

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 9th June, 1997

Subject: Anti dumping investigation concerning imports of graphite electrodes from USA, Austria, France, Germany, Italy, Spain, China PR, and Belgium -- Preliminary Findings

ADD/IW/43 - 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:
 - a. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from M/s. Indian Graphite Electrodes Manufacturers Association on behalf of the domestic industry, alleging dumping of Graphite Electrodes originating in or exported from the USA, China PR and Europe;
 - b. The preliminary scrutiny of the application revealed certain deficiencies, which were pointed out to the petitioner. The petitioner clarified that it complained against imports of Normal Power Grade Graphite Electrodes, including its variations (hereinafter referred to as NPG electrodes) from China PR and against imports of Ultra High Power Grade Graphite Electrodes (hereinafter referred to as UHP electrodes) from the USA and Europe (hereinafter all these countries, including China PR are being collectively referred to as the subject countries). NPG electrodes and UHP electrodes have been referred to as subject goods in this notification hereinafter;
 - c. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate the investigation against USA, China PR, Germany, Belgium, Italy, France, Spain and Austria. The Authority notified the Embassies of these countries about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Rules;
 - d. The Authority issued a public notice dated 30th Sept., 1997 published in the Gazette of India, Extraordinary, initiating anti dumping investigation concerning imports of NPG electrodes and UHP electrodes, classified under

chapter 85 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from the subject countries. The Authority initiated anti dumping investigation against imports of NPG electrodes from China PR and against imports of UHP electrodes from the rest of the subject countries;

- e. The Authority forwarded a copy of the public notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2);
- f. The Authority forwarded a copy of the public notice to the known importers of Graphite Electrodes in India and advised them to make their views known in writing within forty days from the date of the letter;
- g. Request was made to Central Board of Excise & Customs (CBEC) to arrange copies of all the relevant Bills of Entries for the period of investigation. No information was however, received from CBEC;
- h. The Authority provided a copy of the petition to all the known exporters and the Embassies of the subject countries in accordance with rules 6(3) supra;
- i. The Authority sent questionnaire, to elicit relevant information, to the following known exporters:

- Ucar Inc., USA,
- SGL Carbon AG, Germany,
- China Metallurgical Import and Export Corpn., China,
- China National Non Ferrous Metals Import Export Corpn., China,
- Shanxi Export Import Coprn., China,
- Osia International, Hongkong,
- Beijing Metal & Minerals Import Export Corpn., China,
- Ruhrkohle Trading Pecific Pvt. Ltd., Australia

M/s. Ucar Inc., SGL Carbon, and Liaoning Metals & Minerals Import & Export Corpn. requested for extension of time, which was allowed by the Authority by two weeks.

Response to the questionnaire was filed by the following:

- Ucar International Inc., Danbury (hereinafter referred to as Ucar),
 - Liaoning Metals & Minerals Import & Export Corpn., China (hereinafter referred to as Liaoning Minmetals);
- j. The Embassies of the subject 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 country to respond to the

questionnaire within prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassies;

- k. The Austrian Trade Commissioner in India desired the name(s) of the Austrian company/organisation involved in the alleged dumped operations vide fax dated 1.10.96, which was supplied vide letter dated 8.10.96;
- l. The questionnaire was sent to the known importers of graphite electrodes in India calling for necessary information in accordance with rule 6(4);

M/s. Rathi Ispat Ltd. requested for extension of time, which was allowed by the Authority by two weeks. Response to the questionnaire was filed by the following importers:-

- Essar Steel Ltd., Hazira,
 - Mukund Ltd., Thane,
 - Lloyds Steel Industries Ltd., Wardha,
 - Madhya Pradesh Iron & Steel Company, New Delhi,
 - Rathi Ispat Ltd., Ghaziabad,
 - Ferro Alloys Corpn. Ltd., Nagpur,
 - Kanoria Steels, Mumbai;
- m. Information regarding domestic industry was sought from Indian Graphite Manufacturers Association (hereinafter referred to as IGMA or petitioner), which was also furnished;
 - n. Information deemed necessary for the purpose of preliminary findings was verified by the Authority;
 - o. Cost investigation was 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 so as to ascertain if anti dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry;
 - p. The investigation was carried out for the period from starting 1st April, 1995 to 30th Aug., 1996.

