

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

**Preliminary Findings**

New Delhi, the 12<sup>th</sup> March 2008

**Subject: Anti Dumping Investigations concerning import of Compact Fluorescent Lamps originating in or exported from China PR, Sri Lanka and Vietnam.**

NO. 14/1/2007-DGAD: - M/s Indo Asian Fusegear Ltd., M/s Havell's India Ltd. and M/s Osram India Pvt. Ltd., have jointly filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff (Amended) Act, 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 ( hereinafter referred to as Rules) alleging dumping of Compact Fluorescent Lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions originating in or exported from China PR, Sri Lanka and Vietnam and requested for initiation of anti-dumping investigations and levy of anti-dumping duties.

**A. PROCEDURE**

2. The procedure described below has been followed:

i) The Authority under the above rules received a written petition from - M/s Indo Asian Fusegear Ltd., M/s Havell's India Ltd. and M/s Osram India Pvt. Ltd on behalf of the domestic industry, alleging dumping of Compact Fluorescent Lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions (hereinafter referred to as CFL or subject goods) originating in or and exported from China PR, Sri Lanka and Vietnam.

ii) The Authority notified the Embassies/Representatives of the subject countries in India about the receipt of dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

iii) The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 30<sup>th</sup> Aug., 2007 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of CFL originating in or exported from the subject countries, in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

iv) The Designated Authority sent copies of initiation notification dated 30<sup>th</sup> Aug., 2007 to the Embassies of the subject countries in India, known exporters from the subject countries, 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 Embassies of subject countries in accordance with Rule 6(3) supra.

vi) The Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.

vii) The Authority sent questionnaires, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4).

M/s. Philips & Yaming Lighting Co. Ltd., China.

M/s. Changchun Electric Wire & Bulb Factory, China.

M/s. Fujian Fuzhou Light Bulb Factory, China.

M/s. Guangzhou Flash Light Industrial Corporation, China.

M/s. Guangzhou Panyu Seagull Flash Light Industry Co., China.

M/s. Henan Anyang Bulb Factory, China.

M/s. Jiangsu Xuzhou Everlasting Lighting Electrical Equipment Holding Co. Ltd., China.

M/s. Leging Electric Bulb Factory, China.

M/s. Shanghai Yaming Electric Lamp Works Co. Ltd., China

M/s. Chanzhou Redsun Electrical Appliance Manufacturing Co. Ltd. China.

M/s. Zhejiang Sunlight Group Company Ltd., China.

M/s. Rang Dong Source and Vacuum Flask Joint Stock Company, Vietnam.

M/s. Ceynergy Electronics Company Pvt. Ltd., Sri Lanka.

M/s. Kathawasi (Pvt.) Ltd. Srilanka.

- a. Response to questionnaire has been received from following exporters/importers companies

**Exporters**

M/s. Foshan Electrical & Lighting Co. Ltd., China.

M/s. Yanyang Electronic Fluorescent Lamp Factory, China

M/s. Osram China Lighting Ltd., China PR.

M/s. Phillips & Yaming Lighting Co. Ltd., China.

M/s. Shin Kwang Lanka (Pvt.) Ltd. Srilanka

**Importers**

M/s. Starlite Lighting Limited, Nasik.

M/s. Philips Electronic India Ltd.

M/s. Osram India (Pvt.) Ltd.

M/s. Crompton Greaves Ltd.,

M/s. WIPRO Ltd.

- b. Representations on the Initiation were received from ESLMA India, Jointly by Crompton Greaves, Bajaj electrical, Wipro, Philips Electronics Ltd and Asian electronics Ltd. and some of the other parties as named below in viii). M/s Suqian Deda Lighting Co ltd, Jiangsu, China and Hangzhou Linan Dongfeng Lighting Factory China also responded to the Initiation and requested time for filing response, which was also provided. However, these companies did not submit any questionnaire response.

viii) Further, questionnaire was sent to the following parties in India calling for necessary information in accordance with Rule 6(4).

- M/s. Deco Gold Electronics Ltd., Morbi, Gujarat.  
 M/s. H.Q. Lamp Manufacturing Company, Haridwar, Uttranchal.  
 M/s. Delta Electronics, Noida, Uttar Pradesh.  
 M/s. Sonera Time & Light Mfg. Co., Rajkot, Gujarat.  
 M/s. Clock Manufacturers Association (India), Morbi, Gujarat.  
 M/s. Ajanta Manufacturing Ltd., Morbi, Gujarat.  
 M/s. Ajanta Limited, Morbi, Gujarat.  
 M/s. Ajanta India Ltd., Morbi, Gujarat.  
 M/s. Ceama Consumer Electronics & Appliances Mfrs. Association, New Delhi.  
 M/s. Surya Roshni Ltd., New Delhi.  
 M/s. Shilpa Electricals Pvt. Ltd., Periamet, Chennai.  
 M/s. Samay Electronics Pvt. Ltd., Morbi, Gujarat.  
 M/s. Crompton Greaves Ltd. Lighting Division, Baroda, Gujarat.  
 M/s. H.Q. Lamp Mfg. Company, Haridwar, Uttranchal.  
 M/s. Starlite Lighting Ltd., Nasik, Maharashtra.  
 M/s MORBI Chamber of Commerce & Industry Tulsi Shopping Centre, Morbi, Gujarat.  
 M/s. Crompton Greaves Ltd., Mumbai.  
 M/s Bajaj Electricals Ltd., Mumbai.  
 M/s. Wipro Limited, Bangalore.  
 M/s. Philips Electronics India Ltd., Gurgaon, Haryana.  
 M/s. Asian Electronics Electronics, , Maharashtra.  
 M/s. J.G. Eelectronic & Allied Ltd., Chennai.  
 M/s. Devraj Enterprises (Pvt.) Ltd., Borivali (W), Mumbai.  
 a. Response to this importers questionnaire and/or comments have been received from following companies –  
 M/s. Delta Electronics, Noida, Uttar Pradesh.  
 M/s. H.Q. Lamp Manufacturing Company, Haridwar, Uttaranchal.

ix) The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.

x) 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 the period of investigation.

xi) 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 the dumping margin, would be sufficient to remove injury to Domestic Industry

xii) Investigation was carried out for the period starting from 1<sup>st</sup> April, 2006 to 31<sup>st</sup> March, 2007 (POI). The examination of trends, in the context of injury analysis, covered the periods April 2003-March 2004, April 2004-March 2005, April 2005-March 2006 and the POI.

## **B. Product under Consideration**

3. The product under consideration is Compact fluorescent lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions. Unassembled CFL without ballast/control gear/choke comprises of sealed tubular shell with or without lamp base. Finished compact fluorescent lamps are (i) integrated type with built in ballast / control gears / choke and (ii) non-integrated type without built in control gears/ballast/choke.

