

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

NOTIFICATION

New Delhi, the 6th May, 2003

PRELIMINARY FINDINGS

Subject: Anti-dumping investigation concerning import of Ball Bearings and parts and components thereof (up to 50 mm bore dia) from China PR, Poland, Russia and Romania- Preliminary Findings.

No. 14/30/2002-DGAD - The Government of India 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 Ball and Roller Bearing Manufacturers Association of India, New Delhi through its members viz., M/s. FAG Bearings India Ltd., Vadodara, M/s. NRB Bearings Ltd., Mumbai, M/s. SKF Bearings India Ltd., Mumbai, M/s. National Engineering Industries Ltd., Jaipur, M/s. Tata Iron and Steel Company Ltd., (Bearing Division), Kharagpur, representing the domestic industry, alleging dumping of Ball Bearings and parts and components thereof (up to 50 mm bore dia) (hereinafter referred to as subject goods) originating in and exported from China PR, Poland, Russia and Romania (hereinafter referred to as subject countries) ;
- ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter, considered as properly documented;
- iii. The Authority notified the Embassies of subject countries in India 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;
- iv. The Authority issued a Public Notice dated 21st September, 2002 published in the Gazette of India, Extraordinary, initiating anti dumping proceedings

concerning imports of Ball Bearings and parts and components thereof (up to 50 mm bore dia) covered under Chapter heading/subheading 8482.10, 8482.80, 8482.91 of Schedule I of the Customs Tariff Act.

- v. The Authority forwarded copy of the said public notice to the known exporters, importers and to the complainants and gave them an opportunity to make their views known in writing.
- vi. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of the petition to all the known exporters and Embassies of subject countries in India.
- vii. The Authority sent questionnaires, to elicit relevant information, to the following exporters: -

Dong Guan Chu-Hsiang Hardware Manufacturing Company Ltd.,
CHINA

Chuang-Ming Bearings & Autoparts Development Company Limited
CHINA

KOYO Romania S.A.
ROMANIA

RULMENTI S.A.-SLATINA
ROMANIA

JSC "Moscow Bearings" (GPZ-1)
RUSSIA

CJSC "SPZ-4"
RUSSIA

NSK Iskra S.A.
POLAND

- viii. The Embassies of subject countries in New Delhi 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;
- ix. The questionnaire was sent to the following importers of subject goods:

1. 21st Century Bearingsa

- A K V Enterprise
- Abhinandan Pershad & Bros.
- Ashoka Bearing Corporation

- B.B. Enterprise
- Barewell Traders
- Baroda Bearing Centre
- Bearing House
- Bearing Sales Corporation
- Btc International
- Cochin Bearing Centre
- Commercial Enterprises
- Durga Enterprises [Chennai]
- Expo Sales Agency
- Falcon Bearing Co.
- Goel Enterprises
- H. R. Bearings
- India Sales Service
- Indo Engineering Corporation
- Industrial Bearing & Mill Stores
- J. Subuswami Aiyar & Sons
- J.N.Gupta & Co.
- Jainco Bearings Pvt. Ltd.
- Jayshree Engineering Co.
- Jinharsh Trading Co.Pvt.Ltd.
- Joshi Thermal
- Kapoor Enterprises
- Kay Mohan Corporation
- L N T India
- Laxmi Bearings Pvt. Ltd.
- Machine Tools And Implements
- Marketing & Manufacturing Co.
- Modern Agency
- Modern Bearing Agencies
- Navnath Trading Co. Pvt. Ltd
- Newmann Corporation
- New-Tech Bearing Corporation
- Perfect Bearing Co.
- Phoenix Trading Corporation
- Pragathi Bearings
- Prahladrai & Sons
- Precision Engineering Company
- Precision Bearings
- Premier India Co.
- Quality Tools & Bearing Centre

- R.B. Sales Corporation
- R.K.Engineering Corporation
- Rajesh Bearing & Mill Stores
- Rishabh Impex
- Rollmann Trading Company
- Royal Bearing Centre
- S. Dayal & Sons
- S.V. Hi-Tech Bearing (I) Pvt. Ltd
- Santiniketan Enterprises
- Shree Shakti Traders
- South India Bearing Co.
- Sree Godavari Bearing Co.
- Sree Sentil Balaji Agencies
- Steelco Products
- Suchitra Sales Pvt. Ltd.
- Therm-O-Coal Bearing Co.
- Tools Bearing Syndicate
- Trade India Corporation
- Trade Overseas
- Uday Enterprise
- Uni Trade India
- Universal Sales Corporation
- Uttam Bearing
- V.V. Grasons & Co.
- Vikas Bearings Private Limited
- Alidhra Machines Pvt. Limited
- Allena Auto Industries Pvt. Ltd
- Alpump Private Limited
- Asea Brown Boveri Ltd.
- Ashok Leyland Ltd.
- Auto Pump Engineers
- Autolec Industries Ltd
- ajaj Auto Ltd
- ajaj Tempo Ltd.
- Bharat Bijlee Ltd.
- Birla Yamaha Limited
- Borsara Machines
- Crompton Greaves Limited.
- Cummins India Limited.
- Darshan Lal & Sons
- Delta Elastometal Components Pvt Ltd

- Ece Industries Limited
- Eicher Tractors
- Elecon Engineering Company Limited
- Electro - Dip
- Elgi Equipments Limited
- Escorts Claas Limited
- Escorts Limited
- Geedee Stoll (P) Ltd
- Greaves Limited
- Gujarat Setco Clutch Limited
- H V Transmissions Limited
- H.M.T. Ltd. (Tractor Division)
- Hhml Dharuhera
- Hindustan Motors Limited
- Honda Motorcycle & Scooter India
- Hv Axles Limited
- Ifb Industries Limited
- Indian Rayon And Industries Ltd.
- Indo-Farm Equipment Limited
- International Tractors Limited
- Involute Tooling Corporation
- Kalsi Metal Works
- Kerala Agro Machinery Corporation Ltd
- Kerala Automobiles Ltd.
- Kinetic Motor Company Limited
- Kirloskar Electric Company Ltd.
- Kone Elevator India Limited
- L & T John Deere Ltd.
- Lakshmi Machine Works Ltd.
- Laxmi Hydraulics P.Ltd.
- LML Ltd.
- Lubi Electricals Limited
- Lyko Engineering Works
- Maharashtra Scooters Ltd.
- Mahindra & Mahindra Limited
- Mahindra Gujarat Tractor Ltd.
- Majestic Auto Ltd.
- Maruti Udyog Ltd
- Mohan Generators & Pumps Pvt Ltd
- Navyug Electric Motors & Pumps Ltd.
- New Holland Tractors (India) Pvt Ltd, Noida (Oe)

- NGEF (Hubli) Ltd.
- Power Build Elecon Gears Limited
- Power Build Ltd.
- Punjab Tractors Ltd.
- Rane Nastech Limited
- Rane Trw Steering System Limited
- Rane Trw Steering System Limited
- Rane(Madras) Limited
- Same Greaves Tractors Limited
- San Motors Limited
- Shanthi Gears Limited
- Silvassa Machines
- Sinex Primemovers
- Smeps Electro Power Pvt. Ltd.
- Sona Koyo Steering Systems Ltd
- Suessen Asia Limited
- Swaraj Engines Limited
- Sweco India
- TELCO
- Tata Cummins Ltd.
- Tata Engg. & Locomotive Co. Ltd.
- Tata Engineering & Locomotive Co Ltd
- Tata Engineering & Locomotive Co Ltd (Car Plant)
- Tractors And Farm Equipment Ltd.
- Trumac Engineering Co. Pvt. Ltd.
- Tvs Motors Limited
- Varroc Engg. Limited
- Veejay Lakshmi Engg. Works Ltd.
- Vst Tillers Tractors Ltd.
- Yamaha Motor India Pvt. Limited

- x. Additional information regarding injury was sought from the petitioners, which was also furnished;
- 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. Some of the interested parties requested for extension in time to file their response to the questionnaire which was granted upon due cause shown;
- xiii. ***** in this notification represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules;

- xiv. The investigation covered the period from 1st January 2001 to 31st March, 2002;
- xv. Copies of initiation notice were also sent to FICCI, CII, ASSOCHAM etc., for wider circulation.

B. PETITIONER'S VIEWS

3. The petitioner has made the following major arguments in their submissions:-

- i. This application is filed seeking a levy of anti-Dumping duty on imports of Ball Bearings and parts and components thereof (up to 50 mm bore dia) from China, Poland, Romania and Russia. The said products are being dumped into the country at prices significantly below their normal values and as such, causing material injury to the Indian domestic industry manufacturing the said product.
- ii. Major end markets for ball bearings include agricultural, mining, construction, aerospace, automotive, consumer durable, and oil sector. Other growth markets includes computer disc drives and peripheral equipment, in line skates and fractional motors. Following major segments are the users of bearings: -
 - Fan segment,
 - Electric Motor segment,
 - Automotive segment (including two wheelers),
 - Pumps,
 - Domestic Appliances,
 - Industrial Appliances,
 - Others.

Out of the above, fan, electric motor and pumps segment is primary segment. The industry has been worst hit by the dumped imports in this segment.

- iii. The product under consideration includes all types of anti friction ball bearings that employ balls as the rolling element (whether grounded or ungrounded) that are originating in or exported from Subject Countries. It also includes all parts and components of ball bearings, which includes inner ring, outer ring, cage, balls, seals, shields, etc. Further, all types of ball bearings (subject to the restriction on size, as stated elsewhere in this petition) are included in this petition, whether finished, unfinished, with or without heat treatment.
- iv. Though different types of ball bearings are inter-se not substitutable and every consumer would require specific size of ball bearing depending upon the design conditions, all these different size emerge from similar technology, manufacturing process, raw material, and plant & equipment.

- v. Petitioners have done entire analysis in this petition considering comparison on model-to-model basis. However, the eventual anti dumping duty is required to be imposed on "weight basis", whether one anti dumping duty for different types is imposed or separate anti dumping duties are determined for the three sub-categories identified or separate anti dumping duty is imposed on each size of bearing.
- vi. The product under consideration in the present petition is being dumped by the producers and exporters in People's Republic of China, Russia, Poland and Romania.
- vii. The product is being exported in Indian market at dumping prices for the past more than three years.
- viii. Petitioners have determined de minimus position of imports from the subject countries as per data published by the DGCI&S. Though the petitioners have provided information with regard to volume and value of imports as per the statistics published by the DGCI&S, the petitioners submit that such consolidated information on imports in terms of total numbers (volume and value) may not provide any meaningful information with regard to the price at which different bearings have been dumped from the subject countries. However, the information published by the DGCI&S can be relied upon for determination of *total volume and total value* of imports of ball bearings for assessing the de-minimus volume of imports and the extent to which imports have taken place and have caused material injury to the domestic industry.

In view of the above mentioned shortcoming in the data provided by the DGCI&S, petitioners considered it more appropriate to rely upon the transaction wise import information. Petitioners have collected import information from M/s. International Publishing House, Mumbai.

- ix. Two very important inferences can be drawn from the data released by the DGCI&S and the Secondary Source data analyzed by the petitioners: -

China is the primary exporter of ball bearings to India, commanding more than 50% of total imports of Bearing in India in the subject category.

Of all types of ball bearings, imports of 6201, 6202, 6203 types form a very significant proportion of the total imports of bearings from subject countries. These types form very significant proportion of imports of different types of bearings from subject countries

Average import price of ball bearings below 50 mm is very low as compared to the import price of higher sizes.

