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MINISTRY OF COMMERCE & INDUSTRY
(Department of Commerce)
Directorate General of Anti Dumping & Allied Duties

Notification

New Delhi, 5th April, 2002

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning import of Lead Acid Batteries originating in or exported from Taiwan, Singapore and Hong Kong - Preliminary Findings.

No. 59/1/2001-DGAD - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof;

A. PROCEDURE

2. The procedure described below has been followed:-

- i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Exide Industries Limited, M/s. Amara Raja Batteries Ltd., and M/s Amco Batteries Limited on behalf of the domestic industry, alleging dumping of Lead Acid Batteries (hereinafter referred to as subject goods) originating in and exported from Chinese Taipei(Taiwan), Singapore, Hong Kong, Thailand, Philippines and Indonesia. However, for countries other than Chinese Taipei(Taiwan), Singapore and Hong Kong(hereinafter referred to as subject countries), the volume of imports to India was found to be less than de-minimis limit prescribed in Anti Dumping Rules.
- ii. The Authority notified the Embassies/High Commission/representative of subject countries about the receipt of dumping application made by the petitioners before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 *supra*;
- iii. The Authority issued a Public Notice dated 2nd November, 2001, published in the Gazette of India, Extraordinary, initiating anti dumping proceedings

- concerning imports of subject goods, originating from subject countries classified under heading 8507 of Schedule I of the Customs Tariff Act, 1975;
- iv. The Authority forwarded copy of the said public notice to the known exporters, importers, industry associations and to the complainant and gave them an opportunity to make their views known in writing.
 - v. According to sub-rule (3) of Rule 6 *supra*, the Authority provided a copy of the petition to all the known exporters and Embassies/High Commission/representative of subject countries.
 - vi. The Authority sent questionnaires, to elicit relevant information, to the following exporters:
 1. M/s Evertech Electronics Company Ltd., Taipei, Taiwan
 2. M/s Gaston Battery Company Ltd., Hong Kong
 3. M/s Calltec Battery Company, Hong Kong
 4. M/s Asia Energy Company Ltd., Hong Kong
 5. M/s Aik Koon Tyre Battery Co. Pte. Ltd., Singapore
 6. M/s Arden Marketing and Services Pte Ltd., Singapore
 7. M/s AV Tech Marketing, Singapore
 8. M/s Lipson Trading Enterprises, Singapore
 9. M/s Power Sonic Singapore Pte. Ltd., Singapore
 10. M/s Totex Singapore Pte. Ltd., Singapore
 11. M/s Chloride Batteries S.E. Asia Pte. Ltd., Singapore
 - vii. The Embassies/High Commission/representatives of subject countries were also informed about the initiation of investigation and requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time;
 - viii. Some of the known users/importers of subject goods to whom questionnaire was sent are :
 1. Ashok Leyland Ltd., Chennai
 2. Bajaj Tempo Ltd., Pune
 3. Daewoo Motors India Ltd., Dadri
 4. Eicher Tractors Ltd., Faridabad, Haryana
 5. Escorts Ltd., (FARMTRAC Divn.), Faridabad
 6. Escorts JCB Ltd., Ballabgarh
 7. General Motors India Ltd., Distt.Panchmahal, Gujarat
 8. Godrej and Boyce Mfg., Co. Ltd., Vikhroli, Mumbai
 9. Greaves Ltd., Ranipet.
 10. Gujarat Tractor Corpn. Ltd., Baroda.
 11. HMT Ltd., Distt. Ambala, Haryana
 12. Honda Siel Power Products Ltd., Udham Singh Ngr., U.P.