B. PETITIONER'S VIEWS

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

a. On dumping:

- The manufacturers of graphite electrodes in Europe, Ucar Inc. and SGL Carbon are exporting graphite electrodes to India at a price band of US \$ 2005 per MT

(FOB) whereas the same is being sold by them in their home market at US \$ 3200 per MT;

- The export price of Ucar and SGL Carbon to other, countries is between US \$ 2950 and 3162 per MT, as is evident from the Carbon Data Bank;
- Chinese manufacturers, directly as also through traders in Hongkong, are exporting graphite electrodes to India at a dumping price of US \$ 1100-1200 per MT. The export price from China does not cover cost of even raw materials and utilities;

b. • On injury:

- While domestic demand for UHP electrodes is around 5300 MT, the share of the domestic industry has been steadily declining because of increasing imports from Europe/USA;
- Imports of UHP electrodes increased from 9% (1992-93) to 12% (1993-94) and 43% (1995-96) of the total domestic demand;
- Capacity utilisation of the domestic industry declined from 83% (1993-94) to 74% (1995-96);
- Imports of graphite electrodes from China resulted in decline in sales of the domestic industry from 18500 MT (92-93) to 15000 MT (95-96), causing injury to the domestic industry.

C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

3. The views expressed by the exporters, importers and other interested parties are briefly as under.

I. SGL Carbon AG:

- SGL Carbon denied the charges of dumping. The exporter opined that it had scrutinised all documents relevant to sales to India and found that the same were in conformity to the regulations of fair trade. The exporter further stated that the Indian suppliers were selling below market prices in Europe and abroad.

II. Ucar:

- It was contended that Ucar is responding to the market conditions set up by extreme duty restrictions. The high duty has resulted in losses to the Indian electric arc furnace sector. The secondary sector of the Indian steel industry

needs assistance to become competitive in the world market. Imposition of Anti Dumping Duty would serve to hurt the ailing secondary steel sector and help to create a monopoly of supply of graphite electrodes in India;

- The growth in sales and assets of the three companies. Graphite India, HEG and Carbon Everflow does not indicate that the industry has suffered injury;
- Ucar began its sales efforts in India initially by supplying sizes that the Indian producers could not produce due to equipment constraints. The reasons for preference to Ucar's product is not low price, but high quality product and technical service;
- Ucar has supplied goods in Indian market at fair international prices.

III. Chinese exporters, importers and other interested parties:

a) On dumping:

- Export price from China is not lower than the prices at which the goods are sold in China;
- Exports from China are not subsidised;
- Some unscrupulous exporters in China might be exporting substandard quality or some unscrupulous importers might be importing by under-invoicing the import prices;
- There is a loss of average 5%, during transit in case of imports;

b) On injury, causal link and other issues:

- Indian producers do not produce UHP electrodes and therefore, there is no justification in their complaint;
- Indian producers are operating in a cartel and keeping their prices artificially high and controlled and are acting in a semi-monopolised way;
- Imposition of Anti Dumping Duty would amount to extending unwarranted protection;
- The Indian industry has not made substantial growth, which has caused injury to it;
- Indian producers are already getting a protection of import duty and there is no justification to allow further benefit by imposing Anti Dumping Duty;
- Indian producers can export their goods and the Indian demand can be met through imports;
- Price of larger diameter electrode in China is higher, whereas in India, the price of smaller diameter electrode is higher. The consumers in India, therefore, prefer to import smaller diameter electrodes;
- Consumption of imported material is higher for producing per tonne of finished goods due to poor quality of the material.

