act, 1975(as amended) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 made thereunder require the Authority to review from time to time, the need for the continued imposition of definitive anti dumping duty imposed by the Central Government. One of the importers of lead acid batteries M/s. Base corporation Limited vide letter dated 7th April, 2004 had requested for initiating a review

- of the recommendation made by the Authority vide Notification No. 59/1/2001-DGAD dated 31/01/2003, due to changed circumstances.
- iii. Having decided to review these final findings, the Authority initiated the present investigations vide Notification No. 15/11/2004-DGAD dated 27th April 2004 to review the need for continued imposition of anti dumping duty on lead acid batteries from Chinese Taipei, Hong Kong and Singapore (hereinafter referred to as subject countries) in accordance with the Customs Tariff Act, 1975 (as amended) and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules). This review covers all aspects of Notification No. 59/1/2001-DGAD dated 59/01/2003.
 - iv. The Designated Authority sent a copy of the Initiation Notification to the embassies of the subject countries, the exporters, importers and the domestic industry as per the list available in the original Anti-dumping investigation and requested them to make their views known in writing within 40 days of the initiation of this review investigation.
 - v. A request was made to the DGCI&S to make available details of imports of subject goods.
 - vi. Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
 - vii. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request.
 - viii. The Authority conducted verification of the information of the domestic industry in order to work out the optimum cost of production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP).
 - ix. The Authority provided an opportunity to all interested parties to present their views verbally in the public hearing held on 3rd August 2004. All parties presenting their views verbally were requested to file written submissions of the views expressed verbally. The parties were also advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
 - x. The views expressed by various interested parties in response to the initiation notification and subsequent to the public hearing are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The arguments raised by the interested parties have been examined, considered and, wherever appropriate, dealt in relevant paragraphs.

- xi. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received have been duly considered in these findings.
- xii. **** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the AD Rules.
- xiii. Investigations were carried out for the period of investigation (POI) from 1st April 2003 to 31st December 2003 (9 months). However injury analysis have been carried out for the years April 2000 – March 2001, April 2001 – March 2002, April 2002 – March 2003 and the period of investigation.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

2. The product under consideration is “Lead Acid Batteries” falling under Chapter 85, Sub Heading 8507 of the Customs Tariff Acts as in the original investigation.

3. It is noted that the basic manufacturing process, the applications and overall use of the imported product and the product manufactured by the domestic industry are similar. There is a high degree of interchangeability and competition between the imported product and the product manufactured by the domestic industry. There are similarities in physical characteristics, production process, end use of the subject goods imported from the subject countries and those produced by the domestic industry.

4. The importer has argued that in the original investigation the product under consideration has been categorized under automotive, industrial and motorcycle batteries and in this investigation, the Authority has considered and provided a single dumping margin for all types of batteries. With reference to the argument of the importer, it is noted that the product under consideration is lead acid batteries, therefore, dumping margin has been determined for the same. However, dumping margins have arrived for the individual segments and then a single dumping margin has been derived for the product under consideration. The Authority notes that lead acid batteries produced by the domestic industry has been considered as Like Article to the product exported from subject countries within the meaning of Rule 2(d).

C. DOMESTIC INDUSTRY:

5. In the original investigation the application for anti dumping investigation was filed by M/s Exide Industries Ltd and M/s Amara Raja Batteries Ltd., on behalf of domestic industry. Subsequent to initiation, M/s Amco Batteries supported the application and provided the relevant information. In this mid-term review M/s. Exide Industries Ltd,

and M/s. Amco Batteries Ltd. filed the costing and injury information. M/s. Amara Raja Batteries Ltd., submitted the costing and injury information after the time schedule but the similar information has been filed in another investigation for the same period of investigation for the same product.

6. The importer has submitted in the comments to the disclosure statement that M/s. Amara Raja Batteries Ltd., should not have been considered as a part of domestic industry as the costing / financial information was not filed in the time schedule and the same is not available in the public file. The Authority found to be appropriate to consider the information/data filed by M/s. Amara Raja Batteries Ltd., as part of the domestic industry in this investigation. It is noted that the non-confidential information concerning M/s. Amara Raja Batteries was made available in the public file. Since M/s. Amco Batteries did not file the complete information regarding costing and injury, it was not appropriate to consider it a part of domestic industry. In this mid-term review investigation M/s. Exide Industry Ltd., and M/s. Amara Raja Batteries Ltd., have been considered as the domestic industry in terms of AD Rules.

7. M/s. Exide Industry Ltd. and M/s. Amara Raja Batteries Ltd. account for a major proportion of the domestic industry and have the standing in terms of the provisions of the AD Rules.

