

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

NOTIFICATION

New Delhi the 27th February, 2009

Final Findings

Subject: Anti Dumping Investigations concerning imports of Compact Fluorescent lamps originating in or exported from China PR, Vietnam and Sri Lanka.

No. 14/1/2007-DGAD : Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

PROCEDURE

2. The procedure described below has been followed with regard to this investigation by the Authority.

i) On 30th Aug., 2007 the Designated Authority (hereinafter referred to as the Authority) issued an initiation Notification, duly notifying the same in the Gazette of India, initiating an Anti-Dumping investigations concerning imports of the subject goods originating in or exported from China PR, Sri Lanka and Vietnam (hereinafter referred to as subject countries)

ii) The Anti-dumping proceedings were initiated following an application received from M/s Indo Asian Fusegear Ltd., M/s Havell's India Ltd. and M/s Osram India Pvt. Ltd. (hereinafter referred to as the applicants) in respect of dumping of Compact Fluorescent Lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions (hereinafter referred to as CFL) originating in or exported from China PR, Sri Lanka and Vietnam, representing a major proportion of the domestic production of the said product. The application contains sufficient evidence of dumping of the said product from the subject countries and material injury resulting there from, which was considered sufficient to justify the initiation of the proceeding.

iii) The Authority notified the Embassy of subject countries in India about the receipt of dumping application made by the applicants before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

iv) The Authority sent copies of initiation notification dated 30th Aug., 2007 to the Embassy of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

v) The Authority provided copies of the non-confidential version of the application to the known exporters and to the embassies of China PR, Sri Lanka and Vietnam in accordance with Rule 6 supra.

vi) The embassies of China PR, Sri Lanka and Vietnam in India were informed about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/ producers from their country to respond to the questionnaire within the prescribed time. A copy of the letters and questionnaire sent to the exporters/producers was also sent to them, along with the names and addresses of the exporters.

vii) The applicants requested the Authority to treat China as a non-market economy country for the purpose of present investigations. For the purpose of initiation, the normal value in China PR was considered based on the price of the subject goods in Thailand, Korea RP or Malaysia as an appropriate market economy country for the purpose of establishing normal value in respect of China PR. The Authority informed the known exporters from China that it proposes to examine the claim of the applicant in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore advised to furnish necessary information/ sufficient evidence, as mentioned in sub-paragraph (3) of paragraph 8 to enable the Designated Authority to consider whether market economy treatment should be granted to cooperating exporters/producers who could demonstrate that they satisfy the criteria stipulated in the said paragraph. A questionnaire for according market economy treatment was forwarded to all the known exporters/producers in China and the Embassy of the Peoples' Republic of China.

viii) The Authority sent questionnaire, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4);

M/s. Philips & Yaming Lighting Co. Ltd., China.
M/s. Changchun Electric Wire & Bulb Factory, China.
M/s. Fujian Fuzhou Light Bulb Factory, China.
M/s. Guanghou Flash Light Industrial Corporation, China.
M/s. Guangzhou Panyu Seagull Flash Light Industry Co., China.
M/s. Henan Anyang Bulb Factory, China.
M/s. Jiangsu Xuzhou Everlasting Lighting Electrical Equipment Holding Co. Ltd., China.
M/s. Leging Electric Bulb Factory, China.
M/s. Shanghai Yaming Electric Lamp Works Co. Ltd., China
M/s. Chanzhou Redsun Electrical Appliance Manufacturing Co. Ltd. China.
M/s. Zhejiang Sunlight Group Company Ltd., China.
M/s. Rang Dong Source and Vacuum Flask Joint Stock Company, Vietnam.
M/s. Ceyernergy Electronics Company Pvt. Ltd., Sri Lanka.
M/s. Kathawasi (Pvt.) Ltd. Srilanka.

ix) Following exporters/producers have responded to the exporter's questionnaire in a substantial manner and notice of initiation:

M/s. Foshan Electrical & Lighting Co. Ltd., China.
M/s. Yanyang Electronic Fluorescent Lamp Factory, China
M/s. Osram China Lighting Ltd., China PR.
M/s. Phillips & Yaming Lighting Co. Ltd., China.
M/s. Shin Kwang Lanka (Pvt.) Ltd. Srilanka

x) Following importers have responded to the importer's questionnaire:

M/s. Starlite Lighting Limited, Nasik.

M/s. Philips Electronic India Ltd.

M/s. Osram India (Pvt.) Ltd.

M/s. Crompton Greaves Ltd.,

M/s. WIPRO Ltd.

xi). Representations on the Initiation were received from ESLMA India, Jointly by Crompton Greaves, Bajaj electrical, Wipro, Philips Electronics Ltd and Asian electronics Ltd. and some of the other parties as named below in viii). M/s Suqian Deda Lighting Co ltd, Jiangsu, China and Hangzhou Linan Dongfeng Lighting Factory China also responded to the Initiation and requested time for filing response, which was also provided. However, these companies did not submit any questionnaire response.

xii) Further, questionnaire was sent to the following parties in India calling for necessary information in accordance with Rule 6(4).

M/s. Deco Gold Electronics Ltd., Morbi, Gujarat.

M/s. H.Q. Lamp Manufacturing Company, Haridwar, Uttranchal.

M/s. Delta Electronics, Noida, Uttar Pradesh.

M/s. Sonera Time & Light Mfg. Co., Rajkot, Gujarat.

M/s. Clock Manufacturers Association (India), Morbi, Gujarat.

M/s. Ajanta Manufacturing Ltd., Morbi, Gujarat.

M/s. Ajanta Limited, Morbi, Gujarat.

M/s. Ajanta India Ltd., Morbi, Gujarat.

M/s. Ceama Consumer Electronics & Appliances Mfrs. Association, New Delhi.

M/s. Surya Roshni Ltd., New Delhi.

M/s. Shilpa Electricals Pvt. Ltd., Periamet, Chennai.

M/s. Samay Electronics Pvt. Ltd., Morbi, Gujarat.

M/s. Crompton Greaves Ltd. Lighting Division, Baroda, Gujarat.

M/s. H.Q. Lamp Mfg. Company, Haridwar, Uttranchal.

M/s. Starlite Lighting Ltd., Nasik, Maharashtra.

M/s MORBI Chamber of Commerce & Industry Tulsi Shopping Centre, Morbi, Gujarat.

M/s. Crompton Greaves Ltd., Mumbai.

M/s Bajaj Electricals Ltd., Mumbai.

M/s. Wipro Limited, Bangalore.

M/s. Philips Electronics India Ltd., Gurgaon, Haryana.

M/s. Asian Electronics Electronics, , Maharashtra.

M/s. J.G. Eelectronic & Allied Ltd., Chennai.

M/s. Devraj Enterprises (Pvt.) Ltd., Borivali (W), Mumbai.

xiii) Response to this importers questionnaire and/or comments have been received from following companies –

M/s. Delta Electronics, Noida, Uttar Pradesh.

M/s. H.Q. Lamp Manufacturing Company, Haridwar, Uttaranchal.

xiv) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.

xv) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation.

xvi) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty, lower than the dumping margin, would be sufficient to remove injury to Domestic Industry

xvii) Investigation was carried out for the period starting from 1st April, 2006 to 31st March, 2007 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.

xviii) The Authority conducted on the spot investigation of the domestic industry. The cost of the production of the domestic industry was also analyzed to work out the cost of the production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles, based on the information furnished by the domestic industry, so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry

xix) The Authority notified preliminary findings vide Notification no. 14/1/2007-DGAD dated 12th of March of 2008 and subsequent corrigendum notifications No. 14/1/2007-DGAD, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 2nd July, 2008, 5th August 2008 and 3rd October 2008.

xx) The Authority held a public hearing on 17th July 2008 to hear the interested parties orally, which was attended to by the representatives of the domestic industry, exporters of the subject goods from the subject countries. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered and incorporated in the disclosure to the extent they are relevant and substantiated with evidence;

xxi) The Authority also verified the data of the cooperating exporter, to determine the normal value and dumping margin as per the Rules.

xxii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties.

xxiii) The authority vide its letter dated 01.12.08 informed the interested parties about extension in the investigation period by another three months i.e. up to 28.02.09.

xxiv) The authority issued a detailed disclosure statement on 13.02.2009 with time up to 23.02.09 for submissions, to the interested parties giving thereby essential facts under consideration which may form the basis of final determination.

xxv) The authority has taken conversion rates as 1USD= Rs.45.60 and =7.94RMB for the POI. The conversion rate for Rs/RMB has been adopted as 1RMB=Rs 5.69 for the POI.

xxvi) *** In the statement represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

3. The product under consideration is Compact fluorescent lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions. Unassembled CFL without ballast/control gear/choke comprises of sealed tubular shell with or without lamp base.

Finished compact fluorescent lamps are (i) integrated type with built in ballast / control gears / choke and (ii) non-integrated type without built in control gears/ballast/choke.

4. CFL is usually defined as a single-ended fluorescent lamp with a bent discharge tube of small diameter forming a very compact unit with or without built-in “ballast/ control gear/ choke” for operation. The product under consideration includes the following:

a. CFL with integral/ integrated built in ballast / control gears /choke. These are also known as self-ballasted. These are complete, ready to use units

b. Non-integrated CFLs which do not have built in ballast / control gears / choke. These are CFLs where lamp is electrically connected to permanently wired external ballast in the light fitting. Ballasts and CFLs in these cases are produced and sold as separate products and either product can be substituted as a replacement.

c. Unassembled CFL without ballast/choke/control gear comprises of sealed glass tubular shell with or without lamp base, whether or not processed further. These may be imported as bare shell or already fitted with or without other components like filaments, cap etc. forming part of CFL. Sealed glass tubular shells are within the scope of the product under consideration.

5. The petitioner, in their petition, claimed that the subject goods are produced and sold in a large number of different types and varieties. The petitioner has categorized the subject goods into following three categories:

- a. Unassembled CFL, whether or not processed further;
- b. Ready to use compact fluorescent lamps with external choke; and
- c. Ready to use compact fluorescent lamps with internal choke.

6. The petitioner further stated that CFLs are produced and sold in a large number of different wattages. Accordingly, the petitioner claimed that different product types could be distinguished in terms of the above mentioned three categories and wattages. These have been categorized into different types following a product control system (PCN system). The methodology followed is described below.

- a. Firstly, the product has been categorized into following types of CFL
 - 1- Sealed glass without lamp base
 - 2- CFL without chock
 - 3- CFL with choke

1st digit in the PCN signifies the category of CFL.

- b. Secondly, CFL of different wattage have been imported during the relevant period. Different types of CFL within each of the categories have been identified by considering the wattage of the CFL. 2 digit code has been used to identify the wattage of the CFL imported.

7. Considering the above mentioned methodology, PCNs have been identified with each known import transactions. For example:

Product category	Code	Wattage	PCN
Sealed glass without lamp base	1	20	120

CFL without chock	2	05	205
CFL with choke	3	36	336

8. Response to disclosure statement

a) Domestic Industry

b) The Designated Authority, on the basis of detailed investigation has rightly determined the scope of Product under consideration & like article, standing of the petitioners and scope of the domestic industry. We request the Designated Authority to confirm the disclosure statement in this regard.

Petitioners have earlier provided evidence to show that:

(a) before imposition of anti dumping duty for the first time, Indian Producers were setting up production facilities, which included production of both sealed shells and finished, ready to use CFL. This includes companies such as petitioner companies.

(b) After imposition of anti dumping duty for the first time, Indian Producers were largely setting up production facilities without including production facilities of sealed shells. These production facilities (where sealed burner is purchased item) are largely assembly line operations without having production facilities for production of sealed burners.

(c) After initiation of present investigations, Indian Producers are setting up production facilities, which include production facilities for both sealed shells and finished, ready to use CFL.

