

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 5th November, 1999

Subject : Anti-dumping investigation concerning imports of Optical Fibre from Korea R.P.

Preliminary Findings

No.24/1/99-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

1. 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 M/s. Sterlite Industries Ltd. On behalf of the domestic industry, alleging dumping of Optical Fibre (hereinafter also referred to as subject goods) originating in or exported from South Korea.
 - ii. Preliminary scrutiny of that application filed by petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. - The petition was therefore considered as properly documented;
 - iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of Optical Fibre from Korea RP. The Authority notified the Embassy of Korea RP about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-rule 5(5) of the Rules;
 - iv. The Authority issued a public notice dated 1st July, 1999 published in the Gazette of India, Extraordinary, initiating anti - dumping investigations concerning imports of Optical Fibre classified under customs sub-heading No. 9001.10 of the Customs Tariff Act, 1975 originating in or exported from Korea RP (hereinafter also referred to as the subject country).
 - v. The Authority also forwarded a copy of the public notice to all the known exporters (whose details were made available by the petitioner) of the subject

- goods and gave them an opportunity to make their views known in writing in accordance with the Rule 6(2);
- vi. The Authority also forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of Optical Fibre in India and industry associations and advised them to make their views known in writing within forty days from the date of issue of the letter;
 - vii. Request was made Au the Central Board of Excise and Customs (CBEC) to arrange details of imports of Optical Fibre made into India during the past three years, including the period of investigation.
 - viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested;
 - ix. The Authority sent a questionnaire to elicit relevant information, to the following known exporters, in accordance with the Rule 6(4);

Korea RP

- Daewoo Corporation
- Taihan Electric Wire Co. Ltd.
- Samsung Electronics Co. Ltd.
- L.G.Cable & Machinery Ltd.

A number of parties requested for extension of time to submit their response, which, upon sufficient cause was allowed by the Authority.

The following exporters responded:

Korea RP

- Daewoo Corporation
 - Taihan Electric Wire Co. Ltd.
 - Samsung Electronics Co. Ltd.
 - L.G.Cable & Machinery Ltd.
- x. The Embassy of the subject country in New Delhi 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, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.
 - xi. A questionnaire was sent to the following known importers of Optical Fibre calling for necessary information in accordance with rule 6(4);

- Birla Ericsson.Optical Ltd.
- Uniflex Cables
- Aksh (India) Ltd.
- Bhilai wires Ltd.
- CMI Ltd.

Response to the questionnaire was filed by the following :

- Birla Ericsson Optical Ltd.
 - Uniflex Cables
 - Aksh (India) Ltd.
 - Bhilai wires Ltd.
 - CMI Ltd.
 - Vindhya Telelinks Ltd.
 - BWL Ltd.
 - RPG Cables Ltd.
 - Sudarshan Telecom
 - Himachal Futuristic Communications Ltd.
 - Telecom Cables Development Association
- xii. Additional information regarding injury was sought from the petitioner, which was also furnished;
- xiii. The Authority conducted on-the-spot investigation at the premises of the petitioner to the extent considered necessary;
- xiv. The Authority made 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;
- xv. 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 petitioner.
- xvi. * * * * in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the, Rules;
- xvii. Investigation was carried out for the period starting from 1st April, 1998 to 28th February, 1999, which is herein after also referred to as the period of investigation (POI).

B. PETITIONERS VIEWS

2. The petitioner have raised the following issues in their petition and their subsequent submissions.

- a. Injury is being caused to the domestic industry due to dumping of Optical Fibre from South Korea. The domestic prices have been declining in India resulting in no scope of even recovering costs.
- b. Due to low prices of imports from the subject country vis-a-vis prices of their exports to other countries, the petitioner are forced to match their prices with the low prices of Korean exports. This has led to extremely high losses.
- c. Despite an increase in production and sales, the petitioner has been forced to sell at un-remunerative prices due to the dumped imports from Korea RP, resulting in financial ice.
- d. In evidence of injury, the petitioner have indicated such parameters as decks in capacity utilisation, decline in market share and increase in closing stock apart from the decline in domestic selling price and increase in losses.
- e. The petitioner have stated to have obtained ISO 9002 quality certification for their Optical Fibre unit. Their quality is claimed to have been extensively accepted by such authorities as Railway Board, IRCON International Ltd., Fibreware GmbI3, DOT etc. As an evidence of acceptance by these authorities, the petitioner have enclosed letters and certificates issued by the former.
- f. It is further stated that the Normal value in case of South Korean exporters can not be determined by their domestic selling price as most of the exporters named by them use Optical Fibre for their captive consumption and do not have any domestic sales. Therefore, they have adopted an alternative method for arriving at Normal value. For this purpose, they have taken the representative export price to an appropriate third country as the basis for Normal value. In this regard, the petitioner have treated China, Hongkong, and Vietnam as appropriate third countries.