- Indigenous material is purchased on an average of 20 days credit, resulting in a saving over imported @ 19.25% p.a.;
- Imported material is purchased in bulk quantities and involves extra costs on storage, interest loss on blocked funds on excessive inventory, financial charges, L/C opening charges, bank commission on documents retired, telex/postage charges;
- Essar Steel Ltd., one of the importer and a consumer of graphite electrodes, stated that it was the only user of 28"/30" dia electrodes in India. The company further stated that there is no Indian manufacturer producing this range. Import of these grades is absolutely necessary, and question of dumping of these grades electrodes does not arise;
- Quality of imported electrodes is more consistent;
- There are problems in supply from the Indian suppliers, who are in a habit of creating crisis and selling shorter length electrodes;
- Average selling prices of the Indian industry are significantly higher than average import prices from China;

D. EXAMINATION OF THE ISSUES RAISED

4. The submissions made by the exporters, importers, petitioner and other interested parties have been examined and considered and have been dealt with at appropriate places in this notification.

E. PRODUCT UNDER CONSIDERATION

5. The products covered under the scope of present investigation are graphite electrodes of the following types:-

- a. Ultra High power grade graphite electrodes (referred to as UHP electrodes)
- b. Normal power grade graphite electrodes, including its variation, High Power grade (referred to as NPG electrodes).

The production process for manufacture of UHP electrodes requires calcined petroleum coke (needle structure, popularly known as needle coke), coal tar pitch and petroleum pitch as primary raw materials. The process involves forming, baking, impregnating, rebaking, graphitising and machining. In the process of manufacture of NPG regular grade electrodes, calcined petroleum coke is used alongwith other raw materials and the process involved is the same as of UHP electrodes except pitch impregnation and rebaking. It is also observed that calcined petroleum coke of regular grade is also used to manufacture High Power (HP) electrodes by undertaking additional pitch

impregnation to the normal process of manufacturing NPG. This additional process imparts certain enhanced/improved properties like current carrying capacity to the NPG electrodes.

In view of the above, all graphite electrodes including UHP, NPG alongwith its variations like high power grade are covered by the scope of the present investigation.

6. Graphite electrodes act as conductors of electricity in furnace and generate sufficient heat to melt scrap metal or other material used to produce steel or other materials: Heat is generated by graphite electrodes as electricity at very high amperes passes through it and creates an electric arc between the electrodes and the raw-material. The electrodes are generally consumed in the course of the production. The size of an electrode required will depend upon the size of the furnace, its electric transformer and plant productivity of the furnace. The size typically varies from 75mm to 750mm in diameter, 2 feet to 9 feet in length and weighs between 20 pounds to 4800 pounds. The rate of consumption of electrode depends upon the efficiency and productivity of the furnace.

7. Graphite Electrode is classified under chapter 85 of Schedule I of the Customs Tariff Act, 1975. The classification is, however, indicative only and is in no way binding on the scope of the present investigation and on the item liable to duty.

F. LIKE ARTICLES

8. NPG electrodes, including High Power and UHP electrodes are produced and sold in various sizes, as detailed above. Various size result from the same technology, processing and raw materials. The various sizes serve the same general purpose and differ only with regard to their end application in a furnace suitable to take a particular size.

9. The Authority notes that the graphite electrodes produced and sold by the domestic industry and imported from China PR were consumed interchangeably. Similarly, graphite electrodes produced and sold by the domestic industry and imported from USA, Spain, Italy, France, Austria, Belgium and Germany were consumed interchangeably. No significant difference in the products imported from the subject countries and products produced and sold by the domestic industry has been reported by any of the interested parties. The goods produced by the domestic industry were, therefore, similar, having closely resembling characteristics to the goods imported from the subject countries. The Authority, therefore, holds that NPG graphite electrode produced by the domestic industry is a like article to graphite electrodes

imported from China and UHP graphite electrode produced by the domestic industry is a like article to graphite electrode imported from the subject countries except China PR within the meaning of the rules.

