

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)
(Directorate General of Anti-Dumping and Allied Duties)

NOTIFICATION

New Delhi, the 19th May, 2000

Final Findings

Subject: Anti-Dumping investigations concerning import of Seamless Tubes from Austria, Czech Republic, Russia, Romania and Ukraine.

7/1/99-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

I. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification dated 10/11/99 with regard to anti-dumping investigations concerning imports of Seamless Tubes from Austria, Czech Republic, Russia, Romania and Ukraine and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. 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 said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 9/2/99. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any. The petitioners and members of the user industry were present at the oral hearing. The exporters from Romania and Russia filed written submissions for the purpose of the oral hearing which they could not attend;

- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings and have not been repeated for the sake of brevity;
- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings;
- g. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. ON INITIATION

2. On the basis of sufficient evidence submitted by the Petitioner, the Authority initiated these investigations vide Public Notice dated 21st May, 1999 against dumped imports of seamless tubes originating in or exported from Austria, Czech Republic, Russia, Romania and Ukraine. In the course of the investigations, imports from Ukraine were found to be de-minimus as per data compiled by the DGCIS. Ukraine has therefore been excluded from the scope of these investigations.

3. PRODUCT UNDER CONSIDERATION

The product being dumped in India and subject to investigation in the present case is seamless tubes, pipes and hollow profiles, of iron, alloy or non-alloy steel (other than cast iron), other than cold drawn or cold rolled originating from the subject countries of the following description:

- a. Seamless tubes, of iron or non-alloy steel, not cold rolled, hot finished, of an external diameter not exceeding 273mm or 10"NB also known as boiler pipes or line pipes used in hydrocarbon industry, processing and general engineering industry;
- b. Casting and tubing of a kind used in drilling of oil or gas of an external diameter not exceeding 244.5mm or 9.5/8".

The subject goods described as seamless tubes/pipes as also line/boiler pipes and casing /tubing are classified under customs sub-heading numbers 73.04, 7304.10, 7304.29 and 7304.39 of Chapter 73 of the Customs Tariff Act, 1975.

(A) Arguments raised by importers (ONGCL):-

1. The products being investigated in the present case can be broadly classified into the following:-
 - i. Seamless line pipes of a kind used for oil or gas pipeline falling under heading 7304.10 of the Customs Tariff;
 - ii. Seamless casing tubes of a kind used in drilling for oil or gas falling under heading 7304.29;
 - iii. Seamless tubing of a kind used in drilling for oil or gas falling under heading 7304.29;
 - iv. And Boiler pipes, furnace pipes, super heaters, tubes etc., used in the processing and general engineering industry referred to as other seamless pipes falling under heading 7304.39.
2. The fact that-the tubes/pipes falling under these three headings attract the same rate of basic customs duty cannot be a factor for treating the products as one. There are at least four major different product categories under consideration for which dumping has to be determined and separate anti-dumping duties should be notified. M/s Volsky, the exporter from Russia, who had exported only casing pipes of 9 5/8" diameter would have supplied information on normal value, export price and cost of production only for this pipe. Consequently the dumping margin can be determined only for casing pipes and not for tubing or line pipes.
3. The product under consideration which is produced in India alone can be subject to antidumping duty. The various grades of pipes produced/not produced is as given below:-
 - i. **Production tubing (7304.29)** - All grades are imported. BTC, XL and Premium threads are imported. No grades are produced in India. KSTL and ISMT do not produce production tubing and MSL is excluded from domestic industry. Thread capability in India is only BTC. XL and Premium are not being produced. Production tubing cannot be interchanged with casing tube. The lowest diameter for casing tubes is 4 1/2" whereas the highest diameter for tubing is 4 1/2". There is no overlapping size and hence substitution is impossible. Further application is different.
 - ii. **Casing Tubes (7304.29)** -Grades imported are J-55, N-80, L-80, P-110, C-95 and Q125. Threads imported are BTC, XL and Premium. Grades produced in India are J-55 and N-80. Only KSTL manufactures and supplies these two grades. ISTM does not supply casing tubes. Thread capability in India is only BTC. There is no inter-changeability. Tubes of different grades have different chemical composition and other properties and are used in different places of the oil well depending on the environment in the different places of the well.

4. Anti-dumping duty should be restricted, if at all, only to casing pipes of J-55 and N-80 grades with BTC thread. There cannot be any anti-dumping duty on casing pipe with XL and premium threads, the other four grades (L-80, P-110, C-95, Q-125) of casing pipes and on all grades of production tubing.

(B) Arguments raised by Heavy Metal & Tubes Ltd.:-

1. This respondent is a manufacturer of Heat Exchanger and other mechanical tubes using Hot Finished Seamless Pipes as starting raw material. Heat exchanger tubes are mainly required in sizes 25.4mm outside diameter and below. To manufacture these tubes they import Hot Finished Tubes 33.4mm OD or 30mm OD in thickness 2.8mm, 3.2mm, 3.4mm and lower because of the following reasons:-
 - a. The process cycle time to convert hot finished tubes to cold finished is very short;
 - b. Cost of production is reduced due to shorter cycle time; .
 - c. Delivery of final product is faster.

If raw material tube in sizes above 33.4mm in diameter is used then the above advantages would be unachievable-making the industry un-viable.

2. The domestic industry (ISMT and KSTL which will now be a single company) is a monopoly supplier that too of hot finished sizes not below 38mm outside diameter. The present notification imposing anti-dumping duty on all sizes below 273mm OD in Hot Finished condition should be substituted by incorporating minimum and maximum outside diameter within which anti-dumping duty would be applicable. This range should be above dia 38mm OD to 273mm OD.
3. There should not be any anti-dumping duty on any size of hot finished pipes of material grades like P5 and P91, which are not offered by the domestic hot finished producers.

(C) Oil India Ltd.:-

Anti-Dumping duty has been imposed on seamless tubular of all varieties falling within the size range under investigation, even though indigenous capacity does not exist for some of the grades like casing P-110 (except for 51/2" size), XL, L80 and other premium grades. Since there is no indigenous capacity for these grades as stated earlier, imposition of anti-dumping duty for such grades of tubular is not giving any protection to indigenous tubular manufacturers. Rather it is going to increase input

material cost for oil companies and would unduly benefit the foreign manufacturers located in countries not covered by the investigation.

