

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

NOTIFICATION

Preliminary Findings

New Delhi, the 7th May, 2008.

Subject: Anti Dumping Investigations concerning imports of Cathode Ray Colour Television Picture Tubes originating in or exported from Malaysia, Thailand, China PR and Korea RP.

14/8/2007-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.

2. WHEREAS M/s Samtel Color Limited and JCT Electronics Limited, (hereinafter referred to as the applicants) filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), alleging dumping of complete or incomplete cathode ray colour television picture tubes originating in or exported from Malaysia, Thailand, China PR and Korea

RP and have requested for initiation of anti-dumping investigations and levy of anti-dumping duties on the subject goods.

3. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, after examination of the same with regard to adequacy and accuracy, issued a public notice dated 19th November 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 6(1) of the Rules to determine existence, degree and effect of alleged dumping and the need to recommend the amount of antidumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

4. Procedure described below has been followed with regard to this investigation by the Authority.

- (i) The Authority notified the Embassy of subject countries in India about the receipt of dumping application made by the applicants before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
- (ii) The Authority sent copies of initiation notification dated 19th November 2007 to the Embassy of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
- (iii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the embassies of Malaysia, Thailand, China PR and Korea RP in accordance with Rule 6 supra.
- (iv) The embassies of Malaysia, Thailand, China PR and Korea RP in India were informed about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/ producers from their country to respond to the questionnaire within the prescribed time. A copy of the letters and questionnaire sent to the exporters/producers was also sent to them, along with the names and addresses of the exporters.

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

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

Malaysia

a) Chunghwa Picture Tubes (M) Sdn. Bhd.

Lot 1, Subang Hi-Tech Industrial Park,
Batu Tiga, 40000 Shah Alam,
Selangor, Malaysia

b) Samsung Sdi (Malaysia) Berhad

Lot 635 & 660, Kawasan Perindustrian

Tuanku Jaafar, 71450 Sungai Gadut,
Negeri Sembilan Darul Khusus,
Malaysia

Korea RP

c) Samsung Corporation
Samsung Plaza Bldg. 263 Seohyeon Dong,
Bundang-Gu, Sungam Si,
Gyeonggi Do,
Korea 463-271

Thailand

d) Mt Picture Display (Thailand) Co., Ltd.
142 Moo 5, Bangkadi Industrial Park,
Tivanon Rd., Tumbol Bangkadi,
Amphur Muang, Pathumthani 12000
Thailand

China PR

E) Irico Group Electronics Co. Ltd.
Irico Import And Export Company

No. 1 Caihong Road,
Xinyang, Shaanxi, P.C. 712021

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

- (a) Chunghwa Picture Tubes (M) Sdn. Bhd.
- (b) Samsung Sdi (Malaysia) Berhad
- (c) Irizo Group Electronics Co. Ltd. China PR.
- (d) Irizo Display Devices Co. Ltd. China PR.
- (e) LG Philips Shuguang Electronics Co Ltd. China PR.
- (f) Beijing Matsushita Color CRT Co Ltd. China PR
- (g) Shenzhen Samsung SDI Co., Ltd (SSDI) China PR.
- (h) LPD Korea.

Some of the responding exporters requested for extension of time for submissions to the exporters questionnaire (due by 29.12.2007) which was provided across the board to all responding exporters upto 31st of January 2008 for submission of their responses.

(viii) Questionnaires were sent to following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).

- a) Dixon Utilities & Exports Limited

B-14, Phase – II,
Noida – 201305 (U.P.)

b) LG Electronics India Pvt. Ltd.

Plot No. 51, Udyog Vihar,
Surajpur-Kasna Road,
Greater Noida (U.P.)

c) Panasonic Avc Networks India Co. Ltd.

C-52, Phase – II,
Noida – 201305 (U.P.)

d) Mirc Electronics Limited

Onida House, G-1, Midc,
Mahakali Caves Road,
Andheri (East)
Mumbai – 400093

e) Samsung India Electronics Pvt. Ltd.

B-1, Sector-81,
Phase – II,
Noida – 201305 (U.P.)

f) Videocon International Ltd.
14 Kms. Stone,
Aurangabad-Paithan Road, Chitegaon,
Tq. Paithan,
Dist. Aurangabad - 431105

g) Philips Electronics India Ltd.
Plot 80, Bhosari Industrial Estate,
P.B.12,
Pune – 411026

- ix) In response to the above notification, M/s Dixon Technologies (India) Pvt. Ltd., Panasonic Avc Networks India Co. Ltd, Samsung India Electronics Pvt. Ltd, LG Electronics India Pvt. Limited and Mirc Electronics Limited have responded and filed importer questionnaire response;
- (x) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and for the period of investigations;
- (xi) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties;

(xii) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to Domestic Industry. For the purpose, domestic industry was directed to provide its cost of production duly certified by a practicing cost accountant.

(xiii) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;

(xiv) The Period of Investigation for the purpose of the present investigation is 1st July, 2006 to 30th June, 2007 (12 months). The examination of trends in the context of injury analysis covered the period from 1st April 2004 to the end of the POI.

(xv) The following conversion rates for responding countries have been adopted, based on the weighted average for the POI, for this investigation.

Country	Currency	USD
China	1 RMB	7.807
Malaysia	1 Malaysian Ringgit	3.5583
South Korea	1 South Korean Won	925.93
Thailand	1 Thai Bhat	34.94

The Rs / US\$ conversion rate has been taken as Rs 44.80= 1US \$.

(xvi) The Authority provided opportunity to the importers/ industrial users of the product under consideration to furnish information considered relevant to the investigation regarding dumping, injury and causality.

(xvii) The Authority satisfied itself with regard to accuracy of the information provided by the interested parties to the extent considered necessary at this stage.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

5. The product under consideration is “complete or incomplete cathode ray colour television picture tubes”, more elaborately described as “thermionic, cold

cathode or photo cathode valves and tubes such as vacuum or vapor or gas filled valves and tubes, mercury arc rectifying valves and tubes, also called cathode ray tubes, television camera tubes or cathode ray colour television picture tubes, or colour television picture tubes, or colour picture tubes etc.” and has been referred to as colour picture tubes or “CPT” or “CRT” in this notification. Video and computer monitor cathode ray tubes are beyond the scope of the present petition.

6. The subject goods fall under Chapter 85 of the Custom Tariff Act, 1975 under subheading no. 8540.11. The customs classification is indicative only and is in no way binding on the scope of the present investigation.

7. A number of interested parties have represented before the Authority that 21” slim picture tubes and 29” tubes should be excluded from the scope of the present investigations and proposed measures. The claim for exclusion of 21” slim is based on the ground that this type is not produced by the domestic industry. The claim of 29” tube is based on the ground that the domestic industry has only recently commenced commercial production and that 29” slim is not produced by the domestic industry.

8. Rule 2(d) of AD Rules defines Like Article as

“An article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.”

