

# Ministry of Commerce and Industry

## NOTIFICATION

New-Delhi, the 14th October, 2003

### FINAL FINDINGS

**Subject:** Anti-Dumping investigations concerning imports of 'X-ray Baggage Inspection Multi Energy System' (XBIS) from the European Union...Final Findings

**No.14/12/2002- DGAD** - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

### A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification no. .14/12/2002- DGAD dated 31/3/2003 with regard to anti-dumping investigations concerning imports of X-ray Baggage Inspection Multi Energy System (XBIS) from the European Union and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views , if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 1/7/2002 and on 15/9/2003 which was attended by all interested parties. All parties presenting views orally were requested to file written submissions of the views expressed orally at the time of the public hearing. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;

- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings;
- g. On the basis of sufficient evidence submitted by the Petitioner, the Authority initiated these investigations vide Public Notice dated 15th April 2002 concerning imports of XBIS from the subject territory; Investigations were carried out for the period 1st April, 2001 to 31st December, 2001 (9months).
- h. \*\*\* in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

## **B. PRODUCT UNDER CONSIDERATION**

2. The product under investigation in the present case is 'X-ray Baggage Inspection Multi Energy System' (XBIS). It is used for detection of explosives, firearms, narcotics and contra band at port of importation, security agencies and airports. There is no substitute available to XBIS. The petition is against alleged dumping of two models viz., Heimann Models HS6040i and HS9075i and four ranges of size (tunnel dimension) width x height as given below:-

<b>Width</b>	<b>Height</b>
(a) 600 to 700 mm	400 to 550 mm
(b) 700 to 1000 mm	550 to 850 mm
(c) 1000 to 1200 mm	800 to 1200 mm
(d) 1200 mm and above	1200 mm and above

'X-ray Baggage Inspection Multi Energy System' (XBIS) is classified under Customs sub-heading no. 90.22.19 of the Customs Tariff Act, 1975 and the ITC classification is 90.22.1901. The classification is however indicative only and in no way binding on the scope of the present investigations.

The Authority confirms the preliminary findings on product under consideration.

## **C. LIKE ARTICLES**

3. Rule 2(d) of the anti-dumping rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another Article, having characteristics closely resembling those of the articles under examinations.

The petitioner has claimed that technically Indian manufactured products are more superior to the imported products and are adapted for local environment and handling.

The comparable models of ECIL – Rapiscan and Heimann which are alleged to be dumped are as follows:

<b>Heimann Model</b>	<b>Comparable ECIL –Rapiscan Model</b>	<b>Size (tunnel dimension) width x height approx.</b>
HS6040 i	ECR520	60cm x 40cm
HS9075 i	ECR526A/B	90cm x 75cm

In the absence of any arguments on like article by any interested party, goods produced by the petitioner are being treated as Like Articles to the goods imported from the subject country within the meaning of the Rules.

For the purpose of initiation, the petitioner had claimed normal value in European Union (Germany) on the basis of M/s Heimann Systems GmbH prices as quoted to the Brazil Government Postal Service in the International Tender of the Brazil Postal Services for the acquisition of X-Ray equipments for model 6040d (which is claimed to be the same model as 6040i with minor modification for the customer by the petitioner) and 9075. As evidence of dumping M/s Heimann's pricing in Brazil as published in The Journal De Brasilia and its English translation were enclosed in the petition. M/s Heimann's pricing in Brazil was accepted by the Authority for prima facie determination of normal value for purpose of initiation. As per the request of the AAI, M/s Heimann's pricing in Brazil as published in The Journal De Brasilia and its English translation were treated as 'non-confidential' by the petitioner and placed in the public file.

Confidential submissions were thereafter made by M/s Heimann Systems vide their letter dated 13th July 2002 wherein they have submitted details of the differences in the models supplied to Brazil and to Airports Authority of India. M/s Heimann Systems was requested by the Authority vide letter dated 19th August 2002 to treat the submissions as non-confidential so that they could be placed in the public file for eliciting the views of interested parties. The Authority notes that no response in this regard was received from M/s Heimann Systems.