(D) Arguments raised by exporters -Petrotub- S.A. Roman:-

1. Even though it is clearly noted in the preliminary findings that the domestic industry (KSMT+ISMT) cannot produce hot finished pipes below NPS 1.25" (OD 42.2mm), no provision has been made to exclude anti-dumping duty on hot finished tubes below this size. Whereas, it is a well known fact that many mills in the affected countries can produce hot finished pipes from NPS 0.5" (OD 21.3mm).
2. Similarly no provision has been made to exclude casing pipes of grades L-80, P-110, C-98, Q-125, thread XL from anti-dumping duties, despite the non-availability of these grades from Indian producers.
3. Till today KSMT has not satisfactorily produced a single kilo of seamless pipe in size NPS ten inch (OD 273.0 mm).
4. The Anti-Dumping duty has been imposed on all grades of Seamless Pipes without examining whether all these grades are produced by the Domestic Industry. For example, the alloy steel grade "P.5, P.9, P.91" which are popularly used in refineries, are not produced by domestic industry. Similarly, various specialised grades for mechanical and other applications are not produced by the domestic industry and have to be mandatorily imported.
5. Boiler pipes with long lengths of upto 21 meters are used for power projects. These long lengths can also not be produced by the domestic industry but are still eligible for Anti-Dumping duties.

(E) Argument raised by ABB ABL Ltd.:-

1. Line pipes, Casing pipes for oil exploration, Boiler tubes and pipes etc. are independent products and hence it is felt that these products cannot be treated as like product for the purpose of determination of anti-dumping duty or for determining the material injury to the domestic industries.
2. ABB ABL Ltd. is one of the premier designer and manufacturer of high pressure steam generating units with accessories for various thermal power plants & projects, industrial plants, cement making machinery, electrostatic precipitators, foundry items etc. We import seamless carbon steel and alloy steel tubes and pipes of smaller and bigger diameters ranging from 26.9 mm to 559 mm to various specifications and grades for manufacturing pressure parts of the high pressure boiler units but we do not import tubes and pipes from any of the above five countries.

(F) Reliance Industries Ltd. (Oil & Gas Division):

Reliance Industries hold 30% participating interest in Panna - Mukta and Tapti Projects along with ONGC (40%) and Enron (30%). Enron Oil & Gas India Ltd. is the operator for the joint venture. In so far as E & P activities are concerned we agree with the views contained in response of Oil and Natural Gas Corporation; page 13 to 18 of preliminary findings.

G. Arguments raised by Domestic Industry:-

1. It has been argued by various opposing interested parties that a number of grades/sizes of the subject goods are not being produced in India and, therefore, must be excluded from the scope of the present investigations. As long as the Indian industry has capacity and capability to produce like article to product under consideration, the item should attract duty. Further like article has also been well defined under the Rules which does not restrict to identical article.
2. The domestic industry has offered the following arguments with regard to the scope of the investigations:-
 - a. **Grades which the Indian industry is capable of producing cannot be excluded:-** So long as the Indian industry has capacity and capability to produce like article to what is being imported in the country, the item cannot be exempted and has to be covered within the scope of the investigations.
 - b. **Grades being produced in India but not by all companies in India:-**It has also been argued that some of 'the models are not being produced by some of the participating companies. So long as like article is being produced in India, the model in question cannot be excluded.
 - c. **Grades for which no allegation was made by domestic industry and which can be excluded from the scope of the present investigations:-** The grades for which no allegation was made by domestic industry and which can be excluded from the scope of the present investigations are:-

Line pipe/boiler pipe:- The following models in the alloy steel category:

T5,T9 & T91 as well as P5,P9 & P91 ASMT A 179 (CD)

ASTM A 243 (Alloy)

ASTM A 335 (Alloy)

ASTM A 199 (Alloy)

ASTM A 200 (Alloy)

ASTM A 209 (Alloy)

ASTM A 602 (Alloy)

- ii. **Line pipe/boiler pipe** :All models of stainless steel as raw material.
 - iii. **Drill Pipe** :- All types of drill pipes.
- d. **Grades which are being produced in India but from different process:-**Line pipe/boiler pipes in size range of 1/2" and 3/4" dia hot finished are not being produced by the Indian industry. These models however can be produced by the Indian industry through the cold drawn process. These models can be produced by the hot process by some of the producers in the subject countries. These models produced using hot finished or cold drawn process however result in products having similar physical and chemical characteristics are different in terms of the manufacturing process beyond the basic process of manufacturing and can be employed for similar functions and usage. The two are in fact technically and commercially substitutable. However the cost of production through cold drawn process is slightly more than through the hot finished process, though the two are traded at similar prices. Since the goods being produced by the Indian industry are technically and commercially substitutable with the goods imported (Produced using hot finished process) it is submitted that these are- required to be included within the scope of the present investigations.
- e. There are a number of models which can be produced by Indian industry by supplementing their efforts. For instance, KSTL has facilitates for production of casing /tubing upto 9 5/8". However, for L80, C95, P110 and Q 125 grades, they have to get a very small part of the job done outside. KSTL has not quoted in the past against ONGC tenders for such models because of the unfair dumped prices. ONGC is aware that KSTL has offered for 9 5/8" P-110 grade to ONGC and the volume involved is substantial. Whether a company undertakes entire production itself or gets a part of the same done from outside is entirely an issue left to the discretion of the industry. The Designated Authority while assessing the fair selling price may take into account the cost on account of sub-contracting.

4. Examination of product under consideration by Authority:-

The Authority has carefully considered the submissions and rejoinders of all interested parties. In general, "pipe" is a term used to designate any long hollow body used for conducting gases or liquids. Restricted to the steel industry, the term is one that is applied to all tubular products intended for the purposes for which such products are ordinarily used, as for conducting fuel, gas, steam, oil, etc.

The above does not imply that all tubular products by virtue of their general definition are like articles. Since tubes/pipes should be adapted to the kind service they are expected to render, there are different varieties of pipes. Seamless pipes with a variety of special properties have been developed to meet the needs of the oil industry. The casing for deep oil wells requires seamless pipe having a high resistance to collapse to withstand the high external pressures. Other classes of seamless pipe and specialty tubing made for the oil industry include oil well tubing and line pipe. The oil-refining, chemical and high-pressure-steam industries also demand special seamless pipe:

Billets are referred to as semi-finished steel because they form the starting material for the production by mechanical treatment (e.g. hot rolling etc.) of finished steel products that include tubular products. Many of these products require some form of heat treatment at the steel mill primarily to effect changes in mechanical properties which will render the material suitable for the intended purpose.

The product under consideration has therefore been analyzed not only from the angle of basic manufacturing process but also after considering a number of other factors including (I) physical characteristics of different categories and grade's of pipes, (viz., chemical composition, and mechanical properties such as tensile strength, yield resistance and elongation); (ii) special operations (viz., heat treatment) required in the manufacture of specialty grades of casings and tubing; (iii) the end-use to which various categories of pipes/tubes are subjected; (iv) interchangeability of the products; (v) the perception of customers and (vi)tariff classifications.

