

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

FINAL FINDINGS

New Delhi, the 1st June, 2001

Subject: Anti-dumping investigation concerning imports into India of certain grades alloy and non alloy steel billets, bars and rounds from Russia, China and Ukraine-
Final Findings.

No. 31/1/99-DGAD.- Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Custom 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 Authority), under the above Rules, received a written application from M/s Ispat Profile India Limited and on behalf of domestic industry alleging dumping of certain grades alloy and non alloy steel billets, bars and rounds (hereinafter also referred to as subject goods) originating in or exported from Russia, China and Ukraine (hereinafter referred to as subject countries).
- ii. The Designated Authority (hereinafter also referred to as the Authority) notified preliminary findings vide notification dated 1.12.2000 on anti-dumping investigation concerning imports of subject goods from subject countries and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- iii. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the preliminary findings within forty days from the date of its publication;
- iv. The Authority also forwarded a copy of the preliminary findings to the Embassies of subject countries in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings in the time frame as stipulated in (ii) and (iii) above.
- v. The Authority provided an opportunity to all interested parties to present their views orally after preliminary findings on 2.3.2001. All parties presenting views were requested to file written submissions of their views expressed. The

- parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- vi. 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;
 - vii. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt in these findings;
 - viii. 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;
 - ix. The period of investigation (POI considered is 1.1.99 to 30.09.1999).

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

2. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the preliminary findings and disclosure statement and those now raised in response to the disclosure statement are discussed in the relevant paras 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 the relevant paragraphs herein below.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLES

3. As per the description given in the Initiation Notification, the product involved in the investigation was "certain seamless grade alloy and non alloy steel billets, bars and rounds from Russia, China, Ukraine." The product falls under custom subheading 7206.90, 7207.19 and 7207.20 of Customs Tariff Act, 1975 which are only indicative and not binding on the scope of the investigation. The grades of alloy and non-alloy steel billets, bars and rounds subject to the investigation have been mentioned in the initiation notification and corrected and supplemented by corrigendum dated 21.1.2000.

4. Arguments were made on behalf of the importers and domestic industry regarding the definition and scope of the product under consideration and like article before the issue of preliminary finding. After taking into account these arguments, in paragraph 17 preliminary finding, it was observed, "the Authority had Mentioned specifically the grades on which the antidumping duty was sought to be imposed by the petitioner which should have eliminated the confusion projected to have been created by the word "seamless" grade in the Initiation notification: However, the thickness, of the billets, bars and rounds. on which. duty was sought to be imposed was omitted inadvertently. While accepting the contention of the domestic industry the DA has decided to amend the description of the product as "certain types/grades of alloy and non alloy steel billets, bars and round having 70 mm to 250 mm diameter conforming to IS specification or any other international specification equivalent to IS standards". These grades are mentioned in paragraph 7 above. Hence, the DA also restricts the investigation to the sizes 70-250 mm diameter. The list of grades as mentioned in the initiation notification dated 9.12.99 and corrigendum dated 21.1.2000 remains the same and the findings are being issued accordingly. Here it may be mentioned that it is only the certain grades which have been specified in paragraph 7 are the subject goods under investigation and not all the grades of alloy and non alloy steel billets, bars and rounds as has been made out by the importers and Trade Representation of the Russian Federation."

5. In paragraphs 20 and 21 of the preliminary findings the Authority had further determined that the product under consideration being sold by the domestic industry are like article to the subject goods being imported from subject countries within the meaning of the said Rules.

6. In the submissions made subsequent to preliminary findings while no observation has been made regarding the ambiguity or otherwise of the product under consideration by the exporters, Federation of Engineering Industries of India (FEII) and M/s. Maharashtra Seamless Ltd., who are an importer of said product, have made certain observations regarding the product under consideration as defined in the preliminary finding. All India Steel Re-rollers Association in their letter dated 20.12.2000 have stated that they generally agree to the conclusions arrived at in the preliminary finding. Federation of Engineering Industries of India in their submissions have argued that the: anti dumping duty imposed will adversely affect a large number of downstream erring units engaged in manufacture of a variety of .components, parts, accessories, tools, etc.. Other major users of the alloy and non alloy steels are defense, railways, power, ministry, oil field, oil drilling sectors, steel plants, cement plants, sugar plants, dies and tools industry, auto ancillary sector, etc..

