

GOVERNMENT OF INDIA
 MINISTRY OF COMMERCE & INDUSTRY
 DEPARTMENT OF COMMERCE
 (DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)

NOTIFICATION

New Delhi the 10th September, 2009

Final Findings

Subject: Anti-Dumping Investigation concerning imports of Cathode Ray Colour Picture Tubes originating in or exported from Indonesia.

No. 14/15/2008-DGAD : Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

Procedure

2. The procedure described below has been followed with regard to this investigation by the Authority.

- i) On 15th September 2008, the Designated Authority (hereinafter referred to as the Authority) issued an initiation Notification, duly notifying the same in the Gazette of India, thereby initiating an Anti-Dumping investigations concerning imports of the subject goods originating in or exported from Indonesia (hereinafter referred to as subject country)
- ii) The Anti-dumping proceedings were initiated following an application received from M/s Samtel Color Limited supported by M/S JCT Electronics Limited, (hereinafter referred to as the applicants) in respect of complete or incomplete cathode ray colour television picture tubes (hereinafter referred to as CPT) originating in or exported from Indonesia, representing a major proportion of the domestic production of the said product. The application contained sufficient evidence of dumping of the said product from the subject country, and material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.
- iii) The Authority notified the Embassy of subject country in India about the receipt of dumping application made by the applicants before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

- iv) The Authority sent copies of initiation notification dated 15th September, 2008, to the Embassy of the subject country in India, known exporters from the subject country, importers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
- v) The Authority provided copies of the non-confidential version of the application to the known exporters and to the embassy of Indonesia in accordance with Rule 6 supra.
- vi) The Embassy of Indonesia in India was informed about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/ producers from their country to respond to the questionnaire within the prescribed time. A copy of the letters and questionnaire sent to the exporter/producer was also sent to them, along with the names and addresses of the exporter.

The Authority provided copies of the non-confidential version of the application to the known exporter and to the Embassy of Indonesia in accordance with Rule 6 supra.
- vii) The Authority sent questionnaire, to elicit relevant information to the following known exporter in subject country in accordance with Rule 6(4);

PT LG Electronics Indonesia
Kawasan Industri MM 2100 Blok G Cibitung ,Bekasi Bekasi 11111

- ix) Following exporter/producer has responded to the exporter's questionnaire in a substantial manner and notice of initiation. The exporter requested for extension of time for submission of response which was granted to them.

PT LP Displays Indonesia
Kawasan Industri MM 2100 Blok G Cikarang Barat-Bekasi 17520

- x) Questionnaires were sent to following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).
 - a) Dixon Utilities & Exports Limited
B-14, Phase – II, Noida – 201305 (U.P.)
 - b) LG Electronics India Pvt. Ltd.
Plot No. 51, Udyog Vihar, Surajpur-Kasna Road, Greater Noida. (U.P.)
 - c) Panasonic Avc Networks India Co. Ltd.
C-52, Phase – I, Noida – 201305 (U.P.)
 - d) Mirc Electronics Limited
Onida House, G-1, Midc,

Mahakali Caves Road, Andheri (East) Mumbai – 400093

- e) Samsung India Electronics Pvt. Ltd.
B-1, Sector-81, Phase – II, Noida – 201305 (U.P.)
- f) Videocon International Ltd.
14 Kms. Stone, Aurangabad-Paithan Road, Chitegaon,
Tq. Paithan, Dist. Aurangabad - 431105
- g) Philips Electronics India Ltd.
Plot 80, Bhosari Industrial Estate, P.B.12, Pune – 411026
- xi) In response to the above notification, M/s CEAMA and LG Electronic India Ltd requested for extension of time for submission of their response which was granted till 30.11.2008. From amongst importers, Mirc Electronics Ltd and Panasonic AVC Networks India Co. Ltd have filed their responses. However, no response was received from LG Electronics India Ltd.
- xii) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and for the period of investigations.
- xiii) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties.
- xiv) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to Domestic Industry. For the purpose, domestic industry was directed to provide its cost of production duly certified by a practicing cost accountant.
- xv) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;
- xvi) The Period of Investigation for the purpose of the present investigation is 1st July, 2007 to 30th June, 2008 (12 months). The examination of trends in the context of injury analysis covered the period from 1st April 2005 to the end of the POI.
- xvii) The Authority provided opportunity to the Domestic industry/ exporters/ importers/ industrial users of the product under consideration by way of a public hearing on 17.03.2009 to present their views subsequently supported by written submissions and to furnish information considered relevant to the investigation.
- xviii) The Authority issued Disclosure statement on 20th August 2009, thereby giving the essential facts under consideration which form the basis of its decision in the final

findings. The replies received thereto have been taken into consideration, without repetition in the present findings.

xix) The Authority satisfied itself with regard to accuracy of the information provided by the interested parties to the extent considered necessary.

Product Under Consideration and Like Article

3. The product under consideration is “complete or incomplete cathode ray colour television picture tubes”, more elaborately described as “thermionic, cold cathode or photo cathode valves and tubes such as vacuum or vapor or gas filled valves and tubes, mercury arc rectifying valves and tubes, also called cathode ray tubes, television camera tubes or cathode ray colour television picture tubes, or colour television picture tubes, or colour picture tubes etc.” and has been referred to as colour picture tubes or “CPT” or “CRT” in this notification. Video and computer monitor cathode ray tubes are beyond the scope of the present petition.

4. The subject goods fall under Chapter 85 of the Custom Tariff Act, 1975 under subheading no. 8540.11. The customs classification is indicative only and is in no way binding on the scope of the present investigate

View of the domestic industry

5. The applicants have claimed that goods produced by them are like article to the goods originating in or exported from Indonesia. The imported product is also used by same category of consumers. The product contains the same basic technical properties and has the same functions & uses.

Examination By the Authority

6. There are no issues raised contrary to the submissions made by the domestic industry on the Product under consideration. In view of the above, the Designated Authority confirms the preliminary findings regarding the Product under consideration.

Domestic Industry

Views Of the Domestic Industry

7. Rule 2(b) defines domestic industry as under:-

(b) “Domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporter or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:

8. The application has been filed by Samtel Color Limited. The petitioner has provided information relevant to the present investigations. The subject goods are also produced by JCT, Hotline and BPL Display Devices Limited. M/s Hotline and BPL discontinued their production during the last quarter of POI.

Examination by the Authority

9. After detailed investigations, the Authority notes that (a) production of the Samtel Color Limited constitutes a major proportion in Indian production (b) Production of the petitioner constitutes more than 50% of Indian production (c) the application has been supported by more than 50% of Indian production, (d) the application was made by or on behalf of the domestic industry. Further, Samtel Color Limited constitutes domestic industry within the meaning of the rule 2(b) read with 2(d) for the purpose of the present findings.

Views of the exporter, importers, consumers and other interested parties.

10. Hotlines and BPL should have been included within the purview of DI as they discontinued production only in the last quarter of the POI, but had their presence in the major portion of POI. The third producer JCT Electronics has been considered as a part of the domestic industry by the same Authority undergoing another investigation for the same product for alleged dumping from China, Korea, Thailand and Malaysia.

Examination By the Authority

11. M/s Hotline and BPL have not provided injury information. The Authority is therefore unable to include their data. Moreover, there is no information on record that Hotline and BPL have not suffered injury. As regards JCT, the Authority noted in the previous case that JCT has suffered higher degree of injury. The information provided by JCT in the present investigation also shows that JCT has suffered injury. However, since the information is not complete in the form and manner desired, the Authority has not included JCT within the scope of the domestic industry. There are no issues raised contrary to the submissions made by the domestic industry on the standing. In view of the above the Designated Authority confirms the preliminary finding on issue of standing and scope of the domestic industry.

Initiation Of the Investigation

Views of the Domestic Industry

12. The Domestic Industry has made no submissions on this aspect of investigation.

Views of the exporter, importers, consumers and other interested parties.