G. DOMESTIC INDUSTRY

10. The petition has been filed by M/s Indian Graphite Manufacturers Association, PHD House, Opp. Asian Games Village, New Delhi. There are three producers of graphite electrodes in India:

M/s.

- Graphite India Ltd. (GI),
- HEG Ltd. (HEG);
- Carbon Everflow Ltd. (CE),

All the three producers are members of the Association and are participating in the present investigation. The petition is supported by all the graphite electrode producers in India. The petition is, therefore, considered as having being made on behalf of the domestic industry.

11. Production of Graphite India Ltd., HEG Ltd. and Carbon Everflow Ltd. accounted for a major proportion of the total domestic production in India. The three companies therefore, constitute domestic industry in accordance with Rule 2(b) supra.

H. NORMAL VALUE

I. Ucar Ins.

12. Ucar Ins. filed their response. Normal value for the exporter has been worked out on the basis of information furnished by it, and the same is discussed below:

- Ucar has plants at the following places:
- Clarkville Tennessee, USA,
- Columbia, Tennessee, USA,
- Welland Ontario, Canada,
- Monterrey, Nueva Leon, Mexico,
- Salvador Bahia, Brazil,
- EMSA (PTY) Ltd., Meyerton South Africa,
- Calais, France,
- Notre-Dame-de-Braiancon, France,
- Caserta, Italy,

- Pamplona, Spain.

13. The Authority notes that though the company has plants in several countries in the world, Ucar International Ins., Danbury, CT, USA has filed response on behalf of all the plants, giving therein details of all the exports made by it. In fact, the company has not even indicated the plant/country from where. it has made exports.

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 transhipped 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. Ucar has exported the goods from a country other than the country of origin. However, Ucar is producing the goods in the country of exports and there is a comparable price of the goods in the country of exports. Furthermore, Ucar had a choice of exporting the goods to India or selling in the domestic market of the country of exports. The normal value, therefore, has to be determined with reference to the country of exports, i.e., USA.

16. With regard to normal value in USA, the Authority notes that it is not clear from the information furnished by the exporter whether the same pertains to USA or all the plants of Ucar.

17. The exporter has claimed following adjustments in the domestic prices:

- i. Inland freight: The exporter has claimed an amount of US \$ *** per MT on account of inland freight.
- ii. Handling: The exporter has claimed an amount of US \$ *** per MT on account of handling expenses.
- iii. Commission: The exporter has claimed commission ranging between ***%.

The exporter has claimed same amount of adjustments in case of domestic and export sales. The claims at i) to iii) are allowed in order to work out ex-works realisations : for the, purpose of preliminary determination.

II. SGL Carbon:

18. SGL Carbon requested extension of time vide fax dated 20.11.1996, which was granted by the Authority. The exporter has, however, not furnished any response in the form and manner prescribed.

While requesting extension, SGL stated, on behalf of SGL Carbon AG and all its world-wide subsidiaries, that many of the questions such as details with regard to cost structures and facilities are in conflict with international principles of law.

The exporter, vide letter dated 25.2.1997 denied the charge stating that all documents relevant to sales to India were carefully scrutinised within the group and the same accurately reflect a behaviour which is in conformity to the regulations of fair trade. The exporter enclosed a statement showing its ex-works export price to India and its market price.

19. The argument of the exporter that many of the questions such as details with regard to cost structures and facilities are in conflict with international principles of law, is not tenable. Rule 6(2) authorises the Authority to collect such information as is deemed fit for arriving at a fair decision. The information requested by the Authority is essential to determine normal value and export price in accordance with the provisions of law.

