

# Ministry of Commerce

## Notification

New-Delhi, the 21st June 2001

**Subject:** Anti-Dumping investigations concerning imports of Ferro Silicon from Ukraine --Preliminary Findings.

**17/1/2001-DGAD** – Having regard to the Customs Tariff Act 1975 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 given below has been followed with regard to the investigations:
  - i. The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written petition from M/s. Indian Metals and Ferro Alloys Ltd., Bhubaneshwar, alleging dumping of Ferro Silicon originating in or exported from Ukraine.
  - ii. The preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was thereafter considered as properly documented.
  - iii. The Authority on the basis of sufficient evidence submitted by the petitioner decided to initiate investigations against alleged dumping of imports of Ferro Silicon originating in or exported from Ukraine. The Authority notified the Embassy of the subject country about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules.
  - iv. The Authority issued a Public Notice dated 9th March 2001, and Corrigendum dated 23rd March 2001, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of Ferro Silicon classified under customs sub-heading no. 7202.21 and 7202.2100 of Chapter 72 of the Customs Tariff Act, 1975, originating in or exported from Ukraine.
  - v. The Authority forwarded a copy of the Public Notice to the known exporters (whose details were made available by the petitioner) and industry associations and gave them an opportunity to make their views known in writing within forty days from the date of the letter.
  - vi. The Authority forwarded a copy of the Public Notice to the known importers (whose details were made available by the petitioner) of Ferro Silicon and

advised them to make their views known in writing within forty days from the date of the letter.

- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of Ferro Silicon from Ukraine.
- viii. The Authority provided copies of the non-confidential Petition to the known exporters and the Embassy of the subject country in accordance with Rule 6(3) supra.
- ix. The Authority sent a questionnaire, to elicit relevant information to the following known exporters in Ukraine in accordance with Rule 6(4);

## **UKRAINE**

- Vladimir 1, Solodovnikoff,  
ICI Ukraine,  
Office 211, 1 Vasylkivska Street,  
Kyiv 0304.
- The Ukrainian Association of Ferro Alloys and Other Electrometallurgical Product Producers,  
Office 420, 1 Lenin Square, 49000 Dnepropetrovsk

The exporters did not respond to the questionnaire.

The Embassy of Ukraine was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, non-confidential petition and questionnaire sent to the exporters was also sent to them, alongwith the name and addresses of the exporters.

- x. A questionnaire was sent to the following known importers of Ferro Silicon in India calling for necessary information in accordance with Rule 6(4);