LPD Indonesia, Onida and Mirc Electronics

13. It has been submitted that the initiation is in violation of Rule 5-Sub-Rule 3(b). Referring to para 3 of provisional findings, it is claimed that from the information as

available in the application of the domestic industry and the Provisional Findings it appears that the initiation itself was in violation of the provisions Rule 5 sub-rule 3(b) of the Customs Tariff (Identification, Assessment and Collection of Ant-Dumping Duty on Dumped Articles and For Determination of Injury) Rules, 1995. It has been pleaded that when the POI 1st July 2007 to 30th June 2008 is the financial year of the domestic industry, then why the analysis in respect of year 2007-08 has been considered separately.

14. The period of investigation as notified by the Authority is from '1st July, 2007 to 30th June, 2008', which is also the financial year of the domestic industry. The financial year immediately preceding the POI as considered for injury analysis in the Provisional Findings is 2007-08. When the POI itself is the financial year 2007-08, on what ground the DA has considered it as a separate year for injury analysis? The data provided under 2007-08 and the POI in the Performa IVA are different although both the two periods being same. Would you please explain the period, injury data of which has been considered for 2007-08? The data considered in column for 2007-08 in the injury analysis do not reflect the data of the financial year 2007-08 and hence the whole investigation is based on erroneous/fraudulent data. The initiation is violative of Rule 5 sub-rule 3(b) of the Customs Tariff (Identification, Assessment and Collection of Ant-Dumping Duty on Dumped Articles and For Determination of Injury) Rules, 1995 as accuracy of evidence was absent. Similarly, the injury analysis as recorded in the Provisional Findings is based on such erroneous consideration. Hence it is requested that the investigation be terminated immediately and a fresh investigation may be initiated, if warranted, based on a fully and properly documented petition.

Period of Investigation and Injury Period

Submissions made by LPD Indonesia, Onida and Mirc Electronics

15. As per past practice of DGAD, an application for initiation of Anti Dumping investigation should contain information about the state of affairs of the Domestic Industry and imports for the period of investigation and the past three years. The same has been termed as injury period. In the present investigation the Designated Authority has opted period of investigation as July 2007 to June 2008 and the period of examination of trends in the context of injury analysis has been taken from 1st April 2005 to the end of POI. This means the injury period has been considered as POI plus two preceding years. Under these circumstances the Domestic Industry should have filed information for 2004-05, 2005-06, 2006-07 and the POI. The Domestic Industry has deliberately furnished information for 2005-06, 2006-07, 2007-08 and POI. Interestingly, the POI is the same as 2007-08 and hence 2007-08 may not be considered as a separate period. While the data for 2004-05 has already been furnished to the Authority in the other ongoing investigation for the same product as mentioned above, there is no reason to exclude such information in the present investigation. The reason for deviating from its own established practice by the DGAD could not be understood.

Examination By the Authority

16. The Authority has examined the issues raised above. It is seen that the POI is from 01 July 2007 to 30th June 2008 whereas the data for the year 2007-08 is for the period 01 April 2007 to 31st march 2008. The period of investigation is not the financial year. The period of investigation and financial year being different, the present analysis is consistent with the trade notice issued by the Authority on this issue. In respect of the contention that there is an overlap in the period between the investigation period and the preceding year, the Authority refers to its trade notice earlier issued which clearly provides that there should be no gap in the injury period. More so, when the injury examination has been carried out over a much longer period and the conclusion on injury is not based on a strict comparison between period of investigation and the preceding year, the issue as to how the injury findings have got distorted because of an overlap in the period of investigation and preceding year have not been brought out by the interested parties. The authority therefore upholds the preliminary determination in this regard and holds that there is no ambiguity and inconsistency so far as the selection of Period of Investigation and analysis of injury period is concerned.

Confidentiality

Views of the exporter, importers, consumers and other interested parties.

LPD Indonesia, Onida and Mirc Electronics

17. It has been pleaded that Authority has claimed confidentiality when the concerned party claimed the Data as Non-Confidential. In this context they have referred to the Provisional Findings, under various injury data analysis, claiming excessive use of '***' which indicated that the data provider has given them on confidential basis. However, while referred the same with the non-confidential submission of the domestic industry, it has been observed that they have not claimed the same as confidential. In this context they have also referred to Para 30 of the preliminary findings where the Authority has noted some information of production, capacity, sales volume and capacity utilization. The absolute data have been given as *** meaning thereby that these are confidential data. The Table also includes indexed information. In Performa IVA regarding injury information, the applicant domestic industry has submitted the absolute data as non-confidential. In such a situation where the DI has claimed the data as non-confidential, how the DA can consider these as confidential is not amenable to us. This is nothing but an attempt to cover up any deficiencies in data, which the DA has considered but is not willing to disclose.

18. The data provided by the domestic industry and the one considered by the DA are quite contradictory. It has been pleaded that the few ratios disclosed by the Petitioner at the Hearing in the paper book are in response to the far more extensive and detailed NCV Ratio Disclosure by the exporter and the importer. The Domestic Industry should also be required to provide similar Disclosure. LPD-I also refers to the prior Investigations in which it filed the Public Petition of Community Industry in 2006 EU Investigations and Findings by EC to demonstrate the differences in the public disclosure standards required of the Petitioners and Authorities in other jurisdictions when compared to India. It is to be

hoped that Hon'ble Authority will be more rigorous and even handed in future in its requirement of NCV Disclosure by the Petitioners and improve its own Disclosure standards.

Examination by the Authority

19. The Authority has considered the arguments of interested parties with regard to confidentiality of information and provided indexed information to the extent possible, wherever information has been claimed confidential. The information in respect of import volumes and market share etc. has been disclosed while issuing the disclosure statement. The Authority notes that the submissions that the data provided by DI and one considered by the Authority is different is not supported by any specific nos. as to which are being referred to while making this submission. On the face of it, it is a mere statement, not based upon facts, and not supported by any evidence on record. Regarding capacity, capacity utilisation etc. it is the practice of the Authority that when the details are based upon a single company data, the same is not made available in public domain. In any case if the data has already been provided by the DI in their NCV to exporters, there is no reason for the responding exporter to raise the issue on this score. The Authority notes that it would have been prudent for the responding exporter to bring out any inconsistency in the indexed data provided in the PF document vis-à-vis one made available by the DI in NCV as claimed by them. No inconsistency on this score has been brought out and nothing on record has been made available in the comments to the disclosure statement. The Authority has followed the consistent practice as is being followed in all other cases across the board.

20 **Normal Value, export Price and Dumping Margin**
Normal Value for PT LP Displays Indonesia:

21. M/s PT LP Displays, Indonesia, the exporter from Indonesia responded as per the requirements of the exporters' questionnaire. Certain queries on these submissions were communicated to the exporter. For arriving at the Normal value, the domestic sales price of corresponding sizes of the company (after adjusting for credit costs claimed) was subjected to the ordinary course of trade test (OCT) by comparing with the respective cost of production. The respective cost of production has been adjusted for the allocations in respect of the cost of DY and financial expenses. Based on above, the allocations to each size have been worked out which have been adopted for the purpose of carrying out the OCT test. On this basis, the normal value has been arrived at in respect of the sizes exported. Of the three sizes exported to India, normal value in respect of size 14 and 20 has been based on cost plus reasonable profit and different variants of size 21 have been based on total sales in the domestic market. In response to the disclosure statement, the exporters requested to examine the detailed calculation sheets for adjusted cost of production especially the components of the rates of DY, financial expenses adjusted for each size, the details of OCT test carried out and the profit ratio adopted by the authority in respect of the profitable sales for working out the Normal value and the resultant dumping margin. The examination was carried out by the

representative of the exporters and required details were provided. No further comments were provided by the exporters in this regard.

22. The normal value adopted in respect of M/s PT LP Displays Indonesia (the cooperating exporter) has been adopted for the residual category as well.

Export Price:

23 The verification of records of the responding exporter was carried out at their premises on 7th and 8th of April 2009. The export transactions were checked from the records of the exporter. The terms of sales for the transactions to India were found to be on both CNF and FOB basis, with post FOB expenses borne by the Indian Importers. Adjustments claimed on account of Inland Freight, Handling Charges, Overseas Freight (in case of CNF transactions only), Credit Cost and bank Charges were verified from the respective records and found to be in order as claimed. No adjustments had been claimed on account of packing charges and inland insurance. Since such adjustments apply to the domestic sales as well and no adjustments on account of these expenses having been claimed for domestic sales, therefore, no adjustments on this account have been allowed in the export price comparison as well.

