

# MINISTRY OF COMMERCE GOVERNMENT OF INDIA

## NOTIFICATION

### PRELIMINARY FINDINGS

New Delhi, the 17.6.1998

**Subject:** Anti-Dumping investigation concerning imports of Hot Rolled Coils/Sheets/Plates Strips from Russia, Ukraine and Kazakhstan-Preliminary Findings.

**14/1/97/ADD-** Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff ((Identification, Assessment and Collections of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof:

## **A. PROCEDURE**

The procedure described below has been followed with regard to the investigation:

- i. The designated Authority (hereinafter also referred to as Authority), under the above Rules received a written application from Steel Authority of India ( hereinafter also referred to as SAIL). Essar Steel Ltd., (hereinafter also referred to as Essar) on behalf of the domestic industry, alleging dumping of Hot Rolled Coils/Sheets/Strips (also referred to as subject goods) originating in or exported from Russia, Ukraine and Kazakhstan (hereinafter also referred to as said countries).
- ii. The application was supported by M/s. Tata Iron & Steel Co. Ltd., (hereinafter also referred to as TISCO) and Lloyds Steel Ltd., (hereinafter also referred to as Lloyds)
- iii. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioners. The petition was, therefore, considered as properly documented.
- iv. The Authority on the basis of sufficient evidence submitted by the petitioners decided to initiate the investigations against imports of HRC/Sheet/Plates/Strips from the said countries. The Authority notified the Embassies of the said countries about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules.
- v. The Authority issues a public notice dated 6th October 1997 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations

concerning imports of HRC/Sheet/Plates/Strips classified under custom heading 72.08 of the Customs Tariff Act, 1975 originating in or exported from the said countries. The classification is, however, indicative only and in no way binding on the scope of the present investigation.

- vi. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the petitioners) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rules 6(2).
- vii. The Authority also forwarded a copy of the public notice to all the known importers of HRC/Sheet/Plates/Strips in India and advised them to make their views in writing within forty days from the date of the letter.
- viii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of HRC/Sheet/Plates/Strips made in India during the past three years, including the period of investigation. No information was, however, received from CBEC.
- ix. The Authority provided a copy of the petition to the known exporters and the Embassies of the said countries in accordance with rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested.
- x. The Authority sent questionnaire, to elicit relevant information, the following known exporters in accordance with the rule 6(4):

a) **Russia:**

- i. Magnitogorsk Iron & Steel Works
- ii. Novilipetsk Metkombinat (Leptsk Iron & Steel Works)
- iii. Cherepovets Iron & Steel Works (renames as A.O. Severstal)

b) **Ukraine**

- i. Mariupol Iron & Steel Works
- ii. Azovstal & Steel Works
- iii. Zaoirshtal Iron & Steel Works
- iv. Donetsk Iron & Steel Works

c) **Kazakhstan**

- i. Karagonda Metallurgical Works (Ispat Karmet)

A number of parties requested for extension of time, which was allowed by the Authority by four weeks. Response to the questionnaire was filed by the following:

- Ispat Karmet

- JSC Severtal
- Magnitogorsk Metallurgical Plant (MMK)
- Donetsk Iron & Steel Works
- Azovstal Iron & Steel Works
- Zaporizhstal Joint Stock Co.
- Novolipetsk Iron & Steel Corpn. (NLMK)
- Ministry of Foreign Economic Relations and Trade, Ukraine

In addition, responses were also filed by M/s. Euro Export Ltd., UK (b) TCI Trans Commodities Switzerland who are traders/exporters of Ispat Karmat.

- xi. The Embassies of the said countries in New Delhi were informed about the initiation of the investigation in accordance with rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter petition and questionnaire sent to the exporters was also sent to the Embassies, along with a list of known exporters/producers;
- xii. A questionnaire was sent to the known importers of HRC/Sheet/ Plates/Strip in India calling for necessary information in accordance with rule 6(4):

A number of parties requested for extension of time, which also was allowed by the Authority by four weeks. Response to the questionnaire was filed by the following:

- Bhusha Steel And Strips Ltd., U.P.
  - Graham Firth Steel Products (I) Ltd., Mumbai
  - Ispat Industries, Calcutta
  - Jai Corpn., Mumbai
  - Ruchi Strips Alloys Ltd, Indore
  - Siddharth Tubes Ltd., Indore
  - Uttam Steels Ltd., Mumbai
  - National Steel Industries Ltd, Indore
  - Pennar Steel Ltd
  - Raymond Steel Thane
  - Indian Sugar & General Engg. Corpn., New Delhi
  - All India Coated Steel Manufacturer Association
  - Man Industries India Ltd.
- xiii. Additional information regarding injury was sought from the petitioners, TISCO and Lloyds, which was also furnished.
  - xiv. The Authority got on-the-spot investigation conducted at the premises of the petitioner to the extent deemed necessary.

