

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 2nd February, 1999

FINAL FINDINGS

Subject: Anti dumping investigation concerning imports of fused magnesia from China PR-Final Findings.

18/1/97/ADD. - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

A. PROCEDURE

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

- i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s. Birla Periclase, on behalf of the domestic industry, alleging dumping of fused magnesia originating in or exported from the People's Republic of China (referred to as China PR hereinafter) causing material retardation to its establishment;
- ii. Preliminary scrutiny of the petition revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented;
- iii. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate investigations against imports of fused magnesia from China PR. The Authority notified the Embassy of China PR about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
- iv. The Authority issued a public notice dated 4th Nov., 1997 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of fused magnesia, classified under custom sub headings 251990 of Schedule I of the Customs Tariff Act, 1975, originating in or exported from China PR;
- v. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);

- vi. The Authority forwarded a copy of the public notice to the known importers of fused magnesia in India and advised them to make their views known in writing within forty days from the date of the letter;
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of fused magnesia;
- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of China PR in accordance with rules 6(3) supra;
- ix. The Authority sent questionnaire, to elicit relevant information, to the following known exporters, in accordance with the rule 6(4):
 - a. China Metallurgical Import Export Corpn., China
 - b. Sima Resources GmbH, Germany,
 - c. Yang Trading Company Ltd.,
 - d. Xi Yang Trading (HK) Comp, Hongkong,
 - e. China National Mineral Import & Export Coprn, China.
- x. The Embassy of the subject country in New Delhi was informed about the initiation of the investigations in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers;
- xi. A questionnaire was sent to the following known importers of fused magnesia in India calling for necessary information in accordance with rule 6(4):
 - a. Tata Refractories Ltd.,
 - b. Orissa Industries Ltd.,
 - c. Orissa Cement India Ltd.,
 - d. Bharat Refractories Ltd.,
 - e. Vizag Steel Plant,
 - f. Burn Standard Co. Ltd.,
 - g. IFGL Refractories,
 - h. Maithan Ceramics Ltd.,
 - i. Valley Magnesite Co. Ltd.
- xii. Additional information regarding injury was sought from the petitioner, which was also received;
- xiii. 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;
- xiv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of

Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioner so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry;

- xv. Investigations were carried out for the period from starting 1st April, 1996 to 30th June, 1997;
- xvi. Those interested parties who have opposed imposition of anti-dumping duties have been collectively described as “opposing interested parties” in this notification;
- xvii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same have also been duly considered in these findings.
- xviii. The investigations have been completed within the time limits extended by the Central Government in accordance with the Rules.

B. PETITIONER’S. EXPORTERS. IMPORTERS AND OTHER INTERESTED PARTIES VIEWS

2. The views expressed by the petitioner, exporters, importers and other interested parties have been brought at appropriate places in these findings along with examination of the same by the Authority.

C. PRODUCT UNDER CONSIDERATION

3. The product considered in the present investigations is fused magnesia. Fused magnesia is a magnesia used as a refractory material primarily in steel production. Magnesia is available from natural sources (e.g. fused magnesia) as well as synthetic sources (e.g. sea water magnesia). Magnesia available from either of the two sources can be sintered to get sintered magnesia (like sea water magnesia) or fused to get fused magnesia. Fused magnesia is produced in various grades, generally classified in terms of its chemical properties (such as MgO, CaO, SiO₂, Al₂O₃, Fe₂O₃, B₂O₃) and physical properties (such as bulk density, crystal size, true porosity).

Argument raised by interested opposing parties:

4. China produces two types of fused magnesia:

* Specification type A “ from natural magnesia with lime: Silica ratio > 2”

* Specification type B “ from caustic calcium magnesia”.

It has been further argued that China produces about 340000 MT of fused magnesia, 85 % of which is specification type A. Exports to India are only of specification type A product. Specification type B products are either consumed locally or exported to other countries. While fused magnesia 96 and fused magnesia 93 produced in China are classified as fused magnesia, they are in reality only partially fused.

Examination by the Authority:

5. With regard to the different types of fused magnesia being produced by companies in China (specification type A and B), it is noted that there is no evidence produced by the interested parties that the two types are different products, nor have the interested parties claimed exclusion of specification type B, purportedly not being exported to India. In so far comparison of normal value with export price is concerned, as discussed in the para relating to dumping, the comparison of normal value has been done with export price of comparable types, i.e., export price of specification type A exported to India has been compared with normal value of specification type A consumed locally.