The Authority however notes that the issue in the present investigations, is that of comparison between the models produced and sold by the petitioner with those exported to India from the EU, as given in the exporter's response. The Like Article is therefore the comparable models manufactured by the petitioner of XBIS 6075i and 9075, which have been sold in the domestic market in EU and imported by Airports Authority of India during the period of investigations. The Authority notes that M/s Heimann in their confidential response to the exporters questionnaire have not furnished details of the technical specifications of the product sold to India i.e., 6040i

and 9075. However, no interested party has stated that the models exported to India are not like articles to those manufactured by the domestic industry.

The petitioner has stated that the users normally indicate a range of tunnel sizes in notices inviting tenders so that a number of manufacturers and models could participate and compete for the order. It is also a practice among various producers to give different model numbers or model names even if the tunnel sizes vary marginally. Therefore, all models of XBIS machines should be treated as like articles for the purpose of this investigation.

The Authority notes that for Indian Airports, Bureau of Civil Aviation (BCAS) lays down the standards for security applications. They are derived mainly from ICAO standards followed by member countries. In the tender invited by the AAI during the period of investigations, two models of XBIS were involved i.e., 6040i and 9075. The Authority notes that there is a tender process involved in the purchase of the subject goods and therefore the technical specifications as laid down are required to be complied with by potential suppliers. The technical specifications of the subject goods and the purchase procedure through tender do not indicate ease of product substitutability by users; in this case the major user being the Airports Authority of India. The AAI in its submissions has indicated that with the change in the dimensions of the machine there is difference in detection circuitry and added specifications (such as input motorised conveyor and output chute) and increased tunnel size, software for TIP facility and input and output roller facility contribute to higher cost. The Authority notes therefore that there are technical differences on account of differences in value added features and penetration and resolution differences between various models. The difference in price is on account of differences in built-in value added features depending on the requirement of each system/tunnel range. The difference in the price of 6040 and 9075 models which are the subject matter of the present investigation is USD \*\*\* or Rs \*\*\*. This difference is not only account of tunnel size but on account of difference in zoom facility (upto 16x for Heimann Systems) and (upto 8x for ECIL). The present investigation is therefore restricted to the two models of XBIS i.e., 6040i and 9075 which were imported during the period of investigations of corresponding tunnel sizes.

In order to establish that XBIS produced by the domestic industry is a Like Article to that exported from EU, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. The Authority also finds that there is no argument disputing that XBIS produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by XBIS imported from the subject territory both commercially and technically. XBIS produced by the domestic industry has been

treated as Like Article to the product exported from EU within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

## **D. Domestic Industry**

4. The petition has been filed by M/s ECIL –Rapiscan Limited, Secunderabad, which is a joint venture between Electronic Corporation of India Ltd. (ECIL) Hyderabad, a Government of India Public Sector Undertaking and Opto Sensor Inc. (Rapiscan) USA., M/s Opto Sensors Inc. (OSI), California, USA and Electronics Corporation of India Ltd. (ECIL) entered into a joint venture agreement to inter alia organise a limited liability joint stock corporation under the laws of India to manufacture, assemble, test, market, sell and service single and multi- energy X-ray Baggage Inspection Systems, explosive detectors, walk through metal detectors and related security products. The general business purposes of the company ECIL –Rapiscan Limited as given in Article 2 of the joint venture agreement is to : (i) arrange for the manufacture, assembly and testing of the products ( as defined above) in India, (ii) market and sell the product throughout the Territory (iii) service the products sold throughout the Territory, and (iv) engage in such other activities as may be incidental or necessary to the foregoing.

The petition has been filed by ECIL Rapiscan Ltd. (ECR). Under the joint venture agreement, ECR is required to provide ECIL with the components necessary for ECIL to manufacture the products. ECR is required to test, market, sell and service the product. Therefore, the petitioner gets the machines manufactured from ECIL and the entire production of XBIS by ECIL is for and on behalf of ECR. ECIL is the only manufacturer of the subject goods in India and has supported the present petition.

Rule 2 of the Anti - Dumping Rules defines domestic industry as follows:-

"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 exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry."

As stated above, ECR is required to arrange for the manufacture of the subject goods by providing ECIL with the components necessary for ECIL to manufacture the products. ECR is required to test, market, sell and service the product. The entire

production of XBIS by ECIL is for and on behalf of ECR. The Authority also notes that M/s ECIL Rapiscan/M/s ECIL are not related to the exporters or importers of the alleged dumped article and are themselves not importers thereof.

The Authority notes therefore that the petitioner constitutes "domestic industry" and has the required standing to file the present petition under the Rules.