- xv. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file for inspection by the interested parties;
- xvi. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners so as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry.
- xvii. \*\*\*\* in this notification represents information furnished by an interested party on confidential basis and 32 considered by the Authority under the Rules:
- xviii. Investigations were carried out for the period starting from 1st April, 1996 to 31st March, 1997

## **B. PETITIONERS' VIEWS**

2. The Petitioners have raised the following, major issues in their petition and subsequent submissions,

- i. Russia/Ukraine/Kazakhstan are resorting to dumping their products not only in India but world over. They have also indicated the dumping margins determined by other countries.
- ii. The domestic industry has also represented during the investigation that there is a sudden increase in imports from CIS countries in Dec 97 and Jan 98 and the trend is likely to continue in Feb-March 98 also. The prices of MR products have fallen further and subsequent bookings are taking place at a price further below than this. Therefore, provisional anti-dumping duty may be levied pending investigation with retrospective effect.

## **C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES:**

### **3. VIEWS OF EXPORTERS:**

- a. M/s. Zaporishstal from Ukraine has stated that petitioners have brought their allegation of dumping on the premise that Ukraine is still a non-market economy (NME). They have denied this by stating that Ukraine is a market economy country. To prove this they have analyzed the following factors:
  - i. Currency Convertibility – It is stated that their new national currency unit is “hryvna” with free internal convertibility of hryvna into foreign currencies and availability of foreign currencies to legal persons and individuals, with an

- exchange rate formed on the basis of market trading. Ukraine possesses national currency that confirms its status as a market Economy country.
- ii. Wage and collective bargaining- Ukraine has abandoned a centrally regulated wage rate system with regard to its industrial section. Wages in Ukraine, except for budget organization are determined independently by the companies as a result of free negotiations with the trade unions.
  - iii. There is no limitation on foreign investment in Ukraine. The state guarantee free expatriation abroad of investment and earnings received as a result of investment.
  - iv. Govt. does not directly interfere in the business activity of the owners. The percentage of state owned companies and private companies are 29.8% and 70.2% respectively.
  - v. State companies involved in production and sales of goods/services are independent from state control in their day to day operation,
  - vi. Ukraine has freed prices on most products except some basic goods viz. gas for individuals, medicines, coal etc,
  - vii. M/s. Zaposizhstal has denied the injury allegations. They have stated that the petition lacks the clear evidence of injury that could be linked to imports from Russia or Ukraine. They have studied the foil owing factors to determine the injury,

▪ **No decline in output**

It is stated that Indian Steel Industry is healthy. The volume of production increased by 745419 MT in 1995-96 (16.48% growth and by 1291843 Mt in 1996-97 over 12995-96 (24.53%) growth. Thus the production has increased in absolute terms and Indian Steel Industry is booming with introduction of new capacities and full utilization of old capacities.

▪ **No decline in Sales:**

It is stated by the exporter that sales volume increased by 487458 MT in 1995-96 over 1994-95 (growth rate 16.54%) and by 11,47,888 MT in 1996-97 over 1995-96 (growth rate of 33.42%). The sales volume of TISCO & Lloyds had increased by 141.28% in 1996-97 over 1994-95. The only producer who was experiencing slight decrease in sale volume under period of investigation is SAIL. However, this was due to the fact that Essar with substantial capacity of production entered into the market. Taking these companies together, their sales volume in period of investigation increased by 974477MT over 1995-96 (growth rate of 42.83%). Thus the slight loss of share of sales by SAIL can be attributed to the tremendous growth of sales by the competing Indian producers and not by dumping.

- There is no sign of decline or retardation of Indian Industry. In fact, Government of India had decided to encourage creation of new capacities and to expand the existing steel plants due to the substantial demand of domestic steel products.
  - Petitioners attempt to tie the growth of unemployment to the imported material over the period of 1994-97 is erroneous. Unemployment is being dependent on other factors and has been growing over last seven years as per available data even when there were no imports from the countries concerned.
  - There is an overall decrease in imports as well as decrease in imports from Russia, Ukraine & Kazakhstan in 1996-97 over 1995-96. The total imports have gone down from 887029 tonnes in 1995-96 to 700000 MT in 1996-97. The imports from Russia, Ukraine & Kazakhstan have gone down from 234151 MT to 193130 MT from 1995-96 to 1996-97. Thus, there is a decrease of 18.92% in total imports and 17.52% decrease from the said countries.
  - The cumulative imports from Russia & Ukraine constitute less than 5% of either Indian production or consumption. Since the imports are below 5% without clear indication of rise in the volume of imports, such imports are negligible. Negligible imports can not cause injury or threat of injury to the powerful and growing domestic industry in India.
- b. M/s Ispat Karnet JSC, Kazakhstan has denied the dumping allegation and stated as under:-
- i. Kazakhstan is a market economy country as the currency of Kazakhstan ‘Tenge’ is a freely convertible for foreign trade. There is no restriction on current account transaction. Also the wage rate are determined by free bargaining between labour and management. Moreover there is no government ownership or control over the means of production or overall allocation of resources. Thus Kazakasthan can not be treated as non-market economy as claimed by petitioners and the normal value should be determined on the basis of domestic sales.
  - ii. The exporter has stated that Essar and TISCO are related to certain importers of the subject goods from the named countries and therefore, should be excluded from being part of domestic industry. It is alleged that the said goods are imported by M/s. Steel Co. Gujarat Ltd and by M/s Tata SSL. It is stated that Essar holds about 10% shares of steel Co Gujarat and Tata-SSL is a subsidiary of TISCO and accordingly they are related. Thus, Essar & TISCO should be excluded from the investigations.
  - iii. There is no injury to the domestic producers as :
    - domestic industry has increased its market share

