

MINISTRY OF COMMERCE & INDUSTRY  
(Department of Commerce)  
Directorate General of Anti Dumping & Allied Duties

**Notification**

New Delhi, the 19th March, 2004

**FINAL FINDINGS**

**Subject: Anti-dumping investigation concerning imports of Ball Bearings (up to 50 mm bore dia) from China PR, Poland, Russia and Romania.**

No. 14/30/2002-DGAD - The Government of India having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

**A. PROCEDURE**

2. The procedure described below has been followed:-

i. The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written petition from Ball and Roller Bearing Manufacturers Association of India, New Delhi through its members viz., M/s. FAG Bearings India Ltd., Vadodara, M/s. NRB Bearings Ltd., Mumbai, M/s. SKF Bearings India Ltd., Mumbai, M/s. National Engineering Industries Ltd., Jaipur, M/s. Tata Iron and Steel Company Ltd., (Bearing Division), Kharagpur, representing the domestic industry, alleging dumping of Ball Bearings and parts and components thereof (up to 50 mm bore dia) originating in and exported from China PR, Poland, Russia and Romania (hereinafter referred to as subject countries).

ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter, considered as properly documented.

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

iv. The Authority issued a Public Notice dated 21st September, 2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings concerning

imports of Ball Bearings and parts and components thereof (up to 50 mm bore dia) covered under Chapter heading/subheading 8482.10, 8482.80, 8482.91 of Schedule I of the Customs Tariff Act.

v. The Authority forwarded copy of the said public notice to the known exporters, importers and to the complainants and gave them an opportunity to make their views known in writing.

vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies of subject countries in India.

vii. The Authority sent questionnaires, to elicit relevant information, to the exporters as per details given in the Preliminary Findings.

viii. The Embassies of subject countries in New Delhi were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time.

ix. The questionnaire was sent to the known importers of subject goods as mentioned in the preliminary findings.

x. Additional information regarding injury was sought from the petitioners, which was also furnished.

xi. Request was made to the Central Board of Excise and Customs (CBEC) and DGCI&S to arrange details of imports of subject goods.

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

xiii. Some of the interested parties requested for extension in time to file their response to the questionnaire which was granted upon due cause shown.

xiv. The Authority notified preliminary findings vide Notification dated 6th May, 2003 and requested the interested parties to make their views known in writing within forty days from the date of its publication.

xv. Arguments made by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the

interested parties subsequently have been appropriately dealt in the disclosure statement and these findings.

xvi. The Authority also forwarded a copy of the preliminary findings to the Embassies of the subject countries in India with a request that the exporters /producers of subject goods and other interested parties may be advised to furnish their views on the preliminary findings in the time frame as stipulated above.

xvii. The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 15th July, 2003. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any.

xviii. In accordance with Rule 16 of the Rules supra, the essential facts / basis considered for these findings were disclosed to known interested parties on 1st March, 2004 vide a Disclosure Statement and comments received on the same have also been duly considered in these findings.

xix. Cost investigations including spot verification (as deemed necessary) of the domestic industry were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the Petitioner.

xx. The Authority conducted on the spot verification of information furnished by the exporter/producer M/s M/s Huanchi Bearing Group Co. Ltd., Ningbo Teke Bearing Co. Ltd., Ningbo Huanchi Import and Export Co. Ltd., China.

xxi. \*\*\*\* in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

xxii. The investigation covered the period from 1st January 2001 to 31st March, 2002.

xxiii. Copies of initiation notice and preliminary findings were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

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

3. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views given in response

to the disclosure statement are discussed in the relevant paragraphs herein below to the extent these are relevant as per rules and have a bearing upon the case. The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

4. The cases of new exporters shall be considered, on request, by the Authority in accordance with the Rules supra.

5. Following importers, exporters, manufacturers, associations and chambers have made submissions after the preliminary findings :

**Importers/Associations/Chambers:**

i. FICCI

ii. ASSOCHAM

iii. The All India Ball Bearing Merchants Association, Mumbai

iv. M/s Polar Industries Ltd., NOIDA

v. Indian Fan Manufacturers Association (IFMA), Kolkata

vi. Eastern India Ball Bearing Merchants Association

vii. M/s The Jay Engineering Works Ltd.

viii. M/s Bajaj Electricals Ltd.

ix. M/s Doshi Brothers Marketing Pvt. Ltd., Mumbai

x. M/s NISIKI Bearings Pvt. Ltd., Mumbai

**Exporters**

i. M/s Huanchi Bearing Group Co. Ltd., Ningbo Teke Bearing Co. Ltd., Ningbo Huanchi Import and Export Co. Ltd., China.

ii. M/s S. C. Koyo Romania S. A., Romania.

iii. M/s K.G. International FZCO, Dubai.

## **Manufacturers**

- i. Ball and Roller Bearing Manufacturers Association of India, New Delhi.
- ii. Domestic producers.
- iii. Small Scale Bearing Manufacturers Association (Rajasthan Unit), Jaipur
- iv. M/s Orbit Bearings India Pvt. Ltd. Rajkot .
- v. M/s Kankai Engineering Company Pvt. Ltd., Rajkot .

6. Following interested parties have made submissions on the Disclosures issued on 1.3.2004:

- i. Domestic Industry
- ii. M/s Huanchi Bearing Group Co. Ltd., Ningbo Teke Bearing Co. Ltd., Ningbo Huanchi Import and Export Co. Ltd., China.
- iii. M/s S. C. Koyo Romania S. A., Romania.
- iv. M/s K.G. International FZCO, Dubai.
- v. Eastern India Ball Bearing Merchants Association, Kolkata
- vi. Indian Fan Manufacturers Association, Kolkata
- vii. NISIKI Bearings Pvt. Ltd., Mumbai
- viii. Small Scale Bearing Manufacturers Association, Jaipur
- ix. The All India Ball Bearing Merchants Association, Mumbai
- x. Doshi Brothers Marketing Pvt. Ltd., Mumbai

**7. Period of Investigation :** The period of investigation in the present investigation is 1st January, 2001 to 31st March, 2002.

It has been argued by Indian Fan Manufacturers Association (IFMA) that WTO guidelines provide for anti dumping investigation to be carried out generally for a twelve calendar month period, whereas in this case fifteen months period has been

taken deliberately so as to include two peak season months period for the fan industry thereby distorting the basis itself and the resultant figures.

It has been argued by M/s HCH that the fifteen month POI chosen by the Designated Authority from 1st January, 2001 to 31st March, 2002 has not been selected correctly whereas in most investigations the POI comprises of only one financial year. During the present investigation, the peak three months for the ball bearings industry being January to March have been included twice in the POI. Thus the volume of imports calculated by Designated Authority is exaggerated and not representative of the actual imports to India from subject countries.

The Authority notes that in this case the domestic industry had initially made application giving information for the calendar year 2001. However, as the examination of the application and submission of information sought by the Designated Authority took some more time, then the Authority considered it appropriate to take the POI as 1st January 2001 to 31st March 2002 so as to make the POI as recent as possible from the date of initiation and for which data would have been available. The Authority also notes that there are no clear guidelines either in the Anti Dumping Rules or in the Anti Dumping Agreement as regards the period of investigation. The authority is guided by the practices as these have evolved and as per practices followed, there is nothing unusual in taking fifteen months investigation period. The imports of subject Ball Bearings from subject countries during the five quarters covered by January, 2001 to March, 2002 have been as under :

<b>Quarter</b>	<b>Import Qty-00,000 Pcs.</b>
January - March, 2001	53.64
April – December, 2001	289.80
Average import during each quarter of April-December, 2001	96.60
January – March, 2002	135.84

As per the above table, the imports of subject Ball Bearings show a rising trend in each quarter. However, the imports in the January – March, 2001 quarter were lower than the average imports in each quarter of April, - December, 2001. Therefore, the argument of IFMA about peak season of imports during January-March is not correct. For the purpose of comparison of trends the Authority has taken the annualized figures of imports for twelve months based on the fifteen months period of POI. This

is a consistent approach for comparison wherever the period of investigation is less than or more than twelve months.

## **8. Exclusion of Exports from Korea for investigation :**

It has been argued by exporters and importers that exports made from Korea have been purposely kept out of the investigation. The domestic industry has offered comments that :

- i. There is no evidence of dumping from Korea. Interested parties have merely argued that imports from Korea are at low price. Mere low price imports does not mean 'dumped imports'.
- ii. Imports from Korea are under technical arrangement between the supplier and the purchaser. Technical consideration and not the price is the major reason behind these imports.
- iii. The conditions of competition do not justify inclusion of Korea, as Korean imports were neither competing with exports from other countries nor these were competing with the supplies of the domestic industry.

Some of the interested parties have again raised the issue of exclusion of Korea from investigation as motivated. The Authority has further examined the issue. On examination it is seen that the domestic industry had initially made the application taking the POI as Jan-Dec.2001. As per the analysis of import data at that time, the imports from Korea were as under:

Imports from Republic of Korea	1530280
Total imports	51092146
% share of imports from Rep. of Korea	2.995

These imports were 2.995% of total imports and being below 3% were considered de-minimis. Subsequently the authority decided to take the POI as Jan 2001 to March 2002 so as to be as recent as possible from the date of initiation.

The Authority is of the view that though the exclusion of Korea was the result of the initial POI period at the time of application being twelve months, keeping in view the factual position, it may be appropriate to separately examine the question of an anti dumping investigation in respect of imports from the Republic of Korea.

## **8. Product under consideration and Like Article :**

The product under consideration as per the Initiation Notification was Ball Bearings and parts and components thereof (up to 50 mm bore dia). The subject goods find major uses in Fans, Electrical Motor, Automotives, Pumps, domestic appliances, industrial appliances and other industries. On the basis of the arguments made and evidence brought before the Authority, it was considered appropriate to make recommendations in the preliminary findings only in respect of Ball Bearings models/types of bore dia above 8mm and upto 50mm. Subsequent to the Preliminary Findings, following submissions / comments have been received on the issue of Product Under Consideration and Like Article :

### **8.1 Views of Eastern India Ball Bearing Merchants Association**

i. The Ball Bearings produced by the Petitioners is neither identical nor alike in all respects as to the Ball Bearings imported from the subject countries like China. Most of the imports from the subject countries, for instance, China during the POI are lower grade / 'normal' class bearings, produced from different raw materials and through a simpler production process.

ii. The Petitioners have not disclosed the fact that Ball Bearings are a diverse set of goods and are not substitutable and the Hon'ble Designated Authority has also erred in concluding that specifications of Ball Bearings are fairly standardized following a basic standard designation (numbering) system. Even similarly sized bearings are not one and the same. Though sizes of bearings may be the same, the specifications, like sound level, internal clearance of bearings, grease, tolerance level of inner and outer rings, load capacity are all different and thus prices are different. Further different applications require different type and quality of bearings. In fact the application of single type of bearings in different machines requires different specifications. Further differences arise on account of the fact that the same size of bearings are produced with different raw material like bearing steel (SAE 52100), Low Carbon steel, Stainless steel etc.

iii. The price of each ball bearing differs depending on its quality by way of accuracy, vibration and sound level as well as the quality of the raw material used and the price of each of these bearings is entirely different although they look the same and have the same size and number.

iv. The bearings imported from the subject countries, for instance, China are very different from higher grade of subject goods manufactured by the petitioners like SKF and FAG, although they look similar and further these bearings are basically sold in completely different market segments in India and have limited commercial

applications. Imported small bearings from China are purchased by small traders who in turn sell to the local fan, pumps and domestic appliances industry who are selling their final product in the local market.

v. The "normal" class bearings imported from the subject countries including, for instance, China have the accuracy only up to ABEC-1 and has worst vibration level and is in fact lower than VI Group, i.e., the lowest group and that the price and grade of the bearing is mainly determined based on its vibration level. The "normal" class of bearings is also known in the market in India as "commercial" quality bearings.

vi. As against this, the petitioners produce high quality precision bearings (usually V3 Group Bearings) with high accuracy level of ABEC-3 (In case of SKF going up to ABEC-5) and high tolerance levels. In the Indian market these are sometimes referred to as "precision" quality bearings. Thus, apart from differences in technical specifications the commercial nomenclature and usage are also different.

vii. 60% of the bearings manufactured by the petitioners is used by the Indian Automotive Industry. The dumping margin alleged by the petitioner is between 89% to 407%. If the goods manufactured by the petitioners were Like Article with the bearings imported from the subject countries and price differences were the sole difference, the Indian Automotive Industry would have been the first to switch to the bearings imported from the subject countries, particularly sine they the Indian Automotive Industry were not doing well and cutting costs during the POI. This itself is indicative of the fact that the goods manufactured by the petitioners are Not Like Article with the bearings exported by the subject countries. Since the Indian Automotive Industry buys the petitioner's bearings rather than the imported ones this shows that the imported bearings cannot substitute for the petitioner's bearings.

viii. High grades Bearings of types 6201, 6202, 6203 and 6204 manufactured by the petitioners and normal grade of types 6201, 6202, 6203 and 6204 Ball Bearings produced and sold by the subject countries like China in India during the POI are not "Like Article", since the technical specifications are different, result thereof commercial application and usage are completely different and thus obviously the market segments that are served are completely different.

## **8.2 Views of Huanchi Bearing Group Co. Ltd., Ningbo Teke Bearing Co. Ltd. and Ningbo Huanchi Import and Export Co. Ltd (HCH) China :**

i. The number of sizes of bearings produced under the category 10mm up to 50mm bore dia covers more than 1000 sizes of bearings while the petitioners in India produce only about 100 sizes. There is no rationale for including the remaining 900 sizes of ball bearings within the ambit of the present investigation which are not even

produced by the petitioners in India and with respect of which there are no allegations of dumping nor can there be any causal link thereof.

ii. The Designated Authority has found that 87.89% of the subject goods exported to India by the responding Chinese exporters are types 6201, 6202, 6203 and 6204. Again, the overall economic parameters are found by the Designated Authority to be good across all bearings made and sold in India by the domestic industry and some injury parameters are found only in the case of types 6201, 6202, 6203 and 6204. Thus only types 6201, 6202, 6203 and 6204 can at most be included within the ambit of the present investigation and the inclusion of other types of ball bearings from 10mm to 50mm bore dia is not maintainable. Even out of the said four types (6201-6204), injury, if any, is limited and apparently only with respect to decline in production and sales of types 6201 and 6202 in the POI compared to both the previous year and the base year.

iii. Injury on all the bearings in the range of 10mm to 50mm cannot be similar or comparable.

iv. The Designated Authority as per his own preliminary findings observed that the petitioners have not furnished sufficient evidence in support of their claim to cover the parts and components of ball bearings for recommendation of any anti dumping duty. However, the Designated Authority continues to include parts and components of ball bearings within the scope of the present investigation which is contrary to its own findings.

v. It is not clear whether the DGCI&S data relied on by the Designated Authority to calculate the volume of imports from the subject countries includes parts and components of bearings also.

vi. The subject goods produced by TEKE in China are made from locally produced or purchased Chrome Bearing Steel and Chinese bearings exported to India are normal class bearings which are different from those manufactured by SKF and/or FAG and that they are sold to completely different market segments in India. In the case of SKF, the costs are inflated by import of steel raw material at inflated transfer prices from its related exporter in Sweden.

vii. The Designated Authority has erred in holding that the ball bearings imported from the subject countries be treated as like article to those being produced by the domestic industry.

viii. The scope of the present investigation has been broadened and is not confined to like articles as required under the rules. Any finding made by comparing the subject goods with unlike articles would be contrary to law.

ix. Since there is no like article and since the subject goods produced and sold in India by the petitioners do not qualify as like article, the petitioners have failed to fulfill the domestic industry eligibility criteria as required under the rules and thus the present investigation ought to be dismissed *in limine*.

### **8.3 Views of Indian Fan Manufacturers Association (IFMA) :**

i. The product in the petition was Ball Bearings and components, whereas the investigation has been carried out only for ball bearings. No analysis has been done for components and no questionnaire has been sent to the component manufacturers.

ii. The complaint filed by Ball Bearings and Roller Manufacturers Association (BRBMA) containing the information provided by the domestic industry covered only four sizes of 6201 to 6204 i.e. bore dia 10mm to 20mm, duty has been imposed on the entire range from 8 to 50mm bore dia.

iii. Indian Ball Bearing Manufacturers have not been manufacturing more than 100 numbers / types of bearings out of 8-50 mm whereas internationally, the MNC companies operating in India are manufacturing more than 1000 sizes, numbers and types. The anti dumping duty has been imposed on the basis of information of only four sizes of ball bearings which is absolutely arbitrary and unlawful.

iv. Even in their own submissions before the Designated Authority, the domestic ball bearing manufacturers association has acknowledged the fact that bearings manufactured with the type of steel by FAG and SKF is ABEC-3 whereas Chinese manufacturers use ABEC-1 specification.

v. The material used by the applicants for the production of the bearings is vastly different from the material used by the Chinese producers in terms of price, grade and specifications. Even if the fan industry uses similarly numbered bearings produced by the applicants and those imported from China, the fact remains that the fan industry does not need the highly sophisticated and high priced bearings produced by the applicants. In the past, fan industry had no option but to procure the domestically produced bearings as the same were under restricted category with high level of custom duty. Therefore, just because the fan industry uses the same number of bearings, it cannot be said that the product under consideration are like article to the products produced by the applicants.

## **8.4 Examination by the Authority :**

### **(i) Product Under Consideration :**

The Authority has considered the views expressed by various interested parties on the issue of production under consideration and like article. The inclusion of parts and components within the description of the product involved is clearly explained in the initiation notification in Para 2 under heading Product Involved. The Designated Authority had clearly stated that Product under consideration includes Ball Bearings and its parts, whether mounted or unmounted, as anti friction bearings that employ balls as rolling element, so long as these imports in effect constitute imports of ball bearings. Anti friction balls, inner and outer races and components of ball bearings are within the scope of the product under consideration. Inclusion of parts and components in the description was with regard to the nature of the product. The parts and components imported separately could, however, be assembled to make a complete bearing with a view to circumventing the anti dumping duty. Predominantly the product under investigation even at the stage of initiation of investigation in this case was Ball Bearings of bore dia up to 50mm. The Authority recalls the preliminary findings on the issue of product under consideration. The Authority had considered it appropriate to make recommendations in the preliminary findings in respect of ball bearings models/types of bore dia above 8mm and up to 50mm. The Authority confirms the preliminary findings and has treated product under consideration as Ball Bearing of bore dia above 8mm and up to 50mm.

### **(ii) Like Article :**

The Authority has considered various arguments on the issue of Like Article. The Authority recalls the preliminary findings on this issue. The usage of different specifications of the raw material by the exporter does not make the finished product i.e. Ball Bearing as different in so far as its usage is concerned. The use of cheaper raw material may lead to a finished product which may be cheaper and cost effective for the user. Nonetheless, the user can use either the cheaper imported product or the domestically produced product, somewhat costlier. However, the two are commercial substitutes. It is an admitted fact that the fan industry had been using the domestically produced Ball Bearings and who have now largely shifted to imported Ball Bearings. Similarly, other users in pumps and other industrial goods segments use the domestically produced Ball Bearings as well as the imported Ball Bearings. It has been argued that the Authority has wrongly included various types of Ball Bearings within the ambit of the present investigation which are not even manufactured in India by the petitioners. The product under consideration is Ball Bearings of inner dia above 8mm up to 50mm. The domestic industry produces Ball Bearings of inner dia above 8mm up to 50mm. Having regard to the nature of the product involved, there are large

number of models / types that can be produced within the product description. As long as the domestic industry produces Ball Bearings of inner bore dia above 8mm up to 50mm, the product under consideration is to be held as like article to the domestically produced Ball Bearings. The Authority holds that subject goods i.e. Ball Bearings of bore dia above 8mm and upto 50mm are like article to the domestically produced Ball Bearings.

## **9. Domestic Industry**

9.1 M/s Polar Industries Ltd., an importer has filed WP 3018/2003 before the hon'ble High Court of Bombay challenging inter-alia, the issue of domestic industry in as much as the Authority did not satisfy itself, as required under Rule 5(3), as regards standing of the domestic industry insofar as the 'parts and components' of Ball Bearings are concerned. They have also raised the issue of some of the domestic producers being related to exporters in China and in the Republic of Korea. Similar arguments have been made by IFMA.

9.2 The Authority has examined the arguments in this regard. The description of the product under investigation is 'Ball Bearings and parts and components thereof (up to 50mm bore dia)'. It may be seen from the initiation notification dated 21.9.2002 that the Authority had inter-alia, mentioned 'Product Involved' as under:

"The product involved in the present petition is Ball Bearings and parts and components thereof (up to 50 mm bore dia) (hereinafter referred to as subject goods). Product under consideration includes Ball Bearings and its parts, whether mounted or unmounted, as anti friction bearings that employ balls as rolling element, so long as these imports in effect constitute imports of ball bearings. Anti friction balls, inner and outer races and components of ball bearings are within the scope of the product under consideration. Ball bearings are a part of a larger category of goods known as 'anti friction bearings'. ...."

9.3 The petition had been filed by M/s. FAG Bearings India Ltd., Vadodara, M/s. NRB Bearings Ltd., Mumbai, M/s. SKF Bearings India Ltd., Mumbai, M/s. National Engineering Industries Ltd., Jaipur, M/s. Tata Iron and Steel Company Ltd., (Bearing Division), Kharagpur. These domestic producers account for more than 81.5% of the domestic production of Ball Bearings and therefore, the petitioners satisfied the criteria of standing as domestic industry to file the petition in terms of Rule 5(3) (a) of the Rules supra. The inclusion of parts and components within the description of the product involved is clearly explained in the initiation notification in Para 2 under heading Product Involved. The Designated Authority had clearly stated that Product under consideration includes Ball Bearings and its parts, whether mounted or unmounted, as anti friction bearings that employ balls as rolling element, so long as

these imports in effect constitute imports of ball bearings. Anti friction balls, inner and outer races and components of ball bearings are within the scope of the product under consideration. Predominantly the product under investigation in this case is Ball Bearings of inner bore dia up to 50mm. Inclusion of parts and components in the description was having regard to the nature of the product. The parts and components imported separately can be assembled to make a complete bearing with a view to circumvent the anti dumping duty. Therefore, the Designated Authority was required to satisfy the standing of the petitioners as producers of Ball Bearings and not from view point of producers of parts and components. In the preliminary findings dated 6.5.2003, the Authority has made observations in Para 15 regarding Product Under Consideration. Under para 59 of the preliminary findings, the Authority has made recommendations in respect of Ball Bearings models / types of bore dia above 8mm and upto 50mm within the overall scope of the Product under Consideration. The Authority has not made any recommendation for imposition of anti dumping duty on imports of parts and components of Ball Bearings. The contention of the importer on this ground are, therefore, unfounded and without any justification.

9.4 As regards the arguments of some of the interested parties that some of the domestic producers are either related to exporters and importers or are themselves importers, the authority has examined the arguments as under:

Rule 2(b) of Anti Dumping Rules lays down the definition of the 'domestic industry' as under :

*"2(b) 'domestic industry' means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case [such producers may be deemed] not to form part of domestic industry."*

The explanation below Rule 2(b) provides as under :

"Explanation – [For the purposes of this clause, -

- i. producers shall be deemed to be related to exporters or importers only if, -
  - a. one of them directly or indirectly controls the other; or
  - b. both of them are directly or indirectly controlled by a third person; or

c. together they directly or indirectly control a third person subject to the condition that are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers; or

d. a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.]"

9.5 At the time of application, the applicants are required to give information in the application whether any of the petitioners are related to the exporters or importers of the alleged dumped article and, if so, the nature of such relationship. The applicants had furnished certificates in the application as regards their relationship with exporters / importers. They had also given certificates that they had not imported the subject product from the subject countries except for M/s National Engineering Industries Ltd. In the case of M/s National Engineering Industries Ltd., Jaipur (NEI), they had imported 4000 nos. of Ball Bearings during the period of investigation which was considered negligible and not in commercially significant quantities in comparison to their total production and it was felt that this may not be a reason to exclude them as part of the domestic industry keeping in view the provisions of Rule 2(b). The application proforma does not prescribe any form of certificate regarding imports made by the applicants and regarding their relationship, if any, with the exporters / importers. At the stage of examination of the petition the Authority had satisfied itself about the standing of the domestic industry and relationship, if any, of the domestic producers with the exporters/importers and the domestic producers being themselves importers of the alleged dumped article. On examination of the application made by the domestic industry, the Designated Authority had issued a deficiency letter informing the deficiencies which inter alia sought information regarding imports, if any, made by the petitioner. The applicants had furnished their respective certificates in this regard which formed part of the application submitted. Therefore, the Designated Authority had relied upon the information as reasonably available at the stage of application. In addition, the information relating to imports made by the applicant is also examined in the light of Rule 2(b) containing definition of 'domestic industry'. The import data as available at the stage of application was also examined by the Authority to ascertain the imports made by the domestic producers. The examination did not suggest that any domestic producer had made imports of Ball Bearings in a significant way so as to exclude it from the part of the domestic industry.

9.6 In the instant case, barring conjectures and statements, neither credible evidence has been brought by the importers or their association or any other interested party nor has any evidence been presented in the writ petition before the Hon'ble High Court of Bombay, justifying exclusion of any of the petitioner companies. With regard to five

companies whose exclusion has been sought in the arguments of the importers, the position is as under :

a) With regard to SKF, there is a bald statement that SKF, China is an exporter. No instance of any exports having been made by SKF, China have been brought out either by the petitioner herein or any other interested party before the Designated Authority. From a perusal of the import data available with the Designated Authority for the period of investigation, there was no evidence of exports made by SKF Group Company in China to India. On being specifically asked to do so, neither the importer nor IFMA gave any specific information of exports made by SKF Group Company in China. M/s SKF Bearings India Ltd., India has also informed vide letter dated 20th February, 2004 that M/s Dalian SKF Wazhou Bearing Co. Ltd., Liaoning, China is a joint venture company of SKF Group in China for spherical Roller Bearings only and not for 'Ball Bearings" either during the investigation period or at present. The SKF group has also the following three other JVs in China :

i. Beijing Nankou SKF Railway Bearing Co. Ltd. Beijing – for manufacture of Railway Axel Box bearings.

ii. Anhui CR Seals Company Limited, Anhui Province – for manufacture of rubber seals.

iii. SKF Shanghai Bearing Company Ltd., Shanghai – for manufacture of ball bearings. This company was established in 2002 and commenced production in Nov., 2003.

They have also confirmed that none of the above companies were involved at any time in any dumping of ball bearings into Indian market.

b) With regard to FAG, it is not even a claim that the producer in China exported the product under consideration in the investigation period. The ground for exclusion envisaged under Rule 2(b) is the relationship of domestic producer with an exporter of subject article and not a foreign producer of subject article. Hence the claim is not supported with Rule 2(b). M/s FAG Bearings India Ltd., India has also informed vide their letter dated 18th February, 2004 that they reiterate their earlier certificate dated 2nd July, 2002 given at the initial stage of investigation. Further, they have confirmed that:

i. their company has never imported ball bearings from China, Poland, Romania and Russia either directly or indirectly through any affiliate;

ii. their parent company in Germany (FAG Kugelfischer AG) has two companies in China;

iii. one company in China manufactures TAROL Bearings for Railway applications. This company does not produce Ball Bearings and hence NOT covered in the category of product under reference; and

iv. other company in China manufactures Automotive Bearings for Cars, Tractors, etc. This company's products are sold only within the China and NOT exported to India.

c) With regard to NRB, the claim itself is that the Company has imported parts and components of Ball Bearings. It is not the claim of the petitioner that M/s NRB has imported Ball Bearings. As Ball Bearings is the product being dumped, import of parts and components by the domestic producer for the production of Ball Bearings does not disqualify them to form part of domestic industry.

d) With regard to NEI, there was a clear submission by the Company at the application stage itself that they had made some imports of Ball Bearings for specific purpose. It was found by the Designated Authority that these imports from China constituted .0035 % of the production of NEI. These imports were considered insignificant by the Designated Authority so as to warrant exclusion of the producer from part of the domestic industry at the time of initiation of investigation.

e) With regard to TISCO, the import data presented by the domestic industry was examined by the Designated Authority and it was found that the imports made by companies who could be affiliated to the Company were not significant (about 8072 pcs.) and also these imports were not made from subject countries. Therefore, the imports made by some Tata Group companies from other sources could not be a ground for exclusion of TISCO (Tata Bearings) to form part of domestic industry.

9.7 It is also added that the mere fact of some domestic producers being related to an exporter or importer or itself being the importer of the alleged dumped article does not lead to automatic exclusion of such domestic producers from being considered as part of the domestic industry under the above provisions of definition of domestic industry under Rule 2(b). The provisions vest discretion with the Designated Authority to include or exclude any domestic producer to form part of domestic industry having regard to the facts and circumstances in a particular case. In the instant case, the available facts do not suggest that exports of subject Ball Bearings have been made by any group company of SKF and FAG to India so as to attract the disqualification, if at all, from being considered as part of the domestic industry within the meaning of Rule 2(b) read with the explanation therein. Therefore, the Designated Authority does not

find the arguments of the importers as sustainable on the issue of domestic industry. The Authority confirms the preliminary findings to treat the five domestic producers viz. M/s. FAG Bearings India Ltd., M/s. NRB Bearings Ltd., M/s. SKF Bearings India Ltd., M/s. National Engineering Industries Ltd., M/s. Tata Iron and Steel Company Ltd., (Bearing Division) to represent the domestic industry.

#### **10. Non-availability of sufficient information :**

IFMA had also raised issues of non-availability of sufficient information in the non-confidential petition, comparison done on model to model basis and other details which have been dealt with by the Authority vide letter dated 16th January, 2004 sent to IFMA. In response to the Disclosures, IFMA has argued that submissions made by other interested parties have not been made available to them. They have also requested for inspection of the public file. The Authority had issued a detailed letter dated 16th January, 2004 to IFMA wherein various issues raised by IFMA had been clarified. While doing so, the Authority had also advised them to inspect the public file, IFMA had not inspected the public file thereafter. The Authority had also made detailed Disclosures on 1.3.2004 which contained the essential facts as regards all the major issues of the investigation viz. POI, domestic industry, product under consideration, like article, normal value, export price, dumping, injury and causal link. The Authority thus finds the argument of IFMA on this ground as untenable.

### **C. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES**

#### **Normal Value**

11. Under Section 9A(1)(c) of the Customs Tariff (Amendment ) Act, 1995 normal value in relation to an article means:

"(i) The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section(6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –

(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6)";

## **12. Normal Value in respect of China PR**

A joint response had been received from the following producer / exporters from China:

- i. Huanchi Bearing Group Co.Ltd. China
- ii. Ningbo Huanchi Import & Export Co. Ltd., China
- iii. Ningbo Teke Bearing Co. Ltd., China.

The above producer / exporters have also furnished questionnaire response giving details of domestic sales, exports to India, sales price structure and cost of production. The exporter has furnished information about 646 models of Ball Bearings produced / sold. They had exported about 145 models of Ball Bearings covered by the investigation during the POI to India.

13. Petitioners have claimed that China and Russia are non-market economies. China and Russia have been treated as non-market economy by European Commission and United States in the past three years. Therefore, determination of normal value in respect of these countries is to be done in accordance with the Rules relating to non-market economies as contained in para 7 & 8 of Annexure-1 of Rules as amended vide Notification dated 4.1.2002. Accordingly, they have claimed that normal value in these countries can be determined on the basis of estimates of cost of production in India including selling, general and administrative expenses and profit.

14. The aforesaid Chinese producer/exporters, in their response, have claimed market economy treatment. They have also drawn reference to provisions of Article 15 of the Protocol of Accession of China to WTO. According to them, the proviso to para 8(2) of Annexure-I of the Rules, inter alia, provides an opportunity for an exporter to rebut the presumption of NME on the basis of the criteria specified in sub-para 3 of para 8 of Annexure-I and the said provisions must be read along with the provisions of Article 15 of the said Protocol.

15. The Chinese exporter has claimed that :

a. The decisions of The Respondents and other concerned firms in China with respect to 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 the costs of the inputs reflect market values. This is reflected in documents furnished and in the confidential data furnished by The Respondents with the confidential Response to the Questionnaire. It is submitted that there is neither any State regulation of costs or prices of these inputs in China or any system of 'administered prices'.

b. There is no distortion of production costs and financial situation as the Respondents are entirely private companies as described in the Questionnaire Response and accompanying confidential information and further as the Respondents have not converted former State assets, or distorted depreciation thereof, or engaged in barter trade or debt forgiveness or debt/equity swaps, or received the benefit of any write-off.

c. The Respondents are subject to China's regulations with respect to bankruptcy and property respectively. There are number of bankruptcies in China of similar firms as are clear from documents furnished.

d. As in India the exchange rate is based on the market rate as determined by the Central Bank as is reflected in the confidential data furnished along with the said Confidential Questionnaire Response.

They have claimed that the normal value of subject goods may be determined in accordance with the domestic sales price of subject goods in China during POI. The Chinese exporter/producer has also furnished documents in support of their claim for Market Economy Treatment.

16. The Authority recalls the preliminary findings as regards normal value determination in respect of exporters from China P. R. The Authority had however, found that sufficient evidence and information on the basis of the criteria specified in sub-para (3) of paragraph 8 had not been furnished. The Authority had noted that the producer/exporters have furnished some documents regarding registration, constitution, purchase invoices, audit & account law of PR China. However, these documents fell short of the requirements under sub-para (3)(a) i.e. the decision of concerned firms in such country 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. Mere submission of some of the purchase invoices, registration certificates etc. was not considered sufficient evidence to establish that the producer/exporters deserve Market Economy Treatment within the meaning of para 8 (3)(a) of Annexure-I of the Rules. In order to meet the criteria laid down under sub-para (3), the Authority advised the producer/exporter to furnish the documents /evidence as mentioned in para 32(i) to (xv) of Preliminary findings. In addition some other deficiencies were advised in para 33(i) to (vi) of the Preliminary Findings. The exporter has furnished information/ documents as pointed out in the Preliminary Findings.

17. The Authority has also conducted an on the spot verification of the information/ documents submitted by the Chinese exporters/ producer. As part of the verification the verification team also held discussions with the officials of MOFCOM in the Ministry of Commerce of People's Republic of China in Beijing.

17.1 As regards the question how the raw materials and other relevant inputs for manufacturing the product concerned are procured and to what extent State or local /regional authority are involved, it was informed by the Chinese officials that the producers of the subject products procured the raw materials and other relevant inputs for manufacturing from the open market based on the market prices set by demand and supply.

17.2 As regards prices of labour, it was informed that the Enterprises are totally free to decide the cost of labour according to the market and skills of the employees. Employees have the rights to collectively negotiate with the Enterprises. There is no subsidy to the cost of labour.

17.3 As regards prices of utility such as electricity and water, it was informed that these are guided by the State according to the demand and supply situation on the market. Other developed and developing countries also have similar regulatory framework or guidelines. The prices of coal and oil are freely decided by the market situation.

17.4 As for the raw material of the subject product, there is no restriction on the imports.

17.5 As regards organizing the labour for production purposes, the Companies concerned make decisions in this regard. However, these Companies must ensure that the minimum average wage levels of their employees are guaranteed and the State or Local Govt. does not give subsidy to the employees of the Companies. Different cities in Zhejiang province have different minimum average wage level.

17.6 As regards accounting documents to be registered, it was informed that financial statements are required to be submitted to Bureau of Taxation.

17.7 As regards commercial loans to the Enterprises and whether the Companies benefit from special loans or subsidy schemes, it was informed that there is no subsidy to the Enterprises in these investigations. The interest rate of the loans to the Enterprises is set through negotiation between the Enterprises and the Bank.

17.8 As regards Bankruptcy Law, there are mainly two laws governing the enterprise bankruptcy, one is the Bankruptcy Law of People's Republic of China, the other is one chapter incorporated in the Law of Civil Procedure of People's Republic of China. The second law applies to the subject companies involved in this investigation.

17.9 As regards profit distribution policy of the Companies and the Income-tax Policy, the Companies concerned can decide how to distribute their profits. The Govt. does not interfere with the distribution of profits of individual enterprises.

17.10 As regards cost of land, the enterprises buy the land from the State. Generally, it is through auction or negotiation that the price for land has been set in the market. Price of the land is decided according to market value. In the other method, State leases the land to the enterprises against a lease fee depending on market factors.

17.11 From the verification of the response of the producer/ exporters it seems that the cost of production as computed by the exporters are as per their books of accounts subject to adjustments/reallocation of certain costs. The information relating to sales-domestic and exports were verified with reference to Company's records.

17.12 The information relating to adjustments on account of inland freight and ocean freight was verified. The Company provided a detailed working of the method of calculating the inland/ocean freight for the purpose of adjustment in the domestic sales price and export price. This was verified from the given information.

17.13 The purchase price of raw materials viz. Steel Pellits, Steel Balls, Rubber Seals were verified from records of the Company.

17.14 Charges of utilities viz. coal, electricity, water and oil were verified. The documents relating to ownership of the land were verified from original records.

17.15 After discussions with the MOFCOM officials, examination of the various records of the exporter / producer (HCH), prima facie it emerged that these exporters / producer are operating under market driven conditions. There does not seem to be an apparent interference of State in fixing of the prices of raw materials, utilities, labour

costs, interest rates etc. The evidence of procurement of raw materials from various parties indicates that they do not seem to be related to these producers / exporters. As regards exchange rate of RMB though it was informed that this is decided freely, it is noticed that the rate of US\$ /RMB has remained almost constant @ RMB 8.27 per US\$ for several years and continues to be so. However, this was not found to impact the normal value determination in this case.

17.16 In view of above, it is felt that sufficient evidence has been provided by the aforesaid Chinese producer/ exporters so as to treat that market conditions prevail in their operations and it is considered appropriate to determine normal value in respect of the said Chinese producer/exporter as per paragraphs 1 to 6 of the Annexure I of the Anti Dumping Rules.

18. The producer, M/s Ningbo Teke Bearing Co. Ltd. has different shops doing different activities required for producing the bearings of different models. In the process of producing Ball Bearing the basic raw material used is a single grade Steel Pillet procured from the domestic market. The unit has in-house furnace facilities to convert the steel pillets to steel tubes of different sizes as required for the production of the different sizes of bearings. The unit does not procure steel tubes of different types and diameters from the market and therefore, does not require separate storage space and records therefor. Raw material procurement and storage cost was found to be comparatively cheaper.

19. In response to the Disclosures, the Domestic Industry has argued that it cannot be accepted that the cost of production of M/s HCH, China can be so low as to justify a dumping margin of 3.13%. It appears that the cost of production of the exporter has not been appropriately assessed. Further, the Chinese exporter cannot be granted market economy treatment on the basis of insufficient evidence. It has not been established that the prices of raw material are reflecting the fair market value. The comparison of cost of production of Chinese exporter with the most competitive Indian producer may show a very huge difference. The proposed determination of treating bearings with allegedly different vibration levels as discrete models of the product under consideration is grossly incorrect. The company has not confirmed whether its accounting principles are in conformity with the international accounting standards. Entire submissions of HCH have been treated as confidential. In respect of Ball Bearing type 6202, the basis of normal value determination has not been disclosed.

20. The Authority has examined various arguments of the domestic industry. On an overall assessment of the information and evidence furnished by the co-operative Chinese exporter/producer, verification done by the Authority, the Authority was of the view that there was sufficient evidence to treat the producers / exporters from

China viz. M/s HCH as operating under market conditions and not to be treated as from non-market economy in terms of Para 8 (3) of Annexure 1 of the Rules. As regards the accounting standards, the Authority recalls the preliminary findings under Para 5(f)(viii), wherein the exporter had claimed that the accounting system used by them is consistent with international norms in a market economy. This aspect has also been verified by the Authority and the exporter had produced their annual accounts, balance sheet etc. which were in accordance with the generally accepted accounting principles. As regards the cost of production computed for the exporter / producer, the same was done on the basis of information flowing from their financial accounts. Allocation of different elements of costs have been readjusted changing the basis of allocation wherever felt reasonable. As regards the big difference in the cost of production of Chinese producer / exporter and the Indian producers, the Authority notes that there is significant difference in the cost of raw material due to the type of basic raw material used. There are also significant differences in the manufacturing overheads and depreciation.

21. The Authority recalls the preliminary findings where it was recorded that as per Chinese exporter's response exports of Ball Bearings types 6201, 6202, 6203 & 6204 along with their variants like 2RS, V1, 2RS V1, ZZ, ZZV1, ZZV2 constituted about 87.89% of their total exports. The Authority is guided by Rule 17(3) and Article 6.10 of the Anti Dumping Agreement which inter-alia, states that in cases where the number of exporters, producers, importers or types of products involved is so large as to make such a determination impracticable, the authorities may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to the authorities at the time of selection. The Chinese producer had given information about 646 models of Ball Bearings produced/sold. They had exported about 145 models to India during the POI. From out of these the Authority found that Ball Bearing types 6201, 6202, 6203 and 6304 along with their variants like 2RS, V1, 2RS V1, ZZ, ZZV1, ZZV2 constituted about 87.89% of their total exports. The Authority found it impracticable to determine dumping margin for 145 models. Therefore, keeping in view the above provision of Rule 17(3) and Article 6.10 of the Anti Dumping Agreement, the Authority has considered it appropriate to determine dumping margins in respect of Ball Bearings types 6201, 6202, 6203 and 6304 along with their variants like 2RS, V1, 2RS V1, ZZ, ZZV1, ZZV2 the exports of which represent statistically valid sample.

22. While analyzing the domestic sales data of the producer, the Authority found that in respect of Ball Bearing types 6201, 6202, 6201ZZ, 6202V1, 6202ZZ the domestic sales were less than 5% of the export of respective types to India. The Authority has, therefore determined the normal value for these types on the basis of

cost of production, selling general and administration expenses and adding thereto a profit margin of \*\*\*%. In respect of remaining types the Authority has determined the normal value on the basis of domestic sales price. On comparison of the net selling price the Authority has found that domestic sales of types 6203, 6201 2RS, 6201V1, 6201ZZV1, 6202 2RS, 6202 2RSV1, 6202ZZV2 and 6203 2RS, 6203 2RSV1, 6203ZZ and 6203ZZV1 are in the ordinary course of trade. Normal value of these types was determined on the basis of weighted average domestic sales price of these types. Entire domestic sales of types 6204, 62042RS and 6204ZZV1 were not found in the ordinary course of trade as almost 99% to 100% domestic sales transactions were below cost of production plus administrative, selling and general (SGA) costs. Normal value of these types was determined on the basis of cost of production, selling general and administration expenses and adding thereto a profit margin of \*\*\*%. More than 20% domestic sales of type 6204ZZ were not in ordinary course of trade. Therefore, the normal value has been determined on the basis of remaining sales which were above cost of production plus SGA.

### **23. Export Price :**

The Authority recalls the preliminary findings regarding determination of export price for the co-operative exporter from China, M/s HCH. The exporter had given information in respect of exports of different models of Ball Bearings to India. They had shown adjustments on account of ocean freight, insurance, packing charges, storage, handling & customs charges. The Authority has verified the adjustment claims and also the export invoices. The ex-factory export price taken for preliminary findings has been considered for final findings.

### **24. Other Non-cooperative Exporters from China P.R.**

For the preliminary findings, the Authority had determined Normal Value in respect of other non-cooperative exporters from China P.R., on the basis of cost of production of subject goods in India plus selling, administration and general expenses and a reasonable profit margin as per para 7 of Annexure-I of the Rules. In response to the Disclosures, it has been argued by M/s K.G. International, FZCO Dubai and All India Ball Bearing Merchants Association that Normal Value information available for the co-operative exporter should also be used in respect of other non-cooperative exporter. Further, the best available information has to be applied with special care and circumspection as per the guidelines of Anti Dumping Agreement.

The Authority has examined the arguments in the light of Para 7 of Annexure II of Anti Dumping Agreement. The exporters from China had been treated as from non-market economy. The market economy treatment has been considered for the co-operative exporter from China, M/s HCH on furnishing of information and evidence

as per Para 8 of Annexure I of Anti Dumping Rules. The information / evidence furnished by the said Chinese exporter has also been verified by the Authority and only then market economy treatment was given to them. As other non-cooperative Chinese exporters / producers are from non-market economy, they cannot be given similar market economy treatment on the basis of one cooperative Chinese exporter, whose information has been accepted after verification. Accordingly, in the absence of response from any other exporter from China PR, Authority has determined the constructed normal value on the basis of cost of production including selling, general and administrative expenses and a reasonable profit margin. The cost of raw material has been verified by the Authority and elements of duty have been considered to take international price of raw material. The Authority has also normated the cost of production at optimum capacity utilisation based on the most efficient domestic producer. The export price was determined for preliminary findings as per the information based on secondary source import data. Considering the same as facts available in accordance with Rule 6(8), the Authority confirms the same export price.

#### **25. Normal Value in respect of Russia**

The Authority recalls the preliminary findings. None of the exporters from Russia has co-operated in the investigation. In the absence of any response from any Russian exporter, the Authority proposes to determine normal value on the basis of facts available as per Rule 6((8). The normal value is thus determined on the basis of cost of production including selling, general and administrative expenses and a reasonable profit margin. For this, the Authority has considered the international price of raw materials and normated the cost of production at optimum capacity utilisation based on the most efficient domestic producer.

#### **26. Export price in respect of Russia**

The Authority had considered the information provided by the petitioner regarding export price of subject goods from Russia for preliminary findings. There has been no response from any exporter of Russia. None of the importers has given information regarding imports from Russia. The petitioner has claimed export price as per data of secondary source and has shown adjustments on account of ocean freight, marine insurance, commission, inland transport and port handling and port charges. The Authority has found the adjustments shown as reasonable. Due to non-cooperation of exporters from Russia, the Authority has to rely upon facts available as per Rule 6(8) and has determined the ex-factory export price as per facts available.

#### **27. Normal Value in respect of Romania**

The Authority recalls the preliminary findings. M/s Koyo, Romania, who are producer of deep groove ball bearings and tapered roller bearings, have informed that they did not export any bearings to Indian market during 2002. They claim to have not issued any invoice to any Indian customer or sent goods to any Indian client as consignee. However, they exported bearings to many dealers from the Middle East or Far East Asia, but they do not have any indication about the final destination of these bearings. As regards M/s Rulmenti S.A. Slatina, it has been informed by the Govt. of Romania that the said company stopped production on August 28, 2002 and is currently under liquidation for bankruptcy. Therefore, no information could be given regarding this investigation. The Authority has examined the import data of DGCI&S and of the secondary source and has found that there are imports showing country of origin as Romania in large number of transactions relating to Ball Bearings covered by the investigation. Therefore, the Authority has sufficient evidence to proceed that ball bearings of Romanian origin were imported during the period of investigation. Due to non-cooperation of exporters from Romania, the Authority had determined normal value for the preliminary findings on the basis of facts available as per Rule 6(8). The normal value was determined on the basis of information furnished by the petitioners, which is based on the domestic sales price in Romania. On the basis of comparison with the constructed Normal Value, the Authority finds the same as reasonable. The Authority confirms the same.

## **28. Export price in respect of Romania**

The Authority had considered the information provided by the petitioner regarding export price of subject goods from Romania for preliminary findings. No information regarding export price was furnished by the Romanian exporter. None of the importers has given information regarding imports from Romania. The petitioner has claimed export price as per data of secondary source and has shown adjustments on account of ocean freight, marine insurance, commission, inland transport and port handling and port charges. The Authority has found the adjustments shown as reasonable. The Authority has to rely upon facts available as per Rule 6(8) and has determined the ex-factory export price as per facts available.

## **29. Normal Value in respect of Poland**

None of the exporters from Poland has furnished complete response to the questionnaire. Only M/s NSK - ISKRA has informed that their company did not export the subject merchandise to India during the POI. Further, their company sold the subject merchandise to unrelated trading companies. They have not furnished information on the questionnaire. The Authority considers the exporters from Poland as non-cooperative. The petitioners have claimed normal value in respect of Poland on the basis of domestic market sales price in Poland. Due to non-cooperation of

exporters from Poland, the Authority is constrained to determine normal value on the basis of facts available as per Rule 6((8). The normal value was determined for preliminary findings. on the basis of information furnished by the petitioners which is based on the domestic sales price in Poland. On the basis of comparison with the constructed Normal Value, the Authority finds the same as reasonable. The Authority confirms the same.

### **30. Export price in respect of Poland**

There has been no complete response from any exporter of Poland. The Authority had considered the information provided by the petitioner regarding export price of subject goods from Poland for preliminary findings. The petitioner has claimed export price as per data of secondary source and has shown adjustments on account of ocean freight, marine insurance, commission, inland transport and port handling and port charges. The Authority has found the adjustments shown as reasonable. The Authority has to rely upon facts available as per Rule 6(8) and has determined the ex-factory export price as per facts available.

### **31. Dumping Margin :**

The Authority followed the consistent practice of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I to the anti-dumping rules. Dumping margins have been determined on the basis of a fair comparison of Export Price with the Normal Value in pursuance of the principle laid down in Para 6 of Annexure-1 to the Rules. The comparison is at the same level of trade, i.e. Ex-factory level. Normal Value at ex-factory level has been compared with the export price at ex-factory level of relevant comparable type / model of Ball Bearings. The types of Ball Bearings covered by the product under investigation are very large and it would be impracticable to determine dumping margin for the each and every ball bearing covered under the description. As per the co-operative Chinese exporters' response, 87.89% of exports were in respect of types 6201, 6202, 6203 & 6204 and their variants. In respect of exports from other countries, there was no co-operation from the exporters. However, as per the import data verified by the Authority, the exports of these models were more than 50%. Therefore, in accordance with Rule 17(3), the Authority has considered it appropriate to limit the determination of dumping margin in respect of these four models and their variants as these covered the largest percentage of the volume of exports from these countries. After determining individual dumping margin, model/type-wise, the Authority has determined a weighted average dumping margin. Based on the Normal Value and export price as determined above, the Authority has determined the following dumping margins (%):

S. No.	Country	Name of Exporter/Producer	Dumping Margin (%)
1.	PR China	M/s Huanchi Bearing Group Co. Ltd., M/s Ningbo Teke Bearing Co. Ltd., M/s Ningbo Huanchi Import and Export Co. Ltd.	3.13
2.	PR China	Other Exporters	280.01
3.	Russia	All Exporters	368.21
4.	Poland	All Exporters	253.17
5.	Romania	All Exporters	181.46

#### **D. INJURY**

32. Rule 11 of Anti Dumping Rules reads as follows:

"Determination of Injury:

(1) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry or materially retards the establishment of any industry in India;

(2) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules."

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

(i) A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.

(ii) While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the 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 with the price of 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.

#### **34. Arguments made by the exporters / importers / Associations :**

The applicants have provided bulk of the information / data for injury and causal link only for four identified types of Ball Bearing. And at the same time, it appears that the analysis had been undertaken selectively for all types of Ball Bearings for some parameters and for the four types for some of the parameters.

Since the scope of product under investigation includes all types of Ball Bearings from 8mm dia to 50mm dia, though fewer than 10% are produced by the petitioner and injury data furnished only on types 6201, 6202, 6203 and 6204, the Authority may calculate the injury with respect to all Ball Bearings falling within the scope of product under consideration.

There is absolutely no injury to the Ball Bearings of bore dia between 8mm to 50mm.

#### **35. Comments on the Preliminary Findings :**

**Import Volume** – It has been held in the preliminary findings that the imports of subject goods from subject countries have increased from 23.25 lac pieces during 1998-99 to 479.23 lac pieces during the POI, an increase of more than 1600%. The import volume by itself is not an indicator of injury unless the same is analysed in the context of the total market share of the domestic industry.

**Production** – The production of the subject Ball Bearings have gone up which does not show any injury to the domestic industry.

**Capacity Utilization** – The capacity utilization of subject bearings have gone up during the POI indicating no injury to the domestic industry.

**Sales** – The sales of the domestic industry in volume and value terms have gone up during POI. Thus there is no injury on sales.

**Profitability** – Profitability of applicants have gone up from indexed figure of 100 in 1998-99 to 224.65 during POI. The previous year showed an abnormal increase of 754% over the base year. The profitability is showing a general upward trend and the increase in indexed figure is as high as 224%.

**Closing Stock** - The closing stock have come down during the POI for all types of Ball Bearings and therefore, there is no injury.

**Productivity** - The productivity has also increased from 100 in 1998-99 to 146.66 (indexed).

**Return on Capital Employed** – In the preliminary findings, it was held that ROI has declined from 4.88 during 2000-01 to 4.49 during the POI. However, it has gone up from 1.83 during 1998-99 to 4.49 during the POI. The trend shows a continuous upward trend and there is no basis to assume that injury, if any, has been caused due to the alleged dumping.

**Wages and Salaries** – The Authority has held that salaries and wages are not being considered as a material indicator regarding injury.

**Cash Profit** - Cash profit is not one of the fifteen factors of injury but even the cash profit has shown an improvement over the base year, though it was held that it had shown a significant decline during the POI over the preceding year.

**Market Share** – What is relevant for injury analysis is the decline in the market share of the domestic industry. If the gain in market share by the alleged dumped imports is not at the cost of the complaining domestic industry, no injury can be claimed on account of loss of market share. The share of the complaining domestic industry has fallen only marginally. Obviously, the gain in the market share of imports from the subject countries is on account of imports from other sources. This cannot be claimed as a factor of injury by the applicants.

36. In response to the Disclosures, it has been argued by exporters/importers that the injury parameters do not show any injury to the domestic industry. It has also been argued that it is not permissible to carry out a segment-wise analysis while doing injury analysis.

### **37. Views of the Domestic Industry :**

The entire submission on this account is selective and without comments on those major grounds adduced by the domestic industry and accepted and discussed by the Authority which clearly showed injury. A decline in market share from 65% (1998-

99) to 56% (POI) for the participating company and from 90% (1998-99) to 70% (POI) for the Indian industry cannot be described insignificant. The petition is also supported by other Indian producers inasmuch as petition is filed by the association on behalf of the Indian producers.

### **38. Examination by the Authority:**

In response to the Disclosures, it has been argued by exporters/importers that the injury parameters do not show any injury to the domestic industry. It has also been argued that it is not permissible to carry out a segment-wise analysis while doing injury analysis. The Authority has taken into consideration the arguments made by interested parties on the issue of injury.

The Authority has analyzed the information relating to injury furnished by the domestic industry and has also verified the same to the extent considered reasonable. The analysis of the information relating to various economic factors / indices relevant for injury analysis is as under :

	Unit	1998-9
		A
<b>Sales</b>		
Indigenous Sales upto 50 MM – Pcs.	<i>Indexed</i>	100
Indigenous Sales upto 50 MM – Rs. Lacs	<b>Indexed</b>	100
Sales of Identified four types Pcs.		
6201	<i>Indexed</i>	100
6202	<i>Indexed</i>	100
6203	<i>Indexed</i>	100
6204	<i>Indexed</i>	100
<b>Profits</b>		
Profit Loss - Upto 50 MM Rs. Lacs	<i>Indexed</i>	100
Profit/Loss as a whole Rs. Lacs	<i>Indexed</i>	100
Cost of Production Rs. Pcs		
6201	<i>Indexed</i>	100
6202	<i>Indexed</i>	100

6203	<i>Indexed</i>	100
6204	<i>Indexed</i>	100
<b>Selling Price Rs. Pcs</b>		
6201	<i>Indexed</i>	100
6202	<i>Indexed</i>	100
6203	<i>Indexed</i>	100
6204	<i>Indexed</i>	100
<b>Profit/Loss Rs. Pcs</b>		
6201	<i>Indexed</i>	-100
6202	<i>Indexed</i>	-100
6203	<i>Indexed</i>	-100
6204	<i>Indexed</i>	100
<b>Output - Production</b>		
Production upto 50 MM	<i>Indexed</i>	100
Production all types – Pcs.	Pcs.	974030
Production all types – Rs. Lacs	<i>Indexed</i>	100
<b>Production - 6201</b>		
Production - 6201	<i>Indexed</i>	100
<b>Production - 6202</b>		
Production - 6202	<i>Indexed</i>	100
<b>Production - 6203</b>		
Production - 6203	<i>Indexed</i>	100
<b>Production - 6204</b>		
Production - 6204	<i>Indexed</i>	100
<b>Market Share</b>		
Imports-Volume	<b>As per DGCI&amp;</b>	
China	Lac Pcs	16.33
Poland	Lac Pcs	1.913
Romania	Lac Pcs	3.09
Russia	Lac Pcs	1.915
Subject Countries	Lac Pcs	23.25
Other Countries	Lac Pcs	113.99
Total Imports	Lac Pcs	137.24
<b>Imports - Value</b>		
		<b>As per DGCI&amp;</b>

China	Rs.	55947.
Poland	Rs.	79810.
Romania	Rs.	16455.
Russia	Rs.	11632.
Subject Countries	Rs.	92016.
Other Countries	Rs.	85858.
Total Imports	Rs.	95060.
Market share in Imports-Qty		
China	%	11.9
Poland	%	1.39
Romania	%	2.25
Russia	%	1.4
Subject Countries	%	16.94
Other Countries	%	83.06
Total Imports	%	100
Market share in Imports-Value		
China	%	5.89
Poland	%	0.84
Romania	%	1.73
Russia	%	1.22
Subject Countries	%	9.68
Other Countries	%	90.32
Total Imports	%	100
<b>Demand</b>	<i>Indexed</i>	<i>100</i>
Market share in Demand		
China	%	1.19
Poland	%	0.14
Romania	%	0.22
Russia	%	0.14
Subject Countries	%	1.69
Other Countries	%	8.28

All imports	%	9.96
Domestic industry	%	65.06
Indian Industry	%	90.04
<b><u>Productivity</u></b>		
Productivity - Pcs. upto 50 MM	<i>Indexed</i>	100
Productivity - Pcs. - Identified types	<i>Indexed</i>	100
Productivity - Value.	<i>Indexed</i>	100
Return on Investment	%	1.83
Utilization of Capacity	<i>Indexed</i>	100
<b>Actual and Potential effect on cash flow.</b>		
Cash Profit	<i>Indexed</i>	100
<b><u>Inventories Pcs.</u></b>		
Ball Bearings - Upto 50 MM	<i>Indexed</i>	100
<b><u>Employment</u></b>		
No. of Employees	<i>Indexed</i>	100
<b><u>Wages</u></b>		
Salary & Wages Rs. Lacs	<i>Indexed</i>	100
<b><u>Growth</u></b>		
Volume wise	%	
Value wise	%	

### 39. Cumulative assessment of injury:

As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of

the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%.

With a view to assess whether the conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product, the Authority's views are that :

- i. The subject goods have been imported from the subject countries under the same tariff classification;
- ii. The Authority has found that the imported subject goods are commercial substitutes of the domestically produced ball bearings.
- iii. The significant shift in sourcing by the domestic fan, motor and pump manufacturers to the imported products in lieu of the domestic product shows that the conditions of competition are quite similar.
- iv. None of the importers furnished questionnaire response. However, the authority can reasonably conclude from the submissions of the Merchants Association that they deal in the imported and indigenous Ball Bearings. Therefore the channels of distribution are found to be similar.
- v. Therefore, the Authority finds it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article in the light of conditions of competition between imported products and the conditions of competition between the imported products and the like domestic product.

40. On examination of various injury parameters, the Authority finds that :

- (i) There is significant increase in the volume of the dumped imports from subject countries. It has increased from 23.25 lac pieces in 1998-99 to 383.46 lac pieces (annualized) during the POI. This increase is about 1549% which is very significant. The market share of imports from subject countries in relation to production has increased from 2.47% in 1998-99 to 34.59% during POI. Market share of imports from subject countries in relation to the demand has increased from 1.69% in 1998-99 to 20.79% during POI.

(ii) As regards the effect of the dumped imports, the Authority finds that there is a price undercutting by the dumped imports as compared with the net sales realization of the domestic industry in respect of only following four types of Ball Bearings. The price undercutting range has been found as under:

Type	HCH China	China	Poland	Romania	Russia
6201	90-100%	145-155%		40-50%	160-170%
6202	100-110%	155-165%	150-160%	60-70%	200-210%
6203	90-100%	120-130%	130-140%	90-100%	230-240%
6204	100-110%	125-135%	140-150%	125-135%	310-320%

(iii) The price underselling range has been found as under only in respect of following four models :

Type	HCH China	China	Poland	Romania	Russia
6201	155-165%	225-235%	--	90-100%	250-260%
6202	135-145%	200-210%	195-205%	90-100%	255-265%
6203	110-120%	145-155%	155-165%	115-125%	270-280%
6204	100-110%	140-150%	155-165%	140-150%	340-350%

41. The Authority is of the view that the effect of the dumped imports on the domestic industry is to be seen in terms of its performance as regards the product under consideration i.e. Ball Bearings above 8mm to 50mm as per Para (iv) of Annexure II of the Anti Dumping Rules. The impact of the dumped imports on the domestic industry cannot be seen in a limited segment of the product under consideration. For the examination of the impact of the dumped imports on the domestic industry, the relevant economic factors and indices have been evaluated as per above details as under:

i. The share of imports of subject goods from subject countries in relation to total imports increased from 16.94% in 1998-99 to 68.59% during POI. This was an

increase of 304%. The market share of imports from subject countries in total demand of subject goods increased from 1.69% in 1998-99 to 20.79% during POI. This shows a significant increase in imports of subject goods from subject countries in relation to consumption in India.

ii. The production of ball bearings up to 50mm increased from 100 (indexed) during 1998-99 to 117.91 during the POI. The capacity utilization increased to 106.5 (indexed) during the POI in comparison to the year 1998-99.

iii. The domestic sales of the domestic industry in respect of Ball Bearings upto 50 mm bore dia showed an improvement during POI in comparison to the year 1998-99. However, the sales of only three types of Ball Bearings up to 50mm i.e. models 6201, 6202, and 6204 showed decline in sales. The sales of model 6203, however, showed an upward trend during POI. Detailed examination of domestic industry's sales to various user segments shows that the sales of ball bearing upto 50mm to Fan industry have declined significantly during POI in comparison to the year 1998-99. There is also a significant decline in sales to Pump and Motor segment. The sales of Ball bearing upto 50 mm to automotive segment has shown marginal growth, sales to other segments like Engineering, Textile, Conveyors, Machine tools has shown a healthy trend. This analysis shows that the domestic industry has lost market share in the fan, pumps and motor segment on account of dumped imports. The overall growth in sales of Ball bearing upto 50mm can be attributed to increased demand in Automotive, Engineering, Textile, Conveyors, Machine tools segments. However, the product under consideration is Ball Bearings above 8mm to 50mm. The overall sales performance of the domestic industry showed improvement during POI.

iv. The market share of the domestic industry in demand declined from 65.06% during 1998-99 to 56.38% during POI.

v. The profits in respect of Ball Bearings upto 50mm showed an improvement during POI in comparison to year 1998-99. Only in respect of models 6201, 6202, 6203, the domestic industry showed losses. In respect of models 6204, the industry showed profits. The profitability of the domestic industry is to be seen for the Ball Bearings up to 50mm which showed improved profitability as 175.35 (indexed) during POI from base year 1998-99 taken as 100 (indexed).

vi. The net sales realization of the subject types of Ball Bearings showed decline during the POI in comparison to year 1998-99 only in respect of types 6201, 6203 and 6204.

vii. The closing stock of the subject types of Ball Bearings showed marginal decline during the POI in comparison to the year 1998-99.

viii. The number of employees in the petitioner companies showed a decline during POI in comparison to the year 1998-99.

ix. The productivity per employee improved during the POI in comparison to the year 1998-99.

x. There was an increase in the overall salaries and wages payment during the POI in comparison to the year 1998-99. However, the trend in respect of salary and wages is not being considered as a material indicator regarding injury.

xi. The capital employed did not show any appreciable change. However, the actual return on capital employed showed a marginal improvement from 1.83% to 2.96% during POI.

xii. The cash profit of the petitioner companies showed a decline during POI from the year 1998-99. The overall profitability of the domestic industry has, however, improved during the POI in respect of Ball Bearings up to 50mm and also in respect of Ball Bearings all types.

#### **42. Conclusions on injury:**

i. The Authority concludes that though there is significant increase in the volume of the dumped imports from subject countries in absolute terms and also in relation to the production and consumption in India, the evidence of price undercutting has, however, been found only in respect of four models of the Ball Bearings covered by the product under consideration. The price underselling has also been found only in respect of four models of the product under consideration.

ii. The Authority is of the view that the effect of the dumped imports on the domestic industry is to be seen in terms of its performance as regards the product under consideration as a whole i.e. Ball Bearings above 8mm to 50mm as per Para (iv) of Annexure II of the Anti Dumping Rules. The impact of the dumped imports on the domestic industry cannot be seen with reference to a limited segment of the product under consideration. The domestic industry has shown improved performance in respect of the higher production, higher capacity utilization, improved sales performance, improved profitability, reduced inventory, improved productivity with regard to the product as described for the purpose of this investigation. Price undercutting and price underselling per-se in respect of some of the models of Ball Bearings covered by the product under consideration may not signify overall injury suffered by the domestic industry in respect of product under consideration. The decline in the market share of the domestic industry in demand of subject goods is not considered a significant indicator of injury when the overall demand is growing. The

authority thus concludes that based on the available evidence, the domestic industry has not suffered material injury.

#### **43. Causal Link**

The Authority has considered the views expressed by the petitioners and other interested parties as regards the causal link. After examining the various economic parameters as above the Authority has concluded that there is no material injury caused to the domestic industry as a result of dumped imports of subject goods from subject countries.

#### **E. CONCLUSIONS**

44. The Authority has, after considering the foregoing, come to the conclusion that:

- i. Subject goods have been exported to India from subject countries below their normal value resulting in dumping; and
- ii. The domestic industry has however not suffered material injury as a result of the dumped imports.

45. It is, therefore, considered necessary to withdraw the anti dumping duties recommended provisionally vide Notification No.14/30/2002-DGAD dated 6th May, 2003 on imports of Ball Bearings above 8mm and up to 50mm dia covered under Customs Heading 8482.10, 8482.80 and 8482.91 being the subject matter of this investigation originating in or exported from P.R. China, Poland, Romania and Russia.

46. In view of the above, the Designated Authority recommends withdrawal of the provisional duties in terms of the provisions of Rule 18(4) of the Anti Dumping Rules. The provisional duties already imposed or collected, if any, shall be refunded.

47. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Act, *supra*.

**Abhijit Sengupta,**  
**Designated Authority**