The above corroborates the actual market experience of the petitioners. Petitioners have carried out similar exercise in respect of other countries also and the results are similar.

x. **Duty on weight basis**

Petitioners submit that the volume and value of imports of the subject goods and eventual anti dumping duty bench marks are required to be fixed in terms of weight in view of the following reasons: -

1. This is the most appropriate method to implement the anti dumping duty on a product like the present. A purchaser, more particularly a trader, importing from the subject country would normally be buying a group of bearings. Should the benchmarks be based on number of bearings, the implementation of the duties would be difficult and product would be prone to circumvention.
 2. There are a very large number of subject bearings produced and sold both in India and subject countries. Thus, it would not be feasible to recommend and implement separate benchmark for each type of bearing. Further, separate benchmark for each type of bearing may be abused by the importers.
- xi. In the instant case, China and Russia are non-market economies. China and Russia have been treated as non-market economy by European Commission and United States in the past three years. European Union and United States are members of World Trade Organization. In India also, the Designated Authority has treated China as non-market economy.
- xii. China and Russia are "non-market economy" countries. Determination of normal value in these countries is to be done in accordance to the rules relating to non-market economies.
- xiii. Russian and Chinese exporters have exported very large numbers of ball bearings numbered 6201, 6202 and 6203. Total number of these bearings exported by China in the period under reference constituted about 66 % of total known imports from China and about 47% of total known imports from Russia wherein the description is available. These ball bearings are exported at an average export price of Rs. 7.01, 7.68, and 10.22 per bearing respectively in 2001 calendar year period from China and Rs. 6.63, 6.60, and 6.84 per bearing respectively in 2001 calendar year period from Russia. The ex-factory export price of these exports is so low that the same could not have permitted recovery of even the raw material cost, leave alone even variable cost of production for the exporters in China and Russia. The said prices are certainly below the product costs (the factory cost of production) and in no event can permit recovery of all associated costs for any producer of ball bearings in China and

Russia. The cost of production of the subject goods would, therefore, be most appropriate in the present circumstances for determination of dumping.

xiv. The petitioners have determined constructed value by considering cost of production of one of the participating companies including SGA and reasonable profit margin.

xv. **Normal value in Poland and Romania**

Efforts were made to get information on prices at which ball bearings are being sold by the producers in Poland and Romania in their domestic market in the ordinary course of trade. Efforts were also made to get evidence of price lists of the exporters/manufacturers or price evidence for their exports to other countries or any other information from the published sources.

xvi. Petitioners have been able to get evidence of prices at which ball bearings are being sold by the producers in Romania and Poland in their domestic market and the normal value is being claimed on this evidence furnished to the Authority.

xvii. **Estimates of export price**

The petitioners have determined export price separately for each type of bearing imported. This is, however, restricted to those types whose imports command significant proportion of imports from subject countries. The export price from subject countries for the types constituting the major proportion of total known imports comes as under: -

Type/No.	Export price Rs. Per Pcs.			
	China	Russia	Poland	Romania
6201	7.01	6.63		12.16
6202	7.68	6.60	8.00	12.23
6203	10.22	6.84	9.88	
6204	14.23	7.76	13.33	14.05

The above prices are CIF prices. According to the Anti Dumping Provisions and WTO Agreement on Anti Dumping, the comparison between normal value and export price should be done at the same level of trade, preferably at ex-factory level. Normal value determined, as detailed above, are at ex-factory level. Therefore, for arriving at ex-factory export price, following adjustments have been made from the CIF export price.

- a. Ocean Freight
- b. Marine Insurance
- c. Commission

- d. Inland Transportation in the country of export.
- e. Port Handling & Port charges.

xviii. **Evidence of Injury and Threat of Injury**

a) **Changes in market share held by Indian producers and imports from the subject country(ies):**

The following parameters are relevant with regard to the above: -

1) Substantial increase in imports :-

As per the information regarding imports of the subject goods over the years furnished to the Authority, it would be seen that: -

- Imports have increased significantly in absolute terms.
- It may be argued that the different types of bearings have different costs/prices and, therefore, increase in imports in terms of numbers may not be appropriate. The petitioners, therefore, compared the imports in terms of value of imports also. It is found that the imports have increased in terms of their values also over the years.

a2) Significant increase in share in imports:

As per the evidence furnished, it would be seen that the share of subject countries in imports of the subject goods has increased significantly over the years. Share of other countries, as a direct consequence, declined significantly.

a3) Significant increase in share of subject countries in Demand in India:

The share of subject countries increased not only in relation to total imports, but also in relation to demand of the product in the Country. At the same time, the share of other countries and Indian Producers declined.

a4) Increase in relation to production in India

The imports from subject countries increased in relation to production of the domestic industry.

The above clearly establishes adverse "volume effect" which the imports have had on the domestic industry.

b) **Decline in the export price**

Import price on an average basis for different type of subject bearings are shown in Proforma IV-A. It would be seen that the export price from subject countries has declined significantly over the years. The decline in the prices is on top of already low & dumped prices.

c) Parameters affecting domestic industry

The domestic industry has taken a number of steps in the past three years to revamp it and face the threat from dumping. These efforts have resulted in significant improvement in its bottom lines. However, the domestic industry is not able to improve further to a level which can be described as reasonable level. Further, while the domestic industry continued its upward journey on performance, it suffered a major setback in terms of loss of market share. The domestic industry is now in a situation wherein it has already lost significant market share. Further, it is not able to increase its sales volumes now.

d) Production & capacity utilization of the domestic industry

The production & capacity utilization of the domestic industry has increased over the years. However, this increase is due to dedicated efforts made by the domestic industry to improve its performance, which was suffering due to low plant utilization in the past, given the low demand of the product in the Country. However, while the domestic industry has been able to improve its performance on these parameters, it is found that the domestic industry is not able to grow further, as significant market shares have been, in the meantime, taken away by the imports.

e) Sales volume

The sales volumes of the domestic industry increased with the increase in demand. However, the industry is now not able to increase its sales volumes due to presence of dumped imports in the market. Further, even when the sales volumes increased in absolute terms, the share of the domestic industry in terms of demand of the product declined.

f) Selling price (evidence of the price erosion, price undercutting, price suppression or price depression)

The subject goods are being sold in significant volumes at retail level. Further, a comparison of landed price of imports with the selling prices of the domestic industry has been made. These prices have been further compared with the cost of production and it would be seen that:

- The landed price of imports is very significantly below the selling price of the domestic industry. The imports are thus causing severe price undercutting in the market.
- The selling prices of the domestic industry are well below the non-injurious price of the domestic industry. Thus, the domestic industry is underselling the product.
- The landed price of imports is significantly below the cost of production of the domestic industry. Thus, the imports are causing price suppression/ depression in the market.
- The landed price of imports is significantly below the non-injurious price of the domestic industry. Thus, the injury margin is positive, very substantial and is causing materially injury to the domestic industry.
- In view of the above, petitioners submit that the imports from the subject countries are having adverse effect on the prices in the domestic market.

g) Evidence of lost contracts or declining sales:

The domestic industry has lost significant sales. While there is no evidence of direct loss of sales in the replacement market as the material is sold at retail level through a long chain of suppliers, it is submitted that the loss of market share is evident in the OEM segments. The domestic industry has lost significant sales in the OEM segment relating to fans.

h) Employment (employment levels, lay-off of employees due to increased alleged dumped imports):

The domestic industry has made all out efforts to optimize the employment. Further reduction is not feasible. However, should the domestic industry be forced to match the prices of imported product, the domestic industry would be left with no option but to retrench people.

i) Profitability (history of profit levels for the petitioner(s) and industry):

Profitability of the domestic industry as a whole has not improved, even though the same has improved in respect of some of the constituent companies due to significant cost cutting measures resorted by the domestic industry. However, the domestic industry is now not able to improve its profitability due to cheap imports present in the market.

j) Inventories

Inventories with the domestic industry have been increasing, as may be seen from information given in proforma IV-A.

k) Cash flow

Continued dumping of the product in the Indian Market has very adversely affected the cash flow situation of the domestic industry.

l) Return on investments

Return on investments for the domestic industry is negative. Even though some of the companies are making profits, the profits are sub-optimal and return on investment inadequate.

m) Growth

Even when the market for ball bearings have seen tremendous growth, the domestic industry has not grown proportionately. This is evident from the increase in the market share of imports from the subject countries and consequent decline in the market share of the domestic industry in terms of demand of the product.

n) Productivity

The domestic industry, faced with the competition from the imports made concerted efforts to improve its productivity. However, the increase in the productivity did not help the industry in getting adequate return on investments.

o) Price underselling

The domestic industry is forced to sell the product below the price which would have permitted it to earn reasonable profit margin on its investments. Thus, the imports are forcing the domestic industry to undersell the product.

q) Ability to raise funds

Adverse profitability of the ball bearings sector, which is one of the prominent product of the industry, is adversely affecting the ability of the domestic industry to raise fresh capital.

The domestic industry has suffered material injury as a result of dumped imports from the subject countries.

xix. Causal Link

It would be seen from the Country-wise volume and value of imports given and discussed in the petition that the import from other Countries are at higher price or the volume of imports is de-minimus. Imports from Other Countries are not causing injury to the domestic industry.

Demand of the subject goods is steadily increasing. Possible decline in demand is, therefore, not a reason for the injury to the domestic industry.

Industry is quite competitive. The industry has increased its competitiveness over the last three years. The industry is now globally competitive. However, the unfair pricing resorted by the producers from these countries is preventing the industry from achieving a reasonable level. Changes in technology, export performance of the domestic industry, trade restrictive practices or competition is not the reason for the injury being caused to the domestic industry.

C. EXPORTERS', IMPORTERS', USERS' AND OTHER INTERESTED PARTIES' VIEWS

4. A joint response has been received from the following Chinese exporters/producer:

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- Huanchi Bearing Group Co.Ltd. China, (HCH)
- Ningbo Huanchi Import & Export Co. Ltd., China
- Ningbo Teke Bearing Co. Ltd., China.

5. Following major submissions have been made by the Chinese exporter/producer :

(a) General Submissions

- i. HCH is the group company and Teke is the manufacturing company. Ningbo Huanchi is the exporter. HCH, Teke and the Exporter have jointly prepared this response.
- ii. There is no equity holding by any State / Govt. owned entities and no Directors or Managers are nominated by the State / Govt. owned entities and there is no State / Govt. management control of the Respondent.
- iii. The Respondents have no recourse other than bankruptcy if it is unable to operate at a profit.
- iv. Teke and HCH purchased the raw materials at market given prices that are not regulated by the State / Govt. as may be seen from the invoices and other supporting documents. The Respondents have borrowed from the banks on market terms and repaid their loans as per schedule as in a market economy.