7. Further, it has been argued by Maharashtra Seamless Ltd., that there have been changes in the scope of the product being investigated from time to time and the same

amounts to non-application of mind. The domestic industry in their submissions has stated that there is a small typographical error in the description of these grades. The preliminary finding stated 'CL' in place of 'C 1'. In other words, no. 1 has been typed as 'L', which is purely a typographical error. For instance IS 551727 CL5 + MO should read as IS 551727 C15 + MO.

8. Examination by Authority The initiation notification, corrigendum as well as preliminary findings are published in the Gazette of India and copies are sent to the interested parties whose addresses are known to the Authority. In this case, public hearings were conducted by the Designated Authority for which notices were sent to interested parties and there had been wide participation. Though the representatives of FEII attended the hearings and spoke about the interests of so many users adversely affected by the investigation, none of the users have made any direct representation nor have they filed any information in the prescribed questionnaire as is required to be done. The submissions made on behalf of users by FEII are ambiguous. It is not true that the scope of the product has been expanded to include all grades of alloy and non alloy steel bars, billets and rounds. As clearly mentioned in the preliminary findings, it is only the certain specified grades, the list of which have been given therein which are the subject matter of present anti dumping investigation.

9. There has been no argument regarding the ambiguity of the product under consideration by the exporters who have furnished information. Even after the description of the product under consideration was modified in the preliminary finding by restricting the size to diameter 70mm to 250mm there have been no 'change in the information submitted by the exporter. Also the provisional duty has been imposed as a result of the preliminary finding since , 26.12 .2000, but there has been no report from Customs of consignments having been held up for want of clarification regarding the product under consideration as was argued by the importers before the preliminary findings were issued. Taking into account the objections raised by importers, minor modifications were made in the description of the product under consideration in the preliminary finding. In fact the grounds under consideration were modified by the corrigendum issued on 21.1.200 and it has been the practice to amend the notifications by issuing corrigendum as and when discrepancies come to the notice of the Authority. The modification of product under consideration in to preliminary finding do not fundamentally change the scope of investigation and also do not warrant termination of investigation. The modification in the product was primarily to rectify the discrepancies in the description of the product and remove ambiguity regarding the definition of the product under consideration which came to notice in the course of investigation.

10. The Authority therefore has decided to continue with the description of the product under consideration and like article as in the preliminary finding in Paras 17,

51 and other relevant paras of the preliminary findings. However, as pointed out by the domestic industry, the description of grades appearing at SI.Nos. 24, 25, '26i and 28 of para 7 of preliminary findings is changed to read as follows:-

SI. No. 24 IS 5517 27 C 15 +Mo

S1.No. 25 IS 4432 C 10

SI. No. 26 IS 5517 37 C 15

SI. No. 28 IS 5517 3795 37 C 15 + Mo

D. DOMESTIC INDUSTRY & ISSUE BY STANDING

11. In their submissions M/s. Maharashtra Seamless Ltd., have stated that the imports statistics do not make any motion about the grades and hence it is not possible for the Authority to verify the accuracy of the - data submitted and arrive at calculations regarding dumping. It is finer stated that the domestic industry's production statistics is~, also not ,grade wise and due to this peculiar practice of the industry, the Authority is handicapped in collection of data from ail the other domestic producers. It is further stated that the petitioners in this case are simply trying to exploit this handicap beyond reason able limits for ulterior ends.

12. It has further been argued that "the modification of the product description in the preliminary findings by omitting the words `seamless' the Authority has added strength to their argument that the said goods are meant for a number of end uses, ore of which includes seamless tube making. This modification should be taken to its logical conclusion, i.e. identify the domestic industry that produces the subject goods irrespective of the end use. Though there are nine producers in the country producing `like articles' the investigations have been initiated on the basis of petition from two producers i.e., ISSAL and M/s. Ispat Profiles Ltd. The Authority has not taken into account the production of other producers in determining the standing of the domestic industry".