9. The claim made by the interested parties was examined in detail by the Authority considering the various legal provisions. It is noted from the DGCI&S data and responses of the interested parties that 21” slim picture tubes were imported in India from Samsung Malyasia/China and LPD Korea. Cumulative exports of 21” slim and 29” different sizes by various exporters were as follows :

	Volume ('000 pcs)
Imports of 21" slim	191
Imports of 29" all types	302
Total imports in India	5408
Demand in India	14696

Share in imports	
21" slim	3.53%
29" all sizes	5.58%
Share in demand	
21" slim	1.30%
29" all sizes	2.05%

10. The Authority notes that the volume of 21" and 29" slim imported during the investigation period was quite small in comparison of total imports.

11. The Authority examined product characteristics. It was found that through technological improvements, flatness of a picture tube was gradually increased. The producers were earlier producing picture tubes with curved panel. The flatness of panels were gradually increased to produce flat picture tubes. These were designated as flat, super flat, real flat, etc. with gradual increase in flatness. The efforts are now to reduce the size of funnel. These are being described as slim, super slim and ultra slim picture tubes.

12. The Authority notes that domestic industry argued that development of a new product type is an on going process. The domestic industry further argued that the consumers have already started demanding that the domestic industry should focus on development of "ultra slim", as the producers intended to phase out "slim". Domestic industry therefore argued that it is not ruled out that the producers would invent some new product type in due course of time. This is however, desirable in line with the changing market trends. However, merely because the size of funnel has been altered and the resultant product is described as "slim" or ultra slim picture tube, the resultant product does not become a different product. Slim or ultra slim picture tubes have essentially the same product characteristics as other variants of 21" tube. The interested parties have not established how 21" slim picture tube and other types of 21" tubes are dislike products in terms of parameters such as product characteristics, manufacturing process, raw materials, plant & equipment, functions & uses, etc. The only arguments of the interested parties are that there are significant difference in physical properties, there are significant price differences and that slim or ultra slim CRTs are not produced in India. With regard to the price difference, the Authority notes that higher price of a newly introduced variant does not render it a different product. Further, the questionnaire responses filed by the exporters does not show significant price differences between flat and slim CRTs. Difference in physical

characteristics does not mean difference in essential product properties. Difference in physical characteristics merely calls for a price adjustment. The fact that a particular type of the product is not produced in the Country does not mean, by itself, that the product type should be excluded from the scope of duty. It must be established that the goods offered by the domestic industry are not like article to the imported article.

13. As regards 29" picture tube, the investigation has shown that the domestic industry has made significant investments for production of this type of picture tubes and has in fact produced significant commercial volumes of this type. The information provided by the domestic industry showed that its capacity utilization for 29" production line increased after commencement of production and remained at quite high levels between Aug.-Dec., 2006. However, capacity utilization declined thereafter very significantly to a level of about 17% during Jan.-Dec., 2007 period. The domestic industry has argued that it is being prevented from utilizing these facilities and the plant utilization is suffering heavily. The domestic industry argued that its plant for production of 29" has remained idle for a long period.

14. In view of the above, the Authority provisionally concludes, pending further investigation and verification of the exporters response, that it would not be appropriate to exclude these two types of picture tubes.

15. Barring above, there is no claim that there is significant difference between the subject product produced by the domestic producers and the products imported from subject countries. The two are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, quality, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

16. The applicants have claimed that goods produced by them are like article to the goods originating or exported from Malaysia, Thailand, China PR and Korea RP. The imported product is also used by same category of consumers. The product contains the same basic technical properties and has the same functions & uses.

C. DOMESTIC INDUSTRY

17. Rule 2(b) defines domestic industry as under:-

(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 shall be deemed not to form part of domestic industry:

18. The application has been filed by Samtel Color Limited and JCT Electronics Limited. The petitioner has provided information relevant to the present investigations. The subject goods are also produced by BPL Display Devices Limited. They have fully supported this petition filed by the two companies. It is claimed that due to heavy dumping they had to suffer huge financial losses which led to suspension of their production. Production of the petitioner companies constitutes more than 50% and a major proportion of Indian production.

19. After detailed preliminary investigations, the Authority notes that (a) production of the Samtel Color Limited and JCT Electronics Limited constitute a major proportion in Indian production (b) Production of the petitioners constitutes more than 50% of Indian production (c) the application was made by or on behalf of the domestic industry. Further, Samtel Color Limited and JCT Electronics Limited constitute domestic industry within the meaning of the rule 2(b) read with 2(d) for the purpose of the present findings.

D. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

D.1 Claims of domestic industry

20. The domestic industry has raised following arguments

- a. Normal value in case of China should be determined in accordance with para-7 of Annexure-I.
- b. Normal value in case of other countries should be determined on the basis of constructed cost of production. The claims of these companies that they are making profits cannot be correct, considering the information in public domain where these companies have been claiming that their CRT businesses are in losses. The domestic industry has referred to the news release/reports with regard to these foreign producers, wherein these companies have reportedly stated that their CRT business is in losses.
- c. Thai producer has suffered so significant losses that the company has closed operations.
- d. Samsung Korea is being investigated by Korean authorities for a number of illegal activities.
- e. The EC and the Canadian authorities are investigating a large number of CRT producers on allegations of price rigging by major CRT producers. The investigations are mainly directed against LG, Samsung, Chunghwa, etc
- f. The responding Chinese companies cannot be granted market economy treatment at this stage, as they have not been able to establish that they pass all the necessary tests. Even if

one of the conditions laid down under the Rules is not satisfied, market economy treatment cannot be given.

g. Export price of Samsung and LG must be constructed in view of relationship between the buyer and the seller. Samsung has a clear condition that it would buy from its related suppliers, unless prices offered by the Indian Producers is cheaper by at least US \$ 2 per pc. for 21". Therefore, the export price claimed by the exporter must be adjusted by US \$ 2 per pc. on account of affiliation. In the absence of any claim by LG, the price of LG must also be adjusted by the same amount.

D.2. Examination of Market economy claims

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

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

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and

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

23. The Authority notes that several producers and exporters i.e. Irico Group Electronics Co. Ltd., Irico Display Devices Co Ltd, LG Philips Shuguang Electronics Co Ltd, M/s Beijing Matsushita Color CRT Co Ltd, Shenzhen Samsung SDI Co., Ltd; from China have responded to the questionnaire pertaining to market economy status and to the exporters' questionnaire, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. The questionnaire responses and the market economy responses of the responding producers and exporters were examined and deficiencies were issued. The questionnaire responses, market economy responses and deficiency replies, wherever received, have been examined for determination of normal value of the responding producers/exporter of the subject goods from the China PR as follows.

a) Irico Group Electronics Co. Ltd./ Irico Display Devices Co Ltd (Subsidiary of Irico Group Electronics Co. Ltd)

24. The Holding company has admitted of having substantial state holding or state control. The cost and prices are apparently affected by such state control, as the largest shareholder is state. Therefore, pending examination of the above issues regarding ownership and control, its impact on the cost and prices and business decisions of the company, and verification of the same, the Authority is of the view that this producer- exporter (Holding as well as the Subsidiary company) from China cannot be granted market economy status for the preliminary determination of its Normal Value.

b) LG Philips Shuguang Electronics Co Ltd. China PR. & Beijing Matsushita Color CRT Co Ltd. China PR.