6. In view of the above, the Authority considers it appropriate to describe the scope of the product under investigation as fused magnesia, classified under custom sub-heading 2519.90 of Schedule 1 of the Customs Tariff Act, 1975 and under 2519.90.01 and 2519.90.03 of International Trade Classification. The custom classification, manufacturing process or usage of the product indicated herein are, however, indicative only and is in no way binding on the scope of the present investigations.

D. LIKE ARTICLES

7. A number of interested parties have argued that sea water magnesia to be produced by the petitioner is not a like article to fused magnesia being imported from China PR. The opposing interested parties have argued that sea water magnesia to be produced by the petitioner can not be considered as like article to fused magnesia imported from China PR for the following reasons:

- a. Fused magnesia imported from China P-R is the natural product whereas sea water magnesia is synthesised product,
- b. The raw material used, technological process involved and the characteristics of the two products are not identical or similar,
- c. The two are known in the international trade as different product,
- d. The two are not commercially interchangeable,

- e. The data given by the petitioner itself shows that prices of fused magnesia and sea water magnesia are quite different even for products imported from same country,
- f. Physical properties of fused magnesia and sea water magnesia are different. The lowest grade of fused magnesia has crystal size of 300 microns and the top grade of sea water magnesia have crystal size of 120 - 140 microns,
- g. Chemical properties of fused magnesia and sea water magnesia are different. Sea water magnesia has 90 % MgO in lowest grade while fused magnesia has 96% MgO at lowest grade,
- h. The critical parameters universally acknowledged in the refractory product are content of magnesium oxide, bulk density, lime to silica ratio, boron content and crystal size. Fused magnesia and sea water magnesia are different in terms of these properties,
- i. Three types of magnesia/carbon bricks are available:

Bricks made from only sintered sea water magnesia, Bricks made from only fused magnesia, Bricks made from blend of sea water magnesia and fused magnesia.

- j. Each product is used in specific application area and one type of brick can not replace other type.
- k. The fact that the sea, water magnesia is not a like article to fused magnesia is established even by the technical paper published by the President of the petitioner company, wherein he has acknowledged that fused magnesia has superior refractory properties compared to dead burnt magnesia or sintered magnesia. He has mentioned - that fused magnesia produced from sea water is far superior in quality as compared to fused magnesia produced from natural magnesia. He has further mentioned that Chinese fused magnesia contains high impurities.
- l. The definition of like articles has been used under the Rules with reference to normal value, determination of injury and definition of interested party. Thus strict definition of like article is to provide complete correlation between the two articles, in particular with regard to normal value. Petitioner does not satisfy standing to file the petition on behalf of the domestic industry. There is no existing domestic industry even for sea water magnesia nor is the petitioner producing goods, which can be considered as like article to imported fused magnesia. There is no domestic industry for fused magnesia in India.
- m. Chinese fused magnesia is substantially different from fused magnesia produced in Japan, Israel, Canada, Australia, etc.

Petitioner's views on like articles:

8. Sea water magnesia and Chinese fused magnesia are like articles in view of the following:

- a. Magnesia is used as a refractory material. This magnesia is produced from either of the two sources, viz. from natural magnesia and sea water. The magnesia so obtained is dead burnt to produce sintered magnesia/fused magnesia. The Chinese fused magnesia imported is comparable with the sea water magnesia used by the industry.
- b. It has been proved that various refractory manufacturers can use either sea water magnesia or fused magnesia or a mix of both by formulation.
- c. The performance of bricks made out of the two materials is alike. Some of the users have obtained better life with sea water magnesia bricks as compared to the performance obtained out of bricks made of Chinese fused magnesia.
- d. Sea water magnesia to be produced by the domestic industry is technically and commercially substitutable with fused magnesia imported from China PR.
- e. Consumers in India' have used the two interchangeably. This is established from the consumption of sea water magnesia, sintered magnesia and Chinese fused magnesia by importers.