24 The lowest export price in respect of the cooperating exporter has been considered for determination of the net export price in respect of the residual category after allowing adjustments at par with those allowed for the cooperating exporter. This lowest export price has been determined based upon a reasonable commercial volume for each variant.

DUMPING MARGIN

25. The Authority has determined both the normal value and export price at ex-factory level, separately for each size. Cumulative dumping margin has been determined considering the associated volumes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and export price determined as detailed above, dumping margin has been determined, which comes as under:-

PT LP Displays Indonesia							
Company Code	***	***	***	***	***	***	Total
Size	***	***	***	***	***	***	
Quantity (Pcs.)	***	***	***	***	***	***	
Normal Value (US\$)	***	***	***	***	***	***	
Net Export Price (US\$)	***	***	***	***	***	***	
Dumping Margin (US\$)	***	***	***	***	***	***	
DM%	35-40	20-25	3-8	2-7	Negative	3-8	2-7
All Others	36.00	23.35	10.53	33.53	0.45	8	27-32

26 Methodology For Injury Determination and Examination of Causal Link
Views of the domestic industry

27. The followings are the views of domestic industry:-

- (a) Foreign producers kept reducing their prices consistently over the injury period;
- (b) Indonesian producer joined other foreign producers, by offering prices lower than the prices prevailing at the time of previous investigation POI;
- (c) The domestic industry has been forced to reduce its prices consistently throughout the period;
- (d) Even though imports from Indonesia have started only recently, the same were significant during the proposed POI;
- (e) Imports are significantly depressing the prices of the domestic industry in the market;
- (f) As a result of significant price depression, contribution margin steeply declined;
- (g) As a result of price depression and resultant decline in contribution, situation of the domestic industry with regard to profit, return on investments and cash flow significantly deteriorated. The domestic industry suffered huge financial losses and negative return on investment;
- (h) So serious has been the impact of the dumping that the overall financial situation of the Company has significantly deteriorated;
- (i) Imports have increased in absolute terms as also related to production and consumption in India;
- (j) Even though production of the domestic industry increased up to 2006-07, the same has declined in proposed POI;
- (k) Even though the sales volumes of the domestic industry have increased, the increase is far lower than the increase in demand, even when the domestic industry is saddled with unutilized capacities;
- (l) Capacity utilization of the domestic industry has declined;
- (m) Market share of domestic industry increased till 2006-07, but declined very steeply thereafter with significant increase in imports in that period.

28. It has thus been pleaded that the performance of the domestic industry has declined over the injury period and the dumped imports of subject goods are causing severe material injury to the domestic industry. The deterioration in the performance during the current period is quite significant and material.

29. Considering various injury parameters, it has been claimed by the domestic industry that the performance of the domestic industry has declined over the injury period and the dumped imports of subject goods are causing severe material injury to the domestic industry. The deterioration in the performance during the current period has been claimed to be quite significant and material. Increase in imports is stated to have led to increase in market share of imports. As a direct consequence, market share of domestic industry, it has been claimed, could not increase as a result of increase in demand. On the contrary, the market share of the domestic industry is claimed to have declined significantly in the POI. Further, significant decline in the market share in the proposed POI is claimed to have led to significant under utilization of production capacities. Decline in import price is claimed to have forced the domestic industry to reduce the prices, which in turn led to significant erosion in profit margin and consequent deterioration in profit/loss, return on investments and cash flow.

Views of other interested parties

LPD Indonesia, Onida and Mirc Electronics

30. The present Anti dumping investigation has been initiated on 15th September, 2008 consequent upon an application made by Samtel Color Limited as the domestic industry. It has been stated at Para 9 of the Preliminary findings that there were three more producers of the subject goods in India. JCT Electronics is in the production of the subject goods. As stated in the preliminary findings, Hotlines and BPL have discontinued production in the last quarter of the POI. Since these two producers were in production during the major part of the POI, there is no justification to exclude them from the Domestic Industry. The Authority could easily take a POI excluding the last quarter so that a proper analysis to the domestic industry as a whole could be done for the sake of a fair investigation.

31. The same Authority has been also undergoing another investigation for the same product for alleged dumping from China, Korea, Thailand and Malaysia. For that investigation another domestic producer JCT Electronics was a part of the domestic industry. While the injury data of the said producers were available with the Authority, what constrained the Authority to exclude that producer from the domestic industry could not be understood. Such discriminative treatment is bad at law for an independent and fair investigative Authority and need be corrected. The Designated Authority needs to direct all the domestic producers to assist the authority with relevant data for a fair investigation. The data considered in the investigation is only a small segment of the domestic industry and are inadequate to consider them as information of the domestic industry.

32. It is quite natural that the petitioner would blame imports as the reason for injury to them. To substantiate their claim they have exaggerated their claim by data submitted in confidential, which are not approachable to other interested parties. They are conservative enough to even provide any indexed data of cost, sales or profitability. In the absence of the same, the other interested parties are handicapped to provide any meaningful views. The Designated Authority has recorded at Para 19 that no views have been given by any interested party other than the domestic industry. The DA should appreciate that the petitioners have not provided sufficient and accurate data in the non-confidential application so that other interested parties can comment upon. It is interesting to note that the data, which the petitioner did not claim to be confidential, the DA has claimed them as confidential in the preliminary findings as cited in an earlier paragraph. The petitioners have given certain information about its capacity, production, domestic-sales, export sales etc in the non-confidential application although some of them are inaccurate and ill-motivated to misguide the Authority.

Examination by the Authority

33. Article 3.1 of the ADA and Annexure II of the AD Rules provide for 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 the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The Authority is required to examine whether there has been a significant increase in imports, either in absolute term or relative to production

or consumption in the importing member. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

34. For the purpose of injury analysis the Authority has cumulatively examined effect of dumped imports of the subject goods on the domestic industry and its effect on production, capacity utilization, sales, prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any. With regard to analysis of data of JCT already on record, the Authority notes that the available data on record did not correspond to the POI of the present investigation and reliance on this incomplete data would lead to distortions. The onus is on the producer / manufacturer to opt for participation or otherwise in an AD investigation. M/s JCT merely supported the petition and sought not to be a part of investigation. The injury analysis is based upon the data of M/s Samtel only; the DI in the present case within the scope of AD Rules. Regarding the allegation that petitioners have not provided sufficient and accurate data is again a mere statement, not supported by any factual evidence. The Authority notes that it has taken on board only the verified data. On the issue of capacity, capacity utilisation etc. the same have already been explained in Para 19 above.

35. Since positive dumping margins have been established for the exports from the subject country, therefore, entire exports from the subject country have been treated as dumped imports for the purpose of injury analysis and causal link examination.

Volume Effect:

Views of LPD Indonesia, Onida and Mirc Electronics

36. It has been pleaded that the assessment of the DA is based on a casual approach. According to them the Authority has come out with the Preliminary Findings on the 30th December, 2008. It had failed to collect correct import data for the quarter ended 30th June 2008 from the DGCI & S, the dependable Government Source of import data. If the export quantity of the responding exporter represents the total imports from Indonesia there may be no reason for consideration of any residual category of exporters from that country and the Duty Table should have been revised accordingly. If the DA feels that there were other exporters from Indonesia and residual duties require to be notified the export data of the responding exporter should not have been considered as the total imports from that country. There was no justification for a hurriedly notified preliminary finding, where adequate and accurate data of imports were not available. The claim of adequate and accurate data of the DA is not warranted by the fact of the findings. It has also been submitted that where there were no residual exporters, the DA has notified anti-dumping duty for residual exporters also and such act cannot be considered justified. The Approach of the DA is ad-hoc and casual in nature. He should have waited for some time more to collect correct data of imports and notify the preliminary findings thereafter.