5. LIKE ARTICLES

(A) Arguments raised by importers (ONGCL):-

The term like article as defined under Rule '2(d) has two branches. The first branch is to identify for each product which is alleged to be dumped the domestic producers of a product which is identical or alike in all respects to the article under investigation for being dumped. The second portion of rule 2(d) provides that if there are no producers who produce an identical article, then producers who produce an article that has characteristics closely resembling the product under consideration may file the application against the alleged dumping of the product under consideration.

1. Domestic industry for casing- In respect of casing tubes, KSTL produces an article which is identical or alike in all respects to the imported casing tubes of J-55 and N-80 grade. MSL is excluded from the category of domestic producer and ISTM has not been empanelled as a supplier nor does it supply casing tubes. Thus, in respect of casing tubes the only domestic producer who has the standing to file the application is KSTL and none else. Any analysis of material injury to the domestic industry due to

the alleged dumping of casing pipes has to be studied only with reference to KSTL and the inclusion of ISTM for this purpose is bound to distort the injury picture.

2. Domestic industry for tubing- In respect of production tubing, neither KSTL nor ISTM has the capacity to produce production tubing. The Authority has noted this fact as Well. Consequently production tubing should be excluded from the scope of the investigation. Thus, corresponding to each product under consideration, the domestic industry which has the locus standi to file the petition is different and consequently the material injury analysis is different for different products. This is more so when line pipes cannot be substituted with casing pipes/ production tubing, casing tubes and production tubing cannot substitute each other and boiler tubes cannot be used where casing , production or line pipes/tubes are used.

(B) Arguments raised by Domestic Industry:-

There is no significant difference in goods produced by the three participating companies (viz., MSL, KSTL and ISMT) and goods exported from the subject countries which can have an impact on price. The consumers have used the two interchangeably and thus the two are technically and commercially substitutable.

(C) Examination of Like Article by Authority:-

The Authority observes that in placing orders, all buyers are required to describe the desired material adequately under the specification of the pipe/tube depending on end-use. An important factor in determining the like product would be to examine its end-use substitutability. If a purchaser of a casing pipe would readily buy a line pipe if the prices if the two were similar then these two categories of pipes could be clubbed as one like article. Switching from one product to another involves a determination of whether the two products are similar in characteristics and end-uses.

Casing, tubing and drill pipe are referred to in the industry as oil-country tubular goods (OCTG) and are governed by the API under Specifications 5A, 5AC and 5AX. The physical, chemical and mechanical properties (which include tensile strength, yield resistance and elongation) of line pipes, casings and production tubings differ depending on end use. As line pipes are not used for extraction purposes, they cannot substitute casings in the well and do not possess the tensile strength, yield resistance or hardness of casing pipes. Casings are pipes run from the surface and intended to line the walls of a drilled well. Production tubings serve as exhaust or delivery ducts and for that purpose are inserted into casings in a productive well. Hence production tubings are not interchangeable with either line pipes or casings.

The chemical requirements for API 5L line pipes include the specified percentages of carbon and manganese besides phosphorus and sulfur. Boiler pipes contain carbon, manganese, phosphorus, sulfur and silicon. Yield and tensile strength of line and boiler pipes have specified range.

Deeper wells require specialty casings that possess the requisite hardness and the strength to withstand high pressures at greater depths and varying surrounding substrata. Grades such as H-40, J-55, K-55, & N-80 represent the lowest strength and those of P-105, P-110, the highest strength grades. The range of yield strength is much tighter for the 5AC grades such as L-80 versus N-80. L-80 grade tubular offer high strength for deep well applications.

Grades J55, N80, H40 and K55 (Group 1 of casing pipes) have phosphorous and sulfur content. Whereas L80, C90, C95 and T95 grades (Group 2) contain carbon, manganese, molybdenum, chromium, nickel, copper and silicon in addition to phosphorus and sulfur. P110 and Q 125 belong to Groups 3 and 4 respectively. Higher strength tubular are obtained by alloying with chromium and molybdenum. However heat treatment of all these materials is critical and is more detailed for grades C-75, L-80 and C-95. The tensile and hardness requirements also differ. In view of the above, the Authority notes that seamless pipes-can be broadly categorized into line, boiler, casing and tubing having separate end-uses.

6. On Standing: Argument raised by Domestic Industry:

The petition was filed by Association of Seamless Tubes Manufacturers on behalf of the three participating companies viz. MSL, KSTL and ISMT. There are six companies in India who have created capacities for Seamless Tubes production. TISCO, Remi Metals and BHEL are the other three companies who have the capacity for production of the subject goods. The petition is supported by Remi Metals. The Designated Authority has determined the locus as follows:

- i. Remi Metals and BHEL have been considered as importing the subject goods and thus have been excluded.
- ii. MSL has been considered as related to Jindal Drilling and Industries Ltd. that has important large volumes of the subject goods from the named countries.
- iii. The production of TISCO has been considered for determining the locus.

2. Domestic Industry comments as follows:

- i. Imports from Remi Metals and BHEL : Domestic Industry agrees with the findings of the Designated Authority that these companies have imported the subject goods and therefore should be excluded from the scope of the present

investigation. BHEL is largely a captive consumer of the subject goods. Production of BHEL is required to be excluded from the eligible production.

- ii. The Designated Authority has -considered the production of TISCO in the eligible production. Though there is no implication with regard to the standing of the petitioners to file the present petition whether TISCO is considered within the eligible production, as the standing conditions are satisfied in any event, it is submitted that while initially TISCO conveyed verbally that they would be supporting the petition it was later considered more appropriate by them to remain neutral as they were not at present producing the subject goods. TISCO may therefore be excluded.
- iii. It is submitted that MSL cannot be treated as related to an importer and cannot be excluded from the scope of the present investigation. A discretion has been provided to the Designated Authority in the amendment of the Anti-Dumping Rules dated 15.7.1999 to decide whether or not a producer who is related to an importer, exporter or itself is an importer of the alleged dumped goods should be included in the investigations. The Designated Authority in the case of PSF, held that though Reliance Industry itself had imported the subject goods it qualified to be included within the scope of domestic industry. Similarly, in case of Nylon Tyre Cord Fabric, the DA held that SRF qualified to be included within the scope of domestic industry inspite of the fact that it was related to an importer. In the instant case, the petitioner company has itself not imported any volume's and the injury assessment would not have got biased in any way. It is submitted in this connection that
 - a. JDIL and MSL are public limited companies and are not related under any provision of the Company's Act, 1956. None of them is either a related company or a subsidiary of the other one in terms of Section 4 of the Companies Act, 1956. They were neither under the same management in terms of Section 370 (1B) of the Companies Act, 1956 nor were in the Same group in terms of Section 372 (11) of the Companies Act, 1956.
 - b. The main business carried on by MSL and JDIL are different. MSL is engaged in manufacture of Seamless Pipes where as JDIL is mainly engaged in off-shore oil well drilling. It is also engaged in a limited extent in threading, end-finishing, cold pilger, heat treatment, etc. of seamless pipes. Jindal has imported all the material from Volzhsky Pipe Plant who has cooperated with the Authority. The volumes imported by the company are in the region of * * * MT, which constitute an insignificant proportion of the Indian demand.
 - c. The day-to-day functioning of JDIL is conducted by the Whole time Director subject to the control of the Board of Directors of the company. Likewise, the day-to-day functioning of MSL is conducted by the Managing Director subject to the control of the Board of Directors of the company. Both the companies