9. Examination by Authority:

- a. Both fused magnesia and sintered magnesia are magnesia. Both fused magnesia and sintered magnesia can, be obtained either from natural sources (such as natural Magnesite) or from synthetic sources (such as sea water). In case the magnesia obtained from either source is fused at high temperature, it is fused magnesia. In case the same is sintered at high temperature, it is sintered magnesia. Both sintered magnesia and fused magnesia are used as refractory materials. For production of magnesia carbon refractories, MgO content required is minimum 97%, for which raw material containing sufficient MgO is required. This may be obtained either from sea water magnesia or from fused magnesia. Preference of one type over other depends upon specific requirement of the consumers of refractories. It is recognised that use of fused magnesia over sintered magnesia - may offer certain advantages. However, the basic properties of both the material remains the same, as both are used as refractory magnesia.
- b. The Authority is required to consider producers of both fused magnesia and sintered magnesia for determination of the scope of like article and scope of the domestic industry for the purpose of . the present investigations. There is no industry in India producing fused magnesia. The second part of the definition of like article, therefore, becomes operative. The Authority has examined whether sea water magnesia produced by the petitioner has characteristics closely resembling to Chinese fused magnesia. It is appreciated that

manufacturing process and technology as also the basic raw material required for fused magnesia and sea water magnesia are different. However, difference in technology or consumption of different raw material does not bring in such differences in either product as to render them different. One of the major consumers of fused magnesia and sea water magnesia has very clearly mentioned 'that it was willing -to consume sea water magnesia produced by the petitioner, should the same be supplied at "competitive" prices. There is sufficient evidence to suggest that the Indian consumers have switched over their requirements between sintered magnesia (produced from sea water or natural magnesia) and fused magnesia.

- c. It is found that a number of consumers of magnesia have consumed both sintered magnesia and fused magnesia.
- d. It is evident from the information on consumption of fused magnesia, sintered magnesia and sea water magnesia that the consumption of both items, fused magnesia and sintered magnesia, continues. It is also evident that the consumers switch their requirements between fused magnesia and sintered magnesia. The information obtained from import statistics compiled by DGCI&S suggests that fused magnesia has displaced 'imports of sintered magnesia to a significant degree. It is appreciated that use of fused magnesia over sintered magnesia may offer' certain advantages. However, the basic properties of both the materials remains the same, as both are used as refractory magnesia. Differences in the two, on account of certain advantages obtained by the consumers from one type of goods against the other types, in fact, establish that the two are "product similarity, and merely calls for certain price adjustment, if so established by an interested party.
- e. From the information compiled by DGQI&S it is found that the prices at which fused magnesia (not natural) and fused magnesia have been imported from China are similar. Further, the difference arising out of comparison of. fused magnesia with sea water magnesia have not been demonstrated by any interested party, and, therefore, no price adjustment is feasible.

It is appreciated that the crystal size of fused magnesia and sea water magnesia are different. However, difference in crystal size would affect the performance of the two products, and not its consumption or usage per-se. No interested party. opposing the view that the two goods are like article has demonstrated the impact of difference in the crystal size on the performance of the two products. In fact, the petitioner has furnished evidence to suggest that the number of heats obtained from using either of the two products are quite comparable. Further, there. is sufficient evidence to suggest that the two have been consumed interchangeably by the refractory manufacturers and, in fact, a

consumer has very clearly indicated that it was willing to purchase from the petitioner, should the petitioner consider lower prices.

- f. Lowest MgO content in fused magnesia and sea water magnesia could be different. However, this does not alter the basic property of the material. MgO content merely affects performance of the magnesia. What has not been disputed by the interested opposing parties is that sintered magnesia and fused magnesia with same MgO content have similar performance. Since the comparisons for the purpose of dumping or injury determination is required to be done for goods with the same level of MgO content under the Rules, the argument deserves to be ignored.
- g. In order to establish that the sea water magnesia produced by the domestic industry is a like article to the fused magnesia exported, originating in or exported from China PR, characteristics such as physical characteristics (size, chemical composition, raw material), manufacturing process & technology, functions & uses, product specifications, pricing, distribution and marketing and tariff classification of the goods have been considered. Both fused magnesia and sintered magnesia are like articles to the fused magnesia exported from China., There is enough evidence available that the goods exported from China PR and goods produced by the petitioner have characteristics closely resembling each other and are being consumed interchangeably. Sea water magnesia to be produced by the domestic industry is technically and commercially substitutable with fused magnesia imported from China PR. The Authority; therefore, holds that, in the absence of any industry producing fused magnesia of comparable' grade in India, the sintered magnesia to be produced by the petitioner is a like article to the fused magnesia being imported from China PR within the meaning of the Rule 2(d).