D. OTHER ISSUES

8. It has been argued by the domestic industry that the applicant has not brought sufficient grounds for initiation of this review. This review was initiated merely on a representation made by an importer of lead acid batteries from Singapore. The applicant had not given any positive information substantiating the need for review. The domestic industry further argued that as per Rule 23, the Designated Authority shall, from time to time, review the need for continued imposition of the anti dumping duty. The Rule requires that the Designated Authority shall recommend withdrawal of the anti dumping duty if it is satisfied that on the basis of information received, there is no justification for continued imposition of said duty. The applicant M/s. Base corporation Limited argued that the satisfaction referred to Rule 23 (1) does not apply for initiation a review and the Authority has correctly initiated the review under the AD Rule.

The Authority examined the arguments raised by the interested parties and notes that rule 23(1) contains two operative parts. The first part provides that the Designated Authority shall, from time to time, review the need for continued imposition of the anti-dumping duty. The second part provides that the Designated Authority shall, if it is satisfied on the basis of information received by it that there is no justification for

the continued imposition of such duty recommend to the Central Government for its withdrawal or varied. Since the sufficient time has lapsed from the date of imposition of duties and information provided by the applicant regarding the change in the Customs duty structure on imports of lead acid batteries, it was found appropriate to initiate this mid-term review.

9. The domestic industry has submitted that the present mid-term review has been initiated at the instance of one of the importer namely M/s. Base Corporation Ltd., on the following grounds as, anti dumping duty in existence for almost two years, mid term review of anti-dumping investigation from other sources already initiated, landed value much higher than domestic prices and substantial fall in Custom Duty rates. It is noted that the information provided by the applicant was considered sufficient for initiating this mid term review.

10. The domestic industry has argued that an individual importer can request for an interim review only if it is shown that individual dumping or injury margin has decreased as compared to the results of the preceding investigation. It is noted that an importer is an interested party as per Rule 2(c)(i) and therefore is entitled to make a request for initiation of the mid term review.

11. The domestic industry argued that the initiation notice published by the Authority is defective as it did not contain necessary information as required to provide under rule 6(1) (i), (iii) and (iv) of the Anti-Dumping Rules, 1995. The applicant rebutted the argument of the domestic industry that there is no infirmity in the initiation notice published by the Authority, since the initiation notification covers the review of anti dumping duty of the original findings.

Regarding the 6(1)(i), it is noted that the reading of first paragraph with fourth paragraph of the initiation notice clearly indicates that this mid-term review relates to the anti-dumping duties imposed vide Customs Notification No.63/2003, dated 02/04/2003 which was issued pursuant to the final findings of the Authority in the anti-dumping investigation concerning import of lead acid batteries originating in or exported from Chinese Taipei, Hong Kong and Singapore. There is no ambiguity found in the initiation notice with regard to whether this investigation covers only one Country or all the three countries covered in the original investigation, as raised by domestic industry.

Rule 6(1)(iii) requires the Authority to provide information on the basis of which dumping is alleged in the application. It is argued by the domestic industry that there is no allegation of dumping by the importer (applicant). It is noted that the present request is only to review the need for continued imposition of the said duties in the original investigation, therefore, Rule 6(1)(iii) is not relevant in this investigation.

The domestic industry has argued that Rule 6(1)(iv) requires that the initiation notice shall contain a summary of allegation of injury. It is noted that the request by the applicant is only to review the existing duties, which may involve a review of the injury suffered by the domestic industry, therefore, Rule 6(1)(iv) is not relevant in this investigation.

12. The domestic industry in response to the disclosure statement has submitted that the appeal filed by M/s. CSB Battery Company Ltd., is pending before Hon'ble Customs, Excise Service Tax and Appellate Tribunal (CESTAT) and the matter was adjourned as sine-die. In this regard it is noted that the Hon'ble Tribunal has not put any bar in conducting mid-term review by the Designated Authority as per the provisions of AD Rules.

D. METHODOLOGY FOR CALCULATION OF DUMPING MARGIN:

13. The domestic industry has submitted in response to the disclosure statement that the detailed calculation or information has not been provided with regard determination of dumping margin. It is noted that dumping margin has been determined on facts available as per Rule 6(8) of AD Rules as none of the exporters have filed information either regarding export price or normal value. The export price has been determined on data made available by DGCI&S Kolkata and normal value has been constructed on the basis of facts available as per Rule 6(8) of AD Rules.

CHINESE TAIPEI

NORMAL VALUE

14. M/s. Pilot Battery Co. Ltd. has filed the incomplete submission and stated that they have not exported the subject goods during the period of investigation. The exporter has not filed the information regarding cost of production, domestic sales and other details in the exporter questionnaire required for the determination of dumping margin. Since none of the exporters/producers has fully cooperated from Chinese Taipei, the normal value has been constructed as US\$ ***/Kg. for all producers/exporters from Chinese Taipei as per rule 6(8) of AD Rules.