- The Respondents have acquired their land through market economy mechanisms and have a mortgage on the site.
- v. The Respondents do not receive any subsidies other than VAT returns that are levied on domestic sales and purchases for its foreign exchange through the authorized dealer bank as in a market economy like India and maintains its accounts consistently with International norms.
 - vi. The HCH brand of the Respondents is the leading 'normal' grade small bearings brand in the Indian market in the absence of substantial quantities of the like article being manufactured by the Petitioners and in view of the intrinsic strengths of the HCH brand.
 - vii. In a spirit of full cooperation with the present Investigation they are furnishing confidential data for the POI, with respect to, respectively the domestic sales in China of HCH and Teke and, of the export sales of the Exporter to India and third countries in the Response to the Questionnaire
 - viii. The subject goods have been exported to India during the POI at a price consistent with the third country export price of the like articles and at or above or within a de-minimus range of the domestic sales price of the like articles during the POI and above the cost of production of the like articles during the POI.
 - ix. Teke enjoys tremendous economies of scale as a result of clustered and consolidated production of the subject goods; dedicated production lines, which manufacture the same grade without frequent change in design, specification etc; high capacity and capacity utilisation; inexpensive local raw materials and labour; no man-days lost during the POI due to labour unrest or any force majeure or input supply constraints; inexpensive and efficient logistics and infrastructure; and economies in freight and handling at the nearby Port.
 - x. There is a major problem of infringement, counterfeiting transshipment and smuggling of the like articles from China through UAE (including the KG brand), Bangladesh and Nepal that is faced by the Respondents, who reasonably have a stake in maintaining their leading brand equity and profits for small bearings in the Indian market.

(b) On Domestic Industry

- i. FAG and SKF are related to manufacturers and exporters of the like articles in China apart from being related to exporters in third countries who would stand to benefit by imposition of anti-dumping duty on import of the subject goods, inter alia, from China. In this regard it would be useful to point out that the imports data of the Petitioners, from which the Petitioners have determined the countries allegedly dumping and the quantities for the purpose of de-minimis and the CIF export price to India, shows that Korea is also exporting to India

and the quantity exports from Korea is above de-minims. Further more importantly the CIF export price from Korea is below that from two countries allegedly dumping. In the circumstances, the reason for non-inclusion of Korea as a country allegedly dumping in the given case may well be because FAG is importing raw bearings from FAG Korea. This would clearly reflect that the said Petition is motivated and Petitioners themselves appear involved in the dumping activity regarding they have raised allegations.

- ii. It may be noted that as per the provisions of Rule 5(3)(a) of the said Rules the DA can only initiate an investigation that is supported by domestic producers accounting for at least 25% of the total production of the "like article" by the domestic industry. It is submitted that since there is no 'like article', the subject goods produced and sold in India by the Petitioners during the POI not qualifying for the same, the Petitioners do not fulfill the domestic industry eligibility criteria and that in consequence thereof it is further submitted that the present Investigation has been wrongly initiated.

(c) On Like Article

- i. The subject goods exported to India during the POI are not like article with the subject goods produced by the petitioners. The extensive description of the subject goods indicates the broad range of small bearings. The wide description also sets out the number of different raw materials and processes involved in the manufacture of the subject goods and the range of specifications available.
- ii. The subject goods manufactured by Teke in China are made from locally produced and purchased chrome bearing steel that is much cheaper than the carbon alloy steel used by the Petitioners and in particular than the carbon alloy steel imported by SKF at transfer prices above market rates from its related company in Sweden. The other significant cost advantage enjoyed by Teke in comparison with the Petitioners is with respect to the cost of grease which is sourced in China at about one sixth the cost of the premium Japanese brand and at about one third the cost of the standard international brands. This is an important cost advantage since grease accounts for a significant portion of the cost of manufacture of the subject goods. Another advantage in the cost of production is dedicated production lines, which manufacture the same grade without frequent change in design, specification etc. This also give a cost advantage as against the Petitioners as due to change in grade, specification and design while production, changeover time cost a substantial amount. The Respondents are producing the same grade continuously in huge quantity while on the other hand the Petitioners are producing small quantities of each grade as the specific requirement of the individual customers

- iii. The subject goods exported to India during the POI by the Exporter are different from as those exported to the other countries or domestic market. The bearing itself can be categorized into different grades according to the technical data. Most of the bearings exported during the POI to India are 'normal' class bearings whereas most of high quality bearings go to the domestic and third countries. Basically, Chinese bearings are different from those made by SKF or FAG although they look similar and they are basically selling in completely different market segments in India. HCH bearing exports to India are basically to the traders who in turn sell this to the local fan, pumps and domestic appliances industry who are selling their product in the local market. These sectors only need 'normal' class bearings. No OEM (branded or big producer) is buying the subject goods exported by the Respondents. Quality wise the subject goods exported by the Respondents are not up to the specifications and standards of the OEM. Electrical motor manufacturers in India like Crompton are using mostly high quality (usually V3 group bearings).
- iv. The Petitioners themselves admit on page 6 of the said Petition that 'different types of ball bearings are inter-se not substitutable' and that each category of customers have unique requirements.
- v. The bearings can be categorized based on three different technical specifications. The said technical specifications are the accuracy of the sizes of the bearings, the vibration level of the bearings and the noise level of the bearings. The size accuracy is determined based on the tolerances allowed for different sizes of the bearings. It is labeled as ABEC-1, ABEC-3, ABEC-5 and so on. The larger the number will be, the high the accuracy the bearings will be. The 'normal' class bearings only have the accuracy up to ABEC-1. The vibration level is defined as V1, V2 and so on. The vibration refers to the noise level of the bearing in different frequency band. It is very important for the performance of the bearings. The higher the number is, the lower the vibration would be. The 'normal' class bearing ordinarily has the worst vibration level. Its quality is lower than V1 group if evaluated based on the vibration level. The noise is another important data for the bearings. We define the bearings as Z1, Z2 and Z3 bearings. The higher the number is, the lower the noise would be. Among all these 3 different data, the vibration level is most important. And it is most frequently taken as the standard to differentiate the bearings. The price of the bearings is also mostly determined based on its vibration level.
- vi. Due to the limit of the technological and production level of China, the majority of the machines for bearing industry have much lower accuracy than those used by the world class bearing manufacturers like SKF, FAG, NRB, TISCO and so on. Almost all the bearings sold by SKF, FAG etc., can reach very high standard whereas most of the bearings made in China can only reach 'normal' class bearings. To reach higher standard, like V1 or V2, Chinese

bearing manufacturers have to put more efforts in production. However although the machinery HCH bearing is using is not so good as those used by SKF, FAG or TATA, the price of these machines is much lower than those used by SKF, FAG. The cost for China Made bearing production line can be approximately one fourth to one third of those made in Japan or European countries, which are being widely used by SKF and FAG. Due to this reason, the cost of Chinese bearings is also significantly reduced.

- vii. In light of what is stated hereinabove, it is submitted that, the high grades of types 6201, 6202, 6203 and 6204 subject goods manufactured by the Petitioners and the 'normal' grade of types 6201, 6202, 6203 and 6204 subject goods sold in India during the POI by the Respondents are not like articles since the technical specifications are different and as a result the commercial applications of the respective grades are different as well as the market segments that are served. The 'normal' grade of subject goods exported to India by the Respondents during the POI is used by the fan industry, pumps and domestic appliances industry while the higher grades of the subject goods manufactured by the Petitioners is used in more sophisticated electric motors. Thus, the subject goods exported to India during the POI are not like articles with the subject goods produced by the Petitioners. It may also be pointed out that the Petitioners are not manufacturing bearings below 10 mm bore dia (miniature bearings). This also clearly adversely impacts and restricts any argument of 'like article'.

(d) On Duty on Weight basis

It is further submitted that when bearings are traded as per model, grade, specifications and usage there is no clearly no reasonable basis to levy anti-dumping duty according to weight. In this regard it may also be noted that the Government of India was previously charging customs duty based on weight but due to liberalization and practical difficulty found in the duty on weight basis, the Government of India has changed the system from last two–three years. Imposition of Anti-Dumping Duty on weight basis will defeat the very purpose of Government of India to simplify the system.

(e) Inadequate Information

- i. The Petitioners have used assumptions on the volume and value and capacity of other Indian producers to claim domestic industry standing and that prima facie such assumptions can not be the basis of such a claim.
- ii. The Petitioners have concealed the fact that at least two of them, i.e., FAG and SKF are related to exporters from China and third countries and that the primary beneficiary of any imposition of anti-dumping duty on imports of the

subject goods from the Respondents would be the related third country exporters of FAG and SKF.

- iii. The Petitioners are not eligible as domestic industry to file the present Petition for initiation of the present Investigation and that this issue may be decided prior to further steps in the present Investigation and that the present Investigation may be terminated forthwith.
- iv. The Petitioners have also filed data based on secondary sources rather than DGCI&S for the POI, in order to show dumping, though this data does not disclose a surge in imports and also does not distinguish between the various grades of subject goods. The Petitioners have also wrongly contended that differences in the grades are not very meaningful and that different grades of a category type of small bearing may be treated as like products and the data consolidated by type for analysis.
- v. For a 'surge in imports' and to cross the de-minimis threshold the Petitioners have relied on the DGCI&S data that they also contend is flawed since it wrongly consolidates the data for various types of bearings as a whole.
- vi. Thus, the complete data furnished by the Petitioners is irrelevant for the purpose of the present Investigation and inadequate for initiation thereof and further it is inaccurate for the purposes of basing any findings thereon. For this reason also the present Investigation, that has been incorrectly initiated, may be terminated forthwith.

(f) On Non-Market Economy

- i. At the outset, the Respondents deny the allegation by the Petitioners that the exports of the said subject goods in China may be deemed to attract the provisions of paras 7 and 8 of Annexure I to the said Rules with respect to 'Non-Market Economy' (hereinafter referred to as "NME").
- ii. The proviso to para 8 (2) of Annexure I of the said Rules provides an opportunity for an exporter to rebut the presumption of NME on the basis of the criteria specified in sub-para 3 of the said para 8 of Annexure I to the said Rules and the said provisions must be read along with the provisions of Article 15 of the said Protocol. It is clear from Article 15 of the said Protocol that the determination of NME, or exclusion therefrom of an exporter, must be made not on the basis of a determination in another jurisdiction but in terms of the norms for determination of NME enunciated in the national law of the investigating country. Thus, it is submitted that a finding in another jurisdiction on NME is not at all relevant for the purposes of determination of NME in India and that accordingly the DA may apply his mind to the criteria set out in the national law of India.

iii. It is submitted with respect to the said criteria set out in sub-para (3) of para 8 of Annexure I to the said Rules, as follows:

- The decisions of The Respondents and other concerned firms in China with respect to prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and the costs of the inputs reflect market values. This is reflected in documents furnished and in the confidential data furnished by The Respondents with the confidential Response to the Questionnaire. It is submitted that there is neither any State regulation of costs or prices of these inputs in China or any system of 'administered prices'.
- There is no distortion of production costs and financial situation as the Respondents are entirely private companies as described in the Questionnaire Response and accompanying confidential information and further as the Respondents have not converted former State assets, or distorted depreciation thereof, or engaged in barter trade or debt forgiveness or debt/equity swaps, or received the benefit of any write-off.
- The Respondents are subject to China's regulations with respect to bankruptcy and property respectively. There a number of bankruptcies in China of similar firms as are clear from documents furnished.
- As in India the exchange rate is based on the market rate as determined by the Central Bank as is reflected in the confidential data furnished along with the said Confidential Questionnaire Response.

iv. With regard to the criteria it is also, inter alia, submitted that:

- The price specifically of the said subject goods in a third country market economy during the POI would be based on the export price from China since the Respondents are the principal suppliers of the 'normal' grade of types 6201, 6202, 6203 and 6204 of the subject goods.
- There can be no constructed value in a market economy third country as there was no significant production of the like articles 'normal' grade subject goods outside China during the POI.
- China is virtually the only exporter of the said like articles 'normal' grade subject goods to India during the POI so the third country export prices of the said like articles subject goods may not be available.
- The prices actually paid in India for the subject goods during the POI include a reasonable profit, as there is virtually no other like article for the 'normal' grade of types 6201, 6202, 6203 and 6204 of the subject goods.