25. These companies admittedly have a partner indicating possibilities of the presence of state holding. It has been seen that in a parallel case involving the same

product (2006/781-EC), the European Commission has granted them market economy status. In view of this, the Authority has provisionally treated these Companies to be operating under Market Economy conditions subject to further investigation and verification.

c) Shenzhen Samsung SDI Co., Ltd (SSDI) China PR.

26. This company admittedly has a partner indicating the possibilities of the presence of state holding. However, the shareholding structure of this company and LG Phillips and BMCC are quite similar. In view of this, the Authority has provisionally treated this company to be operating under Market Economy conditions subject to further investigation and verification.

D.3 NORMAL VALUE

D.3.1. Common methodology followed for calculating normal value/ export price

27. While arriving at the normal value, separate comparison for different sizes of CPT have been made, except in one company for one size only. Further, wherever the prices reported are not on CIF basis, the same have been converted into ex-factory after considering adjustments based on their response. For injury margin, these prices have been converted into CIF based on their responses or other cooperating exporters data (where information for certain adjustment for the

exporter is not available) to arrive at CIF price. In case of Malaysia, weighted average normal value is based on individual normal value of the cooperating exporters.

China: –

a. Irico Group Electronics Co. Ltd. and Irico Display Devices Co Ltd (Subsidiary of Irico Group Electronics Co. Ltd)

28. The Authority has considered Malaysia as an appropriate surrogate country and has determined the same normal value for the non market economy companies in China on the basis of weighted average normal value for each size.

b. LG Philips Shuguang Electronics Co Ltd. China PR, Beijing Matsushita Color CRT Co Ltd. China PR and Shenzhen Samsung SDI Co., Ltd (SSDI) China PR:

29. The normal value has been based on respective domestic selling prices wherever such domestic sales were in profit and after allowing actual adjustments claimed by the exporters (subject to verification) barring the adjustments on account of credit cost in some companies. In case of loss making sales, the normal value has been based on the cost of production of respective sizes and adding profit based on profitable domestic sales.

Malaysia:-

- a. **Chunghwa Picture Tubes (M) Sdn. Bhd.**
- b. **Samsung Sdi (Malaysia) Berhad**

30. The normal value has been based on respective domestic selling prices, on cumulative basis, wherever such domestic sales were in profit and after allowing the actual adjustments claimed by the exporters. In case of one of the sizes for one company, the domestic selling price has been arrived at by clubbing with another nearest size as the price difference between these two nearest sizes was found to be far higher than the difference in cost of production.

Korea:-

- a. **LPD, Korea**

31. The normal value has been based on respective domestic selling prices wherever such domestic sales were in profit and after allowing the actual adjustments claimed by the exporters (subject to verification). In case of loss making sales, the normal value has been based on the cost of production of respective sizes and adding profit based on profitable domestic sales.

D.4. EXPORT PRICE:

China:-

- a. Irico Group Electronics Co. Ltd./ Irico Display Devices Co Ltd (Subsidiary of Irico Group Electronics Co. Ltd)**
- b. LG Philips Shuguang Electronics Co Ltd. China PR**
- c. Beijing Matsushita Color CRT Co Ltd. China PR**
- d. Shenzhen Samsung SDI Co., Ltd (SSDI) China PR:**

32. The export price has been allowed as claimed subject to verification. Further, wherever the prices reported are not on CIF basis, the same have been converted after allowing adjustments based on individual response, wherever applicable, or based on other cooperating exporters data in order to determine landed price of imports. Individual adjustments from the export price, as claimed (subject to verification) have been allowed. The adjustment on account of VAT has also been made on uniform basis. It was seen in case of one of the exporter that the exports have been made through Hong Kong company. No questionnaire response has been filed in respect of Hong Kong based entity. In absence of questionnaire response, the expenses in respect of Hong Kong related activity have been taken as 3% of the sales value subject to verification towards expenses and element of profit.

Malaysia:-

- a. **Chunghwa Picture Tubes (M) Sdn. Bhd.**
- b. **Samsung Sdi (Malaysia) Berhad**

33. The export price has been allowed as claimed subject to verification.

Individual adjustments from the export price, as claimed (subject to verification) have been allowed. In case of one of the exporters where sales have been made to both affiliated and unaffiliated customers, export price has been calculated based on sales to unaffiliated customers.

Korea:-

- a. **LPD, Korea**

34. The export price has been allowed as claimed subject to verification.

Individual adjustments from the export price, as claimed (subject to verification) have been allowed.

35. The domestic industry claimed that Samsung and LPD were exporting the goods to their affiliated companies in India. Further, Samsung India has all along

agreed to a price with the domestic industry on the basis that the prices offered by the domestic industry are lower by US \$ 2 per piece in case of 21" as compared to the prices offered by their affiliated suppliers. Accordingly, the domestic industry has argued that the export price of Samsung must be reduced by US \$ 2. The Authority has provisionally not granted this price adjustment, pending further investigations.

D.5. Normal value, export price and dumping margin in case of Thailand

36. No producers in Thailand have responded to the Authority, nor has any other information been made available to the Authority with regard to costs or prices in Thailand. Under the circumstances, the Authority has determined normal value in Thailand on the basis of estimates of constructed cost of production, duly adjusted to include a profit margin. Export price has been determined on the basis of imports information reported to the Customs. Normal value, export price and dumping margins have been determined separately for each type. Cumulative dumping margin has been determined considering the associated volumes.

D.6. DUMPING MARGIN

37. The Authority has determined both the normal value and export price at ex-factory level, separately for each size. Cumulative dumping margin has been determined considering the associated volumes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and export price determined as detailed above, dumping margin has been determined provisionally, which comes as under:-

a. Chungwa- Malaysia

	Unit	14"WY	15 "WY	20"WY	21"WY	29"WY	TOTAL
Normal Value	RM	***	***	***	***	***	***
Net Export Price	RM	***	***	***	***	***	***
Dumping Margin	RM	***	***	***	***	(***)	***

Dumping Margin	%	***	***	***	***	(***)	8.42
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b. Samsung- Malaysia