EXPORT PRICE

15. Dumping margin cannot be determined separately for M/s. Pilot Battery Co. in absence of their export price. DGCI& S import statistics is showing imports of 12395 pcs. of subject goods during the POI (annualized). The export price is determined on

the basis of the weighted average export price made available by DGCI&S Kolkata. To arrive at ex-factory export price adjustments have been considered as per facts available. The ex-factory export price is determined as US\$ ***/Kg for all exporters/producers from Chinese Taipei.

SINGAPORE

NORMAL VALUE

16. M/s. CSB Battery, Singapore Pvt. Ltd. has stated that they have not exported the subject goods during period of investigation except the supplies of subject goods to M/s. APC Corporation against advance license, which do not attract any anti dumping duty, since the goods do not enter the mainstream commerce of India. They have further submitted that supplies were made to Electronic Hardware Technology Park (EHTP) units against advance license, therefore, such supplies made to EOU's or against advance licenses are exempted from the payment of anti-dumping duties. They did not file the response in the exporters questionnaire. Since none of the exporters/producers has cooperated from Singapore, the normal value has been constructed as US\$ ***/Kg as per Rule 6 (8) of AD Rules.

EXPORT PRICE

17. DGCI& S import statistics is showing imports of 47492 pcs. of subject goods during the POI (annualized). The export price is determined on the basis of the weighted average export price made available by DGCI&S Kolkata. To arrive at ex-factory export price adjustments have been considered as per facts available. The ex-factory export price is determined as US\$ ***/Kg for all exporters/producers from Singapore.

HONG KONG

NORMAL VALUE

18. The Trade and Industry Department of the Government of Hong Kong, Special Administrative Region in response to the initiation of the mid-term review has stated that there are no exports of lead acid batteries since 1999. None of the exporters / producers have filed response in this investigation. Since none of the exporters/producers from Hong Kong has co-operated in the investigation, the normal value has been constructed as US\$ ***/Kg for all exporters/producers from Hong Kong as per Rule 6 (8) of AD Rules.

EXPORT PRICE

19. However, from the import statistics of DGCI&S Kolkata, it was found that Hong Kong has exported lead acid batteries during the POI. The export price is determined on the basis of the weighted average export price made available by DGCI&S Kolkata. To arrive at ex-factory export price adjustments have been considered as facts available. The ex-factory export price is determined as US\$ ***/Kg for all exporters/producers from Hong Kong.

DUMPING- MARGIN

20. Based on the normal value and export price as determined above, the Authority determined the dumping margin as under:

Country	Exporters/Producers	Ex-factory normal value (US\$/Kg.)	Ex-factory export price (US\$/Kg.)	Dumping Margin(%)
Chinese Taipei	All exporters/producers	****	****	- Ve
Singapore	All exporters/producers	****	****	- Ve
Hong Kong	All exporters/producers	****	****	- Ve

The examination of dumping indicates that there is no current dumping from the subject countries. It is also noted that the volume of dumped imports is nil from the subject countries and the landed value of imports are above the anti dumping duty levied in the original investigation. This position indicates that there is no imminent likelihood of recurrence of dumping from subject countries.

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

INJURY AND CAUSAL LINK:

21. The views of domestic industry are summarized below:-

- i. Imports from the subject countries have declined as a result of imposition of anti dumping duty. Significant decline in import volumes implies that there is no way the foreign producers can export except by resorting to dumping practices. This implies that revocation of anti dumping duty would result in recurrence of injury to the domestic industry.
- ii. Production and sales of the domestic industry have increased. The increase in production is due to (a) imposition of anti dumping duty on dumped imports in the Country, and (b) significant increase in demand of the product in the Country.

- iii. Domestic industry has enhanced its capacities in anticipation of boom in the automobile sector and significant increase in industrial segment.
- iv. Stocks have increased due to higher increase in production than sales volumes. Sales volumes of the domestic industry were lower than production volumes due to continued availability of dumped imports.
- v. The domestic industry has trimmed its manpower and increased its productivity. Even though total wages paid by the domestic industry increased, wage per battery or wage per kg. of battery production declined. Thus, the domestic industry has been able to curtail the effect of wage increase through increase in production.
- vi. The landed price of imports from the subject countries continues to be lower than net sales realization of the domestic industry. The landed price of imports is significantly below the selling prices of the domestic industry. Thus, imports continue to undercut the prices of the domestic industry in the market.
- vii. Imposition of anti dumping duty has helped the industry in improving its profits. At the same time, the domestic industry undertook financial restructuring, supported with the anti dumping duty imposed by the Govt. of India. Resultantly, the profits of the domestic industry have increased. The increase in profitability is largely due to financial restructuring and due to imposition of anti dumping duty.
- viii. Cash flow of the domestic industry has remained more or less static. Cash profits of the domestic industry increased. This helped the domestic industry in improving its profits further. The domestic industry has been able to improve its profits due to imposition of anti dumping duty, return on investments earned by them have remained sub-optimal.
- ix. The foreign producers are holding significant capacities. The relevant information is already on record in view of original investigations. It is thus imminent that there would be significant increase in imports should the present duties be withdrawn at this stage.
- x. Domestic Industry submits that the imports are already undercutting the prices of the domestic industry to a very significant extent. If the present duties be revoked, the extent of price undercutting would further increase, which would most likely result in further increased imports. Further, the performance of the domestic industry was already adverse during the period under investigation and it is likely that without anti dumping measures in place considerable increased volumes of the product concerned would be shipped in the Indian market at very low prices, further worsening the situation of the domestic industry.
- xi. The Domestic Industry submits that the production capacity in subject countries for the product under consideration are significantly higher than demand in their respective countries which implies if the anti-dumping duty on subject