13. Hyundai Motor(I) Ltd., Distt. Kancheepuram, Tamil Nadu
14. Hindustan Motors Ltd., Distt. Hooghly, West Bengal
15. Fiat India Automobiles Ltd., Mumbai
16. International Tractors, Hoshiarpur, Punjab
17. Kala Genset Pvt. Ltd., Taluka Khed, Pune
18. L&T John Deere Ltd., Pune
19. Mahindra and Mahindra Ltd., Mumbai
20. Maruti Udyog Ltd., Gurgaon
21. Mercedes Benz India Pvt. Ltd., Pimpri, Pune
22. New Holland Tractors (India) Pvt Ltd., Okhla Indl. Area, New Delhi.
23. Piaggio Greaves Vehicles Ltd., Baramati, Distt. Pune.
24. Punjab Tractors Ltd., Distt. Ropar, Punjab
25. Swaraj Mazda Ltd., Distt. Ropar, Punjab
26. Scooters India Ltd., Lucknow
27. Swaraj Combine Divn., Distt. Ropar, Punjab
28. San Engineering, Bangalore
29. Tractors & Farm Equipment Ltd., Chennai
30. Tata Engineering & Locomotive Co. Ltd., Lucknow
31. Tata Engineering & Locomotive Co. Ltd., Jamshedpur
32. Tata Engineering & Locomotive Co. Ltd., Pimpri, Pune
33. Tata Engineering & Locomotive Co. Ltd., Small Car Plant, Pimpri, Pune
34. Telco Construction Equipment Co. Ltd., Dharward.
35. Toyota Kirloskar Motor Ltd., Bangalore
36. VST Tillers & Tractors Ltd., Bangalore
37. Bajaj Tempo Ltd., Pitampur, Distt. Dhar
38. Caterpillar India Pvt. Ltd., Searapet, Pondicherry.
39. HMT Ltd., Tractor Project, Hyderabad
40. HMT Ltd., Mohali, Punjab.
41. Honda Siel Cars India Ltd., Gautam Budh Nagar
42. Kinetic Engineering Ltd., Pune
43. Mahindra & Mahindra Ltd., Satpur, Nasik(Mah.)
44. Tractors & Farm Equip. Ltd., Doddabalpur.
45. Telco Const. Equip. Co. Ltd., Jamshedpur.
46. Atlanta Systems, Hyderabad
47. Bajaj Auto Ltd., Aurangabad
48. Bajaj Auto Ltd., Pune
49. Birla Yamaha Ltd., Dehradun
50. Yamahaa Motor Escorts Ltd., Ghaziabad(U.P)
51. Hero Honda Motors Ltd., Dharuhera, Rewari
52. Hero Honda Motors Ltd., Gurgaon
53. Kinetic Motor co. Ltd., Pitampur, Distt. Dhar.

- 54.Linkwell Telesystems (P) Ltd., Secunderabad,(A.P)
- 55.LML Ltd., Kanpur
- 56.Majestic Auto Ltd., Ghaziabad, U.P.
- 57.Metascan Electronics & Comm. Pvt. Ltd., Hyderabad.
- 58.Monto Motors Ltd., Alwar
- 59.Royal Enfield Motors Ltd., Chennai
- 60.Bharat Heavy Electricals Ltd., Bhopal, M.P.
- 61.Hindustan Copper Ltd., Jhunjhunu
- 62.Hindustan Aeronautics Ltd., Nasik
- 63.Hindustan Copper Ltd., Khetri
- 64.The Commander Works Engineer, Delhi Cantt., Delhi
- 65.NTPC, Vindhyanagar, Distt. Sidhi
- 66.Nuclear Power Corporation, Bulandshahar, U.P.
- 67.National Thermal Power Corpn. Ltd., Talcher.

- ix. Additional information regarding injury was sought from the petitioners, which was also furnished by them;
- x. Domestic industry also furnished additional information regarding imports, constructed cost of production, export price and adjustments permissible;
- xi. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xii. ***** in this notification represents information furnished by the interested party on confidential basis and so considered by the Authority under the Rules;
- xiii. The investigation covered the period from 1st October, 2000 to 30th September 2001.
- xiv. Copies of initiation notice was also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

3. The petitioners have made the following major points in their submissions:

- i. Lead Acid Batteries falling under Chapter 85 of the Custom Tariff Act are being dumped in the Indian market by the exporters from subject countries. Though the Lead Acid Batteries have dedicated custom classification under 8507.10 and 8507.20, the goods have been cleared in a number of other custom headings also as per information available on shipment-wise imports;
- ii. The information on import of Lead Acid Batteries compiled by Directorate General of Commercial Intelligence and Statistics, would not be very useful for the purpose of anti dumping investigation for the reason that different types of