## **E. DUMPING:-**

### **Exporters and Producers of the Subject Goods in the Countries of Origin:-**

5. The Authority sent questionnaires to the known exporter from the subject territory in terms of section 9 A (1). M/s Heimann Systems furnished a response to the exporters questionnaire.

#### **(A) Normal Value:-**

##### M/s Heimann Systems, Germany

The exporter has stated that the data for sales in the home market is provided for Germany and for all other sales in the EU. This distinction is critical because sales in Germany are for machines that have different characteristics and value-added items and services to the machines sold elsewhere in the EU.

**Grade 6040** - The Authority notes that the selling price in Germany is E \*\*\* and the selling price in Europe is E \*\*\*. No discounts/commissions have been paid. The Authority has considered the selling price to EU as Germany is a part of the customs union of EU.

The manufactured price is stated to be E \*\*\* and the selling price E \*\*\*. The charges after ex-factory are on account of packing E \*\*\*; and inland freight E \*\*\*. Overseas freight and insurance are included in freight. No break-up has been provided on these accounts. After considering the adjustments on the aforesaid the net selling price comes to E \*\*\*.

The price variations after manufacture are (i) 2 year service support which includes all parts, labour and help line which is \*\*\*% of contract at E \*\*\*; (ii) 2 year warranty at \*\*\*% E \*\*\*; (iii) 6 week delivery (cost to stock and material holding) @ \*\*\*%- E \*\*\*; (iv) 24 emergency repair contract calculated at \*\*\*% of contract - E \*\*\*; adjustment on account of variation in specification E \*\*\*. The total adjustment cost on account of price variation is E \*\*\*.

The ex-factory normal value level is therefore considered to be E \*\*\*.

The Authority notes that details of the contract on the basis of which these adjustments have been claimed have not been made available. Details/information on the variation in specification are also not available.

**Grade 9075-** The Authority notes that the selling price in Germany is E \*\*\* and the selling price in Europe is E \*\*\*. No discounts/commissions have been paid. The Authority has considered the selling price to EU as Germany is a part of the customs union of EU.

The manufactured price is stated to be E \*\*\* and the selling price E \*\*\*. The charges after ex-factory are on account of packing E \*\*\*; and inland freight E \*\*\*. Overseas freight and insurance are included in freight. No break-up has been provided on these accounts. After considering the adjustments on the aforesaid the net selling price comes to E \*\*\*.

The price variations after manufacture are (i) 2 year service support which includes all parts, labour and help line which is \*\*\*% of contract at E \*\*\*; (ii) 2 year warranty at \*\*\*% E \*\*\*; (iii) 6 week delivery (cost to stock and material holding) at \*\*\*%- E \*\*\*; (iv) 24 emergency repair contract calculated at \*\*\*% of contract - E \*\*\*; adjustment on account of variation in specification E \*\*\*. The total adjustment cost on account of price variation is E \*\*\*.

The ex-factory normal value is therefore considered to be E \*\*\*.

The Authority notes that details of the contract on the basis of which these adjustments have been claimed have not been made available,. Details/information on the variation in specification are also not available.

## **(B) Export Price:-**

**a) Grade 6040-** The exporter has sold 42 units to AAI and 3 units to GE Capital of Grade 6040. The factory cost of exports as stated in Appendix 8 is USD \*\*\* or E \*\*\*. The tract price to AAI is E \*\*\*. After \*\*\*% sales commission (E \*\*\*) the sales price comes to E \*\*\*. The selling price to GE is E \*\*\*. After \*\*\*% sales commission (E \*\*\*) the sales price comes to E \*\*\*. The average price of AAI and GE before commission is E \*\*\* and after commission is E \*\*\*.

**Grade 6040 AAI-** The manufactured price is stated to be E \*\*\* and the selling price E \*\*\*. The ex-factory cost is E \*\*\*.

**Grade 6040 GE-** The manufactured price is stated to be E \*\*\* and the selling price E \*\*\*. The ex-factory cost is E \*\*\*.

As the adjustments on account of overseas freight and for 2 year warranty vary for sales of this model to AAI and GE, the Authority has considered the weighted average ex-factory price for 6040 which is E \*\*\*.