countries is revoked, large shipments are imminent. If the current measure is allowed to lapse, there will be a threat that a significant proportion of unused production capability would be used to flood the Indian market at the dumped prices.

- xii. Removal of present anti dumping duty would cause a price depression on the Indian market, as the domestic industry has no other option but to maintain its market share rather than reduce its production i.e. sale prices would have to be benchmarked to the imports. This would in turn further erode the profitability of the domestic industry.

F.2 VIEWS OF THE EXPORTERS AND IMPORTERS

22. The exporters and importers have submitted that the performance of M/s. Exide Industries has improved on all factors of injury. The domestic industry is selling subject goods at much lower price than the landed value from the subject countries. This clearly shows that the domestic industry was not only able to absorb the increase in costs of subject goods but was also able to earn huge profits to the tune of 13% on its cost of sales during the period of investigation as compared to its profitability at 5.39% in the previous year 2000-01. The interested parties submit that domestic industry is not suffering any kind of injury nor the injury to the domestic industry is likely to recur in case the anti-dumping duties are withdrawn.

23. They have further argued that the anti-dumping investigation is a time bound activity and each party is required to submit its information within the time schedule. It may further be noted that if an exporter fails to give its information within the time allowed, it is treated as non-cooperative whereas there are no time limits prescribed for the domestic industry for submission of its information. The Designated Authority has not been supplied with sufficient facts by the “domestic industry” to carry out any meaningful investigation/analysis and to arrive at appropriate findings in the matter. It is submitted since the domestic industry has clearly failed to cooperate and has not shown any interest in the matter, the anti-dumping duties should be discontinued on this ground .

24. M/s Exide Industries themselves stated that it has earned profits only due to restructurings of its operation. This clearly shows that the anti-dumping duty imposed is serving no purpose in helping the domestic industry and the domestic industry failed to increase its prices up to the ought to be the price. When the domestic industry failed to increase its selling prices up to the ought to be the price and its profitability is due to restructuring of its operation , the statement of domestic industry that anti-dumping duties are insufficient to cure injury, the exporters should not be put to a disadvantage and fair competition is required to be restored by immediately scrapping

the anti-dumping duties at once so that no injustice is caused to the interests of the exporters and other interested parties.

25. The domestic producers have failed to substantiate their claims with evidence and made only bare statements such as (i) imports from subject countries would increase, (ii) price undercutting would increase, (iii) additional capacity are available in subject countries etc.

F.3 EXAMINATION OF AUTHORITY

Cumulative assessment of injury:

26. As per annexure-II (iii) of Anti Dumping Rules, in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of subject countries is negative. The volume of imports from these subject countries collectively are 3.02% of total imports.

27. On examination of information, the Authority finds that the prices of the subject goods coming from different sources are almost comparable and do not vary significantly. These have been imported under the same tariff classification. The user industry for the imported product and the domestic product is the same. The channels of imports are also found to be similar. The Authority did not find it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article as the margin of dumping is negative from subject countries. However injury parameters and performance of the domestic industry have been examined.

28. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

“A determination of injury shall involve 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 like article and (b) the consequent impact of these imports on domestic producers of such products.”

As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”

Volume and market share of imports

29. The imports from subject countries has decreased in absolute terms during the period of investigation. In terms of market share in imports, the share of subject countries in this investigation has decreased from 30.61% during 2000-2001 to 3.02% during the POI which was coming at undumped prices during the POI, not causing injury to the domestic industry. Another mid-term review investigation concerning imports of lead acid batteries originating in or exported from China PR, Korea RP, Japan and Bangladesh has been concluded having the same period of investigation. The market share in import from these countries has also decreased from 59.62% during 2000-2001 to 41.85% during the POI.