It is thus evident that the exclusion of sealed burner from the scope of the petition and eventually from the scope of duties led to setting up of assembly line operations in the Country and continued dumping of the product. It is also evident that inclusion of sealed burners has led to Indian Producers once again setting facilities for production of sealed burners.

c) Philips and Yaming, China.

i) From the detailed submissions, it is clear that parts of CFL are not like article to CFL. The parts of the CFL do not have the "essential character" of a complete or finished CFL. Refer to the filing made with the Hon'ble Designated Authority vide communication dated July 30, 2008 table that dissects the cost of the components that comprise a complete CFL and the detailed description of the production process of CFL which is a complicated and capital intensive process. This needs to be distinguished from the position that this Hon'ble Designated Authority took in the case concerning Measuring Tape from China PR where the Authority deemed it appropriate to impose anti-dumping duty on the parts of measuring tapes within the factual matrix of the measuring tapes investigation, it was a simple manual assembly of the parts to complete the product. This is not so for CFL manufacture. The assembly of ready to use CFL is far more complex and capital intensive. The Hon'ble Designated Authority has verified this fact during the course of this investigation.

ii) To further substantiate the issue under consideration, in the same filing evidence was lead, to show by way of an affidavit of a trader in the business of selling CFLs stating that the parts and complete CFL are not a like article as they do not have the end use and are they the said products in question are also differently perceived by the end consumers.

iii) References to earlier findings of the authority in the case of Vitamin C have been made.

iv) There is no controversy to the fact that two products cannot be part of the same investigation as per the finding arrived by the Hon'ble Designated Authority under Para 11. The issue under hand which requires to be –reconsidered is whether a burner can technically substitute a CFL either with or without choke. The answer is clearly an absolute “No”. There is a judicial finding on record that parts of a CFL do not have the “essential characteristics” of a completed CFL as per the order of the Authority for Advance Rulings [2004 (168) E.L.T. 164 (AAR)]. The Hon'ble Designated Authority therefore had to consider all the aspects required for imposition of anti-dumping such as Domestic Industry, Dumping, Injury and Causal Link for both the products distinctly.

v) There are no sales of parts of CFL in the domestic market by the Petitioners.

vi) Further, even if these companies who import the sealed glass tubular shells / burners for Compact Fluorescent Lamps and assembling the same into Compact Fluorescent Lamps do not undertake basic production facilities, but the Designated Authority has to appreciate that these companies are registered as “manufacturers” as defined under the Central Excise Act and pay the same. Thus, there is no logical reasoning or legal basis to exclude these companies from the purview of being part of the Domestic Industry where the product Compact Fluorescent Lamps is concerned. Also, there is plethora of judgments cited below to validate the factual situation as in the present case, where mere assembling of product also amounts to manufacture as defined under section 2(f) of the Central Excise Act. Therefore, the Designated Authority has no jurisdictional power to de-recognize the status of such companies from being “a manufacturer” as defined under the Excise Act. References to cases of B.P.L. INDIA LTD. *Versus* COMMISSIONER OF CENTRAL EXCISE, COCHIN, 2002 (143) ELT 3 (SC) and MAJESTIC AUTO LTD. *Versus* COMMISSIONER OF CENTRAL EXCISE, MEERUT 2001 (130) E.L.T. 551 (Tri. - Del.) have been made.

vii) It is the submission of the interested parties that the issuance of the Customs Notification by the Ministry of Finance would be contradictory to its own action, while at one hand it accepts the recommendation of excluding such companies from the purview of being part of the “Domestic Industry” and on the other hand it collects the revenue in the form of Excise Duties and recognizes their status as a “manufacturer” of the Compact Fluorescent Lamps. Thus, this Hon’ble Ministry cannot sanction the customs notification and reprobate and approbate at the same time and if the same is issued it will be illegal, discriminatory and without the authority of law.

viii) The Parties submit that the Hon'ble Designated Authority has erred in concluding the fundamental basis of investigation as regards the standing and consequently initiation of the investigation on both the products which are clearly not a like article.

View of the exporter, importers, consumers and other interested parties.

9. A number of interested parties have represented before the Designated Authority and raised various issues subsequent to initiation of the investigation and also at the time of oral hearing, which were primarily targeted against inclusion of some of the types of the product that sealed glass tubular shells are not compact fluorescent lamps and Past imposition of anti dumping duty did not include these product types, therefore should not be included within the scope of the product under consideration. It has also been argued that sealed glass tubular shells are in fact an input raw material required for production of compact fluorescent lamps and sealed glass tubular shells and compact fluorescent lamps constitute two different products. Further, a number of decisions of the Hon'ble Courts (CESTAT and High court orders) establish that incomplete CFL or parts of CFL cannot

be included.

Examination by the Authority

10. The investigation has shown that the production process involved in producing CFL is as follows:

- a. Production process up to the stage of sealed glass tubular shell includes glass tube cutting, washing & drying of glass tube, bending the tube, coating, end cleaning, tube baking, exhaust tube cutting, mount making, tube sealing, fusion, Exhausting (Vaccumization, dropping Mercury , filling Innered gases , activation of capsule), capping / basing.
- b. Production process on sealed glass tubular shell for ready to use CFL (with out choke or Core Lamp) involves starter & capacitor connection (in case of 2 pins core lamp only, but in 4 pin core lamp, starter & capacitor are not required), bottom cap fixing, cap base crimping, wire cutting, pin punching, plastic cap notching, ageing.
- c. Production process for ready to use CFL (with choke) involves affixing of choke (a choke may be out-sourced or may be produced in-house from populated PCB) plastic bottom fixing, Cap fitting, crimping of Cap, soldering, ageing.

10.1 On the spot investigations were carried out at the premises of the three petitioner companies, wherein production activities were seen in detail, particularly in terms of the process identified above. The petitioner companies were directed to bifurcate their investments in plant and machinery into:

- a. Investments up to sealed glass tubular shells;
- b. Assembly operations for making ready to use CFL;
- c. Assembly operations involved in producing choke.

The relevant information is showed as follows:

Figures in Rs. Lacs

Company	Havell's	Indo Asian	Osram	Domestic Industry	Share
Investments up to sealed glass tubular shells	***	***	***	***	91

Assembly operations involved in producing choke	***	***	***	***	9
Total Investment	***	***	***	***	100%

11. It was seen that the production activity was quite elaborate for making sealed glass tubes in comparison to the production activity involved between sealed glass tubular shell and ready to use CFL. The later was more of an assembly line operation as against production activity involved in producing sealed glass tubular shell. In case of CFL with external choke, it was noticed that the sealed glass tubular shells had far less production activity of further processing and that too in the form of addition of cap only. Authority further notes that the intention of the antidumping measures is not to restrict the imports create a situation whereby imported material is not available for assembly lying manufacturers but to ensure that imports do not take place at dumped prices and therefore, proposes to conclude that these submissions with regard to providing the petitioners a chance to create monopoly is unsubstantiated within the scope of antidumping rules.

12. With regard to the decisions of the Hon'ble Courts in India, the Authority notes that these decisions relate to disputes arising out of previous imposition of anti dumping duties. The product under consideration in the previous case was "ready to use" CFL and therefore questions that arose for consideration by the Hon'ble Court were whether incomplete CFL in the form of sealed glass tubular shells (with filament or with other components) can constitute "ready to use" CFL, attracting anti dumping duties. The Courts have held that these would not attract anti dumping duties, as the duties were imposed only on "ready to use" CFL. However, what is relevant in the present case is whether the Authority is justified in including an incomplete CFL within the scope of the product under consideration. The Authority notes that the Hon'ble Courts have not at any point of time held that incomplete CFL cannot be included within the scope of the product under consideration. The Authority also notes that the domestic industry filed the petition, requesting imposition of anti dumping duties on these incomplete CFL on the grounds that, with the imposition of anti dumping duties earlier on ready to use CFL, the market for CFL witnessed large scale imports of incomplete CFL in the form of imports of sealed glass tubular shells, whether or not processed further (with or without filaments), thus causing continued injury to the domestic industry. The Authority also notes that the domestic industry earlier stated that they are not seeking extension of anti dumping duties as they intended to include other components of CFL or incomplete CFL within the scope of the product under consideration and such inclusion was possible only through a fresh petition.

13. The subject goods fall under chapter 85 of the custom Traffic Act, 1975 under subheading no. 8539. The customs classification, however, is indicative only, and is in no way binding on the scope of the present investigation.

14. In view of the above, the Authority holds that the sealed glass tubular shells are nothing but incomplete compact fluorescent lamps and therefore, its inclusion within the scope of product under consideration is justified and the goods produced by domestic industry are like articles to the goods originating in or exported from the subject countries and there is no significant difference in the subject goods produced by the petitioner and those exported from subject countries. The two are technically and commercially substitutable and the goods produced by the petitioner are like articles to the product imported from the subject countries within the meaning of the Rules supra.

Countries involved and de-minimis

15. The countries involved in the present investigation are China PR, Vietnam and Sri Lanka, herein after also referred to as Subject Countries.

16. The Authority has determined volume and value of imports on the basis of the information received from DGC&IS for the POI. Total volume of imports determined is as follows –

Figures in Lac pcs.

Sealed glass shell/Burners	Without choke	With choke	Total	Share%	
China	928.95	15.07	120.76	1,064.78	87.86
Vietnam	1.11	52.93		54.04	4.46
Subject countries	928.95	16.18	173.69	1,118.82	92.32
Sri Lanka	0.81	30.58		31.39	2.59
Other countries	5.57	24.01	32.15	61.73	5.09
Total imports in India	934.52	41.00	236.42	1,211.94	100

17. The information contained in the petition showed that the volume of the imports from Malaysia were blow 3% of total volume of imports. As imports from Malaysia were negligible by the reason of volume, the Authority did not consider it appropriate to initiate investigations against imports from Malaysia.

18. One of the producer/exporter from Sri Lanka argued that Sri Lanka should be dropped from the subject countries because of inclusion of compact fluorescent lamps within FTA between India and Sri Lanka.

19. The Authority notes that the FTA agreement between the two countries does not bar anti dumping investigations. The Authority however notes that the volume of imports from Sri Lanka is below de-minimis limits (2.59%). Initially, the petitioner had provided information from DGCI&S for the period upto Dec., 2006 and from IBIS for the period Jan.-March, 2007. Full information on imports from DGCI&S has now become available for the entire investigation period, which shows that the volume of imports from Sri Lanka is de-minimus. In view of this, the Authority terminates investigations in respect of Sri Lanka in accordance with Rule 14 of the Rules. Accordingly, imports from Sri Lanka have been clubbed in other countries for the purpose of this investigation.

Scope of the Domestic industry and Standing

View of the domestic industry

20. The application was jointly filed by M/s Indo Asian Fusegear Ltd., M/s Havell's India Ltd., and M/s Osram India Pvt. Ltd. Applicant producers produce sealed glass tubular shells and thereafter produce CFL with external chokes and CFL with integrated choke. Petitioner

submitted that the subject goods are produced by a number of other companies by importing sealed glass tubular shells and carrying out remaining incremental insignificant production activities. Petitioner further submitted that applicant companies do not undertake basic production activities and are importers of the subject goods in the form of sealed glass tubular shells in significant volumes. Petitioner has provided production information compiled by Electric Lamp & Components manufactures Association (ELCOMA). This information provided by ELCOMA showed that the goods are produced in India only by following companies:

- a. Indo Asian Fusegear
- b. Havells India
- c. Osram India
- d. Surya Roshni
- e. Phoenix

21. This petition was supported by Surya Roshni Ltd. at the stage of initiation. Subsequent to the initiation, the company has provided information with regard to imports made by them and injury information in respect of goods produced by them. Surya Roshni thus provided information as a producer of the subject goods as also as an importer of the subject goods and requested the Designated Authority to impose anti dumping duties on the goods for which petition was filed before the Authority.