Examination by the Authority

37. The Authority has procured transaction wise imports information from the DGCI&S. Information provided by the responding exporter, importers/ consumers, DGCI&S information and information in the petition was correlated and the position is as follows –

Particulars	POI Pcs
As per exporter's response from Indonesia.	695035
As per importers' response.	
Mirc India	***
Panasonic	***
Total as per importers' responses	***
As per petition	389010

38 The Authority notes that the actual volume of imports reported by the responding exporter is far more than the volume of imports reported in the statistics made available by either the importers or the petitioner. The information provided by DGC&IS is also for the financial year 2007-08, without the import figures for the period April to June 2008, which is a part of POI, hence not comparable. The Authority has therefore considered the volume of imports as reported by the responding exporter for carrying out volume analysis. As regards Duty notified for residual category based upon responding exporter's data, the Authority has followed this practice consistently in all investigations and there is no deviation from this practice. The Authority further notes that residual category duty has been imposed in absence of a certification from authentic sources that there are no other producers of subject goods in the subject country, or no further plants are coming up during the course of ADD in place. The Authority notes that if there are no other producers, as claimed, residual duty should have no impact on importers.

Import volumes and Share of subject country

39. The volume of dumped imports of subject product from subject country is given in the table below.

Particulars	2005-06	2006-07	2007-08	July 07 to June 08
Import volumes (in '000 pcs)				
Subject country	8.62	30.51	211.91	695.04
Other countries	2,329.38	3,298.50	7,022.23	6,882.97
Total Imports	2,338.00	3,329.01	7,234.14	7,578.00
Market Share in Imports (%)				
Subject country	0.37	0.92	2.93	9.17
Other Countries	99.61	99.06	97.07	90.83
Production	5,425	6,678	6,541	6,384
Subject Import in relation to Production	0.16	0.46	3.24	10.89

40. The Authority holds that imports from subject country increased significantly over the period in absolute terms, in relation to imports into India and in relation to production in India. At the same time, imports from other countries declined.

The Import volumes and Share of subject country
Views of LPD Indonesia, Onida and Mirc Electronics

41. The Table of imports statistics as given under Para 25 of the Preliminary Findings is incomplete, inadequate, inaccurate and misleading. The DA has claimed excessive confidentiality in providing data of import volumes and share of the subject country. The DA should appreciate that it did not have accurate and adequate import data from the subject country and therefore should have withheld the preliminary findings for the time being and wait for correct DGCI & S data which he could disclose and come out with a proper finding. Even the DA has marked all such data as ****, a prudent mathematician can easily work out the data to the nearest estimates from different Tables incorporated in the Findings. Moreover many of such data has not even been claimed as confidential by the domestic industry.

Examination by the Authority

42. The Authority has considered the volume of imports as reported by the responding exporter for carrying out volume analysis and disclosed the same in the Disclosure statement. Petitioner has defined, for the purpose of the present petition, demand or consumption of the product in the Country as the sum of domestic sales of the domestic producers and imports from all sources. It would be seen that demand of the product in the country shows positive growth in the current period.

	In 000 pcs			
	2005-06	2006-07	2007-08	July 07 to June 08
Demand in India	10,671	12,481	16728	17432
Sales of domestic industry	***	***	***	***
Trends	100	149	157	161
Sales of other Indian producers	***	***	***	***
Trends	100	78	79	83
Imports from subject country	9	31	212	695
Trends	100	344	2356	7722
Other country imports	2329	3298	7,022	6,883
Trends	100	142	302	296
Total Imports in India	2338	3329	7,234	7,578
Trends	100	142	309	324
Market Share %				
Domestic industry	***	***	***	***
Indexed	42.94	28.65	21.54	21.84
Other Indian producers	***	***	***	***
Indexed	21.83	26.43	41.98	39.48

Subject country	***	***	***	***
	***	***	***	***
Other countries	***	***	***	***
Indexed	100	149	157	161
Total share of Domestic Producers	***	***	***	***
Indexed	100	78	79	83

43. The Sales of other Indian producers includes made by M/s JCT (3282) and M/s BPL (526) 000 pcs during the POI. The Authority notes that demand for the subject goods had been growing from base year to POI. It grew by about 63% over injury period. As noted in the Preliminary Findings, market of domestic industry increased between 2005-06 and 2006-07 and thereafter declined significantly. Further, market share of other Indian producers also declined consistently. The authority notes in this regard that it is not appropriate to compare period of investigation with immediately preceding year. The development of performance of the domestic industry throughout the injury period must be considered.

44. The Authority concludes that the market share of dumped imports increased significantly over the relevant period, resulting in decline in the market share of the Indian industry, thereby showing adverse volume effect.

Capacity, Production, Demand, Sales, Capacity Utilisation Views of LPD Indonesia, Onida and Mirc Electronics

45. At Para 27 of the Provisional Findings, demand or consumption of the product in the Country has been defined as the sum of domestic sales of the domestic producers and imports from all sources. The Table given there under gave the data of demands for the injury period in absolute numbers and other information like Market Share have been given in the form of index numbers. From the indexed information, the data of imports, domestic sale of domestic industry/producers etc have worked out and placed below for perusal/ interpretation.

46. From the above Table it may be seen that the demand for the subject goods have been increased by about 63% during the proposed injury period and the domestic sales of the domestic industry has gone up by 62% showing almost similar growth. Hence there is no adverse volume effect to the domestic industry.

47. The assessment of the DA in this regard does not show proper application of mind also as the domestic industry has misled the authority with inaccurate data which the DA has considered without verification of the data already available with him. In the present investigation Samtel Color Ltd is the only domestic industry. As per the published annual reports of the company, the capacity to produce the subject goods during 2005-06 was 5600000 pieces in three production lines. Two more lines were added in 2006-07 and therefore capacity was increased to 9400000 pieces from 2006-07 onwards till POI. However the DI has claimed it to be 6500000 pieces in 2005-06, 9050000 pieces in 2006-07 and 10200000 pieces each in 2007-08 onwards. The capacity utilizations were

computed based on these inaccurate data. The DA has failed to rectify the data before use in the findings.

Examination by the Authority

48. The issue raised as above has been examined by the Authority and the position is as follows:

In 000 Pcs

Particulars	2005-06	2006-07	2007-08	July 07 to June08
Capacity	6500	9050	10200	10200
Indexed	100	139	157	157
Production	***	***	***	***
Indexed	100	123	121	118
Capacity utilization%	***	***	***	***
Indexed	100	88	77	75
Sales *	***	***	***	***
Indexed	100	126	120	119
Demand	10,671	12,481	16,728	17,432

*Sales include Domestic and Exports for M/s Samtel.

49. In respect of Capacity, Line IV was capitalized on 1st July 2006 and Line V on 1st August 2006. The total capacities for these lines were 12 and 25 lac pcs per annum. To arrive at the available capacity, the authority added capacity of 0.90 lac pcs for line IV and 16.7 lac pcs for line V for the period 2006-07. This became 9050 lac pcs. However, for the period 2007-08, since full capacity was available, total capacity was added (12+25 lac pcs.) to the original capacity of 65 lac pcs to arrive at the available capacity of 102 lac pcs. The Authority notes that capacity, production and sales volumes of the domestic industry increased in response to increase in demand. While the capacity increased by *** lac pieces, production increased only by *** lac pieces, even though demand increased by *** lac pieces. Domestic industry faced decline in capacity utilization in spite of existing demand in the Country. In this context, the authority has adopted verified information.

Price effect of the dumped imports on the Domestic Industry

Views of LPD Indonesia, Onida and Mirc Electronics

50. The price of an article is a function of many factors. It is not only the competitor's price which affects the DI's price, the quality, change of technology, customers' choice, cost of production, obsolescence etc. In the electronic market, it is more apparent and changes are taking place very fast. Manufacturers are very fast in changing models, look, features etc to the improved need of the prospective customers. The domestic producers need to adjust it-self with the changes taking place in other parts of the world, it wants to remain in the market. Whenever new improved goods are coming, the customers move towards that. So the price for the old models falls. If the domestic industry fails to adjust

with the newer needs of the consumers, they should not be allowed to blame imports for their injury, if any. As per their own submission, two domestic manufacturers stopped production during the POI. The DA has not investigated the reason for their closure. It is most likely that they themselves may have started importing the subject goods for being superior in quality. No findings in this regard are available in the Provisional findings.