have their own professional Board of Directors. It is evident from the constitution of the Board of Directors of the two companies that there is only one common Director in the Board of the two companies who is Shri D.P.Jindal. The board cannot take any decision unless the decision is approved by a minimum of two directors in MSL as is also the case with JDIL. It is submitted that the common Director cannot in any situation influence the decision as he lacks necessary quorum.

- d. Public Limited companies like MSL and JDIL are basically run by the Board of Directors who control all aspects of business. Since there is only one common director in the board of the two companies, there is no way one company can exercise direction or restraint over the other. One of the important facts to note is that JDIL has imported the sizes which are not produced by MSL.

7: Arguments raised by ONGCL and Volszkhy:

The investigation in this case was initiated on 21.5.1999 and on that day the un-amended rule 2 (b) was in force. This rule did not give any discretion to the Designated Authority and every domestic producer who is related to the exporter or importer or who has imported the alleged dumped article had to be excluded from the purview of the term "domestic industry". The fact that Maharashtra Seamless Ltd. is related to an importer of the alleged dumped article was brought to the notice of the authority by ONGCL & Volszkhy. The European Council Regulation on antidumping, in addition to defining the term "related" specifies a company which holds more than 5% of the shares in another, as related to the other. The definition of the term "related" as used by the European Commission is extracted below:

"For the purpose of completing this questionnaire, a company should be considered to be related if it holds directly or indirectly more than 5% of your capital or otherwise has controlled over your company or if your company holds more than 5% of its share capital or you otherwise control it. Furthermore, companies under the same holding are considered to be related". In fact the supply by the JDIL of pipes imported from the countries under investigation compete in the same market as the pipes supplied by MSL and hence MSL has to be excluded.

8. Examination by Authority:-

1. The petition has been filed by the Association of Seamless Tubes Manufacturers on behalf of M/s Maharashtra Seamless Ltd., M/s Kalyani Seamless Tubes Ltd., and M/s Indian Seamless Metal Tubes Ltd.
2. It was brought to the notice of the Authority after the initiation of the investigation, that Maharashtra Seamless Ltd. is not an eligible domestic producer of seamless tubes/pipes as they are related to M/s Jindal Drilling and

Industries Ltd.(JDIL) an importer and supplier of the subject goods from the named countries, during the period of investigation.

3. The petitioners have stated that JDIL and MSL are public limited companies and are not related under any provision of the Company's Act, 1956. None of them is either a related company or a subsidiary of the other one in terms of Section 4 of the Companies Act, 1956. They were neither under the same management in terms of Section 370 (1 B) of the Companies Act, 1956 nor were in the Same group in terms of Section 372 (11) of the Companies Act, 1956.
4. The petitioners have stated that the main business carried on by MSL and JDIL are different. MSL is engaged in manufacture of Seamless Pipes where as JDIL is mainly engaged in offshore oil well drilling. It is also engaged in a limited extent in threading, end-finishing, cold pilger, heat treatment, etc. of seamless pipes. Jindal has imported all the material from Volzhsky Pipe Plant who has cooperated with the Authority.
5. It has been argued by the importers and other interested parties that M/s MSL had imported the subject goods during the period of investigation and its sister concern M/s Jindal Drilling had imported ***Mt of the subject goods from M/s Volzhsky Pipe Plant during the period of investigation. However, M/s MSL has subsequently clarified that the copy of reference by MSL to ONGCL regarding tender Enquiry No. MAT/IMP/252/D-II/98-99 due on 19/2/98 for supply of 9.5/8"OD Seamless Steel Casing Pipes, for import of 1,91,155 Mts. of plain end seamless pipes and coupling stock (mother pipes) from various API approved mills including those of M/s Petrotub (Romania) and M/s Vitkovice (Czech Republic) for supply of tendered items viz., 9.5/8"OD, BTC, Gr J-55, 40PPF as per API 5CT R-III Seamless Casing Pipes was only an offer that did not materialise and there was no imported supply by MSL of the subject goods stated in the tender enquiry. The Authority therefore notes that M/s MSL, a petitioner company, did not effect any imports of the subject goods during the period of investigation.
6. While on the date of initiation, the un-amended Rule 2(b) was in force a discretion was provided to the Authority through an amendment in Rule 2(b) during the course of the investigations. The relationship between MSL and Jindal Drilling comes into focus on account of imports of the subject goods by Jindal Drilling. While the petitioners have argued that the volumes imported by Jindal Drilling constitute an insignificant proportion of the Indian demand, the Authority notes that the quantity imported by Jindal Drilling constitutes 1.40% of the total imports of casing pipes alone. The insignificant quantity imported would not justify the exclusion of M/s MSL from the scope of domestic industry. Rule 2(b) clearly states that "domestic industry" means the domestic producers as a whole engaged in the production of the like article... or those

whose collective output of the said article constitutes a major proportion of the total domestic production of that article..." The Authority notes that .

Maharashtra Seamless Ltd. is the largest manufacturer of seamless steel pipes and tubes in India with a production capacity of 50,000 MT per year. They have facilities to manufacture OCTG range in higher grades like N-80, L-80, C-95, P-110 and Q-125.

7. The domestic industry at the time of preliminary findings was constituted of Ws Kalyani Seamless and M/s Indian Seamless who accounted for 66.69% of the total domestic production of the subject goods and thereby had the required standing to file the petition even prior to the amendment in the Anti-Dumping Rules on 15/7/99. Although the case was initiated on a date on which the un-amended Rule 2(b) was in force, the Authority has exercised the discretion subsequently allowed by the amendment in the said Rule particularly in view of the facts available on record. After careful consideration of the afore-stated facts, the Authority holds that MSL also qualifies to be part of domestic industry which is therefore constituted of Ws Maharashtra Seamless Ltd, M/s Kalyani Seamless Ltd, and Ws Indian Seamless Metal Tubes Ltd., for the purpose of these investigations.

