

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

New Delhi, the 1st December, 2000

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning import into India of certain seamless grade alloy and non alloy steel billets, bars and rounds from Russia, China and Ukraine.

31/1/99-DGAD.--Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Custom Tariff (identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and For Determination of Injury) Rules, 1995, thereof

A. PROCEDURE

1. The procedure described below has been followed with regard to the investigation:
 - i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from M/s. Ispat Profile India Limited and on behalf of domestic industry alleging dumping of certain seamless grade alloy and non alloy steel billets, bars and rounds from Russia, China and Ukraine (herein after also referred to as subject goods) originating in or exported from Russia, China and Ukraine (hereinafter referred to as subject countries);
 - ii. Preliminary scrutiny of the application Ned by petitioners revealed certain deficiencies, which were subsequently rectified by the petitioners. The petition was therefore considered as properly documented;
 - iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigations against import of the subject goods from the subject countries. The Authority notified the embassies of Russia, China and Ukraine about the receipt of application for dumping investigation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules;

- iv. The Authority issued a public notice dated 9th December 1999, published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of subject goods classified under custom code 7206.90, 7207.19 and 7207.20 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from subject countries. A corrigendum was also issued on 21.1.2000 making certain corrections in the list of grades subject to investigation;
- v. The Authority forwarded a copy of the public notices to all the known exporters (whose details were made available by the petitioners) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);
- vi. The Embassies of the subject countries in New Delhi were informed about the initiation of the investigation in accordance with rule 6(3) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to their respective Embassies, along with a list of known exporters/producers;
- vii. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of subject goods in India and advised them to make their views known in writing within forty days from the date of issue of the letter: A copy of the petition was also provided to other interested parties.
- viii. Request was made to the Central Board of Excise and Customs (CBEC) & Director General of Commercial Intelligence & Statistics (DGCI&S) to arrange details of imports of subject goods made in India during the past three years, including the period of investigation.
- ix. The Authority conducted on-the-spot investigation at the premises of the petitioners to the extent considered necessary.
- x. Additional information regarding injury was sought from the petitioners, which was also furnished;
- xi. 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;
- xii. *****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
- xiii. Investigation was carried out for the period starting from 1st January 1999 to 30th September 1999;
- xiv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners also so as to ascertain if anti-dumping duty lower

than dumping margin would be sufficient to remove injury to the domestic industry;

xv. The Authority sent a questionnaire, to elicit relevant information, to the following known exporters, in accordance with Rule 6(4);

1. Tianjin Pipe Corpn, PR China
2. Multiera Commodities Ltd., Ukraine
3. Chelia Binsk Tube Rolling Plant, Russia
4. Volski Tube Mill, Russia
5. Volski Tube Mills, Russia
6. Tyazhpromexport, Russia
7. Kuznetsky Met Kombinat, Pobedy
8. Magnitogorsky Met Kombinat, Kirova
9. Nizhnetagilsky Met Kombinat, Nizhny Tagil
10. Novolipetsky Met Kombinat
11. Cherepovetsky Met Kombinat, Mira
12. Azovstal Met Kombinat, Leporskogo
13. Serp 1 Molot, Zolotorozhsky Val
14. Dalnevostochny Rolled Steel Plant, Moscow

xvi. A questionnaire was sent to the following known importers calling for necessary information in accordance with rule 6(4);

1. Maharashtra Seamless Ltd., N Delhi
2. Kalyani Seamless Tubes Ltd., Pune
3. Indian Seamless Tubes Ltd., Pune
4. Bharat Heavy Electricals Ltd., Tiruchy
5. Association of Seamless Tube Mfrs., Pune

xvii. Cops of initiation notice were also sent- :-

1. Assocham, N Delhi
2. CII, New Delhi
3. FICCI, N Delhi

xviii. All interested parties were provided an- opportunity to present their views on issues under consideration before Director (Anti Dumping) on 22.5.2000 and a public hearing was held under the chairmanship of Designated Authority on 6.10. 2000.

B. VIEW PETITIONERS. IMPORTERS:-EXPORTERS. EMBSSIES OF EXPORTING COUNTRIES AND OTHER INTERESTED PARTIES

2. PETITIONERS VIEW

The petitioners, M/s. Ispat Profile India Limited, supported by M/s. Indian Seamless Alloys Limited filed petition on behalf of the domestic industry and raised the following major issues in their submissions:-