C. Views of Exporter /Importers and other interested parties:

3.1 'Importers/user industries' views :

The Telecom Cables Development Association (TCDA) representing the Optical Fibre. Cable manufacturers and the members of the Association individually] have filed their representation giving reasons for not imposing anti-dumping duty and the same is claimed to have the support of all TCDA members except M/s Sterlite, the petitioner, and its associate company ARM Ltd. The submissions of the Association and of the individual members are identical. The main points of these submissions are summarised as under

- a. The imposition of Anti-Dumping duty shall have adverse implications for. Optical Fibre Cable industry and will result in increased cost for them

- b. The Optical Fibre Cable is an integral component in the establishment of a proper telecom network in the country. Telecom Projects being an infrastructure area, the imposition of Anti-Dumping duty on Optical Fibre shall be prejudicial to infrastructural expansion and investments of the country.
- c. The petitioner have alleged dumping based upon the Normal value derived from the exporters' quotations to third countries. But, the quotation is of no evidentiary value as it is not a concluded contract or actual transaction. Hence, there is no evidence that Normal value is higher than the prices of export to India.
- d. The petitioner should not suffer injury on account of import of Optical fibre which is imported on payment of 25% duty since they enjoy the benefit of only 15% import duty for the import of raw material for manufacture of optical fibre.
- e. The complaint filed by the petitioner is a malafide attempt to maintain their monopoly and control over the domestic price and supply of Optical fibre. They have in the past manipulated the market to their benefit by dubious and restrictive trade practices.
- f. The Optical fibre supplied by Sterlite is of poor quality, on account of which the petitioner have faced rejections and cancellation of orders from the Optical fibre cable manufacturers. The fibre produced by the petitioner suffer from inconsistency, frequent breakages, lumps, diameter variations, loose winding, higher spectral attenuation, low WD, inconsistent texture, bad coating etc. The Korean fibre is much superior in quality to the fibre produced by the petitioner. Here interchangeability of use in producing cables for meeting specifications of DOT does not establish complete similarity in quality. The petitioner have not disclosed various complaints and rejections of their goods.
- g. Further, the estimate of normal value by the petitioner is totally inaccurate. The quotations submitted by the petitioner in evidence of price of export to third countries is not reliable as it can not be regarded as conclusive. The price at which the Optical fibre is exported to other countries is comparable to the rates at which it has been exported to India. Hence, there is no dumping of the subject goods in India, as there is no margin of dumping.
- h. As regards injury, it is stated that the profit figures shown by the petitioner are incorrect. News reports have been quoted to suggest that there is an increase in the out put and sales of Optical fibre by the petitioner and the profits contributed by the Optical fibre division. Further, it is stated that the loss allegedly suffered by the petitioner may be due to various extraneous reasons, one of which could be the high rejection rate.
- i. Allegation of dumping by the petitioner is totally baseless. Fall in prices of Optical fibre is an international phenomenon and low priced supply from South Korea is not an aberration. The fall in International prices of Optical fibre is

attributable to the availability of new and expanded capacities, fall in preform prices, process improvements, improvements in manufacturing process and in case of Korea, particularly, the depreciation of the won against the US dollar.

- j. Further, it is stated that there is no injury to the petitioner as their .profit and turnover performance have been very high. The sales of the petitioner have increased and they have the domestic market monopoly being the sole supplier.