- batteries would have different cost and prices and hence the average export price compiled as per the information available from DGCIS will not give any meaningful information with regard to dumped price at which the batteries of different power and life are being imported.
- iii. Since there is a direct co-relation between the lead content in the battery and its associated costs and prices, export price as well as normal value should be worked out for lead acid battery on the basis of the weight of lead or total weight of the battery and comparison should be done for arriving at a decision regarding dumping margin;
 - iv. There are two broad types of lead acid batteries, namely automotive lead acid batteries and industrial lead acid batteries;
 - v. The domestic industry consists of seven producers in the organized sector and a large number of small producers in the unorganized sector. Petitioners account for more than 50 per cent of the domestic production and have the standing to file the petition;
 - vi. In the absence of reasonable and authentic information on domestic prices in the ordinary course of trade in the subject countries, the normal value has been constructed on the basis cost of production of M/s Exide Industries which is a leading producer of lead acid batteries in India.
 - vii. The export prices have been compiled on the basis of information collected from secondary sources making due adjustment for landing charges, ocean freight, marine insurance, commission, port handling, etc.
 - viii. The domestic industry is suffering injury on account of dumped imports which is reflected in the form of price undercutting, lost contracts, fall in profitability, etc. Also there is a threat of further injury being inflicted on the domestic industry on account of continued price undercutting, sufficient freely disposable capacity in the subject countries and lost orders especially to OEM producers particularly automobile companies and industrial users.

C. IMPORTERS,USERS AND EXPORTERS' VIEWS:

4. Some of the importers and users such as M/s Union Sales Pvt. Ltd., M/s Monto Motors Ltd., M/s Orchid Electronics Ltd., M/s Kinetic Motor Co. Ltd., M/s Caterpillar India Pvt. Ltd., M/s Toyota Kirloskar Motor, M/s Birla Yamaha Ltd., and M/s Ashok Leyland Ltd., have responded to the questionnaire sent by the Designated Authority. Some of the views given by them are as follows:

- i. India make batteries are not competitive in pricing as well as quality. It costs 30% to 40% more as compared to batteries available in Thailand – comparison made is on landed cost basis. We did not make any comparison of prices prevailing in Taiwan, Singapore and Hong Kong.

- ii. Indian battery makers need to improve the competitiveness both in terms of price & quality and to be more competitive in the International Market. Automobile market is subjected for severe competition globally and hence inputs need to be competitive also.
- iii. Domestic battery industry may get temporary relief or protection by way of imposing anti-dumping duty on imports, but in the long term will not help the industry. Such protection may not help to face global competition.
- iv. Domestic battery industry should accept the competition and improve competitiveness for the survival and as not many players are in this field, volume should not be an issue for economic scale of operations.

5. Some of the exporters such as M/s Aik Koon Tyre & Battery Co. Pte. Ltd., Singapore, M/s Pilot Battery Co. Ltd., Taiwan, M/s CSB Battery Co. Ltd., Taiwan, and M/s Taiwan Yuasa Battery Co. Ltd., Taiwan have given their replies to the Designated Authority. M/s Aik Koon Tyre & Battery Co. Pte. Ltd., have stated that they have never exported Lead Acid Batteries to India before. M/s Pilot Battery Co. Ltd., Taiwan has stated that they have been exporting their batteries to India at prices equal to or more than their local sale prices and have not resorted to any anti dumping activities whatsoever.

D. EXAMINATION AND FINDINGS BY AUTHORITY

6. The submission made by the exporters, importers, domestic industry and other interested parties have been examined and considered while arriving at these findings and wherever appropriate have been dealt hereinafter.

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

E. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

8. Regarding product under consideration, initiation notification issued on 02.11.2001 reads as follows:-

"the product under consideration is 'lead acid batteries'.Lead Acid Batteries fall within Chapter 85 of the Custom Tariff Act under the sub-heading 8507. The batteries are described as electric accumulators under the Customs Tariff Act and are classified under customs sub heading Nos. 8507.10 and 8507.20 of the Customs Tariff Act. The Custom classification is indicative only and not binding on the scope of investigation".

9. In the Initiation Notification, it was also mentioned that the statistics in the case of lead acid batteries are compiled in terms of number of units and value. But denoting the volume in terms of number of units or value alone may not provide quite meaningful information because different models/types of the batteries have different power capacity, rate of discharge, value, etc.. It was further stated that there is a correlation between the lead content and the weight of the battery and its associated costs, prices and performance characteristics such as power capacity, rate of discharge etc.. Therefore apart from denoting the product in terms of number of units and value, it will be useful to have the information on the product in terms of lead content, weight and power capacity also. The information on the characteristics mentioned above will be required for the purpose of calculation and comparison of various parameters.