	Unit	14CCN	14ICN	15CFN	20CCN	21CCN	21CFN	21FIN	21CFS	TOTAL
Normal Value	RM	***	***	***	***	***	***	***	***	***
Net Export Price	RM	***	***	***	***	***	***	***	***	***
Dumping Margin	RM	***	***	***	***	***	***	***	***	***
Dumping Margin	%	***	(***)	***	***	***	***	***	(***)	7.10

c. LPD- Korea

	Unit	15"RF AK	21"SUS	21"RF AK	29"SUS	29 'RF	29 'RF Tint Glass	29 'RF Tint	29"SU STS	TOTAL
Normal Value	KY	***	***	***	***	***	***	***	***	***
Net Export Price	KY	***	***	***	***	***	***	***	***	***
Dumping Margin	KY	***	***	***	***	***	***	***	***	***
Dumping Margin	%	***	***	***	***	***	***	(***)	***	5.52

d. Irco Group Electronics China

	Unit	14'A	15"	21 PF A	TOTAL
Normal Value	RMB	***	***	***	***
Net Export Price	RMB	***	***	***	***
Dumping Margin	RMB	***	***	***	***
Dumping Margin	%	***	***	***	25.87

e. Irco Display

	Unit	21 FS
Normal Value	RMB	***
Net Export Price	RMB	***
Dumping Margin	RMB	***
Dumping Margin	%	30.31

f. Samsung – China

	Unit	21CFS	21IFN	29CFS	TOTAL
Normal Value	RMB	***	***	***	***
Net Export Price	RMB	***	***	***	***
Dumping Margin	RMB	***	***	***	***
Dumping Margin	%	***	***	***	10.46

g. LPD - China

	Unit	21"RF AK
Normal Value	RMB	***
Net Export Price	RMB	***
Dumping Margin	RMB	***
Dumping Margin	%	14.51

h. BMCC- China

	Unit	14"	15"PF	Total
Normal Value	RMB	***	***	***
Net Export Price	RMB	***	***	***
Dumping Margin	RMB	***	***	***
Dumping Margin	%	***	***	25.48

38. The weighted average position country wise is as follows;

	Unit	Malaysia	Korea	China	Thailand
Normal Value	INR	***	***	***	***
Net Export Price	INR	***	***	***	***

Dumping Margin	INR	***	***	***	***
Dumping Margin	%	7.53	5.52	15.36	34.48

E. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINKS

E.1 Views of the domestic industry

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

- (a) Production, sales volume and capacity of the domestic industry has increased in response to increase in demand. Even though production and sales of the domestic industry increased, the increase in the same was far lower than the increase in the demand. Resultantly, the capacity utilization suffered.
- (b) Foreign producers kept reducing their prices consistently over the injury period. Resultantly, the domestic industry was forced to reduce its prices consistently throughout the period.
- (c) Selling prices have been constantly declining. In fact, the declines in the selling prices have been more than declines in the cost of production. No producer of goods can sustain such kind of prices on long-term basis. The situation is bound to result in sickness unless checked and controlled. In view of such precarious situation, urgent action is required to be taken.

(d) Profitability of the domestic industry has declined over the years. Not that the domestic industry was having good profitability earlier (imports have been competing with the domestic industry for past several years). However, at least it was surviving and growing (imports have all along been a constant threat to the industry). Situation has, however, gone completely out of control and beyond tolerable limits from the present period of investigation, when the domestic industry's profitability steeply declined due to dumped import from the subject countries and the domestic industry was faced with huge financial losses. The selling prices of domestic industry throughout the injury period were so low that the contribution margin of the domestic industry deteriorated significantly. Contribution margin got affected due to the dumped imports from the subject countries.

(e) The productivity of the domestic industry increased. However, in spite of this positive situation, the domestic industry was faced with deteriorating financial performance. No industry can think of improving its plant operational performance only to face adverse financial situations.

(f) The return on capital employed and cash flow deteriorated throughout the injury period. Further, whereas return on capital employed was positive upto 2005-06, the same became negative from 2006-07 and the position deteriorated further in the investigation period. The imports are adversely affecting the return on capital employed and cash flow of the domestic industry.

(g) The average stocks of the domestic industry have increased. This is in spite of the fact that the production gets regulated on the basis of orders.

(h) The employment of the domestic industry over the years has increased due to increase in capacity. Salary & wages paid to the employees have been increasing. Petitioners have, in fact, no other option but to afford wage increases.

(i) Persistent adverse performance would adversely impact the ability of the domestic industry to raise fresh capital.

(j) The dumping margin from the subject countries are not only more than de-minimus, but also quite significant.

(k) Imports were significantly depressing the prices of the domestic industry in the market. As a result of significant price depression, contribution margin steeply declined. The domestic industry has been forced to reduce the price significantly higher than the decline in raw material costs. This has so significantly impacted the profitability of the domestic industry that the domestic industry faced huge financial losses, which kept increasing over the injury period.

(l) Market share of domestic industry increased till 2005-06, but declined very steeply in proposed POI with significant increase in imports in that period.

(m) Due to dumping of subject goods in India from subject countries, the domestic industry is not able to grow up to the mark. Even though there was positive growth in demand, sales, and production of the domestic industry, but due to dumping from subject countries, capacity utilisation, contribution margin, profitability, cash flow and return on investment deteriorated and growth therein was negative.

(n) Injury to the domestic industry is established by decline in market share, selling prices, profit, return on investments and cash flow.

(o) The domestic industry has been forced to reduce the selling price significantly because of consistent reduction in prices offered by foreign producers. It cannot be disputed that the selling price of the domestic industry is based on the import prices. All major TV manufacturers do their price negotiations based on the price at which they can import the material. Thus, domestic prices are benchmarked to import prices. The reduction in selling price is direct result of reduction in export prices by the foreign producers.

(p) Some of the T.V manufacturers are sourcing material from their affiliated suppliers. These companies have been giving a price preferences to their own related companies. Resultantly, the domestic industry is forced to offer a price lower than the price offered by such related suppliers.

(q) There is a significant difference in credit period offered by foreign suppliers and domestic industry.

(r) Imports from subject countries were significantly depressing the prices in the market. Even though there had been some decline in raw material cost, the decline in selling prices were far more than decline in raw materials costs.

(s) Performance of JCT Electronics deteriorated as would be seen from the information provided by the company. The company is under BIFR. Once the performance is adjusted as per BIFR rehabilitation, it would be seen that the performance of JCT shows much severe deterioration. Thus, operational performance of JCT deteriorated significantly.

(t) JCT could not utilize its capacity at Mohali. However, even if this capacity was not considered, the data still show significant injury having

suffered in terms of significant unutilised capacity. Capacity of Mohali was 1 million pieces, whereas unutilized capacity was to the extent of 27%.

(u) In case of Samtel, the cost over run is with reference to the Board of Directors approval. Even if this cost over run is adjusted, it would seen that the performance shows significant deterioration. As regards delay in stabilization of production, it would be noted that the capacity utilization declined steeply after Dec., 2006. Capacity utilization of the company between Aug.-Dec., 2006 was more than 50%, which declined to 17% during Jan.-Dec., 2007 period, thus clearly establishing that this decline was due to lack of orders.

(v) Opinion of Association of Indian Individual Investors is of no consequence/ relevance, given that these are individual opinions without having access to relevant information.