- i. The petitioner had set up the plant for manufacture of alloy and non alloy steel of various grades and sizes with a manufacturing capacity of 2,50,000 t/pa employing state-of-the-art technology of steel making and providing direct and indirect employment to over 2000 persons.
- ii. They are currently the largest manufacturer of steel in various shapes and sizes and their product are not only marketed in domestic market but have also found favorable response from off shores. They have the reputation of 'zero' defective steel and have also earned ISO 9002 Certification. Their products are import substitute and help in saving valuable foreign exchange Their exports are also bringing foreign exchange to the tune of Rs.15 crores per annum.
- iii. Substantial part of their production have been traditionally going in for seamless tube grade - billets, bars and rounds. However, exporters from Russia, Ukraine and China resorted to severe price reduction in the Indian market in the past three years. The prices have been reduced from about US\$ 350 in 1996-97 to US\$ 260 in April December 1998. In fact the prices have already been reduced to the level of US\$ 209 pmt. Considering the expenses involved in export of goods to India, it is evident that the exporters are resorting to selling below variable cost of production. Evidently the goods are being dumped in the Indian market. This has severely affected these operations to such an extent that they hardly have any orders for seamless tube grades bars, billets, and rounds.
- iv. (SPAT is a leading supplier in the country in this grade of material. ISSAL and Kalyani Steels Ltd., also produce these grades of material. Capacity is also coming up at Hospet. Though ISPAT is one the largest producer of seamless grades alloy and non alloy steel, yet other producers like ISSAL have supported the petition. Dumping from these countries have not only materially injured the existing producers but also would result in material retardation to the establishment of new companies.
- v. In view of severe dumping being faced in the country resulting in massive losses to (SPAT, they have requested for imposition of anti dumping duty on seamless grade alloy and non alloy steels.

3. Views of Trade Representation of Russian Federation in India:

- i. First of all, there is some contradiction and inaccuracy in the definitions of the subject matter for investigation used in the petition and notification. There is no category as "certain seamless grade alloy and non alloy steel billets, bars, rounds" in Customs or in any other official statistics. Only definition like "billets, bars; rounds" can be referred to and verified and therefore be taken into account.
- ii. Secondly, the list of Indian producers should incorporate not only four companies mentioned by the petitioner but all other producers like SAIL, ESSAR, JINDAL, TATA etc., and correspondingly total scope of their production must be taken into consideration. According to "Steel Scenario Statistical yearbook 1999, total production of billets, bars, rounds in India in 1998=99 was 12,466 thousand tonnes. They have further stated that the share of petitioner in total Indian production is much lower and therefore there is serious doubt about the validity of the application.
- iii. As to the exports of the Russian origin, they in no way can affect the Indian domestic industry since exports of Russian origin as given in the petition and "Monthly Statistics of Foreign Trade in India" make up only 0.18% or 0.72% of the total Indian production as given in (ii) above. In view of the above there is causal link between imports from Russia and alleged material injury to the domestic industry.
- iv. In addition to the above, we have not found any reliable explanation to the fact that the imports from Japan were not taken into account though they were rather high and the average prices (which might be calculated using the data given in the petition) were almost half of the Russian average prices.
- v. As to the actual Russian prices, it is very clearly seen from the break-down of the prices given in the answers of the Oskol Electro-metallurgical combinat that they are not dumping prices.
- vi. In view of the above, we consider that in general, the investigation must be terminated due to lack of correct, objective and verified information for it. In any case, in particular, no anti dumping measures must be taken against the Russian producers.

Views of Ministry of Economy of Ukraine

- a. There has been a violation of procedure of investigation as the complete description of product, information about prices, date of initiation of investigation and volume of allegedly dumped imports has not been given;
- b. the petition does not contain sufficient information and evidence on the like product and the evidence on prices at which the product under investigation originating-in Ukraine was sold in India;

- c. it has also been argued that in accordance with the official Ukraine statistics, there is no evidence of export from Ukraine to India of the product during the period of investigation;
- d. it is therefore requested to exclude Ukraine from the list of countries under investigation.

5. Submissions by the importers, users and M/s. OEMK, a Russian exporter.

Three core issues highlighted by the counsel for M/s. Maharashtra Seamless Ltd., and M/s. OEMK, Russia, are as follows:-

- a. What is the product under investigation? In other words, the product on which the anti dumping duty will be imposed (product under consideration)
- b. For the products so identified does the petition specify the standing required under Rule 5(3) (a) ? (question of standing)
- c. Prima facie is causal link attributable to the imports from Japan is attributed to the three countries subject to investigation ?

The submissions made on these issues have been discussed in detail at appropriate places in the findings below. Apart from the above, representations have been received from Federation of Engineering Industries of India, All India Steel Rollers Association, Prabhat Steel Traders, Eagle Steels etc., who are the users/importers of the specified grades of alloy/non alloy steel billets, bars and round, giving their comments on the issues highlighted above which are also dealt with below.

C. EXAMINATION OF THE ISSUES RAISED

6. The submissions made by the petitioner, exporters and importers and other interested parties to the extent these are relevant as per Rules and to the extent these have a bearing upon the case have been examined and considered and have been dealt with at appropriate places in these findings.