- total imports in absolute terms have decreased and thus imports have lost market share.
  - There is no significant increase in volume of imports from the said countries
  - Volume of subject imports is not significant
  - Capacity utilization is maintained. The low capacity utilization of Essar is no caused by alleged dumped imports but because it was the first year of operation
  - The fall in employment is not due to dumping but due to excess staff
  - The entry of Essar in 1996-97 with a production of 1.2 Million tonne of HR products resulted in increased competition among the domestic producers and Essar market share is at the cost of other domestic producers,
  - Increased inventory of SAIL was due to Essar and not due to the allegedly dumped goods.
  - The domestic industry is selling hot rolled products below the landed value of imported goods and hence there is no price suppression or depression of domestic industry as a result of imports.
- c. The Ministry of Foreign Economic Relation and Trade of Ukraine has stated that the initiation notification does not contain or otherwise make available, adequate information on date of initiation products and its complete description, prices, volume of goods, evidence on like products evidence on that there is no significant difference in the production process of the like product. Such lack of information casts doubts upon the allegations by petitioner. It fact the non-confidential version should be in sufficient details to permit a reasonable understanding. The data on anti-dumping duties levied by other countries on Ukraine are false. Moreover the petitioner has claimed that Ukraine is a non market economy whereas the Ukraine has transformed its systems towards that of a market economy. There is lack of causal link between the allegedly dumped imports and the material injury caused to Indian domestic industry. The Ministry of Foreign Economic Relation and Trade of Ukraine has put to doubts the correctness of decision made by Ministry of Commerce of India on the initiation of anti-dumping investigations.
- d. M/s. MMK has stated that the product under investigation is Hot rolled Coil Plates, Sheets and Strips. However their 4 type of products may not be regarded as being “like articles” as these are classified under different sub-headings of Indian Custom Tariff Classification, there are different manufacturing process at some stage of production, quality and technical differences as well we differences in use and perception by the market and in price. The injury, if any, to domestic industry in India may be due other factors and not due to dumping.

The Russian share of total imports is about 1.6% of domestic demand and thus this small percentage can not play a significant role in price formation on the Indian market.

- e. M/s. Azovstal Iron & Steel Works has stated that the product (HRC/Sheet/Strips/plates) raised by the petitioner is too generic a term. The petition filed by the petitioner is vague and lacks material particulars and evidence. The technology and the manufacturing process used by the exporter and the petitioner are different from each other. The conditions of manufacturing are also vastly different. The quality of the products produced by the exporter and petitioner is not similar. The product of the M/s. Azovstal are user specific and cannot be clubbed and considered under the general term. They have also alleged that petitioner has disclosed a totally false picture of the actual domestic price as far as the exporter is concerned. The material considerations for any likely injury have not been stated and no evidence to the alleged injury has been produced, and only a vague argument to this effect has been made.

#### **4. VIEWS OF IMPORTERS**

- a. TISCO itself is one of the importers from the countries involved in the investigations and they sold the HRC imported by them to Indian customers on the international prices. Hence TISCO has get no locus standing to support the petition
- b. The domestic industry should be bifurcated into different competitive market segments and as such they should be treated as separate industry and not domestic industry as a whole. HR Coil of thickness 1.5 mm to 2 mm are not manufactured in India. Hence, it should be treated as a different market segment. Moreover HRC manufactured by domestic industry are covered by different Indian standards specification and are accordingly suitable for different uses. Similarly, quality also differs and as such being consumed by the two major different industries. (1) Steel Pipe & Tube (2) Cold Rolling Industry. Hence to ascertain injury, the petitioner should clarify the consumption pattern of their products vis-a-vis various industry segments.
- c. The allegation of the petitioner that imports of HRC/Sheets/Plates/Strips have increased, their profit have declined and inventories have gone up is not true. In fact the sale, production and profit of Essar have gone up.
- d. There is no depressive effect in domestic price of HRC in India. The petitioner company and supporting companies have increased their prices by more than Rs. 1000/- PMT.
- e. Domestic industry has neither suffered material injury not import of HRC pose threat of material injury. In fact imports have resulted into healthy competition

and has also resulted into improvement of domestic manufacturers. They have interest cost of the domestic industry should not be borne by consuming industry.