10. The petition has been filed by M/S. Birla Periclase (a division of Indian Rayon and, Industries Ltd.). There is no other producer of sea water magnesia in India.

11. Arguments have been raised that there is no existing producer of even sea water magnesia in. India. The argument is, however, factually incorrect in so far the petitioner is a company incorporated in India and was setting up facilities for production of sea water magnesia at the point of time of malting the petition. The petitioner commenced commercial production after initiation of investigations. Under the Rules, petition can be filed by those producers who are setting up the industry and who perceive injury in the form of material retardation to their establishment from dumped imports. The petitioner being the sole company creating facilities for production of the like article has the standing to file the present petition and also satisfies the definition of the domestic industry in accordance with Rule 2(b) supra.

F. DUMPING

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

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-
 - a. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under subsection (6); or
 - b. The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

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

Arguments raised by interested opposing parties :

13. Arguments raised by the interested parties on determination of dumping are as follows:

- a. Normal value In China should be determined on the basis of prices prevailing in the domestic market in China.
- b. Goods are being sold in the domestic market in China at varying prices, which shows that the prices are in the ordinary course of trade.
- c. The average domestic price of fused magnesia in China in the investigation period was as under.

Grade Quantity Selling price

MT RMB/MT US/MT

Fused magnesia 98 2619 2054 245.22

Fused magnesia 97 4176 1611 196.00

Fused magnesia 96 2129 1249 145.08

Average 195.00

- d. The above is established by 100 invoices involving domestic sales furnished by an exporter.
- e. Comparative prices of like article when exported from the exporting country to an appropriate third country have been given precedence over cost of production under the rules. The price at which fused magnesia is exported by China to other countries also establishes that there is no dumping of fused magnesia from China. The export price to other countries are as follows:

Export price (US \$/MT)

Fused magnesia98 330-410

Fused magnesia97 300

Fused magnesia96 275-278

The above is established on the basis of some invoices for the period April, 1996-June, 1997.

- f. The cost of production of fused magnesia of the Chinese producers is lower than the selling prices and, therefore, the sales in the home market were at a profit. This is established by audited cost of production of one producer for two months falling in the investigation period.
- g. The export price- were as under:

FM98 FM97 FM96

Ex works price 247.45 194.15 150.44

Export cost 135.26 130.99 127.50

Min. C+FFO Price 382.71 325.14 277.95

- h. The exports to India were made on C+ FFO basis. The following additional cost should have been incurred for exports to India:

- VAT
- Local Freight
- Packing
- Warehousing at port
- Export license
- Resources tax
- Stevedoring and Other Port charges
- Ocean freight

ix. China has no intentions to dump its fused magnesia in India, as is evident from the export restrictions placed by it in the form of licences and quotas to restrict exports of the goods. Argument raised by petitioner:

14. The petitioner has submitted that the dumping of fused magnesia by -the exporters from China PR is established on the basis of cost of production constructed for China PR and export price on the basis of information published.

15. Examination of the arguments raised

a. Subsequent to the filing of the response by Xiyang Trading, the following five exporters separately furnished response to the Authority:

- Taian Dongfang Refractories Co.,
- Beining City Electrical FM Plant,
- Yingkou City Laobian Fused Magnesite Plant,
- Haicheng City Bali Minzheng Welfare Fused Magnesite Plant,
- Daishiqiao City Beineng City Hi-Purity FM Plant.

b. Magus Marketing, on behalf of Xiyang Trading, consolidated the responses filed by the above mentioned five exporters and furnished additional evidence vide their letter dated 12th May, 1998. Though the responses filed by the five producers as also Magus are significantly after the last date for closure of the responses, yet the same have been considered for the purpose of these findings.

c. A scrutiny of the information furnished by Xiyang revealed that the company has furnished details in respect of five companies whose production constitutes 34278 MT, whereas the total Chinese production of fused magnesia is estimated by the exporter at 340000MT. Further, a scrutiny of the responses furnished by the five companies reveals as follows:

RMB Pmt

Company Selling price Export price Cost of

In China PR production

Gross Net Gross Net

Taian *** **

Haicheng *** ** ## ## **

Beining *** **

Yingkou *** **

Daishiqiao ***

no exports

- d. A scrutiny of the cost of production furnished by these companies reveal that the companies have provided for overhead costs (manufacturing & administration overheads, depreciation and interest costs on “lumpsum” basis. These are not provided on the basis of the expenses which the company should have incurred and provided in their books of accounts. The claims of costs on these accounts are not on the basis of Generally Accepted Accounting Principles. The claims of these companies, therefore, with regard to overheads costs cannot be allowed. These companies have not furnished. a copy of their Profit & Loss Statement and Balance Sheet also. These expenses cannot be provided on the basis of expenses, which these companies should have charged in their accounts.
- e. In the absence of sufficient and accurate information furnished by the companies, the Authority has, therefore, resorted to best available information to determine normal value in China PR. The Authority has accepted the claims of the producers with regard to costs on raw materials, electrodes, utilities and labour. Further, the Authority has determined costs on account of manufacturing expenses @ 10% of direct costs (i.e., raw materials, electrodes, utilities and labour) and repairs, interest and depreciation @ 10% of direct costs. Reasonable profit @ 5% on total cost of production, including .selling, general & administrative expenses have been provided to determine constructed value.
- f. With regard to export price, though there is no evidence to suggest that the goods have been exported to India at prices mentioned by Xiyang or the five co-operating producers, the Authority has considered the claims made by the five producers in view of the fact that these are the prices at which goods have

been sold by these companies. Further, there is no material difference in the claims made by the exporter and petitioner with regard to the export price.

- g. The Chinese producers have claimed different cost of production and different export price. The Authority has, therefore, determined separate dumping margin in respect of individual producer.
- h. The Authority is required to determine C&F export price for determination of landed cost in respect of individual producer. However, no information has been furnished either by the five co-operating producers or by Xiyang about the C&F export price of individual producer. C&F export price has, therefore, been determined on the basis of general information furnished by Xiyang with regard to expenses incurred after ex-factory and upto CBF.
- i. The normal value and export price determined are at ex-works level and, therefore, the comparison of normal value with weighted average export price has been considered.
- j. The dumping margin comes as under:

Name of the exporter dumping margin

(% of export price)

Taian Dongfang Refractories Co., 5.70

Beining City Electrical FM Plant, 12.78

Yingkou City Laobian FM Plant 11.48

Daishiqiao City Beineng City Hi-Purity FM 15.33

Plant

Haicheng City Bali Minaheng Welfare No exports to India

16. With regard to the scissions made by Sima Resources, Germany, it is noted that the company has claimed that it has not exported any material in the investigation period. The company is not a producer of fused magnesia also. Separate determination of dumping in case of this company is, therefore, not called for.

I. INJURY

17. Under Rule 11 supra, Annexure-11, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, "...taking into account all relevant facts, including the volume of dumped imports, their effect

on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

18. Arguments raised with regard to the injury to the domestic industry are briefly as under:

Arguments raised by interested opposing parties:

- a. The petition highlights the possible harm to the petitioner and does not deal with the impact on refractory producers.
- b. The Authority should examine petitioner's initial project cost, reasons for delay in the implementation of the project and the production cost given by the petitioner in their techno-economic study. The petitioner had, in its letter dated 2.3.95 to the IRMA, indicated its cost of production as Rs15865 with, Rs. 5582 towards interest and Rs. 2427 towards depreciation. The petitioner has now indicated cost of production at Rs. 28839 with Rs. 9979 towards interest and Rs. 4988 towards depreciation. The high project cost escalation has made the petitioner uncompetitive.

Imports of fused magnesia from China have increased because of increased demand of the refractory manufacturers.

- c. The petitioner has projected US \$ 820 as its expected selling price, whereas the material was available at US\$ 350-439 from other countries in the investigation period.
- d. The project of the petitioner is unviable in view of declining demand for sintered magnesia. Three plants have closed down in recent time world-over.

19. Examination by Authority:

Imports of fused magnesia from China PR have been as follows:

Year Imports (MT)

1991-92 1532

1992-93 4355

1993-94 14070

1994-95 15223

1995-96 28841

1996-97 23538

1997-98 3454

(upto June)

It is evident from the above that the imports of fused magnesia have increased significantly in absolute terms and relative to consumption in India. It is also evident from the above that fused magnesia has substituted sintered magnesia.