3. II. Exporters' views

- a. The petitioner is one of the five Optical fibre manufacturers in India whose share - constitutes more than 80% of the total domestic production. However, none of the other manufacturers is a party to the present petition alleging dumping of Optical fibre from South Korea. This proves that neither the price nor the volume of Optical fibre supplied by South Korea has affected their fibre cable business in India.
- b. Even though Sterlite have employed similar manufacturing process as that of the Korean suppliers, they are not in a position to supply best quality material at competitive prices. This is the main reason why manufacturers of fibre optic cable in India are finding it profitable to procure this material from foreign suppliers.
- c. Further it is stated that the petitioner enjoys monopolistic position in Indian optical fibre market and dictates its own terms and price. The supplier from Korea, on the otherhand, aim to help the Indian cable manufacturers and the DOT to procure optical fibre and manufacture cables at economical rates, whereby the growth of telecom networks will be promoted in India.
- d. A question is raised as to whether the imposition of anti-dumping duty upon Korean companies could be helpful to Indian cable industry in view of the quality problem of the optical fibre produced by the petitioner, It is stated that the injury to the domestic industry resulted from Sterlite's quality problems, especially high attenuation and fibre break.
- e. The Korean exporter have further pointed out the big supply surplus in global fibre market during the investigation period, which resulted in World-wise decrease in fibre prices. Thus, decline in fibre prices during the period is an International phenomenon.
- f. The trend of the petitioner's own export price, which declined dramatically from US\$ 56.1 in 1997-98 to US\$ 32.2 during 2nd half of 1998, confirms the declining trend of the international market price of optical fibre.
- g. As evidence of injury, the petitioner alleged that their market share in India has declined to 64% in 1998-99 period. However, 64% market share is an absolute dominant position which can enable the company to exercise monopoly power

in the market. The company intends to use anti-dumping procedure to maintain its dominance in Indian market

As to the increase in the net loss, the Korean exporter have stated that the same might have been caused by the drastic increase in production capacity. The significant burden of depreciation cost and start-up cost resulting from the heavy investments inevitably influence the company's financial position. Therefore, the allegation that the increased loss has been caused by alleged dumped imports is not to be accepted.

Further, according to the petitioner, sales volume of the petitioner increased substantially over the periods of 1996-97 and 1997-98. The information provided by them does not indicate any injury on this count.

(D) Examination of the issues raised

4. The foregoing submissions made by the exporters, the importers, the petitioner and other interested parties, to the extent these are relevant as per Rules and to the extent these have a bearing upon the case, have been examined and considered and have been dealt with at appropriate places in these findings.

(E) Product under consideration

5. The product involved in the present investigation is Optical Fibre originating in or exported from the subject country classified under Customs Sub heading No. 9001.10 of Customs Tariff Act, 1975. The classification is only indicative and in no way binding upon the scope of present investigation. Optical Fibre is used for long haul telecommunication applications, CATV and networking applications for effective transmission of voice, data and video signals.

(F) Like articles

6. The petitioner have claimed that there is no differences between their product and the same dumped from the subject country. Both conform to the same technical specifications and both have the same end-use. The Authority notes that the petitioner's product and the allegedly dumped product are both technically as well as commercially substitutable. Importers/users are interchangeably consuming the imported and domestic Optical Fibre. The Authority further notes that the Optical Fibre produced by the domestic industry in India has characteristics closely resembling the same of the Optical Fibre imported from the subject country. Thus, the Authority treats both as Like Articles within the meaning of the Anti-Dumping Rules.

(G) Domestic Industry

7. The petition has been filed by M/s Sterlite Industries Ltd., MIDC, Waluj, Aurangabad, Maharashtra. There are five manufacturers of Optical Fibre in India including the petitioner. One of these five producers is opposing the petition filed.. The Authority notes that the total domestic production of Optical Fibre during the period of investigation was 326380 K.M. out of which the petitioner, M/s Sterlite Industries Ltd., produced 256380 K.M. Thus the petitioner accounted for more than 50% of production of the subject goods by the domestic industry during the period of investigation and, therefore, the Authority notes that they have the requisite standing to file the petition on behalf of the domestic industry under the Rules.

H. Dumping

8. The Parameters of dumping, namely, the Normal value, the Export price and the dumping margin, in relation to the exporters of the subject country are examined and determined in terms of section 9A(1)(c) of the Customs Tariff (Amendment) Act, 1995.