- f. There is vast difference in the quality of HRC being imported from the said countries compared to that of petitioner and supporting domestic companies. The quality of petitioner companies and supporting companies is sub-standard and is not up to mark as required for producing good quality standard tubes. M/s. SAIL is not in a position to supply close tolerance for the thickness as desired by importers and thus the material is to be imported. Practically all the consumers are having problems in the quality of the material supplied by SAIL.
- g. If anti-dumping duty is levied, the product manufactured from HRC in India will be costing more in international market. Thus export production will practically come to halt.
- h. The credit period allowed by domestic industry is 30-37 days and beyond this interest @ 21-24% is charged whereas in the case of imported goods, credit is available for 180 days @ 6-7% p.a. Thus the domestic industry is not having any capacity financially to match the credit requirements.
- i. The domestic industry is not having fixed marketing policy. It is changing on day to day basis and customer to customer basis resulting into cut throat competition among end users.
- j. The petitioner companies are not in a position to match the delivery requirement of customer. The petitioner companies are not in a position to execute the orders in bulk quantities at a time as compared to the imported material where the supplies are coming in bulk.
- k. Indian Steel manufacturer have catered to only general grades and are not equipped and mentally ready to make higher grade steel. Because of their inability to go for higher grade of plates, the importers do not have choice but to look beyond Indian boundaries for raw material.
- l. Essar & TISCO should be excluded from being part of domestic industry' as they are related to importers.
- m. Since domestic industry has Increased its market share, imports have lost market share, the increase in Import from subject countries is not significant, employment reduction is not caused by imports, there is no price suppression and thus there is no causal link between the allegedly dumped import and alleged injury to the domestic industry. The proceedings for levy of anti-dumping should be terminated.
- n. The price quoted by the petitioner for HR Plates from Ukraine is US\$ 263 whereas the actual pries was US\$ 465 – US\$ 475. Further it is not fair to consider the price of hot Rolled Plates by taking an average of price of coil, sheet, plates and strips. The price of coils/strips/sheets is normally much lower

than that of plates, Therefore the hot rolled plates should be excluded from the investigation because the price mentioned in the petition is not the fair price.

- o. It is wrong to state that the coils/sheets/plates/strips are being consumed interchangeably in case of plates, the production of domestic industry is limited. Therefore the hot rolled plates should be excluded from the anti-dumping investigations.

## **5. VIEW EXPRESSED BY OTHERS**

The trade representative of Russian Federation of India New Delhi has represented that imports from Russia of HR coils/sheet meet approximately only 1.5% of the Indian consumption and thus it can not consequently affect adversely interior producers price or cause any material injury.

## **D. EXAMINATION OF THE ISSUES RAISED**

6. The submission made by the exporters, importers, petitioners and other interested parties have been examined, considered and have been dealt at appropriate places in the notification, hereinafter.

## **E. PRODUCT UNDER CONSIDERATION**

7. The product considered in this report for the purpose of the present investigation is Hot Rolled Coils/Sheets/Plates/Strips of a width 600MM or more having thickness between 1.5mm & 20mm (both inclusive), not clad plated or coated, (also referred to HRC/S/P/S).

### **The size of the product is as under:**

- 1.5 mm to 20 mm for coils
- less than and upto 5mm for sheets
- 5 mm and above for plate

### **The end use of the product is for:**

- Cold rolling purposes for subsequent usage in Cold Rolling industry
- Pipes and Tubes Grade
- Sheet and Plates grade
- Saw pipes grade

8. Hot Rolled Coil/Sheet/Plates/Strips is classified under Chapter 72. The custom classification, manufacturing process and usage of the product indicated herein are

however, indicative only and are in no way binding on the scope of the product under consideration.

9. The Authority observes that the petitioner has filed a combined petition submitted for Hot Rolled Coils, Sheets, Plates, and Strips. The data of production sales, costing, etc. are not submitted separately for each kind of product. The authority also observed that the production process upto a particular stage for all these items are same and depending upon the size and further processing the product is differentiated. Accordingly, authority has considered all these 4 products as single product for the purpose of assessment of injure

## **F. LIKE ARTICLES**

10. Rules 2 (d) specifies that “Like article” means an article which is identical or alike in all respect under investigation or in the absence of such an article, another article, having characteristics closely resembling those of the articles under investigation. The Hot Rolled Coils/Sheets/Strips/Plates produced by industry are substitutable by the hot rolled coils/sheets/strips/plates imported from Russia, Ukraine and Kazakhstan – both commercially and technically. Therefore the hot rolled coils originating in or exported from the said countries.

## **G. DOMESTIC INDUSTRY**

11. Petition has been tiled by M/s Steel Authority of India (SAIL) and by Essar Steel Ltd. (Essar) as petitioners.

12. M/s Lloyds Steel Industries Ltd. and the Tata Iron & Steel Co. Ltd, are other producers of the alleged dumped goods supporting the petition.

