

**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti-Dumping & Allied Duties**  
**Udyog Bhawan,**

**NOTIFICATION**

New Delhi, the 24 January, 2001

**Subject:** Anti dumping investigation concerning imports of Dry Batteries originating in or exported from PR China – Preliminary Findings

**No. 53/1/2000-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.

**Procedure**

2. The procedure described below has been followed with regard to the investigations:-
  - i. The Designated Authority (hereinafter referred to as Authority), under Rules received information from reliable sources that dry batteries (hereinafter referred to as subject goods), originating in or exported from China PR (hereinafter referred to as subject country) are being dumped in India and are causing injury to the domestic industry;
  - ii. The Authority on the basis of information and evidence available before it decided to initiate anti dumping investigations against imports of subject goods from the subject country;
  - iii. In accordance with sub-rule 5(5) of the Rules, the Authority notified the Embassy of China PR in India about the receipt of information and evidence mentioned above before proceeding to initiate investigations;
  - iv. The Authority issued a Public Notice dated the 20th November 2000 published in the Gazette of India, Extraordinary, initiating anti dumping investigations concerning imports of subject goods from subject country, classified under custom sub-heading 8506.10 of Chapter 85 of the Schedule I of Customs Tariff Act 1975;
  - v. It was also mentioned in the initiation notification that product under consideration is dry batteries (more specifically primary pencil cells and

batteries) and custom classification mentioned is indicative only and is in no way binding on the scope of the present investigation. Further the batteries are available in various sizes, however, R6 (AA) both in paper and metal (both heavy duty and super heavy duty) jacketed form are within the scope of investigations;

- vi. The Embassy of China in New Delhi was informed and a copy of initiation notification was sent to them in accordance with Rule 6(2). They were also requested to advise the exporters/producers in their country to respond to the questionnaire within the prescribed time. A copy of the questionnaire meant for exporters/producers along with covering letter addressed to exporters/producers containing guidelines for filling up the questionnaire was also sent;
- vii. On receipt of list from reliable sources of exporters/producers of subject goods from subject country, the Authority forwarded a copy of the public notice to them and gave them an opportunity to make their views known in writing;
- viii. In accordance with Rule 6(4) the Authority also sent questionnaire to elicit relevant information to the known exporters from China as per the list given below:-

- M/s. Shandong Zibo Disheng Power Co Ltd., Shandong, China
- M/s. Tianshui Battery Factory, Gansu, China
- M/s. Lishui Battery Factory, Zhejiang, China
- M/s. Wuzhou Storage Battery Factory, Guangxi, China
- M/s. Nanchang Battery Factory, Jiangxi, China
- M/s. Linqing Battery Factory, Shandong, China
- M/s. Weifang Bohai Electrical Light Source Co. Ltd., Shandong, China
- M/s. Guangzhou Light Industries Products, Electric Appliances Imp and Exp. Co., Guangdong, China
- M/s. Nanping Nanfu Battery Co. Ltd., Fujian, China

- ix. The Authority forwarded a copy of the public notice to M/s. Four line Export, Indore, an importer of subject goods and advised them to make their views known in writing within 40 days of the date of the letter. Other importers of subject goods from China who have come to the notice of the Authority subsequently are as follows:-

- M/s. Videocon International Ltd, Aurangabad
- M/s. Shri Exporters, Mumbai
- M/s. Kalson Mkg. Pvt. Ltd., New Delhi
- M/s. Global Impex, Mumbai
- M/s. Advance Semiconductor, New Delhi
- M/s. Sheraton Overseas, Chennai
- M/s. Techno Enterprises, Noida

- M/s. Deepak Exports, Delhi
  - M/s. Shah RP Technologies, Delhi
  - M/s. KS International, N Delhi
  - M/s. Super Fine Overseas, N Delhi
  - M/s. Devika Impex, Delhi
  - M/s. Perfect Trading Co., Delhi
  - M/s. Anand Enterprises, N Delhi
  - M/s. Delhi International, Delhi
  - M/s. Ambica Enterprises, N Delhi
  - M/s. VK International N Delhi
  - M/s. Crystal Electronic Corpn., Chennai
  - M/s. VR Electronics, Jaipur
- x. Request was also made to the Directorate General of Commercial Intelligence and Statistics (DGCIS) Calcutta and Central Board of Excise and Customs to arrange for data on import of subject goods during the period of investigation.
- xi. A copy of the initiation notice was sent to industrial associations, such as ASSOCHAM, CII and FICCI and also to newspapers and news agencies to give wide publicity for the benefit of all concerned and also to invite their participation in the investigation;
- xii. A copy of the initiation notification was also forwarded to the Association of Dry Cell Manufacturers and also to the domestic producers of subject goods as per list below:-
- Eveready Industries India Ltd., Calcutta
  - Indo National Limited, Chennai
  - Matsushita Lakhanpal Battery India Ltd., Vadodara
  - Wilkinson Sword India Ltd., (Geep) N Delhi
  - Energizer India Ltd., New Delhi
  - Duracell India Pvt Ltd., New Delhi
  - BPL Limited, Bangalore
- xiii. The Authority made available non-confidential information and evidence available before it in the form of a public file kept open for investigation by the interested parties;
- xiv. \*\*\* in this notification represents information submitted on confidential basis by interested parties and so considered by the Authority under the Rules. This also includes confidential information available before the Authority from independent sources;
- xv. The period of investigation for the purpose of this anti dumping investigation is 1.4.2000 to 30.9.2000.

## **B. Domestic Industry's Views**

3. The domestic industry in response to the initiation notice has furnished information in the prescribed format and made the following submissions:-
  - i. The product under investigation falls under custom heading 8506.10 and described as 'dry cell batteries' (more specifically primary pencil cells and batteries) especially R (AA) both in paper and metal (both heavy duty and super heavy duty) jacketed form;
  - ii. The product under consideration i.e., dry cell batteries is transacted in terms of number of pieces. However, the information on imports available from various custom ports reveal that imports have been cleared in unit terms such as dozens, sets and cartons etc. thus though the volume is to be denominated in terms of number of pieces, the DGCIS data for denoting the volume may not be reliable as a common unit does not seem to have been adopted while compiling the data. This will also imply that the value per unit calculated from DGCIS data may not be the true reflection of the actual export price per unit. Apart from sub heading 8506.10, from the detailed data on the imports available it is seen that the subject goods have been cleared under different heading such as 8513 also particularly in view of the fact that that custom duties are same for all these sub headings;
  - iii. The rechargeable batteries also fall under the same custom heading and are also imported from the subject countries. Since the value per unit of rechargeable battery is many times higher than that of the subject goods the data compiled under the custom sub heading will not give a true picture of the unit value of the import of subject goods;
  - iv. From the foregoing discussion, it is clear that, the data provided by DGCIS may not be reliable to determine the volume, value and per unit prices of the imports from subject country. The information on imports collected from various ports in the country may be more reliable indicator of the volume and value of imports looking into the consignment wise details giving different specific description of the product being imported;
  - v. Import of various types of dry batteries were under 'restricted list' of imports till 31st March 2000. Effective from 1st April 2000, these imports have been placed in Open General Licence (OGL) and there are no restriction on imports since then;
  - vi. After the import of dry cell batteries was placed under OGL, the exporters from China have resorted to severe dumping which is taking the form of either direct shipment from China or there is trans-shipment of material of Chinese origin from Hong Kong and Singapore. The duties are required to be imposed on all imports of subject product originated in or exported from the subject country;

- vii. The domestic industry consists of five producers of subject goods. These producers have imported other types of batteries which are not the subject matter of present investigation (such as rechargeable batteries) and none of the Indian producers are related to exporters or importer of the subject goods from China;
- viii. The present investigations are against dumping of subject goods from China which is a non-market economy country. As per the amended Anti Dumping Rules, normal value in a non market economy country can be determined on the basis of price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable margin of profit. The Designated Authority has already conducted a number of investigations into dumping from China wherein the normal value was determined based on constructed cost of production.
- ix. There has been sharp increase in the import of subject goods from China during the period of investigation which has caused material injury to the domestic industry and also threatening further injury in the form of price under-cutting, erosion in market share, loss of sales and profitability etc;
- x. The export price of Chinese goods is not even sufficient to recover the cost of raw material of the product, not to speak of the manufacturing and processing expenses, cost of finance, selling and distribution expenses etc.;
- xi. The dumping of the subject goods from China is causing material injury to the domestic industry and the anti dumping duty should be imposed on imports of dry cell batteries from China;

### **C. Views of manufacturers, exporters from China and importers in India**

- 4. None of the exporters or manufacturers of the subject goods from China nor the importers in India of the subject goods responded to the initiation notice of the Authority.

### **D. Examination and Findings by Authority**

- 5. The submission made by the exporters, importers, domestic industry and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.
- 6. The Authority confirms, the absence of any direct response from the exporters in the form and manner prescribed and having made the findings on the basis of the fact available to it as per rule 6(8) supra.

7. The cases of new exporters or those stated to be willing to give price undertaking shall be considered, on request, by the Authority in accordance with the Rules supra.

## **E. Product under Consideration and Like Article**

8. As already mentioned in the initiation notification the product under consideration is dry batteries (specifically primary pencil cells and batteries) which is classified under custom sub-heading 850610 of Schedule I of the Customs Tariff Act, 1975. The product is used in torches, transistors, toys, cameras, tape recorders, CD players, laptop PCs and other electronic and electrical gadgets. The batteries are available in various sizes, however, R6 (AA) both in paper and metal (both heavy duty and super heavy duty) jacketed form are within the scope of investigation. Further, the goods manufactured by the domestic industry are 'like articles' to the goods imported from the subject country within the meaning of Rule 2(d). The classification is indicative only and is in no way binding on the scope of the present investigation. The Authority continues with the same description as mentioned above for the purpose of preliminary findings except that the rechargeable batteries are not within the scope of investigation.

## **F. Domestic industry**

9. There are five producers of dry cell pencil batteries in India. They are –
  - Eveready Industries Ltd
  - BPL Soft Energy System Ltd
  - Matsushita Lakhanpal Battery India Ltd
  - Indo National Ltd
  - Wilkinson Sword India Ltd
10. Of the above five companies, companies at serial nos. 1 to 4 above, have provided information for the purpose of investigation. Some of these companies have imported other types of batteries which is not the subject matter of the present investigation and it has been stated that none of these companies are related to any exporter or importer of subject goods from China. The Authority, therefore, considers M/s. Eveready Industries Ltd., M/s. BPL Soft Energy System Ltd., M/s. Matsushita Lakhanpal Battery India Ltd., and M/s. Indo National Ltd as domestic industry for the purpose of present investigation and these producers together are referred to as 'domestic industry' for the findings.

## **G. Dumping & examination of claims made on Normal Value & Export Prices**

11. Under Section 9A(1)©, normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section(6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -
  - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
  - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

12. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with section 9A(1)©. However, none of the exporters responded to the Authority and have not furnished any information. The Authority, therefore, holds that none of the exporters from the subject countries have cooperated with the Authority as envisaged under the Rules.

13. The domestic industry has furnished information with regard to normal value, based on constructed cost of production. The normal value has been determined by the Authority on the basis of cost of production constructed for China PR in view of non cooperation from the exporters from China PR.

14. The domestic industry has claimed export prices on the basis of data compiled from secondary sources. Since none of the exporters from China PR and importers in India have furnished any information with regard to export price, the Authority has determined export price on the basis of the information available . The CIF export price has been adjusted for ocean freight and insurance etc., to work out net export price, in view of non cooperation from the exporters from subject country and importers in India.

15. The export price and normal value so determined have been considered as ex-works prices.

16. Since none of the exporters from the subject country has responded to the Authority's request for information, the Authority has not determined dumping margin for individual exporters. The Authority took into account the best information available for the purpose of fair comparison between the normal value and the export price and compared weighted average normal value with weighted average export price. The comparison shows dumping margin of 693% of net export price.

## **H. Injury**

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

### **Determination of Injury:**

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

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

18. Under Rule 11 *supra*, Annexure II, 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 articles.....*". Further to above, regarding threat of injury, para (vii) of Annexure II of Rules *supra*, reads as under:-

" (vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a

threat of material injury, the designated authority shall consider, *inter alia*, such factors as:

- a. a significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
- c. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
- d. inventories of the article being investigated."

19. 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 product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realisation etc.

20. All the economic parameters affecting the domestic industry mentioned above, such as production, capacity utilisation, sales volume etc., have been examined. However, the most clear effect of dumped imports has been on the prices. As against the retail selling price of domestic industry in the range of Rs.\*\* to Rs.\*\* per piece the Chinese batteries were being sold in the retail market at a price of approximately Rs.1.5 to Rs.2.00 per piece as per information available. It has been stated by the domestic industry that especially in villages and small towns, which is a large segment of the market for the industry, the consumers are highly price conscious. There has been a tremendous erosion for the domestic market and the domestic industry has further stated that they are finding it difficult to convince the consumers to continue to buy the domestic product because of the enormous price difference. Even though there may not be an immediate adverse effect on the production and capacity utilisation because of the expanding domestic market, the dumped imports are causing lot of erosion in the market share of the domestic industry.

21. The imports from China, demand of subject product in India and share of China in demand of the subject goods in India has been as under:-

Million pieces	1997-98	1998-99	Investigation period
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Imports from China	5.37	36.6	46.8
Total demand	556	748	362
Share of China in Demand (%)	0.97	4.89	12.93

It is evident from the above that the share of China in Demand of the subject goods in India has significantly gone up. The volume effect is also being felt in terms of inability of the domestic industry to increase its sales proportionate to the increase in the demand, thus resulting in decline in the market share of domestic industry in demand in India. As a result of significant price undercutting, the volume of imports is increasing, thus resulting in increase in the share of China in demand in India. As a direct consequence, the domestic industry has lost market.

22. In addition to the material injury being suffered by the domestic industry as mentioned in the foregoing paragraph it has been found that the dumped imports are causing threat of further damage to the domestic industry which will intensify the injury already being suffered. From an average of two million pieces per month being imported till March 2000 when the item was on the 'restricted list' of imports, it increased to an average of 7 million pieces per month between April 2000 and August 2000 and approximately 12.8 million pieces in the month of September 2000 thus flooding the Indian market with the dumped Chinese imports. In this situation in addition to usual comparison of landed price of import with the ex-factory price of domestic product for the purposes of analysis of the phenomena of price under-cutting, it is necessary to compare the retail price of two products to assess the extent of price under-cutting and threat of injury to the domestic industry. A comparison of the two prices shows the phenomena of price under-cutting being faced by the domestic industry. The prices of imported goods are being compared with the domestic prices ex-factory vis a vis ex-port basis and also the prices to a consumer at retail level. The comparison given below on both counts shows significant under cutting of the prices of the domestic industry by the goods being imported from China.

Rupees per piece	Investigation period
<b>Ex-factory vs ex-port</b>	
Sales realisation of domestic industry	***
Landed price of imports	***
Price undercutting (percentage terms)	423
<b>Retail level</b>	
Selling price of domestic industry	
- lowest	**
- highest	**
Selling price of Chinese product	2
Price undercutting (in percentage terms)	

- lowest	175
- highest	250

The calculation given above show the threat being faced by the domestic industry on account of price under cutting by Chinese imports which will eventually force the domestic industry to reduce its prices to match the prices of the imported product. This is going to have an adverse effect on the sales realisation and profitability of the domestic industry.

23. The domestic industry has further alleged that China has significant freely available capacity and huge inventories which is evident from the fact of ever increasing volumes of exports of subject goods to India and to other countries world over. However, this fact could not be verified because of lack of participation by exporters/manufacturers from China. On the basis of the evidence available before it, the Authority therefore concludes that the phenomena of threat of injury being faced by the domestic industry on account of dumped imports is established.

## **I. Causal Link**

24. The substantial and steady increase in import of subject goods from China at abysmally low price which is not sufficient even to recover the cost of raw material of the domestic industry resulting in severe price under-cutting clearly establishes the causal link between the injury already suffered as well as threat of injury being faced by the domestic industry with the phenomena of dumping of subject goods from China. The Authority therefore has come to the conclusion that there is an obvious causal link between the dumping of subject goods from China and the injury being caused to the domestic industry during the period of investigation.

## **J. INDIAN INDUSTRY'S INTEREST**

25. 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.

26. The Authority recognised that the imposition of anti dumping duties might affect the price levels and availability of the products under consideration.. 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. The Authority notes that the imposition of anti dumping measures would not restrict imports from China in any way, and therefore, would not affect the availability of the product to the consumers. It will only check unfair trade practice. The consumers could still maintain two or even more sources of supply.

## **K. CONCLUSIONS**

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

- i. (i) Dry Cell Batteries of Chinese origin have been exported to India below their normal value;
- ii. (ii) the Indian industry has suffered material injury and is being threatened with further injury;
- iii. (iii) the injury has been caused by the dumped imports from China.

28. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of dry batteries originating from China in order to remove the material injury to the domestic industry. The margin of dumping for known exporter determined by the Authority are indicated in para 16 above.

29. Accordingly, the Authority recommends that provisional anti dumping duties as set out below be imposed from the date of notification to be issued in this regard by the Central Government on all imports of dry batteries falling under customs code 8506.10 originating from China pending final determination. The anti dumping duty shall be the difference between US\$ 75.25 per 1000 pieces of dry batteries and landed price of import per 1000 pieces for all exporters/manufacturers from China.

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

## **L. FURTHER PROCEDURE**

**31. 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, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. This being a case of *suo motu* investigation, fresh submissions made by any interested party even at this stage also will be taken into account for the purpose of final findings;
- d. The authority would provide opportunity to all the interested parties for oral submissions to be rendered thereafter in writing;
- e. The Authority would conduct further verification to the extent deemed necessary;
- f. The Authority would disclose essential facts before announcing final findings.

**L.V. Satharishi**  
Designated Authority