(w) The fact that the new production plants were not operating even at cash break-even is not solely because of cost over runs. In fact, these are substantially due to significant price erosion in the market.

(x) It is disputed that the cost overrun is required to be adjusted under the rules. Cost overruns are normal business phenomena and have invariably been allowed by the Authorities. In any event, the impact of cost overrun is only in terms of its adverse impact on interests and depreciation cost. Further, the very same report shows that the company had targeted a pay back period of entire investment as 3.3 years. The cost overrun is only with reference to the higher pre-operating or trial run production expenses at Line 4, which were incurred in view of the redesign in the product demanded by the customers. In case of Line 5, the company had originally planned a dedicated 14" line, which was converted into a flexi 14" and 21" line.

(y) The Designated Authority is required to determine injury to the "domestic industry". Individual performance of the constituents of the domestic industry is irrelevant.

(z) Samsung has selectively referred to the annual reports. The very same reports referred by Samsung contain views of the company with regard various factors of injury.

(aa) Export performance is not seen as a percentage of domestic or total sales. In any event, export performance has suffered because of dumping of the product by these producers in the global market and consequent injury suffered by Indian Producers in respect of their exports. Further, the company has provided separate information with regard to domestic and export operations and the claim of injury is clearly based on domestic operations.

40. Considering various injury parameters, it was claimed by the domestic industry that the performance of the domestic industry has declined over the injury period and the dumped imports of subject goods are causing severe material injury to the domestic industry. The deterioration in the performance during the current period is quite significant and material. Increase in imports led to increase in market share of imports. As a direct consequence, market share of domestic industry could not increase as a result of increase in demand. On the contrary, the market share of the domestic industry declined significantly in the POI. Further, significant decline in the market share in the proposed POI led to significant under utilization of production capacities. Decline in import price forced the domestic industry to reduce the prices, which in turn led to significant erosion in profit margin and consequent deterioration in profit/loss, return on investments and cash flow.

E.2 Views of other interested parties

41. The opposing interested parties have disputed that the domestic industry has suffered injury due to dumped imports. Their views are briefly as follows –

- (a) There are 3 types of CPT – Conventional, Flat and Slim/Vix Slim/Super slim. The domestic industry has admittedly not produced 21" slim and 29" slim. Since the domestic industry has not produced these types, the same should be excluded from the scope of the investigations. No injury could have been caused by these imports.
- (b) The injury period is not as per the DGAD practice. Since the period 2006-07 and period of investigation is almost similar, the same may not serve any fruitful purpose in assessing the injury to the domestic industry. It was apprehended that during 2002-03 and 2003-04 the domestic industry might have suffered losses and they might have deliberately not submitted information for those period for this reason.
- (c) JCT Electronics was declared sick unit by BIFR for the year 2004 and continued to be sick during the period of investigation. The company was sick even during the period when there was no allegation of dumping. The sickness of the company is on account of other reasons and not due to alleged dumping.
- (d) JCT declared lockout at Mohali plant in March 2002 and has not been using this facilities. The main reason for non-utilization of capacity by JCT is lockout at Mohali plant.
- (e) In respect of Baroda plant, the Corporate Announcement dated 7.3.2007 stated that operations of this unit had not stabilized and capacity utilization was low. This clearly demonstrates that the company is having some technical/other problems, which are causing injury to it.
- (f) Injury to Samtel Colour is self-inflicted.

(g) Samtel was producing conventional CPT till 2005-06 on 3 production lines. The company added two more lines with investments of more than Rs. 310 cores – Line 4 at Kota to produce 29" and Line 5 at Delhi to produce 21". These lines came up in operation during the period of investigation and remained unstable till the end of the period of investigation. The Chairman of the company has confirmed that these lines have suffered cost overrun and delayed stabilization.

(h) Association of Indian Individual Investors also opined that the addition of line 4 and line 5 led to deep financial crisis for the company, resulting in losses.

(i) Samtel has admitted in its quarterly results that it went into financial mess due to extension of two lines. These two lines were not operating even at cash break even.

(j) The article published in MoneyLife- Personal Finance Magazine, while reviewing the performance of Samtel has also opined that Samtel is on continuous decline.

(k) Samtel informed the National Stock Exchange that existing 3 lines were operating full capacity and line 4 and 5 operations were being stabilized.

(l) Demand for CPT increased and the domestic industry could not supply the materials, thus leading to higher imports.

(m) Samtel has admitted that several uncompetitive manufacturing units in the CPT sector in India have been decommissioned over the past few months, thus providing significant market share to the company, which increased from 36% to 46%.

(n) There is no evidence of adverse volume effect as a result of increase in imports.

(o) There is no evidence of adverse price effect. The price undercutting from subject countries is negative nor there is any evidence of price suppression or depression.

(p) Decline in price has been caused by decline in cost.

(q) Samsung has been selling the product at much higher prices than selling by the domestic industry. Various economic parameters relating to domestic industry does not show injury.

(r) The capacity utilization has suffered due to poor export performance. Delay in stabilization of new lines 4 and 5 set up by Samtel resulted in lower capacity utilization.

(s) If inefficiencies in production are removed, the sales price will be above cost of production.

(t) Increase in inventory does not show injury, as inventories have declined as a percentage of sales, percentage of production and number of days of production in stock.

(u) The profitability position given also does not show injury. The domestic industry was making losses during 2004-05 and even during 2001-02. Losses during 2005-06 and 2006-07 and the period of investigation increased when the major constituents started implementing production at new lines. The erosion of profitability is due to line 4 and line 5 and not alleged dumped imports.

(v) Employment and wages also does not show injury.

(w) Samtel had a positive cash flow during 2006-07. Cash flow situation of the domestic industry also does not show injury.

(x) The non-injurious price should be determined after taking into account unstable production.

(y) There is no evidence of causal link as well. Changes in the pattern of consumption from present TVs to LCD are a major factor for injury. Further, developments in technology are another cause for injury to the domestic industry.

(z) Export performance of the domestic industry has also suffered, thus leading injury to the domestic industry

(aa) The claim of increase in productivity is also incorrect.

E.3. Examination by the Authority

E.3.1. Cumulative Assessment

42. Annexure II (iii) to the Anti Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that:

- (a) 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;
- (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.

43. The Authority considered whether it would be appropriate to cumulatively assess injury to the domestic industry. As stated below, it would be appropriate to assess injury to the domestic industry cumulatively from Malaysia, Thailand, China and Korea RP:-

- i) The margins of dumping from each of the subject countries are more than the limits prescribed,
- ii) The volume of imports from each of the subject countries is more than the limits prescribed,
- iii) Cumulative assessment is appropriate in view of the following factors :-
 - a. The goods involved are like articles and are competing in the same market;
 - b. The imported products are being sold through the same channel of distribution and to comparable category of customers;

- c. Products from both the countries are undercutting the prices of the domestic industry in the market.
- d. Imports from both the countries are increasing.

44. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

45. For the purpose of injury analysis the Authority has cumulatively examined effect of dumped imports of the subject goods on the domestic industry and its effect on production, capacity utilization, sales, prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

46. Since positive dumping margins have been established for the exports from the subject countries, therefore, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal links examination.

E.3.2 VOLUME EFFECT: Volume Effect of dumped imports and impact on domestic Industry

47. The Authority has procured transaction wise imports information from the DGCI&S. Information provided by the responding exporters, importers/ consumers, DGCI&S information and information in the petition was correlated and the position is as follows –

	Pcs
	POI
As per exporter's responses	
Malaysia	
Chungwa	***
Samsung,	***
Korea	***
LPD	***
China	***
Samsung,	***
Irico Group	***
Irico display	***
BMCC	***
LPD	***
Total as per responses	4231771
As per importers' responses	
LG, India	***
Samsung, India	***
Mirc India	***
Dixon	***
Panasonic	***

Total as per importers' responses	2776957
As per petition (based on imports reported by DGCI&S and ICD, Dadri)	3834920

48. The Authority notes that the actual volume of imports reported by the responding exporters is far more than the volume of imports reported in the statistics made available by the DGCI&S. The domestic industry submitted that the import data in respect of ICD, Tughlaqabad and Dadri were not fully available. The Authority has therefore considered the volume of imports on following basis –

- i. On the basis of responses filed by the exporters in case of Malaysia and Korea in view of the fact that all known exporters have filed responses,
- ii. On the basis of DGCI&S in case of Thailand, as none of the exporters have filed questionnaire responses
- iii. On the basis of responses filed by exporters of China though only BMCC, Samsung, Irico, Irico display and LPD have filed the responses.
- iv. In case of importers, responses have been filed only by LG, Samsung, Mirc, Dixon, Panasonic , whereas there are a number of other companies as well who have also imported the subject goods according to the domestic industry, thus these figures have not been taken into account.
- v. The information made available by ICD, Dadri and DGCI&S shows that the imports reported at ICD, Dadri have not been reported in the DGCI&S information.

49. The Authority is constrained to adopt import data reported by DGCI&S and ICD, Dadri for preceding years in view of the fact that the responding exporters have not provided information on uniform basis in respect of preceding years, nor the information covers entire injury period.

E.3.2.1 Import volumes and Share of subject countries

50 The volume of dumped imports of subject product from subject countries is given in the table below.

Particulars	2004-05	2005-06	2006-07	July 06 to June 07

Import volumes (in '000 pcs)				
China	***	***	***	***
Korea South	***	***	***	***
Malaysia	***	***	***	***
Thailand	***	***	***	***
Total subject countries	1,938	2,200	3,284	5,342
Other country	403	138	45	66
Total Imports	2,341	2,338	3,329	5,408
Market Share in Imports (%)				
China	***	***	***	***
Korea south	***	***	***	***
Malaysia	***	***	***	***
Thailand	***	***	***	***
Total sub country	82.81	94.11	98.65	98.78
Other Countries	17.19	5.89	1.35	1.22
Production	6949	6966	9112	9579
Subject Import in relation to Production	27.90	31.58	36.04	55.77

51. The Authority provisionally holds that imports from subject countries increased significantly over the period in absolute terms, in relation to imports into India and in relation to production in India. At the same time, imports from other countries declined.

E.3.2.2 Demand and market shares

In 000 pcs

	2004-05	2005-06	2006-07	POI

Demand in India	10181	10671	12481	14696
➤ Sales of domestic industry	***	***	***	***
➤ Sales of other Indian producer	***	***	***	***
➤ Imports from subject country	***	***	***	***
➤ China	***	***	***	***
➤ Korea south	***	***	***	***
➤ Malaysia	***	***	***	***
➤ Thailand	***	***	***	***
➤ Total subject country imports	1938	2200	3284	5,342
➤ Other countries imports	403	138	45	66
➤ Total Imports in India	2341	2338	3329	5,408
Market Share				
➤ Domestic industry	***	***	***	***
➤ Other Indian producer	***	***	***	***
➤ Subject country	***	***	***	***
➤ China	***	***	***	***
➤ South Korea	***	***	***	***
➤ Malaysia	***	***	***	***
➤ Thailand	***	***	***	***
➤ Total subject countries	19.04	20.62	26.31	36.35
➤ Other countries	3.95	1.29	0.36	0.45

52. Demand of subject goods has been determined by addition of domestic sales of domestic industry and all imports from all countries. The Authority notes that demand for the subject goods had been growing from base year to POI. It grew by about 44% over injury period.

53. The Authority provisionally concludes that the market share of dumped imports increased significantly over the relevant period, resulting in decline in the market share of the Indian industry. The Authority provisionally concludes that the dumped imports show adverse volume effect.

E.3.2.3. Production, Sales Volume and Capacity Utilization of the Domestic Industry

54. Factual position is as follows

In 000 Pcs

Particulars	2004-05	2005-06	2006-07	POI
Capacity	8100	10100	12650	13800
Production	6949	6966	9112	9879
Capacity utilization	85.79	68.97	72.03	71.59
Sales	4622	5147	7919	8388
Demand	10181	10671	12481	14696

55. It is noted that capacity, production and sales volumes of the domestic industry increased in response to increase in demand. While the capacity increased by 57 lacs pieces, production increased only by 29.30 lacs pieces, even though demand increased by 45 lac pieces. Domestic industry faced decline in capacity utilization in spite of existing demand in the Country.

56. It has been represented by the interested parties that JCT capacity at Mohali should not be considered, as it is lying idle for quite some time. Therefore, the Authority has not considered production capacity of JCT at Mohali in the above analysis. It has also been represented that Samtel has not been able to utilize its new production line capacity in view of operational constraints. The Authority examined month wise production & capacity utilization at this line and noted that having achieved a plant utilization of more than 50% over a period of five months between Aug.-Dec., 2006, the capacity utilization has significantly fallen thereafter. It cannot certainly be a situation where the company could have reached upto this level and yet it faced such technical constraints that its utilization fell as low as 1.2% in Jan.-Dec., 2007 period.

F. Price effect of the dumped imports on the Domestic Industry

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

58. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject countries.

59. The interested parties have argued that the price undercutting by the imports is negative. In other words, the domestic industry is selling the product at a price below the landed price of imports. It has however not been disputed by any interested party that the domestic industry fixes its prices on the basis of the prices offered by foreign producers. Domestic industry has represented that the price negotiations with all major customers are on the basis of the prices offered by the foreign producers. Domestic industry has also represented that the major cause for unprecedented fall in

the prices over the injury period has been the price reductions resorted to by these foreign producers.