	2000-2001		2001-2002		2002-2003		POI (Annualised)	
	Volume	Value	Volume	Value	Volume	Value	Volume	Value
	Pcs.	Rs./Lacs	Pcs.	Rs./Lacs	Pcs.	Rs./Lacs	Pcs.	Rs./Lacs
Chinese Taipei	606559	1893.26	704986	2767.91	58218	248.18	12395	80.72
Singapore	253371	707.47	6410	104.59	136828	384.95	47492	222.39
Hong Kong	193100	247.98	57996	44.89	104059	231.24	38624	35.61
Subject countries	1053030	2848.71	769392	2917.39	299105	864.37	98511	338.72
Subject countries in other investigation	2051156	5012.55	1733000	4083.52	2134905	5985.99	1365059	3939.47
Other countries	336477	991.66	285226	1302.61	460111	2507.23	1797973	5861.03
Market share in imports (%)								
Subject countries	30.61	32.18	27.60	35.13	10.33	9.24	3.02	3.34
Subject countries in other investigation	59.62	56.62	62.17	49.18	73.77	63.97	41.85	38.86
Other countries	9.78	11.20	10.23	15.69	15.90	26.79	55.13	57.81

Actual and potential decline in sales

30. The sales of domestic industry has increased from 7,660,033 pcs. to 12,854,661 pcs. during the POI as compared to the base year. The sales in volume terms of the

domestic industry has increased by 67.81 % and in value terms by 21.60%. Both sales quantity and sales value have shown a steady increase.

Sales	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Quantity					
Exide Industries	Pcs.	7,281,880	7,661,878	9,303,057	11969135
Amara Raja	Pcs.	378,153	580,369	709,957	885527
Total	Pcs.	7,660,033	8,242,247	10,013,014	12,854,661
Indexed					
Exide Industries		100.00	105.22	127.76	164.37
Amara Raja		100.00	153.47	187.74	234.17
Total		100.00	107.60	130.72	167.81
Value					
Indexed					
Exide Industries		100.00	101.08	112.72	121.31
Amara Raja		100.00	120.54	127.63	123.43
Total		100.00	103.79	114.79	121.60

Production & Capacity Utilisation

31. The installed capacity of the domestic industry has increased since 2000-2001 by 49.48% during POI. Both the constituents of the domestic industry have increased their installed capacity. The production of the domestic industry has also increased during the same period by 62.33%. As regards the capacity utilisation, the domestic industry is able to utilise its capacity to the extent of 87.54% during the POI compared to the base year of 80.61%.

	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Installed Capacity					
Exide Industries	Pcs.	8,845,115	9,376,714	10,494,928	12955772
Amara Raja	Pcs.	575,000	725,000	1,125,000	1125000
Total	Pcs.	9,420,115	10,101,714	11,619,928	14,080,772
Indexed					
Exide Industries		100.00	106.01	118.65	146.47
Amara Raja		100.00	126.09	195.65	195.65
Total		100.00	107.24	123.35	149.48
Production					
Exide Industries	Pcs.	7,210,882	7,639,999	9,645,858	11444841
Amara Raja	Pcs.	382,774	604,949	735,754	881649
Total	Pcs.	7,593,656	8,244,948	10,381,612	12,326,491
Indexed					
Exide Industries		100.00	105.95	133.77	158.72
Amara Raja		100.00	158.04	192.22	230.33

Total		100.00	108.58	136.71	162.33
Capacity Utilization					
Exide Industries	%	81.52	81.48	91.91	88.34
Amara Raja	%	66.57	83.44	65.40	78.37
Total	%	80.61	81.62	89.34	87.54

Growth

32. The sales volume of the domestic industry has increased by 67.81 % during the POI as compared to the base year. During the same period the production of the domestic industry has increased by 62.33%. The share of imports from the subject countries has decreased in a situation where the domestic demand has increased substantially.

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Quantity					
Exide Industries	Pcs.	7,281,880	7,661,878	9,303,057	11969135
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Indexed					
Exide Industries		100.00	105.22	127.76	164.37
Amara Raja		100.00	153.47	187.74	234.17
Total		100.00	107.60	130.72	167.81
Value					
Indexed					
Exide Industries		100.00	101.08	112.72	121.31
Amara Raja		100.00	120.54	127.63	123.43
Total		100.00	103.79	114.79	121.60
Profit before Interest					
Indexed					
Exide Industries		100.00	91.17	119.72	126..34
Amara Raja		100.00	105.57	50.34	(1.40)
Total		100.00	94.02	106.00	101.49

Price undercutting

33. The Authority notes that the landed value of imports from the subject countries is higher than the net sales realization of the domestic industry for the subject goods during the POI thereby not undercutting the selling price of the domestic industry. The undercutting margin was within a range of -35 % to -115 % during the POI.