- v. The normal value of the subject goods may be determined in accordance with the domestic sales price of the subject goods in China during the POI and in accordance with the provisions of Section 9A (1) Explanation 'c' para (i) of the said Act. In the Confidential Questionnaire Response the Respondents have provided confidential details of the domestic prices of the subject goods in China during the POI. From the same and what is stated in the present response it is submitted that there was no dumping of the subject goods during the POI as alleged.
- vi. Only the respective prices of like articles may be compared for determination of normal value and since the subject goods manufactured by the Respondents and the Petitioners are not like articles there is no meaningful comparison possible.
- vii. The methods used in the Respondents' financial and costing accounting system, inter alia, include:
 - a. Stock valuation: Continuous examination without fix date.
 - b. Allocation or costs from larger cost categories: The big costs are split into 12 months evenly on a monthly basis.
 - c. The frequency and revisions and treatment of variances: The frequency of variance is very low. The normal treatment is recording the data into an independent item.
 - d. Depreciation methods and useful life of fixed assets: Average depreciation within the given period of time in use.
 - e. Capitalization of expenses: All the expenses relating to construction of building and installation of machines has been capitalized and dully accounted for.
 - f. Incidental revenue: It will be enlisted in to special item in the accounting system.
 - g. Cost and revenue of byproduct: Teke and HCH do not have any by-products.
- viii. It is submitted that the accounting system used by the Respondents is consistent with international norms in a market economy. It is thus submitted that this issue may be decided prior to further steps in the present Investigation and that the present Investigation may be terminated forthwith.

(g) On Normal Value

- i. The normal value of the subject goods may be determined in accordance with the domestic sales price of the subject goods in China during the POI and in accordance with the provisions of Section 9A (1) Explanation 'c' para (i) of the said Act. All domestic sales in China by HCH and Teke during the POI were in the ordinary course of trade and the confidential data therefor has been filed

along with the Confidential Response to the Questionnaire. This would show that there was no dumping of the subject goods during the POI as alleged.

- ii. Since the Respondents fulfill the criteria to be treated as a market economy firm the DA could consider the domestic sales price of the subject goods in China as the basis for determining the "normal value" of the subject goods as provided for in Section 9A(1) Explanation 'c' para (i) of the said Act

(h) On Injury

- i. Since the Petitioners neither produce nor sell the like article subject goods in substantial quantities there can be no injury to the Petitioners with respect to a category of goods not produced by them in substantial quantities.
- ii. The Petitioners admit in Part IV, para 3 that there has been an improvement in their bottom lines over the past three years and the only allegation is of a decrease in market share and slow growth in sales.
- iii. Determination of material injury must be based on the evaluation of a large number of indices that include but are not limited to: decline in output, loss of sales, loss of market share, reduced profits and return on investment, decline in production and capacity utilization, price effects, cash flow, inventories, employment, wages, growth, investment, ability to raise capital etc. None of these factors is decisive and the totality must be considered. It is submitted that slight deterioration in one or two parameters alone is inadequate for determining injury.
- iv. In the present Investigation it may be seen that only a slight decline in market share and relatively slower growth in domestic sales appear to be the detailed injury alleged during the POI. It is submitted that even with respect to market share and domestic sales the data in Pro Forma IV.A contradicts the allegations of the Petitioners as the data shows only a marginal decrease in market share and on the whole a reasonable domestic sales performance even in the face of an economic slowdown in India during the POI. Further on the other hand there has not been any decline in sales price in India or of margins and by inference of profitability due to imports of the subject goods by the Respondents during the POI. Moreover unless an analysis of the export performance is carried out the possibility of an increase in exports distorting the market share and domestic sales data cannot be excluded.

(i) On Absence of Causal Link

- As per international best practice a causal link must be established through a "Volume Effect" and a "Price Effect".
- In the present Investigation it may be observed that though there is an allegation of a surge of imports of the subject goods from China during the POI

leading to declining market share of the Petitioners, the said allegation requires to be judged in the light of the following facts and submissions:

- The subject goods exported by the Respondents from China during the POI are not like articles with the grades of small bearings manufactured by the Petitioners. Hence, there cannot be any injury caused to the Petitioners by any increase in volumes of such imports.
- The Petitioners continue to have the dominant market share as per their data of the total market in India for all categories of the subject goods.
- The Petitioners have not furnished data with respect to the volume effect with respect to the specific 'normal' grade of the subject goods as distinct from the total data for all grades of the types 6201, 6202 and 6203 of the subject goods.
- The Petitioners have only furnished data from DGCIS to show a surge in imports that they themselves contend is inaccurate since DGCIS wrongly consolidates data for a range of types of small bearings and not for the small bearings or for the like article 'normal' grade.
- The Petitioners have not taken cognizance of the economic slowdown in India during the POI.
- In view of the above circumstances, it is submitted that the Petitioners have failed to make out a prima facie case of an adverse volume effect caused by the alleged dumping in India of the subject goods during the POI.
- The second test is the "Price Effect". It is submitted that there is no injury by way of adverse "Price Effect" caused by alleged dumping of the subject goods to India during the POI by the Respondents from China for, inter alia, the following reasons:
 - The 'normal' grade of types 6201, 6202 and 6203 types of the subject goods exported by the Respondents from China during the POI are not like articles with the grades of subject goods manufactured by the Petitioners. Hence, there cannot be any injury caused to the Petitioners by any adverse "Price Effect" of such imports, of products not produced or sold by the Petitioners.
 - The Petitioners have in effect admitted that they have not lowered prices and that the margins across the various categories of ball bearings are low.
 - The Petitioners have relied on inadequate and inaccurate secondary data to allege an adverse price effect during the POI by alleged dumping of the subject goods.
 - Thus, there is no price depression/suppression as alleged.
 - The market segments involved are different. The exports of the subject goods to India made by the Respondents are basically to the traders who in turn sell this to the local fan, pumps and domestic appliances industry who are selling their product in the local market. No OEM (branded or big producer) is buying the said goods. Quality wise the subject goods exported to India are not up to the specifications and standards of the OEM.

- There is no injury by way of an adverse "Price Effect" or poor profits due to the alleged dumping of the subject goods from China during the POI.
- It may be noted that the Petitioners have also not highlighted the well-known differences in manufacturing efficiencies between India and China. Furthermore, the differences in over all efficiencies highlighted between the Petitioners operations compared to HCH and Teke's operations and the ongoing economic slowdown offer more cogent explanations of declining profitability or higher inventories if established.
- The Petitioners has also not drawn attention to the ongoing economic slowdown in India from the POI and beyond. It is submitted that it is reasonable that during such an economic slowdown the user industry in India would seek to lower its costs by buying the inexpensive 'normal' grade of type 6201,6202, 6203 and 6204 types of small bearings rather than the more expensive higher grades thereof manufactured in India by the Petitioners.
- It may be noted that the Petitioners have also referred to dumping of the subject goods, inter alia, by exporters from UAE, Singapore, Chinese Taipei and Nepal but these exporters are not being investigated. Thus, dumping by exporters from these countries may be the cause of any injury suffered by the Petitioners, if proved. It may be mentioned here that the KG brand exported from the UAE and of Chinese origin from state entities or dis-organised small sector is exported to India at a much lower price than the HCH brand of the Respondents during the POI and beyond.
- There is considerable infringement and counterfeiting of the HCH brand and smuggling of the subject goods through Nepal and Bangladesh and these are more likely to be the cause of any proven injury to the Petitioners than the exports of the 'normal' grades of the subject goods during the POI by the Respondents.
- In the case of SKF any injury suffered, if proven, may also have been caused by the inflated transfer prices of the raw material steel imported by it from its related exporter in Sweden. Thus, there is no dumping by the Respondents of the subject goods in India during the POI nor any causal injury to the Petitioners.

(j) Public Interest

It is submitted that if any anti-dumping duty is recommended on imports of the subject goods from the Respondents the costs of the user industry, will increase because the domestic producers will be reluctantly forced to use very expensive high quality bearings, that are not required for their products. This will adversely affect both consumers in India and also the domestic user industry in India since exports from India may well be adversely affected due to the increased cost.

(k) Termination of the Investigation

In the circumstances aforesaid, there is no dumping of the subject goods from China by the Respondents as alleged during the POI or at all and thus the present Investigation may be terminated and accordingly no Provisional Duty or Anti-dumping duty be recommended on the subject goods exported by the Respondents to India.

6. Other responses from exporters :

- i. M/s NSK – ISKRA S.A., Poland have informed that they are not responding to the investigation due to the following reasons :
 - NSK – ISKRA S.A. did not export the subject merchandise to India during the period of investigation.
 - NSK – ISKRA S.A. sold the subject goods to unrelated trading companies. They assume that some of those merchandise sold to trading companies were exported to India. It is, however, impossible for them to obtain information such as destination countries, customers, date of sales and sales price from trading companies because they are unrelated to them.
- ii. M/s S.C. Rulmenti S.A. Slatina, Romania have informed that they are not a producer of the product involved in this investigation. Their company makes the Ball Bearing with bore dia (inner diameter) between 12 and 40 mm. The inner diameter of the Ball Bearing exported to India in the period of investigation is between 17 mm (item 6303) and 35 mm (item 6007).

7. Importers' Responses :

Following responses have been received from importers :

1) M/s Eastern India Ball Bearing Merchants Association

- a. M/s Eastern India Ball Bearing Merchants Association is a user association representing Ball Bearing Traders of Eastern India Region with a strength of more than 450 in number. Though sizes of bearings may be the same, the specifications, like sound level, internal clearance of bearings, grease, tolerance level of inner and outer rings are all different and thus prices are different. Thus a single type of bearings can have different specifications and thus different prices. Basically Chinese bearings are very different from those manufactured by SKF or FAG although they look similar and they are basically sold in completely different market segments in India. Chinese bearings are purchased

by small traders who in turn sell to the local fan, pumps and domestic appliances industry who are selling their final product in the local market.

- b. The petitioner companies viz. FAG, NRB Bearings Ltd., SKF Bearings India Ltd., Tata Iron & Steel Company and National Engineering Industries Ltd. have either technical collaboration with or are themselves subsidiary of very high quality and reputed world class bearing producers
- c. The petitioners are the top bearing manufacturers of the world in terms of technology and quality and that the petitioners are producers of world-class high quality bearings for heavy applications. On the other hand, the countries involved in this petition including P.R. China are producers of low quality bearings for light applications and are basically 'normal class' bearings. There is no way in which any Chinese manufacturer can even come near the petitioners in terms of the quality and technology. Further the products exported by these countries may be same in dimension but are not same in respect of quality, technology, usage and thus can not be used for the same application as the product manufactured by the petitioners and thus there is no question of any alleged dumping and injury as alleged or at all caused to the petitioners.
- d. The above contention is in fact accepted and admitted by the petitioners themselves during the meeting held with the Customs Authorities on January 23, 2001 (which date comes within the period of investigation under present proceedings) attended by representatives of the bearing manufacturers association, customs officials as well as officials of the Directorate of Valuation. Thus their claim that the goods exported from the subject countries has no difference from the goods manufactured by them is not sustainable.
- e. M/s FAG Hanwha Bearing Corpn, a member of FAG group to which one of petitioners FAG Bearings India Ltd. belongs, exports the bearings at about the same price as that of exporters from China or other countries involved in the petition as is evident from the price list submitted by them to the Indian Custom authorities and the price list of Chinese manufacturer. The pertinent question that arises for consideration is how is it that the same bearings exported by FAG group company from Korea at the same price as that of Chinese bearings are not considered as dumped and no anti dumping proceedings are initiated against the said Korean company being Fag Hanwha Bearing Corpn.
- f. The petitioners are manufacturing other types of bearings also, e.g., taper roller bearing, spherical roller bearing, needle roller bearing. Further these also involve similar manufacturing process. The pertinent question that arises in the light of the same and which the Hon'ble Designated Authority should investigate to judge the veracity of the petitioners' allegations is how the petitioners are not facing dumping of these products.