9. DOMESTIC INDUSTRY:-

The petition has been filed by the Association of Seamless Tubes Manufacturers on behalf of M/s Maharashtra Seamless Ltd., M/s Kalyani Seamless Tubes Ltd., and M/s Indian Seamless Metal Tubes Ltd. Other domestic manufacturers of the subject goods are Tisco, Remi Metals and BHEL.

The above mentioned six companies have created capacity for production of seamless tubes. BHEL has created capacity primarily for captive consumption. It is noted that Remi Metals has imported 7884.79MT of the subject goods from the subject countries during the period of investigation. BHEL has also imported the subject goods but from sources other than the listed countries. After careful consideration of the above, it was decided by the Authority to exclude Remi Metals and BHEL from the scope of domestic industry in view of captive consumption by BHEL and the substantial imports made by Remi Metals of the subject goods from the named sources. Tisco has suspended production and is not a supporter of the present petition.

As stated at para 8 of these final findings, the domestic industry is constituted of M/s Maharashtra Seamless Ltd., M/s Kalyani Seamless Ltd., and M/s Indian Seamless Metal Tubes Ltd., who account for 100% of the total eligible domestic production of the subject goods and thereby have the required standing to file the petition under the Rules.

10. DUMPING:(A) Romania

1. Arguments raised by exporter, M/s Petrotub:

(a) Normal Value

In the sales price structure for domestic sales, it is stated that all Petrotub domestic sales were on ex-factory delivery terms so that no other charges were deducted afterwards. Prices were according to negotiated contracts; no discounts were granted and no commission was paid. The ex-factory price is not stated. The total domestic sales of Grade B during the period investigated was * * * at a value of USD * * * . The price per ton comes to USD * * * . The total quantum of domestic sales of P-110 was ***tons at a value of USD*** The price per ton comes to USD* * * .

The total factory cost (of domestic sales) of Grade B is stated to be USD * * */ton and net profit is *** USD/ton. The unit selling price is ***USD/ton. The factory cost (of domestic sales) of P-110 is * * *USD/ton and net profit is * * *USD/ton. The unit selling price is USD * * */ton.

(b) Export Price

The ex-works level price for Grade B as stated in the response is USD ***/ton. Delivery term is on C&F. Charges claimed are on account of inland freight (* * *USD/ton), storage and handling (***/USD/ton), custom commission @ ***/USD/ton and trader commission @***/USD/ton. Overseas freight is USD ***/ton. The average contract price for Grade B works out to USD * * */ton. The Authority has examined the transaction wise details to the extent made available by the exporter.

The ex-works level price for P-110 is USD * * */ton as stated in the response. Delivery term is on FOB. Charges claimed are on account of inland freight (***/USD/ton), storage and handling (***/USD/ton), custom commission @ ***/USD/ton. Trader commission and overseas freight are nil. The Authority has taken overseas freight as ***/USD/ton. The contract price for P-110 works out to USD * * */ton.

It is seen from the Profit and Loss Account submitted by the firm that they have incurred losses. In view of the above and in the absence of a stated ex-factory domestic price the constructed cost of production has been adopted for determination of normal value. The constructed cost of production is USD * * */Mt.

(c) Dumping Margin

Given the normal value at USD ***/ton and the ex-factory export price of Line Grade B at USD ***/ton, the dumping margin comes to ***/ton (which is 61.4% of export price).

Given the normal value at USD ***/ton and the ex-factory export price of P-110 at USD ***/ton, the dumping margin comes to ***/ton (which is 25.3% of export price).

2. Arguments raised by Silcotub S.A.:-

As stated at Para I.(II) of the Preliminary Findings, out of the total sales (domestic + export) of * * *tons of grade 73.04.10.10, exports to India accounted for only 4.48% whereas exports to third countries accounted for 64.88%. Likewise, exports for grades 73.04.39, 73.04.10 and 73.04.29 exports to third countries accounted for 78.2%, 76.4% and 26.15% respectively. However, the exporter has stated vide Appendix 4-D that exports to countries other than India have been at a loss. Exports to India are claimed to have been at a profit. The financial information in the form of Profit & Loss figures is not substantiated with documentary evidence and is hence rejected by the Authority.

(a) **Normal Value**

In the sales price structure for domestic sales it is stated-that they have no charge beyond ex-factory level. Consequently no charges have been shown on account of packing, inland freight, insurance, storage, handling and taxes. No discounts were offered. The sale prices showed against 73.04.39 and 73:04.10.10 are USD * * * and * * * respectively.

In Appendix 4-B (Factory cost and profit of domestic sales), the average ex-factory cost for the two grades is USD ***/ton. Since the exports to third counts which account for the bulk of sales are at a loss, domestic sales that account for 30.62% (for grade 73.04.10.10) and 18.57% (for grade 73.04.39) could not be at a profit. In the circumstances, the Authority is constrained to adopt the constructed cost of the subject goods which is USD * * */ton.

(b) **Export Price**

The price at ex-factory level for grade 73.04.10.10 is USD ***/ton, as stated.. Discount is * * *USD. Charges (per ton) after ex-factory *and* before FOB include inland freight (* * *USD), handling * * *USD, customs duties, * * *USD, others * * *USD. No charges have been claimed after FOB. The Authority ha taken overseas

freight is taken as USD ***/ton. The list price for grade 73.04.10.10 works out to USD ***/ton.

The ex-factory price for grade 73.04.39.91 is USD * * * , as stated in the response: Discount is * * *USD. Charges (per ton) after, ex-factory include inland freight at * * *USD, handling * * *USD, Customs duties * * *USD, Others * * *USD. Overseas freight is @USD * * */ton. The list price for grade 73.04.39.91 is USD ***/ton as stated.

It was noted that export prices to third countries are the same as the prices to India.

(c) **Dumping Margin -**

Given the constructed cost at USD ***/ton and the ex-factory export price of line pipe as ***/ton USD; dumping margin comes to ***/ton (which is 56.7% of export price).

Given the constructed cost at USD ***/ton and the ex-factory export price of boiler pipe as * * *USD, the dumping margin comes to ***/ton (which is 42.7% of export price).

(B) **Russia**

1. Arguments raised by Volzhsky Pipe Plant:

(a) **Normal Value**

It is stated by the exporter that at prices are at ex-factory. Hence there are no deductions. There are no discounts that are offered on the domestic market and there are no charges after ex-factory on account of inland freight, insurance, storage, handling, taxes, etc. The ex-factory price in Rbl/ton claimed is *** or USD *** at an average exchange rate of 6.46Rbl=1USD. The quantity sold in the domestic market (in tons) was * * * during the period of investigation.