51. It has been seen in the other ongoing investigation of the same product that Samtel Color Limited, as per their own Chairman's confession, has been suffering from cost overrun and failure to stabilize the new production lines 4 and 5. The company was burdened with heavy finance cost requiring financial reconstruction. Such being the situation, the company is bound to suffer with a higher cost of production followed by a higher Non-injurious price. Such Non-injurious price is bound to be very high to generate higher injury margin. The DA should have adjusted all the abnormalities in cost and capacity utilizations while determining a fair cost of production and non-injurious price. But in the findings any such judicious consideration of the DA is missing.

52. From the data of production as have been given in the petition, the domestic industry has not yet stabilized its production in Line 4 and Line 6. In 2005-06 when it had only 3 lines of operation it could produce 63 Lac CPTs. But after adding two more lines its production increased to 65 Lac CPTs. The company could not complete its capital restructuring for which it had been suffering from liquidity problems also. These are certain causes of self-inflicted injury. However, DA has failed to consider these. The findings of the DA simply confirm the view that the DA sees with one eye only with a preconceived notion of linking any injury of the domestic industry to imports. The records of the prior investigation may be referred to in this respect.

53. Average selling price reduction is commensurate with reduction in raw material cost. Any decrease in profitability is attributable to inability of the company to stabilize the new production lines and liquidity problem coupled with high interest cost and depreciation.

54. The domestic industry has not given any non-confidential version of its costing information. The Annual report of the company for the POI has also not been provided. In the absence of such information we are handicapped to provide any further input for a fair investigation. In the absence of information of the net sales realization of the domestic industry we cannot offer any comment on price undercutting. As regards this, the observation of the DA seems to be the replica of the DI's claim, which is an exaggerated one.

Examination by the Authority

55. The Authority notes that the information on record does not show that imports were necessitated due to fresh needs of the consumers. The issue of cost overrun and establishment of new production lines have already been examined in detail in the previous investigation and taken into account in this investigation as well. Information with regard to costing information and Net Sales Realization claimed confidential by the domestic industry and considered so by the authority are not susceptible for summarization. Under the scheme of the rules, interested parties are required to provide

relevant information and thereafter the Designated Authority is required to come to its own independent conclusion and that is how exactly the Authority has drawn an independent conclusion. The domestic industry may allege that the Authority has allowed Export Price as claimed, which is actually the case here. However the claim is based upon the actual data verification carried out by the Authority. The Authority therefore cannot be accused of replicating what has been claimed either by DI or the responding exporter as the summarization as above is based upon the verified data of both domestic industry as well as the responding exporter. The Authority however notes that Onida being one of the consumers should be very well aware of the prices charged by domestic industry and imports. To such an extent Onida should have been aware of the extent of price difference.

Other Injury Parameters

Views of LPD Indonesia, Onida and Mirc Electronics

56. Other injury parameters are simply the result of the price and volume effect. With the negative effect of the two, all other parameters simply show the similar trend. However the data provided in respect of the same are incorrect and exaggerated ones. We reserve the right to supplement our observations as and when we will be able to gather authenticated information in this regard.

57. The Domestic Industry is facing a lot of internal problems and international obsolescence and in-competitiveness. It suffers higher cost of production. It is engaged mostly in conventional CRT, whereas consumer demand has shifted to more technologically advanced products. Hence the reason of injury is not dumping. Thus the issue of causal link should be revisited.

58. Poor performance of the domestic industry in the international market should have been considered.

59. The data submitted in the petition and the data considered in the provisional finding are erroneous and contradictory and are at variance with similar data as per their annual accounts.

60. Most CRT producers have shut down during the injury period across the globe while survivors have made losses and have reduced capacities. The inventories of the exiting producers led globally to reduce CRT Prices during the injury period; hence the phenomenon is not limited to India.

61. Adjustment must also be made since these are separate investigations with separate POI for injury attributable to Indonesia and injury attributable to dumping by other countries in the prior investigations. They cannot be clubbed together. For this reason too there can be no retrospective duty. Hence the injury attributable to other countries as per the final findings in those investigations must be different from the injury attributable to Indonesia.

62. Samtel would be the preferred supplier due its location as it is in 14" and 15" where imports take place only due to its inability to meet domestic demand. If it could rectify its quality problems in respect of 21"-29" especially flat and slim versions. However, it consistently constantly performing poorly.

63. Domestic Producers have also been hit by dynamism of Indian Rupee which appreciated by over 8% in the POI. This may be adjusted when determining injury margins.

64. With the appreciation of INR, injury margin is required to be calculated in INR. Moreover, the appreciation or depreciation of Rupee, in fact, not only impact the import price of the product, but also cost of production and selling price all in the same direction. It would, therefore, be inappropriate to say that the domestic industry has suffered injury because of appreciation of INR.

Views of the Domestic Industry

65. The arguments are not fully unsubstantiated. The domestic industry in fact is not restricted to conventional CRT. The domestic industry is producing and supplying Flat CRT in a big way. It is also noted that the domestic industry was profitable earlier when the import prices were reasonable.

66. Only domestic operations are relevant for the present purpose. Domestic industry has segregated performance with regard to domestic and exports.

67. The Designated Authority has adopted verified information and has not found any contradiction.

68. The argument establishes and supports what the domestic industry has been arguing all long. When this is a situation globally, the concern of the domestic industry is with regard to problems compounded by dumping of the product. It is however reiterated that the stated problems exist only in other countries and not in Indian market. In India, the demand of the product has shown significant increase, as opposed to global market where demand has substantially reduced.

69. The argument is without substance under the law. Injury due to other dumped imports is not required to be segregated. The rules provide for segregating injury caused only by un-dumped imports.

70. It is not true that imports in 14, 15 and 20" category are because of inability of the domestic industry to meet the demand. Moreover, selling price of domestic industry for 14 and 15" is also below the non injurious price. As regards 21"-29", there is no substance in the arguments with regard to quality. The issue has been investigated by the Designated Authority in the previous case as well.

Examination by the Authority

71. The Authority has relied upon verified information and has not come across any incorrect or exaggerated claims.

Price effect of the dumped imports on the Domestic Industry

72. With regard to the effect of 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 undercutting by the dumped imports as compared to the price of like product in India or whether 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.

73. The impact on the prices of the domestic industry on account of the dumped imports from the subject country have been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realization (NSR) and the Non-injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject country.

Evaluation of price over period under consideration

74. The Authority examined the trend of import prices over the injury period, separately for each size and cumulatively for subject country. The relevant information is as shown below –

CIF import price	Rs Per Pc.				
	2005-06	2006-07	2007-08	POI	Decline in prices
14"		981	601	608	38%
15"					
20"		1,303	1,083	973	25%
21"	1,449	1,208	1,081	1,296	11%
21" flat	2,081	1,671	1,232	1,330	36%
21" slim			1,834	1,420	23%
29"	4,406		4,834		

75. CIF import price of the subject goods from the subject country have declined over the injury period. The price declines have ranged from 11% to 38%. In respect of high volume types (14" and 21" flat) the prices declined by up to 36 % respectively.

76. The Authority examined whether the above price decline could be linked to the decline in cost of production. The Authority notes that whereas the exporter has not provided relevant information in this respect, the domestic industry has provided information for the entire period. It is noted that even though there were declines in cost of production as well, the above declines are far more than the declines in cost of production.

Price undercutting

77. In order to determine price undercutting, Authority examined the responses filed by the exporter and importers/users. For the purpose, each type of CPT has been compared separately. Price undercutting for each type and thereafter weighted average for CPT as a whole has been determined which on a volume of ***pcs comes to Rs ***per pc. The Authority notes that the price undercutting is 7-12%.

78. In view of the above, the Authority concludes that selling price of the domestic industry have declined over the period, reasons for which is decline in the landed price of imports.