13. Examination by Authority: Having made the arguments regarding non availability of information, no specific evidence has been given by the opposing interested parties disproving the standing of the petitioners., The Authority made enquiries from the Department of Steel who in turn checked up with the Office of the Development Commissioner, Iron and Steel and Joint Plant Committee responsible for maintaining data of production of steel regarding size of domestic industry and the standing of the petitioners. As per the data available before the Authority, the petitioners and supporters account for more than 25% of total domestic production and have the

standing to file the petition. The Authority, therefore, intends to continue with the determination regarding standing of the petitioners and supporters to file petition' for anti dumping investigation as given in preliminary findings.

E. DEMINIMUS VOLUME OF IMPORT

14. In the preliminary finding it was determined that the imports of the subject goods from Ukraine during the period of investigation were nil and therefore de minimus. No fresh evidence has been made available by any interested party on this account to the Authority subsequent to the preliminary findings. Authority therefore confirms the preliminary findings in this regard.

F. DUMPING

15. The Authority provided opportunity to the known exporters to furnish information in accordance with Section 9 (1) © of the Custom Tariff Act 1975, as amended in 1995, cited above. As mentioned in the preliminary finding also only one exporter from Russia M/s Oskol Electrometallurgical Combinat (OEMK) furnished information in the prescribed format. It was also mentioned that the normal value in the preliminary finding has been worked out on the basis of the information provided by them and the s adjustments claimed in the form of packing, inland freight, - insurance, etc. have been allowed as claimed. Adjustments claimed for packing, inland freight, etc. claimed on exports to India had also been allowed as claimed.

16. However, in their submissions in reply to the preliminary findings, the domestic industry had objected to the information submitted by M/s OEMK being considered for the purpose of calculation of dumping margin in their case. They had pointed out a number of deficiencies in the response filed by them and requested that their case also be treated like other exporters from Russia. They had made the claim that Russia is a non-market economy and therefore the submissions made by M/s OEMK need to be rejected. It was further pointed out that the company has not submitted - copy of the Annual Report containing income statement and Profit & Loss statement on non-confidential basis. It was further pointed out that company may be having financial and commercial arrangements with the suppliers of the raw material and also with their commission agents implying that the sales are not at "arms length" and also not in the ordinary course of trade. It was also pointed out that the subject goods are power intensive and the company may be having access to subsidized power and fuel not reflecting the true market value and cost of production.

17. M / s OEMK made detailed submissions in reply to the queries raised by the domestic industry regarding the information submitted by them. A verification team

deputed by the Designated Authority visited premises of M / s OEMK at Russia and verified the information submitted by them. M/s. OEMK made copies of the Annual Reports available on non-confidential basis and the same were placed in the public file. It was found that the company made profits selling the product under consideration both in the domestic market as well as in the export markets including the exports to India. However, there is a total net loss for the year 1999 as shown in the income statement for the same period which is explained by standard Russian accounting methods and generally accepted practices which are applied to the company's accounts. As per the practice followed, the positive and negative effects of the exchange rate fluctuations are recorded in the income statement and are reflected in the financial results under the headings Other Operating Profits and Other Operating Expenditures. Because of the fact that M/s OENIK has debt obligations denominated in the foreign currencies that have appreciated as compared with Rubles in the year 1999, there was a large negative effect on account of exchange rate fluctuations on the debt obligations denominated in Rubles. This resulted in a total net loss being shown in the income statement. However, the fact that the company is making profits in producing and selling its product being exported to India was verified and found to be correct.

18. Regarding Russia being a non-market economy, the submissions made by the domestic industry were found to be incorrect. M/s OEMK operate in completely market driven condition and have contracts for purchase of raw materials such as iron ores, scrap, alloy metals, etc. purely on commercial and market conditions basis. Also the purchase of natural gas and power from the energy companies owned by the Russian Government is on the conditions applicable and no preferential treatment is being given to M/s OEMK. M/s OEMK is a joint stock company registered in the Russian federation and the shares are owned by workers, individual shareholders and a number of investment companies. The loans taken for financing its various activities are from Russian and, foreign financial institutions on the basis of the market conditions. The company has clearly stated that neither the raw materials, nor the electricity suppliers nor the gas suppliers, nor the buyers of the products under investigation, nor the buyers of any analogous products on the domestic market ever invested in M/s OEMK. Subsequently, the companies which own shares of OEMK neither supplied OEMK with any raw materials nor components, neither sold any products of OEMK in the Indian or Russian markets, neither controlled nor influenced the prices of raw materials or products sold on the domestic or Indian market. All the mentioned commercial and trading transactions were carried out strictly according to the principles of the market economy. One of the fundamental reasons for market nature of all the transactions is the current Russian legislation and laws, which regulate the trading practices in Russia. For example, according to the Russian Tax Code (Article 40), the price of the contract (including the export contracts) must be