4. CFL is usually defined as a single-ended fluorescent lamp with a bent discharge tube of small diameter forming a very compact unit with or without built-in “ballast/ control gear/ choke” for operation. The product under consideration includes the following:

- a. CFL with integral/ integrated built in ballast / control gears /choke. These are also known as self-ballasted. These are complete, ready to use units
- b. Non-integrated CFLs which do not have built in ballast / control gears / choke. These are CFLs where lamp is electrically connected to permanently wired external ballast in the light fitting. Ballsts and CFLs in these cases are produced and sold as separate products and either product can be substituted as a replacement.
- c. Unassembled CFL without ballast/choke/control gear comprises of sealed glass tubular shell with or without lamp base, whether or not processed further. These may be imported as bare shell or already fitted with or without other components like filaments, cap etc. forming part of CFL. Sealed glass tubular shells are within the scope of the product under consideration.

5. The petitioner, in their petition, claimed that the subject goods are produced and sold in a large number of different types and varieties. The petitioner has categorized the subject goods into following three categories:

- a. Unassembled CFL, whether or not processed further;
- b. Ready to use compact fluorescent lamps with external choke; and
- c. Ready to use compact fluorescent lamps with internal choke.

6. The petitioner further stated that CFLs are produced and sold in a large number of different wattages. Accordingly, the petitioner claimed that different product types could be distinguished in terms of the above mentioned three categories and wattages. These have been categorized into different types following a product control system (PCN system). The methodology followed is described below.

a. Firstly, the product has been categorized into following types of CFL

- 1- Sealed glass without lamp base
- 2- CFL without chock
- 3- CFL with choke

*1<sup>st</sup> digit in the PCN signifies the category of CFL.*

b. Secondly, CFL of different wattage have been imported during the relevant period. Different types of CFL within each of the categories have been identified by considering the wattage of the CFL. 2 digit code has been used to identify the wattage of the CFL imported.

7. Considering the above mentioned methodology, PCNs have been identified with each known import transactions. For example:

Product category	Code	Wattage	PCN
Sealed glass without lamp base	1	20	120
CFL without chock	2	05	205
CFL with choke	3	36	336

8. A number of interested parties have represented before the Designated Authority that sealed glass tubular shells are not compact fluorescent lamps and therefore should not be included within the scope of the product under consideration. It has also been argued that sealed glass tubular shells are in fact an input raw material required for production of compact fluorescent lamps and sealed glass tubular shells and compact fluorescent lamps constitute two different products.

9. The investigation has shown that the production process involved in producing CFL is as follows:

- a. Production process up to the stage of sealed glass tubular shell includes glass tube cutting, washing & drying of glass tube, bending the tube, coating, end cleaning, tube baking, exhaust tube cutting, mount making, tube sealing, fusion, Exhausting (Vaccumization, dropping Mercury , filling Innered gases , activation of capsule ), capping / basing.
- b. Production process on sealed glass tubular shell for ready to use CFL (with out choke or Core Lamp) involves starter & capacitor connection (in case of 2 pins core lamp only, but in 4 pin core lamp, starter & capacitor are not required), bottom cap fixing, cap base crimping, wire cutting, pin punching, plastic cap notching, ageing.
- c. Production process for ready to use CFL (with choke) involves affixing of choke (a choke may be out-sourced or may be produced in-house from

populated PCB) plastic bottom fixing, Cap fitting, crimping of Cap, soldering, ageing.

10. On the spot investigations were carried out at the premises of the three petitioner companies, wherein production activities were seen in detail, particularly in terms of the process identified above. The petitioner companies were directed to bifurcate their investments in plant and machinery into:

- a. Investments up to sealed glass tubular shells;
- b. Assembly operations for making ready to use CFL;
- c. Assembly operations involved in producing choke. The relevant information is showed as follows:

**Figures in Rs. Lacs**

Company	Havell's	Indo Asian	Osram	Domestic Industry	Share
Investments up to sealed glass tubular shells	***	***	***	***	***%
Assembly operations involved in producing choke	***	***	***	***	***%
Total Investment	***	***	***	***	100%

11. It was seen that the production activity was quite elaborate for making sealed glass tubes in comparison to the production activity involved between sealed glass tubular shell and ready to use CFL. The later was more of an assembly line operation as against production activity involved in producing sealed glass tubular shell. In case of CFL with external choke, it was noticed that the sealed glass tubular shells had far less production activity of further processing and that too in the form of addition of cap only.

12. With regard to the decisions of the Hon'ble Courts in India, the Authority notes that these decisions relate to disputes arising out of previous imposition of anti dumping duties. The product under consideration in the previous case was "ready to use" CFL and therefore questions that arose for consideration by the Hon'ble Court were whether incomplete CFL in the form of sealed glass tubular shells (with filament or with other components) can constitute "ready to use" CFL, attracting anti dumping duties. The Courts have held that these would not attract anti dumping duties, as the duties were imposed only on "ready to use" CFL. However, what is relevant in the present case is whether the Authority is justified in including an incomplete CFL within the scope of the product under consideration. The Authority notes that the Hon'ble Courts have not at any point of time held that incomplete CFL cannot be included within the scope of the product under consideration. The Authority also notes that the domestic industry filed the petition, requesting imposition of anti dumping duties on these incomplete CFL on the grounds that, with the imposition of anti dumping duties earlier on ready to use CFL, the market for CFL witnessed large scale imports of incomplete CFL in the form of imports of sealed glass tubular shells,

whether or not processed further (with or without filaments), thus causing continued injury to the domestic industry. The Authority also notes that the domestic industry earlier stated that they are not seeking extension of anti dumping duties as they intended to include other components of CFL or incomplete CFL within the scope of the product under consideration and such inclusion was possible only through a fresh petition.

13. In view of the above, the Authority provisionally concludes that the sealed glass tubular shells are nothing but incomplete compact fluorescent lamps and therefore, its inclusion within the scope of product under consideration is justified.

14. The subject goods fall under chapter 85 of the custom Traffic Act, 1975 under subheading no. 8539. The customs classification, however, is indicative only, and is in no way binding on the scope of the present investigation.

### **B.1 Like Article**

15. The petitioner claimed that goods produced by domestic industry are like articles to the goods originating in or exported from the subject countries. The petitioner has further claimed that there is no significant difference in the subject goods produced by the petitioner and those exported from subject countries. The two are stated to be technically and commercially substitutable and the goods produced by the petitioner companies should be treated as like articles to the product imported from the subject countries within the meaning of the Rules supra.

### **C. Countries involved and de-minimis**

16. The Authority has determined volume and value of imports on the basis of the information received from DGC&IS for the POI. Total volume of imports determined is as follows –

**Figures in Lac pcs.**

	Sealed glass shell/Burners	Without choke	With choke	Total	Share%
China	928.95	15.07	120.76	1,064.78	87.86
Vietnam		1.11	52.93	54.04	4.46
Subject countries	928.95	16.18	173.69	1,118.82	92.32
Sri Lanka		0.81	30.58	31.39	2.59
Other countries	5.57	24.01	32.15	61.73	5.09
Total imports in India	934.52	41.00	236.42	1,211.94	100

17. The information contained in the petition showed that the volume of the imports from Malaysia were blow 3% of total volume of imports. As imports from

Malaysia were negligible by the reason of volume, the Authority did not consider it appropriate to initiate investigations against imports from Malaysia.