## **IMPORTERS – FERRO SILICON**

OPRK Ferro Alloys Ltd.  
Wazirpur, Delhi-110 052

Metalic Alloys  
Delhi-110 052

Durga Chemical Agencies,  
Ludhiana

Himani Ferro Alloys Ltd.,  
Karol Bagh, New Delhi

British Metal Corp.India Pvt. Ltd.  
New Delhi- 110 001

Metco Marketing  
New Delhi

Oswal Minerals,  
Bangalore-560021

Jain Ferro Alloys  
Bangalore-560021

Manhar Manak Alloys Pvt. Ltd.,  
Mumbai – 400 004

Shriram Enterprises,  
Chennai – 4

Sterling Ferro Alloys Pvt. Ltd.,  
Baroda – 390 005

Kothari Metals Ltd.,  
Calcutta – 71

Gargi Industries,  
Mumbai – 400 074

Kalinga Alloys Ltd.,  
New Delhi – 110 005

Essel Mining & Industries Ltd.,  
Gujarat

Visa International,  
Calcutta – 700 017

Rashtriya Ispat Nigam Ltd. (VSP),  
Andhra Pradesh

Sunglag Iron & Steel Co. Ltd.,  
Nagpur – 400 001

Essar Steels Ltd.,  
Gujarat

Mukand Ltd.,  
Mumbai – 400 080

Minex Metalurgical Co. Ltd.,  
Mumbai – 400 069

Vrindhavan Enterprises,  
New Delhi –110 029

Snam Alloys Pvt. Ltd.,  
Pondicherry

Panchmahal Steel Ltd.,  
Mumbai – 400 021

Shrilakshmi Traders,  
Bangalore – 560 021

Electro Ferro Alloys Pvt. Ltd.  
Ahmedabad – 380008

DCM Engineering Products  
Ropar – 140 01

Rathi Ispat Ltd.,  
Ghaziabad

Starwire India Ltd.,  
Faridabad

Haryana Steel & Alloys Ltd.,  
Haryana

## **FERRO SILICON MAJOR CONSUMERS**

Jindal Strips Ltd.  
Hisar

Sunflag Iron & Steel Co. Ltd.  
Nagpur – 440001

Haryana Steel & Alloys Ltd.  
Sonapat, Haryana

Essar Steels Ltd.,  
Gujarat

Rathi Ispat Ltd,  
Ghaziabad (U.P.)

Mukand Ltd.,  
Mumbai – 400 080

Ambica Steels Ltd.,  
Sahibabad (U.P.)

Minex Metallurgical Co. Ltd.,  
Mumbai – 400069

DCM Engineering Works  
Ropar - 140001

The Tata Iron & Steel Co. Ltd.,  
Jamshedpur – 831 001

Upper Inda Steel Mfg. & Engg. Co. Ltd.,  
Ludhiana – 141 010

Steel Authority of India Ltd.,  
Calcutta – 700 071

Aartee Steels Ltd.,  
Ludhiana , Punjab

Rashtriya Ispat Nigam Ltd. (VSP),  
Visakhapatnam  
Andhra Pradesh

Punjab Concast Ltd.  
Ludhiana – 141 010

Office of the Directorate General of  
Supplies & Disposals (DGC&D)  
New Delhi – 110 001

Usha Martin Ltd.  
Calcutta – 700 071

TELCO Ltd.,  
Jamshedpur – 831 001

Starwire India Ltd.  
Faridabad

Ennore Foundries Ltd.,  
Chennai – 600 057

Pioneer Alloy Casting Ltd.  
Chennai – 600 028

Electro Steel Castings Ltd.  
Calcutta – 700 0001

Gontiernan Piepers Ltd.,  
West Bengal

GKW Ltd.  
Howrah – 711103

Keshoram Spun Pipes & Foundries Ltd.  
Calcutta – 700 070

Response was filed by the following:

- TATA STEEL
  - Calcutta Metal Depot
  - Mukand Ltd.
- xi. The Authority made available the 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.
- xii. Cost investigations were conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally

- Accepted Accounting Principles (GAAP) on the information furnished by the petitioners so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiii. Some of the interested parties requested for extension in time to file their responses to the importers questionnaire which was granted upon due cause shown.
  - xiv. \*\*\* In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
  - xv. Investigations were carried out for the period 1st April 1999 to 31st August 2000 ( 17 months).

## B. PETITIONERS VIEWS

1. The petitioner has raised the following major issues in their petition and in their subsequent submissions:

- i. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. Ferro Silicon is manufactured in submerged arc furnace where heat is generated by resistance of raw materials when electrical energy is passed through carbon electrodes. The main raw material for the production of Ferro Silicon is Quartzite which contains more than 98% SiO<sub>2</sub>. Carbon paste and electricity are other raw materials required for the production of the subject goods. Since the process of manufacture is almost slagless, only alloy is tapped out from the furnace at intervals. The product is then casted and cooled for sizing as per the customers' requirements.
- ii. Ferro Silicon is being imported from the subject country for quite some time. However the volume of imports has increased very significantly since 1999-2000. Ferro Silicon is primarily imported by users for their own end use. The volume and value of imports of Ferro Silicon as per DGCIS for 1997-98, 1998-99, 1999-00, Apr-Aug,2000 and the POI i.e April, 1999 to August 2000, are as follows:

As per DGCIS

Quantity (MT)

Country	1997-98	1998-99	1999-00	Apr-Aug 2000	POI
Ukraine	---	20	887.12	809.079	1696.19
Other Sources	1173.18	4354.7	19412.3	6838.43	26250.73
Total imports	11731.8	4374.7	20299.5	7647.51	27947

(Imports of the the subject goods have been considered under custom classification no. 7202.2100).