9. Information on Normal value and export price was elicited from the exporters of the subject goods in the form of questionnaires sent by the Authority to these exporters of the subject country. The claims made by the exporters with regard to Normal value and export price are as under: -

I. Claims of the exporters in relation to Normal Value and Export price.

10. Country : South Korea

(i) Exporter : Daewoo Corporation

Normal Value

The response of the exporter to the questionnaire is found to be incomplete. The response indicates only exports to India and exports to countries other than India. The requisite information relating to adjustments under various heads have not been submitted. Further, vital informations relating to net sales revenue, sales price structure, factory cost, charges after ex-factory etc. in respect of both; exports to India and exports to other countries have not been submitted by the exporter. Thus, no claim has been made in regard to Normal Value and Export price. From the exporter's response it is evident that there is no domestic sales of the subject goods by the

ruder: further; information regarding exports to third countries has been furnished in a cumulative manner and not country-wise. The petitioner, on the other hand, claims Normal value on the basis of the price of exports to an appropriate third country and adjustments thereon. In this regard, the petitioner has furnished Wormations on price of Korean exports to Vietnam, during -the POI. These informations are drawn from the Korea Customs Statistics, as furnislaai by the Embassy of India in Seoul. The petitioner claims Vietnam as an appropriate third country due to the fact that both Vietnam and India are developing countries having low cost economies and their market conditions are similar.

Thus, the petitioner claims normal value on the basis of the weighted average value of South Korean exports to vietnam i.e. US\$ 38.70/KM and adjustments of. US \$ 0.857/K.M. towards freight, insurance and commission, claimed thereon. Thus; Normal value is claimed at US\$ 37.84/K.M.

Export price

Export price to India is claimed by the petitioner on the basis of the subject country's weighted average export price of US\$ 22.93/K.M. to India and the adjustments of US\$ 0.857/K.M. thereon on account of freight, insurance and .commission. Thus, export price at ex-factory level is claimed at US\$22.07KM.

(ii) Exporter : LG Cables and Machinery Ltd.

Normal Value

There is no domestic sales in case of M/s LG cables as evident from their response. However, the exporter have furnished information on exports to third countries (other than India), namely, China, Vietnam, Austria, Israel, Switzerland, and Germany. Month-wise information has been furnished for these countries only in respect of quantity and unit price of export to these countries. No information is furnished in respect of adjustments on the export price nor any information furnished on the net sales revenue. Weighted average unit . export price to China has been claimed at xxxx/KM, to Vietnam at US\$ xxxxKM, to Switzerland at US\$ xxx/KM, and to Germany at US\$ xxxx/K.M.

Export Price:

Information regarding Export price to India has been submitted invoice-wise. The cif value of total exports of xxxx K.M.s to India from M/s LG Cables has been claimed as US\$ xxxx. Thus, weighted average cif value of exports to India is claimed at US\$ xxx/KM. Adjustments are claimed on account of Ocean freight, insurance and agency

commission which comes to US\$ xxxK.M. Thus, export price at ex-factory level is claimed as US\$ xxx/K.M.

(iii) Exgorter - Taihan Electric Wire Co. Ltd.

Normal value:

The exporter have claimed weighted average domestic selling price during the period of investigation at US xxxxx/K.M. Adjustments of US\$ Xxxx/K.M. are"- 'claimed on account of inland freight, handling and taxes. Thus, the normal value, i.e. the domestic selling price at ex-factory level, is claimed at US\$ xxxx/K.M.

Export price

Weighted average Export price to India is claimed at US\$ xxxx/K.M. and US\$ xxxx/K.M. is claimed as adjustments on account of inland -freight, handling, overseas freight, overseas insurance and others. Thus, export price to India at ex-factory level is claimed at US\$ xxxx/K.M.

(iv) Exporter : Samsung Electronics Co. Ltd.

Normal value:

Normal value is claimed on the basis of export price to third countries other than India. The exporter have claimed the weighted average export price to Hongkong at US\$xxxxK.M., to China at US\$xxxxK.M. and to France at US\$xxxx/K.M. and adjustments are claimed on c/c fee, air freight, insurance and credit expenses. Thus, the weighted average ex-factory export price to these countries, i.e. the normal value, is claimed at US\$ xxx/K.M., US\$ xxxx/K.M., and US\$ xxxx/K.M., respectively.