20. The petitioner has set up a plant for manufacturing sintered sea water magnesia. The project to set up the plant was at an advanced stage of completion at the time of initiation of the investigations. The landed price of fused magnesia from China PR in the investigation period is significantly lower than the fair selling price which the petitioner is expected to recover. It is appreciated that there was a significant delay in the implementation of the project by the petitioner resulting in significant increase in its interest liability. The petitioner is, however, entitled to recover its interest costs as projected in its project feasibility. While considering only this interest cost, fair cost of production of sea water magnesia and fair return on the funds employed by the petitioner, the petitioner would not have been able to recover its cost of production and would have suffered significant financial losses. The establishment of the domestic industry would, therefore, be materially retarded by the dumped imports from China PR.

21. In view of the foregoing, the imports from China PR have materially retarded establishment of an industry in India and, therefore, have caused injury to the domestic industry.

J. CAUSAL LINK

22. In establishing that injury to the domestic industry would be caused by the imports from the subject countries, the Authority holds that the imports of fused magnesia have increased significantly resulting in reduction in consumption of sintered magnesia and that the export price of fused magnesia from China PR is significantly lower than the price at which the petitioner is expected to sell its product. The

dumped imports from China PR would prevent the petitioner from recovering fair price for its product and would result in significant financial losses. ~;

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

23. Anti Dumping Duties are levied, in order to arrest dumping which causes injury to domestic industry and to re-establish a situation of open and fair competition in the domestic market. It aims to redress the unfair advantages gained by dumping practices and prevent the decline of the domestic industry.- Imposition of such duties would not restrict imports from the subject countries nor would they affect the availability of the product to the consumers. Normally, fair competition on the Indian market is not reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. It is however recognized that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have an effect on the relative competitiveness of these products or industries producing such products.

24. The Authority in an anti dumping investigation is required to expressly investigate the presence of dumping, material injury to the industry and the causal link of such injury from imports from the subject country. The affect on the relative competitiveness of any other industry if anti dumping duties are levied is beyond the purview of the Authority's investigation. Hence certain information brought to the notice of the Authority during such investigation, including effect of imposition of anti-dumping duty have not been expressly examined by the Authority in these findings. The Authority has only taken note of the dumping of fused magnesia from China PR and its effect on dumping, material injury to Indian producers of like article and accordingly recommended levy of anti dumping duties.

L. LANDED VALUE:

25. The landed value is determined on the basis of weighted average export price of fused magnesia from China PR, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

M. CONCLUSIONS:

26. It is seen, after considering the foregoing, that:

- a. Fused magnesia originating in or exported from China PR has been exported to India below normal value, resulting in dumping;

- b. The Indian industry has suffered injury in the form of material retardation to its establishment;
- c. The injury has been caused by the imports from the subject country.

27. It is considered necessary to impose anti dumping duty, on all imports of fused magnesia originating in or exported from the subject country.

28. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that anti dumping duties at the rates specified herein below be imposed, from the date of notification to be issued in this regard by the Central Government, on all imports of fused magnesia originating in or exported from China PR falling under Chapter 25 of the Customs Tariff.

29. With regard to the residual category of anti-dumping duty, it is noted that the exports made by the five exporters are less than the exports made to India. Further, there is no information suggesting that goods sold by these producers were destined to India. There could, therefore, be other producers in China PR who have exported fused magnesia to India but have preferred to refrain from responding to the Authority in the present investigations. The Authority, therefore, recommends separate anti-dumping duty in respect of other exporters in China. The normal value for the purpose of other producers has been determined on the basis of highest normal value determined in case of the five producers. The export price has been determined on the basis of details of known exports of fused magnesia to India and exports of fused magnesia to India as per information furnished by Xiyang.

NAME OF THE EXPORTER/PRODUCER AMOUNT OF DUTY

(Rs. per MT)

Taian Dongfang Refractories Co. 390

Beining City Electrical FM Plant 898

Yingkou City Laobian Fused Magnesite Plant 823

Daishiqiao City Beineng City Hi-Purity FM Plant. 994

Any other exporter 994

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

RATHI VINAY JHA,
Designated Authority & Addl. Secy.