**Value in Rs./ kg.(cif)**

Country	1997-98	1998-99	1999-2000	POI
Ukraine	---	21.9	22.9	20.3
All other Sources	27.9	32.1	28.7	28.4

**Landed value of exports**

Country	1997-98	1998-99	1999-2000	POI
Ukraine	---	27.6	29.45	26.1
All other Sources	35.1	40.5	36.8	36.4

As per information furnished by The Indian Ferro Alloys Producers Association, the production of Ferro Silicon (MT) during 1996-97 to the POI i.e., April 1999 to August 2000 (17 months) was as given in the Table below:-

Year	1996-97	97-98	98-99	99-2000	POI
Members					
IMFA	28,036	23,722	21,619	26,731	39,683
Others	33,540	43,020	25,643	16,555	25,724
Non-Members	17,000	13,000	12,000	13,000	18,191
Total	78,576	79,742	59,262	56,286	83,598

From the above table, the Petitioners, excluding the supporters represent 47.46% of the total Indian production.

- iii. There are no differences in the Ferro Silicon produced in India and that imported from the subject country. The various range or models of Ferro Silicon can be described in terms of percentages content of silicon. There is no difference in the Ferro Silicon produced by Indian Industry and that exported from the subject country which can have an impact on price. Petitioners have been certified ISO 9002. The Ferro Silicon produced by the Indian industry and imported from the subject countries is comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable. Consumers of Ferro Silicon have used the two interchangeably.
- iv. There is no known significant difference in the technology adopted by the Indian Industry and the manufacturers in the exporting countries. The

technology employed throughout the world is the smelting process. The process adopted by the Indian industry is comparable with the technology adopted by the manufacturers of Ferro Silicon in the subject country.

## **C. VIEWS OF IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES**

### **3. Importers views**

#### **A. CALCUTTA METAL DEPOT**

##### **1. Product involved :-**

The product under investigations in the present case is Ferro Silicon originating in or exported from Ukraine. Ferro Silicon is an alloy used in steel making, CI foundries, steel foundries and specialised refractory plus foundry fluxes application. It is also used as a reductant in making some alloys.

##### **2. Ferro Silicon is produced by**

- a. M/S Indian Metals and Ferro Alloys Ltd.
- b. M/S VBC Ferro Alloys Ltd.
- c. M/S Insil Electrosmelts Ltd.\*
- d. M/S The Silcal Metallurgic Ltd.\*
- e. M/S Hi-tech Ferro Alloys

\* They are not producing constantly as they change over to other alloys.

In addition to the above Ferro Silicon is coming to India from Bhutan Ferro Alloys Ltd., Bhutan. No ID is levied in that case. Around 1500 mt. Of material is infiltrated to India. Since Ferro Silicon is a power intensive product, the availability of this alloy to steel makers becomes difficult due to power problem/power shortage situations in the country. To produce one ton Ferro Silicon, power requirement will be 8800 to 9000 units. The production is also affected by the quality of power.

2. Apart from power, the reductant i.e. charcoal and/or coal coke blend is used to produce Ferro Silicon. Charcoal is obtained by combustion of wood, which results in deforestation and destabilises the environmental balances. Due to non availability of proper reactive reductant suitable for Ferro Silicon production other than charcoal in India coal/coke in India is to be imported from abroad.

3. As usual Ferro Silicon is consumed by the integrated steel plants like SAIL, Rashtriya Ispat Ingam Ltd., TISCO, Railways, and Defence plants etc. Also mini-steel plants and foundries consume this material. As stated, the manufacturers in the country are limited (Bhutan is not considered). With these limitations, there is another constraint i.e. power, which ultimately worries and affects the steel makers in the country. Sometimes back, SAIL also invited progressive importers for Ferro Silicon imported to their plant.