determined according to the market conditions. The regulating bodies and authorities, when analyzing the financial data of OEMK, check the procedure for the price determination and use all the available market data to confirm that the price reflects the situation on the market. The claims made by M/s OEMK were verified from the documents submitted on confidential basis and made available for verification. It was also found that the sales in the domestic market and in the export market have been at arm's length and in the ordinary course of trade.

19. M/s. OEMK have requested that custom duties and export duties being paid by the Russian exporters on their exports should not be deducted from the ex-works export price as these are costs being borne by the exporter and are not passed on to buyers abroad. In this context, the Authority draws the attention to Para 6(i) of Annexure I of Anti Dumping Rules which reads as follows:

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

As it is clear from this provision that due allowance has to be made for difference in taxation, in this case between domestic sales and exports sales. ~ Also the payment made on account of export duties and taxes is not realized by the exporter as it goes to the Government and cannot be taken to form the part of exworks price of exports used for making comparison with the normal value for the purpose of arriving at dumping margin. The Authority therefore has decided not to accept the contention of the exporter on this count and has deducted export taxes and duties paid by exporter by arriving at net export price and the dumping margin has been calculated accordingly.

M/s. OEMK have also requested that export price of different grades must be co related with the normal value for each grade determined separately. It has been argued that in case of the grades for which the domestic sales volume are low and less than five per cent of the export sales to India in these grades, third country export price rather than the domestic sale prices should be taken as' normal value for the purpose of arriving at dumping margin as in such circumstances the domestic sales are not representative and need to be ignored. They have made calculations accordingly for arriving at the normal value for each grade.

The fair selling price or the NIP for the domestic industry has been calculated for all the grades together. Also a provisional anti dumping duty was recommended as a single absolute value for all that grades in the preliminary findings. As submitted by the domestic industry, in case different methods are to be used for calculation of normal value for different grades, i.e., domestic sale price for some grades and third country export price for some other grades, it will pre suppose the grades being treated to be as different 'like articles' and anti dumping duty is required to be levied on individual grades. As these grades are substitutable and also the overall domestic sales of these, grades in Russia accounts for more than five per cent of the total export of these grades to India, the domestic sales price in Russia qualifies for being treated as normal value for all these grades and the same need to be considered for arriving at dumping margin. The Authority has decided to compare the weighted average ex works export price without custom payment with the weighted average price of all the subject grades for domestic sales in. Russia for the purpose of arriving at the dumping margin in the case of M / s. OEMK.

20. None of the other manufacturers in Russia has supplied information in the prescribed format and also no reply has been received from the exporters/ manufacturers from China and Ukraine. As no information on normal value has been furnished, the Authority has considered the information provided by petitioners for the purpose of arriving at normal value in these countries on the basis of constructed cost of production. Regarding the export price, the information available on the basis of replies filed by importers of the subject goods has been used for arriving at the export price at ex-factory level after making necessary adjustments:

21. New exporters

Some of the exporters/ manufacturers have claimed that they have not exported to India during the period of investigations. It has been the practice to allow these exporters to apply for review as new exporter under Rule-22 of Anti Dumping Rules mentioned above as and when they export to India.