Price suppression and depression effects of the dumped imports:

79. In order to examine whether the imports were depressing or suppressing the prices of the domestic industry, the Authority has examined the trends in raw material costs and selling price. The relevant position is as follows –

	2005-06	2006-07	2007-08	July 07 to June08	Indian rupees
Raw materials costs					
➤ 14"	***	***	***	***	***
➤ Indexed	100	97	95	96	
➤ 15"		***	***	***	***
➤ Indexed		100	96	96	
➤ 20"	***	***	***	***	***
➤ Indexed	100	99	100	100	
➤ 21" conventional	***	***	***	***	***
➤ Indexed	100	96	113	112	
➤ 21" Flat	***	***	***	***	***
➤ Indexed	100	88	84	84	
➤ 29"		***	***	***	***
➤ Indexed		100	107	111	
Selling price					
➤ 14"	***	***	***	***	***
➤ Indexed	100	87	76	77	
➤ 15"		***	***	***	***
➤ Indexed		100	85	85	
➤ 20"	***	***	***	***	***
➤ Indexed	100	90	84	85	
➤ 21" conventional	***	***	***	***	***
➤ Indexed	100	89	82	85	
➤ 21" Flat	***	***	***	***	***
➤ Indexed	100	79	72	74	
➤ 29"		***	***	***	***

Landed price of imports					
➤ 14"					***
➤ 15"					***
➤ 20"					***
➤ 21" conventional					***
➤ 21" Flat					***
➤ 29"					

80. The selling prices of the domestic industry have declined in the same direction and to the same extent as that of landed price of imports. The price decline has been significant forcing the domestic industry in selling the product significantly below the cost of production during the investigation period.

81. Considering the above, the Authority concludes that there has been a significant increase in the dumped imports, both in absolute terms and relative to production and consumption in India. With regard to the effect of the dumped imports on prices, the Authority notes that there has been significant decline in the landed price of imports. As a direct consequence, the selling price of the domestic industry declined significantly over the injury period. Even though there was decline in raw materials costs, the decline in the selling prices were far more than decline in the raw materials costs. The imports from subject country thus forced the domestic industry to reduce the prices. Such price decline was significant and material.

Examination of other Injury Parameters

82. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and injury indicators like volume and value of imports, capacity, output, capacity utilization and sales of the domestic industry as well as demand pattern with market shares of various segments, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder.

Profits

	2005-06	2006-07	2007-08	July 07 to June08
Average cost of production (Rs/Pc)	***	***	***	***
Indexed	100	107	101	101
Average selling price (Rs/Pc)	***	***	***	***
Indexed	100	88	74	74
Profit & Loss per pc (Rs/Pc)	***	(***)	(***)	(***)
Indexed	100	-32	-101	-108
Total profit/ loss from domestic sales (Rs Lacs)	***	(***)	(***)	(***)

Index	100	(48)	(159)	(174)
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83. It is seen that profitability of the domestic industry has severely declined over the years. Not that the domestic industry was having good profitability earlier (imports have been competing with the domestic industry for past several years). However, situation has significantly deteriorated over the injury period, when the domestic industry's profitability steeply declined due to dumped import from the subject country. Resultantly, the domestic industry faced significant financial losses.

84. The Authority ascertained profit before interest & depreciation for the petitioner. The position is as follows.

Particulars	2005-06	2006-07	2007-08	July 07 to June08
Profit before tax	***	(***)	(***)	(***)
Indexed	100	-48	-159	-174
Interest	***	***	***	***
Indexed	100	153	127	128
Depreciation	***	***	***	***
Indexed	100	151	170	181
Total of interest & depreciation	***	***	***	***
Increase in interest & depreciation (as compared to 2004-05) Indexed	100.00	151.93	148.71	154.03
Profit before interest & depreciation	***	***	(***)	(***)
Index	100.00	36.08	(29.67)	(36.40)
Decline in profit before interest & depreciation (as compared to 2005-06)	-	(***)	(***)	(***)
Index		(100)	(203)	(213)

85. It is seen from the above that even if interest & depreciation costs of the company would have been same as in the base year, its profits would have significantly declined. It is also seen from the above that profit before interest & depreciation showed a marked decline over the injury period.

Return on investment and cash flow

	2005-06	2006-07	2007-08	POI
Return on capital employed (%)	***	***	(***)	(***)
Indexed	100.00	3.89	(58.46)	(67.83)
Cash profit (Rs. Lacs)	***	***	(***)	(***)
Indexed	100.00	4.97	(71.50)	(80.08)

86. It is seen that return on capital employed and cash flow deteriorated throughout the injury period. Return on capital employed was positive up to 2006-07. The same

however became negative from 2007-08 and the position deteriorated further in the investigation period.

87. With regard to cash flow, the Authority notes that the cash flow of the domestic industry declined steeply. From a situation of positive cash flow, the domestic industry was faced with a negative cash flow in the investigation period. The Authority also examined the position of cash profits with regard to production and sale of CPT. It was seen that the cash profits also show the same situation. Cash profits were positive in the earlier years and became negative in the investigation period.

Inventories

Inventories	Volume in '000 pcs			
	2005-06	2006-07	2007-08	POI
Opening Inventories	***	***	***	***
Indexed	166	271	108	168
Closing Inventories	***	***	***	***
Indexed	271	108	144	86
Average Inventories	***	***	***	***
Indexed	218	190	126	127

88. The Authority notes that the subject goods are normally produced against confirmed orders. Therefore, the inventories with the domestic industry would normally be in respect of the confirmed orders.

Productivity

Fig. in '000

	2005-06	2006-07	2007-08	POI
Productivity per employee (no. of pieces per employee)	***	***	***	***
Indexed	100	103	120	108
Productivity per day	***	***	***	***
Indexed	100	123	121	118

89. It is seen that productivity of the domestic industry decreased after improving up to year 2007-08.

Employment & wages

	2005-06	2006-07	2007-08	POI
Number of employee (nos.)	***	***	***	***
Indexed	100	119	101	101
Wages (Rs. In Lacs)	***	***	***	***
Indexed	100	159	226	216
Wages per employee (Rs. Lacs)	***	***	***	***
Indexed	100	134	224	214

90. It is seen that employment level has decreased. This has been due to reduction in the level of contractual labour. The average wage increase per employee has almost doubled in comparison to the base year.

Growth

91. Considering various economic parameters of the domestic industry, even though there was positive growth in demand, sales, capacity, and production of the domestic industry, the growth with regard to capacity utilisation, contribution margin, profitability, cash flow and return on investment was negative.

Conclusion on injury:

92. The examination of above injury parameters indicates that growth in demand was 63% over the injury period. Given significant overall growth in demand, capacity, production and sales of the domestic industry increased. However, the increase in sales was far lower than the increase in the demand. Resultantly, the capacity utilization suffered. Imports of subject goods from subject country increased significantly from ***lac pcs. in 2005-06 to ***lac pcs during POI. The share of the imports from subject country in relation to demand increased from 0.08% in 2005-06 to 3.99% during POI whereas market share of Indian industry declined. There was consistent decline in the prices of various sizes of CPT being sold in the market. These price declines are not fully addressed by the decline in the costs. As a result of exporter reducing their prices consistently over the injury period, the domestic industry was forced to reduce its prices consistently throughout the period. Resultantly, the prices of the domestic industry declined to a significant extent as explained above. As a result of significant price depression, profit, returns on investments and cash flow situation of the domestic industry significantly deteriorated. The domestic industry suffered huge financial losses, negative return on investment, negative cash flow and negative cash profits. The Authority therefore concludes that the performance of the domestic industry deteriorated significantly in terms of profit, return on investments and cash flow. The declines were significant and material. Thus various parameters collectively and cumulatively show that the domestic industry has suffered material injury.

Causal Link

Views of LPD Indonesia, Onida and Mirc Electronics

93. We have a reservation in the findings of the DA as regards the causal link of injury to alleged dumping. The Domestic Industry is facing a lot of internal problems and international obsolescence and in-competitiveness. It suffers higher cost of production. It is engaged mostly in conventional CRT. However, consumers in most of the advanced countries, including a considerable share of Indian consumers have shifted to LCD, Plasma TV etc. Inefficiency of the domestic industry to adapt new technology is taking away their market internationally as well as in the domestic market. The causal link of injury established to the alleged dumping in the preliminary findings needs to be revisited.