**(b) Grade 9075** - 16 units of this grade have been sold to AAI. Price adjustments for this grade have been given in Appendix 4. The factory cost of exports as per Appendix 8 has not been given. The export price for 9075 is stated to be E \*\*\*. After sales commission of \*\*\*% the selling price comes to E \*\*\*. The adjustments include packing cost at E \*\*\*, inland freight at E \*\*\* before fob and overseas freight at E \*\*\*. The total cost on account of the above comes to E \*\*\*.

The adjustments for fair comparison include (I) 2 year warranty at \*\*\*% or E \*\*\*; (ii) specification variation -E \*\*\*; (iii) others - E \*\*\*.

The exporter has not elaborated on the costs which have been included under 'others'. After considering the above costs including 'others', the ex-factory export price comes to E \*\*\* for Grade 9075.

### **(c) Dumping Margin:-**

#### **Examination by the Authority:-**

The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. Based on the normal values and export prices as indicated above, the Authority assessed the dumping margins in case of M/s Heimann Systems as given in the table below:-

Grade	Ex-factory Normal Value	Ex-factory Export Price	DM (E)	DM (USD)	DM (%)
6040	E ***	E ***	***	***	10.34%
9075	E ***	E ***	***	***	32.15%

## **F. INJURY:-**

### **Authority's Position:-**

The Authority has taken into account all indices regarding injury while doing the final determination. This involves all relevant principles for determination of injury as specified under Annexure II of the anti-dumping rules viz., the volume of dumped

imports, their effect on price in the domestic market and its effect on the production, capacity utilisation, sales, profits, market share etc. of domestic industry. While determining the non-injurious price for the like article for the domestic industry, the Authority has made appropriate analysis of all the relevant factors such as usage of raw material, usage of utilities, etc., and the actual expenses during the period of investigation including factors such as investments and capacity utilisation. The Non-injurious price for the domestic industry has been determined considering a reasonable return on the capital employed by the petitioner. For calculation of injury margin, the ex-factory non-injurious price of the domestic industry has been compared with the landed value of the imported goods.

The quantum of imports, production, capacity and capacity utilisation, sales and market share, closing stocks, landed values of the subject goods from the subject countries and selling prices of the petitioner were as given below:-

**a. Quantum of Imports**

Quantity (nos.)

Countries	1999-2000		2000-01		POI	
	Qty	Value	Qty	Value	Qty	Value
Total Imports	38	***	26	***	106	***
EU	31	***	13	***	55 Heimann Systems- 61	***
Others	7	***	13	***	51	***

For the purpose of analysing the volume of imports the import data published by DGCIS was considered for the years 1999-2000, 2000-01 and the POI. As per DGCI&S data the imports of the subject goods from the EU was 55 units. As per submissions of M/s Heimann Systems 61 units were exported to India during the POI.

**b. Production and Capacity Utilisation**

The production capacity, actual production and capacity utilisation of the petitioners was as shown in the table below :-

Petitioners	1999-2000	2000-01	POI
Installed Capacity (no. of units)	100	100	100
Production (no. of units)	18	56	18
Capacity Utilisation %	18%	56%	18%

The production of the subject goods by ECIL corroborates with the sales quantity of ECIL to ECR.

(c) Sales and Market Share

	1999-2000	2000-01	POI
Sales (no. of units) of petitioner	63 (from ECIL to ECR - 18)	58 (from ECIL to ECR - 56)	25 (from ECIL to ECR - 18)
Demand	101	84	131
Share of dumped Imports %			46.56%
Share of petitioner %			19.08 %

Apart from the sales units from ECIL to ECR, the rest of the sales quantity by ECR were from imports effected by ECR of the subject goods.

d. Price undercutting and price depression

Rs/lacs

	Sales realisation of domestic industry for comparable models	Landed Price of Imports EU		Price undercutting	
		Amount	%	Amount	%
ECR 520	***	6040	***	***	41.34%
ECR 526A	***	9075	***	***	39.27%

It is seen that while the landed price of the subject imports are lower than the selling prices of the domestic industry, this has not prevented the domestic industry from earning a higher realisation on the sales of the subject models during the POI at a profit. It is also noted that the sales realisation is much higher than the non-injurious price of the domestic industry for the subject goods determined by the Authority for the POI. Hence the question of price suppression does not arise.

e. **Profitability:-**

The domestic industry had made a loss of Rs \*\*\* lacs (7%) on a turnover of Rs \*\*\* lacs during 2000-01. It earned a profit of Rs \*\*\* lacs (2.6%) on a turnover of Rs \*\*\* lacs during the POI. Thus, the profitability changed from minus 7% to plus 2.6%.