It is submitted that the ex-factory cost of the product is * * * rbl/per ton or USD * * * and the net profit before tax is * * * rbl or USD * * * . The unit selling price is * * * rbl or USD * * * .

However a perusal of the profit and loss accounts submitted by Volzhsky shows that the company has incurred overall operating losses. The Authority is therefore constrained to adopt the constructed cost of the subject goods which is USD ***/MT.

(b) **Export Price**

Volzhsky has stated that they had supplied only casing pipes of 9.5/8"OD to India during the period of investigation. No other category, of pipes was supplied. The total exports to India by Volzhsky Pipe. Plant during the period of investigation was 18281 tons. Exports to India constitute 71.4% of total sales of the company.

In the sales price structure for exports to India, an average of Rbl ***has been claimed-as packing charges after ex-factory and before FOB. An average of ***Rbl has been charged ' as rail road rate, * * *rbl as storage and * * *rbl on account of customs clearance. Charges after fob are on account of overseas freight and forwarding which are ***rbl. The Authority, has considered insurance charges at * * % or USD * * * and stevedoring charges at USD*** thus bringing the total charges to USD***. The weighted average ex-factory export price is USD * * * . The Authority has examined the transaction wise details to the extent made available by the exporter.

It is submitted that the ex-factory cost of the product is * * * rbl per ton or USD * * * and the net profit before .tax is * * *rbl or USD * * * . The unit selling-price is * * * rbl or USD* * *.

(c) Dumping Margin

Taking the constructed cost at USD ***/ton and the ex-factory export price at USD ***/ton for casing pipes the dumping margin comes to ***/ton (which is about 107.2% of export price).

2. Arguments raised by M/s Mitsui & Co. Ltd.,:-

(a) Mitsui & Co., Ltd., Tokyo, informed the Authority that as a supplier of the subject goods to ONGC/OIL India Ltd. and other government corporations engaged in the oil exploration business in India, they are an interested party in these investigations. In its response to the Disclosure Statement, Volzhsky submitted that it had supplied *** MT of casing pipes to Mitsui at USD * * * (FOB) or USD * * */ton. The said quantity was exported by ~ Mitsui to ONGCL at USD ***/ton (FOB). The Authority notes that there is an abnormal increase in the unit price as quoted by Mitsui to ONGC from that of the price quoted by Volzhsky to Mitsui for which no details have -been furnished. As a trading house Mitsui would have been entitled to commission. However, Volsky in its response to the questionnaire has not claimed adjustments towards traders commission and Mitsui had not filed a response to the questionnaire. For want of any justification towards the significant increase in the export price for the subject goods supplied by Mitsui to ONGC, the Authority has adopted for Mitsui the export price and adjustments thereon as considered for Volsky.

(b) Dumping Margin

Taking the constructed cost at USD * * */ton and the ex-factory export price at USD * * */ton for casing pipes the dumping margin comes to * * */ton (which is about 107.2% of export price).

(C) Non-cooperative Exporters

As stated at Para II of the Preliminary Findings, the Authority sent a questionnaire to the known exporters from the subject countries. The Authority notes however, that the exporters from Austria, Czech Republic and Ukraine have not responded to the questionnaire to furnish the relevant information. Therefore there are no claims made by these exporters with regard to normal value and export price. The Authority has therefore treated them as unco-operative and has been constrained to rely upon constructed price and best available information with regard to normal value and export price respectively, as provided by the petitioner.

11. Dumping:

Argument raised by the Domestic Industry:-

As per notification No. 44/99-CUS (NT) dated 15.7.99 the normal value in case of Russia, Czech Republic and Ukraine should be determined in accordance with the provisions of the said notification.

(1) Volzhsky Pipe Plant :-

- i. The normal value in case of Volzhsky in particular and all the producers in Russia in general is required to be assessed in accordance with the amended rules. Domestic Industry analysis of this respondents cost of production was not disputed by the exporter and observations on cost of production and various elements on cost of production remained undisputed at the time of the oral hearing.
- ii. The exporters has stated in annexure I that exports to India were 18284 M.T. However the same has been claimed as 17073 M.T. in Appendix 2B: The company has not given month wise details of exports made to India. At the same time, total volume exported has been shown in this Appendix.
- iii. The estimates of the cost of production, selling price and profits claimed by the company and comparison with Indian producers is being provided on "confidential" basis. The information filed by the company confirms the impression that the cost structure of the producers in non-market economy countries such as Russia and Ukraine are unreliable.

- iv. The company has disclosed the exchange rates in various months in the investigation period the local currency as it may be seen has fluctuated greatly.
- v. List of the owners/principal share holders of the company has been claimed confidential.
- vi. The company was given certificate of incorporation only in April, 1998 where as the present investigation is April, 97 to September, 98. This means that the companies was not even incorporated in the whole of the investigation period. The company however appears to have been in existence may be for more than a decade. The status of the company prior to April, 98 is not clear.

(2) Dumping and Dumping Margin in case of Romania:-

While it is appreciated that the exporters can claim information as confidential while responding the questionnaire, the entire response in the present case seems to have been claimed confidential. This is contrary to the provisions of Rule 7. The exporters do not seem to have provided the information with regard to transaction wise details of their sales in the domestic market.

(A) Silcotub SA:

Normal Value:-

(i) In the Preliminary Findings of the Designated Authority it is stated that majority of sales are exports to third countries which are. at a loss. It has been further argued that export price to third countries are as at the same prices to India and exports to India are at a profit. When the majority of the sales are at a loss, the other sales would also not permit recovery of cost of production, when all the sales are at similar prices. It is further submitted that the exporter has not provided domestic cost details. Even if it is admitted that the selling prices permitted recovery of cost of production on weighted average basis, it is submitted that the same is insufficient and the exporter is required to establish that all the sales in the home market were in the ordinary course of trade.

Export Price:-

The exporter has not disclosed any expenditure on account of inland freight within Romania. No charges have been claimed after FOB. Evidently, the goods have been exported by some company after buying the goods from the producer. Such being the case, the exporter has not established that the goods have been exported to India at the prices claimed. Further, it has been demonstrated by the exporter that there is no compensatory arrangement between the buyer and the seller.

(B) Petrotub S.A.

There seems to be no information filed by the exporter with regard to domestic sales transactions. Such being the case, there seems to be insufficient claim by the exporter and the response is required to be rejected on this account alone. It is not understood how the exporter can claim that there was profits on the sales in the home market and exports to India when the company has suffered overall losses. Since the exporter seems to have produced a number of other types, apparently the exporter has claimed that it has suffered heavily on other grades and made losses in these grades which have been exported to India. It is required to be established by the exporters that the sales in the home market were in the ordinary course of trade and export price can be considered representative and is not required to be constructed.