D. PRODUCT UNDER CONSIDERATION: _

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

initiation notification and corrected by corrigendum dated 21.1.2000. These grades are

-

S. I.S. SPECIFICATIONS EQUIVALENT INTERNATIONAL

No SPECIFICATION

1. I.S. 1875,CL1 ASTM, SA192, AP15L Gr X 42 (NON-ALLOY STEEL)
B53059PT - 2Gr 243, DIN, CK 15
2. I.S 1875, CL1A SAE 1018, ASTM A 333 (NON-ALLOY STEEL)
3. I.S 1875, CL 2 SA 1026 (NON-ALLOY STEEL)
4. I.S 1875, CL2A ASTM, SA210A1,AP1 SLGrB (-NON-ALLOY STEEL)
APISLGr X 46, APISL X -46
5. I.S. 1875, CL3 ASTM,SA210GrC, SAE1030 (NON-ALLOY STEEL) .
6. I.S 1875,CL3A SAE140,SAE1035 (NON-ALLOY STEEL)
7. I.S 1875,CL4 BS,En-8D. (Non-ALLOY STEEL)
8. I . S 1875, CL5 SAE 1050 (NON ALLOY STEEL)
9. I.S 5517, 27C15 SAE 1530 (NON-ALLOY STEEL)
- 10.I.S 5517,37C15 BS, En15, SAE 1541 (NON-ALLOY STEEL)
- 11.I.S 4432, 10C4 ASTM, SA 179, SAE 1010 (NON-ALLOY STEEL) SAE 1008
- 12.I.8 4368, 20Mn2 DIN 2391 st 52, SAE 1518 (NON-ALLOY STEEL)
- 13.I.S 5517, 35 Mn6Mo3 API N80, SAE 4042 (NON-ALLOY STEEL)
- 14.I.S.EQUIVALENT NOT SAE 4130 AVAILABLE (ALLOY STEEL)
- 15.I.S.EQUIVALENT NOT SAE 4118 (Nearest) AVAILABLE (ALLOY STEEL)
- 16.I.S. EQUIVALENT NOT BS 3602 Pt 1500 Nb AVAILABLE (ALLOY
STEEL) (Microalloyed Steel)
- 17.I.S.EQUIVALENT NOT BS 3059 PtlI Gr 440 AVAILABLE (NON ALLOY
STEEL)
- 18.I.S. EQUIVALENT NOT SAE 1518 AVAILABLE (NON-ALLOY STEEL)
- 19.1. S 4398,103 Cr 2, SAE 52100 (ALLOY STEEL)
- 20.IS 436820 Mn Cr 1 20 M CRS
- 21.I S 3749 T 105 Cr 5
- 22.I S 3930 40 Cr4 Mo 3
- 23.I S 4368 21 Cr 1 Mo 28
- 24.IS 551727CL5+MO
- 25.IS 443,2 CLO MSL 4A
- 26.IS 551737CL5
- 27.IS 4368 37 SI 2 Mn 90
- 28.IS 5517 3795 37 CL 5 + Mo
- 29.I S 4368 40 N I 2 Cr 1 Mo 28

Arguments raised by various interested parties on this issue are as follows:

8. Arguments raised by importers and exporters: In their reply to the initiation notification and questionnaire, the following arguments were given by the Counsel for importers and exporters:

- a. As per part I of the non-confidential version of the petition the product alleged to be dumped is certain grade alloy and non-alloy steel billets, bars, rounds having 70mm to 250 mm dia. It is further stated in the petition that the subject goods have a large number of applications. It has been added that the subject goods are primarily and largely used in production of seamless tubes. It has also been indicated that the said grades are used for manufacturing of seamless tubes/pipes, as also for some forging applications are that they are primarily used for production of seamless tubes/pipe. It is thus seen from the petitioner's plea that the billets, bars and rounds of said site are used in the manufacture of seamless tubes/pipes as also in other applications. The petitioners have nowhere used the term 'seamless grade'.
- b. The initiation notice dated 9.12.99, however, describes in para 2, the product involved as certain seamless grade alloy and non alloy steel billets, bars, rounds originating in or exported from Russia, China and Ukraine". The initiation notice had introduced the words 'certain seamless grade' which are not appearing in the petition. Likewise the diameter of the subject goods, mentioned in the petition as 70mm to 250 mm, has been omitted in the initiation notice. The scope of the product under consideration has been widened by the Authority. The initiation is bad on this count alone.
- c. Regarding the product's specification, the question whether there is a category called certain seamless grade alloy and non alloy steel billets, bars, rounds at all has to be addressed. The petitioner have referred to various grades such as IS 1875, IS 3749, IS 3940, IS 5517, IS 4432 and IS 4368 as the specification of products. The technical literature available shows that these grades are used for forging for making tools and dies and for general engineering purposes. Some of these grades referred to the specification for steels are for hardening and tempering. Therefore, it is quite clear that these grades have many applications other than merely for seamless tube making as specified by the petitioners in the non confidential version of the petition.
- d. Anti dumping duty cannot be end use based as the objective of the petitioner seems to be to get the duty imposed only on the import of specified grades by the seamless tube manufacturers. Further the investigation will result in a situation where each consignment of billets, bars and rounds imported from the subject countries has to be held up by the Customs in order to perform tests to determine whether the item falls under one of the types subject to anti dumping duty resulting in absolute chaos. The anti dumping duty cannot be recommended on billets, bars and rounds as the investigation is on specific