Price Underselling

34. Price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producers by appropriately considering the cost of production for the product under consideration during the POI. In order to eliminate inefficiencies, capacity utilisation has been normated .

35. The analysis shows that the weighted average landed value of the subject goods from subject countries is above the non injurious price determined for the domestic industry during the period of investigation. The underselling margin was within a range of -39% to- 112% during the POI.

Factors affecting domestic prices

36. The Authority noted that the selling prices of the domestic industry are linked to the raw material cost and prices of the subject goods from different countries. The domestic industry has increased its productivity and the landed value is above the domestic selling prices. It is noted that the selling price is not suppressed due to imports from subject countries.

Magnitude of margin of dumping

37. It is noted that the magnitude of margin of dumping of subject goods from subject countries is negative.

Evidence of lost contracts

38. The domestic industry did not produce any evidence regarding loss of order or contract due to imports of subject goods from subject countries.

Inventory

39. It has been observed that the inventory of the domestic industry has increased during the POI in absolute numbers and value. However, in terms of months' sales, quantity and value, has remained almost static during the POI as compared to the base year.

Inventories	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Quantity					
Exide Industries	Pcs.	413,959	377,599	720,400	588,667
Amara Raja	Pcs.	8,858	33,438	59,235	71190
Total	Pcs.	422,817	411,037	779,635	588,667

Indexed					
Exide Industries		100.00	91.22	174.03	142.20
Amara Raja		100.00	377.49	668.72	803.68
Total		100.00	97.21	184.39	156.06
Value					
Indexed					
Exide Industries		100.00	115.91	126.08	110.74
Amara Raja		100.00	383.58	664.05	515.62
Total		100.00	122.35	139.03	120.49
Inventory as months sales qty					
Exide Industries		0.682	0.591	0.929	0.590
Amara Raja		0.281	0.691	1.001	0.965
Total		0.662	0.598	0.934	0.616
Inventory as months sales value					
Exide Industries		0.76	0.88	0.85	0.70
Amara Raja		0.12	0.37	0.61	0.49
Total		0.67	0.79	0.82	0.67

Return on Investment and ability to raise capital

40. M/s. Exide Industries, which constitutes the major proportion of the domestic industry has been consistently improving its profitability and during the POI it has achieved the best of its performance in the past 10 years. The company has achieved a Return on Capital Employed (ROCE) of about 20.41% during the POI as compared to 13.82% during the base year. M/s Amara Raja has shown a different trend as compared to M/s Exide Industries. M/s Amara Raja has achieved a negative ROCE during the POI against an ROCE of 15.37% during the base year. This fall in the profitability of M/s Amara Raja, inspite of increase in production and sales, is mainly due to the following reasons as explained in their Annual Report for the year 2003-04 which covers the POI :

- i. *“The company faced intense competition in Telecom batteries and the year witnessed realisations going down to unprecedented levels – levels that could have driven any other Company to serious hardships. As a strategy we decided to stay out of non-remunerative business and focus on customer relationships, customer satisfaction and building good quality batteries – things, which should see us win in the long run.*
- ii. *Automotive battery volumes continued to grow. We have been successful in strengthening our OE and private label relationships. We are further strengthening our aftermarket network and are complementing the efforts of our channel partners with on-the-ground promotions and schemes, which should establish closer touch with end customers.*

iii. *Our export revenues grew 147% over the previous year. We continue to invest in exploring new markets and establishing new relationships. We expect the efforts of the company to bear fruit in the coming years.”*

41. It has been observed that the company was selling huge quantities of industrial batteries to the Telecom Sector. During the period of investigation the demand for the batteries in the Telecom Industry has gone down and witnessed a reduction in the price of batteries to all time lows which was aggravated by the excess capacity in the battery industry. It has further been explained by the company in its Annual Report that the impact of lower volumes combined with reduction in realisations affected both sales and profitability. During the course of verification domestic industry has stated that the batteries for Telecom Sector are not imported. Accordingly it cannot said that the decline in profitability of one of the constituents of the domestic industry , in contrast to the other constituents, is due to imports from subject countries.

42. It is further observed that M/s Amara Raja has increased its market in automotive OE segment during the period of investigation. This has further deteriorated its profitability as the company is incurring losses in the OE segment. During the course of verification it was clarified by the domestic industry that the imported lead acid batteries are not catering the OE segment.

Return on Investment	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Return on Capital Employed					
Exide Industries	%	13.82	13.56	18.84	20.46
Amara Raja	%	15.37	16.56	6.91	(0.18)
Total	%	14.10	14.13	16.21	15.56

Profitability

43. In tune with the increase in production and sales both in value and quantity, the profitability of the domestic industry has shown improvement. It is seen that the profitability of one of the constituents of the domestic industry has shown significant increase whereas there is a decline for the other. However, considering the decline subsequent to the imposition of anti-dumping duty, it is clear that the decline cannot be attributed to the dumping but to other reasons especially when the other constituents of the domestic industry has achieved its best performance during the same period. The domestic industry has argued that segment wise examination on the profitability has not been carried out in this investigation. It is noted that the product under consideration in this investigation is lead acid batteries and the injury trend of the domestic industry has been carried out with respect to the same.