18. One of the producer/exporter from Sri Lanka argued that Sri Lanka should be dropped from the subject countries because of inclusion of compact fluorescent lamps within FTA between India and Sri Lanka. The Authority notes that the FTA agreement between the two countries does not bar anti dumping investigations. The Authority however notes that the volume of imports from Sri Lanka is below de-minimis limits (2.59%). Initially, the petitioner had provided information from DGCI&S for the period upto Dec., 2006 and from IBIS for the period Jan.-March, 2007. Full information on imports from DGCI&S has now become available for the entire investigation period, which shows that the volume of imports from Sri Lanka is de-minimus. In view of this, the Authority terminates investigations in respect of Sri Lanka in accordance with Rule 14 of the Rules. Accordingly, imports from Sri Lanka have been clubbed in other countries for the purpose of this investigation.

**D. Standing of the Domestic Industry and initiation of the investigation**

19. The petition was jointly filed by M/s Indo Asian Fusegear Ltd., M/s Havell's India Ltd., and M/s Osram India Pvt. Ltd. These producers produce sealed glass tubular shells and thereafter produce CFL with external chokes and CFL with integrated choke. Petitioner claimed that the subject goods are produced by a number of other companies by importing sealed glass tubular shells and carrying out remaining incremental insignificant production activities. Petitioner claimed that these companies do not undertake basic production activities and are importers of the subject goods in the form of sealed glass tubular shells in significant volumes. Petitioner has provided production information compiled by Electric Lamp & Components manufactures Association (ELCOMA). This information provided by ELCOMA showed that the goods are produced in India only by following companies:

- a. Indo Asian Fusegear
- b. Havells India
- c. Osram India
- d. Surya Roshni
- e. Phoenix

20. This petition was supported by Surya Roshni Ltd. at the stage of initiation. Subsequent to the initiation, the company has provided information with regard to imports made by them and injury information in respect of goods produced by them. Surya Roshni thus provided information as a producer of the subject goods as also as an importer of the subject goods and requested the Designated Authority to impose anti dumping duties on the goods for which petition was filed before the Authority.

21. At the stage of initiation, the Authority considered that those Indian producers who were producing the subject goods by importing sealed glass tubular shells do not constitute eligible domestic producers in as much as they are importers of the subject goods in significant volumes and these companies are not undertaking basic production activities. It was determined that the production of the applicant companies constituted more than 50% of Indian production. The Authority therefore

determined at the time of initiation that production of the petitioner companies constituted “a major proportion” in Indian production and the petition satisfied standing under Rule 5. It was further determined that the petitioner companies constituted domestic industry within the meaning of the rule 2.b read with 2.d.

22. A number of companies have represented that they are also engaged in production of compact fluorescent lamps. These companies have claimed that they have set up facilities for production of CFL and are regularly paying excise duty as manufacturers. It has also been claimed that the production activity from the stage of sealed glass tubular shells was significant and constituted complete production activity. It has been highlighted that production activity involved in production of choke itself is quite significant. It is also the claim of these parties that value addition from the stage of sealed glass tubular shells to CFL is quite significant. A number of decisions of the Hon’ble Courts in India have also been cited to establish that sealed glass tubular shell is not a ready to use CFL and is only a component. These interested parties have therefore sought exclusion of sealed glass tubular shells from the scope of the investigations.

23. As noted above, the Authority is of the opinion that the basic production activity involved in production of CFL starts from production of sealed glass tubular shells onwards. Mere assembly of these shells into CFL or assembly of choke and addition to these shells does not constitute complete production activity. Furthermore, these companies are importers of the product under consideration in significant volumes. These companies were in particular requested to provide details of the production process followed by them. Only two of the companies namely M/s H.Q.lamps and Delta Electronic responded. They have provided list of plant and machinery which is Rs. \*\*\* Lacs and Rs.\*\*\* Lacs respectively for these companies. The range of investment in plant and machinery is Rs.\*\*\* Lacs by these importers as against the investment in the plant and machinery by the petitioners in the range of Rs.\*\*\* Lacs.

24. It has also been claimed that the words “CKD or SKD conditions” stated in the initiation notification has not been defined in the initiation notification and this ambiguity has prevented the producers/ exporters in subject countries from responding to the Authority and providing relevant information.

25. As stated here in before, the production activity between sealed glass tubular shell and ready to use compact fluorescent lamps constitutes more of an assembly line operation. Moreover, sealed glass tubular shell has been considered as an incomplete compact fluorescent lamp and therefore, any company involved in production of compact fluorescent lamps using imported sealed glass tubular shells has to be considered as a company engaged in production through significant imports of the product concerned. The domestic industry has claimed that if the production activity and investment involved upto the stage of sealed glass tubular shells was insignificant; these companies should have set up facilities for production of sealed glass tubular shells as well. As these companies do not carry out basic production activities, therefore, they cannot be considered as producers of the product concerned

within the meaning of anti dumping rules. On both grounds, the Authority considers that the companies producing compact fluorescent lamps using sealed glass tubular shells imported from subject countries does not constitute eligible domestic producers for the purpose of the present investigation.

26. The Authority notes that M/s Havells and Osram have also imported the product under consideration during the relevant period. Imports made by these companies in relation to their own production, imports into India and demand in India are as under -

	<b>Pcs in Lacs</b>	
	Havells	Osram
Imports from subject countries	Nil	***
Imports from other countries	***	Nil
Total imports by these companies	***	***
Imports into India from all sources	***	
Production of these companies	***	***
Demand in India	***	
<b>Share of imports by these companies in relation to</b>		
Imports into India from all sources	2.00%	0.53%
Production of these companies	20.41%	8.33%
Demand in India	1.66%	0.44%

27. During the course of on the spot investigations at the premises of Havells, the Authority noted that Havells has imported the subject goods. These imports were reported as “outsourced” and booked as “raw material consumed”. The company explained that since these were T3 type of CFL and were not being produced by the company, the company had imported these types, pending setting up of facilities for such type by the company. The company further explained that it has since commenced commercial production of these types as well and stopped imports completely after Feb., 2007.

28. The Authority notes that Havells has made these imports from Sri Lanka. As noted above, (based on full volume of imports which has now become available for the entire investigation period) the volume of imports from Sri Lanka itself is de-minimus. There are no imports by the company from any other source. The Authority holds that the imports made by Havells were insignificant and are from a country from where the entire volume of imports itself is de-minimus.

29. As regards Osram, the Authority notes that the imports made by the company are insignificant in relation to total production activity of the company. The company has imported those models of CFL which the company is not producing in India.

30. The Authority also notes that a company which is entirely dependent on imports of sealed glass tubular shell for production of compact fluorescent lamps must be distinguished with a company whose general emphasis is production in India and which is resorting to imports to supplement its production line.

31. In view of the above, the Authority provisionally holds that both Osram and Havells constitute eligible domestic industry within the meaning of Rule 2(b).

32. On the basis of the above, the Authority has determined the standing of the applicant and concludes that the applicant satisfied standing requirements under the rules. Further, the petitioner companies constituted domestic industry within the meaning of the rules.