4. The present price being USD 450/MT CIF Calcutta Port. (for 65/70 grade). This price is taking into consideration as: Import Duty – 50.80 USD/MT plus Clearing & Forwarding charges plus USD comes rate 47.25 (Rs.) which is expected to go up 49.00(Rs.) in near future. Indian Manufactures are selling at Rs. 30/-per kg whereas import cost coming Rs. 31.50.

5. Those who are having Import Licences, can survive to do the import otherwise not viable & requests to weive off Anti-Dumping duty in all countries.

**B. TATA STEEL (The Tata Iron & Steel Company Ltd.)**

1. Countrywise details of import of Ferro Silicon are as under:-

**(Qty.-MT)**

Year I	Year II	Year III
Country Qy. Value	Qy. Value	Qy. Value
China *** **	Nil	Nil
China *** **	Nil	Nil
China *** **	Nil	Nil
Total ***		

Products imported duty free (under Advance Licence)

2. Details of purchase of the quantity and value of the product under investigations from indigenous manufacturers during the POI are as given below:-

Period of investigation	Name of Co.	Qty(MT)	Rs. Rate per unit
Apr. 99 –June 99	Not given	***	Not given
July 99 to Sept. 99	Not given	***	Not given
Oct. 99 to Dec. 99	Not given	***	Not given
Jan. 2000 to March, 2000	Not given	***	Not given
Apr. 2000 to June, 2000	Not given	***	Not given
July 2000 to Aug. 2000	Not given	***	Not given
Total		***	

### (C) Mukand Ltd.

1. Details of imports of the product under consideration during the investigation period (product liable to duty):-

Year	Qty.(Mt)	Invoice value (USD)	Landed Value (Rs.)	Rate/MT/Rs.
Apr. 98-Mar.99-Russia	***	***	***	***
Apr.99-Mar.2000-POI-Russia	***	***	***	***
Apr.2000-Aug.2000-POI-Russia	***	***	***	***
Apr.2000-Aug.2000-POI-Ukraine	***	***	***	***

2. Details of quantity, value and rate of largest purchase by the company (based on quantity) during each quarter from indigenous manufacturers.

A. I (Apr'98 –Mar'99)	Name of Company	Quantity	Rate/MT
Apr'98 to June'98	Nava Bharat Ferro Alloys Ltd.	***	***
Jul'98 to Sep'98	VBC Ferro Alloys Ltd.	***	***
Oct.'98 to Dec'98	VBC Ferro Alloys Ltd.	***	***
Jan'99 to Mar'99	Nava Bharat Ferro Alloys Ltd.	***	***
B. II (Apr'99-Mar'00)	Name of the Company	Quantity	Rate/MT
Apr. -99	Navbharat Ferro Alloys Ltd.	***	***
May-99	Navbharat Ferro Alloys Ltd.	***	***
June-99	Navbharat Ferro Alloys Ltd.	***	***
July-99	Manohar Manak	***	***
Aug-99	VBC Ferro Alloys Ltd.	***	***
Sept-99	VBC Ferro Alloys Ltd	***	***
Oct-99	VBC Ferro Alloys Ltd	***	***
Nov-99	VBC Ferro Alloys Ltd	***	***
Dec-99	VBC Ferro Alloys Ltd	***	***
Jan-00	VBC Ferro Alloys Ltd	***	***
Feb-00	Jayesh Trading Co.	***	***
Mar-00	VBC Ferro Alloys Ltd	***	***
C. III (Apr'00 to Aug'00)	Name of Company	Quantity	Rate/MT
Apr. -00	VBC Ferro Alloys Ltd.	***	***
May-00	VBC Ferro Alloys Ltd	***	***
June-00	Indian Metals & Ferro Alloys Ltd	***	***
July-00	Indian Metals & Ferro Alloys Ltd	***	***
Aug.-00	Indian Metals & Ferro Alloys Ltd	***	***

### 4. Exporters Views

The known exporters in Ukraine did not respond to the Authority's request for information as per the prescribed questionnaire.