Export price

The weighted average export price(cif) to India is claimed at US\$xxx/K.M. and adjustments are claimed at US\$xxxx/K.M. on account of commission, c/c fee, air freight, and insurance. Thus the export price at ex-factory level is claimed at US\$xxx/K.M.

J. Examination by the Authority of the Exporters' claims on

Normal value and Export price

11. Exporter : M/s Daewoo Corporation

The Authority, has examined the of the exporter to the questionnaire and found the same incomplete. The Authority finds that the exporter have not furnished vital informations relating to various adjustments on export price to India and the same to an appropriate third country. Further, the exporter have not submitted information on net sales revenue, sales price structure, ex-factory cost etc. in respect of both exports to an appropriate third country and exports to India. In the absence of these requisite informations in the exporter's response, the Authority has no other alternative but to rely upon the informations of the petitioner for determination of Normal value and Export price.

Normal Value:

The Authority notes that there is no domestic sales of the subject goods by the exporter. Hence, the Authority determines the Normal value on the basis of the representative price of exports by the subject country to an appropriate third country, as per information furnished by the petitioner, which, in turn, are gathered from the official sources. The Authority, in this regard, treats Vietnam as an appropriate third country for two reasons

- a. Vietnam is a developing country, and its-market is comparable to Indian market ;
- b. Both India and Vietnam are low-cost economies and their market conditions are similar.

The Authority takes into account the weighted average export price of US\$ 38.70/K.M. of South Korean Optical Fibre to Vietnam during the period of investigation as per Korean Customs data and considers the adjustments of US\$ 0.857/K.M. claimed thereon by the petitioner on account of freight, insurance and sales commission which the Authority has allowed. Thus, the Authority calculates the Normal value as US\$ 37.84/K.M. for the purpose of Preliminary determination subject to verification.

Export price

The Authority considers the weighted average price of export to India, as claimed by the petitioner, i.e. US\$ 22.93/K.M. and adjustments of US\$ 0.857/K.M. for freight, insurance and sales commission, as claimed by the petitioner. The Authority has allowed these adjustments and determines the ex-factory export price to India at US\$ 22.07/K.M.

Dumping Margin

On comparison of Normal value with export price so determined, the Authority determines the dumping margin at US\$ 15.77/K.M. which is 71.45% of export price.

Exporter: LG Cables and Machinery Ltd.: Normal value:

The Authority notes that the exporter have furnished informatiops on exports to third countries other than India, namely, China, Vietnam, Austria, Germany, Switzerland etc., during the period of investigation and that they (the exporter) have no domestic sales. Therefore, the Authority considers the export price to an appropriate third country as the basis of Normal value. In this regard, Vietnam is considered as an appropriate third country for reasons already stated. The Authority notes that the weighted average export price to Vietnam during the period of investigation is claimed by the exporter as US\$ xxx/K.M. However, no adjustment has been claimed nor any information is furnished on net sales revenue. Therefore, the Authority takes into account the adjustments of US\$ 0.857/K.M. on account of freight, insurance and sales commission as claimed by the petitioner. The Authority, thus, determines the Normal value at US\$ xxx/K.M, taking into account the weighted average export price to Vietnam, as claimed by the exporter, and the adjustments as claimed by the petitioner. However, such determination of Normal value is only a Preliminary determination subject to verification.

Export price:

In regard to export price, the Authority takes into account the weighted average export price of US\$ xxx/K.M. to India as claimed by the exporter and. the weighted average adjustments of US\$ xxx/K.M. claimed on account.of Ocean freight, insurance and agency commission which the Authority has allowed. Thus, the Authority arrives at the ex-factory export price at US\$ xxx/K.M.

Dumping Margin

On the basis of comparison of the export price with Normal value determined in aforesaid manner, the Authority determines the dumping margin at US\$ xxx/K.M. which is 77.22% of the export price.

Exporter : M/s. Taihan Electric Wire Co. Ltd.

Normal Value

The Authority accepts the weighted average domestic selling price during the period of investigation at US\$ xxx/K.M. as claimed by the exporter. Adjustments of US\$ xxx/K.M. on account of inland freight, handling and taxes as claimed by the exporter

are also allowed by the Authority. Thus, the Authority calculates the Normal value at US\$ xxx/K.M. for the purpose of Preliminary determination subject to verification.