It has been pointed out to the Authority that M/s Steelco Gujarat Ltd. has imported the alleged product and is related to Essar as it holds about 10% of its shareholding and hence they are related. Also, it is pointed out that M/s. Tata SSL is a subsidiary of TISCO and, therefore, they are related. In terms of Rule 2(b) of the Customs Tariff (Determination of Injury) Rules 1995, the two should be excluded from the definition of domestic industry. On this, M/s. Essar has clarified that only 7.1% shares of Steel Co Gujarat Ltd. are held by Essar. They have one common director. It is further clarified that Essar is neither having a controlling interest in Steelco Gujarat nor has a majority or directors and does not in any way control the management of Steelco Gujarat and thus they are not related companies. M/s. Essar has also stated that it has some shareholding in other companies but does not have any representative on the board of such companies. M/s. TISCO has stated that there are two common directors

in TISCO and Tata SSL, and TISCO holds 45% equity share of Tata SSL. However TISCO has further stated that Tata SSL is an independently managed company and its management is not controlled by TISCO. In fact, TISCO and Tata SSL compete for some products such as wire rods in the market. It is also stated by Essar that even otherwise, the production of SAIL along with TISCO & Lloyds Steel who have supported the petition, would be sufficient for the purpose of petitioners qualifying the definition of domestic industry.

13. The Author has observed that with regard to relationship of Essar with importers, it is not disputed that Essar holds equity in Steelco, which has imported the subject goods, the mere fact that Essar holds equity in a company, which has imported the subject goods does not disqualify it from the definition of domestic industry. There is no indication to suggest that Essar controls Steelco or Steelco controls Essar or both of them are controlled by a third company. The imports made by Steelco, therefore, do not disqualify Essar from the purview of domestic industry. However, in case of TISCO, the Authority observes that Tata SSL does appear to be in a position to exercise control over Tata SSL and therefore, deserves to be excluded from the definition of domestic industry.

## **H. DUMPING**

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

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

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of

export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

15. The Authority sent questionnaire to the exporters from the subject countries in terms of the section cited above. The claims made by the exporters with regard to normal value and export price are as under

**16.(i) Zaporizhstai Joint-Stoc Co., Ukraine**

The company has claimed price adjustment on account of inland freight and customs duty while calculating the export price to India.

They have shown the domestic price as US\$ \*\*\* and have claimed US\$ \*\*\* as inland freight Thus domestic price is US\$ \*\*\*

However they have stated that only \*\*\* MT were sold in the domestic market and hence it is not representative i.e. less than 5% of the export sales. Terms in domestic market and export to India are different thereby making it impracticable to bring prices on those transactions to the same level of comparison, as there is always a possibility of error. Thus they have desired that normal price be determined on the basis of third country exports basis instead of domestic sales basis as they are on same level of trade and are made on like terms.

It is further stated that they sold the product under steel grades 3PS and 08 KP. However, due to the inefficiency of company's data base, it is impracticable to further divide these two produces. Therefore they have submitted information under a unified definition i.e. non Alloy Steel grade HRC. The supporting documents are in Russian language without English Translation and Therefore could not be analyzed.

**(ii) Donetsk Iron & Steel Work, Ukraine**

It has been stated that they have not exported any HR Coil or sheet to India during the period of investigations. Hence no information is submitted by them. In view of this, they have requested that anti-dumping duty, if levied at a later stage, should not be applied on their exports.

**(iii) Azovstal & Steel Works, Ukraine**

They have exported Hot Rolled Plates during the period of investigation. They have claimed the price adjustment on account of packing charges, inland freight, handling, custom clearance charges while calculating export price to India.

**(iv) Ispat Karmet- Kazakhstan**

The exporter who is the only steel producer in Kazakhstan and is exporting HR Coils/Sheets to India directly and also through two trading companies i.e. M/s. Trans commodities AG Switzerland and M/s. Gargill Ferrous International USA. They have submitted has price structure of HR Coils and HR Sheets separately. While calculating the domestic price, they have not claimed any deduction as the price are “list price (ex factory net of taxes)”. While calculating the export price to India upto Dec. 1996, they have not claimed any adjustment as the prices are at factory gate. However, in Feb 97, they have claimed US\$ \*\*\* PMT on account of inland freight and US\$ \*\*\*on account of ocean freight as the prices are C&F basis.

**(v) Novolipstsk Iron & Steel Corpn. (NLMK), Russia**

It has been indicated that the company is not directly selling to India and that JSC BNMK” do not have data about Indian client (they are not directly in contact with them). It appears that they are exporting seven grades of steel.

However, it is not clear whether they have exported coil or plate or sheet or strip as the information is given grade wise.

They have stated that in the domestic market it is impossible to account for all the discounts (\*\*\*) and surcharge (\*\*\*) applicable by NISC as it is hard to determine on which sale the discount or surcharge was applied. Therefore prices in the domestic sales, due to the particular market situated would not serve as a proper comparison for export sales to India. Moreover, four out of seven products under investigation do not have domestic sales. Therefore, they have submitted the data of third country sales for comparison purpose as they determine that all of the sales were comparable at the same level of trade and at the like terms of sales as the sales to India.