Earning per Share

44. Both the constituents of the domestic industry have been regularly enhancing their capacities to meet the increasing demand in the domestic market. It has been claimed by M/s Exide Industries that they are facing difficulties in raising money from the market. However no concrete evidence to justify the same have been placed before the Authority. Both the companies are generating good cash profits and the same have been utilised for enhancing capacities. It has also been observed that the domestic industry is generating good cash profits and one of its constituent is regularly paying dividends including bonus shares to the shareholders. The earning per share in case of M/s Exide Industries is increasing every year. This shows that the domestic industry is enjoying good financial position.

Earning per Share	Unit	2000-01	2001-02	2002-03	2003-04 **
Exide Industries	Rs	11.10	8.80	14.70	20.40
Amara Raja	Rs	19.64	16.00	6.50	1.22
Indexed					
Exide Industries		100.00	79.28	132.43	183.78
Amara Raja		100.00	81.47	33.10	6.21

** Based on printing Annual Report for 2003-2004.

45. The annual report of M/s. Exide for the year 2003-04 (¾th of this period represents period of investigation) reveals that the company has give bonus issue of 1:1 and has given dividend on shares on post bonus basis. In addition it is important to mention the cash profits during the period of investigation has also improved substantially in case of M/s Exide as compared to the base year. The EPS for the period of investigation on pre bonus basis works out to 19.40 per share (annualized). However, in case of M/s Amara Raja the EPS based on profitability during the period of investigation is negative.

Employment

46. The domestic industry has improved its productivity after curtailing the number of employees alongwith increase in production and capacity utilisation. The domestic industry has claimed that the number of employees have been reduced as a cost cutting measure to improve the productivity. It is noted that change in level of employment has not caused any injury to the domestic industry.

Employees	Unit	2000-01	2001-02	2002-03	POI (Annualised)
EExide Industries	Nos.	4,027	4,057	4,021	3,873
Amara Raja	Nos.	1,216	1,348	1,329	1,283
Total	Nos.	5,243	5,405	5,350	5,156
Productivity					
Per Employee - Qty					

Exide Industries	Pcs./Employee	1,791	1,883	2,399	2,216
Amara Raja	Pcs./Employee	315	449	554	515
Total	Pcs./Employee	1,448	1,525	1,940	1,793
Indexed					
Exide Industries		100.00	105.17	133.97	123.77
Amara Raja		100.00	142.57	175.87	163.73
Total		100.00	105.32	133.98	123.80

Productivity

47. Productivity of the domestic industry, as reflected in terms of production per employee, has improved during the POI. It can not, therefore, be said that the domestic industry has suffered injury due to decline in productivity.

Productivity	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Per Employee - Qty					
Exide Industries	Pcs./Employee	1,791	1,883	2,399	2,216
Amara Raja	Pcs./Employee	315	449	554	515
Total	Pcs./Employee	1,448	1,525	1,940	1,793
Indexed					
Exide Industries		100.00	105.17	133.97	123.77
Amara Raja		100.00	142.57	175.87	163.73
Total		100.00	105.32	133.98	123.80

Wages

48. The Wages and salary per employee of the domestic industry has increased during the period of investigation. However, it is observed that the domestic industry is earning a reasonable profit even after the increase in wages of the domestic industry.

Wages	Unit	2000-01	2001-02	2002-03	POI (Annualised)
Indexed					
Exide		100.00	107.51	118.20	131.90
Amara Raja		100.00	130.49	147.42	151.34
Total		100.00	110.51	122.02	134.44

Cash Flow

49. It has been observed that both the constituents of the domestic industry have improved their cash flow from operations during the POI as compared to the base year. In case of M/s Amara Raja the cash flow has become positive from a situation of negative cash flow.

Cash Flow	2000-01	2001-02	2002-03	POI (Annualised)
Indexed				
Exide	100.00	110.59	97.37	109.48
Amara Raja	(100.00)	12351.34	9959.08	2824.66
Total	100.00	129.88	112.94	114.02

** These figures have been obtained from Annual Reports for the year 2003-2004.

G. CAUSAL LINK:

50. The submissions made by interested parties in respect of the issue of causal link have been examined. A detailed examination was made with regards to the issues pertaining to the material injury to the domestic industry and causal link between the material injury to the domestic industry and dumped imports. Paragraph (v) of Annexure II of the Anti-dumping Rules reads as under:

" It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry."