F.1. Evaluation of price over period under consideration

60. The Authority examined the trend of import prices over the injury period, separately for each size and cumulatively for subject countries. The relevant information is as shown below –

CIF import price	2004-05	2005-06	2006-07	POI	Decline in prices
14 complete tube	1005	877	791	734	27%
15"	1376	1223	1168	1144	17%
20" conventional	1608	1364	1359	1302	19%
21" conventional	2140	1821	1535	1481	31%
21" flat	2314	1812	1523	1478	36%
21" slim		2010	1904	1835	9%
29" flat	4198	3469	3306	3262	22%

61. CIF import price of the subject goods from the subject countries have declined over the injury period. The price declines have ranged from 9% to 36%. In respect of high volume types (14" and 21" flat) the prices declined by 27% and 36% respectively.

62. The Authority examined whether the above price decline could be linked to the decline in cost of production. The Authority notes that whereas the exporters have not provided relevant information in this respect, the domestic industry has provided information for the entire period. It is noted that even though there were declines in cost of production as well, the above declines are far more than the declines in cost of production.

G. Price undercutting

63. In order to determine price undercutting, Authority examined the responses filed by the exporters and importers/users. Price undercutting have been separately determined for each responding exporter. For the purpose, each type of CPT has been compared separately. Price undercutting for each type and thereafter weighted average for CPT as a whole has been determined. The analysis shows as follows –

Undercutting table

	Average of all types	
Price undercutting	Volume	Rs/Pc.
Samsung, China	***	(***)
Samsung, Malaysia	***	(***)
LPD, China	***	***
LPD, Korea	***	(***)
Matsushita	***	***
Chungwa-Malaysia	***	(***)
IRICO-China	***	***
IRICO-China	***	***
Responding Exporters	***	(***)
Thailand	***	(***)

64. The Authority notes that the price undercutting is negative. However, it has been claimed by the domestic industry that in view of the typical market conditions for this product, the Indian Producers are bound to link / fix their prices on the basis of import prices. For this purpose, Indian Producers have provided their pricing

formula in respect of some of the major customers in India. These pricing formulae clearly provide for fixation of prices on import parity basis or linkage thereof. Further, the Authority notes that the Rules require the Authority to examine “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”. The Authority thus notes that in a situation where the price undercutting is negative, the Designated Authority is required to consider whether the imports are depressing the prices of the domestic industry to a significant degree. As noted in the para below, the performance of the domestic industry clearly shows that the imports were depressing the prices of the domestic industry in the market.

65. The domestic industry has further argued that 4% special additional duty was payable on imports, which was creditable against sales tax payable by the consumers on their sales. However, sales tax payable by the domestic industry was not creditable. Since the consumers decide their prices on the basis of landed cost to them, this 4% additional costs to the domestic industry is resulting in lower net sales realization to the domestic industry vis-à-vis imports.

66. The Authority notes that wherever the domestic industry is selling identical models, the prices of the exporters and Indian Producers are quite comparable. Wherever the domestic industry is not selling significantly high volume of a particular model, the price difference between the domestic and import product is much higher (the imports are expensive). It is also noted that import prices of size 29" are higher than those of the domestic industry. Domestic industry stated that their prices of 29" were lower than imports in view of the fact that some of the exporters were selling to their related importers and therefore the importers were giving price preference to their related exporter. Additionally, in so far as 29" is concerned, since the domestic industry has started offering its product only from 2006, the consumers were willing to pay a price lower than imports, considering that the domestic industry had introduced new type. Domestic industry further argued that the relevant consideration under the Rules is whether the prices of the domestic industry are getting benchmarked by the imports. So long as the imports were the primary factor for the benchmark pricing being resorted to by the domestic industry, it should be held that the reasons for decline in prices was imports and these imports have forced the domestic industry to sell at prices below associated cost of production.

67. The domestic industry has also pointed out that the followings are relevant parameters for fixation of prices –

- a. The price at which the consumers have placed orders for supply of material is their starting basis for price fixation.
- b. A number of customers whose affiliates are producing the subject goods outside India clearly require a price lower than the prices quoted by their affiliates. If prices are comparable, these customers prefer to buy from their related foreign supplier.
- c. Whereas the prices for the domestic industry immediately become effective, the supplies of the exporters come much later.
- d. Whereas the domestic industry has credit period of 0-20 days, exporters have given credit as high as 90/225 days. A credit of 90 days @ 12% interest rates has about 2% price impact.
- e. Exporters have to carry much higher inventory carrying cost as compared to domestic industry. Inventory carrying cost is built in the prices.

68. In view of the above, the Authority provisionally concludes that selling price of the domestic industry have declined over the period, reasons for which is decline in the landed price of imports.

H. Price suppression and depression effects of the dumped imports:

69. In order to examine whether the imports were depressing or suppressing the prices of the domestic industry, the Authority has examined the trends in raw material costs and selling price. The relevant position is as follows –

	2004-05	2005-06	2006-07	POI
Raw materials costs				
14 complete tube	***	***	***	***
15"	***	***	***	***
20" conventional	***	***	***	***

21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat	***	***	***	***
Selling price	***	***	***	***
14 complete tube	***	***	***	***
15"	***	***	***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat	***	***	***	***
Landed price of imports	***	***	***	***
14 complete tube	***	***	***	***
15"	***	***	***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat	***	***	***	***

70. The selling prices of the domestic industry have declined in the same direction and to the same extent as that of landed price of imports. The price declines have been significant forcing the domestic industry in selling the product significantly below the cost of production during the proposed investigation period.

71. Considering the above, the Authority provisionally concludes that there has been a significant increase in the dumped imports, both in absolute terms and relative to production and consumption in India. With regard to the effect of the dumped imports on prices, the Authority notes that there has been significant decline in the landed price of imports. As a direct consequence, the selling price of the domestic

industry declined significantly over the injury period. Even though there were declines in raw materials costs, the declines in the selling prices were far more than declines in the raw materials costs. The imports thus forced the domestic industry to reduce the prices. Such price declines were significant and material.

I. Examination of other Injury Parameters

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

I.1. Profits

	2004-05	2005-06	2006-07	POI
Average cost of production (Rs/Pc)	***	***	***	***
Average selling price (Rs/Pc)	***	***	***	***
Profit & Loss per pc (Rs/Pc)	***	***	(***)	(***)
Total profit/ loss from domestic sales (Rs Lacs)	***	***	(***)	(***)
Index	100	75	(137)	(222)

73. It is seen that profitability of the domestic industry has severely declined over the years. Not that the domestic industry was having good profitability earlier (imports have been competing with the domestic industry for past several years). However, situation has significantly deteriorated over the injury period, when the domestic industry's profitability steeply declined due to dumped import from the subject countries. Resultantly, the domestic industry faced significant financial losses.

74. It was argued by some of the interested parties that the performance of the domestic industry deteriorated due to other factors and not due to dumped imports. It has been claimed that JCT was BIFR company even before and the company has been forced to suspend production at its Mohali plant due to other factors not related to dumping. With regard to Samtel, it has been argued that the company has faced significant losses primarily due to cost overrun and commercialization of new production line. Considering the arguments of these interested parties, the Authority therefore examined impact of these other factors. It was noted in case of Samtel that the company made a profits of *** lacs in 2004-05, whereas its financial loss in the POI was ***lacs. The Authority notes that even when profit before tax may decline due to incidence of higher interest & depreciation expenses, profit before interest & depreciation would be unaffected by cost and time overrun. Therefore, the Authority ascertained profit before interest & depreciation for the company. The factual position is as follows.