However adequate evidence has not been submitted.

**(vi) JSC Severstal, Russia**

It appears that they are producers of the product but exporting the products through traders. They submitted data for all the products together. They have claimed the price adjustments on account of inland freight in the export prices to India, but no evidence has been submitted.

**(vii) Magnitogorsk Metallurgic Plant (MMK), Russia**

The details on 'sale structure for export to India (App 3A) and sales structure for domestic sales (App 3B) and sale price structure for export to countries other than India have not been submitted. The reason given for non-submission is that "Since MMK supplied its products on FCA terms both for domestic and third country market, Table 3A, B, C are not filed". However, the reasoning is not clear.

With regard to the Normal Value, it has been stated that the selling price of MMK in domestic market is influenced by several factors including those, which are typical for the present stage of development "for Russian Economy, Only 10-12% of domestic deliveries may be treated in the "Normal course of trade". Due to crisis of non payment, deliveries are conceded on barter basis and it has to re-sell the product so received with the aim of receiving real money. Due to high risk of buyer inability to pay, the price charged by MMK for delivery or app 90% of HR product are artificially high because MMK has to take into account risk, credit cost and transaction cost Adjustments' are required to be made in domestic prices to ensure fair outcome o, investigation However, no details or data have been submitted.

As regards the Export Price, It is stated that MMK does not export directly to India and hence price structure of export has not been submitted. In respect of supplies to other countries, MMK has no information as regards countries or port of destination. They have submitted some data on contracts concluded with traders whose specifications have reference to India. They have further stated that this data cannot be considered as proof of factual exports of MMK products to India^ which is in fact unknown. They have conceded that MMK has no trustworthy and document supported information available about level of prices in contracts concluded between traders and their clients in countries of destination.

### **Examination Of The Claims Of The Exporters By The Authority**

17. The Authority has examined the Claims of the various exporters as stated above in accordance with the Rules and the observations of the Authority in respect of each exporter are as under.

#### **(i) Zaporizhstal Joint-Stock Co., Ukraine**

The sale in domestic market is low and therefore is not representative for the purpose of determination of normal value in accordance with Sec 9A(1) c(i). The Authority also attempted to determine the normal value in accordance with Sec 9A(1) c(ii) (a) whereby normal value is comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under Sub Section (6). The exporter has submitted that China is the largest third country. However, the country-wise details

were not submitted. It is also not known on what basis and terms the sales are made to China. Therefore the Authority is prevented to determine the normal value on the basis of appropriate third country. Thus the Authority has determined the normal value on the basis of Section 9A(1) c(ii) (b), i.e. on cost of production basis as claimed by the petitioners . The export price at ex-factory works basis as claimed by the exporter is US \*\*\* PMT.

**(ii) Azovstal Iron & Steel Works, Ukraine**

The Authority has allowed the claims made by the exporter in export price and normal value on the basis of domestic price, subject to verification.

**(iii) Ispat Karmet Kazakhstan**

The Authority notes that the exporter has furnished the normal value and export price in respect of HRC/Sheet separately and hence it would be appropriate to consider the dumping margin separately. They have not claimed any price adjustment in the domestic market price. Therefore the normal value is calculated on the basis of domestic price as submitted by exporter.

**(iv) Novolipetsk Iron & Steel Corpn. (NLMK), Russia.**

The Authority observes that the exporter has submitted the grade wise information without indicating whether the product exported is HRC or HR Sheet or HR Strips or HR Plates. They have not explained the difference in the quality or technical characteristics of various grades. The exporter further stated that out of 7 grades exported to India they do not sell 4 grades to India. They have also desired that due to particular market situation the domestic price does not serve as a proper comparison for export sales to India. However they have not explained the particular market situation with evidence. Since the exporter has himself discarded the domestic price, normal value cannot be determined as the complete information is lacking. Since the domestic price is available the exporter should have claimed the normal value on the basis of domestic price after claiming the deduction to bring the price at ex-factory level. In respect of various grades for which the domestic sales is not available the exporter could have made adjustment in price to bring it at the comparable level. Therefore the Authority is prevented from determining the price on the basis of domestic price as well as on third country basis. Thus the Authority accepts determination of the normal value on the basis of cost of production. The average export price on the basis of information submitted by the exporter works out to \*\*\*.

**(v) JSC Severstal - Russia**

The Authority observes that the exporter has not claimed any deduction while calculating the domestic price. It is further observed they are claiming \*\*\* as inland freight while calculating the export price to India, which the Authority has allowed subject to verification.

**(vi) Magnitogorsk Metallurgical Plant (MMK), Russia .**

In view of the submission made by the exporter as already discussed above the authority is not able to determine the normal value and export price on the basis of information submitted by the exporter. Thus, the Authority determine the normal value on the basis of cost of production as claimed by the petitioner The export price is calculated as claimed by the petitioner.