22. Dumping Margins On the basis of the best information available, the Authority has arrived at the dumping margins in percentage terms (as percentage of export price after adjustments) in the case of subject countries for products under consideration is as follows:-

Country and exporter Dumping Margin

Russia (%)

(i) M / s Oscol Electrometallurgical 9.68

Combinant (OEMK)

(ii) Other exporters 73:86

China

All exporters 105.12

G. INJURY

23. Under Rule 11 supra, annexure II, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, " taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles " In considering the effect of the dumped imports on prices, it has been examined as to whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent -price increases, which otherwise would have occurred. Also the effect of dumped imports on the volume of sales by the domestic industry has been looked into while determining injury being caused.

24. For the examination of the impact on the domestic industry in India, the Authority has considered such indices having a bearing on the state of industry as production, capacity utilization, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping, et c., in accordance with Annexure II (iv) of the Rules supra. The Authority has also examined factors other than dumped imports viz., demand contraction, recession, uneconomical plant size, high and inefficient consumption norms of raw materials and utilities, high interest burden, distress exports etc, which might be injuring the domestic industry at the same time.

25. As already determined in the preliminary findings since the margin of dumping and quantum of imports from Russia and China are more than the limits prescribed, cumulative assessment of the effects of the dumped imports is appropriate since the export prices from these countries were directly competing with the prices offered by the domestic industry in the Indian market.

26. All the parameters of injury mentioned above, were examined and considered by the Authority and on the basis of the evidence available it was determined in the preliminary finding that all the relevant factors, cumulatively and collectively establish that the domestic industry has suffered material injury during the period of investigation caused by dumped imports from Russia and China. It was determined

that the imports of the subject goods have increased from subject countries in absolute terms and the market share of the domestic industry as well as its production of the subject goods have declined. It was further determined that capacity utilization of the domestic industry as well as the sales in absolute value and volume terms have also declined. However, the most significant effect has been in terms of the decline in selling prices evidencing price undercutting by dumped imports, which has severely eroded the profitability of the domestic industry.

27. In their submission subsequent to the preliminary findings the importer has argued that the production figures of April-December, 1998 have been compared with those of January-September, 1999, i.e. the comparison between two non-comparable periods. Here it may be mentioned that the product under consideration is not a seasonal item and hence comparison with a period of 9 months immediately preceding the period of investigation is not inappropriate. However, a comparison of the similar months, in preceding year also shows decline in production by the domestic industry. Further there has been a significant decline in the sales of the domestic industry in the post-investigation period' indicating further intensification of injury being caused by the dumped imports. However, the most significant adverse effect of the dumped imports has been on prices. The export prices have already fallen below Rs. 10000/-PMT and the landed value of these imports is below even the variable cost of production of the domestic industry. The profitability of the domestic industry has been severely eroded and industry is running into financial losses. This has resulted into negative returns on investment, which has adversely affected their ability to raise capital investments and to raise the wages of the employees. The Authority therefore confirms the preliminary findings that the domestic industry is suffering material injury during the period of investigation.

H. CAUSAL LINK

28. M/s. Maharashtra Seamless Ltd., have stated in their submissions that "Japanese imports made at substantially lower prices than those from Russia may have caused injury to the domestic industry. Omission of Japan from the list of countries is mala fide on the part of the domestic industry. They were aware that imports from Japan are coming in substantial quantities and at substantially lesser prices than that of Russia as they themselves have given the details. However, since Maharashtra Seamless Ltd., had not imported from Japan they omitted Japan from the list of countries. There is a clear design in the omission. The domestic industry had targeted Maharashtra Seamless with ulterior motive, as they only wanted to hit at them for reasons best known to them. They covered only such of those countries from whom Maharashtra Seamless Limited was importing towards this end. There can be no other rationale for such a glaring and patent omission on the part of the domestic industry. It is evident

that the domestic industry is using the forum of anti dumping investigation to inflict injury on an importer. They should 'not be allowed to get away with such mala fide actions. The entire investigation is, therefore, coloured and needs to be terminated immediately. It is clear that there cannot be any reason to exclude imports from Japan from the investigation. The decision of the Authority to ignore this fundamental fact is highly arbitrary, discriminatory and against the principles of natural justice and the non-discriminatory treatment. The injury determination, is therefore, flawed and the investigation is liable to be terminated."