Rs (lacs)

ECIL/ECIL - Rapiscan	1999-2000		2000-01		POI	
	ECR 520 (6040)	ECR 526A (9075)	ECR 520 (6040)	ECR 526A (9075)	ECR 520 (6040)	ECR 526A (9075)
COP/COS			***	***	***	***

Selling Price (ECIL-RAPIS CAN)			***	***	***	***
P/L			***	***	***	***

The selling price of the subject models by ECIL Rapiscan increased during the POI as compared to the previous year. The profit of the domestic industry also increased during the POI for the subject goods as compared to the previous year. The Authority notes that this selling price is higher than the non injurious price determined for the subject goods during the POI.

However, the Authority notes that when the domestic industry had more sales volumes during 1999-2000 and 2000-2001, it had incurred losses. However, when its sales volumes declined during the POI, it earned positive returns. This increase in profitability was in the face of price undercutting of the subject models. Therefore, from the domestic industry's profitability point of view, no causal link can be established between the material injury alleged to have been suffered and the imports from the subject territory which is the subject matter of this investigations.

#### **f. Actual and potential decline in sales**

As stated earlier, the domestic sales volume came down from 58 units in 2000-01 to 25 units during POI. Thus, while there was a decline in sales volumes, no correlation can be established between decline in sales quantity of the domestic industry and actual import volumes.

#### **g. Output**

The output of the domestic industry was 56 units during 2000-01. It came down to 18 units during POI. Since the import volumes from other sources increased significantly from 7 units in 1999-2000 to 51 units in the POI, the domestic industry was forced to concede market share on this account.

#### **h. Return on investments or utilisation of capacity**

With the existing manpower and other resources at its command, the domestic industry could produce upto 100 units in a year. They have produced only 18 units during POI. The Authority notes that the demand for the subject goods is dependent on major buyers such as the AAI and others. The capacity utilisation of the domestic industry would, therefore, vary with the number of orders it is able to procure. As the product under consideration is highly technical in nature, price is not the only determining factor for placement of orders. In the present investigation, the loss of order by the domestic industry could not be attributed only to the price of imported XBIS.

### **i. Factors affecting domestic prices**

The market for XBIS Systems in the world is highly competitive. Globally, there are only two competitive products - one is from Rapiscan and the other from M/s Heimann. There are no other factors that affect domestic prices to a significant extent.

### **j. Magnitude of the margin of dumping**

The dumping margins are 10.34% for one model and 32.15% for another model as per the response of the cooperating exporter.

### **k. Cash Flow**

The sales revenue of the domestic industry in the year 2000-01 was Rs. 15.17 crores. It came down to Rs. 6.45 crores during POI due to decline in sales volume.

### **l. Inventories**

<b>Petitioner</b>	<b>1999-2000</b>	<b>2000-01</b>	<b>POI</b>
Closing stock	6	4	1

### **m. Employment**

There is no reduction in the manpower employed by the domestic industry.

### **n. Wages**

Being units in the public sector and joint sector, wages are not dependent on the volume of business or profits. Therefore, it is not relevant for the determination of injury.

### **o. Ability to raise investments**

This is not a very capital intensive industry. What is required is substantial working capital and not fixed capital. Therefore, this parameter is not relevant for this industry.

## **G. CONCLUSION ON INJURY**

The Authority has carefully examined the parameters leading to injury determination for the purpose of these Final Findings. As regards the total quantum of imports, the data in the Preliminary Findings showed nil imports from all other sources. As per DGCI&S data the total quantum of imports from all other sources other than the

subject territory was 51 units thereby bringing the total imports from all sources to 106 units as compared with 61 units only at the time of Preliminary Findings. This shows that the import volumes from other sources increased significantly from 7 units in 1999-2000 to 13 units in 2000-2001 (period prior to POI) to 51 units in POI forcing the domestic industry to concede market share to imports from other sources not alleged to be dumping. The Authority while finalising the non injurious price of the domestic industry has come to the conclusion that the domestic industry has not suffered price suppression and has actually increased its profitability. The additional information made available to the Authority by interested parties during the course of investigations after notification of Preliminary Findings brought out facts which were considered by the Designated Authority leading to different conclusions.