It was argued at the time of the hearing that the Romanian producers are able to compete after paying 15% towards, sea freight and incurring expenses on other accounts including commission and service charges to trading houses. This is precisely the point sought to be made by the domestic industry that the Romanian producers are incurring such huge expenditure and it is not possible that these producers can make profits at such prices. It has been very clearly held by the Designated Authority that the exporters from Romania were making losses and substantial sales of a producers were at a loss. Dumping is in-built in their own claim.

(3) Duty on non-cooperative exporters:

It is found from the preliminary findings that the anti-dumping duty on residual category in case of Romania has been determined as the lower of the cooperative exporters. This is contrary to the established practice of the Designated Authority to recommend highest duty in case of non-cooperative exporters. The Designated Authority is, therefore, requested to suitably modify the preliminary findings in this regard.

(4) Determination of Dumping in respect of Austria, Ukraine and Czech Republic:

It is submitted that the exporters from these countries have failed to respond to the notice of initiation and should be considered as non-cooperative exporters. The Designated Authority is fully justified to proceed with the best information available with regard to determination of normal value, export price and dumping margin in respect of imports from these countries.

12. Authority's Position

The Authority has followed the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-

dumping rules. In the case of Volzhsky, the Authority has also examined the issue of dumping by the exporter M/S Mitsui, in conjunction with that of the manufacturer of the subject goods M/S Volzhsky. The issue of dumping by M/s Volzhsky as a direct exporter has been examined separately.

13. INJURY:-

1. Argument raised by domestic industry:

A) Cumulative Assessment of Injury:

The conditions prescribed on cumulative assessment (Annexure II (iii) to the anti-dumping rules) are (I) the dumping margin from each country is more than de-minimis; (ii) the volume of imports (and not dumped imports) is more than de-minimis; (iii) appropriateness of cumulative assessment. , All three conditions are satisfied in the present case. It would, therefore, be appropriate to assess injury to the domestic industry cumulatively from the imports from the subject countries.

B) Cumulative Assessment even if various goods being investigated are not like article:

It is submitted that the domestic industry produces various goods, which are not like articles. The domestic industry has common /overlapping facilities for producing these goods. Attention is requested to Annexure II (vi) of the anti-dumping rules, which states as under:

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

In the instant case, there are different types of seamless tubes being investigated. Further, the domestic industry produces a number of other types of tubes, which include cold drawn and cold pilgered tubes or pipes. The basic production facilities for all the types are common, even though, there are certain dedicated equipment. It would therefore be neither feasible nor appropriate to assess injury to individual types of seamless tubes. It is therefore requested that to the domestic industry may be assessed cumulatively for the narrowest group or range of products, which include the like product, for which necessary information has been provided. However, domestic

industry has also provided separate information to the extent feasible with regard to the cost of production, selling prices and profit/loss.

(c) Injury Parameters:

With regard to various injury parameters, domestic industry relies upon the petition filed by them. All the parameters collectively and cumulatively establish that the domestic industry has suffered injury. In fact the most important parameters to indicate injury is the optimum cost of production of the industry and its fair selling price and the selling prices realised by the industry.

(D) Low Demand, excess capacity and inefficient domestic producers:

It has been argued by some of the opposing interested parties that the demand of seamless tubes in the country is low, which has caused injury to the Indian industry. It has also been argued by some opposing interested parties that there is excess capacity of the subject goods in the country. It has also been argued that the domestic producers are inefficient which has caused injury to them. Even if it is admitted that the demand of the subject goods is low, it would be evident that further imports would aggravate the injury to the domestic industry. A comparison of the fair selling price is the landed price of imports would show that the landed price of imports are significantly below the fair selling price. Further, a comparison of the fair selling price with actual selling price of the industry would show that the industry is selling far below the fair selling price. Further, a comparison of selling price of the industry with landed price of imports would show that there is significant price undercutting.

(E) Lost Contracts:

It has been argued by the ONGC that the information provided by the domestic industry with regard to lost contracts is factually incorrect. Since the company is in possession of the right information, we accept their contention and leave it to the Designated Authority to verify their claim. However, the claim of domestic industry on account of lost contracts in the dealers market has remained un-refuted.

(F) Custom Duty:

It has been argued by some of the opposing interested parties that the products is already attractive a high level of custom duty which have recently been increased. However, the present findings are consistent with the findings of the Designated Authority in the past on this account. It has also been the consistent practice of the Designated Authority to consider the actual levels of customs duty prevailing in the investigation period. The customs duty on this product in the investigation period

were equivalent to the customs duty on the raw materials. Even now the custom duty on the raw materials and finished products are in the same region.

2. Arguments raised by ONGCL & Volszkhy:

1. The Authority is required to evaluate whether there has been an significant increase in the quantum of dumped imports either in absolute terms or relevant to production or consumption. The data furnished by the importers is far more accurate than the data provided either by the domestic producer or compiled by the DGCI&S.
2. The seamless tubes and pipes under investigation are being procured on the basis of tenders. The competitors have also conceded that even if one order is lost, the domestic industry suffers material injury. In other words, the orders awarded during the Period of Investigation is the critical factor and not the quantum of actual imports in the Period of Investigation.
3. The production and capacity utilisation have increased during the POI . Sales quantum of the domestic producers had increased and closing stock was not material injury indicator. Therefore, the only and most important indicator of material injury is the price under cutting. The alleged lower prices from the subject countries did not force the domestic producers to quote a price lower than that quoted by the five exporters, which is the important requirement to prove price under cutting.
4. The procurement in all these cases is through tenders . Each party quotes the rates based on market condition and their perception of the price that may be offered by other competitiveness. In all the tenders of ONGC and OIL negotiation after opening the tender is prohibited. The lowest tenderer will be under cutting the others.
5. The preliminary findings (Para 17) quotes two orders which the domestic industry is stated to have lost and which is held to have cost material injury . Two of these orders were before the period of investigation. In respect of the order No. MAT/IMP/154 dated 1.9.1997, the petitioners had indicated the value as Rs. 70 crores. In fact the value of this contract-is Rs. 6.47 crores.
6. The conclusion that the imports from the said countries were undercutting the prices of the domestic industry is incorrect finding in as much as the lowest quotation has come from the domestic producers in all the tenders awarded by ONGC during the period of investigation.
7. Custom duty element is a very important part of the tender evaluation. The CIF prices of foreign suppliers are evaluated after including the customs duty and compared with ex-factory prices offered by the domestic producers. While it is true that the- Authority will evaluate the factors during the period of investigation, the fact that these pipes and tubes are procured by public sector

companies like ONGC & OIL who are engaged in providing much required oil for India at the lowest possible cost has to be kept in mind and the increase in customs duty has to be recognised. In view of this matter, the Authority may kindly fix a reference price in this case so that the benefit of the increased landed value does not accrue to the domestic industry.