grades only and because the importer and users for other purposes of the subject goods have not been involved in this investigation. The action of the petitioners in selecting certain grades that are not meant exclusively for seamless application is malairde and if the Authority conducts the investigation pan such basis and recommends levy of anti dumping duty on the grounds without any reference to their end use it would amount to imposing duty on the said grades meant for other applications. Such an action is violative inasmuch as other users of the said grade have not been notified. Similarly all producers of billets/rounds of the said grades other than the petitioner, especially the integrated steel producers have not been considered. If their production is considered the standing requirements under Rule 5(3A) will not be met by the present petitioner. If on the other hand the duty is sought to be levied on the said grades alone based on the end use, such a recommendation is not capable of being implemented by Customs apart from being contrary to the CEGAT finding in the 'catalyst case'.

- e. Apart from this, representation made by Federation of Engineering Industries, Prabhat Steel Traders, Eagle Steels and All India Steel Re-rollers Association have also emphasized the alternative uses of the specified grades for purposes other than making of seamless pipes/tubes and questioned the standing of the petitioners on account of there being other producers supplying to users other than seamless tube manufacturers.

9. Submissions by domestic industry: In their submissions in reply to the points made by the other interested parties, the petitioners have stated that in their request for imposition of anti dumping duty, product under consideration mentioned by them is as follows:-

The name of the product being dumped in India is certain types of alloy and non alloy steels bars, billets and rounds having, 70 mm to 250 mm dia, conforming to IS specifications or any other international specifications equivalent to the IS standards. List of the IS specifications and chemical compositions is enclosed with this petition.

10. It is submitted that while quoting the initiation notification issued by the Designated Authority the opposing interested parties have read only the first line of the description and they have ignored the second line which makes description very clear. The initiation notice reads as -

The product involved in the investigation is certain seamless grade alloy and non alloy steel billets, bars and rounds originating in or exported from Russia, China and Ukraine. The petitioners have sought imposition of anti dumping duty only on the following grades of alloy and non alloy steel billets, bars and rounds.

11. Though Maharashtra Seamless Ltd., had argued that subject goods have a very wide application and have attempted to give an impression as if the subject goods are consumed in large volume by a large number of companies, the fact is that except seamless pipe producers, no other party bothered to provide necessary information to the Authority and represent its interests. At the time of hearing they had specifically desired from the representatives of the Federation of Engineering Industries that the details with regard to consumers of the subject goods, their annual requirements and their three year purchase of the subject goods from domestic sources and imports may be provided to the Authority to establish that there are other interested parties who consume this material in substantial volumes. It is submitted that such information is not forthcoming from these parties even to date.

12. The submissions made by the importers and the response filed by the exporter M/s. OEMK, Russia, clearly shows that they have understood the product as being used mainly for manufacture of seamless tube, pipes, which is understood to be seamless grade. The question whether the subject goods are primarily and largely used for production of seamless tube is a question of fact. The fact on record shows that almost entire demand of the subject goods is from those producers who have purchased these for manufacture of seamless tubes. Further the companies whose production and sales information has been provided by us represents a significant proportion of the producers of the subject goods.

13. The objection of the Maharashtra Seamless Ltd., is that the action of the Designated Authority in both widening the scope in respect of size and restricting the scope based on end use is unwarranted. Since the objection is only with regard to the scope of investigations, the same can always be suitably modified by the DA while recording findings. In fact, it is the duty of the DA under the law to investigate the scope of proposed anti dumping duty for conducting due-investigations. While the - scope can always be restricted in subsequent investigation, the same cannot be widened. The scope can thus be restricted to those areas for which we have sought duty. It is submitted that any modification in the product description does not mean a modification in the product under consideration.

14. It is submitted that the opposing interested parties have been very strongly arguing that seamless making is not even mentioned in the IS specifications given in the petition. We submit in this connection that seamless making is nothing but a forging application.