- g. None of the petitioners are selling parts of the bearings neither any parts of bearings like inner rings or outer rings of bearings which are imported in to India from the subject countries. In this context the question arises as to why anti dumping duties are being asked for on this sub-heading. Further it would also be important to note here that India is the cheapest producer of bearings steel balls in the world and annual export from India is more than Rs.150 crores per year. None of the major producers of the steel balls in India has asked for protection under anti dumping procedure as because there is no dumping in this product in India. The petitioners for reasons best known to themselves are seeking anti dumping duty on this product too.
- h. The Users would like to point out that the biggest manufacturers of ball bearings, New Heaven Steel Co. and Metro Steel Co. are not petitioners in the present investigation. The percentage of steel ball production by New Heaven and Metro is about 70% of the Indian production of bearings. This again hits at the allegation that any alleged injury is being caused to the 'domestic industry'. The Users would like to bring it to the attention of the Hon'ble Designated Authority that the petitioners are manufacturing less than 10% of known sizes below 50mm.
- i. It is also submitted that as bearings are sold according to pieces/packages, type and grade or specifications thereof, the anti dumping duty, if any, would be leviable accordingly. The Users state that the previous format of charging customs duty based on weight has been abandoned and an argument to levy anti dumping duty based on weight would simply amount to revive the prior scenario and defeat the ends towards which the change was aimed.
- j. It is submitted that each of the factors and indices as regards injury has relevance in establishing a finding of material injury and that any single factor, however, significant it be, cannot be the touchstone for initiating an anti dumping investigation and/or a determination of injury. Further small deterioration in one or two parameters, if at all, alone cannot amount to injury. An analysis of the data submitted by the petitioners will show that there is no injury at all suffered by the petitioners. This clearly indicates that the alleged dumping has not caused any injury to the petitioners.
- k. As regards product involved in the subject investigation, the definition of the subject goods is too wide and would require to be narrowed down. Sub-heading 8482.80 includes goods such as combine ball/roller bearings and parts and none of the petitioners are selling any parts of the bearings, neither any parts of bearings like inner rings or outer rings which are imported into India from subject countries. Asking for anti dumping duty on same is wholly baseless and extremely unreasonable. Only NRB is making balls and NRB production is less than 1% of the domestic production. The number of sizes of bearings produced upto 50mm bore dia from the subject countries would be more than 1000 in

sizes while the petitioners in India produce only about 100 sizes. The users do not understand the reasons and motives of the petitioners to get anti dumping duty imposed on the bearings not even produced by them in India.

- l. It is denied that the petitioners account for more than 50% of the domestic production of the subject goods or that the petitioners satisfy the criteria of standing as domestic industry to file petition in terms of Rule 5(3)(a).
- m. The products which are produced by the petitioners are not like articles to the goods imported into India in as much as various differences on account of load capacity, sound level, internal clearance of bearings, grease, tolerances of inner and outer ring dimensions may arise. The petitioners' bearings and those from one of the subject countries do not match each other in terms of load, capacity and thus the bearings from the subject countries and especially the Chinese bearings have lower life and lower price.
- n. As regards normal value, the petitioners may be called upon to provide the details of the normal value calculations.
- o. As regards export price, the users submit that the raw material cost of bearing was decided by Customs Authorities during their meeting with manufacturers and trade association on January 23, 2001 when the raw material cost in India arrived at was Rs.43.75/kg. Thus the raw material cost in India for the above bearing would be Rs.1.62 (Wt. 0.037 kg), Rs.1.97 (Wt. 0.045 kg) and Rs.2.89 (Wt. 0.066 kg) respectively. From an analysis of the same it can be seen that the export price is about 3.5 to 4 times of the raw material cost in India. In the light of the aforesaid the petitioners' claim that the export prices are below even the raw material cost is incomprehensible and clearly frivolous.
- p. In view of what is stated hereinabove there has been no dumping by the subject countries as alleged by the petitioner during the period of investigation and accordingly allegations with regard to dumping are denied as wrong.
- q. The petitioners have stated in the petition that there has been an overall improvement over the past three years and the only allegation is of an alleged decrease in market share and slow growth in sales. It is submitted that in terms of assessing the totality of all the parameters as required, it is clear that there is no alleged injury at all suffered by the petitioners. It is submitted that slight deterioration in one or two parameters alone cannot be adequate for determining injury.
- r. The imposition of anti dumping duty will adversely affect the user industry and will increase its costs and adversely affect its revenues. Further it will ultimately deprive the user industry including the Users of required ball bearings types. It is submitted that the Hon'ble Designated Authority may terminate the present investigation for improper initiation and/or may find that there has neither been any dumping nor injury to domestic industry by imports of the subject goods from the subject countries during the period of

investigation as alleged by the petitioners and the present investigation may be terminated accordingly.

ii) Indian Fans Manufacturers Association

Indian Fans Manufacturers Association has made almost similar submissions as made above by Eastern India Ball Bearing Merchants Association. In addition, the Association has made another argument that while the petitioners are not going to gain in any way from an imposition of anti dumping duty because they will be unable to offer their products at international prices even after taking into consideration the anti dumping duty, the user industry including the Association will definitely suffer as they have export commitments and the Indian engineering products will become unnecessarily costlier in international market.

iii) The All India Ball Bearing Merchants Association

The All India Ball Bearing Merchants Association furnished response much after the time limit and extended time given to all the interested parties. Therefore, their response has not been considered for these preliminary findings. This will be considered for the final findings.

iv) M/s Kerala Automobiles Ltd.

M/s Kerala Automobiles Ltd. is a public sector undertaking of the Govt. of Kerala, manufacturing three wheelers Their supporting domestic manufacturer is procuring ball bearings only from Indian manufacturers for its full production requirements. They have furnished details of ball bearings and needle cages procured from Indian manufacturers for the period of investigation. They have confirmed that their supporting producer is not importer of any ball bearings from subject countries for manufacture of three wheelers.

v) The following importers have informed that they are not importing subject bearings from the subject countries :

- M/s Jyoti Ltd., Vadodara
- M/s Powerbuild Ltd. Vallabh Vidyanagar, Gujarat.
- Kerala Agro Machinery Corporation Ltd., Ernakulam, Kerala.
- Kinetic Motor Company Ltd., Pune.
- Kirloskar Electric Company Ltd., Bangalore.
- Allena Auto Industries Pvt. Ltd., Delhi.
- Darshan Lal & Sons, Batala
- Goel Enterprises, Nagpur

- Premier Indian Company, Ahmedabad
- Rane Nastech Ltd., Tamilnadu
- L&T John Deere Pvt. Ltd., Pune

8. Small Scale Bearing Manufacturers Association (Rajasthan Unit), Jaipur have informed that the bearings are dumped by other countries in India at very low prices and they have captured significant market share. These bearings are under valued resulting in heavy loss to nation's exchequer. The total imports of bearing (upto 50mm dia) in year 1998-99 was 136 lac number, out of which China's share was 11.76% (16 lac number) whereas in the year 2001-02, total import is 452 lac number out of which China's share has improved to 50.22% (227 lac number) which is five times increase in share.

D. EXAMINATION AND FINDINGS BY THE AUTHORITY

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

10. 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

11. The product under consideration in this investigation is Ball Bearings and parts and components thereof (up to 50 mm bore dia) (hereinafter referred to as subject goods). The subject goods find major uses in Fans, Electrical Motor, Automotives, Pumps, domestic appliances, industrial appliances and other industries. Ball Bearings is a part of a much larger category of goods known as 'anti friction bearings'. Anti friction bearings are machine components that permit free motion between moving and fixed parts by holding, separating or guiding the moving parts to minimize friction and wear/tear. The product is covered under Customs heading 8482.10, 8482.80 & 8482.91 of Schedule I of Customs Tariff Act. This Custom classification is however, indicative only and is in no way binding on the scope of the present investigation. The product is classified under ITC HS Code 8482.1001, 8482.1004 & 8482.1011.

12. It has been argued by the exporters that the petitioners have limited their allegations to, and have furnished data with respect to the types 6201, 6202, 6203 and 6204. Therefore, all other small Bearings ought to be excluded from the present

investigation. Further, these types of small bearings may be differentiated by the grades and the responding exporters exports only the normal grades of these types of small bearings. Further, it has also been argued that the petitioners are not manufacturing bearings below 10 mm bore dia (miniature bearings). Accordingly, the scope of the product under consideration may be appropriately narrowed.

13. Eastern Indian Ball Bearings Merchants' Association, in their submissions, have inter alia stated that the petitioners have claimed anti dumping duty on all the bearings upto 50 mm bore dia. The number of sizes of bearings produced under this category from the subject countries would be more than 1000 in sizes while the petitioners in India produce only about 100 sizes. Grave loss and injury would be caused to the user industry if duty is imposed on all the ball bearings exported to India. Further, sub-heading 8482.80 includes goods such as combined ball/roller bearings and parts and none of the petitioners are selling any parts of the bearings. Therefore, asking for anti dumping duty on the same is baseless and unreasonable.

14. The Authority finds that the exporter from China has furnished response giving information about exports to India of about 145 types / models of Ball Bearings claiming that these are covered by the scope of the investigation i.e. Ball Bearings having inner dia upto 50 mm. The petitioners have contested that the exporter has given information with regard to a number of bearings which are not Ball Bearings upto 50 mm dia. According to them the following models mentioned by M/s HCH China in their response as Ball Bearings upto 50 mm dia are not Ball Bearings covered by this investigation :

11710, 11910, 11949, 30203, 30204, 30205, 30206, 30207, 30208, 30209, 12649/10, 12749/10, 48548/10, 67048/10, 553, 11749/10, 11749/10V2, 11794/10V2, 11910V2, 11949/10, 11949/10V2, 12648/10, 12649/10, 12649/10V2, 12749/10, 12749/10+D22V, 12749/11, 12749/11V2, 30203, 30203V2, 30204, 30204V2, 30205, 30205V2, 30206, 30206V2, 30209V2, 30207V2, 30208V2, 30209V2, 320/28, 33213, 44643/10, 44649/10, 44649/10V2, 44694/10, 45449/10, 45449/10V2, 48548/10, 48548/10V2, 48648/10, L44643/10V2, L44649, L44649/10V2, L45449/10V2, L68149, L68149/10V2, LM11749, LM11749/10V2, LM11949, LM11949/10, LM48548/10, LM48548/10V2, LM67048/10, LM67048/10V2, M12649/10.