10. The petitioners had claimed that the goods produced by them are like article to the goods originating in or exported from subject countries. There is no argument to the contrary stating that the goods being manufactured in subject countries and imported into India from the subject countries are not substituting the lead acid batteries being produced by the domestic industry. On the basis of evidence available, the Authority therefore determines that the lead acid batteries produced by the petitioners are 'like articles' to lead acid batteries being imported from the subject countries within the meaning of the Rules.

F. DOMESTIC INDUSTRY

11. It was stated in the Initiation Notification that the petition has been filed by M/s. Exide Industries Limited, M/s. Amara Raja Batteries Limited and M/s Amco Batteries Limited on behalf of the domestic industry. However as per the records available before the Designated Authority M/s Amco Batteries Limited have imported significant quantities of lead acid batteries from the countries against whom petition for initiation of anti dumping investigation has been filed. The Authority, therefore, had decided to exclude M/s Amco Batteries Limited from the definition of the Domestic Industry as per the Anti Dumping Rules.

12. No argument has been adduced for or against the issue of definition of domestic industry and the issue of standing of the petitioners to file the petition. On the basis of the evidence available, the Authority determines that M/s Exide Industries Ltd., and M/s Amara Raja Batteries Ltd., have the standing to file the petition and represent the domestic industry for the purpose of present investigation.

G. DETERMINATION OF AUTHORITY AGAINST IMPORT FROM CHINA

13. In the Final Findings issued on 7.12.2001 in the anti dumping investigation concerning import of Lead Acid Batteries originating in or exported from Japan, Korea, China and Bangladesh, the Authority had determined that the dumping margin for the exports of industrial lead acid batteries made by M/s Shenyang Matsushita Storage Battery Co. (SLMB) and M/s BB Battery Co. Ltd., China were negative. Accordingly, no anti dumping duty was recommended on the exports of industrial lead acid batteries manufactured by them and exported through their trading companies. M/s Shenyang Matsushita Storage Battery Co. (SLMB) is exporting to India through M/s Panasonic Industrial Asia Pte. Ltd., Singapore and M/s BB Battery Co. Ltd., is exporting to India through trading company, M/s National Trading Ltd., Hong Kong. Exports made by these companies of the industrial lead acid batteries manufactured by the Chinese manufacturers mentioned above, will continue to be covered by the recommendations made in the Final Findings cited above.

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

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

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

15. The Authority sent questionnaires to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1) © of the Custom Tariff Act. The Authority makes the following observation on the submissions made by the exporters in this regard which are given below:-

M/s CSB Battery Co. Ltd., Taiwan

In the submissions made before the Authority, no details regarding the general information asked for in the Exporters Questionnaire, has been given by the exporter. The transaction-wise details of the sale in the home market of all types of models of lead acid batteries, are required to be given, whereas the exporter has given details of the few transactions only. The information given in Appendix 3 also is not in the prescribed format. No information regarding Appendices 4 to 10 has been given. Also the financial statements for the complete period of investigation have not been given alongwith the submissions. The requirement of giving non-confidential summary for being placed in the Public File has also not been complied with.

M/s Pilot Battery Co. Ltd., Taiwan

M/s Pilot Battery Co. Ltd., is manufacturing and exporting only the industrial lead acid batteries. The general information required to be given as per Part A to H of the Exporters Questionnaire, has not been furnished in the submissions made by the exporter to the Authority. The transaction wise details of the sales in the home market, required to be given in Appendix I, have not been furnished. The details regarding exports to India given in Appendix II are not complete as the technical specifications of the models exported and other details have not been clearly spelt out. The information given in Appendix III is also incomplete and does not reconcile with the information given in Appendix 7. The basis for information given in Appendix 4 and 5 has not been clarified and also the information is only for one type of battery whereas as per the own admission of the exporter, 20 different sizes have been exported to India. The exporter is required to give complete information for all types and models of lead acid batteries being manufactured and sold by them. No information has been given regarding the Appendices 8 to 10. Also the copies of financial statements for the preceding years and the period of investigation have not been furnished. The requirement of giving non-confidential summary for being placed in the Public File has also not been complied with.

M/s Taiwan Yuasa Battery Co. Ltd.