Examination by the Authority

22. At the stage of initiation, the Authority considered that those Indian producers who were producing the subject goods by importing sealed glass tubular shells do not constitute eligible domestic producers in as much as they are importers of the subject goods in significant volumes and these companies are not undertaking basic production activities. It was determined that the production of the applicant companies constituted more than 50% of Indian production. The Authority therefore determined, at the time of initiation, that production of the petitioner companies constituted "a major proportion" in Indian production and the petition satisfied standing under Rule 5. It was further determined that the petitioner companies constituted domestic industry within the meaning of the rule 2.b read with 2.d.

23. A number of companies have represented that they are also engaged in production of compact fluorescent lamps. These companies have claimed that they have set up facilities for production of CFL and are regularly paying excise duty as manufacturers. It has also been claimed that the production activity from the stage of sealed glass tubular shells was significant and constituted complete production activity. It has been highlighted that production activity involved in production of choke itself is quite significant. It is also the claim of these parties that value addition from the stage of sealed glass tubular shells to CFL is quite significant. A number of decisions of the Hon'ble Courts in India have also been cited to establish that sealed glass tubular shell is not a ready to use CFL and is only a component. These interested parties have therefore sought exclusion of sealed glass tubular shells from the scope of the investigations.

24. As noted above, the Authority is of the opinion that the basic production activity involved in production of CFL starts from production of sealed glass tubular shells onwards. Mere assembly of these shells into CFL or assembly of choke and addition to these shells does not constitute complete production activity. Furthermore, these companies are importers of the product under consideration in significant volumes. These companies were in particular requested to provide details of the production process followed by them. Only two of the companies namely M/s H.Q.lamps and Delta Electronic responded. They have provided list of plant and machinery which is Rs. ***Lacs and Rs. ***Lacs respectively for these companies. The range of investment in plant and machinery is Rs. ***-*** Lacs by these importers as against the investment in the plant and machinery by the petitioners in the range of Rs. ***-***Lacs.

25. It has also been claimed that the words "CKD or SKD conditions" stated in the initiation notification has not been defined in the initiation notification and this ambiguity has prevented the producers/ exporters in subject countries from responding to the Authority and providing relevant information.

26. As stated here in before, the production activity between sealed glass tubular shell and ready to use compact fluorescent lamps constitutes more of an assembly line operation. Moreover, sealed glass tubular shell has been considered as an incomplete compact fluorescent lamp and therefore, any company involved in production of compact fluorescent lamps using imported sealed glass tubular shells has to be considered as a company engaged in production through significant imports of the product concerned. The domestic industry has claimed that if the production activity and investment involved upto the stage of sealed glass tubular shells was insignificant; these companies should have set up facilities for production of sealed glass tubular shells as well. As these companies do not carry out basic production activities, therefore, they cannot be considered as producers of the product concerned within the meaning of anti dumping rules. On both grounds, the Authority considers that the companies producing compact fluorescent lamps using sealed glass tubular shells imported from subject countries does not constitute eligible domestic producers for the purpose of the present investigation.

27. The Authority notes that M/s Havells and Osram have also imported the product under consideration during the relevant period. Imports made by these companies in relation to their own production, imports into India and demand in India are as under –

Havells	Osram	
Imports from subject countries	Nil	***
Imports from other countries	***	Nil
Total imports by these companies	***	***
Imports into India from all sources		1211.94
Production of these companies	***	***
Demand in India		1469.54

Share of imports by these companies in relation to

Imports into India from all sources	2.00%	0.53%
Production of these companies	***%	***%
Demand in India	1.66%	0.44%

28. During the course of on the spot investigations at the premises of Havells, the Authority noted that Havells has imported the subject goods. These imports were reported as “outsourced” and booked as “raw material consumed”. The company explained that since these were T3 type of CFL and were not being produced by the company, the company had imported these types, pending setting up of facilities for such type by the company. The company further explained that it has since commenced commercial production of these types as well and stopped imports completely after Feb., 2007.

29. The Authority notes that Havells has made these imports from Sri Lanka. As noted above, (based on full volume of imports which has now become available for the entire investigation period) the volume of imports from Sri Lanka itself is de-minimus. There are no imports by the company from any other source. The Authority holds that the imports made by Havells were insignificant and are from a country from where the entire volume of imports itself is de-minimus.

30. As regards Osram, the Authority notes that the imports made by the company are insignificant in relation to total production activity of the company. The company has imported those models of CFL which the company is not producing in India.

31. The Authority also notes that a company which is entirely dependent on imports of sealed glass tubular shell for production of compact fluorescent lamps must be distinguished with a company whose general emphasis is production in India and which is resorting to imports to supplement its production line.

32. In view of the above, the Authority holds that both Osram and Havells constitute eligible domestic industry within the meaning of Rule 2(b).

33. On the basis of the above, the Authority has determined the standing of the applicant and proposes to conclude that the applicant satisfied standing requirements under the rules and the petitioner companies constitute domestic industry within the meaning of the rules.

Other submissions and issues raised

34. It has been argued that the notice of initiation was not placed on the website and thus depriving some interested parties from responding to the Authority. It is noted that notice of initiation was published in the Gazette of India and was sent to a large number of known interested parties. Furthermore, the Authority allowed time for submissions to all those interested parties who made a request for the same.

35. It has been argued that the Govt. of India has now made application of BIS standards mandatory and therefore there is no necessity of imposition of anti dumping duty. The Authority considers that application of BIS standards does not imply that the product can no longer be exported at dumped prices.

36. A number of interested parties including clock Manufacturers Association (India) has also individual members of this Association separately have represented that coverage of sealed tubular shell with or without lamp base within the purview of product under consideration should not

escape the attention of the Authority. It has been pleaded that there are very few manufacturers of sealed tubular shell with or without lamp base and the so called manufactured comprising the domestic industry are manufacturing the said product for their captive consumption and therefore, cannot be accepted to sell their above product in the Indian market at reasonable market only at a risk of creating competitors. It has further been pleaded that if antidumping duty is imposed on the above crucial part of CFL, three petitioners will have a carte blanche to exploit Indian market through the route of DGAD and ultimately the consumer will be the victim. To sum up their submissions it has been stated that sealed tubular shell with or without lamp base is crucial and important component of CFL and in the light of scarce availability of the said component in India, levy of antidumping duty on this component is justified, uncalled for and unreasonable.

Examination by the Authority

37. The Authority after having gone through these submissions notes that antidumping law is not invoked to restrict the imports or to restrict the access to users of various imported materials/product. The law is intended only to ensure that these products are not imported at dumped prices and if the authority concludes after going through submissions and records finds that the products are imported at dumped prices and a causal link is established between the dumped imports and injury to the domestic industry, the authority is under obligation to recommend imposition of antidumping duty. If on the contrary the authority based upon the investigations concludes that no dumping is taking place or dumping is not cause of injury to the domestic manufacturers, it does not recommend imposition any antidumping duty. Accordingly these parameters have been examined by the Authority in detail in paragraphs hereinafter.

38 Response to Disclosure statement:

38.1 M/s Ajanta India Ltd. raised the following arguments:

- (a) The company had filed a writ petition, which is pending before the Hon'ble High Court.
- (b) The company neither received questionnaire nor any notice of hearing.
- (c) The company has not been made available the Non Confidential Version of evidence

presented by various interested parties. There was no intimation to the company.

- (d) The Authority has blindly relied upon information filed by the applicant companies to work out cost of production and no independent analysis was done.
- (e) The authority never give any notice to the company despite specific request being made by them vide their letter dated 15th September.
- (f) Sealed Glass tubular shells are only parts of CFL and cannot be treated as an unassembled CFL. The Authority has rendered contradictory finding. At para 8, the authority has acknowledged that production activity takes place after manufacturing of sealed shell while at para 9 it has been observed that activity after production of sealed shell is only an assembly line operation.
- (g) Sealed glass tubular shells are not Compact Fluorescent Lamps. Past imposition of duty did not include this product type. Sealed shells are, in fact, input raw material required for production of CFL.
- (h) The decision of the authority is contrary to the judgment of Delhi High Court in the matter of Plaza Lamps and Tubes Vs. Commissioner of Customs.

- (i) The authority has desperately combined sealed shells.
- (j) There is no separate independent injury analysis in respect of sealed shells.
- (k) The authority has done no technical/scientific study in concluding that sealed shells are nothing but incomplete CFL.
- (l) The authority has terminated investigations in respect of Sri Lanka only to facilitate M/s Havell's India Ltd.
- (m) The view taken by the authority in para 19 is wrong.
- (n) The authority wrongly concluded that the petitioner companies constitute more than 50% of Indian production. The authority has not considered the number of companies engaged in production of CFL and is regularly paying Excise duty by undertaking significant production activity from the stage of sealed shell. The production of choke itself is quite significant.
- (o) The words CKD and SKD conditions are stated in the initiation not defined in the initiation notification and this ambiguity prevented the interested parties from responding to the authority.
- (p) In spite of the fact of imports of Hevells and Osram, the authority has incorrectly held them eligible domestic industry.
- (q) Concluding is totally contrary to Rule 2(b). Rule 2(b) confers no discretion to the Designated Authority.
- (r) The DA has not considered that applicant companies are manufacturing sealed shells for their captive consumption. Imposition of anti dumping duties on sealed shell shall lead to a carte blanche by these companies.
- (s) The authority has concealed Net Sales Realization landed price and price undercutting. In the absence of these figures, entire injury conclusion is flawed. Almost all-relevant information has been kept confidential in total disregard to jurisprudence on anti dumping and rulings of Supreme Court.
- (t) Applicants are predominantly multinational companies abusing the anti dumping procedure to kill internal competition from small and medium sector.

38.2 M/s Ajanta Manufacturing Ltd. raised the following arguments:

- (a) The disclosure statement was received on 19th Feb. with replies due on 23rd Feb. Sufficient time has not been given for filing submission.
- (b) The notification has not been placed on Website of DGAD nor has any reason been recorded for not placing the notification on Website. Interested parties have been deprived of their rights of information. Initiation notification was put on Website after 14 days.
- (c) The applicants have not sought information on imposition of duty on tube glass tubular shell.
- (d) The Designated Authority incorrectly claimed confidentiality. All information should be disclosed to affected parties.

(e) No definition of CKD or SKD conditions has been given in initiation notification. The terms have not been defined in Customs Act or foreign Trade Policy. Absence of the definitions prevented many exporters/importers from making their effective submissions.

(f) The authority has deprived of their status as manufacturers of CFL.

(g) In terms of rule 2(a) of interpretation rules, sealed glass tubular shell cannot be treated as incomplete shell because it does not acquire the characteristic of complete CFL. It can acquire characteristic of complete CFL only when it is assembled with essential parts i.e. choke/Ballast.

(h) Investigations have not been concluded within one year. The extension notification ought to have been issued before 30th August. The investigation has got automatically terminated after 30th of August. The DG has no justification to extent time for completion of investigation. Extension notification is therefore, invalid. The entire proceedings have become null and void.

(i) With BIS Standards having been made mandatory, there is no scope for apprehension that Indian domestic market will be floated with inferior quality of CFL in the absence of anti dumping duty.

(j) Petitioners confirmed in the public hearing that they have not sold sealed shell in the market. Production was only for captive consumption. Therefore, the question of injury to them does not arise.

(k) The authority has not verified records of the exporters, even though they have provided no objection certificates. These exporters have been subjected to injustice and have been deprived of their rights to participate in the proceedings. This issue has also not been addressed.