### **E Other submissions and issues raised**

33. It has been argued that the notice of initiation was not placed on the website and thus depriving some interested parties from responding to the Authority. It is noted that notice of initiation was published in the Gazette of India and was sent to a large number of known interested parties. Furthermore, the Authority allowed time for submissions to all those interested parties who made a request for the same.

34. It has been argued that the Govt. of India has now made application of BIS standards mandatory and therefore there is no necessity of imposition of anti dumping duty. The Authority considers that application of BIS standards does not imply that the product can no longer be exported at dumped prices.

### **F. China-RP and Vietnam**

#### **Normal Value**

35. Response to the questionnaire was filed by the following companies –

- a. M/s. Foshan Electrical & Lighting Co. Ltd., China.
- b. M/s. Yanyang Electronic Fluorescent Lamp Factory, China
- c. M/s. Osram China Lighting Ltd., China PR.
- d. M/s. Phillips & Yaming Lighting Co. Ltd., China.

36. M/s Suqian Deda Lighting Co Ltd, Jiangsu, China and Hangzhou Linan Dongfeng Lighting Factory China also responded to the Initiation and requested time for filing response, which was also provided. However, these companies did not submit any questionnaire response. None of the producers/exporters from Vietnam filed questionnaire response.

## **G.1 Examination of market economy claims**

37. The Authority notes that in the past three years China PR and Vietnam have been treated as non-market economy countries in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the annexure 1 of AD rules, China and Vietnam have been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules for the purposes of preliminary determination.

38. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China/ Vietnam provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China/ Vietnam are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- a. The decisions of concerned firms in China PR/ Vietnam 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.

39. The Authority notes that responding producers/exporters of the subject goods from China have submitted their questionnaire responses and market economy questionnaire responses, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. There is however no response from any Producer/ Exporter from Vietnam. The questionnaire responses and the market economy responses of the responding producers and exporter have been examined for determination of normal value of the responding producers/exporter of the subject goods from the subject country as follows.

### **China PR**

#### **Foshan Electrical & Lighting Co. Ltd., China.**

40. M/s Foshan Electrical & Lighting Co. Ltd., China has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject

goods. The company has significant domestic sales of the product under consideration during the POI. The response of the company was examined and a letter was issued to the company on 30<sup>th</sup> Jan., 2008 requesting for certain additional information/clarification from the company. In the said letter the responding company was asked inter alia to provide information on details of the status of the shares held by State owned entity, valuation of the assets and method of transfer/sale of the property etc. No response has however, been received from the company.

41. Examination of the MET claim of the company shows that the company has significant direct or indirect state ownership. No details of these have been provided by the company. It is also noted that another related company is also engaged in production and/or sale of the product under consideration in the domestic market, no details of which have been provided to the Authority. The Authority notes that there are also significant issues regarding the status of the ownership of the responding company, which needs detailed examination and verification.

42. Pending examination of the above issues regarding ownership and control, its impact on the cost and prices and business decisions of the company, and verification of the same, the Authority is of the view that this producer- exporter from China cannot be granted market economy status for the preliminary determination of its Normal Value.

**M/s. Yanyang Electronic Fluorescent Lamp Factory, China**

43. M/s. Yanyang Electronic Fluorescent Lamp Factory, China has filed a questionnaire response and MET response in this matter as a producer and exporter of the subject goods. The company has significant domestic sales of the product under consideration during the POI. The response of the company was examined and a letter was issued to the company on 30<sup>th</sup> Jan., 2008 requesting for certain additional information/clarification from the company. In the said letter the responding company was asked inter alia to provide information on domestic sales details, questionnaire response (including market economy questionnaire) of the exporter, and ownership status of the exporter. No response has however, been received from the company.

44. Examination of the MET claim of the company shows that the company has sold goods through a trader in China. No questionnaire response has been provided by the exporter. In reply to deficiency response also, no response of the exporter has been provided to the Authority. The Authority notes that market economy treatment examination cannot be carried out for the company without response to questionnaire from the exporter concerned.

45. Pending relevant information from the exporter concerned, examination of the same by the Authority, and verification of the information filed, the Authority is of the view that this producer cannot be granted market economy status for the purpose of preliminary determination.

**M/s. Osram China Lighting Ltd., China PR and M/s. Phillips & Yaming Lighting Co. Ltd., China.**

46. Response to market economy status questionnaire was filed by both these companies. These companies were earlier examined by the Authority at the time of earlier investigation or new shipper review investigations, wherein the Authority has granted market economy treatment to these companies. The determination of market economy earlier made by the Authority has not been challenged, nor has the domestic industry raised any issues with regard to market economy status of these companies.

47. Pending verification of the information, the Authority is of the view that these producers can be granted market economy status for the purpose of preliminary determination.

**Vietnam**

48. As stated here in before, none of the exporters/producers from Vietnam have responded to the Authority. None of these parties have provided any information with regard to market economy status of these companies. The Authority is therefore unable to consider market economy status claim of Vietnam (companies) in accordance with para 8 of Annexure-I.

**G.2. Normal value in case of non market economy companies**

49. As stated above, there are significant issues relating to market economy determination in respect of Foshan Electrical & Lighting and Yanyang Electronic Fluorescent Lamp Factory, which requires further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporters and producers in respect of their market economy claims and individual treatment claims, for the purpose of the preliminary finding, the authority has provisionally estimated the normal value in China on the basis of Para-7 to Annexure-I to the Rules.

50. In this connection Para 7 of Annexure I of the Rule provides that

*“In case of imports from non-market economy countries, normal value shall be determined on the basis if 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. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, 1 keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties*

*to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”*

51. The Authority indicated, in Para 5 of the initiation notification, that it envisaged to consider European Union as an appropriate market economy country for the purpose of establishing normal value in respect of China and Vietnam. Interested parties were invited to offer their comments on this choice of market economy third country. However, none of the interested parties, except the applicants, have placed sufficient material before the Authority to consider European Union as an appropriate market economy third country for the above purpose. Even though the petitioner provided information with regard to the selling price of the subject goods in European Union, the Authority notes that mere price list of these goods in EU that too for a product of this nature, is insufficient to determine normal value for the purpose of preliminary determination.

52. Pending further examination of the issues, for the purpose of preliminary determination, the Authority proceeds to provisionally determine the normal value in China on reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Accordingly, the ex-works Normal Value of the product under consideration for all these exporters (except Phillips Yaming and Osram China) from China has been provisionally constructed based on facts available. The Normal Value has been constructed taking into account available international price of all the major inputs. Consumption norms, conversion cost, and SGA expenses of the domestic industry have been adopted for determination of the normal value. Separate normal value has been determined for each type of the product under consideration. After adding a reasonable profit margin of \*\*\*, constructed weighted average normal value separately for Sealed glass shells, CFL without choke and CFL with Choke works out to as under:

Particulars	Rs/Pc		
	Sealed glass shell	CFL w/o Choke	CFL with choke
Raw materials	***	***	***
Conversion Cost	***	***	***
SGA exp & Finance cost	***	***	***
Profit @ **%	***	***	***
CNV Per Pc	***	***	***
@ Exchange Rate Rs 45.60	***	***	***

53. The normal value has been worked out separately in each category by bifurcating into wattages. The position is as follows: Rs/PC

Particulars	Sealed Glass shell	CFL without Choke	CFL with choke
Up to 10 watt	***	***	***
11 Watt to 20 watt	***	***	***
21 watt to 26 watt	***	***	***
Weighted average	***	***	***

### **G.3. Normal value in case of market economy companies**

54. Normal value in case of Phillips & Yaming Lighting and Osram China Lighting has been determined on the basis of questionnaire responses filed by these companies. Weighted average selling price in the domestic market, separately for each type, has been determined on the basis of sales made by these companies in the domestic market. Price adjustments have been claimed on account of inland freight, insurance, storage etc. which have been allowed pending further examination and verification. The normal value has been determined at ex-factory level.