Export Price:

The Authority accepts the exporter's claim of the weighted average export price of US\$ xxx/K.M. to India. The adjustments of US\$ xxx/K.M. claim on account of overseas freight, inland freight, handling, overseas insurance and others are also allowed by the Authority. Thus, the Authority determines the export price at ex-factory level at US\$ xxx/K.M.

Dumping Margin

Comparing the export price to India with Normal value determined as aforesaid, the Authority determines the dumping margin at US\$ xxx/K.M. which is 13.75% of export price.

Exporter : M/s Samsung Electronics Company Ltd.

Normal value:

The Authority accepts the weighted average export price to third countries, namely; Hongkong, China, and France, as claimed by the exporter, in their response to the questionnaire duly supported by actual invoices the copies of which are furnished by the exporter. Since invoices constitute the documentary evidence of exports, the Authority is inclined to accept the value as per the invoices. Thus, the weighted-average export price to Hongkong, China and France is determined at US\$ xxxx/K.M., US\$ xxx/K.M. and US\$ xxx/K.M. respectively. Out of these three countries, for which information is furnished, the Authority considers China as the appropriate third country as China is a low cost economy like India and its market conditions are comparable to India's.

Thus, the Authority takes into account the export price to China as per invoices furnished by the exporter and the adjustments claimed thereon for the purpose of determination of Normal value. The Authority, thus, determines the weighted average cif price to China at US\$ xxx/K.M during the POI. The adjustments of .US\$ xxx/K.M. as claimed by the exporter on account of C/C fee, air freight, insurance and credit expenses for their exports to China are allowed by the Authority. Thus, the Normal Value is determined at US\$ xxx/K.M.

Export price:

The weighted average cif 'value of export to India as evidenced by the invoices furnished by the exporter is determined at US\$ xxx/K.M. The weighted average adjustments of US\$ xxx/K.M. on account of commission, C/C fee, air freight and insurance, as claimed by the exporter are allowed by the Authority. - Thus, the authority determines the export price to India at ex-factory level at US\$ xxx/K.M.

Dumping Margin

Comparing the Normal value with export price so determined, the Authority works out the dumping margin as US\$ xxx/K.M. which is 14.11 % of export price. .

Residual exporters:

In respect of all other exporters, if any, from the subject country who have not been named by the petitioner or who have not responded to the questionnaire, the Authority determines the dumping margin at the highest of the margins determined for the cooperative exporters from the subject country.

Thus, the dumping margin as % of ex-factory export price in respect of the exporters from the subject country is determined as follows

Country Exporter _ Dumping Margin

1. Korea RP 1. Daewoo Corporation 71.45%
2. LG Cable and Machinery Ltd. 77.22%
3. Taihan Electric Wire Co. Ltd: 13.75% 4. Samsung Electronics Company Ltd. 14.11%
4. All other exporters 77.22%

K. Injury

12. The Authority notes that the petitioner have claimed injury caused to the domestic industry on account of dumped imports from the subject country. The Authority examines this claim of injury to the domestic industry taking into account all relevant facts. and in accordance with Rule 11 Supra and the principles set out in Annexure II to the Rules.

For determination of injury, the Authority has examined the impact of dumped imports on the domestic industry in India. In this regard, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules Supra.

(a) Production capacity and capacity utilisation:

The Authority notes that the installed capacity of the petitioner, which was 2,00,000 K.M. per annum during the periods 1996-97 and 1997-98, has been increased to 10,00,000 K.M. per annum during the year 1998-99. Further, it is seen that though the production has increased in absolute terms during the period of investigation compared to previous two years, the capacity utilisation has declined to 25.63% during the period of investigation as compared to 67.25% during the previous year, i.e. 1997-98.

(b) Volume of imports :

As per the statistics published by the official agency DGCI&S, the quantum of imports from the subject country during the period of investigation and preceding two years is as under: -

Year Volume

1996-97 5626 Kgs.

1997-98 9964 Kgs.

POI - 28,887 Kgs

From the above figures, it is observed that the volume of total imports from the subject country during the POI has registered an increase of about 190% over the year 1997-98 and 413% over the year 1996-97.