38.3 In respect of the issues concerning the disclosure statement, the Indian Consultants of M/s Philips and Yaming, China have filed almost similar response in respect of M/s Starlite Lighting Ltd. The issues raised have been dealt with at appropriate places in the findings.

39. Examination by the authority.

The Authority notes that certain parties had filed writ petitions before the Hon'ble High Courts at Mumbai and Delhi. The Writ petitions filed by M/s Philips and Ajanta Manufacturing Ltd. have been disposed off by the Hon'ble Courts. The petition filed by M/s Ajanta India Ltd. is pending in the Hon'ble High Court of Delhi. Since the Authority has not been prevented from recording these findings in any of these writ petitions, the Authority has proceeded with notifying the present findings.

39.1 In respect of the issues raised by M/s Ajanta India Ltd.

39.1.1 It is stated that Rule 6 of the anti dumping rules provides for detailed procedure required to be followed for conducting investigations. The Authority has meticulously followed the investigation procedure prescribed under rule 6. There has been no violation of the laid down procedure.

(a) The Authority issued a public notice in the extraordinary Gazette of India, recording its decision to initiate the present investigations. Contents of the initiation notification provided adequate information on various parameters relating to the present investigations. The initiation notification specified the time limit allowed to interested parties for making their views known. The Authority had also informed that a public file shall be kept by the Authority which would be open for inspection and would contain non-confidential summary of the submissions made by various interested parties. The public

file was inspected by a large number of interested parties. The contention of interested parties that non confidential version of the evidence was not made available to certain interested parties is not correct.

The Authority received submissions from a number of parties claiming themselves to be manufacturers of CFL and asking non-imposition of duties, in particular on Burners. The Authority had specifically requested these parties to provide specific information vide letter dated 04.02.2008. A copy of the letter was addressed to M/s Ajanta India Ltd. at their address Ajanta Industrial Estate, Opposite Rewapark, Morbi, Gujarat – 363 641 as well. The company has, however, preferred not to provide any information to the Authority. In fact, in its response to initiation as well, Ajanta India has merely advanced certain arguments and has not provided evidence in support of its contention.

(b) Rule 6(7) provides that the Authority shall make available the evidence presented to it by one interested party to the other interested parties participating in the investigation. The rules does not provide for “providing” a copy of such non confidential version to various interested parties. “Make available” must be distinguished with “providing”. In fact, a large number of interested parties inspected the public file throughout the course of investigation and obtained copies of the documents considered relevant by them. It cannot be accepted that there was no intimation to the company with regard to non confidential version of the evidence available in the public file.

(c) It is confirmed that the cost of production as claimed by the domestic industry has been subjected to scrutiny by the Authority. Not only that the companies were directed to get the cost information certified by an independent practicing Cost Accountant, but also the Authority conducted its own verification of the information provided by the companies. It is clarified that the Authority has neither admitted all the claims made by the domestic industry, nor has adopted the cost of production as claimed by them. The Authority has made its own calculations of cost of production and non-injurious price. With regard to notice to the company, the Authority notes that the Authority has addressed the company not only through a specific letter dated 04.02.2008, but also through Gazette notification. The purpose of Gazette notification is to make the same known to all interested parties. An interested party cannot plead ignorance on the Gazette notification issued by the Authority. The whole purpose of issuing gazette notification gets defeated if an interested party is allowed to claim ignorance on a notification issued in the Gazette of the Country. No submissions have been made by Ajanta India either after the gazette notification issued by the Authority or by the Ministry of Finance at the stage of interim duties. It may be noted that the duties were imposed by Customs notification no.126/2008-customs dated 21.11.2008 of the Preliminary findings dated 12.03.2008, thus between imposition of duties and the recommendations, there was a gap of about eight months. The company cannot plead ignorance on the preliminary findings notification issued and non submission of comments thereon.

(d) The issue of inclusion of sealed tubular glass shells has been addressed in detail in the preliminary findings and in the present findings hereinabove. No interested party has been able to establish how the conclusions arrived at by the Authority either in the preliminary findings or in the disclosure statement are incorrect. The Authority holds that, in fact, none of the interested parties have provided verifiable evidence to show that sealed glass tubular shells are so fundamentally different from “CFL wherein choke is not integrated” that the two should be treated as dislike articles under the anti dumping Rules. The production process between “sealed glass tubular shell” and “CFL wherein choke is not integrated” is not so significant that the two can be described as dislike articles. It is pertinent to note that the mere fact that eventual end consumers cannot interchangeably use the two products does not render the two as dislike article for the purpose of anti dumping. In a situation where producers are able to readily switch from one product form to another form and continue dumping of the product, the two product forms must be considered as like articles for the purpose of anti dumping rules.

The Authority also notes that thrust of the argument of interested parties is based on comparison between “sealed glass tubular shell” on one hand and “CFL wherein choke is integrated” on the other hand. None of these opposing interested

parties have done comparison with “CFL wherein choke is not integrated” to establish that sealed glass tubular shell is distinct article for the purpose of anti dumping duties. Further, none of the interested parties have established that “CFL wherein choke is integrated” and “CFL wherein choke is not integrated” are dislike articles.

(e) The Authority also notes that in the previous investigations, the Authority had considered ready to use “CFL wherein choke is integrated” and “CFL where choke is not integrated” as one product. The fundamental difference in the two is that whereas one product has ballast/choke, the other does not have [absence or presence of ballast/choke has been cited as one of the major difference between sealed burner and CFL]. None of the parties disputed the previous decision of the Authority considering these two forms as one article, even though ballast/ choke is not only a major item, but also not included in both the forms.

(f) The Authority notes that there is no contradiction between para 8 and 9 of the disclosure statement. It is not disputed that there is a manufacturing activity between sealed shell and “CFL wherein choke is not integrated”. It is also not disputed that this manufacturing activity is recognized as production for the purpose of Excise. However, definition of production under excise law is not relevant for the purpose of anti dumping duties. None of the parties have established how the definition of production under Excise should imply existence of two different articles for the purpose of anti dumping. For example, mere re-packing, re-labeling etc are recognized as production activities for the purpose of Excise law. However, if a company has done merely repacking, it cannot be said that the input and resultant output are two dislike articles for the purpose of antidumping. The definition of manufacturing under Excise need not imply bringing in a new article having significantly different characteristic as to render the two as dislike articles.

g) It would also be relevant to refer to Rule 2(d) dealing with definition of like article which provides that like article implies two articles which are either alike in all respects or in the absence of the same, which have “characteristic closely resembling” each other. This clearly establishes that mere differences in characteristics or mere fact that the two forms are not alike do not mean the two forms are dislike articles. The Authority has nowhere said that sealed glass tubular shells are ready to use CFLs. On the contrary, the Authority has clearly said that sealed glass tubular shells are incomplete CFLs. None of the parties have been able to establish either on the basis of rules or jurisprudence on anti dumping that the Authority is not permitted to include a product in its finished and semi-finished form. In fact, the Authority has in the past included not only a product and its semi-finished stage, but also a product and its further processed stage within the definition of article.

h) With regard to past imposition of duty, the Authority holds that the scope of measures in two different investigations need not be identical. The scope of investigations and resultant duty in the previous case was “ready to use” CFL, whereas the scope of investigations in the present case includes semi-finished or incomplete CFL.

i) With regard to past judgments of various higher authorities on the issue of scope of duty in the previous case, the Authority notes that (a) the scope of the product under consideration itself is different in the two investigations, (b) the scope of duty in the previous case was “ready to use” CFL, and therefore it was held by various Hon’ble Courts that collection of duty on incomplete CFL was unjustified. However, when the scope of duty includes semi-finished CFL, the previous judgments are not applicable.

j) A number of parties argued that the Authority has not done independent injury analysis in respect of sealed shells. The Authority notes that Rule 11 read with Annexure II relating to determination of injury makes it evident that the Authority is required to determine injury to the domestic industry (caused by imports of the product under consideration) engaged in production of like articles. In a situation where like article includes a number of different types/forms of the product, the Rule does not envisage a separate injury examination of each form of the product. On the contrary, the Authority is

required to examine “injury to the domestic industry”. Domestic industry is defined as domestic producers engaged in production of like articles. Therefore, injury analysis has to be done cumulatively for the various forms of the product involved. However, for the purpose of doing price comparisons between domestic product and imported product and for the purpose of determining injury margin, the Authority has done separate comparisons, not only for the three forms of the product i.e. (a) semi-finished CFL; (b) CFL wherein choke is not integrated; and (c) CFL wherein choke is integrated, but also the Authority has further sub-divided each of these three forms into different categories in order to ensure fair comparison. The Authority, therefore, holds that the determination of injury is consistent with the Rules.

k) Regarding technical/scientific study or seeking information from other bodies, the Authority notes that antidumping investigations are required to be conducted in accordance with the procedure laid down under the rules. Such procedure does not mandate that the Authority must seek information from technical/scientific bodies. Moreover, no justification for such technical/scientific study has been established by these parties, nor has the Authority considered it necessary to seek such assistance in the present case.

l) In respect of termination of investigations against Sri Lanka, the Authority notes that Rule 14 of the Rules obliges the Authority to terminate the investigations in respect of a country if the investigations establishes that imports from that country are less than 3% of total known imports of the products in India. In fact, none of the parties could establish that imports from Sri Lanka were more than de-minimis.

m) In respect of the observations made by the Authority at para 19 of the disclosure document, it is noted that the said observation is on the basis of investigation conducted by the Authority and various informations on record. The Authority does not dispute that a number of companies are engaged in production of CFL and are paying excise duty on such production activity. In fact, production of such companies might even be higher than production of companies considered as “domestic industry”. The word “domestic industry”, however, must be distinguished and differentiated from the word “Indian producers” or “domestic produces”. The domestic industry is only a part or sub-set of much larger set of domestic producers. This is more than evident from the very definition of domestic industry under Rule 2(b). However, the mere fact that a company is a domestic producer does not mean that it should be regarded “domestic industry”. If such arguments of the interested parties were to be accepted, the same will reduce Rule 2(b) to redundancy. In fact, Rule 2(b) clearly obliges the Authority to examine the various constituents of the Indian industry and thereafter determine whether a company should be considered as eligible or ineligible. Further, situation of those domestic producers which are undertaking production activities by supplementing part of the activity through imports must be distinguished with those domestic producers who are largely dependent on imports of the product with incremental production activity being undertaken in India.

n) The Authority notes indeed interested parties have resorted to contradictory arguments in demanding exclusion of Hevels and Osram (on grounds of their imports) in spite of the fact that these companies undertook substantial production activity in India with supplemental imports; and at the same time, claiming themselves as eligible domestic industry in spite of the fact that they are producing the product after importing sealed glass tubular shell (whether or not processed further).

o) In respect of inclusion of CKD and SKD conditions and the alleged ambiguity on what constituted CKD and SKD conditions, the Authority notes that even if it is assumed that the meaning of CKD and SKD conditions was not clear to these interested parties, the same cannot in any case be pleaded as justified reason for not responding to the Authority. Firstly, any interested party can seek clarifications from the Authority. Secondly, the interested parties are required to act to the best of their abilities and provide relevant information. The Authority notes that these interested parties have clearly preferred non-cooperation with the Authority and have in fact attempted to impede the investigation.

p) The Authority notes that the issue of imports made by Hevells and Osram have already been dealt at length in the preliminary findings notified. No new facts have been brought to the knowledge of the Authority, justifying review of the decision. As noted by the Authority, imports made by Hevells and Osram are quite insignificant in relation to their total production activity. Thrusts of these companies have not shifted to importation. The imports were made in the category of product types not produced by these companies and only to supplement their own production activities. In fact, the Authority has proposed anti dumping duties on non-discriminatory basis and the same shall be applied on imports made by Osram and Hevells as well.

q) The non disclosure of actual figures in the preliminary findings or disclosure statement has also been disputed. The Authority refers to rule 7 of the anti dumping Rules, which prohibits disclosure of information claimed confidential by interested parties. The Authority notes in this regard that even foreign producers responding to the Authority have aggressively used confidentiality provisions and have claimed even information such as production and sales volumes also as confidential. Moreover, the preliminary findings and disclosure statement issued by the Authority clearly mentions the conclusion arrived at by the Authority based on such confidential information. Any interested party is free to comment on the conclusions reached by the Authority.

r) It is also argued that the petitioner companies are multinational companies and are abusing the anti dumping process. The Authority notes that the three applicant companies are companies incorporated in India. The fact that one or more constituents of the domestic industry are part of multinational companies is entirely immaterial under the rules. It is also noted that some of the companies who have set up manufacturing facilities in the form of assembly line operations are in fact having capacities comparable or more than the constituents of the domestic industry.

39.2 In respect of the issues raised by M/s Ajanta Manufacturing Ltd.

a) The Authority does not agree that sufficient time has not been given to interested parties for filing submissions. With regard to placing of initiation notification or the disclosure documents on the Website of DGAD, the Authority notes that there is no statutory obligation on the Authority to place these documents on the Website. In fact, the obligation of the Authority is to issue public notice which does not get discharged by putting such notifications on Website. The information on Website is being placed only as an additional step of bringing transparency and for the knowledge of the public at large and not in substitution of the statutory obligations of the Authority as specified under Rule 6.

b) It is argued that the petitioners have not sought imposition of duty on sealed glass tubular shell. The Authority notes that there is no substance in these arguments. In fact, the petitioners had clearly desired initiation of investigation and imposition of anti dumping duties on imports of sealed glass tubular shells.

c) In respect of reference to Rule 2(a) of interpretative rules, the Authority notes that the present investigations are being conducted in accordance with Section 9(A) of the Customs Tariff Act and the rules made there under. Even if any other rule considers different forms of the product as different articles, it does not imply that the Authority is required to consider them as dislike articles.

d) In respect of completion of the present investigation within the time limits, the Authority notes that the present investigations are being concluded within the time limit provided to the Authority and duly extended by the Central Govt. on two occasions.

e) In respect of the reference to BIS standards, the Authority notes that prescription of BIS standards does not have impact on the present proceedings and the conclusions reached. The Authority has not recommended imposition of anti dumping

duties because inferior quality CFLs is being imported into India. The Authority has recommended these duties because the product is being imported at dumped prices and the same is causing injury to the domestic industry.

f) The Authority notes that the fact that the petitioners have not sold sealed burners in the market does not also vitiate the present conclusions. Moreover, as stated before, the Authority is not required to examine injury separately for each form of the product.

g) It is clarified that imposition of anti dumping duties on sealed burners or other forms of the product under consideration does not imply a ban on importation of these products. The imposition is intended only to remove the unfair advantage gained by dumping practices.

40. Normal Value, export Price and Dumping Margin

40.1 Normal Value

40.2 The response to the questionnaire was filed by the following companies –

- a. M/s. Foshan Electrical & Lighting Co. Ltd., China.
- b. M/s. Yanyang Electronic Fluorescent Lamp Factory, China
- c. M/s. Osram China Lighting Ltd., China PR.
- d. M/s. Phillips & Yaming Lighting Co. Ltd., China.

40.3 M/s Suqian Deda Lighting Co Ltd, Jiangsu, China and Hangzhou Linan Dongfeng Lighting Factory China also responded to the Initiation and requested time for filing response, which was also provided. However, these companies did not submit any questionnaire response. That apart M/s Bengbu First Commercial and Trading Company Limited, China, who was also stated to be exporter of the sealed glass tubes filed a belated response on 19th March, 2008 which was initially rejected but subsequently accepted for the purposes of final determination. The response was incomplete and had been filed by Indian Consultants on behalf of the Chinese producers/exporter. HOWEVER However, the Indian consultants vide their letter dated 14th August, 2008 informed the Authority that they have withdrawn the authorization letters filed by them on behalf of Ajanta Manufacturing Limited, Sunny Enterprises (HK) company Limited, China and Bengbu First Commercial Trading Company Limited, China. No further response was received from Bengbu First Commercial and Trading Company, China and, therefore, this producer/exporter from China is being treated as non-cooperative for the purpose of present investigation. None of the producers/exporters from Vietnam filed questionnaire response. **Examination of market economy claims**

41. The Authority notes that in the past three years China PR and Vietnam have been treated as non-market economy countries in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China and Vietnam have been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.

41.1 As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China/ Vietnam provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China/ Vietnam are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

a. The decisions of concerned firms in China PR/ Vietnam regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and

d. The exchange rate conversions are carried out at the market rate.

41.2. The Authority notes that responding producers / exporters of the subject goods from China have submitted their questionnaire responses and market economy questionnaire responses, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. There is however no response from any Producer/ Exporter from Vietnam. The questionnaire responses and the market economy responses of the responding producers and exporter have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

42. Foshan Electrical & Lighting Co. Ltd., China.

42.1 M/s Foshan Electrical & Lighting Co. Ltd., China has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. The submissions of the company were verified at the premises of the company at Foshan. The documents in respect of organizational chart, portfolio review, Business license, certificate of approval and articles of Association with amendments of business terms and validity etc were shown. The company provided the copy of contract for sale and purchase of shares of State owned assets supervision and administration commission of the Foshan city people's Government and Osram Prosperity Holding company Ltd.

42.2 Examination of the MET claim of the company shows that the company has significant direct or indirect state ownership.

42.3 As per the historical background provided to the visiting team, the Company was established on October 20, 1992 with a Registered Capital of RMB ***Million. It was stated to have been Listed in Shenzhen Stock Exchange, issuing A shares of ***million Registered Capital: from RMB ***million to RMB ***million in the year 1993. In the year 1994, they stated to have Issued A shares of ***million and increased Registered Capital: from RMB ***million to RMB***million Issuing In 1995, they stated to have issued A shares of ***million shares of *** million and increased Registered Capital: from RMB ***to RMB ***In the year 1996 the Legal Status: was stated to have changed from stock company limited by shares to foreign invested stock company limited by shares Issuing **A shares** of ***million Increasing Registered Capital: from RMB ***to RMB ***million. In the year 2000, they stated to have issued A shares of ***million; Increasing Registered Capital: from RMB ***million to RMB ***million, again Issuing A shares of *** million Increasing Registered Capital: from RMB ***million to RMB ***million. In the year 2006, shares transfer was stated to have taken from Foshan government to Osram Prosperity Holding Co. Ltd (****%) and Prosperity Lamps & Components Limited (****%). It has been responded to by the company that shareholding by another company operating under market economy mechanism namely M/s Osram Prosperity Holding Co.,Ltd also qualifies to be operating under ME conditions. The authority notes that in view of the substantial shareholding of the state govt with the company, the **interference of the State in the management and day-to-day affairs cannot be ruled out.**

42.4 In view of the above the Authority holds that this producer- exporter from China cannot be granted market economy status for determination of its Normal Value.

42.5 In respect of the argument of the company about the shareholding pattern of M/s Philips and Yaming, the authority notes that the shareholding and composition of the shares among the principal shareholder and other party are in different percentages than this company.

43. M/s. Yanyang Electronic Fluorescent Lamp Factory, China

43.1 M/s. Yanyang Electronic Fluorescent Lamp Factory, China has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. The company has significant domestic sales of the product under consideration during the POI. The response of the company was examined and a letter was issued to the company on 30th Jan., 2008 requesting for certain additional information/clarification from the company. In the said letter the responding company was asked inter alia to provide information on domestic sales details, questionnaire response (including market economy questionnaire) of the exporter, and ownership status of the exporter. No response has however, been received from the company.

43.2 Examination of the MET claim of the company shows that the company has sold goods through a trader in China. No questionnaire response has been provided by the exporter. In reply to deficiency response also, no response of the exporter has been provided to the Authority. The Authority notes that market economy treatment examination cannot be carried out for the company without response to questionnaire from the exporter concerned.

43.3 In absence of reply to the queries and the complete response, the authority treats the respondent as non-cooperative for the purpose of said investigations. **44 M/s. Osram China Lighting Ltd., China PR and M/s. Phillips & Yaming Lighting Co. Ltd., China.**

44.1 Response to market economy status questionnaire was filed by both these companies. These companies were earlier examined by the Authority at the time of earlier investigation or new shipper review investigations, wherein the Authority has granted market economy treatment to these companies. The determination of market economy earlier made by the Authority has not been challenged, nor has the domestic industry raised any issues with regard to market economy status of these companies. The records of both the companies were verified at their premises in china. The companies were earlier informed to provide following documents for their claim of Market Economy Status.

- Certificate of incorporation of the company.
- Purchase invoices for assets of the company.
- Details of assets outstanding during POI alongwith their acquisition details.
- Copy of business license and other approvals obtained from Chinese Govt. agencies before start of business.
- In case of any transformation, the details of transformation, asset valuation, settlement price and procedure adopted for transfer.
- Organizational Chart of your company.
- Information on the change in the structure of the company since inception alongwith details of share capital and details of ownership.
- Information of any parent companies and subsidiaries of the company and all other persons affiliated with the company.
- Articles of Association and the Memorandum of Association.
- VAT and local tax registration certificate.
- Labor payment contract.
- Foreign business registration certificate.
- Catalogues & brochures issued by the company covering the subject goods.
- List of raw material and utilities suppliers' along with their legal structure and affiliation details.

45. The documents in respect of organizational chart, portfolio review, Business license, certificate of approval and articles of Association with amendments of business terms and validity etc were shown at the time of verification. In view of the above, the Authority holds that these producers can be granted market economy status.

Vietnam

46. None of the exporters/producers from Vietnam have responded to the Authority. None of these parties have provided any information with regard to market economy status of these companies. The Authority is therefore unable to consider market economy status claim of Vietnam (companies) in accordance with para 8 of Annexure-I.

Normal value in case of non market economy companies

47. In this connection Para 7 of Annexure I of the Rule provides that

“In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, 1 keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

48. The Authority indicated, in Para 5 of the initiation notification, that it envisaged to consider European Union as an appropriate market economy country for the purpose of establishing normal value in respect of China and Vietnam. Interested parties were invited to offer their comments on this choice of market economy third country. However, none of the interested parties, except the applicants, have placed sufficient material before the Authority to consider European Union as an appropriate market economy third country for the above purpose. Even though the petitioner provided information with regard to the selling price of the subject goods in European Union, the Authority notes that mere price list of these goods in EU that too for a product of this nature, is insufficient to determine normal value for the purpose of preliminary determination.

49 Response to disclosure statement

49.1 Domestic Industry

49.1.1 The Designated Authority, on the basis of detailed investigation has determined normal value, export price as also dumping margin for the subject countries. The domestic industry notes that the disclosure statement does not contain the dumping margin determined for various companies. Considering Preliminary Findings notified and the methodology disclosed in the disclosure statement, the domestic industry presumes that the Authority has found significant dumping margin in case of all responding exporters. If not so, the domestic industry requests the Authority to disclose the dumping margin. We request the Designated Authority to confirm the disclosure statement in this regard, if the dumping margins found in respect of all imports are significant and beyond de-minimus.

49.2 Foshan, China

49.2.1 It is a usual practice in EU's antidumping practice that the Commission will investigate whether all related companies under the same group can meet the conditions for obtaining Market Economy Treatment. Such requirement is clearly stated in Introduction of MET Claim Form. "in cases where a subsidiary or other related company in the People's Republic of China is involved in the production and/or sale of the product concerned, this market economy treatment claim form has to be completed separately by the company in question, as the Commission services will investigate whether the group as a whole meets the conditions for obtaining Market Economy Treatment or Individual Treatment"(see Introduction of MET Claim Form). In CFL case, FSL and OSRAM (China) are two related companies according to the relevant definition given by the authority, it is incorrect for the authority to deny the MET of FSL, while granting MET to OSRAM(China) in the same investigation.

49.2.2 It is incorrect for DGAD to apply the different criteria to FSL and Philips& Yaming when conducting the MET examination. Philips& Yaming is a joint venture between Philips and Yaming. Yaming has been a wholly state-owned company since its establishment. In the original investigation, DGAD found that Yaming held 40% shares of Philips& Yaming. According to the public information, Yaming still holds 20% shares of Philips& Yaming now. FSL noticed that Philips& Yaming was granted MET both in the original investigation and the preliminary findings of new investigation.

49.2.3 Although for normal value calculation FSL agrees to the proposed method, i.e. using the normal value of two MET exporters as the substitution, FSL noticed that the authority in fact only calculated two specific normal values, i.e. *** RMB/PC for PCN with voltage ranging from 5 to 10, and *** RMB/PC for PCN with voltage ranging from 11 to 20. However, it seems that the calculated normal value is unreasonable high.

49.3.1 Philips and Yaming, China

49.3.2 In light of the above, the correct point of comparison must necessarily be the first independent sales price in the Domestic Market which needs to be compared to the first independent sales price in India.

49.3.3 While it is not entirely clear from the disclosure statement, it is apparent that the Hon'ble Designated Authority has sought to compare the procurement price of the China trading arm of Phillips with the first independent selling price of Philips India in India. This is clearly erroneous as the grades that Philips exports to India are also sold by Philips in China to its China trading arm i.e. Petsco. The only correct comparison can be made at the first independent selling price in both markets i.e. all prices from Petsco to independent dealers and the sale price from Philips to independent dealers. In fact, this was the methodology followed by the Hon'ble Designated Authority in the anti dumping investigation conducted in the CFL-1

49.3.4 Prejudicial Ranges for Imposition of Duties:

Without prejudice to all of the aforesaid, should the Hon'ble Designated Authority deem it appropriate to impose the duties on CFL imported from the subject countries, the ranges on which the preliminary duties have been imposed are unrealistic and prejudicial both to the consumers and exporters.

The Hon'ble Designated Authority has verified that a 11 watt CFL (with choke) costs Rs. 135/-while a 20 watt CFL (with choke) costs Rs. 225/-.This is an increase of nearly 60%,but the Hon'ble Designated Authority has ignored this fact by fixing the same reference price in the preliminary findings. By fixing one and the same reference price for both, the Hon'ble Designated Authority is doing a grave injustice to the consumers and exporters; while unjustifiably protecting the petitioners. Given the power saving benefits of CFL, the range of the anti-dumping duty will unnecessarily burden the costs of the lower range of wattages, which is really the grade consumed by the common man, to replace traditional 40 and 60

watt incandescent bulbs. It is respectfully submitted that Hon'ble Designated Authority should reconsider this critical aspect and rationalize the ranges for the imposition of the duties.

Normal value

50. In view of the Companies M/s Philips and Yaming and Osram granted Market economy Status, the Authority has determined the normal value in China based on their submissions having regard to the judgment of Hon'ble Supreme Court in the case of Reliance. The Normal value so calculated is proposed to be applied in case of NME producer/ exporter M/s Foshan Electricals. However, it is seen that M/s Foshan has exported Burners(sealed glass shells) whereas M/s Philips & Yaming and Osram have exported CFLs with or without choke, hence the normal value for burners have been constructed based on Para 7 of Annx 1 to the rules. M/s Foshan have submitted that during the POI they had not exported CFL without choke or with choke. They have submitted that they propose to export CFL with/ without choke in future to India. CFL with/ without choke being part of the product under consideration, they have submitted their calculations (based on the verification carried out at their premises) to construct the export price for CFL without choke and with choke. The authority has considered the claim of the exporter for final determination in respect of the product variants not exported during the POI. In absence of complete details concerning the relative cost of production made available, the residual duty will be the benchmark for the variants not exported during the POI.

51. Normal value in case of Phillips & Yaming Lighting and Osram China Lighting has been determined on the basis of questionnaire responses filed by these companies. Weighted average selling price in the domestic market, separately for each type, has been determined on the basis of sales made by these companies in the domestic market. In respect of M/s Philips & Yaming, adjustments on account of BIS marking in all PCNs exported and Very Wide Voltage (VWV) adjustment in two PCN have been allowed.

Export price for the responding exporters

52. The Authority examined whether the export price in respect of responding exporters could be determined on the basis of questionnaire responses filed by these interested parties. Following companies provided information with regard to export price to India.

- a. M/s. Foshan Electrical & Lighting Co. Ltd., China.
- b. M/s. Yanyang Electronic Fluorescent Lamp Factory, China
- c. M/s. Osram China Lighting Ltd., China PR.
- d. M/s. Phillips & Yaming Lighting Co. Ltd., China.

53. In case of M/s. Foshan Electrical & Lighting Co. Ltd., China, the company had exported sealed glass shells/ Burner only. The export price claimed with adjustments has been allowed. For other variants not exported during POI the Authority has constructed the export price at ex-factory level for individual determination.

54. The export price in respect of M/s. Phillips & Yaming Lighting Co. Ltd., China and M/s. Osram China Lighting Ltd., China PR has been determined on the basis of questionnaire responses filed by the responding exporters however since both these companies have exported the goods to their related companies in India who have resold these goods after importation, the export Price has been constructed on the basis of resale price reported by their affiliate company in India. Thus, all expenses of their importers in India and their profit margin have been deducted to construct the CIF export price for the purpose of preliminary findings. The export price has been determined on the basis of weighted average price of exports during the POI, separately for each type of the product. The export price has been determined at ex-factory level.

Export price for non-cooperating exporters

55. The data reported by the DGCI&S has been relied upon to calculate the ex-factory export price. Separate export price has been determined in respect of each type of the product under consideration. The Authority holds that the price adjustments in respect of residual category be allowed on the basis of claims made by the domestic industry. The export price has been determined at ex-factory level.

Dumping Margin

56. On the basis of comments received in respect of normal value and export price, the dumping margin will be arrived at. For the following tables, in respect of quantity the figures are in 1000 pcs. In respect of NV (Normal value) and NEP (net export price), the figures are in USD per pc.

a)M/s. Phillips & Yaming Lighting Co. Ltd., China. USD/PC

PCN	218	226	305	308	311	314	315	318	319
NV	***	***	***	***	***	***	***	***	***
NEP	***	***	***	***	***	***	***	***	***
DM	***	***	***	***	***	***	***	***	***
DM %	31-36	(Negative)	37-42	22-27	40-45	10-15	55-60	0-5	(Negative)
320	323	Total							
***	***	***							
***	***	***							
***	***	***							
38-43	14-19	15-20							

b)M/s. Osram China Lighting Ltd., China PR. USD^{/Pc}

PCN		305	308	311	314	Total
NV		***	***	***	***	***
NEP		***	***	***	***	***
DM		***	***	***	***	***
DM %		(Negative)	15-20	6-11	0-5	8-13

c)M/s Foshan Electrical USD /PC

PCN	Upto10 watt	From 11 to20 watt	From 21 to26 watt
Burners only			
CNV	***	***	***
NEP	***	***	***
DM	***	***	***
DM %	24-29	6-11	1-5

d) Vietnam – all producers/exporters USD/Pc

Particulars	CFL without choke	CFL with choke
CNV	***	***
NEP	***	***
Dumping margin	***	***
Dumping margin %	70-75	80-85

In respect of Burners, the average non injurious price arrived at in respect of the domestic industry for all grades (upto 26 watt) have been taken as the reference price.

Methodology for Injury determination and examination of Causal Link

Views of the domestic industry

57. The followings are the views of domestic industry: -

a. Export price from the subject counties has remained at dumped level during injury period. Further, these prices have not increased proportionate to increase in input prices from base period to POI.

b. Production, sales volumes and capacity utilization of the domestic industry are showing improvements because of imposition of anti dumping duty and growth in the market.

c. Profit/Loss (PBT and PBIT) of the domestic industry have shown significant decline from base period to POI.

d. Market share of the domestic industry declined. This is due to the fact that dumped imports have captured significant market share of demand in India.

e. Import from each of the subject countries has been undercutting the prices of the domestic industry to a significant degree.

f. Imports from the subject countries have forced the domestic industry to reduce the price steeply during 2005-06 and proposed investigation period. Thus, the imports were depressing the prices in this period.

g. Demand and market share: - Whereas the market shares of the imports have increased, that of the domestic industry has declined.

h. Growth: - Growth of the domestic industry in a volume parameters shows positive trend, whereas the same is negative in respect of price trends.

i. There is significant increase in the import volumes in absolute terms.

j. Price undercutting is significant. In spite of offering sub-optimal prices, there is a positive price difference between the domestic product and imported product.

58 Response to Disclosure statement

59 Philips and Yaming

The Authority may have rightly taken into perspective the factual situation of the Petitioners as regards the situation post the imposition of anti-dumping duty on CFL into India, but it is critical that the manner in which both the products have been bundled into one investigation with a conclusion that the parts of CFL are sustainable to a complete ready to use CFL with / without choke is clearly untenable and clearly without the jurisprudence settled by the precedents of the Hon'ble Court relied upon on this issue along with the factual evidence made available to show that there is clear demarcation and value addition in terms of physical, mechanical, cost and usage characteristics between both the parts of CFL and complete ready to use CFL with choke and without choke.

Examination by the Authority

60. The Authority notes that the Anti dumping duty was earlier recommended on ready to use CFL. The duties remained in force till 20th December, 2006. The domestic industry earlier represented that non inclusion of sealed glass tubular shells within the scope of the product under consideration has led to continued injury to the domestic industry, as a number of companies have set

up assembly facilities in the Country and have started producing and selling CFL by importing the product at semi finished penultimate stage. It was also represented that the production activities from the stage of sealed glass tubular shells and ready to use CFL was quite insignificant, as is established between the production process involved upto the stage of ready to use without choke CFL. It was also represented that the comparison of sealed glass tubular shells with ready to use with choke CFL was misleading, as chokes are an electronic component and constituted separate production activities in itself. There are a large number of electronic component producers in the Country, who could provide choke as a ready to fit item. The domestic industry therefore submitted that non inclusion of sealed glass tubular shells within the scope of the product under consideration has led to a situation where even though there was anti dumping duty in place on the product, the producers continued to suffer injury from such continued dumping of semi finished product.

61. Domestic industry has drawn attention of the Authority to a number of decisions of the CESTAT and High Courts in this regard. In a number of these judgments, it has been held that imposition of anti dumping duty on imports of burners was justified. At the same time, there were judgments stating that collection of anti dumping duty on imports from burners was not justified. Domestic industry has also drawn the attention of the Authority to the circular issued by the CBEC wherein customs port authorities were earlier directed to collect anti dumping duty on imports of semi finished CFLs also. Domestic industry has argued that this was the position even when anti dumping duty was applicable on finished/ ready to use CFL. However, given that there was no anti dumping duty on ready to use CFL, customs authorities gradually agreed to allow imports of semi finished CFL or burners. Resultantly, more & more companies set up assembly facilities and became CFL producers, causing unfair competition to the Indian Producers. Domestic industry has represented that these producers are getting access to semi finished CFL in the form of burners at dumped prices and thereafter are unfairly competing with the domestic industry. Resultantly, whereas overall growth in the product is there, the growth of the domestic industry retarded affecting its profitability gradually.

Cumulative assessment of injury

62. As per annexure-II (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority is required to cumulatively assess effect of such imports, only when it determines that

- a. The margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article, and,
- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

63. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. Cumulative assessment of imports is appropriate in the present case. The Authority has taken note of various arguments put forth by the Domestic Industry. There was no response from other interested parties in this respect.

64. Annexure II of the AD Rules requires that determination of injury shall involve an objective examination of both:

a. The volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and

b. Consequent impact of these imports on domestic producers of such products.

65. The Authority while examining the volume of dumped imports is required to examine whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to 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 increase which otherwise would have occurred to a significant degree.

66. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on all relevant economic factors and indices having a bearing on the state of industry to evaluate the existence of injury and causal links between the dumping and injury, if any.

67. Since significant dumping margins have been established for the exports from the subject countries, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal link examination.

Volume Effect of dumped imports

68 The Authority collected transaction wise details of imports of subject goods from DGCI&S. Volume of imports has been determined by cumulating imports of all types of the product under consideration. The imports from China PR and Vietnam are more than de minimis limits individually.

Import Volumes and share of subject countries

69. Imports from each of the subject countries and their share in total imports have been as under –

Figures in Lac Pcs.

Countries	2003-04	2004-05	2005-06	2006-07
China	161.62	366.38	752.65	1,064.78
Vietnam	14.83	14.86	55.26	54.04
Subject Countries	176.45	381.24	807.91	1,118.82
Trend	100	216	458	634
Other countries	268.56	78.87	124.15	93.12
Trend	100	29	46	35

Total Imports	445.01	460.11	932.06	1,211.94
Trend	100	103	209	272
Market Share in Imports				
China	36.32	79.63	80.75	87.86
Vietnam	3.33	3.23	5.93	4.46
Subject Countries	39.65	82.86	86.68	92.32
Trend	100	209	219	233
Other countries	60.35	17.14	13.32	7.68
Trend	100	28	22	13
Production of DI	80.03	137.89	246.71	257.53
Imports from subject countries	176.45	381.24	807.91	1,118.82
Imports from subject countries as a percentage of production of DI	220.48	276.47	327.47	434.45
_ Sealed glass tubular shells	140.55	341.26	668.70	928.95
_ Ready to use CFL	35.90	39.98	139.21	189.87

70. It is found that cumulative imports from subject countries have increased significantly in absolute terms and in relation to imports in India. Imports from China-RP and Vietnam constituted 87.86%, and 4.46% respectively in the POI. It is also noted that whereas imports of ready to use CFL declined, imports of sealed glass tubular shells increased multifold. It is thus evident that more and more companies in India have started importing CFL in semi finished stage and doing processing activities in India.

Demand, Output and Market Shares

71. Share of imports in relation to demand/consumption in India and share of imports in relation to production in India was examined. Relevant information is given below.

Growth In Demand

72. Demand of subject goods has been determined by addition of domestic sales of Indian Industry and imports from all countries. The Authority notes that sealed glass tubular shells represents semi finished CFL and therefore sales of other Indian Producers has been considered on the basis of imports of sealed glass tubular shells. Demand so assessed comes as follows.

Figures in Lac Pcs.

Domestic Industry	***	***	***	***
Subject Countries	176.45	381.24	807.91	1118.82
Other Countries	268.56	78.87	124.15	93.12
Total Import	445.01	460.11	932.06	1211.94
Total Demand	***	***	***	***
Trend	100	113	220	281

73 The Authority notes that demand for the subject goods has been growing significantly. It grew by 181% over the injury period.

Share of imports in demand/consumption and production

74. The Authority determined share of imports in relation to production and consumption in India. Relevant information is given below-

Figures in Lac Pcs.

	2003-04	2004-05	2005-06	2006-07
Increase in Production		***	***	***
Increase in Demand		67.13	560.70	319.46
Increase in imports		15.10	471.94	279.88
Subject countries		204.79	426.67	310.91
Other countries		(189.69)	45.28	(31.03)

75. The Authority notes that the subject imports have increased far more than the production in India.

Capacity, production and capacity utilization of the Domestic Industry

Figures in Lac Pcs.

	2003-04	2004-05	2005-06	2006-07
Installed Capacity	***	***	***	***
Trend	100	172	214	299
Production	***	***	***	***
Trend	100	172	308	322
Capacity Utilization %	***	***	***	***
Trend	100	100	144	108
Demand in India	522.25	589.39	1150.08	1469.54
Increase in				
_ Demand		67.13	560.70	319.46
_ Capacity		***	***	***
_ Production		***	***	***
_ Imports of burners		***	***	***

76. The Authority notes that capacity and consequently production increased over the injury period. However, in comparison to previous year whereas the demand increased by *** lac Pcs., capacity increased by *** lac Pcs. and production increased by only *** lac Pcs. Further, it is found that there was significant increase in imports of burner. It is thus found that production shifted more to assembly operations by import of the product at semi finished stage, thus affecting capacity enhancement in the Country.

77 Sales volume of Domestic Industry Figures in Lac Pcs.

	2003-04	2004-05	2005-06	2006-07
Domestic Industry	***	***	***	***

Trend	100	167	282	334
Increase in				
_ Sales of domestic industry		***	***	***
_ Imports from subject countries		204.79	426.67	310.91

78. It is noted that even though sales volumes of the domestic industry increased, increase in sales was far less than increase in imports. Given that 83% of imports were of semi finished CFLs, it is evident that the imports of sealed glass tubular shells has prevented increase in sales volumes of the domestic industry.

Market Share

79. Market share of the domestic industry over the injury period is shown below.

Figures in Lac Pcs.

	2003-04	2004-05	2005-06	2006-07
Domestic Industry	***	***	***	***
Indexed	100	167	282	331
Subject Countries	176.45	381.24	807.91	1118.82
Other Countries	268.56	78.87	124.15	93.12
Total Import	445.01	460.11	932.06	1211.94
Total Demand	***	***	***	***
Trend	100	113	220	281

Share in Demand

Domestic Industry	***	***	***	***
Trend	100	148	128	119
Subject	***	***	***	***

Countries				
Trend	100	191	208	225
Other Countries	***	***	***	***
Trend	100	26	21	12
China	***	***	***	***
Vietnam	***	***	***	***
Subject Countries	***	***	***	***
Trend	100	191	208	225

80. It is noted that market share of domestic industry increased significantly between 2003-04 and 2004-05, which was more on account of market share lost by other countries. However, after 2004-05, the domestic industry was unable to increase its market share. In fact, the same declined.

Price Effect of the Dumped Imports on the Domestic Industry

81. With regard to the effect of dumped imports on prices as referred to in sub-rule (2) of rule 18, the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared to the price of like product in India or whether effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred to a significant degree.

82. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the Domestic industry have been compared with the landed cost of imports from the subject countries. In view of significant price difference between different types of the product under consideration, the analysis has been done separately for sealed glass tubular shells, ready to use with & without choke CFL for different watt. The product has been further grouped into three categories in respect of wattage –

(a) Upto 10 watt,

(b) From 11 watt and upto 20 watt,

(c) From 21 up to 26 watt.

82.1 In response to the disclosure statement, one of the interested party have submitted narrowing down this range further due to substantial price differences among different wattages in the proposed ranges. The authority notes that this argument is based on the submissions that the costs in the proposed ranges (comparison of 11 watt with 20 watt, with choke category) are higher by up to 60% for higher wattage than the lower wattage in the range. The authority notes that the cost differential among the said range (with choke) is not substantial; however the selling price differential is there. The authority also notes that the selling price in case of higher wattage (more than 20, with choke) is lower than the previous wattage. The authority therefore finds no consistency linked with wattages and continues with the categories as recommended and notified at the time of preliminary findings.

83 Separate price comparison has been done in respect of each type. Thereafter, weighted average margin has been determined on the basis of associated volumes.

Price undercutting and underselling effects

	Burners	Without choke CFL	With Choke	Total Weighted Average
Net sales realization (POI)	***	***	***	***

Landed price

China *** *** *** ***

Vietnam *** *** ***

Total
subject
countries *** *** *** ***

Price undercutting

China *** *** *** ***

Vietnam *** *** ***

Total
subject
countries *** *** *** ***

Price undercutting %

China 52-57 52-57 40-45 80-85

Vietnam 70-75 40-45 28-33

Total
subject
countries 54-59 53-58 40-45 75-80

Non
Injurious
Price *** *** *** ***

Price Underselling %

China *** *** *** ***

Vietnam *** *** ***

Total subject
countries *** *** *** ***

Price Underselling %

China	62- 67	56- 61	50- 55	82- 87
Vietnam		72- 77	50- 55	40- 45
Total subject countries	62- 67	58- 63	50- 55	80- 85

84. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been deducted.

85. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject countries. The price undercutting from subject countries was in the range of 40-85% during POI.

86. For the purpose of price underselling the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 53-82%.

Price suppression and depression effects of the dumped imports:

87. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

88. The Authority notes that there were upward trends in the cost of sales during the injury period. The cost of sales which was 100 (indexed) in the base year went up to 109% in the POI. The Authority notes that decrease in the selling price was not more than the cost up to 2004-05, thereafter the increase in selling price was not proportionate to the increase in cost. The trend of cost of production shows that weighted average cost of Production rose by 9% during POI as compared to base year whereas the selling price had increased only by 5% during POI indicating that the domestic industry could not realize the selling price commensurate with the increase in cost of production.

Examination of Other Injury Parameters

89. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

90 Profits Figures in Rs.

Cost of sales	***	***	***	***
---------------	-----	-----	-----	-----

Trend	100	88	101	109
Selling Price	***	***	***	***
Trend	100	86	98	105
Profit/Loss	***	***	***	***
Trend	100	(96)	(352)	(334)
PBIT	***	***	***	***
Trend	100	52	(36)	(71)
Cash Profit	***	***	***	***
Trend	100	58	(25)	(11)

91. The data indicate that weighted average cost of sales of the domestic industry went up by 9% during POI as compared to base year against which the weighted average selling price increased only by 5% during POI. The profit of domestic industry on the domestic sales (PBIT), which was 100 (indexed) in 2003-04 declined to 52 in 2004-05 and to loss in subsequent years. The Authority notes that there has been significant deterioration in the profitability of domestic industry during the POI as compared to base year 2003-04.

92 Return on investment Figures in Rs.Lacs

PBIT	***	***	***	***
Trend (Indexed)	100	52	(36)	(71)
Net Fixed Assets	***	***	***	***
Trend (Indexed)	100	113	125	151
Working Capital	***	***	***	***
Trend (Indexed)	100	89	95	115
Capital Employed	***	***	***	***
Trend (Indexed)	100	105	115	139

Return on Capital Employed(%)	***	***	***	***
Trend (Indexed)	100	50	(31)	(51)

93. The Authority notes that there has been continued decline in the return on capital employed earned by the domestic industry. The return on capital employed, which was 100 (indexed) in the year 2003-04 declined sharply to 51 in POI.

Productivity

Particulars	2003-04	2004-05	2005-06	2006-07
Productivity per employee (Pcs)	***	***	***	***
Trend (Indexed)	100	150	263	275

94. The data on production per employee shows that the productivity increased significantly over the period.

Employment and wages

	2003-04	2004-05	2005-06	2006-07
Employment (Manpower strength)	***	***	***	***
Trend (Indexed)	100	141	169	196
Wages (Rs.Lacs)	***	***	***	***
Trend (Indexed)	100	170	347	550

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95. The employment level shows significant change in line with increase in production. The wage increase is commensurate with increase in no. of employees and production during POI as compared to base year.