In their submissions made to the Authority, the exporter has given details regarding total quantity and sales amount in last three years, cost of NP batteries and copy of invoices relating to exports to India in 2001. The information required to be given as per the Exporter's Questionnaire, in the prescribed format, has not been given. Also, non confidential summary of the submissions made to be placed on the Public File, has not been given.

16. BEST INFORMATION AVAILABLE: In the Anti Dumping Rules, Rule 6 relating to Principles Governing Investigations mentions that if an interested party does not provide necessary information within a reasonable period, the Designated

Authority may record its finding on the basis of the facts available with it. Further, Rule 7 provides that the information submitted on confidential basis is to be accompanied by a non-confidential summary. This was clearly mentioned in the covering letter sent to the exporters asking for the information in the prescribed questionnaire that the confidential information submitted must be accompanied by non-confidential summary or if it is not susceptible to summarization, a statement of the reasons why summarization is not possible.

17. In view of the incomplete submissions made by the exporters from subject countries, the Authority has decided not to take into account the information submitted by exporters on normal value and export prices for the purpose of preliminary findings. The Authority has decided to use information given by domestic industry on the constructed cost of production as the best information available for the purpose of assessing normal value in Hong Kong, Singapore and Taiwan, for the purpose of preliminary findings. Also information given on export prices and adjustments compiled by domestic industry has been used at this stage.

I. DUMPING MARGIN

18. As there is a wide variety of models and types of batteries, these need to be brought into a common denominator for the purpose of calculation and comparison. As mentioned in the initiation notification and also as stated above, there is a direct co-relation between power, lead content and weight of the battery which also gets reflected in terms of value or price. Further, the direct co-relation between the lead content and weight of the battery and its associated costs and prices is also quite significant. The Authority has, therefore, decided to denote the normal value as well as the export price in terms of weight of the batteries for the purpose of their comparison and arriving at a dumping margin. The dumping margin for all the exporters and manufacturers of each country separately for industrial batteries, automotive maintenance free (MF) sealed batteries, automotive other than maintenance free (NMF) dry batteries and motorcycle batteries have been worked out separately which are given in the table below. Wherever a particular type of battery is not being exported or is not identifiable in the export data, dumping margin of the other type has been used as a proxy for that type as well.

Name of country	Type of battery	Dumping Margin(%)
Singapore	1. Industrial	167.28
	2. Automotive (NMF)	63.43
	3. Automotive (MF)	63.43
	4. Motorcycle	82.90
Hong Kong	1. Industrial	191.39
	2. Automotive (NMF)	113.57
	3. Automotive (MF)	113.57
	4. Motorcycle	113.57

Taiwan	1. Industrial 2. Automotive (NMF) 3. Automotive (MF) 4. Motorcycle	172.41 63.69 63.69 64.76
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J. INJURY

19. 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."

K. CUMULATIVE ASSESSMENT OF INJURY

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

21. 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 effects of imports from subject countries are appropriate since the export prices from these countries were directly competing with the prices offered by the domestic industry in the Indian market and displacing domestic producers here.

L. THREAT OF INJURY

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.....*". Further to above, regarding threat of injury, paragraph (vii) of Annexure II of Rules *supra*, reads as under:-

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

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

23. 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. For the examination of the impact on the domestic industry in India, the Authority considered such further indices having a bearing on the state of industry as production, sales, stock, profitability, net sales realisation etc.

24. All the economic parameters affecting the domestic industry mentioned above, such as production, capacity utilisation, sales volume etc., have been examined. It has been observed that more than the volume effect, it is the price effect on the dumped imports which has caused material injury to the domestic industry and is further causing threat of material injury. Following points have been observed on various economic parameters:-

- i. Whereas the volume of imports during the investigation period has increased by almost 184% as compared with 1998-99, the production of the domestic industry has increased by just 35% over the same period. This has led to increase in the market share of imports from 1.42% of the production of the domestic industry in 1998-99 to more than 3% during the period of investigation.
- ii. The value of import of the subject goods from subject countries increased from less than Rs. 100 million. in 1998-99 to more than Rs. 280 million. As a result, the share of import from subject countries in the total import of subject goods in India increased from 24% in 1998-99 to 35% during the period of investigation.
- iii. While the production of the domestic industry during the period of investigation increased by 35% as compared with that in 1998-99, the sales have increased only by about 14% over the same period. This has resulted in a lower per unit sales realisation and reduce the profitability of domestic industry.
- iv. The dumped imports are causing price undercutting, price suppression and price depression in the Indian market resulting in erosion of profitability and reduction in the return of investment for the domestic industry.
- v. The domestic industry has been forced to offer extended credit in the market, resulting in increased in debtors.
- vi. There has been significant increase in inventories of the domestic industry showing increase of almost 40% during the period of investigation.

25. Apart from the injury being suffered by the domestic industry, as discussed above, there is a threat of further injury being caused to them on account of dumped imports. This is evident from the following:-

- i. During the period of investigation imports from subject countries have increased at a significant rate which is causing further threat of material injury to the domestic industry;
- ii. As already discussed above, there is significant price undercutting to the domestic industry on account of imports from subject countries,
- iii. It has been alleged by the domestic industry that there are surplus disposal capacities being held by the producers in the subject countries. The producer-exporters who have given reply to the questionnaire have not given information regarding their installed capacity and other details asked for in Appendix 7 of the exporter questionnaire;
- iv. It has further been alleged by the domestic industry that manufacturers and exporters from the subject countries are at present holding substantial surplus stocks in view of the fact that the production had to be curtailed due to lower

domestic demand. This also could not be verified in the absence information from the exporters in their reply to the questionnaire;

26. On the basis of evidence available, the Authority, therefore, concludes that the domestic industry has suffered material injury and is facing further threat of material injury on account of the dumped imports of subject goods from subject countries.

M. CAUSAL LINK

27. In determining whether injury to the domestic industry was caused by the dumped import, the Authority has taken into account the factor that it is the dumped import at dumped prices which has forced the domestic industry to reduce its prices. Therefore, the causal link between the dumped imports of subject goods from subject countries and injury suffered and threat of injury being faced by the domestic industry is clear. The Authority therefore concludes that there is a causal link between the dumping of subject goods from the subject countries, injury suffered and threat of injury being faced by the domestic industry during the period of investigation.

N. INDIAN INDUSTRY'S INTEREST

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

29. The Authority recognises that the imposition of anti dumping duties might affect the price levels of the products in the domestic market. 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.

O. CONCLUSIONS

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

- i. Lead Acid Batteries exported to India from Taiwan, Singapore and Hong Kong are below its normal value;

- ii. the Indian industry has suffered material injury and is further being threatened with material injury;
- iii. the injury has been caused by the dumped imports from Taiwan, Singapore and Hong Kong.

31. The Authority considers it necessary to impose anti dumping duty provisionally, pending final determination, on all imports of lead acid batteries from subject countries in order to remove the injury to the domestic industry. The margin of dumping for known exporters and subject countries determined by the Authority are indicated in the paragraphs above.

32. Accordingly, the Authority recommends that provisional anti dumping duties as set out below be imposed from the date of notification to be issued in this regard by the Central Government on all imports of lead acid batteries falling under customs code 8507 originating in or exported from subject countries pending final determination subject to observations made in para 13 above. For the purpose of calculation of anti dumping duty, the Authority has converted the normal value and the export price calculated per kg weight of the dry battery in the case of automotive batteries other than the maintenance free batteries and per kg of gross weight of the filled and sealed battery in the case of maintenance free automotive and industrial batteries. In case of industrial batteries, since no evidence of imports of dry lead acid batteries is available the duties as applicable to maintenance free sealed batteries shall apply to dry lead acid batteries also. The anti dumping duty shall be the difference between the amount mentioned in column 3 and landed value of import per kg of the battery for all exporters/manufacturers from the countries named in column 1 of the table below:-

Name of country(1)	Type of battery(2)	Amount in US\$ per kg(3)
Singapore	1. Industrial 2. Automotive (NMF) 3. Automotive (MF) 4. Motorcycle	2.9548 2.1309 2.0475 3.7350
Hong Kong	1. Industrial 2. Automotive(NMF) 3. Automotive (MF) 4. Motorcycle	2.9548 2.1309 2.0475 3.7350
Taiwan	1. Industrial 2. Automotive (NMF) 3. Automotive (MF) 4. Motorcylcle	2.9548 2.1309 2.0475 3.7350

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

P. FURTHER PROCEDURE

34 The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of issue of finding. 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 the interested parties for making oral submissions which have to be rendered thereafter in writing;
- d. The Authority would conduct further verification to the extent deemed necessary;
- e. The Authority would disclose essential facts before announcing final findings.

L.V. Satharishi
Designated Authority