

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

NOTIFICATION

New Delhi the 17th March, 2009

Final Findings

Sub : **Sunset Anti-dumping review investigations in the matter relating to imports of Sodium Hydrosulphite originating in or exported from Germany and Korea RP**

No.15/1/2008- DGAD : Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as Rules);

A **Background of the Case**

1. The Designated Authority, having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995, recommended imposition of provisional Anti Dumping duty on imports of Sodium Hydrosulphite (hereinafter referred to as subject goods) originating in or exported from Germany and Korea RP (hereinafter referred to as subject countries) falling under Sub-heading 2831.10.10 and 2832.10.20. The preliminary findings were published vide Notification No 14/34/2002-DGAD dated 25/2/2003 and provisional duty was imposed on the subject goods vide Customs notification No. 61/2003-Customs dated 1st April 2003. The Designated Authority came out with final findings on 20th October 2003 vide Notification No 14/34/2002-DGAD and definitive anti dumping duty was imposed by Ministry of Finance as per Notification No. 173/2003-Customs dated 3rd December 2003.

2. The Designated Authority initiated the sunset review investigation of anti-dumping duty imposed on imports of Sodium Hydrosulphite (SHS) originating in or exported from Germany and Korea RP following a request to this effect by the

Domestic Industry M/s Transpek Silox Industry Ltd., Vadodara and supported by M/s Demosha Chemicals Pvt Ltd, Mumbai and M/s TCP Ltd, Chennai. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and/or injury to the domestic industry. The petitioner claimed with prima facie evidence that cessation of anti dumping duty imposed on subject goods from these countries is likely to lead to continuation or recurrence of dumping and injury and have requested for continuation and enhancement of the anti dumping duty imposed on subject goods from subject countries for a further period of five years.

3. Having satisfied on the basis of the positive evidence submitted by the domestic industry substantiating the need for a review, the Authority initiated sunset review vide notification no. 15/1/2008-DGAD dated 19.03.08 in accordance with Section 9A(5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

B. PROCEDURE

4. The procedure described below has been followed with regard to this investigation:

- (i) After initiation of the review investigation, the Authority notified the domestic industry, all known exporters/producers in the subject countries and known importers, calling for questionnaire responses and necessary information in accordance with Rule 6(4);
- (ii) The Embassies of the subject countries in New Delhi were also informed about the initiation of the investigation, in accordance with Rule 6(2), with a request to advise the exporters/producers in their respective countries to respond to the questionnaire within the prescribed time.
- (iii) The Authority sent questionnaires, to elicit relevant information, to the following known exporters from Germany and Korea RP.
 - BASF Aktiengesellschaft - Germany
 - M/s. Hansol Chemical - Korea

However none of these exporters has responded to the questionnaire in response to the above notification.

- (iv) The period of investigation for the purpose of the present review is 1st April 2006 to 30th September 2007 (18 months). However, injury analysis covered the financial years 2003-2004, 2004-2005, 2005-2006 and POI.

- (v) 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 investigations. The requested information has been received from the DGCI&S.
- (vi) The following domestic producers of the subject goods have provided their cost and injury information for injury investigation.
- M/s Transpek-Silox Industry Ltd.
 - M/s TCP Ltd.
 - M/s Demosha Chemicals Pvt Ltd.
- (vii) A copy of initiation notification along with the importers questionnaire was also sent to the following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4)
- | | |
|--|--|
| ➤ Malwa Industries Ltd, | ➤ Modern Denim |
| ➤ Oswal Denim | ➤ S. Kumars Ltd. |
| ➤ Ginni International, | ➤ Orchid Chemicals & Pharmaceuticals Ltd. |
| ➤ The Arvind mills Ltd. | ➤ Madura Coats Limited |
| ➤ Bhiwani Textiles Mills | ➤ GSI (India) Limited (Formerly Guj. Spinners Ltd.) |
| ➤ Siris India Ltd. | ➤ Gianchand Ramji Dass |
| ➤ Mafatlal Burlington Ind. Ltd. | ➤ Raymond Denim Ltd. |
| ➤ Blue Blends India Ltd. | ➤ Reliance Textile Industries, Ltd, |
| ➤ K. G. Denim Ltd. | ➤ Birla VXL Limited |
| ➤ Sri Renuga Soft-X Towels (A 100% EOU Divsn of Shri Renuga Textiles Ltd.) | ➤ Welspun Terry Towels (A Unit of Welspun Indian Ltd.) |
| ➤ Century Denim (A Divsn of Century Textiles & Ind. Ltd.) | ➤ Raymond Limited |
| ➤ JCT Limited | ➤ Andhra Pradesh Paper Mills Ltd. |
| ➤ Soma Textiles & Industries | |
| ➤ Morarjee Brembana Ltd. | |

However none of the importers or users has filed response to the questionnaire.

- (viii) The Authority has considered all views expressed and submissions made by various interested parties to the extent they are relevant for the present investigation.
- (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) The Authority verified the information furnished by the domestic industry to the extent possible to examine the injury suffered and 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) and the information furnished by the applicants so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.
- (xi) In accordance with Rule 6(6), the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 12th January 2009. The parties, which presented their views in the public hearing, were requested to file written submissions of the views expressed orally.
- (xii) Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has granted confidentiality, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- (xiii) Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the facts available.
- (xiv) The Authority issued a detailed Disclosure Statement on 9.3.2009 for submission to the interested parties giving thereby essential facts under consideration and views expressed thereon have been duly incorporated in the present findings.
- (xv) *** in this finding represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE:

C.1 VIEWS OF THE DOMESTIC INDUSTRY

5. Following issues have been raised by the domestic industry with regard to product under consideration and like article:

(i) Since the present investigation is a review investigation, product under consideration remains the same as has been defined in the original investigation. There has been no significant development in the product over the period.

(ii) The goods produced by the domestic industry are like articles to the imported product.

C.2 Views of the importers, consumers, exporters and other interested parties

6. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to product under consideration and like articles.

C.3 EXAMINATION BY THE AUTHORITY

7. The product under consideration in the present investigations is Sodium Hydrosulphite. The product under consideration is also known by a number of alternative names which include Hydrosulphite Concentrate or Sodium Dithionite.

8. Sodium hydrosulphite is a chemical with chemical formula $\text{Na}_2\text{S}_2\text{O}_4$. It is a white or greyish white crystalline powder, free from visible foreign particles, with pungent odour. It has been imported under Chapter 28 of the Customs Tariff Act under sub-heading 2832.10.20. Though the classifications sub-headings 2831.10.10 and 2832.10.20 suggest description as Sodium Hydrosulphite but correct Custom classification may be treated under 6 digit heading 2831.10 as Sodium Sulphites. The classification is, however, indicative only and is in no way binding on the scope of the present investigation. The Authority notes that the investigation covers all the forms of Sodium Hydrosulphite within the scope of the product under consideration.

9. There is no significant difference in Sodium Hydrosulphite produced by the Indian industry and Sodium Hydrosulphite exported from Germany and Korea RP, which can have an impact on price. Sodium Hydrosulphite produced by the Indian industry and imported from Germany and Korea RP are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Sodium Hydrosulphite produced by the domestic industry and imported from Germany and Korea RP are being treated as like article in accordance with the anti dumping Rules.

D. Standing and Scope of the Domestic Industry

D.1 Views of the domestic industry

10. (i) The petition was filed by M/s Transpek Silox Industry Ltd. There are four companies in India who created capacity for production of Sodium Hydrosulphite, namely M/s Transpek Silox Industry Ltd., Demosha Chemicals Pvt. Ltd., TCP Ltd. and Gulshan Chemicals Ltd. M/s. TCP Ltd, and M/s Demosha Chemicals Pvt. Ltd., have supported the petition and must be considered as "domestic industry" within the meaning of the rules.
- (ii) Production of the petitioner constitutes a major proportion in Indian Production and therefore petitioner should be treated as "domestic industry" within the meaning of the Rules.

D.2 Views of the Importers, Consumers, Exporters and Other Interested parties

11. None of the exporters, importers, consumers and other interested parties has filed any comment or submission with regard to "domestic industry".

D.2 Examination by the authority

12. There are four producers of the subject product in India, namely M/s Transpek Silox Industry Ltd., Demosha Chemicals Pvt. Ltd., TCP Ltd. and Gulshan Chemicals Ltd. Petition for review, continuance and enhancement of anti dumping duty was filed by Transpek Silox Industry Ltd. and supported by M/s Demosha Chemicals Pvt. Ltd. and TCP Ltd.. Subsequent to initiation, TCP Ltd. and Demosha Chemicals Pvt. Ltd., have provided all relevant information with regard to injury to the domestic industry. Production by Transpek Silox Industry Ltd., Demosha Chemicals Pvt. Ltd. and TCP Ltd. command significantly higher share than 50% in Indian production.

13. Rule 2(b) under the Rules provides as follows:-

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the 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"

14. Thus, in a situation where information with regard to domestic producers as a whole is not available, the Rules require the Authority to consider those producers whose collective output constitutes a major proportion of the total domestic production. Therefore, having regard to the legal provisions and facts & circumstances of the present case, the Authority considers that Transpek Silox Industry Ltd., Demosha Chemicals Pvt. Ltd. and TCP Ltd. constitute domestic industry for the purpose of the present investigations within the meaning of the Rules.

E. DUMPING DETERMINATION

E.1 Views of the domestic industry

15. (i) Normal value in Germany should be determined on the basis of prices of sodium hydrosulphite prevailing in the European Communities (EC). The normal value has been claimed on the basis of actual selling price in the EC. Export price has been claimed on the basis of weighted average of the import prices. Considering the expenses incurred between CIF import price and ex-factory level, it would be seen that the Foreign Producers have continued dumping.
- (ii) Dumping from Europe is likely to continue in the event of revocation of anti dumping duties. In fact, dumping is likely to intensify in the event of revocation of anti dumping duties, given capacities far above domestic demand in Europe.

E.2 View of exporters/importers and other interested parties

16. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to normal value.

E.3 Examination by the Authority

17. Under section 9A(1)(c), normal value in relation to an article means:
- (i) *the comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic*

market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either

- (a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
- (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

GERMANY

Normal Value

18. None of the exporters from Germany has responded to the initiation notification and provided information in the form and manner prescribed. Domestic industry provided evidence of the price at which the product under consideration has been sold in the domestic market in the EU. None of the other interested parties has provided any information which can be used for determination of normal value. In the absence of information in the prescribed format, the authority made efforts to gather data from the public domain (World Trade Atlas) but no specific data was available for the subject goods. Therefore the Authority relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the normal value. The Authority also relied upon the information with regard to selling price in EU as provided by the domestic industry. Accordingly, the normal value at ex-factory level has been worked out as US\$ *** per MT as follows:

Price in Euro/MT	Invoice 1	Invoice 2	Average
Volume(Kg)	***	***	***
Value(Euro)	***	***	***
CIF Price(Euro/MT)	***	***	***
Local freight & Insurance (Estimated)	***	***	***
Credit cost @ 30/60 days credit	***	***	***

Prevailing price in the EC	***	***	***
Exchange Rate: Euro to US\$	***	***	***
Prevailing price in the EC in US\$	***	***	***

Export price

19. None of the exporter from Germany has responded to the initiation notification and provided information in the form and manner prescribed. Domestic industry has provided the details of the price at which goods were imported during the investigation period. None of the other interested parties has provided any other information which can be used for determination of export price. In absence of information in the prescribed format, the Authority relied upon the facts available as per Rule 6(8) of the Anti-dumping Rules to determine the export price. Accordingly, the data reported by the DGCI&S for imports from Germany has been relied upon to determine weighted average import price. Since this price is at CIF level, adjustments have been made on account of ocean freight, overseas insurance, inland freight, port expenses, and bank charges to determine ex-factory export price. The ex-factory export price has been determined as at US\$ *** per MT as follows:

Particulars	Unit	Price/MT
Export Price CIF	Rs/MT	41,493
Exchange rate	1USD	44.27
Export Price CIF	USD/MT	937.27
Ocean Freight	USD/MT	***
Marine Insurance 0.5%	USD/MT	***
FOB Export Price	USD/MT	***
Inland Freight - 1%	USD/MT	***
Port Expenses - 0.5%	USD/MT	***
Bank Charges - 0.5%	USD/MT	***
Net Export Price	USD/MT	***

Dumping margin

20. Considering the normal value and export price determined as detailed above, dumping margin has been determined in respect of imports reported in India during the investigation period. The dumping margin has been determined as US\$ *** Per MT which is ***%. of the export price calculated as follows:

Particulars	Unit	Price/MT
Normal Value	US\$/MT	***
Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin %	%	50-60%

KOREA RP

Normal Value in Korea RP

21. None of the exporter from Korea RP has responded to the initiation notification and provided information in the form and manner prescribed. In the absence of any response, the Authority relied upon the best available information for determination of normal value in Korea RP on the basis of construction by estimating cost of production in accordance with Rule 6(8) supra. The normal value so determined for Korea RP is US\$ *** per MT. Therefore, basing on the import prices of major raw materials (Methanol and Soda Lye) as provided by the domestic industries taking from kita.org the normal value comes to US \$ ***/Mt, which is more than the normal value determined by the authority basing on the DGCI&S data of raw materials import in India . The normal value has been constructed by adopting weighted average of DGCI&S import data in to India, prices of major raw materials, i.e. Sodium Formate, Methanol and Caustic Soda, best consumption factors for these raw materials and best known estimates of conversion cost during the relevant period. Selling, general & administrative costs and reasonable profit margin has been added to the cost of production so determined. Normal value has been calculated as follows:

	Rs per Mt
Raw material cost	***
Utilities	***
Conversion cost	***
Finance cost	***
Full cost of production	***
Reasonable profit @ 5%	***
CNV Rs per Mt	***
Exchange Rate	***
CNV US\$ per Mt	***

Export price

22. Although there is no current imports from Korea RP to India, basing on the information available in the website www.kita.org. the Authority noted that significant exports have taken place from Korea RP to a number of other countries i.e. Viet Nam, Indonesia, Bangladesh and Pakistan etc. @ US \$ *** on FOB basis. After making acceptable adjustments for inland freight, port expense and bank charges, the authority determined the ex-factory export price in respect of Korea RP with regard to third country at US\$ *** per MT as follows:

Particulars	Unit	Price/MT
FOB Export Price (Korea to World)	US\$/MT	***
Inland Freight - 1%	US\$/MT	***
Port Expenses - 0.5%	US\$/MT	***
Bank Charges - 0.50%	US\$/MT	***
Net Export Price	US\$/MT	***
Exchange rate	44.27	

Dumping margin

23. The Authority noted that none of the exporters from Korea RP has submitted response to the exporter's questionnaire. In view of that and in view of the significant exports from Korea RP to a number of countries, the Authority examined the extent of dumping in respect of these exports to third countries. