

Govt. of India
Ministry of Commerce & Industry
Department of Commerce

New Delhi, the 11th July 2002.

Preliminary Findings

Subject: Anti-Dumping investigations concerning imports of Ferro Silicon from South Africa and Macedonia --Preliminary Findings.

14/8/2002-DGAD – Having regard to the Customs Tariff Act 1975 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury), Rules 1995, thereof:

A. PROCEDURE:

1. The procedure given below has been followed with regard to the investigations:
 - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Indian Metals and Ferro Alloys Ltd., Bhubaneshwar, alleging dumping of Ferro Silicon originating in or exported from South Africa and Macedonia.
 - ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter considered as properly documented.
 - iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate investigations against alleged dumping of imports of Ferro Silicon originating in or exported from South Africa and Macedonia. The Authority notified the Embassy of the subject country about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
 - iv. The Authority issued a Public Notice dated 11th April 2002, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of Ferro Silicon classified under customs sub-heading no. 7202.21 and 7202.2100 of Chapter 72 of the Customs Tariff Act, 1975, originating in or exported from South Africa and Macedonia.
 - v. The Authority forwarded a copy of the Public Notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing within forty days from the date of the letter.

- vi. The Authority forwarded a copy of the Public Notice to the known importers (whose details were made available by the petitioner) of Ferro Silicon and advised them to make their views known in writing within forty days from the date of the letter.
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Ferro Silicon from South Africa and Macedonia.
- viii. The Authority provided copies of the non-confidential Petition to the known exporters and the Embassy of the subject country in accordance with Rule 6(3) supra.
- ix. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in South Africa and Macedonia in accordance with Rule 6(4);
 - a. Macedonia
M/s. Jugochoram, 91215-Juguncvce, Republic of Macedonia
 - b. South Africa
M/s. Samancor Chrome, 6, Hollard Street, Johannesburg 2001
M/s. Nimag Limited, 37, Lincoln Street, Woodmead East, Gauteng, South Africa.
DMS Powders, A division of Samancor Ltd, has responded to the petition, which has been dealt in the exporters response.
- x. M/s. Silicon technology, from RSA requested for extension of time for 6 weeks for responding to the questionnaire. The authority carefully considered their plea and they were advised to submit replies to the questionnaire within the stipulated time, as Anti Dumping investigations are time bound in nature. However no response has been received from them till date.
- xi. The Embassy of South Africa and Macedonia was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, non-confidential petition and questionnaire sent to the exporters was also sent to them, along with the name and addresses of the exporters.
- xii. A questionnaire was sent to the following known importers of Ferro Silicon in India calling for necessary information in accordance with Rule 6(4);

IMPORTERS – FERRO SILICON

OPRK Ferro Alloys Ltd.
Wazirpur, Delhi-110 052

Metallic Alloys
Delhi-110 052

Durga Chemical Agencies,
Ludhiana

Himani Ferro Alloys Ltd.,
Karol Bagh, New Delhi

British Metal Corp.India Pvt. Ltd.
New Delhi- 110 001

Metco Marketing
New Delhi

Oswal Minerals,
Bangalore-560021

Jain Ferro Alloys
Bangalore-560021

Manhar Manak Alloys Pvt. Ltd.,
Mumbai – 400 004

Shriram Enterprises,
Chennai – 4

Sterling Ferro Alloys Pvt. Ltd.,
Baroda – 390 005

Kothari Metals Ltd.,
Calcutta – 71

Gargi Industries,
Mumbai – 400 074

Kalinga Alloys Ltd.,
New Delhi – 110 005

Essel Mining & Industries Ltd.,
Gujarat

Visa International,
Calcutta – 700 017

Rashtriya Ispat Nigam Ltd. (VSP),
Andhra Pradesh

Sunglag Iron & Steel Co. Ltd.,
Nagpur – 400 001

Essar Steels Ltd.,
Gujarat

Mukand Ltd.,
Mumbai – 400 080

Minex Metallurgical Co. Ltd.,
Mumbai – 400 069

Vrindhavan Enterprises,
New Delhi –110 029

Snam Alloys Pvt. Ltd.,
Pondicherry

Panchmahal Steel Ltd.,
Mumbai – 400 021

Shrilakshmi Traders,
Bangalore – 560 021

Electro Ferro Alloys Pvt. Ltd.
Ahmedabad – 380008

DCM Engineering Products
Ropar – 140 01

Rathi Ispat Ltd.,
Ghaziabad

Starwire India Ltd.,
Faridabad

Haryana Steel & Alloys Ltd.,
Haryana

FERRO SILICON MAJOR CONSUMERS

Jindal Strips Ltd.
Hissar

Sunflag Iron & Steel Co. Ltd.
Nagpur – 440001

Haryana Steel & Alloys Ltd.
Sonipat, Haryana

Essar Steels Ltd.,
Gujarat

Rathi Ispat Ltd,
Ghaziabad (U.P.)

Mukand Ltd.,
Mumbai – 400 080

Ambica Steels Ltd.,
Sahibabad (U.P.)

Minex Metallurgical Co. Ltd.,
Mumbai – 400069

DCM Engineering Works
Ropar - 140001

The Tata Iron & Steel Co. Ltd.,
Jamshedpur – 831 001

Upper India Steel Mfg. & Engg. Co. Ltd.,
Ludhiana – 141 010

Steel Authority of India Ltd.,
Calcutta – 700 071

Aartee Steels Ltd.,
Ludhiana , Punjab

Rashtriya Ispat Nigam Ltd. (VSP),
Visakhapatnam
Andhra Pradesh

Punjab Concast Ltd.
Ludhiana – 141 010

Office of the Directorate General of
Supplies & Disposals (DGS&D)
New Delhi – 110 001

Usha Martin Ltd.
Calcutta – 700 071

TELCO Ltd.,
Jamshedpur – 831 001

Starwire India Ltd.
Faridabad

Ennore Foundries Ltd.,
Chennai – 600 057

Pioneer Alloy Casting Ltd.
Chennai – 600 028

Electro Steel Castings Ltd.
Calcutta – 700 0001

Gontiernan Piepers Ltd.,
West Bengal

GKW Ltd.
Howrah – 711103

Keshoram Spun Pipes & Foundries Ltd.
Calcutta – 700 070

Response was filed by the following:

- TATA STEEL
- CHANDAN STEEL LTD
- METCO MARKETING (India) PVT LTD.

- xiii. The Authority made available the non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xiv. Cost investigations were conducted to work out optimum cost of production to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) on the information furnished by the petitioners so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xv. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xvi. Investigations were carried out for the period 1st April 2001 to 31st December 2001.

B. PETITIONERS' VIEWS

2. The petitioner has raised the following major issues in their petition and in their subsequent submissions:

- i. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. Ferro Silicon is manufactured in submerged arc furnace where heat is generated by resistance of raw materials when electrical energy is passed through carbon electrodes. The main raw material for the production of Ferro Silicon is Quartzite which contains more than 98% SiO₂. Carbon paste and electricity are other raw materials required for the production of the subject goods. Since the process of manufacture is almost slagless, only alloy is tapped out from the furnace at intervals. The product is then casted and cooled for sizing as per the customers' requirements.

As per information furnished by The Indian Ferro Alloys Producers Association, the production of Ferro Silicon (MT) during 1999-2000 to the POI was as given in the Table below: -

Year	1999-00 (MT)	2000-01 (MT)	POI (MT)	POI Annualised
IMFA	26,731	30763	25043	33391
Total (Production)	56286	67349	53404	71206
% Share	47.49	45.68	46.89	46.89

Source: Indian Ferro Alloys Producers Association (IFAPA)

From the above table, the Petitioners, excluding the supporters represent 46.89% of the total Indian production. M/s Hitech Electrothermics & Hydropower Ltd, New Delhi with a share of 9.92% of Indian production has supported the petition.

- ii. There is no difference in the Ferro Silicon produced by Indian Industry and those exported from the subject countries, which can have an impact on price. The Ferro Silicon produced by the Indian industry and imported from the subject countries is comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. Consumers of Ferro Silicon have used the two interchangeably. Therefore Ferro Silicon produced by the petitioner and those imported from the subject countries should be treated as like articles in accordance with Anti Dumping rules.
- iii. There is no known significant difference in the technology adopted by the Indian Industry and the manufacturers in the exporting countries. The technology employed throughout the world is the smelting process. The process adopted by the Indian industry is comparable with the technology adopted by the manufacturers of Ferro Silicon in the subject countries.
- iv. As regards normal value determination from South Africa and Macedonia, efforts were made to obtain information with regard to the prices of the subject goods prevailing in the domestic market in the subject countries. The petitioner adds that they had not been able to get any authentic information in this regard. The petitioner tried to obtain the prices at which the exporters from South Africa and Macedonia are exporting the subject goods to other countries. However, no published information could be traced in this regard. Therefore, the petitioner has constructed normal value on the basis of standard consumption norms for the major raw materials and utilities. The petitioner has referred to the earlier cases where normal value has been determined on the basis of constructed value from the same subject countries
- v. As regards export price calculation, the petitioner has taken the information from DGCI&S with regard to actual volume imported and their prices from the subject countries during POI. The petitioner has calculated the ex factory export price after making adjustments. The petitioner has arrived at dumping margin for Macedonia and South Africa.
- vi. The Designated Authority had earlier investigated dumping of the product by the exporters from Russia, Ukraine and China. The same resulted in imposition of anti dumping duties, which are now in force. With the imposition of anti dumping duties on these sources, the domestic industry has been able to increase its production, capacity utilization and sales volumes. However, the producers in the subject countries have started dumping the subject goods, which has prevented the domestic industry from raising the prices to optimum level. The petitioner adds that injury to the domestic industry may be examined in the light of injury earlier suffered by the domestic industry.

- vii. The petitioner has requested that injury to the domestic industry should be assessed cumulatively from the two countries (subject countries) as dumping margins in the case of imports from these countries are more than de-minimus in the present investigation period.
- viii. The petitioner has represented that imports of ferro silicon have increased substantially from the subject countries in absolute terms as well as in relation to the production of the domestic industry. The decline in the export price has resulted in decline in the landed price of the imports, which is now below selling price of the domestic industry causing severe price undercutting.
- ix. The petitioner has cited lost contracts as the one of the key injury parameters affecting domestic industry. The petitioner continues to suffer financial losses in spite of anti dumping duty on a number of sources.

C. Exporters, Importers, Users, and Other interested parties' views.

3. Among the exporters, only one exporter, namely, M/s. DMS Powders, a division of SAMANCOR Limited, South Africa, has responded to the petition.

The DMS Powders is a separate business unit within the Manganese Division of SAMANCOR Ltd. It produces Ferro Silicon containing 15% silicon and greater than 80% iron. It is used in powdered form suspended in water to create different slurry densities to separate high and low density minerals and as such is totally different to that described under Section 1- Production Under Consideration. The exporter maintains that approximately 70 tonnes per annum of grade 270D milled Ferro silicon are supplied to NMDC who recover diamonds from the host rock. They have requested that their specific product of 15% (specifically 14 to 16%) be excluded from the investigation. Ferro Silicon is a generic name for alloys containing Silicon and Iron, but M/s. DMS Powders produces material containing 15% Ferro Silicon for the dense media separation industry, which is no way competes with or against the metallurgical grade producers of 75% Ferro silicon as indicated in Section 2 of the petition. The exporter adds that they will not be defending their claim as the material is different, has different physical and chemicals characteristics and is used in a different application.

4. Amongst users the following have responded to the petition.

- a. M/s TISCO, Ferro Alloys & Minerals Division, Kolkata.
- b. Chandan Steel Ltd, Mumbai.
- c. M/s Metco Marketing (India) Pvt. Ltd., New Delhi

TATA STEEL

- i. M/s TISCO have presented a brief overview of the global market for ferro silicon. The approximate western world consumption of Ferro silicon is 1.702 Million tones of contained silicon and the world production of Ferro silicon is in the region of 1.685 million tones in 2001. The dominant producers of Ferro silicon are Russia, CIS, Brazil, South Africa, China and USA. Western Europe, USA and Japan are the major consumers of Ferro silicon and account for more than two-thirds of total consumption. The demand-supply balances of Ferro silicon in the Western world trade is given below:

Supply Demand Imbalances - Silicon Alloys				
Ferro Silicon(000 t Si)	1998	1999	2000	2001
Consumption				
Total Western World	1717	1732	1834	1702
World Production	1158	1185	1153	1035
Total Western World supply	1614	1708	1800	1685

- ii. From the above figure it is implicit that the demand of Ferro silicon is higher than supply. Under such circumstances, it is unlikely that any producers will sell Ferro silicon lower than their cost of production or the normal market value.

World Prices of Ferro Silicon (Prices in US\$/MT)			
Annual	USA	Europe	Japan
1997	788	728	656
1998	708	650	587
1999	660	621	518
2000	585	543	516
2001	526	538	490
2002(YTD)	495	496	480

Source (GRU) While USA prices are FOB warehouse, Europe prices on delivered.

- iii. As per the price movement of Ferro silicon (landed) in major market, it is seen that while the world steel mills get their Ferro silicon at about US \$ 490/MT, the Indian mills have to pay US \$ 520/MT for imported Ferro silicon, which is a high differential and sets our steel mills at a competitive disadvantage.
- iv. Ferro silicon production consumes very high power. The average power consumption is about 9000 KWH/MT of Ferro silicon productions. South Africa is a low power tariff country, which gives a competitive advantage to their Ferro silicon producers. In comparison to an average Indian power cost of USC 6-7/KWT, the power cost per ton of Ferro silicon should be US \$ 550/MT, which is more than the current world average c.i.f. price of US \$

490/MT. In comparison, the South African power rates are USC 2/KWH. Thus, the average domestic producers of Ferro silicon cannot compete in the international market unless they have their own source of power or Govt. makes available cheaper power to these producers. The fact that the petitioners are able to produce Ferro silicon economically and are also able to export imply that they have their own source of power. With this advantage, any further benefit in the form anti dumping duty is uncalled for.

- v. The domestic ex-plant Ferro silicon price during the POI is Rs.34, 000/MT or US \$ 701/MT which indicates profiteering due to abnormally high margin on cost of production on US \$ 466/MT. FOB price of Ferro Silicon ex South African port is US 440-480/MT (depending on the port of discharge) which in no case indicates an ex plant price lower than the producers cost of production.
- vi. Ferro Alloys producers in India have a history of switching their production from Ferro Silicon to Ferro Manganese to Ferro Chrome (which can be done within a weeks time) depending upon the product and market profitability index. Such opportunistic changeovers at times create burden on the users/consumers on the steel sector who are left without much option. In such an event they have to go in for imports.
- vii. At present IMFA, who is also the petitioners, is the dominant producer of Ferro Silicon in India. After the anti dumping investigations were announced, many domestic consumers have stopped and cancelled imports orders fearing anti dumping duty when goods arrive at the port. Indian producers have hiked the prices of Ferro silicon to unprecedented levels taking advantage of this fear psychosis. It is evident that the petitioners want to insulate India totally from the world market and work in a protected market. Such anti dumping duty could have repercussions for India in its exports endeavor of other products notably Ferro alloys and steel.
- viii. The user has not imported Ferro silicon from Macedonia during POI and hence they are unable to respond to the questionnaire.
- ix. Apart from the petitioner the 2nd largest producer M/s VBC Ferro Alloys Ltd has already switched off production to other Ferro Alloys owing to recent power tariff increases in Andhra Pradesh.
- x. There are easy entry / exit barriers for Ferro Silicon producers. Ferro Silicon ore (Quartzite) is in plentiful supply all over the world and anti dumping imposed on a particular country will force the producers to go the power tariff competitive country. GOI has already imposed Anti dumping duty on china, Ukraine and Russia. If the same is imposed on the South Africa and Macedonia then there may be imports from other country as well.
- xi. The local producers are not up to the task to investing in R&D and gain in the expertise to make specialized grades of Ferro Silicon and hence many consumers have no option but to try out imported products.

M/s Chandan Steel, Mumbai

In response to the questionnaire, M/s. Chandan Steel Limited, Government of India recognized Export House, has stated that they have not imported ferro silicon originating in or exported from South Africa and Macedonia during POI and there is no need to file response to the questionnaire. M/s. Chandan Steel Limited has not submitted any replies to various Annexure listed in the Importers' Questionnaire.

M/s. Metco Marketing (India) Pvt. Ltd., New Delhi.

M/s. Metco Marketing (India) Pvt. Ltd., New Delhi has not submitted any structured response to the questionnaire. However, they have stated that milled ferrosilicon is being sold to NMDC- a PSU for use in the diamond industry at a higher price than the regular Ferro silicon sold to steel industry. They have also not submitted any replies to various Annexure listed in the Importers' Questionnaire.

D. Examination and Findings by the Authority

5. The submission made by the petitioners, importers, exporters and other interested parties, to the extent filed before the Authority have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

- i. The Authority confirms, in the absence of complete and sufficient response from the exporters from subject countries in the form and manner prescribed, having made the findings with regard to exports from subject countries on the basis of the facts available to it as per rule 6(8) supra.
- ii. The cases of new exporters or those stated to be willing to give price undertaking should be considered, on request, by the Authority in accordance with the Rules supra.

E. Product under Consideration

6. The product under consideration is Ferro Silicon which is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. Silicon constitutes the major proportion in Ferro Silicon. The size of Ferro Silicon is generally described in terms of millimeter of the outer dia of the product.

Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. The various users of Ferro Silicon can be described as under:

- Deoxidiser in the production of steel,

- As an alloying element for steel,
- In the making of electrical grade steel,
- In the production of anti-corrosive and acid resistant steel,
- In the manufacturing of power rectifiers,
- In the manufacturing of welding electrodes,
- It is added to cast iron as graphitising agent,

Ferro Silicon is classified under Customs sub-heading Nos. 7202.21 and 7202.2100 of Chapter 72 of the Customs Tariff Act, 1975. Hence, for the purpose of investigation, the Authority has taken Ferro silicon as the one containing by weight more than 55% of silicon.

F. LIKE ARTICLES

7. Rule 2(d) of the Anti-dumping Rule specifies that like articles mean an article, which is identical and alike in all respects to the product under investigation or in the absence of such an article, another article having characteristics closely resembling those of the articles under examination

- i. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. There is however no significant difference in terms of process, equipment or technology for the production of Ferro Silicon. Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. In order to establish that Ferro Silicon produced by the domestic industry is a Like Article to that exported from subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. M/s TISCO has pointed out that there are some specialized grades like high and semi high purity Ferro Silicon which locals producers find it difficult to produce as they invest very less into the R&D and gain the expertise to compete within this niche. However no evidence has been adduced by them to indicate that imported Ferro silicon is not substituting the domestically produced Ferro silicon either technically or commercially.
- ii. The Authority finds that there is no substantiative argument disputing that Ferro Silicon produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Ferro Silicon imported from the subject country both commercially and technically. In view of the above the Authority holds that Ferro silicon produced by the domestic industry and those being imported from the subject countries are like articles within the meaning of the rules for the purpose of injury determination.

De Minimus Limits

8. As regards ascertaining that the imports from the subject countries during the period of investigation (POI) are above de-minimus levels, the Authority has referred to the DGCI&S published data for the POI.

Country Name	Quantity (MT)	%Age share in imports
South Africa	552	3.92
Macedonia	1902.68	13.53

Thus, the Authority finds that the imports from the subject countries during the POI are above de-minimus levels.

G. Domestic Industry

9. I. The petition has been filed by IMFA, Bhubaneswar on behalf of the domestic industry. The petitioners have claimed that they account for almost 47% of the total Indian production of the subject goods. M/s. Hitech Electro Thermics and Hydro Power Limited, New Delhi with a standing of 9.92% of the domestic production has supported the petition filed by the Petitioner. As per 5(3) of the anti dumping rules, DA shall not initiate any investigations pursuant to the application made under sub rule (a) unless it determines on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product that the application has been made by or on behalf of the domestic industry provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than 25% of the total production of the like article by the domestic industry. It has also been explained in the sub rules that the application is deemed to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50% of the total production of the like article produced by that portion of the domestic industry expressing, either support for or opposition as the case may be to the application.

ii. The Authority has examined the contention made by the petitioner. As per the information given by Indian Ferro Alloys association, the petitioner represents 46.89% of the total Indian Production. The petitioner and the supporter accounts for 56.8% of the total Indian Production.

iii. Thus, the Authority holds that petitioners satisfy the criteria of standing to file the petition on behalf of the Domestic Industry in terms of Rule 5(3) (a) of the Rules supra, for the purpose of preliminary finding. The Authority also considers these petitioner companies as 'domestic industry' within the meaning of Rule 2(b) supra.

H. DUMPING & EXAMINATION OF CLAIMS MADE ON NORMAL VALUE & EXPORT PRICES

Normal value and export price for Macedonia and South Africa

10. i. The Authority notes that none of the exporters from South Africa and Macedonia has submitted any information regarding annexure attached with the exporters questionnaire. As no information about domestic sales price structure of the subject goods, its cost of production in South Africa and Macedonia and other information as per the questionnaire has been furnished, the Authority has proceeded to rely upon the best available information for determination of normal value. The petitioners have claimed normal value in respect of South Africa and Macedonia on the basis of constructed cost of production. The Authority finds that none of the exporters have given any information to enable it to determine the normal value based on the domestic sales price. The Authority confirms, in the absence of any response from the exporters from subject countries in the form and manner prescribed, having made the findings with regard to exports from subject countries on the basis of the facts available to it as per rule 6(8) supra.

ii. Accordingly, the Authority has constructed the normal value on the basis of cost of production details as made available by the petitioner with the applicable adjustments. The normal value so determined for South Africa and Macedonia is US\$**** and US\$**** respectively.

iii. Though the petitioner has submitted information regarding imports of subject goods from subject countries, the Authority has relied on the data received from DGCI&S for imports from subject countries. The Authority notes that the South Africa has exported 552 MT during the POI at a price of US\$ 288833.7. The weighted average CIF price as per the information available with the authority (DGCI&S) is determined at Rs 24859 /MT. The ex-factory export price has been determined after admitting US\$ ****/MT as ocean freight, **** % as marine insurance charges and US\$ ****/MT for port expenses and transportation charges (inland). Commission @ ****% for the Indian indenting agent has been disallowed by the authority for want of documentary evidence. After adjustments on these accounts, the ex-factory FOB price is estimated at Rs***/MT or US\$ ***/MT at an average exchange rate of Rs 47.51 = 1US\$.

iv. As regards determination of export price from Macedonia, the Authority notes that the Macedonia has exported 1902.68 MT during the POI at a price of US\$775389. The weighted average CIF price as per the information available with the authority (DGCI&S) is determined at Rs 407/ MT. The ex-factory export price has been

determined after admitting US\$ ****/MT as ocean freight, ****% as marine insurance charges and US\$***/MT for port expenses and transportation charges (inland). Commission @ ***% for the Indian indenting agent has been disallowed by the authority for want of documentary evidence. After adjustments on these accounts, the ex-factory FOB price is estimated at Rs***/MT or US\$ ***/MT at an average exchange rate of Rs 47.51 = 1US\$.

V. The Dumping Margin for South Africa comes to US\$ **** or 39.38 % of export price and dumping margin for Macedonia comes to US\$**** or 95.48 % of export price.

S.N	Country	Dumping Margin (%)
1	South Africa	39.38
2	Macedonia	95.48

I. INJURY

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

"Determination of Injury:

- i. 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;
- ii. 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."
- iii. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:
 - a. A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.
 - b. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With

regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting 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.

J. Views of the petitioners.

12. i) Earlier Anti dumping duty had been imposed on the subject goods originating in or exported from Russia, Ukraine and China following investigations by Designated Authority. The same resulted in imposition of anti dumping duties, which are now in force. With the imposition of anti dumping duties on these sources, the domestic industry has been able to increase its production, capacity utilization and sales volumes. However, the dumping of the subject goods have again started from the producers of the subject countries which has prevented the domestic industry from raising the prices to optimum level. The petitioner requests that injury to the domestic industry may be examined in the light of injury earlier suffered by the domestic industry.

ii). Annexure II (iii) of the Anti-Dumping rules provide 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 2% expressed as percentage of export price and the volume of imports from each country is 3% of the imports of the like articles or where the export of the individual countries less than 3%, the imports cumulatively accounts for more than 7% of the imports of like article, and
- b. Cumulative assessment of the effect of imports is appropriate in light of conditions of competition between the imported articles and the like domestic articles.

iii. The domestic industry is suffering injury from dumping of Ferro Silicon by the exporters from South Africa and Macedonia. As the dumping margins in the case of imports from all these countries are more than De-minimus limits, Injury to the domestic industry is required to be assessed in a cumulative way from all these sources.

Substantial increase in the volume of the dumped imports from Subject countries

13. There has been substantial increase in the volume of the dumped imports from Subject countries both in absolute terms and relative to production/consumption in India.

14. Significant decline in export price

- i. There has been significant decline in the exports price from subject countries. More over, the export prices are in the region of the prices at which the imports were earlier being made from other countries (Which are now attracting duties) and which were found to be at injurious prices. This is quite evident from the statement of country wise imports of the subject product over the years.
- ii. The decline in the export price has resulted in decline in the landed price which are,
 - a. Below the selling price of the domestic industry, thus resulting in price undercutting;
 - b. Below or in the region of landed price of imports from the other countries in the period earlier investigated by the Authority;
 - c. Below the cost of production of domestic industry;
 - d. Below the landed price of the imports (after adding anti dumping duty in force) from all other countries;
- iii. The cost of production has not undergone any significant change during these periods. Thus stand alone, the trend of the export price and resultant landed price alone shows that imports have caused material injury to the domestic industry.

Production and Capacity Utilization:

15 i. From the production data as made available by Indian Ferro Alloys Producers' Association, Mumbai, it is seen that the production of the domestic industry has increased over the years. The capacity of the domestic industry, at the same time, remained the same. Increase in the production, thus, resulted in the increase in the capacity utilization. However the petitioner submits that increase in the production has to be seen along with selling price and cost of production of the domestic industry and efforts of the domestic industry to produce more and more to reduce the fixed overheads at optimum levels. Thus the domestic industry was made to suffer losses in spite of significant improvement in production.

Sales Volume

ii. The petitioners submit that sales volumes have increased over the years. However the domestic industry was made to suffer losses in spite of selling higher volumes.

Selling Price:

iii. Selling price of the domestic industry over the years has declined. Even though prices increased marginally in July-Dec. 2001, the same was due to the increase in the cost of the production. Further the increase in the selling prices has to be seen in the along with the non-injurious price earlier determined by the Designated Authority and anti dumping duty imposed on a number of sources. Evidently, the domestic industry has not been able to raise the price to the expected levels.

Lost Contracts:

iv. VSP had placed an order for 1000MT subject goods to an exporter from South Africa. The price quoted by the exporter is a dumped price and do not permit recovery of even full cost of production to a producer. Consequently, the domestic industry has lost significant sales to various customers due to dumping from the subject countries.

Employment

v. There is no significant change in the employment levels of the petitioner.

vi. Profitability: the domestic industry continues to suffer financial losses in spite of imposition of anti dumping duties on a number of sources. With the imposition of anti dumping duties on some source, imports start from other sources. Thus, even though the financial position of the company is improving, the same is below reasonable level.

EXAMINATION BY AUTHORITY

16. Analysis of injury to the domestic industry has been done on the basis of the information available on record and the verification done by the officials of the Director general of Anti Dumping and Allied Duties. The following parameters have been analyzed for the purpose of assessment of injury to the domestic industry.

Volume and Market Share of Dumped Imports

17. Authority has examined the information regarding the volume of exports from the subject countries during the period of investigation and the preceding years. During the POI the imports from the two subject countries taken together were 2454 Mt and 3272MT(Annualized). During the year 2000-2001 these imports were 108 MT (as per

DGCI&S data). These imports from the subject countries accounted for a market share of 0.1% in 1999-2000, 0.61% during 2000-01 and 17.47% during POI. When compared to the previous year 2000-01 the share in the market had shown a quantum increase during the POI. The increase in market share is very significant and the Authority notes that the increase in imports of Ferro Silicon from subject countries in absolute terms does hold a threat for the domestic industry. Thus the Authority notes that there has been an increase in the dumped imports in absolute terms;

Market share in Imports from South Africa and Macedonia				
Country	South Africa		Macedonia	
Year	Qty(MT)	% Share	Qty.(MT)	%Share
1999-00	20	0.1	0	0
2000-01	54.57	0.3	54	0.1
POI (April-December)	552	3.93	1902	13.54
POI Annualized	736	3.93	2536	13.54

Market share (%) in imports from Subject countries	
Year	Subject countries
1999-2000	0.1
2000-01	0.61
POI Annualized	17.47

Market Share of Imports from Subject countries (% of total Demand)

18. The Authority has calculated the total demand in the country by adding the total imports to the sales of domestic industry as well as other producers of the product under consideration. The Authority notes that imports from subject countries could acquire a market share of 17.47% of the total imports within a short span of 9 months. The Authority concludes that imports of Ferro Silicon from subject countries have increased substantially relative to the production of the domestic industry and also relative to the consumption of the subject goods in India.

Share of Imports of Subject countries In relation to Production of domestic industry			
	Imports (MT)	Production (MT)	% Share
1999-2000	20	26731	0.07
2000-2001	108.57	30763	0.35
POI Annualized	3273	33391	9.8

Share of Subject countries (Imports) in relation to (Demand) of domestic Industry

Year	Imports (MT)	Demand (MT)	% Share
1999-00	20	77005	0.03
2000-01	108.57	85270	0.13
POI (April-December)	2454	67477	3.64
POI Annualized	3272	89969	3.64

Production and Capacity utilization

19. The Authority notes that the production of the domestic industry has increased over the years. With capacity of domestic industry remaining same, higher production has led to higher capacity utilization for the domestic industry. However the authority notes that even with the increased capacity utilization over the years, the domestic industry continues to suffer losses and too after imposition of anti dumping duties on a number of countries

Sales Volumes

20. The Authority notes from the information available that sales volume of the company has increased over the years. However the authority notes that even with increased sales, the domestic industry has been forced to suffer financial losses

Price Undercutting and Price Underselling

21. As regards the impact of the dumped imports on the domestic industry, the principle (iv) of Annexure-II of the Anti-Dumping Rules states:

"The examination of the impact of the dumped imports on the domestic Industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilisation of capacity; factors affecting domestic prices, the magnitude of margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments."

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. The Authority has compared the landed value of imports of subject goods from subject countries during the POI with the net sales realization and has found that there has been a significant price under-cutting by the dumped imports from Macedonia. The landed

value of imports has been found to be significantly lower than the domestic industry's net sales realization.

Price Undercutting from Subject countries

	Unit	1998-99	1999-00	2000-01	POI	POI Annualised
Economic Parameters						
Capacity	MT	45000	45000	45000	33750	45000
Production	MT	22319	26731	30763	25043	33391
Capacity utilization	MT	49.59	59.40	68.36	74.20	74.20
Sales	MT	24984	26239	33168	25357	33810
Closing Stocks	MT	3658	4150	1745	1431	1431
Cost of Production	Rs/MT	100	95.24	94.23	94.42	94.42
Net Sales Realisation	Rs/MT	100	97.08	95.15	96.97	97
Profit/loss	Rs/MT	-100	-59	-76.4	-44.7	-44.7

Indexed figure taking base 98-99 as 100.

The Authority has also examined the claim of the domestic industry that the domestic industry is suffering injury on account of financial losses. The Authority notes that price underselling is an important indicator to make an assessment of injury. The Authority has worked out a fair selling price and compared the same to the landed value to arrive at the extent of price underselling. The Authority notes that the imports were having significantly suppressing/ depressing effect on the prices in the domestic market, as the domestic industry has not been able to raise its selling price to non-injurious level in view of the dumped imports from both the subject countries. The Authority thus concludes that

- a. The selling price of the domestic industry is significantly below the price, which would have permitted the domestic industry, a fair recovery of its cost of production and earn a reasonable return.
- b. Thus, the dumped imports have prevented the domestic industry from effecting legitimate price increase to realize a reasonable price. The industry has suffered material injury on account of depressed selling prices resulting in non-recovery of cost of production and thereby suffering financial losses. The selling price of the domestic industry marginally increased during the POI as compared to year 2000-01. However, the same has been below the non-injurious price (NIP) on account of dumped imports.

Employment

22. The Authority notes that there is no significant change in the employment level of the domestic industry.

In view of the aforesaid observations, the Authority notes that various parameters listed above clearly indicate that imports have increased in absolute terms and also in relation to production of the domestic industry and in relation to the demand in India. With the decline in the export price from subject countries, imports are significantly undercutting the prices of the domestic industry and are preventing it to effect legitimate price increase to the level of Non injurious Price determined by the Authority. Imports are resulting in price underselling by the domestic industry and profitability of the domestic industry has remained sub optimal in spite of imposition of anti dumping duty on a number of sources.

Regarding observation made by the user industry that domestic industry is having their own source of power and hence any further benefit in the form of anti dumping duty is uncalled for, the Authority, after going through the records kept by IMFA, notes that the petitioner is getting power from its sister concern at a much cheaper rate than the tariff normally charged by State Electricity Boards. However even after getting power at a cheaper cost, the domestic industry has not been able to recover its cost of production.

Cumulative Assessment of Injury

23. As per annexure-II (iii), in cases where imports of a product from more than one country are being simultaneously subjected to Anti-dumping investigation, the Authority is required to cumulatively assess effect of such imports, only when it determines that (a) the margin of dumping established in relation to imports from each country is more than 2% expressed as percentage of export price and the volume of the imports from each country is 3% of the imports of like article --- and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article. The Authority has found that the margin of dumping in respect of each of the subject country is more than 2% and the volume of imports from each country is also more than 3%. The Authority has also found it appropriate to cumulatively assess the effect of imports of the subject goods on the domestically produced like article and has found that there is a cumulative effect of injury by imports of subject goods on the domestic industry.

The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.

K. CAUSAL LINK

24. Annexure-2 (v) of Anti-Dumping rules states that it must be demonstrated that dumped imports are, through the effects of dumping as set forth in Para 2 and 4 of said annexure above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports, which at the same time are injuring the domestic industry, and the injury caused by these factors must not be attributed to dumped imports. Factors which maybe relevant in this respect include inter- alia, the volume and price of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.

Views of the Petitioners:

25. The petitioners have stated that injury to the industry has been caused by the dumped imports of subject goods from the subject countries. As the landed value of the subject goods is significantly below the selling price of the domestic industry, the industry has been forced to keep its selling price significantly below the cost of production. Therefore, the industry has not been able to realize a non-injurious price. The price suppression suffered due to dumped imports has resulted in severe financial losses to the domestic industry. The industry has also been prevented from effecting legitimate price increase to the level of Non injurious price determined by the Authority.

Examination by the Authority

26. In determining whether material injury to the domestic industry was caused by the dumped imports, the Authority took into account the following facts: -

- a. The authority observes that there is a single market for the subject goods where dumped imports compete directly with the goods produced by the domestic industry. Decline in demand is not a factor causing injury to the domestic injury. The imported subject article and the domestically produced goods are like articles and are used for the same applications/end uses. Thus, pricing becomes the most important factor determining purchase of the article from either imported sources or domestic sources.
- b. The Authority notes that imports of Ferro Silicon from the subject countries increased tremendously during the POI as compared to previous years. The reduction in the export price from the subject countries resulted in low landed price of the subject goods and the domestic industry in its attempts to match the

dumped import prices was forced to sell below its Non injurious price and the domestic industry has not been able to recover from the losses it is incurring every year despite imposition of anti dumping duty on a number of sources.

The Authority therefore holds that the material injury to the domestic industry was caused by the dumped imports from the subject countries.

L. INDIAN INDUSTRY'S INTEREST

27. The purpose of anti dumping duties 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.

ii. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of anti dumping measures would not restrict imports from Subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

M. CONCLUSIONS

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

- i. Ferro Silicon or product under consideration has been exported to India from subject countries below its normal value;
- ii. The Indian industry has suffered material injury;
- iii. The injury has been caused by the dumped imports from subject countries;
- iv. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on all imports of Ferro Silicon from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports is proposed to be compared with the non-injurious

selling price of the petitioner companies determined for the period of investigation.

- v. Accordingly, the Authority recommends that the provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Ferro Silicon falling under Customs heading 7202 (Sub head 7202.21) of the first schedule to the Customs Tariff Act, originating in or exported from South Africa and Macedonia pending final determination. The anti-dumping duty shall be the difference between the amount indicated in Column 3 of the following table and the landed value of the imports of subject goods.

C.N (1)	(2) Exporter/Country	(3) US\$/MT
A	South Africa: All Exporters	731.59
B	Macedonia: All Exporters	731.59

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

O. FURTHER PROCEDURE

29. 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 of the despatch of this notification. Any other interested party may also make known its views within forty days from the date of publication of these findings.
- c. The Authority would provide opportunity to all interested parties for oral submissions.
- d. The Authority would disclose essential facts before announcing the final findings.

L.V.SAPTHARISHI
DESIGNATED AUTHORITY