94. Another fact that should have been considered here is the poor performance of the domestic industry in the international market. In 2005-06, the DI had an export sales 1670000 pieces of CPTs. This has come down to 419000 pieces during the POI. The DI's

export sales have come down to 25% during the POI in comparison with 2005-06. During the same period, their domestic sales have gone up by 62% in commensurate with increase in demand. So the DA should have applied his mind to analyse the reason why the DI has lost its international market. The reason lies in its in-competitiveness to meet the challenge. The reason for injury, if any, to the domestic industry is to be attributed to its intrinsic problems and not attributable to the alleged dumping. Had the domestic industry been able to maintain a similar growth in its export market, they could have achieved capacity utilization at 93% of its increased capacity (capacity increased from 5600000 pieces to 9400000 pieces). So the reason for low production, low capacity utilization and total sales volume is its inability to grow or even to maintain its export market at 2005-06 level. This fact has not been addressed in the preliminary findings.

95. The data submitted in the petition and the data considered in the provisional finding are erroneous and contradictory and are at variance with similar data as per their annual accounts. It appears that the whole exercise was to give a hurried provisional duty to please the domestic industry without ascertaining the accuracy of even basic data.

96. Moreover, from the records of the prior investigation it is evident that the EU after finding dumping and injury determined that there was no causal link. By contrast Thailand imposed AD Duty on Malaysia but failed to protect the Thai CRT Industry which died in any case. Most CRT producers have shut down during the injury period across the globe while survivors have made losses and have reduced capacities. The declining LCD prices (as per records of prior investigations a 2:1 price difference has to be maintained between LCD and CRT TVs otherwise CRT TV industry cannot survive) led globally to reduced CRT Prices during the injury period. This global phenomenon was thus not limited to India and the cause could not be unique to India and the EU no causal link determination is thus the correct determination. The EU findings were filed in the prior investigations and may be referred to and relied on. LPD-I and other LPD companies have themselves been the victims of this global price suppression and depression.

97. Adjustment must also be made since these are separate investigations with separate POI for injury attributable to Indonesia and injury attributable to dumping by other countries in the prior investigations. They cannot be clubbed together. For this reason too there can be no retrospective duty. Hence the injury attributable to other countries as per the final findings in those investigations must be different from the injury attributable to Indonesia.

98. Samtel would be the preferred supplier due its location as it is in 14" and 15" where imports take place only due to its inability to meet domestic demand if it could rectify its quality problems in respect of 21"-29" especially flat and slim versions. However, it consistently fares poorly in its CRT supplies in these categories and below the minimum acceptable threshold. In the prior investigations records there is evidence of consistently poor quality recorded at crt tv assembly line on domestic CRT 21" and above.

99. Domestic Producers have also been hit by dynamism of Indian Rupee which appreciated by over 8% in the POI. This may be adjusted when determining injury margins.

Examination by the Authority

100. The allegation that data submitted in the petition and the data considered in the provisional finding are erroneous and contradictory and are at variance with similar data as per their annual accounts is misplaced and without basis. No evidence to this effect has been provided and to that extent the allegation cannot be taken cognisance of. Further a mere mention of inefficiency of the domestic industry, as alleged cannot be taken on its face value without being provided evidence to this effect. The data submitted by the DI showed no such situation. The Authority notes that there is no clubbing of injury analysis in respect of the imports from subject country and imports from other countries already subject to ADD. To understand the injury being incurred by Indonesia, the authority has carried out the price undercutting analysis of imports, for the present POI, in respect of countries already subject to anti dumping duties namely China, Malaysia, Korea and Thailand. The weighted average price undercutting from these countries namely China, Malaysia is in the range of 10-15%, Korea in the range of 0-5% and negative price undercutting from Thailand. The price undercutting suffered in respect of imports from Indonesia itself is in the range of 7-12%, hence the authority concludes that the imports from Indonesia have caused injury to the domestic industry in addition to that caused by other countries already subject to anti dumping duty. In order to reach its conclusions on the cause of the injury suffered by domestic industry and in accordance with Article 3.5 of Agreement on Anti-Dumping and as per Para (v) of Annexure-II under Rule 11 under Customs Tariff Act as amended, the Authority examined the impact of all known factors and their consequences on the situation of the domestic industry. Known factors other than dumped imports, which could at the same time have injured the domestic industry were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

Examination of Other Known Factors

Volume and prices of imports from other sources

101. The Authority notes that out of total imports, the volumes of imports from other countries are 39.48% during POI. The Authority notes that the imports from other countries are already subject to anti dumping duty in a parallel investigation covering China, Korea, Malaysia and Thailand.

Contraction in demand and / or change in pattern of consumption

102. The Authority notes that there is no contraction in the demand during POI. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. The demand of subject goods has shown growth of 63% over the injury period. There is no significant change in consumption pattern of the product in the domestic market, which could be attributed to the injury to the domestic industry.

Trade restrictive practices of and competition between the foreign and domestic producers

103. The Authority notes that there is a single market for the subject goods where dumped imports from subject country compete directly with the subject goods produced by domestic industry. Imports of various types of CPT are being sold in the same market as CPT being sold by the domestic industry.

104. The Authority notes that no evidence of restricted practice prevalent in the industry, which could be attributed to the injury to the domestic industry, has been brought to the notice of the Authority.

Development in technology

105. On the basis of examination of the records, the Authority proposes to hold that development in technology has not been a relevant factor for the injury to the domestic industry.

Export performance

106. The Authority notes that the export volumes of the domestic industry have declined over the injury period. However, performance with respect to various economic indicators has been determined with respect to domestic sales only. Hence, the Authority proposes to hold that material injury suffered by the domestic industry is not a result of the decline in export performance of the domestic industry.

Productivity of the Domestic Industry

107. Productivity of the domestic industry in terms of production per employee has significantly increased.

Conclusion on Causation

108. In view of the above, the Authority holds that injury suffered by the domestic industry due to other factors is far too insignificant as compared to injury suffered because of price decline resulting from dumped imports. The situation of the domestic industry has shown a material deterioration over the injury period, which was substantially due to dumped imports. The Authority concludes that the domestic industry has suffered material injury due to dumped imports.

Currency

Views of LPD Indonesia, Onida and Mirc Electronics

109. The Rupee has depreciated by over 15% now compared to the POI hence providing for provisional duty on the basis of US Dollars amounts to giving an additional unlawful 15% duty to the Petitioners.

110. Moreover the ADD is recommended in US Dollars whereas in the other CRT AD investigations reference prices are in INR. It is curious that same product should be subject to different reference price currencies in partly contemporaneous investigations. It would be expected that the Hon'ble Authority should at least be consistent in its practices, whether correct or incorrect, at least in respect of the same Subject Goods and almost contemporaneous investigations. The impact has been to place Indonesia at a disadvantage to the Subject Countries in the other Investigations though the Export Price was higher. It is not the purpose of AD Investigations to cast an unfair disadvantage to a cooperating exporter with a comparatively better export price.

Examination by the Authority

111. The Authority notes that contrary approach of the interested parties is established by their argument on appreciation of INR during period of investigation and depreciation of INR thereafter. The established practice, however, is to consider prevailing exchange rate and thereafter express the duties in US\$ or INR as is appropriate in the facts & circumstances of the case. The appreciation of US\$ also impacts the cost of production and selling price of the domestic industry as well. Therefore the Authority recommends to continue the duty leviable, denominated in US \$ as was done at the PF stage.

Magnitude of Injury Margin

112. The non-injurious price determined by the Authority has been compared with the landed value of the exports for determination of injury margin. The weighted average landed price of the exports from the subject country and the injury margins have been worked out as follows.

Injury margin calculations

PT LP Displays Indonesia							
Company Code	Unit	***	***	***	***	***	***
Size		14 CV	20 CV	21 SUS	21 RF	21 RF	21 US
Injury Margin %		5-10	15-20	10-15	15-20	12-17	7-12

Comments to Disclosure Statement

Submissions of Domestic Industry

113. The Domestic Industry has sought review of dumping margins on the premise that:

- i. The exporter has not appropriately disclosed the cost of production. They have claimed to have relied on published financial results of the producer, who they claim, have suffered financial losses in inputs consumed for PUC and profits in respect of PUC.
- ii. In the context of multinational companies, some of the business expenses are not even incurred by the company and to that extent the investigations are product specific and not company specific and therefore cost of production of "Product" and not cost of production of Company should be considered.
- iii. The company procuring RM from a related company cannot be treated as an arms' length transaction.