A. Views expressed by the Ministry of Economy of Ukraine through the Trade & Economic Mission under the Embassy of Ukraine:-

1. The Ministry of Economy of Ukraine vide their letter dated 25.03.2001 had asked to be registered as an independent participant in these investigations.
2. The analysis of the materials of the non-confidential version of the petition shows that the petitioner proposes to the Ministry of Commerce & Industry of the Republic of India to consider Ukrainian producers and those who are working under so-called non-market economy conditions. The treatment of Ukrainian economy in terms of the current anti-dumping investigation as a non-market economy does not correspond to the current economic situation in Ukraine and will discriminate Ukrainian manufacturers which are working under market economy conditions.
3. Ukrainian currency (Hryvna) is completely convertible at the internal market. Exchange rate of the Hryvna to other currencies is determined by the currency trade at the inter-bank foreign currency exchange.
4. Salary in Ukraine is determined, excluding state-funded organisations, as a result of agreement between an employee and the management of the enterprise according to the labour contract.
5. There is a regime of attracting foreign investments to Ukraine. Foreign investors have a right to take part in the privatisation of state property, create branches, joint ventures etc. at the territory of Ukraine.
6. The majority of Ukrainian enterprises are privatised. Moreover, no matter what ownership form is considered government can not interfere in the economic activity of the enterprise and all economic decisions are made by enterprises independently.
7. Price formation in Ukraine is made in accordance to the Law of Ukraine "On Prices and Price formation" from 03.12.90 N507-XII. The Government regulates only the prices and fees of the natural monopolies and companies that produce a limited number of the first-necessity products consumed by the population.
8. International standards were introduced into the accounting system since January 1, 2000, and all accounting reports are provided in accordance with the international standards.
9. In addition, Ukraine has a legislative base, which supports the functioning of the market economy. First of all it included legislation on stocks and securities, monopolies, support of intellectual property and on regulation of the entrepreneurship activity.
10. The analysis of the data provided at the Tables at page 12 of the non-confidential version of the petition proves that the manufacturing and sells volumes of the petitioner are increased as well as manufacturing capacity

utilisation. Further at the Table the data on insignificant prices decline is provided (5.21% for the period 1997-2001) at the internal Indian market. At the same time, we have the information that internal prices at the "ex-works" basis were R 30.000 per ton in 1999; Rs 31.500 per ton in 2000 and Rs. 33.000 per ton in 2001, so there was not a decrease but increase in prices for Ferro Silicon produced by Indian manufacturers.

11. Ukrainian manufacturers of Ferro Silicon did not confirm the information about the tender mentioned at page 7 of the non-confidential version of the petition.

(B) The Ukrainian Association of Ferro Alloys and Other Electrometallurgical Product Producers, Office 420, 1 Lenin Square, 49000 Dnepropetrovsk

The Association was granted extension of time till 28th April 2001 for filing a response to the questionnaire forwarded by the Authority. However, no response was filed by them. The Association was authorized by the "Zaporozhye Ferroalloys Plant" and the "Stakhanov Ferroalloys Plant" to represent their concerns. The Association therefore wished to register as a participant in the process.

(C) ICI Ukraine (Industrial Commodities Inc., Ukrainian Representation, Office 211 1 Vasylykivska Street Kyiv 03040)