15. It has been argued that the Central Government would not be in a position to impose the duty in case it is recommended and it would result in undue hardship to the consumers. In this context it is submitted that the effect of imposition of anti dumping duty is differential duty on the same product depending on the source. Implementation

of the orders of DA by the Central Government in other cases suggest that even in this case there should not be any problem in implementing the order imposing anti dumping duty. Assuming, though not admitting there will be some difficulties in implementation of the duties, it does not imply that the domestic industry- should be deprived of its legitimate rights to seek protection under the Rules. The domestic industry is committed to supply the goods to the consumers at competitive prices. .

16. It has been argued that the product under consideration cannot be described based on end use and duties imposed accordingly. It is submitted that the product is described in terms of a number of important characteristics which a product is considered to possess and one of these characteristics is its uses. So describing the product by the use it is put to does not imply that the duty is being sought on that particular end use only.

17. Examination by Authority

The Authority accepts the argument made by the domestic industry regarding the definition and description of the product given above. Apart from giving the description of the product, the Authority had mentioned specifically the grades on which the antidumping duty was sought to be imposed by the petitioner which should have eliminated the confusion projected to have been created by the word "seamless" grade in the Initiation notification. However, the thickness of the billets, bars and rounds on which duty was sought to be imposed was omitted inadvertently. While accepting the contention of the domestic industry the DA has decided to amend the description of the product as "certain types/grades of alloy and non alloy steel billets, bars and rounds having 70 mm to 250 mm diameter conforming to IS specification or any other international specification equivalent to IS standards". These grades are mentioned in paragraph 7 above. Hence, the DA also restricts the investigation to the sizes 70-250 mm dia. The list of grades as mentioned in the initiation notification dated 9.12.99 and corrigendum dated 21.1.2000-remains the same and the findings are being issued accordingly. Here it may be mentioned that it is only the certain grades which have been specified in paragraph 7 are the subject goods under investigation and not all the grades of alloy and non alloy steel billets, bars and rounds as has been made out by the importers and Trade Representation of the Russian Federation.

E. Like Article

18. The petitioner has claimed that the subject goods produced by the domestic industry has characteristics closely resembling to the goods being imported from the subject countries. Further the petitioners have claimed that the goods produced by domestic industry and imported from subject countries have to conform to certain

given technical specifications laid down by the consumers and the goods are in fact identical in nature.

19. It has been further argued by the opposing interested parties that the DA is adopting an inconsistent stand in initiating the investigation. It has been argued that in the anti dumping investigation on seamless tubes/pipes, the Authority initiated investigation and published the preliminary finding discarding the arguments that casing, tube and line pipes are for specific end use and cannot be substituted. The view of the Authority is that there is such a thing as seamless grade billets, bars and rounds and as such they can be used only for making seamless tubes which is factually incorrect as demonstrated supra. If this argument is correct then casing/production/line pipes for specific end use cannot be treated as a single product. The DA cannot be correct in both the cases.

20. Examination by Authority

In the case relating to the anti dumping investigation against imports of seamless tubes/pipes, it may be mentioned that there are separate custom classification nos. 7304.10, 7304.29 and 7304.39, respectively for line pipe, casing pipe and boiler pipe. This clearly shows that these pipes are defined separately in terms of various characteristics and at the time of import, a separate custom sub heading is to be mentioned. Separate duties have been recommended on these distinct custom classifications in the findings considering that these are different types of seamless tubes/pipes.

21. The aforesaid modification in the description of the product, (by dropping the word 'seamless') as carried out by the Authority renders the point made by the importers redundant. Also it was never the argument of the DA that the specified grades of the subject goods are used for making seamless tubes only. In view of above, the DA is convinced that product under consideration being sold by the domestic industry are 'like article' to the subject goods being imported from the subject countries within the meaning of said Rules.

F. DOMESTIC INDUSTRY, RELATIONSHIP AND STANDING OF PETITIONER AND SUPPORTER

22. Rule 5(3) of the Anti Dumping Rules requires -

"The DA shall not initiate an investigation pursuant to an application made under sub rule (1) unless -

" Ink it determines, on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry:

Provided that no investigation shall be initiated if domestic producers expressly supporting the: application account for less than 25% of the total production - of the like article by the domestic industry and;

Explanation:- For the purpose of this rule the application shall be deemed to have been made by or on behalf of the domestic industry, if it is supported by those domestic producers whose collective output constitute more than 50 per cent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition as the case may be, to the application."

23. Standing and Relationship

It has been argued by interested parties opposing the petition that as per Rule 2(b) of the Anti Dumping Rules, the domestic industry has been defined to include all the domestic producers engaged in the manufacture of like article. However, the producers were related to importers of allegedly dumped articles and may be excluded. It is further submitted that the supporter of the petition M/s. Indian Seamless Steel and Alloys Ltd., (ISSAL) is related to Indian Seamless Metal Tube Ltd., (ISMT) who have imported the subject goods during the period of investigation. It is further stated that M/s. ISSAL and ISMT have common chairman and three common directors and also ISTL holds shares worth Rs.1.1 crore in ISSAL.