### **H.1. Export price for the responding exporters**

55. The Authority examined whether the export price in respect of responding exporters could be determined on the basis of questionnaire responses filed by these interested parties. Following companies provided information with regard to export price to India.

- a. M/s. Foshan Electrical & Lighting Co. Ltd., China.
- b. M/s. Yanyang Electronic Fluorescent Lamp Factory, China
- c. M/s. Osram China Lighting Ltd., China PR.
- d. M/s. Phillips & Yaming Lighting Co. Ltd., China.

56. M/s Yanyang Electronic has not directly exported the product under consideration. The exports have been made through another company, who has not responded to the Authority. The company had exported CFL with external choke only. The exporter has not provided any information in response to the deficiency raised by the Designated Authority in this regard. Under the circumstances, the Authority considers that it is not possible to determine export price for Yanyang Electronic on the basis of questionnaire response filed by the company. In case of M/s Foshan, the company had exported Sealed glass shells/ Burner only. The export price claimed with adjustments subject to verification have been allowed for the purpose of preliminary findings. The export price in respect of M/s Philips and Osram have been determined on the basis of questionnaire responses filed by the responding exporters however since both these companies have exported the goods to their related companies in India who have resold these goods after importation, the export



60. The weighted average for all categories comes to \*\*\*%.

**Vietnam – all producers/exporters**

**Rs/Pc**

Particulars	CFL without choke	CFL with choke
CNV	***	***
Ex factory Export price	***	***
Dumping margin	***	***
Dumping margin %	***	***

61. The weighted average DM % comes to \*\*\*%.

62. The overall position is as follows:

Name of the company	Dumping margin Range
China	
M/s. Osram China Lighting Ltd., China PR.	14-18%
M/s. Phillips & Yaming Lighting Co. Ltd., China.	40-45%
Other exporters/producers from China	84-89%
Vietnam – all producers/exporters	65-70%

63. The dumping margins so determined provisionally are significant and above de minimis level.

J.1. Views of the domestic industry

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

- a. Export price from the subject countries has remained at dumped level during injury period. Further, these prices have not increased proportionate to increase in input prices from base period to POI.
- b. Production, sales volumes and capacity utilization of the domestic industry are showing improvements because of imposition of anti dumping duty and growth in the market.
- c. Profit/Loss (PBT and PBIT) of the domestic industry have shown significant decline from base period to POI.
- d. Market share of the domestic industry declined. This is due to the fact that dumped imports have captured significant market share of demand in India.
- e. Import from each of the subject countries has been undercutting the prices of the domestic industry to a significant degree.
- f. Imports from the subject countries have forced the domestic industry to reduce the price steeply during 2005-06 and proposed investigation period. Thus, the imports were depressing the prices in this period.
- g. Demand and market share: - Whereas the market shares of the imports have increased, that of the domestic industry has declined.

- h. Growth: - Growth of the domestic industry in a volume parameters shows positive trend, whereas the same is negative in respect of price trends.
- i. There is significant increase in the import volumes in absolute terms.
- j. Price undercutting is significant. In spite of offering sub-optimal prices, there is a positive price difference between the domestic product and imported product.

## **J.2. Examination by the Authority**

### **J.2.1. Preliminary remarks**

65. Anti dumping duty was earlier recommended on ready to use CFL. The duties remained in force till 20<sup>th</sup> December, 2006. The domestic industry earlier represented that non inclusion of sealed glass tubular shells within the scope of the product under consideration has led to continued injury to the domestic industry, as a number of companies have set up assembly facilities in the Country and have started producing and selling CFL by importing the product at semi finished penultimate stage. It was also represented that the production activities from the stage of sealed glass tubular shells and ready to use CFL was quite insignificant, as is established between the production process involved upto the stage of ready to use without choke CFL. It was also represented that the comparison of sealed glass tubular shells with ready to use with choke CFL was misleading, as chokes are an electronic component and constituted separate production activities in itself. There are a large number of electronic component producers in the Country, who could provide choke as a ready to fit item. The domestic industry therefore submitted that non inclusion of sealed glass tubular shells within the scope of the product under consideration has led to a situation where even though there was anti dumping duty in place on the product, the producers continued to suffer injury from such continued dumping of semi finished product.

66. Domestic industry has drawn attention of the Authority to a number of decisions of the CESTAT and High Courts in this regard. In a number of these judgments, it has been held that imposition of anti dumping duty on imports of burners was justified. At the same time, there were judgments stating that collection of anti dumping duty on imports from burners was not justified. Domestic industry has also drawn the attention of the Authority to the circular issued by the CBEC wherein customs port authorities were earlier directed to collect anti dumping duty on imports of semi finished CFLs also. Domestic industry has argued that this was the position even when anti dumping duty was applicable on finished/ ready to use CFL. However, given that there was no anti dumping duty on ready to use CFL, customs authorities gradually agreed to allow imports of semi finished CFL or burners. Resultantly, more & more companies set up assembly facilities and became CFL producers, causing unfair competition to the Indian Producers. Domestic industry has represented that these producers are getting access to semi finished CFL in the form of burners at dumped prices and thereafter are unfairly competing with the domestic industry. Resultantly, whereas overall growth in the product is there, the growth of the domestic industry retarded affecting its profitability gradually.

### **J.2.2. Cumulative assessment of injury**

67. As per annexure-II (iii) of the Rules, in case, imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations,

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.

68. 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%. Cumulative assessment of imports is appropriate in the present case. The Authority has taken note of various arguments put forth by the Domestic Industry. There was no response from other interested parties in this respect.

69. Annexure II of the AD Rules requires that 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 the like products; and
- b. Consequent impact of these imports on domestic producers of such products.

70. The Authority while examining the volume of dumped imports is required to examine whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India. 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 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.

71. For the purpose of injury analysis the Authority has examined cumulative effect of dumped imports of the subject goods on the domestic industry and its effect on all relevant economic factors and indices having a bearing on the state of industry to evaluate the existence of injury and causal links between the dumping and injury, if any.

72. Since significant dumping margins have been established for the exports from the subject countries, entire exports from the subject countries have been treated as dumped imports for the purpose of injury analysis and causal link examination.

### **J.2.3. Volume Effect of dumped imports**

73. The Authority collected transaction wise details of imports of subject goods from DGCI&S. Volume of imports has been determined by cumulating imports of all

types of the product under consideration. The imports from China PR and Vietnam are more than de minimis limits individually.