**COMPARISON & MARGIN OF DUMPING**

18. the rules relating to comparison provides as follows:

“While arriving at margin of dumping, the Designated Authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level or trade, normally at ex-works level, and respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparatively, including differences in conditions and terms of sales, taxation, levels of trade, quantities, physical characteristics and any other differences which are demonstrated to affect price comparability.” :

19. For the purpose of fair comparison between the normal value and the export price, the authority took into account the information furnished by the exporter, importers, and petitioners. The principles of deciding the normal value in relation to article has already been specified in paragraph 14 also.

20. The normal value, export price and dumping margin have already been discussed in para 15 above and accordingly the dumping margins in respect of each exporter is as under:

	<b>Name of Exporter</b>	<b>Dumping margin as % of export price</b>
1.	Zaporishtal	118.99%
2.	Azovstal	8.96%
3.	<b>Ispat Karmet</b>	
	-Sheet	18.46%
	-Coil	NIL
4.	Novolipstech	78.37%
5.	JSC Severstal	1%

## **J. INJURY**

21. The Authority observes that the petitioners as well as exporters have not submitted data separately for each kind of product i.e. HRC, Sheet, Plates, Strips. Accordingly the Authority has analyzed the injury keeping in view para 3 of Annexure II of rule 9 which reads as under.

“The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers sales and profit. If such separate identification of the production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products which includes the like product, for which the necessary information can be provided.”

22. 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....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

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

The Authority notes that the margin of dumping and quantum of imports from subject countries are more than the limits prescribed above. Cumulative assessment of the

effect of imports is appropriate since the export prices from the subject countries were directly competing with the prices offered by the domestic industry in the Indian market.

## **24. Analysis of Injury Indicators**

### **(a) Quantum of Imports**

The total imports of the products in the country were 923560, 887029 and 851682 MT in 1994-95, 1995-96 & 1996-97 respectively. Thus, there is a declining trend in the imports in absolute terms. In relative terms, the total imports were less by 3.95% in 1995-96 over 1994-95 and by 3.98% in 1996-97 over 1995-96, The petitioner has shown imports for Kazakhstan also during the period of investigation However, there is no such data available in the DGCIS statistics.

The imports from said countries were 77827, 234147 and 191854 MT in 1994-95, 1995-96 & 1996-97 respectively. Though there is a significant-increase in 1995-96 over 1994-95, but in 1996-97, the imports have gone down by 22% over 1995-96. The share of said countries in total imports was 8.43%, 26.39% and 22.52% respectively.

### **Thus, it can be observed that:**

- Total imports are showing a declining trend.
- Total imports from said countries in 1996-97 are less as compared to 1995-96. However as compared to 1994-95 there is a significant rise.
- Their share of imports has grown

### **(b) Production & Capacity Utilization:**

It is observed that the installed capacity was 48.23 lac tonnes in 1994-95 and 1995-96. However this was increased to 68.23 lacs tonnes with the entry of Essar in 1996-97. Thus a capacity of 20 lacs tonnes was added in 1996-97. There was a significant rise of 41.47% in the installed capacity in 1996-97 over 1995-96. The production, excluding captive consumption, was 2440528, 2606789 and 3699358 tonnes in 1994-95, 1995-96 and 1996-97 respectively. This shows a growth of 6.81% and 41.91% in 1995-96 and 1996-97, respectively over the previous years. Thus, there was a substantial increase in the production of domestic industry as a whole individually, the production of SAIL has declined marginally in 1996-97 over 1995-96, while the production of others was higher in 1996-97 over 1995-96. Thus the production is showing an upward trend over the years.

It is observed that the capacity utilization of the industry was 84.71%, 90.79% and 80.93% respectively in 1994-95, 95-96 and 1996-97. However analyzing the information further it was observed that decline in capacity utilization in 1996-97 over 1995-96 was mainly due to Essar whose capacity utilization was only 64.4%. It is urged by exporters/importers that this low capacity utilization was due to the fact that this was first year of production for Essar. Otherwise, the capacity utilization of SAIL was marginally lower in 1996-97 over 1995-96 whereas for other producer it was higher. Thus it can be concluded that production is showing an upward trend and capacity, utilization is, more or less, stable.

#### (c) Sales

The indigenous sales were 2473346, 2505066 and 3188418 MT in 1994-95, 1995-96 and 1996-97 respectively. The growth rate was 1.28% and 27.28% in 1995-96 and 1996-97 over the previous years. The export sales were 59000 MT, 81028 MT and 387026 MT in 1994-95 & 1996-97 respectively. The growth rate was 37.33% and 377.64% in 1995-96 & 1996-97 over the previous year.

Thus, indigenous sales and export sale are showing growth over the years.