20. Exports or alleged dumping by Indian industry is irrelevant for deciding normal value and/or export price of SGL.

21. In view of the above, there is no other option for the Authority but to treat the exporter as non-co-operative and the Authority has determined normal value in accordance with Rule 6(8), i.e., on the basis of best information available. The exporter has furnished details of the price at which it has exported to India (gross and

net realisations from exports made to India). It is found that the exporter has sold in its home market at a gross price of US \$ ***** per MT and a net price of US \$ ***** per MT (after adjusting for inland freight of US \$ *** per MT). The petitioner has claimed normal value of US \$ ***** per MT. The Authority has considered the normal value in case of SGL Carbon on the basis of information furnished by the exporter even though response to the questionnaire has not been furnished.

III. Liaoning Minmetal:

22. Liaoning Minmetals has filed response in the format prescribed by the Authority. The response has been analysed and it is found that though the response has been filed on the letter head of Liaoning Minmetals, the information is in respect of some other entity. There are indications in the response that the sales in the home market and exports to India and other countries are by separate entities. It is also found that the unit selling price furnished in the costs of production and profitability statement are on the basis of lowest selling price, whereas the exporter was required to furnish comparable selling price. The exporter has also not furnished details of factories involved in the production of like product and incentives given on exports sales by the Govt. in various forms, such as income tax concessions/ exemptions, reimbursements/ exemption of taxes on inputs, subsidised supplies of raw materials, utilities like power, water, etc., import entitlement of goods otherwise restricted for imports, etc. Furthermore, from a copy of the Company Profile enclosed by Liaoning Minmetals alongwith the response, it is found that the exporter, which is a state-owned company, is engaged in procurement, distribution and shipment of goods and apparently does not undertake production of goods.

In view of the above, the response filed by the exporter has been treated as incomplete and insufficient to arrive at a fair decision and the Authority has discarded the information furnished by the exporter. The normal value has been determined on the basis of information furnished by the petitioner, i.e., cost of production constructed for China PR.

IV. Other exporters from China:

23. It is found from the information furnished by the importers that China National Non-Ferrous Metals Import Export Henan Corpn. (China National hereinafter) has also exported graphite electrodes to India. The exporter has not furnished any response. The Authority has considered determination of normal value in case of this exporter on the basis of cost of production constructed for China in accordance with Rule 6(8).

I. EXPORT PRICE

I. Ucar Inc:

24. Ucar has furnished details of exports made by it. The details include shipments made from a number of countries. Since the exporter has made exports to India at these prices, all exports made by it have been considered while determining export price, regardless of the country from where the goods were shipped. The Authority notes that the fact of physical shipment is of little consequence in deciding dumping.

In view of the above, the Authority has considered all the exports made by Ucar during the investigation period, irrespective of the place from where deliveries were made.

25. The exporter has claimed adjustments on account of inland freight, handling, commission, overseas insurance and overseas freight. The amount of claims in respect of inland freight, handling and commission are the same as have been claimed in case of domestic sales and therefore, have been allowed. The exporter has claimed an amount of US \$ *** per MT on account of overseas freight and US \$ *** per MT on account of overseas insurance. The Authority has allowed these adjustments as claimed.

II. SGL Carbon:

26. As stated in the para relating to normal, value, the exporter has furnished the price at which it has exported to India. The exporter has indicated that it has exported to India at a price of US \$ ***** per MT (CIF Mumbai) and US \$ ***** per MT (ex-works). It is, however, found from the information furnished by the importers that the exporter has not exported at a uniform price, as claimed by the exporter, and the export price is lower than the price indicated by the exporter. Since SGL has not furnished information with regard to export price in the form and manner prescribed, the Authority has determined export price in accordance with Rule 6(8), i.e., best available information. The Authority has considered determination of export price on the basis of details furnished by the importers. Since the exporter has indicated that it has incurred an expenditure of US \$ *** per MT on account of ocean and inland freight, the CIF export price has been adjusted for freight. The export price has been adjusted for commission @ ***% on the basis of claims made by Ucar, in view of non-cooperation by the exporter.