#### **J.2.4. Import Volumes and share of subject countries**

74. Imports from each of the subject countries and their share in total imports have been as under –

**Figures in Lac Pcs.**

<b>Countries</b>	2003-04	2004-05	2005-06	2006-07
China	161.62	366.38	752.65	1,064.78
<b>Vietnam</b>	<b>14.83</b>	<b>14.86</b>	<b>55.26</b>	<b>54.04</b>
<b>Subject Countries</b>	<b>176.45</b>	<b>381.24</b>	<b>807.91</b>	<b>1,118.82</b>
<b>Trend</b>	100	216	458	634
Other countries	268.56	78.87	124.15	93.12
<b>Trend</b>	100	29	46	35
Total Imports	445.01	460.11	932.06	1,211.94
<b>Trend</b>	100	103	209	272
<b>Market Share in Imports</b>				
China	36.32	79.63	80.75	87.86
Vietnam	3.33	3.23	5.93	4.46
Subject Countries	39.65	82.86	86.68	92.32
<b>Trend</b>	100	209	219	233
Other countries	60.35	17.14	13.32	7.68
<b>Trend</b>	100	28	22	13
Production of DI	***	***	***	***
Imports from subject countries	176.45	381.24	807.91	1,118.82
Imports from subject countries as a percentage of production of DI	***	***	***	***
Break down of imports				
Sealed glass tubular shells	***	***	***	***
Ready to use CFL	***	***	***	***

75. It is found that cumulative imports from subject countries have increased significantly in absolute terms and in relation to imports in India. Imports from China-RP and Vietnam constituted 87.86%, and 4.46% respectively in the POI. It is also noted that whereas imports of ready to use CFL declined, imports of sealed glass tubular shells increased multifold. It is thus evident that more and more companies in India have started importing CFL in semi finished stage and doing processing activities in India.

#### **J.2.5. Demand, Output and Market Shares**

76. Share of imports in relation to demand/consumption in India and share of imports in relation to production in India was examined. Relevant information is given below.

#### **J.2.6. Growth In Demand**

77. Demand of subject goods has been determined by addition of domestic sales of Indian Industry and imports from all countries. The Authority notes that sealed glass tubular shells represents semi finished CFL and therefore sales of other Indian Producers has been considered on the basis of imports of sealed glass tubular shells. Demand so assessed comes as follow

#### **Figures in Lac Pcs.**

Domestic Industry	***	***	***	***
Subject Countries	***	***	***	***
Other Countries	***	***	***	***
Total Import	***	***	***	***
Total Demand	***	***	***	***
<b>Trend</b>	100	113	220	281

78. The Authority notes that demand for the subject goods has been growing significantly. It grew by 181% over the injury period.

#### **J.2.7 Share of imports in demand/consumption and production**

79. The Authority determined share of imports in relation to production and consumption in India. Relevant information is given below –

**Figures in Lac Pcs.**  
**2003-04      2004-05      2005-06      2006-07**

Increase in production		***	***	***
Increase in demand		***	***	***
Increase in imports		***	***	***
Subject countries		***	***	***
Other countries		***	***	***

80. The Authority notes that the subject imports have increased far more than the production in India.

**J.2.8. Capacity, production and capacity utilization of the Domestic Industry**

**Figures in Lac Pcs.**  
**2003-04      2004-05      2005-06      2006-07**

Installed Capacity	***	***	***	***
<b>Trend</b>	100	172	214	299
Production	***	***	***	***
<b>Trend</b>	100	172	308	322
Capacity Utilization %	***	***	***	***
<b>Trend</b>	100	100	144	108
Demand in India	***	***	***	***
Increase in				
Demand		***	***	***
Capacity		***	***	***
Production		***	***	***
Imports of burners		***	***	***

81. The Authority notes that capacity and consequently production increased over the injury period. However, in comparison to previous year whereas the demand increased by \*\*\*Pcs., capacity increased by \*\*\*Pcs. and production increased by only \*\*\*Pcs.. Further, it is found that there was significant increase in imports of burner. It is thus found that production shifted more to assembly operations by import of the product at semi finished stage, thus affecting capacity enhancement in the Country.

#### **J.2.9. Sales volume of Domestic Industry**

82.

**Figures in Lac Pcs.**

2003-04    2004-05    2005-06    2006-07

Domestic Industry	***	***	***	***
Trend	100	167	282	334
Increase in				
Sales of domestic industry		***	***	***
Imports from subject countries		***	***	***

83. It is noted that even though sales volumes of the domestic industry increased, increase in sales was far less than increase in imports. Given than 83% of imports were of semi finished CFLs, it is evident that the imports of sealed glass tubular shells has prevented increase in sales volumes of the domestic industry.

#### **J.2.10. Market Share**

84. Market share of the domestic industry over the injury period is shown below.

**Figures in Lac Pcs.**

2003-04    2004-05    2005-06    2006-07

Domestic Industry	***	***	***	***
Subject Countries	***	***	***	***
Other Countries	***	***	***	***
Total Import	***	***	***	***
Total Demand	***	***	***	***
<b>Trend</b>	100	113	220	281

Share in Demand				
Domestic Industry	***	***	***	***
<b>Trend</b>	100	148	128	119
Subject Countries	***	***	***	***
<b>Trend</b>	100	191	208	225
Other Countries	***	***	***	***
<b>Trend</b>	100	26	21	12
China	***	***	***	***
Vietnam	***	***	***	***
Subject Countries	***	***	***	***
<b>Trend</b>	100	191	208	225

85. It is noted that market share of domestic industry increased significantly between 2003-04 and 2004-05, which was more on account of market share lost by other countries. However, after 2004-05, the domestic industry was unable to increase its market share. In fact, the same declined.

#### **K.1. Price Effect of the Dumped Imports on the Domestic Industry**

86. 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.

87. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries 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 countries. In view of significant price difference between different types of the product under consideration, the analysis has been done separately for sealed glass tubular shells, ready to use with & without choke CFL for different watt. The product has been further grouped into three categories in respect of wattage – (a) upto 10 watt,

(b) 11 watt and upto 20 watt, (c) above 21 watt. Separate price comparison has been done in respect of each type. Thereafter, weighted average margin has been determined on the basis of associated volumes.

## **K.2. Price undercutting and underselling effects**

Figures in Rs./PC

	<b>Sealed Glass without lamp base</b>	<b>Without choke CFL</b>	<b>With choke CFL</b>	<b>Total Weighted Average</b>
Net sales realization (POI)	***	***	***	***
<b>Landed price</b>				
China	***	***	***	***
Vietnam		***	***	***
Total subject countries	***	***	***	***
<b>Price undercutting</b>				
China	***	***	***	***
Vietnam		***	***	***
Total subject countries	***	***	***	***
<b>Price undercutting %</b>				
China	***	***	***	***
Vietnam	***	***	***	***
Total subject countries	***	***	***	***
<b>Non Injurious Price</b>	***	***	***	***
<b>Price Underselling</b>				
China	***	***	***	***
Vietnam		***	***	***

Total subject countries	***	***	***	***
<b>Price Underselling %</b>				
China	***	***	***	***
Vietnam	***	***	***	***
Total subject countries	***	***	***	***

88. While working out the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been deducted.

89. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject countries over the entire period of investigation with the weighted average net sales realization of the domestic industry for the same period. For this purpose landed value of imports has been calculated by adding 1% landing charge and applicable basic customs duty to the value reported in the DGCI&S data of import prices from the subject countries. The price undercutting from subject countries was in the range of 40-60% during POI.