15. From the Chinese exporters' response, the Authority finds that exports of Ball Bearings types 6201, 6202, 6203 & 6204 along with their variants like 2RS, V1, 2RS V1, ZZ, ZZV1, ZZV2 constitutes about 87.89% of their total exports. The petition of the domestic industry also states that the imports of types 6201, 6202, 6203 and 6204 forms a very significant proportion of total imports of Ball Bearings from subject countries. In response to the contention of the exporter and importer, the petitioners have also confirmed that the domestic producers do not manufacture Ball Bearings of

bore dia up to 8mm. The Authority also notes that the petitioner domestic industry has not furnished sufficient evidence in support of their claim to cover the parts and components of Ball Bearings as well for recommendation of any anti dumping duty. Keeping in view the claims of the domestic industry, the response of the exporter and the importer and the available material on record, the Authority considers it appropriate to make recommendations in the Preliminary Findings in respect of Ball Bearings models / types of bore dia above 8mm and upto 50mm within the overall scope of the Product under Consideration.

F. LIKE ARTICLE

16. The petitioners have claimed that there is no known difference between the Ball Bearings manufactured by the domestic industry in India and the Ball Bearings imported from the subject countries. The two are technically and commercially substitutable. The consumers have used the two interchangeably and thus the Ball Bearings produced by the domestic industry should be treated as Like Article to the Ball Bearings imported from subject countries within the meaning of Rules.

17. M/s HCH, China have claimed that most of the bearings exported during POI to India are 'normal' class bearings whereas most of the high quality bearings go to domestic and third countries. Bearings exported to India are produced from different raw materials and through a simpler process, these have limited commercial applications and serve different market segments as compared to the higher grades of subject goods manufactured by the petitioners. According to them the high grades of types 6201, 6202, 6203 & 6204 manufactured by the petitioners and the normal grades of these types exported to India are not Like Article.

18. The Eastern India Ball Bearings Merchants' Association has stated that the bearings produced by the petitioners are high quality bearings with higher load capacity while those imported from the subject countries are of low quality with lower load capacity and these bearings have different applications. Hence the bearings produced by the petitioners cannot be treated as Like Article to those imported.

19. The Authority notes that Ball Bearings produced world over follow certain basic standard designation (numbering) system. While it is not impossible that some producer may use some uncommon number to designate some special bearings, however, in case the number used by a producer is covered under the basic designation system, the bearings has to match the laid down parameters. The domestic industry produces Ball Bearings of several types including 6201, 6202, 6203 & 6204 along with different variants /features like 2RS, V1, 2RS V1, ZZ, ZZV1, ZZV2. The specifications of the Bearings are standardized world over having specified physical

dimensions. The Authority does not find merit in the arguments of the exporter that the subject goods exported from China be not treated as Like Article to the domestically produced Ball Bearings on the ground that the former is produced from different raw materials, production process. Moreover, the Ball Bearings produced by the domestic producers have been used by the same user industry who are now importing the Ball Bearings from China and other countries. Thus the products being imported are commercial substitute of the domestically produced Ball Bearings. Further, in the views of the Authority, the specifications of Ball Bearings are fairly standardized which are denoted by the numbers. Thus, the Authority holds, for the purpose of preliminary determination, that Ball Bearings imported from the subject countries be treated as Like Article to those being produced by the domestic industry.

G. DOMESTIC INDUSTRY

20. The petition has been filed by Ball and Roller Bearing Manufacturers Association of India, New Delhi through its members viz., M/s. FAG Bearings India Ltd., Vadodara, M/s. NRB Bearings Ltd., Mumbai, M/s. SKF Bearings India Ltd., Mumbai, M/s. National Engineering Industries Ltd., Jaipur, M/s. Tata Iron and Steel Company Ltd., (Bearing Division), Kharagpur. The petitioner companies account for about 81.5% of domestic production of Ball Bearings.

21. It has been argued by the Chinese exporter that the petitioners do not fulfill the domestic industry eligibility criteria and that the petitioners have used assumptions on the volumes and value and capacity of other Indian producers. Further, the petitioners have not disclosed that two of them i.e. FAG and SKF are related to exporters from China and third countries.

22. Eastern India Ball Bearings Merchants' Association has stated that the scope of the present investigation is too wide, the goods produced by the petitioners are not Like Article to the goods imported due to differences on account of load capacity, sound level etc. Therefore, the petitioners do not fulfill the criteria under Rule 5(3)(a) requiring that domestic producers expressly supporting the application / petition should account for at least 25% of the total production of the Like Article.

23. The Authority notes that FAG Bearings India Ltd. had given certificate, which is part of the petition that their company had not imported the subject goods from the subject countries, either directly or through any affiliated company. Further, the company is not related to any importer / exporter of subject goods in the subject countries. Though FAG Group has manufacturing facility in China, they have not exported the subject goods to India. M/s SKF India Bearing Ltd. had also certified in the petition that their company had not imported into India the subject product from

the subject countries either directly or through any affiliated company. Further, their company is not related to any producer / exporter of the subject product in the subject countries. The Authority considers the allegations of the Chinese exporter and the importers' association as unsubstantiated. The Authority therefore, holds the view that the petitioner companies represent the domestic industry within the meaning of Rule 2(b) supra and they have the standing to file the petition under Rule 5(3)(a).

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

Normal Value

24. Under Section 9A(1)(c) of the Customs Tariff (Amendment) Act,1995 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)";

Normal Value in respect of China PR

25. The Authority sent questionnaire to all the known exporters for the purpose of determination of normal value in accordance with Section 9A(1)(c). A joint response has been received from the following producer / exporters from China:

- Huanchi Bearing Group Co.Ltd. China
- Ningbo Huanchi Import & Export Co. Ltd., China
- Ningbo Teke Bearing Co. Ltd., China.

The above producer / exporters have also furnished questionnaire response giving details of domestic sales, exports to India, sales price structure and cost of production. The Authority notes that the exporter has furnished information about 646 models of Ball Bearings produced / sold. Further, they claim to have exported about 145 models of Ball Bearings covered by the investigation during the POI to India.

26. Petitioners have claimed that China and Russia are non-market economies. China and Russia have been treated as non-market economy by European Commission and United States in the past three years. Therefore, determination of normal value in respect of these countries is to be done in accordance with the Rules relating to non-market economies as contained in para 7 & 8 of Annexure-1 of Rules as amended vide Notification dated 4.1.2002. Accordingly, they have claimed that normal value in these countries can be determined on the basis of estimates of cost of production in India including selling, general and administrative expenses and profit.

27. The aforesaid Chinese producer/exporters, in their response, have claimed market economy treatment. They have also drawn reference to provisions of Article 15 of the Protocol of Accession of China to WTO. According to them, the proviso to para 8(2) of Annexure-I of the Rules, inter alia, provides an opportunity for an exporter to rebut the presumption of NME on the basis of the criteria specified in sub-para 3 of para 8 of Annexure-I and the said provisions must be read along with the provisions of Article 15 of the said Protocol. The Authority is of the view that in so far as Rules relating to NME are concerned, the rules as contained in the National Law i.e. under para 7 & 8 of Annexure-I to the Rules are relevant to this investigation.

28. The Chinese exporter has claimed that :

- a. The decisions of The Respondents and other concerned firms in China with respect to prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and the costs of the inputs reflect market values. This is reflected in documents furnished and in the confidential data furnished by The Respondents with the confidential Response to the Questionnaire. It is submitted that there is neither any State regulation of costs or prices of these inputs in China or any system of 'administered prices'.
- b. There is no distortion of production costs and financial situation as the Respondents are entirely private companies as described in the Questionnaire Response and accompanying confidential information and further as the Respondents have not converted former State assets, or distorted depreciation thereof, or engaged in barter trade or debt forgiveness or debt/equity swaps, or received the benefit of any write-off.

- c. The Respondents are subject to China's regulations with respect to bankruptcy and property respectively. There a number of bankruptcies in China of similar firms as are clear from documents furnished.
- d. As in India the exchange rate is based on the market rate as determined by the Central Bank as is reflected in the confidential data furnished along with the said Confidential Questionnaire Response.

29. They have claimed that the normal value of subject goods may be determined in accordance with the domestic sales price of subject goods in China during POI. The Chinese exporter/producer has also furnished following documents in support of their claim for Market Economy Treatment :

- i. Registration Certificate of the exporter/producer.
- ii. Constitution of these companies and list of shareholders.
- iii. Company Law of Peoples' Republic of China.
- iv. Some invoices regarding purchase of raw material.
- v. Mortgage Deed.
- vi. Sample documents showing repayments of Bank loans.
- vii. Audit law of the Peoples' Republic of China.
- viii. Regulations for the implementation of the audit law of the Peoples' Republic of China etc.

30. The Authority notes that para 7 of Annexure 1 of Anti Dumping Rules, inter-alia, provides that :

"In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin....."

31. Further para 8 of Annexure 1of Rules supra (as amended) provides that:

"8.(1) The term "non-market economy country" means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping

investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economic country.

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).

(3) The designated authority shall consider in each case the following criteria as to whether :

(a) the decisions of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values ;

(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and

(d) the exchange rate conversions are carried out at the market rate:

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 of the principles set out in paragraph 7 and in this paragraph."

32. The Authority notes that the producer/exporters from China have claimed market economy treatment on the ground as stated above. The Authority, however, finds that sufficient evidence and information on the basis of the criteria specified in sub-para (3) of paragraph 8 has not been furnished. The Authority finds that the producer/exporters have furnished some documents regarding registration, constitution, purchase invoices, audit & account law of PR China. However, these documents fall short of the requirements under sub-para (3)(a) i.e. the decision of concerned firms in such country regarding prices, costs and inputs, including raw

materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values. Mere submission of some of the purchase invoices, registration certificates etc. is not sufficient evidence to establish that the producer/exporters deserve Market Economy Treatment within the meaning of para 8 (3)(a) of Annexure-I of the Rules. In order to meet the criteria laid down under sub-para (3), the Authority is of the view that the producer/exporter should have furnished the following inter-alia :

- i. How the raw materials and other relevant inputs for manufacturing the product concerned are procured (short or long term contracts, spot market, number of suppliers for the various raw materials, purchased locally or abroad etc.).
- ii. For each item of raw material, information about the name and address of the supplier. whether the supplier is a private person, a company, the State or a local / regional authority :
 - if it is a private person, whether this person has Chinese nationality or any other nationality;
 - if it is a company, whether it is a Chinese company, a foreign-owned company or a joint-venture with a foreign-owned company;
 - if it is a Chinese company, whether it is a privately owned company, a State-owned company or a company owned by local/regional authorities. If it is a company part-owned by the State or local/regional authorities, specify to what extent State or local/regional authorities are involved;
 - if it is a local/regional etc. authority, details to be given.
- iii. For each item of utility i.e. coal, electricity, water and oil, the names/addresses of the suppliers may be given. Whether these utilities are charged at normal rates or whether any special or subsidized rate is charged. What are the rates charged during the POI for each of the utility.
- iv. Whether there are any restrictions or conditions, either direct or indirect, on imports of raw materials used by the producer. If so, these restrictions or conditions may be described.
- v. It may be described how labour is organized for production purposes. How many skilled workers, unskilled workers, managers etc. are employed? What is the average wage paid to each of these categories in the POI ?
- vi. How company employees are remunerated (i.e. indicating in detail all elements of remuneration including salary, overtime pay, company car, holiday allowance etc.). What is the frequency of the remuneration? Which legal entity is the final payer? Do the employees of the company or their families benefit from other facilities such as housing, medical care, pension, education etc.? It