1. Our company is one of the main exporters of Ukrainian Ferro Silicon in your market.
2. We have been importing to India our material for about 2 years. The main grades of Ferro Silicon, which we are offering to your customers are: FeSi 65 Lumps (10 – 100 mm) and FeSi 65 Fines (0 – 13 mm). These grades are specified according to Ukrainian standards. Typical chemical composition of our material is the following: Si 63 – 68%, C 0.02% max, Al 2.0% max, S 0.05% max, P 0.05% max.
3. When we started our deliveries to India, our quantities from the beginning were very small. At that time, Russian, Kazakhstan and Chinese material was free from Anti-Dumping and was supplied to your market in a larger quantities. The volumes of material from Russian and Kazakhstan made a problem for the sales of domestic Ferro Silicon as your producers try to sell it by much higher prices. One day they have initiated an anti-dumping research against material from Russia and Kazakhstan, the result of which was anti-dumping duty for material of these origins. When it had happened, the volumes of Ukrainian material supplied to your market was increased (as market space cannot be empty for a long time), and of course our quantities among them were also increased. Quantities, but not prices, which were and still are stable for all material, we have been supplying to India. The price indications of all CIS producers are very close one to another and Ukrainian material is not the cheapest among

between them. We do not sell the supplying materia to India by less than our domestic prices of Ferro Silicon. Difference sources show that all our prices are normal and based on the world prices of Ferro Silicon.

4. Domestic Ferro Silicon producers are not happy about importing our foreign alloys, but if there self cost of production is the highest in the world the only way to make them happy is to issue an anti-dumping duty on all producers in the rest of the world. If all Indian steel plants purchase domestic Ferro Silicon by much higher prices, self cost of their production will go up and the final steel products becomes not competitive.
5. We would like to confirm that we have never dumped the price of Ukrainian Ferro Silicon in the Indian market. We have a good reputation in the eyes of Indian consumers and we would like to continue our business.
6. If the problem with domestic Ferro Silicon suppliers can be resolved by our common negotiations with them, we are ready to start these negotiations immediately.

## **D. EXAMINATION OF THE ISSUES RAISED**

5. The submissions made by the petitioner and importers to the extent they are relevant under the Rules and have a bearing upon the case, have been examined and dealt with at appropriate places hereunder.

## **E. PRODUCT UNDER INVESTIGATION**

6. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. Silicon constitutes the major proportion in Ferro Silicon. The size of Ferro Silicon is generally described in terms of millimeter of the outer dia of the product.

Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. The various users of Ferro Silicon can be described as under:

- Deoxidiser in the production of steel,
- As an alloying element for steel,
- In the making of electrical grade steel,
- In the production of anti-corrosive and acid resistant steel,
- In the manufacturing of power rectifiers,
- In the manufacturing of welding electrodes,
- It is added to cast iron as graphitising agent,

Ferro Silicon is classified under Customs sub-heading Nos. 7202.21 and 7202.2100 of Chapter 72 of the Customs Tariff Act, 1975.

## **F. LIKE ARTICLES**

7. Ferro Silicon is an alloy of iron and silicon containing calcium, aluminum, carbon, sulphur and phosphorous as impurities. There is however no significant difference in terms of process, equipment or technology for the production of Ferro Silicon. Ferro Silicon is primarily used as a deoxidiser in the production of steel and alloy steels. Ferro Silicon is also used in the manufacturing of power rectifiers and welding electrodes. In order to establish that Ferro Silicon produced by the domestic industry is a Like Article to that exported from Ukraine, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority finds that there is no argument disputing that Ferro Silicon produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by Ferro Silicon imported from the subject country both commercially and technically. Ferro Silicon produced by the domestic industry has been treated as Like Article to the product exported from Ukraine, within the meaning of Rule 2(d).

## **G. DOMESTIC INDUSTRY**

8. The petition has been filed by M/s. Indian Metals and Ferro Alloys Ltd., Bhubaneswar, alleging dumping of Ferro Silicon originating in or exported from Ukraine. The petition has been supported by M/s VBC Ferro Alloys Ltd., Hyderabad. As per the information available, the petitioner excluding the supporter represents 47.46% of the total Indian production.

The Authority notes therefore that the petitioners constitute "domestic industry" and have the required standing to file the present petition under the Rules.

## **H. DUMPING**

9. The Authority sent questionnaires to the known exporters from the subject country in terms of section 9 A (1). However, the exporters did not respond with the information called for. Therefore there are no claims made by the exporters with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon constructed price and best available information with regard to Normal Value and Export Price respectively.

# **I. EXAMINATION OF NORMAL VALUE AND EXPORT PRICE BASED ON CONSTRUCTED VALUE AND ON AVAILABLE INFORMATION WITH THE AUTHORITY**

## **(i) NORMAL VALUE**

10. The Authority observes that the exporters from the subject country have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers all exporters to be non-cooperative and has proceeded on best available information.

In the absence of information from the concerned exporters from the subject country, the Authority has been constrained to determine the constructed cost of the subject goods in Ukraine and has determined export price from the named countries as available in official data.

The normal value in Ukraine is therefore considered to be USD \*\*\*/MT or Rs \*\*\*/MT at an average exchange rate during POI of 1USD=Rs 43.5.

## **ii. Export Price**

11. The weighted average cif price as per the information available with the Authority is determined at Rs \*\*\*/MT. The ex-factory export price has been determined after taking USD \*\*\*/MT, \*\*\*% as marine insurance charges, commission @\*\*\*% for the agent in Ukraine, \*\*\*% of fob value for port handling and port charges as per the Indian experience and transportation costs @ \*\*\*% likely to be incurred by the producers in Ukraine to their sea ports. However, commission @\*\*\*% for the Indian indenting agent as claimed by the petitioners is not allowed by the Authority for want of documentary evidence. After adjustments on these accounts the ex-factory fob export price is estimated to be Rs \*\*\*/MT or USD \*\*\*/MT at an average exchange rate of Rs 43.5 =1USD.

## **iii Dumping margin**

12. Considering the constructed normal value at USD\*\*\*/MT and the ex-works export price at USD\*\*\*/MT, the dumping margin determined by the Authority comes to USD \*\*\*/MT (which is 60.4% of export price).

# **J. INJURY**

13. The Authority notes that the margin of dumping and quantum of imports from the subject country are more than the limits prescribed in Rule 11 Supra.

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

#### a. Quantum of Imports

##### As per DGCIS

Quantity (MT)

Country	1997-98	1998-99	1999-00	Apr-Aug 2000	POI
Ukraine	---	20	887.12	809.079	1696.19
Other Sources	1173.18	4354.7	19412.3	6838.43	26250.73
Total imports	11731.8	4374.7	20299.5	7647.51	27947

(Imports of the the subject goods have been considered under custom classification no. 7202.2100).

The total imports of Ferro Silicon increased by 73% in 99-00 over that of 97-98 and by 364% in 99-00 over 98-99. The increase in the total imports of Ferro Silicon was 138% in the POI over the level of 1997-98. Thus the quantum of imports have gone up significantly during the period of investigation.

The Imports of Ferro Silicon from Ukraine increased significantly in the POI over all previous levels as evident from the table above.

#### b. Production and Capacity Utilisation

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

Petitioner	Year	Installed Capacity (MT)	Production (MT)	Capacity Utilisation %
IMFA	1997-98	45000	25130	55.8
	1998-99	45000	22319	49.59
	1999-2000	45000	26731	59.4
	POI (Apr'99-Aug'2000)	59840	39583 (27,940 annl.)	66.15

#### c. Sales and Market Share

As reported by the Indian Ferro Alloy Producers' Association (IFAPA), the estimated sales (MT) of Ferro Silicon in the domestic market based on information available with them is as follows:-

Domestic Sales	1996-97	97-98	98-99	99-2000	POI
Members	54,987	57,918	42,891	41,605	56,887
Non-members (Estimated)	17,000	13,000	12,000	13,000	17,764
Total Sales of Indian Producers (Estimated)	71,987	70,918	54,891	54,605	74,651

The quantum of sales made by the petitioners were as follows:-

Petitioners	97-98	98-99	99-2000	POI
IMFA	22445	24984	26239	39691 (annl. 28,017)

It is observed from the above that the demand of Ferro Silicon was approximately 82,649 MT, 59,265 Mt and 74,704 Mt in 97-98, 98-99 and 99-2000 respectively. The demand for the POI is 102,598 MT (annualised 72,422MT). The share of imports in total demand was 14.19%, 17.50% and 27.17% in 97-98, 98-99 and 99-2000 respectively and 26.55% in the POI. The share of imports have thus been rising in demand. The share of the domestic industry was 27.15%, 42.15% and 35.12% in 97-98, 98-99 and 99-2000 respectively and 38.68% in the POI.