14. Authority's Position :

(a) Quantum of Imports :

The Authority notes that as per DGCIS data, the quantum of imports of the subject goods during 1995-96, 1996-97 and 1997-98 (April '97-September'98 i.e. POI), were 80,667kg, 6,91,52,972 kg and 7,46,82,443 kg, respectively. Thus imports of the subject goods have increased. The data compiled by the DGCIS reflects the total position of imports and hence has been relied upon by the Authority. The market of line/boiler pipes and casing/tubing in India consists of the OEM market and dealers' market. The prominent original equipment manufacturers who are an important segment of the market for the subject goods in India include the public sector oil companies amongst others. These companies purchase the subject goods mainly through the process of international competitive bidding. Data furnished by the importers mainly pertain to imports made by public sector companies out of whom only ONGCL and OIL have responded to the importers questionnaire. This import data does not consider the imports of line/boiler pipes that are also sold through a number of dealers in India or casing/tubings sold to other OEM manufacturers or to dealers as they are required by almost all industries in large or small quantities.

(b) Price undercutting and price depression

The Authority notes that the landed values of the subject goods during the period of investigation from the subject countries were mostly in the range of * * */MT to * * */MT. These landed values were below the unit (MT) cost of production of the petitioner companies at Rs * * * , Rs * * * and Rs * * * for MSL, KSTL and ISMTL respectively. The petitioners unit selling prices/MT during the POI were Rs * * * , Rs * * * , and Rs * * * by MSL, KSTL and ISMTL respectively. Sales realization of the domestic industry declined to Rs ***/Mt in 1997-98 from Rs * * * /Mt in 1996-97. During 1998-99 (till September' 98) the selling price was Rs * * */Mt and in the POI, it was Rs * * */Mt. It is seen that at these price levels, the petitioners incurred losses (for the subject goods). Regarding actual awards during the POI, it is seen that out of * * * supply orders placed by ONGCL, KSTL supplied against * * * orders for J-55 and N-80 grade of casings. Other orders went to suppliers from the subject countries and to MSL and domestic processors. As stated in the Preliminary Findings, orders placed by purchasers like ONGC and OIL are large in volume. It is stated that the loss

of a single order to an exporter may imply loss of as much as three months production for the domestic industry in India. The domestic industry had therefore no other option but to ensure that the orders were not lost to any exporter, even at the cost of offering un-remunerative prices.

15. CONCLUSION ON INJURY

As stated at Para J 18 of the Preliminary Findings, it is observed that: - .

- a. the quantum of imports from the subject countries account for a sizeable share of demand;
- b. the petitioner has been forced to sell at prices below its non-injurious price resulting in losses;
- c. imports are undercutting the prices of the domestic industry.

16. CAUSAL LINK

The demand for the subject goods has not declined causing injury to the domestic industry. On the other hand demand has shown increase. However, prices prevailing in the market in view of dumped imports are unrealistically low forcing the domestic industry to sell at un-remunerative prices. The Authority holds that the material injury to the domestic industry has been caused by imports from the subject countries that have acquired considerable share in demand during the last three years and have undercut the prices of the domestic product forcing the domestic industry to sell below its non-injurious price. The material injury to the domestic industry was therefore caused by the dumped imports from the subject countries.

17. Anti-Dumping duty imposed:-

The Authority has evaluated the injury caused to the domestic industry on account of dumping of Seamless Tubes from the subject countries and has recommended reference price based on the injury margin being lower than dumping margin.

18. Landed Value:-

Landed value of imports is proposed to be determined after charging the actual level of all custom duties prevalent and one percent towards landing charges and two percent handling charges.

19. Assessment of Non-cooperating exporters:

For the non-cooperating exporters, the export prices have been referenced on the basis of the information furnished by the user industry and DGCIS&S data. Normal Value has been constructed. Reference price has been recommended based on the injury margin-being lower than dumping margin.

20. FINAL FINDINGS

The Authority after considering the foregoing, concludes that:

- a. Seamless tubes originating in or exported from the subject countries have been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject countries.

21. The Authority recommends levy of definitive anti-dumping duty on all imports of the categories/grades of dumped hot finished line pipes and boiler pipes of iron (other than case iron) or non-alloy steel and casing and tubing of alloy and non-alloy steel under tariff classification nos.7304.10, 7304.29 and 7304.39 of dimensions (OD) ranging from (I) 21.30 mm to 273 mm or 10"NB for line and boiler pipe and (ii) 38.1 mm to 244.5 mm or 9 5/8" for casing and tubing. The anti-dumping duty shall be the difference between the landed value of imports and the amount mentioned in Col.4.

Country/Exporter	Category of Seamless Pipe	Grade	Amount (Rs./MT)
Russia		N-80	
1. Volzhsky Pipe Plant	Casing Pipe	L-80	39,141
2. Volzhsky Pipe Plant the manufacturer & M/s. Mitsui & Co. Ltd., Tokyo, the exporter	Casing Pipe	P-110	39,141
3. All exporters of all categories of seamless pipes/tubes as described at para 21.	All types of Seamless Pipes as per para 21.	L-80	39,141
Romania	Line Pipe		Nil
1. Petrotub S.A.	Casing Pipe		Nil
2. Silcotub S.A.	Boiler Pipe		Nil
3. All exporters of all categories of seamless pipes/tubes as described at para 21.	Line Pipe		Nil
	All types of Seamless Pipes as per Para 21.		36,859
Austria	All types of Seamless Pipes		36,859
Voest Alpine and all exporters of all categories of seamless pipes/tubes as described at para 21.	As per para 21		

Czech Republic Nova Hut and all exporters of all categories of seamless pipes/tubes as described at para 21.	All types of Seamless Pipes as per para 21.	36,859
Ukraine 1. Metal Zavod Imeni Karil, Leibenecht. 2. Yuzhnotruvny Zavod, Nikopol 3. All exporters of all categories of seamless pipes / tubes as described at para 21.	All types of Seamless Pipes as per para 21. All types of Seamless Pipes as per para 21. All types of Seamless Pipes as per para 21.	Nil on account of no imports or deminimis imports as per DGCIS data.

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

22. Subject to the above, the Authority confirms the preliminary finding dated 10/11/99.

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

RATHI VINAY JHA...
Designated Authority