24. It has further been argued by the opposing interested parties that there are producers of billets, bars and rounds other than the ones mentioned by the petitioners in the petition. If all the grades of billets, bars and rounds produced in the country are taken then in the year 1998-99 approximately 7.5 million MTS of billets have been produced and the production by the petitioner and the supporter is a miniscule 2 per cent of the total domestic production which will imply that they do not have the standing to file the petition. It has further been argued that even the grades mentioned in the petition have been produced by SAIL and Mahindra Ugine Steel Co. Ltd., (MUSCO) during the period of investigation. M/s. Maharashtra Seamless Ltd., have purchased 346 MTS and 278 MTS of subject goods from SAIL and MUSCO respectively during the period of investigation..

25. On the basis of the arguments mentioned above, the interested opposing parties have contended that the petitioner and the supporters do not have any locus standi to represent the domestic industry and the investigation should be terminated accordingly.

26. Examination by Authority

The Designated Authority, before initiating the investigation and also after the submissions were made by the interested opposing parties, contacted various Govt. agencies dealing with steel industry and major producers of steel in India to find out the status of domestic industry for the subject grades. In their replies it has been stated that a subsidiary company of SAIL, produced 1132 MTS of said grades in 1998-99 and no information was available regarding the producers other than those stated in the petition. Therefore, on the basis of the information available, there is no evidence of the production of certain grades of alloy 'and non alloy bars, billets and rounds specified in the petition being significantly more than the production mentioned in the petition. While addressing the question of 'standing', existence of production capacity per se is not relevant. The 'standing' is to be determined on the basis of evidence regarding the share of the petitioners and supporters in actual production of subject goods by the 'domestic industry'.

27. Regarding the question of relationship, the interested parties. opposing the petition have raised the issue of ISSAL being related to ISMT who are the importers of the said grades. On verification it was found that the imports by ISMT are under the Duty Exemption Scheme and hence these have not entered the commerce of the country as these imports go into the export production. Vide the amendment dated 15t July 1999 to the Anti Dumping Rules, the DA has the discretion to include or exclude an importer of the subject goods from the definition of domestic industry. In this case in view of the aforesaid nature of the imports, the DA is inclined to include ISSAL in the scope of domestic industry. Out of total production of approximately 80000 MTS during the investigation period, both ISSAL and Ispat Profile India Limited accounted for approximately 49000 MTS of the said goods produced domestically and this satisfies the condition of standing to file the petition. Here again it needs to be mentioned that it is only the total production of the specified grades mentioned in paragraph 7 which has been taken into account for the purpose of determining the stand of the petitioner and the supporter to file the petition for anti dumping investigation and not the total production of alloy and non alloy steel billets, bars and rounds. It is only the specified grades which fall within the definition of product under consideration and not all grades of alloy and non alloy steel billets,

DEMINIMUS VOLUME OF IMPORT

28. In their submissions made, the Ministry of Economy, Ukraine had made a point that in accordance with the official Ukraine statistics there is no evidence of export from Ukraine to India of the product during the investigation period. In their submissions the domestic industry has stated that they had filed .detailed information in the petition itself that the imports of the said types from Ukraine were 1739 MTS

and constitute 5.68% of the total imports of the subject types in India. The imports from Ukraine were therefore not de minimis in the investigation period.

Examination by Authority

29. At the time of initiation of investigation the petitioners had given evidence from secondary sources regarding the imports of subject goods from the subject countries as a prima facie evidence for the purpose of initiation. However, this evidence needs to be corroborated by some more authentic evidence for being accepted for the purpose of levying anti dumping duty. In the absence of information from DGCIS or Custom authorities as the records are not maintained on imports of bars, billets and rounds grade-wise, the DA decided to rely on the evidence furnished by the exporters and importers who have cooperated in the investigation for the purpose of verification of information submitted at the time of initiation. There is no evidence of information on imports having taken place from Ukraine on the basis of the submissions made by the importers and as no exporters participated from Ukraine, for the purpose of preliminary finding it has been decided to take the imports from Ukraine as nil and therefore, de minimis.