- may be specified who pays for these facilities. If the company employs foreign staff, and if so to mention separately where the final payer is located.
- vii. Whether any local / regional authority or State is involved in setting prices / quantities. Provide a copy of the documents (together with an English translation) in which those involvements are set out and indicate the relevant provisions.
 - viii. Which accounting documentation has to be registered for official purposes each year? Which authorities are involved in the official registration of these documents?
 - ix. The methods of depreciation and amortisation used for the main fixed and intangible assets needs to be explained. The acquisition value and the current book value may be specified. It may be explained in each case how the asset was obtained (e.g. bought on the open market, transferred to the company by a shareholder, given for free or at a discount by the State or a third company). If the valuation of the above-mentioned assets has been changed during the last 10 years it may be explained on what basis and to give the reasons for the change in valuation. The impact on the current book value may also be given.
 - x. List of all facilities used for the production and/or commercial purposes that are not owned by the company (land, buildings and machines). The contracts for lease or rent to be furnished.
 - xi. A list of current loans held by the company as at 31st March, 2002 may be provided giving details of the amounts, repayment instalments and interest rates. It may be explained whether the company benefits from special loan or subsidy schemes (e.g. preferential interest rates and extended payback periods, subsidized energy supply etc.).
 - xii. It may be explained how foreign exchange rate(s) used for purchase of inputs, conversion of the proceeds of export sales and repatriation of profits are set? Is there only one rate, which can be used? Explain if there are any limits applicable to the company for the use/conversion of foreign currencies. If the company has a foreign exchange account, the approval of the application (together with an English translation) by the relevant authority may be submitted.
 - xiii. Has the company been involved in barter-trade or counter-trade at any time in the last five years involving the exchange of goods or commodities for (foreign) equipment, services or commodities? Provide details and explain the accounting methods used.
 - xiv. Explain whether the company has been involved in compensation trade (also known as product buy-back) at any time in the past five years whereby a (foreign) company provides machinery and equipment for which it receives payment-in-kind, usually in the form of goods produced. Explain if such

payments were structured as loans or as instalment sales. Explain the accounting methods used.

- xv. The profit distribution policy of the company for the last three years may be specified.

33. The Authority is, therefore, unable to apply the principles set out in paragraph 1 to 6 of Annexure 1 of Rules supra and is constrained to proceed as per para 7 of Annexure-I whereby normal value can be determined on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted to include a reasonable profit margin. In addition, the Authority observes that the information furnished by the exporter in the various appendices of questionnaire response is deficient due to the following:

- i. Ratio of raw material Pellit in the each of the final product has not been given in Appendix 8 & 9.
- ii. Exchange rate used for conversion of RMB to US \$ in appendix 4,5,8 and 9 has not been given with supporting evidence.
- iii. Adjustment on account of ocean freight in appendix 4 is invariably found low in comparison to adjustment on account of inland freight shown in appendix 5 for domestic sales. This has not been explained along with evidence.
- iv. In the adjustments shown in Appendix 4 there is no mention of the adjustment of profit mark up of M/s Teke to arrive at the ex-factory export price.
- v. Detailed statement of allocation of costs, utilities and other expenses to the models covered under investigation and other models not covered under investigation showing actual amounts of expenses as per Financial accounts along with basis of allocation has not been furnished to appreciate the cost of production of each model.
- vi. Profit & Loss account and Balance sheet of exporter M/s Ningbo Huanchi Import & export Co. Ltd. for the years 2001 and 2002 have not been furnished.

34. Under the circumstances, the authority is of the view that the information furnished by the exporter can be considered subject to furnishing of sufficient evidence in respect of parameters relating to market economy treatment and other information as discussed above. For the purpose of the preliminary findings the Normal value is determined on the basis of cost of production of subject goods in India plus selling, administration and general expenses and a reasonable profit margin as per para 7 of Annexure-I of the Rules. While doing so the Authority has considered the international price of raw materials and have normated the cost of production at optimum capacity utilisation.

Normal Value in respect of Russia

35. None of the exporters from Russia has responded to the Initiation. The petitioners have claimed normal value in respect of Russia on Non-market Economy Treatment. In the absence of any response from any Russian exporter, the Authority is constrained to determine normal value on the basis of facts available as per Rule 6((8)). The normal value is thus determined on the basis of cost of production in India including selling, general and administrative expenses and a reasonable profit margin.

Normal Value in respect of Romania

36. None of the exporters from Romania has furnished complete response to the questionnaire. Only M/s S.C. Rulmenti S.A. Slatina has informed that their company makes the Ball Bearings with bore dia (inner diameter) between 12 and 40 mm and their company is not required to complete the questionnaire. The description of the product under investigation covers Ball Bearings up to 50 mm bore dia. Therefore, the Ball Bearings manufactured and exported by the Company are very much covered by the scope of the product under consideration. The Authority considers the exporters from Romania as non-cooperative. The petitioners have claimed normal value in respect of Romania on the basis of domestic market sales price in Romania. Due to non-cooperation of exporters from Romania, the Authority is constrained to determine normal value on the basis of facts available as per Rule 6((8)). The normal value is thus determined on the basis of information furnished by the petitioners which is based on the domestic sales price in Romania.

Normal Value in respect of Poland

37. None of the exporters from Poland has furnished complete response to the questionnaire. Only M/s NSK - ISKRA has informed that their company did not export the subject merchandise to India during the POI. Further, their company sold the subject merchandise to unrelated trading companies. They have not furnished information on the questionnaire. The Authority considers the exporters from Poland as non-cooperative. The petitioners have claimed normal value in respect of Poland on the basis of domestic market sales price in Poland. Due to non-cooperation of exporters from Poland, the Authority is constrained to determine normal value on the basis of facts available as per Rule 6((8)). The normal value is thus determined on the basis of information furnished by the petitioners which is based on the domestic sales price in Poland.

Export price in respect of China PR

38. The Authority has considered the information given by the co-operative exporter from China, M/s HCH for determining the export price. The Authority has observed that out of total exports of the Company, 87.89% are in respect of Ball Bearings

models/types 6201, 6202,6203 & 6204 and their variants. The exporter has given information in Appendix 4 in respect of different models of Ball Bearings exported to India. They have claimed adjustments on account of ocean freight, insurance, packing charges, storage and handling and customs charges. The ex-factory export price as shown by the exporter has been accepted for the Preliminary Findings subject to verification.

Export price in respect of Russia

39. There has been no response from any exporter of Russia. The Authority has considered the information provided by the petitioner regarding export price of subject goods from Russia. The petitioner has claimed export price as per data of secondary source and has shown adjustments on account of ocean freight, marine insurance, commission, inland transport and port handling and port charges. Due to non-cooperation of exporters from Russia, the Authority is constrained to rely upon facts available as per Rule 6(8) and has thus considered the ex-factory export price as claimed by the petitioner.

Export price in respect of Poland and Romania

40. There has been no complete response from any exporter of Poland and Romania. The Authority has considered the information provided by the petitioner regarding export price of subject goods from these countries. The petitioner has claimed export price as per data of secondary source and has shown adjustments on account of ocean freight, marine insurance, commission, inland transport and port handling and port charges. Due to non-cooperation of exporters from Poland and Romania, the Authority is constrained to rely upon facts available as per Rule 6(8) and has thus considered the ex-factory export price as claimed by the petitioner.

Other Non-cooperative Exporters from China P.R.

41. In respect of other non-cooperative exporters from China P.R., the Authority has taken the normal value as in respect of M/s HCH China. The export price has been determined as per the information furnished by the petitioners, considering the same as facts available in accordance with Rule 6(8).

Dumping margin

42. The principles governing the determination of normal value, export price and the dumping margin are laid down in Annexure-I to the Rules. For the purpose of the fair comparison between the normal value and export price, the Authority has made calculations and comparisons at the same level of trade in respect of subject goods.

Normal Value at ex-factory level has been compared with the export price at ex-factory level of relevant comparable type/model of Ball Bearings. Considering the normal value and export price, determined as detailed above, the dumping margin comes as under:

S. No.	Country	Name of Exporter/Producer	Ball Bearing type/number	Dumping Margin %
1.	China	M/s Huanchi Bearing Group Co. Ltd., M/s Ningbo Teke Bearing Co. Ltd., M/s Ningbo Huanchi Import and Export Co. Ltd.	6201	262.91
			6202	220.88
			6203	171.74
			6204	98.97
			Other types	235.38
2.	China	Other exporters	All types	344.46
3.	Russia	All exporters.	All types	436.78
4.	Poland	All exporters	All types	253.17
5.	Romania	All exporters	All types	181.46

I. INJURY

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

"Determination of Injury:

1. 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;
2. 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."

44. The principles for determination of injury set out in Annexure-II of the Anti-Dumping Rules lay down that:

- i. A determination of injury shall involve an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.

- ii. While examining the volume of dumped imports, the said Authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of Rule 18 the Designated Authority shall consider whether there has been a significant price under-cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.

45. Views of the petitioners

The views of the petitioner as regards injury and causal link are contained in Part B of these findings and these are not being repeated for the sake of brevity

Views of Exporters and Importers

46. The views of exporters and importers as regards injury and causal link are contained in part-B of these findings and these are not being repeated for the sake of brevity. Further, it has been argued by the exporter that in terms of assessing injury in totality of the relevant parameters as required, it is clear that there is no injury at all suffered by the petitioners.

Examination by the Authority:

47. The Authority has considered the views of the petitioners, exporters, importers and users as regards injury. The Authority has examined the information regarding various injury parameters as under:

Imports from subject country :

48. The Authority notes that the imports of subject goods have been as under :

	Unit	1998-99	1999-00	2000-01	POI
Imports-Volume	As per DGCI&S				
China	Lac Pcs	16.33	43.16	227.24	375.49
Trend	Indexed	100	264.30	1391.57	1839.51
Poland	Lac Pcs	1.913	12.98	20.87	34.63
Trend	Indexed	100	678.56	1090.86	1448.24
Romania	Lac Pcs	3.09	17.13	33.98	23.86
Trend	Indexed	100	554.36	1099.59	617.70
Russia	Lac Pcs	1.915	30.97	28.67	45.34
Trend	Indexed	100	1617.05	1497.20	1894.08

Subject Countries	Lac Pcs	23.25	104.24	310.76	479.32
Trend	Indexed	100	448.37	1336.72	1649.41
Other Countries	Lac Pcs	113.99	134.58	142.82	219.49
Trend	Indexed	100	118.06	125.28	154.04
Total Imports	Lac Pcs	137.24	238.82	453.57	698.81
Trend	Indexed	100	174.01	330.50	407.35

Share of Imports from Subject Countries

49. The Authority finds that the market share of imports from subject countries in the total imports in terms of quantity has been as under :

	Unit	1998-99	1999-00	2000-01	POI
China	%	11.9	18.07	50.1	53.73
Poland	%	1.39	5.44	4.6	4.96
Romania	%	2.25	7.17	7.49	3.41
Russia	%	1.4	12.97	6.32	6.49
Subject Countries	%	16.94	43.65	68.51	68.59
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>257.67</i>	<i>404.43</i>	<i>323.92</i>
Other Countries	%	83.06	56.35	31.49	31.41
Total Imports	%	100	100	100	100