90. For the purpose of price underselling the weighted average landed prices of imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. It shows that underselling was in the range of 53-66%.

### **K.3. Price suppression and depression effects of the dumped imports:**

91. The price suppression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values from the subject countries.

92. The Authority notes that there were upward trends in the cost of sales during the injury period. The cost of sales which was 100 (indexed) in the base year went up to 109% in the POI. The Authority notes that decrease in the selling price was not more than the cost up to 2004-05, thereafter the increase in selling price was not proportionate to the increase in cost. The trend of cost of production shows that weighted average cost of Production rose by \*\*\*% during POI as compared to base year whereas the selling price had increased only by \*\*\*% during POI indicating that the domestic industry could not realize the selling price commensurate with the increase in cost of production.

## L. Examination of Other Injury Parameters

93. After having examined the effect of dumped imports on the volumes and prices of the domestic industry and major 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 in the earlier section, other economic parameters which could indicate existence of injury to the domestic industry have been analyzed hereunder as follows:

### L.1. Profits

Figures in Rs.

Cost of sales	***	***	***	***
<b>Trend</b>	100	88	101	109
Selling Price	***	***	***	***
<b>Trend</b>	100	86	98	105
Profit/Loss	***	***	***	***
<b>Trend</b>	100	(96)	(352)	(334)
PBIT	***	***	***	***
<b>Trend</b>	100	52	(36)	(71)
Cash Profit	***	***	***	***
<b>Trend</b>	100	58	(25)	(11)

94. The data indicate that weighted average cost of sales of the domestic industry went up by 9% during POI as compared to base year against which the weighted average selling price increased only by 5% during POI. The profit of domestic industry on the domestic sales (PBIT), which was 100 (indexed) in 2003-04 declined to 52 in 2004-05 and to loss in subsequent years. The Authority notes that there has been significant deterioration in the profitability of domestic industry during the POI as compared to base year 2003-04.

**L.2. Return on investment**

Figures in Rs.Lacs

PBIT	***	***	***	***
<b>Trend (Indexed)</b>	100	52	(36)	(71)
Net Fixed Assets	***	***	***	***
<b>Trend (Indexed)</b>	100	113	125	151
Working Capital	***	***	***	***
<b>Trend (Indexed)</b>	100	89	95	115
Capital Employed	***	***	***	***
<b>Trend (Indexed)</b>	100	105	115	139
Return on Capital Employed(%)	5.36	2.68	(1.67)	(2.74)
<b>Trend (Indexed)</b>	100	50	(31)	(51)

95. The Authority notes that there has been continued decline in the return on capital employed earned by the domestic industry. The return on capital employed, which was 100 (indexed) in the year 2003-04 declined sharply to 51 in POI.

**L.3 Productivity**

Particulars	2003-04	2004-05	2005-06	2006-07
Productivity per employee (Pcs)	***	***	***	***
<b>Trend ( Indexed)</b>	100	150	263	275

96. The data on production per employee shows that the productivity increased significantly over the period.

**L.3.1 Employment and wages**

	2003-04	2004-05	2005-06	2006-07
Employment (Manpower strength)	***	***	***	***

Trend ( Indexed)	100	141	169	196
Wages (Rs.Lacs)	***	***	***	***
Trend ( Indexed)	100	170	347	550

97. The employment level shows significant change in line with increase in production. The wage increase is commensurate with increase in no. of employees and production during POI as compared to base year.

### **L.3.2 Inventories**

	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>
Average Stock (Lac Pcs)	***	***	***	***
<b>Trend (Indexed)</b>	100	142	309	413
Average Stock in terms of No of Days' sales	***	***	***	***
<b>Trend (Indexed)</b>	100	85	109	124

98. The trends in the average inventory show that average inventory increased more than three times over the period. The Authority notes that at the beginning of POI the opening inventory was equal to about 2 days sales, which went up to about 19 days sales at the close of POI. In other words, during POI there has been accumulation of inventory as the closing inventory was nearly 8 times the opening inventory, which reflects an adverse off take.

### **L.3.3. Growth**

99. The growth in demand shows positive trend from base year to POI on year-to-year basis. The growth in capacity, production & sales were positive. However, growth in profits, return on investments and cash profits was negative. Further, even though growth in capacity, production and sales volumes was positive, it is noted that the growth in demand was far more than growth of the domestic industry.

### **L.4. Investment**

100. The authority notes that the domestic industry seeing the growth potential in the product increased its capacity of subject goods from base year to POI. The fresh investment by the domestic industry during the period of investigation is as follows:

**Rs. In Lacs**

Fresh Investment		***	***	***
Trend ( Indexed)		100	74	128

**L.5 Magnitude of Dumping**

101. Magnitude of dumping as an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margins determined against the subject countries, for the POI, are significant.

**L.6. Factors affecting prices****L.6.1. Conclusion on injury**

102. Imports of subject goods increased significantly in absolute terms. Imports increased significantly in relation to total imports into India, production and consumption in India. Further, there was significant increase in imports of burners, which constitutes semi finished CFL. With regard to price effect, it is found that imports were significantly undercutting the prices of the domestic industry in the market. As regards consequent impact of dumped imports on the domestic industry, it is noted that the product was earlier facing dumping from China and anti dumping duties were in force throughout the injury period. However, there were no anti dumping duties on imports of semi finished CFLs or burners. Performance of the domestic industry improved in terms of capacity, production, capacity utilization, and sales volumes. However, improvements in these parameters were far less than improvements in demand in the Country. Market share of the domestic industry first improved and thereafter declined. Performance of the domestic industry deteriorated in terms of profits, cash profit and return on investments.

103. On the basis of above analysis, the Authority provisionally concludes that the performance of the domestic industry deteriorated over the injury period, thus collectively and cumulatively showing that the domestic industry has suffered material injury.

**M. Causal Link**

104. 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.

**M.1 Examination of Other Known Factors****M.2. Volume and prices of imports from other sources**

105. The Authority notes that out of total imports, the volumes of imports from other countries are 6% during POI. The Authority notes that the imports from other countries also have been contributing to the injury of the domestic industry.

**M.3. Contraction in demand and / or change in pattern of consumption**

106. The Authority notes that there is no contraction in the overall 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 181% 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.

**M.4. Trade restrictive practices of and competition between the foreign and domestic producers**

107. The Authority notes that there is a single market for the subject goods where dumped imports from subject countries compete directly with the subject goods produced by domestic industry. Imports of semi finished CFL are being sold in the same market as finished ready to use CFL and are also competing with the domestic industry.

108. 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.

**M.5. Development in technology**

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

**M.6. Export performance**

110. The Authority notes that the export volumes of the domestic industry were insignificant during the POI. Performance with respect to various economic indicator has been determined with respect to domestic sales only. Hence, the Authority provisionally holds that material injury suffered by the domestic industry may not be as a result of the export performance of the domestic industry.