(c) Net Sales realisation:

The Authority finds that the average sales realisation was Rs . /K.M. during the year 1996-97, Rs . /K.M. during the year 1997-98, and Rs . . . /K.M. during the POI. It declined in the year 1997-98 to Rs . /K.M. from Rs . . . /K.M. during the period 1996-97. During the POI, the average sales realisation declined further to Rs /K.M.

(d) Profitability

The Authority finds that the petitioner has incurred loss during the period of investigation as well as during the previous year, i.e. 1997-98 and the loss per K.M. off Optical Fibre has increased from Rsduring 1997-98 to Rs.....during the POI.

(e) Closing Stock:

The closing stock of the petitioner is found to have increased from 8279 K.Ms during 1997-98 to 19,717 K.Ms during the POI.

(f) Sales volume

The petitioner's sales have increased from 40428.78 K.Ms. during the year 1996-97 to 129343.2 Kms. during the year 1997-98. The sales have further increased to 234539.86 K.M.s during the period of investigation.

L. Conclusion on Injury:

13. In the light of the above observations contained in para 12, the Authority arrives at the following conclusions

- a. Quantum of imports from the subject country has greatly increased during the POI as compared to the preceding two years.
- b. The capacity utilisation of the petitioner has declined during the POI as compared to the previous year.
- c. There has been a decline in average sales realisation of the subject goods during the POI as compared to the previous two years. The decline during the POI is in the region of 20% vis-a-vis the average net selling price during the year 1997-98 about 38% vis-a-vis the net sales realisation during the year 1996-97.
- d. The loss suffered by the petitioner during the POI has increased by about 125% over the previous year.

M. Causal link

14. The Authority finds that increase in quantum of imports from the subject country resulted in the decline of market share of the petitioner. This had the effect of undercutting the prices of domestic Optical Fibre forcing the domestic industry to sell at unremunerative prices which are below the non-injurious selling price as determined by the Authority. The Authority holds that due to dumped imports from the subject country at low prices vis-a-vis the prices of their exports to other countries, the petitioner were forced to match their prices with the low prices of Korean exports. Resultantly, the petitioner incurred extremely high losses despite an increase in production and sales. The material injury to the domestic industry was, therefore, caused by the dumped imports from the subject country.

N Indian Industry's interest and other issues

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

16. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the 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, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic, industry. 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 Optical Fibre. Imposition of anti dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product to the consumers. .

17. To ascertain the extent of anti-dumping duty necessary to remove the injury to ' the domestic industry, the Authority may rely upon reasonable selling price of Optical Fibre in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

O. Conclusigns

18. After considering the foregoing, it is seen that

- a. Optical Fibre described under para 5 and originating in or exported from Korea RP has been exported below Normal value, resulting in dumping.
- b. The Indian Industry has suffered material injury.
- c. The injury has been caused cumulatively by the dumped imports from the subject country.

19. It is considered necessary to impose anti-dumping duty provisionally, pending final determination, on all imports of Optical Fibre originating in or exported from the subject country.

20. The Authority considered to recommend the amount of AntiDumping Duty equal to the margin of dumping or less, which if levied, would remove the injury to domestic industry. The average landed price of the imports, for the purpose, was compared exporter-wise with the Noninjurious selling price of the petitioner,

determined for the period of investigation. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. In respect of residual exporters, the Authority recommends the highest of the duties recommended for cooperative exporters/the exporters - stated by the petitioner. Accordingly, it is proposed, that provisional anti dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on all Optical Fibre originating in or exported from Korea RP falling under Customs sub-heading No.9001.10 of the Customs Tariff Act, pending final determination.

21. The provisional Anti-Dumping duty' in respect of the subject country and its exporters shall be the amounts mentioned in column 4 of the following table

Sl. Country Exporter Amount

No (Rupees per KM.)

1. Korea RP 1. Daewoo Corporation 1. 564.00

2. L.G. Cables and 2. 610.14

Machinery Ltd.

3. Taihan Electric 3. 122.25

Wire Co. Ltd.

4. Samsung Electronics 4. 146.78

Co. Ltd.

5. All other exporters 5. 610.14

22. 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 levied under Section 3, 3A, 8B, 9 and 9 A of the Customs Tariff Act, 1975.

P. FURTHER PROCEDURE:

23. 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, petitioners 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 disclose essential facts before announcing the final findings.

RATHI VINAY JHA...
Designated Authority