50. Other Economic parameters

	1998-99 (Indexed)	1999-00	2000-01	POI
Capacity	100	91.75	101.35	110.59
Production upto 50 MM	100	93.71	118.51	117.91
Production all types-Volume	100	94.25	118.81	117.78
Capacity Utilization	100	102.73	117.23	106.50
Indigenous Sales upto 50 MM-Volume	100	95.33	112.42	116.04
Total Sales all types-Volume	100	92.51	108.71	109.64
Total Sales all types-Value	100	97.75	114.49	112.81
Profit Loss-Upto50 MM	100	180.26	754.66	224.65
Profit/Loss as a whole	100	171.37	280.00	204.67
Cost of production				
6201	100	91.69	94.61	94.50
6202	100	97.82	96.05	96.14
6203	100	98.55	92.00	90.96
6204	100	101.07	94.57	96.54

Production of Identified four types				
6201	100	66.36	81.70	75.98

6202	100	88.19	99.15	81.87
6203	100	111.11	147.59	161.11
6204	100	98.90	111.24	107.56
Net Sales Realization				
6201	100	92.46	101.01	99.44
6202	100	98.68	104.95	104.62
6203	100	97.77	99.48	96.60
6204	100	96.81	100.01	99.84
Sales of Identified four types				
6201	100	68.43	82.65	79.94
6202	100	86.28	88.30	80.52
6203	100	103.41	120.15	132.80
6204	100	90.99	101.91	96.45
Profit/Loss				
6201	-100	-87.64	-61.15	-68.73
6202	-100	-91.86	-34.59	-37.50
6203	-100	-107.62	-4.86	-25.18
6204	100	48.66	161.58	137.19
Closing Stock				
Ball Bearings - Upto 50 MM	100	78.00	102.66	97.42
Bearings - As a whole	100	76.95	99.78	96.02
No. of Employees	100	94.71	87.33	80.31
Productivity - Pcs.	100	99.52	136.05	146.66
Productivity - Pcs. - Identified types	100	89.73	117.06	120.63
Salary & Wages	100	99.73	107.06	104.85
Capital Employed	100	99.00	105.29	104.57
Actual Return on Capital Employed	1.83	3.17	4.88	4.49
Cash Profit	100	113.62	143.39	112.52
Demand	100	104.34	127.00	133.91
Market share in Demand				
China	1.19	3	1.56	16.29
Poland	0.14	0.9	1.19	1.5
Romania	0.22	1.19	1.94	1.03
Russia	0.14	2.16	1.64	1.97
Subject Countries	1.69	7.25	6.33	20.79
Subject Countries	100	428.99	374.56	1230.18
Other Countries	8.28	9.37	19.6	9.52
Other Countries	100	113.16	236.71	114.98
All imports	9.96	16.62	25.93	30.31
Domestic industry	65.06	59.45	57.59	56.38
Domestic industry	100	91.38	88.52	86.66
Indian Industry	90.04	83.38	74.07	69.69
Indian Industry	100	92.60	82.26	77.40
Price Undercutting				
6201	China	Poland	Romania	Russia
	191.45		70.63	212.74

6202	186.97	178.55	82.3	238.16
6203	146.49	155.08	113.48	268.77
6204	159.2	173.94	159.92	371.18
Price Suppression/Depression	China	Poland	Romania	Russia
6201	230.00		93.20	254.10
6202	201.85	193.00	91.75	255.69
6203	152.00	160.79	118.25	277.02
6204	130.26	143.35	130.90	318.58
Market share of imports in relation to production (%)				
China	1.74	4.90	2.45	27.10
Poland	0.20	1.47	1.87	2.50
Romania	0.33	1.94	3.05	1.72
Russia	0.20	3.52	2.57	3.27
Subject Countries	2.47	11.83	9.94	34.59
Share of identified types in total production upto 50 mm (Indexed)				
6201	100	70.82	68.93	64.44
6202	100	94.12	83.66	69.44
6203	100	118.57	124.54	136.64
6204	100	105.54	93.86	91.22
Four identified types	100	90.69	86.26	82.17
Share of other than four identified types	100	108.46	112.49	116.21
Growth				
Volume wise		-4.67	-12.42	-16.04
Value wise		-3.71	-8.96	-14.07

Conclusions on Injury assessment :

51. The Authority has examined all the above relevant parameters relating to injury as per para (iv) of Annexure II of Rules and concludes that :

- i. The imports of subject goods were 23.25 lac pieces during 1998-99 which increased to 479.32 lac pieces during POI. This is an increase of more than 1600% over 1998-99. Thus the imports from subject countries have increased significantly in absolute terms during POI.
- ii. The share of imports of subject goods from subject countries increased from 16.94% in 1998-99 to 68.59% during POI. This was an increase of 323.92%. The market share of imports from subject countries in total demand of subject goods increased from 6.33% in 2000-01 to 20.79% during POI. The Authority considers this as a very significant increase and holds that there has been significant increase in imports of subject goods from subject countries in relation to consumption in India.
- iii. The capacity utilization declined during the POI in comparison to the previous year 2000-01.

- iv. The domestic sales of the domestic industry in respect of Ball Bearings upto 50 mm bore dia showed a marginal improvement during POI in comparison to the previous year. The sales of identified four types showed decline in respect of models 6201, 6202, 6204. However, the sales of model 6203 showed an upward trend during POI.
- v. The profits in respect of Ball Bearings of subject types showed a significant decline during the POI in comparison to the previous year.
- vi. The net sales realization of the subject types of Ball Bearings showed decline during the POI.
- vii. The closing stock of the subject types of Ball Bearings showed marginal decline during the POI in comparison to the previous year.
- viii. The number of employees in the petitioner companies showed a decline during POI. However, the productivity per employee improved during the POI.
- ix. The trend in respect of salary and wages is not being considered as a material indicator regarding injury.
- x. The capital employed did not show any appreciable change. However, the actual return on capital employed showed a decline from 4.88% to 4.49%.
- xi. The cash profit of the petitioner companies showed a significant decline during POI from the previous year.
- xii. The landed value of the dumped imports has been found to be significantly below the net sales realization of the domestic industry. Thus, there has been significant price under cutting due to the dumped imports of subject types of Ball Bearings from subject countries.
- xiii. The landed value of imports of subject goods from subject countries has been found to be significantly below the cost of production of the domestic industry. This has resulted in very significant price suppression / depression of the domestic industries' production.

Cumulative assessment of injury:

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

of imports of the subject goods on the domestically produced like article in the light of conditions of competition between the imported products and the domestically produced goods. The Authority has found that there is a cumulative effect of injury by imports of subject goods from subject countries on the domestic industry.

J. CAUSAL LINK

53. The Authority has examined the impact of the dumped imports on the domestic industry as per principle (v) of Annexure-II of the Anti-Dumping Rules. The relevant indices as set forth in para (iv) of Annexure II of the Rules have been examined by the Authority.

54. The Authority has considered the views expressed by the petitioners and other interested parties as regards the causal link, which have been mentioned, in the preceding paragraphs. After examining the various economic parameters as above the Authority has come to the following conclusions:

- i. There has been an increase in imports of subject goods from subject countries in absolute terms as well as in relation to the consumption of said goods in India.
- ii. The market share of the dumped imports from the subject countries has increased significantly during POI in comparison to the previous year 2000-01. The significant volume of dumped imports from the subject countries has resulted in significant price under cutting, price suppression/depression for the subject products of the domestic industry. The net sales realization of the domestic industry has been significantly below the landed value of imports of subject goods from subject countries.
- iii. The domestic industry has suffered injury due to price suppression. They have not been able to raise their selling price so as to realize a fair return on the investments as the landed value of the dumped imports has considerably depressed the selling price of the domestic industry.
- iv. It has been argued by the exporter that the normal grade of subject goods exported by them cannot be cause of injury to the domestic industry. The Authority notes that significant portion of the domestic fan manufacturers have shifted to the imported Ball Bearings of the manufacturers/exporters from subject countries. The Authority has held the normal grades of types 6201, 6202, 6203 & 6204 exported from subject countries as Like Article to the subject Ball Bearings produced by the domestic industry. The supposedly Inferior quality of the imported Ball Bearings does not imply that these are not Like Article to the domestically produced Ball Bearings of comparable types. The imported Ball Bearings have been used by the domestic fan and other

appliance manufacturing industry which was also being served by the domestic producers. Therefore, the import from subject countries has resulted in loss of market share of the domestic industry. The domestic industry has surplus available capacity which has remained unutilized due to the dumped imports from subject countries.

- v. The dumped imports have prevented the domestic industry from effecting legitimate price increase. The domestic industry has suffered steep decline in profitability in the sale of Ball Bearings upto 50mm bore dia
- vi. The above economic parameters cumulatively and collectively establish that domestic industry has suffered material injury on account of dumping.
- vii. The demand of the subject goods has not decreased but has instead increased and therefore, contraction of demand cannot be attributed as a cause of injury. The Authority also notes that the domestic industry is globally competitive and changes in technology or competition amongst the domestic producers are not the cause of injury. The Authority has also noted that there is some decline in the exports made by the domestic industry in comparison to the previous year. However, the decline in exports sales of the domestic industry cannot be attributed to the injury. This is due to the fact that the domestic sales constitute a much larger share of the total turnover of the domestic industry. No technological development in the industry or any other such factor which could have resulted in injury to the domestic industry has been noticed.

K. INDIAN INDUSTRY'S INTEREST

55. 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.

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

L. CONCLUSIONS

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

- i. Subject goods have been exported to India from subject countries below the normal value;
- ii. The domestic industry has suffered material injury; and
- iii. The material injury has been caused by the dumped imports from subject countries.

58. The Authority considers it necessary to impose an anti dumping duty provisionally, pending final determination, on imports of Ball Bearings of inner bore dia above 8mm and up to 50mm from subject countries in order to remove the injury to the domestic industry. The margin of dumping determined by the Authority is indicated in the paragraphs above. The Authority proposes to recommend the amount of anti dumping duty not exceeding the margin of dumping or the margin of injury whichever is less and which if levied, would remove the injury to the domestic industry. For the purpose of determining injury, the landed value of imports has been compared with the non-injurious selling price of the domestic industry determined for the period of investigation.

59. Accordingly, the Authority recommends that provisional anti dumping duties be imposed from the date of notification to be issued in this regard by the Central Government on all imports of Ball Bearings of inner bore dia above 8mm and upto 50mm falling under Chapter 84 under Sub-heading 8482.10, 8482.80 & 8482.91 of Schedule I of Custom Tariff Classification originating in or exported from subject countries pending final determination. The anti dumping duty shall be the amount mentioned in column 5 in the following table in US\$.

S. No.	Country	Name of Exporter/Producer	Ball Bearing type/number	Anti-Dumping duty US\$ per piece
1.	China	M/s Huanchi Bearing Group Co. Ltd., M/s Ningbo Teke Bearing Co. Ltd., M/s Ningbo Huanchi Import and Export Co. Ltd.	6201	0.442
			6202	0.391
			6203	0.354
			6204	0.381
			Other types	0.414
2.	China	Other exporters/producers	All types	0.477
3.	Russia	All exporters/producers.	All types	0.522
4.	Poland	All exporters/producers	All types	0.461
5.	Romania	All exporters/producers	All types	0.432

60. 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.

M. FURTHER PROCEDURE

61. 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 these preliminary findings. 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. Saptharishi,
Designated Authority