- iv. The Authority appears to have determined cost on account of interest expenses, selling, general and administrative expenses on the basis of expenses incurred by the company investigated without taking into account expenses incurred by the holding company.
- v. Information with regard to cost of production and total production of each size does not appear to be on record and information in appendices 7, 8 and 8A and 3B cannot be reconciled.
- vi. It appears that transfer price of captive inputs, is materially below cost of production and market value of such captive consumption.
- vii. They have also contested cost allocation on account of labour cost, Admn. Expenses, interest cost and other expenses.
- viii. Net export price does not appear to have been determined correctly as export price has to be constructed in respect of related party transactions. They have further alleged that adjustments on credit cost have not been considered.

Examination by the Authority

114. The Authority has gone into the above submissions and concludes that these are only apprehensions and not supported by any corroborative evidence. The Authority, on the other hand has considered only the verified data and therefore margins have been correctly worked out.

Submissions of PT LP Displays Indonesia.

115. The exporters have sought to check the working sheet for OCT performed by the Authority and requested that they be provided the detailed working sheet for OCT so that they can effectively comment on the same prior to the Final Findings. They have further requested to again check the normal value of 21" in the appendix 3A of the response to the questionnaire because Authority used total sales in domestic market for normal value. Specially, there are big differences in the normal value of A51ERS420X and A51QDJ420X. They have also claimed that a minor calculation mistake by the Authority while calculating the dumping margin of A48QAD220X which they claim should be changed to 5.43 US\$. They have also sought disclosure of NIP especially the effective profit margin provided for so that they may effectively comment on the same for meaningful application of the lesser duty norm practiced by the Authority. They have further submitted that the damage in Indian CRT industry was caused by low productivity and high production cost including labour cost and financial expense, not by LPD Indonesia.

Examination by the Authority

116. In response to the disclosure statement, the exporters requested to examine the detailed calculation sheets for adjusted cost of production especially the components of the rates of DY, financial expenses adjusted for each size, the details of OCT test carried out and the profit ratio adopted by the authority in respect of the profitable sales for working out the Normal value and the resultant dumping margin. The examination was carried out by the representative of the exporters and required details were provided. No further comments were provided by the exporters in this regard. As far as NIP is concerned, the same is a confidential information related to the Domestic Industry and cannot be disclosed.

Conclusion On Causation

117. On the basis of the above examination, the Authority concludes that the subject goods exported from the subject country are at prices below their normal value and have caused injury to the domestic industry indicating causal links between dumping of subject goods and injury to the domestic industry. Significant increase in the volume of dumped imports has resulted in decline in the market share of domestic industry. It is further seen that decline in market share of domestic industry as a consequence of increase in market share of subject imports from the subject country prevented the domestic industry from increasing their sales commensurate to growth in demand. As a result, sales of domestic industry during POI did not increase to such an extent that domestic industry could have optimally utilized its capacity. Consequently, production, sales and capacity utilization of the domestic industry suffered as a result of the decline in the market share of the domestic industry. Significant price undercutting caused by dumped imports prevented the domestic industry from increasing its prices. Resultantly, profit, cash flow and return on investment of the domestic industry deteriorated in the POI. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment, these parameters further deteriorated in POI.

118. The Authority, therefore, concludes that the dumped imports originating in the subject country have caused material injury to the domestic industry within the meaning of Rule 11 of Anti-dumping Rules and article 3.5 of Agreement of Anti-dumping.

FINAL FINDINGS:

119. Having regard to the issues raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties including those made as comments to the disclosure statement or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current dumping and injury, the Authority concludes that:

- i. Imports originating in the subject country are taking place at dumped prices and the same have caused material injury to the domestic industry
- ii. Subject goods exported from the subject country are at prices below their normal values, Non Injurious Price of the domestic industry and the net sales realization of the subject goods of the applicants, and have caused injury to the domestic industry
- iii. Decline in market share of domestic industry as a consequence of increase in market share of subject imports from the subject country prevented the domestic industry from increasing their sales commensurate to growth in demand
- iv. Significant price-undercutting and substantial increase in the volume of dumped imports adversely affected the performance of the domestic industry in terms of profits, cash flow, and return on investment.

v. Significant increase in volume of dumped imports from the subject country (both in absolute terms as well as in relation to the share in demand) has resulted in significant decline in market share of the domestic industry.

120. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the difference between the amount indicated in Col 9 of the table below and the landed value is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries:

Sl No	Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Specification in inches	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1.	854011	Colour Television Picture Tubes	Indonesia	Indonesia	PT LP Displays Indonesia	PT LP Displays Indonesia	14"	21.76	Per Pc	US \$
2.	-do-	-do-	Indonesia	Indonesia	Any Other	Any Other	14"	21.76	Per Pc.	US\$
3.	-do-	-do-	Any other than Korea RP, China PR, Malaysia and Thailand	Indonesia	Any	Any	14"	21.76	Per Pc.	US\$
4.	-do-	-do-	Indonesia	Any other than Korea RP, China PR, Malaysia and Thailand	Any	Any	14"	21.76	Per Pc.	US\$
5.	-do-	-do-	Indonesia	Indonesia	PT LP Displays Indonesia	PT LP Displays Indonesia	20"	32.16	Per Pc.	US\$
6.	-do-	-do-	Indonesia	Indonesia	Any other	Any other	20"	32.16	Per Pc.	US\$
7.	-do-	-do-	Any other than Korea RP, China PR, Malaysia and Thailand	Indonesia	Any	Any	20"	32.16	Per Pc.	US\$
8.	-do-	-do-	Indonesia	Any other than Korea RP, China PR, Malaysia and Thailand	Any	Any	20"	32.16	Per Pc.	US\$
9.	-do-	-do-	Indonesia	Indonesia	PT LP Displays Indonesia	PT LP Displays Indonesia	21"	36.99	Per Pc.	US\$
10.	-do-	-do-	Indonesia	Indonesia	Any other	Any other	21"	42.93	Per Pc.	US\$
11.	-do-	-do-	Any other than Korea RP, China PR, Malaysia and Thailand	Indonesia	Any	Any	21"	42.93	Per Pc.	US\$
12.	-do-	-do-	Indonesia	Any other than Korea RP, China PR, Malaysia and Thailand	Any	Any	21"	42.93	Per Pc.	US\$
13.	-do-	-do-	Indonesia	Indonesia	Any	Any	15"	31.38	Per Pc.	US\$
14	-do-	-do-	Any other than Korea RP, China PR, Malaysia and Thailand	Indonesia	Any	Any	15"	31.38	Per Pc.	US\$
15	-do-	-do-	Indonesia	Any other than Korea RP,	Any	Any	15"	31.38	Per Pc.	US\$

				China PR, Malaysia and Thailand						
16	-do-	-do-	Indonesia	Indonesia	Any	Any	29"	92.06	Per Pc.	US\$
17	-do-	-do-	Any other than Korea RP, China PR, Malaysia and Thailand	Indonesia	Any	Any	29"	92.06	Per Pc.	US\$
18	-do-	-do-	Indonesia	Any other than Korea RP, China PR, Malaysia and Thailand	Any	Any	29"	92.06	Per Pc.	US\$

Notes

(a) Complete description of the product - Complete or incomplete thermionic, cold cathode or photo cathode valves and tubes such as vacuum or vapour or gas filled valves and tubes, mercury arc rectifying valves and tubes, also called cathode ray tubes, television camera tubes or cathode ray colour television picture tubes, or colour television picture tubes, or colour picture tubes etc. Video and computer monitor cathode ray tubes are beyond the scope of the present petition.

(b) For the purposes of this notification, "landed value" means the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the said Act.

121. Subject to above, the Authority confirms the provisional findings Notification No. 14/15/2008-DGAD dated 30th December, 2008 and corrigendum notification dated 2nd January, 2009, and recommends imposition of the anti-dumping duty as in Para 120 above and the duty table as above from the date of imposition of provisional anti-dumping duty.

122. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

R. Gopalan
The Designated Authority