**The Authority observes that:-**

Annexure II (ii) of the Anti-dumping Rules states that "With regard to the effect of the dumped imports on prices as referred to 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 with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

The landed prices as per DGCIS data from EU were Rs \*\*\* Lacs for 6040 and Rs \*\*\* lacs for 9075 whereas the selling price of domestic industry (net of excise duty) was Rs. \*\*\* lacs and Rs. \*\*\* lacs for comparable models. The Authority notes that while the landed price of the subject imports were lower than the selling prices of the domestic industry, this did not prevent the domestic industry from earning a higher realisation on the sales of the subject models during the POI at a profit. It is also noted that the sales realisation was much higher than the non injurious price of the domestic industry for comparable models determined by the Authority for the POI. Hence the question of price suppression from the subject imports does not arise and does not establish injury to the petitioner from the dumped imports.

The Authority notes that when the domestic industry had more sales volumes during 1999-2000 and 2000-2001, it has incurred losses. However, when its sales volumes declined during the POI, it earned positive return. This increase in profitability was in the face of price undercutting of the subject model. Therefore, from the domestic industry's profitability point of view, no casual link can be established between the material injury alleged to have been suffered and the subject imports.

The closing stocks of domestic industry were lowest at 1 unit in the POI as compared to 4 units in the previous year and 6 units in 1999-2000.

The domestic industry's profitability improved from minus 7% to plus 2.6%. The selling price of the subject models and the profit of the domestic industry increased during the POI as compared to the previous year. The Authority notes that this selling price was higher than the non injurious price determined for the subject goods during the POI.

The domestic industry's capacity utilisation during the POI indicates that major buyers did not place orders on the domestic industry for the subject goods. As noted in para 17 of the Preliminary Findings the petitioner did not qualify in the technical evaluation or meet all the NIT requirements issued by the AAI for supply of 220 colours XBIS.

## **H. CAUSAL LINK**

6. The Authority notes that the domestic industry has shown improvement in respect of profitability which is a vital parameter having a bearing on the state of the industry. The market share of the domestic industry is dependent on major buyers and the domestic industry is required to satisfy technical parameters as specified in various tenders. Import volumes from other sources increased significantly from 7 units in 1999-2000 to 51 units in the POI and the domestic industry was forced to concede market share on this account. Hence the dumped imports from the subject territory had no volume effect on the domestic industry. In examining the price effect, that is, whether the dumped imports have significantly undercut the price of the like product in India, the Authority notes that while the landed price of the subject imports were lower than the selling prices of the domestic industry, this did not prevent the domestic industry from earning a higher realisation on the sales of the subject models during the POI at a profit. This sales realisation was much higher than the non injurious price of the domestic industry for comparable models determined by the Authority for the POI. Hence the question of price suppression from the subject imports or of material injury to the petitioner from the said imports does not arise. The domestic industry earned positive returns and increased its profitability when its sales volumes declined in the POI. Therefore from the domestic industry's profitability point of view, no causal link can be established between the material injury alleged to have been suffered and the subject imports. The Authority therefore holds that the material injury to the domestic industry has not been caused by the dumped imports from the subject territory.

## **7. FINAL FINDINGS:-**

The Authority after considering the foregoing, concludes that:

- a. XBIS originating in or exported from EU have been exported to India below normal value, resulting in dumping;
- b. the domestic industry's selling prices have been higher than the non injurious price determined by the Authority for the subject goods;
- c. with higher sales volumes during 1999-2000 and 2000-2001 the domestic industry had incurred losses; however, with a decline in sales volume during the POI the domestic industry earned positive returns;
- d. hence no causal link could be established between the injury suffered by the domestic industry and the dumped imports from the subject territory.

8. It is therefore considered necessary to withdraw the anti-dumping duties recommended provisionally, vide notification No. 14/12/2002-DGAD dated 31/3/2003 on imports of X-ray Baggage Inspection Multi Energy Systems (XBIS) classified under customs sub-heading No. 90.22.19 of the Customs Tariff Act, 1975 being the subject matter of this investigation, originating in or exported from European Union.

9. In view of the above, the Designated Authority recommends withdrawal of the provisional duties in terms of the provisions of Rule 18, sub-rule (4). The provisional duty already imposed and collected, if any, shall be refunded.

10. Subject to the above, the Authority confirms the preliminary findings dated 31st March, 2003.

11. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

**L.V.SAPTHARISHI**  
DESIGNATED AUTHORITY