H. DUMPING & EXAMINATION OF CLAIMS ON NORMAL VALUE & EXPORT PRICES BY THE AUTHORITY:

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

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

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

31. Authority sent questionnaires to the exporters from the subject countries. Only one exporter from Russia M/s. Oskol Electrometallurgical Combinat (OEMK) furnished the information in the prescribed format. As per the information furnished by the company the company makes profit selling the subject goods both in the domestic market and on exports to India. As per information furnished, some of the grades are being exported to India at the price below for which analog grades are being sold in the domestic market. Normal value has been worked out on the basis of the information provided by the exporter and adjustments claimed in the form of packing, inland freight; insurance etc., have been allowed as claimed. On the exports to India also, the adjustments have been claimed for packing, inland, freight and other expenses which also has been allowed as claimed. The dumping margin has been worked out on the basis of calculations made above.

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

33. New exporters

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

34. Dumping Margins:

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

Country and exporter _ Dumping

margin

Russia

(i) M/s. Oskol Electrometallurgical Combinat (OEMK) 10.37

(ii) Other exporters

73.86

China

All exporters 105.12

I. INJURY

35. Under rule 11 supra, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry. "taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such article " In considering the effect of the dumped imports on prices, it is considered necessary to examine whether, there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would, have occurred, to a significant degree.

36. Annexure II (iii) under Rule 11 supra further provides that "in cases where imports of a product from more than one country are being simultaneously subjected to Anti dumping investigation, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

37. The Authority notes that the margin of dumping and quantum of imports from Russia and China are more than the limits prescribed above. Cumulative assessment of the effects of imports are appropriate since the export prices from the subject countries were directly competing with the prices offered by the domestic industry in the Indian market.

38. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, profitability, net sales realization, the magnitude and margin of dumping etc.. in accordance with Annexure il (iv) of the rules supra.

Volume of Imports in MTS

Russia China Ukraine Others Total

1997 22640 1248 0 154 27042

1998 31608 3912 3016 4456 42992

POI 34918 3155 0 1587 39660

(nine

months)

The volume & imports from subject countries has increased steadily from approximately 24000 MTS in 1997 to 38,000 NITS in nine months of Pol.

39. The production of the domestic industry has been as under:

in MT

Producer 1996-97 1997-98. 1998* 1999**

Ispat Profile (1) 26025.88 34042.72 28969.66 16865.18

Ltd

ISSAL 33485.00 46620.00 44373.53 32125.47

Total 59510.88 80662.72 73343.19 48990.7

* April-Dec'98 ** Jan-Sep'99

From the above it is clear that the domestic industry's production has declined as compared with the production level in the comparable period last year.

40. Export Price

While the imports volume has increased there has been a steady fall in the export price and the landed value from the subject countries. Between 1998 and 1999 the average price of import from Russia fell from Rs.15207 PMT to approximately Rs. 11,000 PMT during investigation period and that from China it fell from Rs. 13,770 to Rs.9388 PMT. This fall in the-import price has forced the domestic industry to reduce its sale price adversely affecting their sales realisation.

41. Utilisation of capacity

It has been submitted by the petitioner and also verified by DA that the same facilities are used for production of various grades of alloy and non alloy steel billets, bars and rounds including tree subject types for which this investigation is being conducted. In case of absents of orders the companies attempts to utilise the plant by producing other types of billets, bars and rounds. However, production of subject types of billets, bars and rounds is supposed to ensure better plant utilisation and higher production volume and in the absence of demand for the subject goods, the petitioners had to cut down the production of subject grades which also adversely effected their capacity utilisation.

42. Profit & Loss

The landed price of imports is considerably below the fair selling price of ;he domestic industry and much below the cost of production resulting in price suppression and lower sales realisation for the domestic industry. Because of these factors, both M/s. Ispat Profit India and M/s. ISSAL have been incurring losses.

43. Conclusions on Injury:

From the foregoing the following claims made regarding injury by the domestic industry are confirmed:

- a. Imports of subject goods from the subject countries have increased in absolute terms;
- b. The market share of the domestic industry has declined;
- c. Production of subject goods of the domestic industry has declined;

- d. Capacity utilization of the domestic industry has declined;
- e. Sales in absolute volume & value terms of the domestic industry have declined;
- f. Selling prices of the domestic industry have declined steeply;
- g. Imports are significantly undercutting the selling prices of the domestic industry;
- h. The profitability of the domestic industry has been severely eroded.

The Authority therefore concludes that the domestic industry has suffered material injury and the claims made regarding injury during the period investigation by domestic industry are confirmed.