**M.7. Productivity of the Domestic Industry**

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

112. No other factor, which could have possibly caused injury to the domestic industry, has been brought to the knowledge of Authority. It is thus provisionally concluded that the imports from the subject countries have caused material injury to the domestic industry.

### **M.8. Conclusion On Causation**

113. The Authority notes that imports of CFL were significantly undercutting the prices of the domestic industry. It is also noted that the landed price of semi finished CFLs were significantly below the cost of production of the domestic industry upto this stage. As a direct consequence, volume of imports increased significantly. The increase was more pronounced in respect of semi finished CFL. Consequently, market share, profit/loss, cash profits, return on investment, which should have improved given the anti dumping duties earlier imposed, rather declined over the injury period. Further, even though capacity, production, capacity utilization and sales volumes increased, the same were far below the market growth. Dumped imports have affected growth of the domestic industry in the Country.

### **N. Magnitude of Injury Margin**

114. 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:

### **N.1. Injury margin Calculations**

115. The wattage wise injury margin calculations are as follows:

China PR

Rs/Pcs

	Sealed Glass shells			CFL without Choke			CFL with Choke		
NIP	***	***	***	***	***	***	***	***	***
LV	***	***	***	***	***	***	***	***	***
IM	***	***	***	***	***	***	***	***	***
WtdAvg			***			***			***

Vietnam

Rs/Pcs

Particulars	CFL without Choke	CFL with choke
NIP	***	***
Landed value	***	***
Injury margin	***	***

116. The overall position is as follows:

Rs/Pcs

Name of company	Injury Margin (Glass without lamp base)	Injury Margin (without choke CFL)	Injury Margin (with choke CFL)
China-RP	***	***	***

Vietnam	--	***	***
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**O. Conclusions**

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

- A. The subject goods have been exported to India from the subject countries below its normal value.
- B. The domestic industry has suffered material injury;
- C. The injury has been caused by the dumped imports from subject countries.

**P. Indian industry's interest & other issues**

118. The Authority recognizes that imposition of anti-dumping duties might affect the price level of product in India. However, fair competition in the Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or even more sources of supply.

119. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

**Q. Recommendations**

120. The Authority notes that the investigation was initiated, notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation.

121. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

122. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of provisional 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, provisional 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.

### R.1. Duty Table

SN	Sub. Heading	Description	Specification and Sub specification	Country Of origin	Country Of export	Producer	Exporter	Duty Amount	Unit of Measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1	8539	Compact Fluorescent Lamps (note below)	Finished lamp without choke 11 to 20 watt	China	China	Philips Yaming Lighting Ltd.	& Philips Yaming Lighting Co. Ltd.	43.12	Per Pc	INR
	-do-	-do-	Finished lamp without choke 11 to 20 watt	China	China	Philips Yaming Lighting Ltd.	& Any. Co.	43.12	Per Pc	INR
	-do-	-do-	Finished lamp without choke 11 to 20 watt	China	China	Any.	Philips Yaming Lighting Ltd. Co.	43.12	Per Pc	INR
	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Philips Yaming Lighting Ltd.	& Philips Yaming Lighting Co. Ltd.	54.67	Per Pc	INR
	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Philips Yaming Lighting Ltd.	& Any Co.	54.67	Per Pc	INR

	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Any	Philips Yaming Lighting Ltd.	& Co.	54.67	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Philips Yaming Lighting Ltd.	& Co.	Philips Yaming Lighting Co.	61.17	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Philips Yaming Lighting Ltd.	Co.	& Any	61.17	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Any	Philips Yaming Lighting Ltd.	& Co.	61.17	Per Pc	INR
	-do-	-do-	Finished lamp With choke-21 to 26 watt	China	China	Philips Yaming Lighting Ltd.	Co.	& Philips Yaming Lighting Co.	88.52	Per Pc	INR
	-do-	-do-	Finished lamp With choke-21 to 26 watt	China	China	Philips Yaming Lighting Ltd.	Co.	& Any	88.52	Per Pc	INR
	-do-	-do-	Finished lamp With choke-21 to 26 watt	China	China	Any	Philips Yaming Lighting Ltd.	& Co.	88.52	Per Pc	INR
2	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Osram Lighting Ltd.	China Co.	Osram China Lighting Co.	58.07	Per Pc	INR

	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Osram Lighting Ltd.	China Co.	Any.	58.07	Per Pc	INR
	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	China	Any	Osram Lighting Ltd.	China Co.	58.07	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Osram Lighting Ltd.	China Co.	Osram Lighting Ltd.	66.96	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Osram Lighting Ltd.	China Co.	Any	66.96	Per Pc	INR
	-do-	-do-	Finished lamp With choke-11 to 20 watt	China	China	Any.	Osram Lighting Ltd.	China Co.	66.96	Per Pc	INR
3	-do-	-do-	Burner- Up to 10 watt	China	any	any other than above	any other than above	any other than above	17.83	Per Pc	INR
	-do-	-do-	Burner- 11 to 20 watt	China	any	any other than above	any other than above	any other than above	19.56	Per Pc	INR
	-do-	-do-	Burner- 21 to 26 watt	China	any	any other than above	any other than above	any other than above	20.95	Per Pc	INR
4	-do-	-do-	Finished lamp Without choke- Up to 10 watt	China	any	any other than above	any other than above	any other than above	21.61	Per Pc	INR

	-do-	-do-	Finished lamp Without choke- 11 to 20 watt	China	any	any other than above	any other than above	22.82	Per Pc	INR
	-do-	-do-	Finished lamp Without choke- 21 to 26 watt	China	any	any other than above	any other than above	23.84	Per Pc	INR
5	-do-	-do-	Finished lamp With choke- Up to 10 watt	China	any	any other than above	any other than above	58.86	Per Pc	INR
	-do-	-do-	Finished lamp With choke- 11 to 20 watt	China	any	any other than above	any other than above	60.77	Per Pc	INR
	-do-	-do-	Finished lamp With choke- 21 to 26 watt	China	any	any other than above	any other than above	88.37	Per Pc	INR
6	-do-	-do-	Finished lamp Without choke- Up to 26 watt	Vietnam	Vietnam	any	any	21.86	Per Pc	INR
7	-do-	-do-	Finished lamp With choke- up to 26 watt	Vietnam	Vietnam	any	any	72.16	Per Pc	INR

Note : Scope of the product subject to duty is Compact Fluorescent Lamps with or without ballast/control gear/choke, whether or not assembled, either in CKD or SKD conditions, including unassembled CFL without ballast/choke/control gear, sealed tubular shell with or without lamp base. Finished compact fluorescent lamps are:

- (i) integrated type with built in ballast/control gears/choke and

- (ii) (ii) integrated type without build in control gears/ballast/choke.

**S. Further Procedures**

123. 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 finding;
- b. Exporters, importers, applicants 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 the dispatch of the letter. 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 conduct further verification to the extent deemed necessary;
- d. The Authority would disclose essential facts before announcing final findings.

R.Gopalan.  
Designated Authority.