Rs. In lacs

Particulars	2004-05	2005-06	2006-07	POI
Profit before tax	***	***	***	***
Interest	***	***	***	***
Depreciation	***	***	***	***
Total of interest & depreciation	***	***	***	***
Increase in interest & depreciation (as compared to 2004-05)	***	***	***	***
Profit before interest & depreciation	***	***	***	***
Index	100	45	48	29
Decline in profit before interest & depreciation (as compared to		***	***	***

2004-05				
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75. It is seen from the above that even if interest & depreciation costs of the company would have been same as in the base year, its profits would have significantly declined. It is also seen from the above that profit before interest & depreciation showed a marked decline over the injury period (which could not have been affected due to cost overrun or higher incidence of costs due to new plant).

76. In order to further examine the profitability of the domestic industry and impact of dumping on the domestic industry, the Authority examined contribution margin over the injury period. Contribution margin for the purpose has been considered as the difference between selling price and costs on account of raw material. The relevant information shows as follows –

	Rs/Pc			
	2004-05	2005-06	2006-07	POI
Raw materials costs				
14 complete tube	***	***	***	***
15"	***	***	***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat	***	***	***	***
Selling price	***	***	***	***
14 complete tube	***	***	***	***
15"			***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***

29" flat			***	***
Contribution				
14 complete tube	***	***	***	***
15"			***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat			***	***

Sales volumes domestic

000'Pcs

14 complete tube	***	***	***	***
15"			***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat			***	***
Total contribution margin				Rs Lacs
14 complete tube	***	***	***	***
15"			***	***
20" conventional	***	***	***	***
21" conventional	***	***	***	***
21" flat	***	***	***	***
29" flat			***	***
Total contribution margin	***	***	***	***
Index	100	89	73	68

Decline in contribution margin	***	***	***
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77. It is seen that the contribution has steeply declined over the injury period. The above clearly shows that the domestic industry has been forced to reduce its prices far beyond the reduction in the costs on account of input materials. Given that the pricing of the product is dependent upon the import prices, this clearly shows that the decline in contribution margin is on account of dumped imports in the market.

I.2. Return on investment and cash flow

	2004-05	2005-06	2006-07	POI
Return on capital employed (%)	***	***	(***)	(***)
Index	100	93	(33)	(71)
Cash profit (Rs. Lacs)	***	***	(***)	(***)
Cash flow from operation (Rs. Lacs)	***	***	***	(***)

78. It is seen that return on capital employed and cash flow deteriorated throughout the injury period. Return on capital employed was positive upto 2005-06. The same however became negative from 2006-07 and the position deteriorated further in the investigation period.

79. With regard to cash flow, the Authority notes that the cash flow of the domestic industry declined steeply. From a situation of positive cash flow, the domestic industry was faced with a negative cash flow in the investigation period. The Authority also examined the position of cash profits with regard to production and sale of CPT. It was seen that the cash profits also show the same situation. Cash profits were positive in the earlier years and became negative in the investigation period.

I.3. Inventories

Volume in '000 pcs

Inventories	2004-05	2005-06	2006-07	POI
Opening Inventories	***	***	***	***
Closing Inventories	***	***	***	***
Average Inventories	***	***	***	***
Index	100	135	120	110

80. The Authority notes that the subject goods are normally produced against confirmed orders. Therefore, the inventories with the domestic industry would normally be in respect of the confirmed orders.

I.4. Productivity

	Fig. in '000			
	2004-05	2005-06	2006-07	POI
Productivity per employee (no. of pieces per employee)	***	***	***	***
Productivity per day	20	20	26	27

81. It is seen that productivity of the domestic industry increased after declining in 2005-06. In spite of this positive situation, the domestic industry was faced with deteriorating financial performance.

I.5. Employment & wages

	2004-05	2005-06	2006-07	POI
Number of employee (nos.)	***	***	***	***
Wages (Rs. In crores)	***	***	***	***
Wages per employee (Rs. Lacs)	***	***	***	***

82. It is seen that employment level has increased. This may be due to increase in capacity. Salary & wages paid to the employees have increased, which is partly due to increase in number of employees and partly due to wage increases. The average wage increase per employee comes to 8.7%, which is quite nominal.

I.6. Growth

83. Considering various economic parameters of the domestic industry, even though there was positive growth in demand, sales, capacity, and production of the

domestic industry, the growth with regard to capacity utilisation, contribution margin, profitability, cash flow and return on investment was negative.

J. Conclusion on injury:

84. The examination of above injury parameters indicates that growth in demand was 45% over the injury period. Given significant overall growth in demand, capacity, production and sales of the domestic industry increased. However, the increase in sales was far lower than the increase in the demand. Resultantly, the capacity utilization suffered. Imports of subject goods from subject countries increased significantly from 2341 lacs pcs in 2004-05 to 5405 lacs pcs during POI i.e. it increased by 130%. The share of the imports from subject countries in relation to demand increased from 19% in 2003-04 to 36% during POI whereas market share of Indian industry declined. There was consistent decline in the prices of various sizes of CPT being sold in the market. These price declines are not fully addressed by the decline in the costs. As a result of exporters reducing their prices consistently over the injury period, the domestic industry was forced to reduce its prices consistently throughout the period. Resultantly, the prices of the domestic industry declined to a significant extent (price declines ranged 25-40%). Price declines in high volume 14" and 21" flat were in the region of 30% and 40% respectively. As a result of significant price depression, contribution margin, profit, returns on investments and cash flow

situation of the domestic industry significantly deteriorated. The domestic industry suffered huge financial losses, negative return on investment, negative cash flow and negative cash profits. The Authority provisionally concludes that the performance of the domestic industry deteriorated significantly in terms of profit, return on investments and cash flow. The declines were significant and material. Thus various parameters collectively and cumulatively show that the domestic industry has suffered material injury.

K. CAUSAL LINK

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

K.1. Examination of Other Known Factors

K.1.1. Volume and prices of imports from other sources

86. The Authority notes that out of total imports, the volumes of imports from other countries are 1.23% during POI. The Authority notes that the imports from other countries are negligible and could not have been contributing to the injury of the domestic industry.

K.1.2. Contraction in demand and / or change in pattern of consumption

87. The Authority notes that there is no contraction in the demand during POI. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. The demand of subject goods has shown growth of 45% over the injury period. There is no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

K.1.3. Trade restrictive practices of and competition between the foreign and domestic producers

88. The Authority notes that there is a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods produced by domestic industry. Imports of various types of CPT are being sold in the same market as CPT being sold by the domestic industry.

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

K.1.4. Development in technology

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

K.1.5. Export performance