J. CAUSAL LINK

44. The arguments made by the interested parties opposing the petition regarding the causal link are as follows:-

- a. The domestic industry has sought anti dumping duties in respect of imports emanating from Russia, China and Ukraine. However, from the import data furnished by them, it is clear that 27% of the total imports are from Japan at prices which are far lower than the prices of the subject countries. In fact, the cif value for Japan is 55% of the cif value from Russia.
- b. In response to this irrefutable evidence, the domestic industry made an interesting argument. Their argument that the subject imports from Japan have not hurt them as the customer who imported it from Japan is not their customer and hence they have not lost any market as a result of subject imports turns injury analysis on its head. The investigation is against a particular product and is not based on what the end use of the product is or who the customers are. Here we have a situation where a general product is sought to be investigated based on one end use and on top of it with reference to who the customers are. Such an injury analysis is unheard of in any anti dumping investigation in any part of the world. The Authority should ask the fundamental question as to whether the causal link has to be analysed in the manner indicated by the petitioner company. If imports have come from a non targeted country at a much lower price, it is inconceivable that such a price had not undercut the price of the domestic producers. If the argument of the petitioner is accepted, then the higher prices from Russia, China and Ukraine could not have undercut the prices of the petitioners. The causal link is, thus, conspicuously absent.

45. **Submissions made by the domestic industry**

In reply to the argument made above, it has been argued that in para 3 of Annexure 11 (iii) of the Anti Dumping Rules, provides that in case imports and products from more than one country being simultaneously subjected to anti dumping investigation, DA will cumulatively assess the effect of such imports if he determines that:

- a. the margin of dumping established in (elation to the imports from each country is more than 2 per cent. expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than 3% the imports cumulatively accounts for more than 7% 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 articles;

46. The margins of dumping from each of the subject countries are more than the limits prescribed above. Quantum of imports from various countries have been as under--

Country - Imports Share of total imports

volume in MT

Russia 18859 60.97

China _ 1680 5.49

Ukraine 1739 5.68

Other than subject

countries

Japan 8515 27.85

47. It is evident from the above that the quantum of imports from each of the subject country, is more than the deminimus limit. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject countries directly compete with the prices offered by the domestic industry in India. The DA is therefore requested to assess injury to the domestic industry cumulatively from the subject countries.

48. Examination by authority

The analysis of injury caused by dumping has to take into account both the price and volume effect of allegedly dumped imports. In this context as is clear from the submissions made by the domestic industry and also verified by the DA, the volume of imports of subject goods from subject countries is significantly more than volume of imports from Japan. This implies that these imports from the subject countries have led to erosion in the market of the domestic industry even though Japanese imports may also have had similar effect. Further, in terms of price effect, even though the price of import from Japan is lower than the price of import from subject country, especially Russia, this does not imply that the analysis of price effect of the Russian exports is of no consequence. While arriving at a decision regarding the injury caused by the dumped imports from subject countries to the domestic industry, these factors have to be taken into account:

It has been the practice to assess the injury cumulatively from the subject countries in the course of the investigation as per the provisions in Rules mention supra. In this case the argument of interested parties opposing the petition is that one, of the countries not subject to investigation is causing injury as their price is much lower than export price of the countries subject to investigation. However, existence of injury from exports from Japan does not imply that no injury can be caused by exports from countries subject to investigation. This is more so when the landed value of exports from the subject countries is less than the fair selling price of the domestic industry. In view of the above, the argument of the interested parties opposing petition is not acceptable to the DA and the evidence available clearly shows that there is a causal link between dumping from Russia and China and injury being caused to the domestic industry.

K. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

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

50. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Imposition of anti dumping measures would not restrict imports from the

subject countries in any way, and, therefore, would not affect the availability of the product to the consumers.

L. CONCLUSION

51. After considering the foregoing, the Authority concludes:

- a. Exporters from Russia and China have been exporting subject goods below normal value resulting in dumping;
- b. The Indian industry has suffered material injury;
- c. The injury has been caused cumulatively by the dumped imports of subject goods from the Russia and China;

Subject goods here are defined as "certain grades/types of alloy and non alloy steel billets, bars and rounds of sizes 70 mm to 250 mm diameter conforming to IS specification or any other international specification equivalent to IS standards." List of these grades is given in paragraph 7 above.

52. It is considered necessary to impose anti dumping duty provisionally, pending final determination, on all imports of subject goods as mentioned above originating in or exported from Russia and China.

53. The DA has, therefore, decided to recommend anti dumping duty equal to the margin of dumping on the subject goods from Russia and China as per the amounts mentioned below pending final determination:-

Country and exporter Amount of anti

dumping duty

recommended (US\$

per MT)

Russia (i)M/s. Oskol Electrometallurgical Cominat 16.03

(OEMK)

(ii) Other exporters 148.50

China

All exporters 179.14

54. It is proposed that these provisional anti dumping duty be imposed from the date of notification to be issued in this regard by the Central Government, on subject goods mentioned above.

L. FURTHER PROCEDURE

55. The following procedure would be followed subsequent to notifying the preliminary findings

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days of the dispatch of this notification. Any other interested party may also make known its vies within forty days from the date of publication of these findings.
- c. The Authority would disclose essential facts before announcing the final findings.

L.V. SAPTHARISHI..
Designated Authority