#### d. Closing Stocks

The closing stocks of the petitioners were as given in the table below:-

Closing Stocks (MT)	97-98	98-99	99-00	POI
IMFA	6323	3658	Not available	4550 (3211 annl) `

#### e. Price undercutting and price depression

The landed prices of the imported material are below the non-injurious price and net sales realisation of the domestic industry as shown in the table below.

Rs/MT

Year	Sales Realisation of Dom. Industry	Landed Price of Imports	
		Ukraine	Other Sources
1997-98	***	---	35.1
1998-99	***	27.6	40.5
1999-2000	***	29.45	36.8
POI	***	26.1	36.4

#### **f. Profitability:-**

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The injury to the domestic industry is evident from the per unit profit/loss made by the industry from sales in the domestic markets, as shown below:-

Rs/kg	97-98	98-99	99-00	POI
<b>IMFA</b>				
COP	***	***	***	***
Selling Price	***	***	***	***
P/L	***	(***)	(***)	(***)

### **K. CONCLUSION ON INJURY**

14. In view of the foregoing it is observed that:-

- a. the quantum of imports from the subject country have increased in absolute terms;
- b. the market share of the petitioners have gone down while that of imports has increased;
- c. the petitioners have been forced to match import prices that are below their non-injurious price resulting in losses.

### **L. CAUSAL LINK**

15. Ukraine has established itself as a major exporter of Ferro Silicon to India and there has been a tremendous increase in import volumes from the said country prior to and in the period of investigation. As already stated the imports of Ferro Silicon from Ukraine increased tremendously in the POI over all previous levels. The reduction in the export price resulted in low landed price followed by reduction in sales realisation of the petitioners. The increase in the market share of imports from Ukraine resulted in the decline in the market share of the petitioner. The domestic industry in its attempts to match the dumped import prices was forced to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The Authority therefore holds that the material injury to the domestic industry was caused by the dumped imports from the subject countries.

### **M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

16. The purpose of anti-dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

17. It is recognised that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of Ferro Silicon. 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 product to the consumers.

18. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority relied upon reasonable selling price of Ferro Silicon in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

## **N. LANDED VALUE**

19. The landed value of imports is determined on the basis of export price of Ferro Silicon determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one per cent landing charges.

## **O. CONCLUSIONS**

20. It is seen after considering the foregoing that:

- a. Ferro Silicon described under para 6 originating in or exported from Ukraine has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject countries.

It was decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. Accordingly, it is proposed that provisional anti-dumping duties be imposed, from the date of

notification to be issued in this regard by the Central Government, on Ferro Silicon originating in or exported from Ukraine falling under customs sub-heading no. 7202.2100 of Chapter 72 of the Customs Tariff Act, pending final determination. The anti-dumping duty shall be the difference between the amount mentioned in Col.3. and the landed value of imports.

Country	Name of the producer/exporter	Amount (USD/MT)
Ukraine	All exporters/producers	761

21. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

## **P. FURTHER PROCEDURE**

22. The following procedure would be followed subsequent to notifying the preliminary findings:

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- b. Exporters, importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days of the despatch of this notification. Any other interested party may also make known its views within forty days from the date of publication of these findings.
- c. The Authority would provide opportunity to all interested parties for oral submissions.
- d. The Authority would disclose essential facts before announcing the final findings.

**L.V.SAPTHARISHI**  
DESIGNATED AUTHORITY