#### (d) Market Share

It is observed that total demand of HR products was 3397196 MT, 3847180 MT and 4040100 MT. Thus there is a rise in the demand over the years. The quantum of total imports was 923560, 887029 and 851682 MT in 1994-95, 1995-96 and 1996-97 respectively. Thus the share of imports in meeting the demand was 27.18%, 23.06% and 21.08% in 1994-95, 1995-96 and 1996-97 respectively. The indigenous share in total market demand was 73.72%, 76.96% and 78.92% respectively in 1994-95, 1995-96 and 1996-97 respectively. Thus it is observed that the share of imported products is declining over the year and the indigenous share is rising over the years. Even if the demand is considered including captive consumption by the domestic industry, the same trend is observed.

#### (e) Closing Stocks

It is observed that the closing stock of HR products was 292732, 360107 and 597061 MT respectively in 1994-95, 1995-96 and 1996-97. However it is also observed that the significant rise in inventory is with SAIL. The inventories of Lloyds have gone down.

#### (f) Sale Realization & Profitability

The Authority may observe the sales realization and profit PMT for domestic industry, which is as under:-

Year Cost Realization (Rs.) Profit/ Loss

1994-95 \*\*\* \*\*

1995-96 \*\*\* \*\*

1996-97 \*\*\* \*\*

Average cost of production of the domestic industry increased by 14.77% 1996-97 and the sales realization declined by 0.53% over the same period. However, cost of production of SAIL (Bokaro Steel Plant) increased by 4.7%, whereas the increase was 11.15% and 11.58% for SAIL (Rourkela Steel Plant) and Lloyds respectively. Further, sales of SAIL (Bokaro Steel Plant) constituted approx. 45% of the sales of the domestic industry it is also noted that 1996-97 was the first year of commercial production in case of Essar, whose costs are significantly higher than that of SAIL (Bokaro Steel Plant) The increase in the cost of production of the domestic industry in 1996-97 as compared to the previous year appears to be on account of the higher cost of production of Essar.

With regard to sales realization, there is no evidence to suggest that the sales realization on the domestic industry in the investigation period was lower as compared to the previous year because of dumped imports. In fact, the Authority notes that sales realization of SAIL (both Rourkela Steel Plant and Bokaro Steel Plant) are lower than Essar by 13.5% it is further noted that the sales realisation of SAIL is significantly lower than the landed value of imports from the subject countries, considering the prevailing level of basic customs duties. Though average sales realization of the domestic industry was marginally lower than the previous year, the same can be attributed to the lower realisation by SAIL as compared to other constituents of the domestic industry.

With regard to the profitability of the domestic industry, the Authority finds that the profit per unit of production of the domestic industry declined by 58.61% in the investigation period as compared to the previous year. Though the decline in profitability is significant, there is no evidence to suggest the reasons for the same can be attributed to dumped imports from the subject countries Apparently the reasons for the same can be attributed to the lower sales realization by SAIL as compared to the other constituents of the domestic industry and landed price of imports'

(g) Employment:

It is observed by Authority the number of persons employed has gone down marginally, but there is no clear indication showing decline in the employment due to dumping.

25. The Authority notes that factors like decrease in volume of imports in absolute terms, increase in production and sales, capacity utilization as analyzed do not show injury to the domestic industry. Factors such as increase in closing stocks, inability to increase selling price and decline in profitability shows that the domestic industry has suffered some injury.

## **K. CAUSAL LINK**

In establishing whether the Injury to the domestic industry was caused by the imports from the subject countries, the Authority has considered the following factors:

- a. There is significant increase in the production of the Indian industry, as discussed in para 24 above. The decline in the sales of SAIL is significantly higher than the increase in the imports from the subject countries. The increased imports from the subject countries cannot, therefore, be held to be a reason for decline in the output of SAIL.
- b. Increase in stocks is primarily on account of the stocks of SAIL. The increase in Stock with SAIL is far more than the increase in the imports from the subject countries. The increase in stock cannot, therefore, be attributed to dumped imports.
- c. The decline in profitability in the investigation period as compared to the previous year is significant. However, it is also found that the profitability of the domestic industry declined because of decline in the profitability of SAIL, whose sales realization is far lower than that of Essar and TISCO in the investigation period. It is also found that the sales realization of SAIL is lower than the landed value of imports from the subject countries thereby implying that the imports from the subject countries have not forced SAIL to reduce its selling prices in the investigation period.

As discussed above, there is nit sufficient evidence to suggest that the reasons for declining profitability, rising stocks and to increase prices can be attributed to imports from the subject countries and that the material injury was caused to the domestic industry from the dumped imports. The Authority, therefore notes that there is no causal link established between the dumped imports and material injury to the domestic industry.

## **L. CONCLUSION**

27. The Designated Authority after considering the forgoing, concludes that:

- a. The subject goods originating in or exported from the said countries have been exported to India below their normal value resulting in dumping margin as discussed in para 20 above
- b. The domestic industry has suffered injury as discussed in para 25 above,
- c. There is no causal link established between the dumped imports and material injury to the domestic industry, as discussed in para 26 above.

28. In view of the above analysis, there appears to be little justification to recommend that provisional duties at this stage. However, the Authority shall continue with the investigations for final determination.

**(RATHI VINAY JHA,**  
Designated Authority)