Inventories

	2003-04	2004-05	2005-06	2006-07
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Average Stock (Lac Pcs)	***	***	***	***
Trend (Indexed)	100	142	309	413
Average Stock in terms of No of Days' sales	***	***	***	***
Trend (Indexed)	100	85	109	124

96. The trends in the average inventory show that average inventory increased more than three times over the period. The Authority notes that at the beginning of POI the opening inventory was equal to about * days sales, which went up to about *** days sales at the close of POI. In other words, during POI there has been accumulation of inventory as the closing inventory was nearly 8 times the opening inventory, which reflects an adverse off take.**

Growth

97. The growth in demand shows positive trend from base year to POI on year-to-year basis. The growth in capacity, production & sales were positive. However, growth in profits, return on investments and cash profits was negative. Further, even though growth in capacity, production and sales volumes was positive, it is noted that the growth in demand was far more than growth of the domestic industry.

Investment

98. The authority notes that the domestic industry seeing the growth potential in the product increased its capacity of subject goods from base year to POI. The fresh investment by the domestic industry during the period of investigation is as follows:

Rs. In Lacs

Fresh Investment	***	***	***
Trend (Indexed)	100	74	128

Magnitude of Dumping

99. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries, for the POI, are significant.

Factors affecting prices and Conclusion on injury

100. Imports of subject goods increased significantly in absolute terms. Imports increased significantly in relation to total imports into India, production and consumption in India. Further, there was significant increase in imports of burners, which constitutes semi finished CFL. With regard to price effect, it is found that imports were significantly undercutting the prices of the domestic industry in the market. As regards consequent impact of dumped imports on the domestic industry, it is noted that the product was earlier facing

dumping from China and anti dumping duties were in force throughout the injury period. However, there were no anti dumping duties on imports of semi finished CFLs or burners. Performance of the domestic industry improved in terms of capacity, production, capacity utilization, and sales volumes. However, improvements in these parameters were far less than improvements in demand in the Country. Market share of the domestic industry first improved and thereafter declined. Performance of the domestic industry deteriorated in terms of profits, cash profit and return on investments.

101. On the basis of above analysis, the Authority holds that the performance of the domestic industry deteriorated over the injury period, thus collectively and cumulatively showing that the domestic industry has suffered material injury.

Causal Link

102. In order to reach its conclusions on the cause of the injury suffered by domestic industry and in accordance with article 3.5 of Agreement on Anti-Dumping and as per Para (v) of Annexure-II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation of the domestic industry. Known factors other than dumped imports, which could at the same time have injured the domestic industry were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

103 Examination of Other Known Factors

Volume and prices of imports from other sources

104. The Authority notes that out of total imports, the volumes of imports from other countries are 6% during POI. The Authority notes that the imports from other countries also have been contributing to the injury of the domestic industry.

Contraction in demand and / or change in pattern of consumption

105. The Authority notes that there is no contraction in the overall demand during POI. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. The demand of subject goods has shown growth of 181% over the injury period. There is no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

Trade restrictive practices of and competition between the foreign and domestic producers

106. The Authority notes that there is a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods produced by domestic industry. Imports of semi finished CFL are being sold in the same market as finished ready to use CFL and are also competing with the domestic industry.

107. The Authority notes that no evidence of restricted practice prevalent in the industry, which could be attributed to the injury to the domestic industry, has been brought to the notice of the Authority.

Development in technology

108. On the basis of examination of the records, the Authority holds that the development in technology has not been a relevant factor for the injury to the domestic industry.

Export performance

109. The Authority notes that the export volumes of the domestic industry were insignificant during the POI. Performance with respect to various economic indicators has been determined with respect to domestic sales only. Hence, the Authority holds that material injury suffered by the domestic industry may not be as a result of the export performance of the domestic industry.

Productivity of the Domestic Industry

110. Productivity of the domestic industry in terms of production per employee has significantly increased. 111. No other factor, which could have possibly caused injury to the domestic industry, has been brought to the knowledge of Authority. The Authority holds that the imports from the subject countries have caused material injury to the domestic industry.

Conclusion On Causation

112. The Authority notes that imports of CFL were significantly undercutting the prices of the domestic industry. It is also noted that the landed price of semi finished CFLs were significantly below the cost of production of the domestic industry upto this stage. As a direct consequence, volume of imports increased significantly. The increase was more pronounced in respect of semi finished CFL. Consequently, market share, profit/loss, cash profits, return on investment, which should have improved given the anti dumping duties earlier imposed, rather declined over the injury period. Further, even though capacity, production, capacity utilization and sales volumes increased, the same were far below the market growth. Dumped imports have affected growth of the domestic industry in the Country.

FINAL FINDINGS:

113. Having regard to the issues raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties including those made as comments to the disclosure statement or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury, the Authority concludes that:

i. Imports originating in the subject countries namely China PR and Vietnam are taking place at dumped prices and the same have caused material injury to the domestic industry

ii. Subject goods exported from the subject countries are at prices below their normal values, Non Injurious Price of the domestic industry and the net sales realization of the subject goods of the applicants, and have caused injury to the domestic industry

iii. Decline in market share of domestic industry as a consequence of increase in market share of subject imports from the subject country prevented the domestic industry from increasing their sales commensurate to growth in demand

iv. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment.

v. Significant increase in volume of dumped imports from the subject country (both in absolute terms as well as in relation to the share in demand) has resulted in significant decline in market share of the domestic industry

114. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the difference between the amount indicated in Col 9 of the table below and the landed value is recommended to be imposed on all imports of subject goods originating in or exported from these subject countries namely China PR and Vietnam.

Duty Table

S. No	Heading	Description	Specification and Sub specification	Country Of origin	Country of export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	8539	Compact Fluorescent Lamps*	Burner-Up to 10 watt	China	China	Foshan Electrical and Lighting Co Ltd.	Foshan Electrical and Lighting Co Ltd.	0.364	Per pc	USD
2	-do-	-do-	Burner-11 to 20 watt	China	China	Foshan Electrical and Lighting Co Ltd.	Foshan Electrical and Lighting Co Ltd.	0.397	Per pc	USD
3	-do-	-do-	Burner-21 to 26 watt	China	China	Foshan Electrical and Lighting Co Ltd.	Foshan Electrical and Lighting Co Ltd.	0.449	Per pc	USD
4	-do-	-do-	Burner upto 10 Watt	China	any	Any combination of producer and exporter other than at SI no. 1		0.389	Per pc	USD
5	-do-	-do-	Burner-11 to 20 watt	China	any	Any combination of producer and exporter other than at SI no. 2		0.457	Per pc	USD
6.	-do-	-do-	Burner-21 to 26 watt	China	any	Any combination of producer and exporter other than at SI no. 3		0.500	Per pc	USD
7	-do-	-do-	Burner-Up to 10 watt	Any other than subject countries	China	any	any	0.389	Per pc	USD
8.	-do-	-do-	Burner-11 to 20 watt	Any other than subject countries	China	any	any	0.457	Per pc	USD
9.	-do-	-do-	Burner-21 to 26 watt	Any other than subject countries	China	any	any	0.500	Per pc	USD
10	-do-	-do-	Finished lamp Without choke- 11 to 20 watt	China	China	Philips & Yaming Lighting Co. Ltd.	Philips & Yaming Lighting Co. Ltd.	0.992	Per pc	USD
11	-do-	-do-	Finished lamp Without choke- 11 to 20 watt	China	China	Any combination of producer and exporter other than at SI no. 10		1.068	Per pc	USD

12	-do-	-do-	Finished lamp Without choke- 21 to 26 watt	China	China	Philips & Yaming Lighting Co. Ltd.	Philips & Yaming Lighting Co. Ltd.	1.622	Per pc	USD
13	-do-	-do-	Finished lamp Without choke- 21 to 26 watt	China	China	Any combination of producer and exporter other than at SI no. 12		1.658	Per pc.	USD
14	-do-	-do-	Finished lamp Without choke 11 to 20 watts	China	any	Any combination of producer and exporter other than at SI no. 10		1.068	Per pc	USD
15	-do-	-do-	Finished lamp Without choke up21 to 26 watts	China	any	Any combination of producer and exporter other than at SI no. 12		1.658	Per pc	USD
16	-do-	-do-	Finished lamp Without choke 11 up to 20 watts	Any other than subject countries	China	any	any	1.068	Per pc	USD
17	-do-	-do-	Finished lamp Without choke 21up to 26 watts	Any other than subject countries	China	any	any	1.658	Per pc	USD
18.	-do-	-do-	Finished lamp With choke- up to 10 watt	China	China	Philips & Yaming Lighting Co. Ltd.	Philips & Yaming Lighting Co. Ltd.	1.063	Per pc	USD
19.	-do-	-do-	Finished lamp With choke- up to 10 watt	China	China	Osram China Lighting Co. Ltd.	Osram China Lighting Co. Ltd.	1.131	Per pc	USD
20.	-do-	-do-	Finished lamp With choke- up to 10 watt	China	any	Any combination of producer and exporter other than at SI no. 18 and SI no. 19		1.501	Per pc	USD
21.	-do-	-do-	Finished lamp With choke- up to 10 watt	Any other than subject countries	China	Any	any	1.501	Per pc	USD
22.	-do-	-do-	Finished lamp With choke- 11 to 20 watt	China	China	Philips & Yaming Lighting Co. Ltd.	Philips & Yaming Lighting Co. Ltd.	1.251	Per pc	USD
23.	-do-	-do-	Finished lamp With choke- 11 to 20 watt	China	China	Osram China Lighting Co. Ltd.	Osram China Lighting Co. Ltd.	1.316	Per pc	USD
24.	-do-	-do-	Finished lamp With choke- 11 to 20 watt	China	any	Any combination of producer and exporter other than at SI no. 22 and SI no. 23		1.628	Per pc	USD

25	-do-	-do-	Finished lamp With choke- 11 to 20 watt	Any other than subject countries	China	Any	any	1.628	Per pc	USD
26.	-do-	-do-	Finished lamp With choke 21 to 26 watt	China	China	Philips & Yaming Lighting Co. Ltd.	Philips & Yaming Lighting Co. Ltd.	1.880	Per pc	USD
27.	-do-	-do-	Finished lamp With choke 21 to 26 watt	China	any	Any combination of producer and exporter other than at SI no. 26		1.908	Per pc	USD
28.	-do-	-do-	Finished lamp With choke 21 to 26 watt	Any other than subject countries	China	Any	Any	1.908	Per pc	USD
29.	-do-	-do-	Burners up to 26 watts	Vietnam	Any	any	Any	0.452	Per pc	USD
30.	-do-	-do-	Burners up to 26 watts	Any	Vietnam	any	Any	0.452	Per pc	USD
31.	-do-	-do-	Finished lamp Without choke Up to 26 watt	Vietnam	Any	any	any	0.479	Per pc	USD
32.	-do-	-do-	Finished lamp Without choke Up to 26 watt	Any	Vietnam	any	any	0.479	Per pc	USD
33.	-do-	-do-	Finished lamp With choke Up to 26 watt	Vietnam	Any	any	any	1.582	Per pc	USD
34.	-do-	-do-	Finished lamp With choke Up to 26 watt	Any	Vietnam	any	any	1.582	Per pc	USD

*** Scope of the product subject to duty is Compact Fluorescent Lamps with or without ballast or control gear or choke, whether or not assembled, either in completely knocked down or semi knocked down conditions, including unassembled Compact Fluorescent Lamps without ballast or choke or control gear, sealed tubular shell with or without lamp base. Finished compact fluorescent lamps are:**

(i) Integrated type with built in ballast or control gears or choke and

(ii) Integrated type without built in control gears or ballast or choke.

Explanation: For the purpose of this notification, “landed value” means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Customs Tariff Act.

115. Subject to above, the Authority confirms the provisional findings Notification No. 14/1/2007-DGAD dated 12th March, 2008 and customs notification dated 21 Nov 2008, and recommends imposition of the anti-dumping duty as in Para 114 above and the duty table as above from the date of imposition of provisional anti-dumping duty.

116. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

R. Gopalan
The Designated Authority