III. Liaoning Minmetals:

27. Export price in case of Liaoning Minmetals has been arrived at from the information furnished by the exporter. The exporter has claimed adjustments on account of commission @ *** %, overseas freight (@ US \$ *** per MT), shipping charges (@ *** US \$/MT), clearance and handling (Q *** US \$/MT). It is considered appropriate to allow adjustments on these accounts, as claimed. The adjusted export price has been considered as ex-works export price.

IV. Other exporters from China:

28. The export price in case of China National has been worked out from the information furnished by the importers, in view of non-cooperation by the exporter. The export price has been adjusted for commission @ ***, overseas freight (@ US \$ *** per MT), shipping charges (@ *** US \$/MT), clearance and handling (@ *** US \$/MT), on the basis of information furnished by Liaoning Minmetals in view of non-cooperation by the exporter.

29. Export price in case of other exporters from China (residual category) has been determined on the basis of information furnished by the petitioner at the time of initiation (which indicated the volume and value of imports from China) and information furnished by Liaoning Minmetals and importers. The export price has been worked out after reducing the exports made by Liaoning Mfnmetals and China National from the total exports. The export price has been adjusted for commission @ ***, overseas freight (@ US \$ *** per MT), shipping charges (@ *** US \$/MT), clearance and handling (@ *** US \$/MT), on the basis of information furnished by Liaoning Minmetals in view of non-cooperation by the exporter. J.

J. COMPARISON

30. 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 of trade, normally at ex-works level, and in respect of sales made at as nearly possible the same time. Due allowance shall be made in each case, on its merit for differences which affect price comparability, including differences conditions and terms of sale, taxation, levels of trade, quantities physical characteristics, and any other differences which a demonstrated to affect price comparability."

31. For the purpose of fair comparison between the normal value and the export price, the Authority took into account the information furnished by the exporters, importers,

and petitioner. The weighted average normal value has been compared with weighted average export price for individual exporter.

32. The comparison shows the following Normal Value, Export Price and dumping margins:

S No.	Name of the exporter	Normal Value	Export Price	Dumping Margin *
1.	Ucar Inc., USA	***	***	45%
2.	SGL Carbon, Germany	***	***	57%
3.	Liaoning Minmetal, China	***	***	75%
4.	China National, China	***	***	70%
5.	France	***	***	93%
6.	Italy	***	***	60%
7.	Austria	***	***	88%
8.	Spain	***	***	56%
9.	Belgium	***	***	43%

* Dumping margin as a percentage of export price.

K. INJURY

33. 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 compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to, a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

34. 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

- a. 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

- b. cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

35. The margin of dumping and quantum of imports from USA, China PR, Germany, Belgium, Italy, France, Spain and Austria are more than the limits prescribed.

Cumulative assessment of the effect of imports is appropriate since the imports from USA, China PR, Germany, Belgium, Italy, France, Spain and Austria and supplies from the petitioner companies are directly competing in the Indian market.

36. (i) The effect of the dumped imports shall be assessed, in accordance with para (vi) of the Annexure II to the Rules, in relation to the domestic production of the like article when available data permit separate identification of that production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that production is not possible, the effect 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.

37. It is observed that though the different types of graphite electrodes have different characteristics, usage etc., there are a number of processes which use common equipment and facilities. In view of the fact that the production processes as well as the production capacities overlap each other in varying proportions, it would neither be appropriate nor feasible to assess the injury to the domestic industry for each type of graphite electrode. The Authority, therefore, in accordance with the para 6 of Annexure II to the Rules, considers it appropriate to assess the injury for all the types of graphite electrodes cumulatively and collectively.

38. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilisation, sales quantum, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra.

a. Volume and Market Share of Dumped Imports

39. The imports statistics released by the DGCI&S cannot be relied upon, as DGCI&S does not compile imports statistics in terms of volume of graphite electrodes imported in India. Since all the exporters from these countries and importers in India have not responded to the Authority, details of actual imports from these countries cannot be

worked out from the responses received. The information furnished by the petitioner with regard to the volume of imports has not been disputed by any interested party. The details of imports of graphite electrodes furnished by the petitioner have, therefore, been relied upon.

40. Imports of graphite electrode in India from the subject countries increased from 200 MT (1992-93) to 4070 MT in 1994-95 and 6612 MT in 1995-96, as may be seen from the following figure A.

Figure A-Imports of Graphite electrodes in India

41. As per the available statistics, market share of the subject countries in the total imports in the country increased from 0.96% (1992-93) to 18.40 % (1994-95) and 27.42% (1995-96) as can be seen from the following figure B. Market share of the domestic industry simultaneously declined from 99.04% (1992-93) to 72.58% (1995-96).

Figure B- Market share of domestic industry and imports

b. Economic indicators affecting domestic industry:

i) Production and Capacity Utilisation:

42. Production of graphite electrode of the domestic industry increased from 34444 MT (1993-94) to 36800 MT (1995-96). It is, however, observed that the increase in the production is because of higher export volumes and sales in the domestic market have declined in spite of increase in production.

ii) Sales in Absolute Quantity:

43. Sales of the domestic industry in absolute terms declined from 18488 MT(1993-94) to 17500 MT (1995-96). The decline in the sales volumes is in spite of increase in the demand of graphite electrodes. The increase in demand has been, therefore, catered to by the imports.

iii) Selling Price Trend:

44. Average net realisation per MT of sales (after excluding excise duty and discounts) were Rs. 65386 (1992-93), Rs. 70792 (1994-95) and Rs. between 74960 and 80138 (1995-96) in case of NPG electrodes and Rs. 72978 (92-93), 82582 (93-94) and between 90578 and 101302 (95-96) in case of UHP electrodes.

iv) Stock:

45. Stock of graphite electrodes with domestic industry during the period of investigation ranged between 410 MT to 1113 MT. Stock of graphite electrodes with the domestic industry show rising trend, as may be seen from the following figure C.

Figure C – Stock of NPG electrodes and UHP electrodes with the domestic industry

v) Profit/Loss

46. The petitioner companies are engaged in a number of activities in addition of production and sale of graphite electrodes. Even in the graphite electrodes market all the three companies are exporting graphite electrodes in significant quantities. The profit/loss reported by the petitioner companies in the published annual accounts can not be, therefore, relied upon for assessment of injury to the petitioner from sale of graphite electrodes in the Indian market. It is, however, found from the per unit cost of production and selling prices that the petitioner companies were making financial profits from sale of NPG electrodes in the domestic markets whereas sale of UHP electrodes were at a loss. The petitioner however, suffered loss of profit because of dumped imports, both for NPG electrodes (including High Power) and UHP electrodes.

g. Threat of material injury:

47. There are enough indications that imports of graphite electrodes from the subject would cause a threat of material injury. These are:

- i. The increase in the imports from the subject countries is significant in absolute terms, relative to production and consumption of graphite electrodes in India and the history of graphite electrodes imports, production and sales in India;
- ii. There is sufficient capacity available with the exporters. In view of the significant margin of dumping there is a likelihood of substantially increased dumped imports in future;
- iii. Imports of NPG electrodes from China PR are entering into India at a price which would have significant depressing and/or suppressing effect on the prices of graphite electrodes in the Indian market.

g. Conclusion on Injury:

48. The Authority concludes that:

- The circumstances warrant consideration of injury on cumulative basis for imports from the subject countries;
- The effect of dumped imports should be assessed by examination of graphite electrodes as a whole produced and sold by the domestic industry;
- The imports of graphite electrodes increased in absolute terms from the subject countries during the period of investigation;
- The share of the subject countries in the total demand of graphite electrodes in the country increased significantly during the investigation period. The domestic industry lost market to a significant extent;
- Exports from the subject countries resulted in a significant loss of profits to the Indian industry.
- Various indicators relating to domestic industry such as production, capacity utilisation, sales quantities, average sales realisation, stock, profit/losses collectively and cumulatively establish that the domestic industry has suffered material injury, even though some of the parameters show improvement;
- Imports from the subject countries also cause a threat of material injury to the domestic industry.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

49. 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.

50. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using graphite electrodes 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 graphite electrodes. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

51. To ascertain the extent of Anti-dumping duty necessary to remove the injury to the domestic industry, reasonable selling price of graphite electrodes in India for the domestic industry has been relied upon, by considering the optimum cost of production at optimum level of capacity utilisation. Separate fair stilling prices have been considered for NPG electrodes and UHP electrodes.

52. Injury caused to the domestic industry from factors other than dumping, if any, have not been considered while recommending the amount of Anti Dumping Duty necessary to remove the injury to the domestic industry caused by dumped imports.

53. The reduction in custom duties in no way affect the dumping per se. In so far as the injury is concerned, the level of injury being faced by the domestic industry has been calculated after considering the custom duties prevailing during the period of investigation.

M. Landed Value:

54. Ucar and Liaoning Minmetals have furnished export price. The exporters have, however, not furnished the landed values of individual transactions, as requested by the Authority. The information furnished by the exporters has been, therefore, correlated with the information furnished by the importers. Landed values in case of other exporters have been determined on the basis of information furnished by the importers. Landed values have been worked out after considering the levels of prevailing customs duties, after adding landing charges (@ 1%) and handling charges.(@ 2%).

N. CONCLUSIONS

55. The Authority concludes, after considering the foregoing, that:

- a. Graphite electrodes originating in or exported from USA, China PR, Germany, Belgium, France, Spain and Austria have been exported to India below their normal values, resulting in dumping;
- b. the Indian industry has suffered material injury. The imports cause a threat of material injury, if the dumping continues;
- c. the injury has been caused cumulatively by the imports from the subject countries.

56 It is considered necessary to impose anti dumping duty provisionally, pending final determination, on all imports of NPG graphite electrodes originating in or exported from China PR and on all imports of UHP electrodes from subject countries other than China PR in order to remove injury to the domestic industry, pending investigation.

57. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed prices of the individual imports for each exporter, for the purpose, were compared with the fair selling price of the domestic industry, determined for the period of investigation. Wherever the difference was less

than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is recommended 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 NPG graphite electrodes originating in or exported from China PR and all imports of UHP Electrodes originating in or exported from the USA, Germany, Belgium, Italy, France, Spain and Austria, falling under Chapter 85 of the Customs Tariff, pending final determination.

S. No.	Products originating in or exported from	Name of the exporter	Size of the graphite electrode	Amount of Duty (Rs. per MT)
A. NPG graphite electrodes (including High Power)				
1.	China PR	a.) Liaoning Metals & Minerals Import & Export Corpn.	all sizes	13356
		b.) China National Non Ferrous Metals I/E Corpn.	all sizes	11955
		c.) Exporter other than the above	all sizes	16884
B. UHP graphite electrodes				
1.	USA	a.) Ucar Inc.	28"-30" All other sizes	NIL 19410
		b.) Exporters other than above	All sizes	19410
2.	Germany	a.) SGL Carbon AG	28"-30" 22"-26" All other sizes	NIL 9021 20933
		b.) Exporter other than above	All sizes	20933
3.	France	Any exporter	All sizes	29695
4.	Italy	Any exporter	All sizes	21645
5.	Austria	Any exporter	All sizes	27347
6.	Spain	Any exporter	All sizes	17125
7.	Belgium	Any exporter	All sizes	16918

58. The known exporters, importers, petitioners and other interested parties are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings.

Dipak Chatterjee,
Designated Authority