51. It is noted that market share of the domestic industry has increased in demand during the period of investigation from 81.60% in 2000-01 to 84.59% during the period of investigation. In examining the price effect whether the dumped imports have significantly undercut the price of the like product in India, it is noted that the landed value of the subject goods from the subject countries is higher than the net selling price of the domestic industry thereby not undercutting the selling price of the domestic industry. It is also observed that the weighted average landed value of the

subject goods is also above the non injurious price determined for the domestic industry during the period of investigation.

52. It is noted that the undumped imports from subject countries constitute about 3.02% of total imports and imports from all sources subject to anti-dumping duty constitute about 44.87% of the total imports. The landed value of imports from the sources attracting anti-dumping duty is much above the landed value of imports from sources not attracting duty. It is also noted that a parallel mid term review investigation on imports of lead acid batteries from China PR, Korea RP, Japan and Bangladesh which accounts for 41.85% of imports from all sources has been concluded with the recommendation of discontinuance of anti dumping duty. It is also found that volume and prices of imports from other sources which constitutes 55.13% may have adverse affect on domestic prices of the domestic industry.

53. The exports of subject goods by the domestic industry have increased substantially during the period of investigation. The same has been carried out at prices lower than the cost. Demand of subject goods has increased during the POI. It has increased during the POI as compared to the base year. There is no contraction of demand of the subject goods that could have contributed to any injury to the domestic industry.

54. There is no other factor such as trade restrictive practice or development in technology brought before the Authority which could have caused material injury to the domestic industry.

55. The known factors other than dumped imports, which could at the same time, have injured the domestic industry, were analyzed to examine whether injury to one of the constituents of the domestic industry was caused by other factors not attributed to the imports. It is noted that the material injury suffered by one of the constituents of the domestic industry is due to the other factors.

56. The domestic industry has shown improvement in various economic parameters like sales, production, capacity utilization, profits, cash flow and productivity during the POI as compared with the base year. The market share of domestic industry in demand has also increased.

57. Most of the parameters for injury show significant improvement leading to the conclusion that there is no material injury to the domestic industry due to imports from subject countries. It is seen that the profitability of one of the constituents of the domestic industry has shown significant increase whereas there is a decline for the other. However, considering that the decline is subsequent to the imposition of anti-

dumping duty, it is clear that this decline cannot be attributed to the dumping when one of the constituents has achieved its best performance during the same period.

58. It is observed that as a result of continued imports of subject goods from the subject countries, the domestic industry has not suffered material injury. In this mid-term review the Authority has found that the landed value is above the net sales realisation and non injurious price determined by the Authority for the domestic industry, cannot be a cause of injury to the domestic industry. The Authority is of the view that domestic industry is not suffering any injury due to imports from subject countries and it may not be appropriate to continue with the existing anti dumping measures. The examination of dumping and injury indicates that there is no current dumping from the subject countries and injury to the domestic industry due to undumped imports. It is also noted that the volume of dumped imports is nil from the subject countries and the landed value of imports are above the anti dumping duty levied in the original investigation. This position indicates that there is no imminent likelihood of recurrence of dumping from subject countries and likelihood of injury to the domestic industry.

59. The domestic industry argued that dumping is still continuing from the subject countries and causing injury to the domestic industry. The domestic industry has further submitted that withdrawal of existing anti-dumping duty may likely to lead a recurrence of dumping and injury to the domestic industry. It is noted that the domestic industry did not substantiate with evidence in support of its apprehension of imminent injury when the dumping margin was negative from subject countries. In the absence of substantiated evidence regarding threat of injury, the Authority did not find appropriate to recommend continuation of anti-dumping measures as current imports are not causing injury to the domestic industry. The Authority, therefore concludes that the discontinuation of the anti dumping duty is not likely to lead to recurrence of injury to the domestic industry.

H. FINAL FINDINGS:

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

- a. lead acid batteries originating in or exported from subject countries have been exported to India above normal value, resulting in no dumping;
- b. the landed value of the subject goods is above the net sales realisation and non injurious price determined for the domestic industry, therefore, the domestic industry has not suffered material injury due to imports;

- c. and discontinuation of anti-dumping duties on the subject goods from subject countries is not likely to lead to the recurrence of injury and dumping to the domestic industry;
- d. In view of the above, the Designated Authority considers it appropriate to recommend discontinuation of the anti-dumping duties recommended earlier vide Notification No. 59/1/2001- DGAD dated 31/01/2003 and imposed on all imports of lead acid batteries classified under Customs Sub headings nos. 85071000 and 85072000 of the Customs Tariff Act, 1975 (as amended) originating in or exported from Chinese Taipei, Hong Kong and Singapore .
- e. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 (as amended).

(Christy L. Fernandez)
Designated Authority