29. The Trade Representation of Russian Federation in India have argued that they do not agree that the exports from Japan have not to be taken into consideration for determination of injury. M/s. OEM If, the exporter from Russia have also stated that imposition of Anti-dumping duty on Russian exports without any sanctions imposed against the products of Japanese origin, will have a discriminatory nature, according to item 2 clause 9 of Agreement on Implementation of Article VI of GATT, and will also lead to unscrupulous competition at the market of India

30. Examination by Authority Rule 19 of Anti Dumping Rules reads as follows:-

"Any provisional duty imposed under Rule 13 or an anti dumping duty imposed under Rule 18 shall be on a non discriminatory basis and applicable to all imports of such articles, from whatever sources found dumped and where applicable, causing injury to domestic industry except in the case of imports from those sources from which undertaking in terms of Rule 15 has been accepted."

It is evident from the above that the Rule is applicable for imposition of duty and not for recommendations. The Rule is attracted when the imports are found to be dumped. In the instant case, there is no finding of dumping from Japan and therefore the Rule is not attracted.

31. With regard to injury to the domestic industry from imports from Japan, there is no positive evidence that the imports from Japan were at dumped price and/or caused material injury. Mere existence of low-price imports per se does not tantamount to dumping. There should be positive evidence that such imports caused material injury to the domestic industry in terms of loss of market share, price depression/ suppression/ undercutting.

32. The fact that the *domestic industry provided the information on the Japanese imports in the petition does not imply that it becomes binding on the Authority to initiate investigations against imports from Japan on Suo-moto basis. The petition contained information on import prices from Russia and China. Further, the petition

contained information on normal value of the subject goods in the subject countries only.

33. In view of above and the arguments given at the time of preliminary findings, the Authority confirms its earlier determination that there is a causal link between dumping of product under consideration from Russia and China and material injury being suffered by the domestic industry.

I. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

34. The Authority reiterates that the purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market which is in the general interest of the country.

35. The Authority again recognises that the imposition of anti dumping duties might affect the price levels of the products manufactured using specified grades of alloy and non alloy steel bars; billets and rounds and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of specified grades of alloy and non alloy steel bars, billets and rounds. The Authority notes that the imposition of anti dumping measures would not restrict imports from Russia and China in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply,

36. To ascertain the extent of anti dumping duty necessary to remove the injury to the domestic industry, the Authority has relied upon 'non injurious selling price' of subject goods in India for the domestic industry by considering the optimum cost of production for the domestic industry.

37. The non injurious price for the domestic industry has been determined by making appropriate analysis of all relevant factors like usage of raw material, usage of utilities, captive consumption, captive generation of utilities etc., and the actual expenses during the period of investigations including the investments and capacity utilisation. The NIP of domestic industry has been determined by considering the optimum cost of production and considering the reasonable return on the capital employed by the domestic industry. While determining NIP, the Authority has taken

into account the best consumption norms of raw materials and utilities and has, thereby addressed any inefficiencies, which might lead to material injury to the industry on account of the inefficiencies.

J . FINAL FINDINGS

38. After considering the foregoing the Authority concludes that

- i. the subject goods have been exported from Russia and China to India below its normal value;
- ii. the Indian industry has suffered material injury;
- iii. the injury has been caused by the imports from Russia and China.

The subject goods have been defined in Paragraphs 17 and 51 of the preliminary findings which reads as "certain grades/types of alloy and non alloy steel billets, bars and rounds of sizes 70 mm to 250 mm diameter conforming to IS specification or any other international specification equivalent to is standards". The list of these grades is given in Para 7 of the preliminary findings and has been modified as per Para 10 above. -

39. The Authority proposes to recommend the amount of antidumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non-injurious selling price of the petitioner companies determined for the period of investigation.

40. Landed value of imports for the purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

41. The Authority recommends imposition of definitive anti dumping duty on all imports of subject goods from Russia and China as per the amounts mentioned below:-

Country and exporter Amount of anti dumping duty recommended US\$ PMT

Russia

(iii) M / s Ocol 14.9

Electrometallurgical

Combinant (OEMK)

(iv) Other exporters 90

China

All exporters 133

42. Subject to the above, the Authority confirms the preliminary findings dated 1.12.2000.

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

L. V. SAPTHARISHI...
Designated Authority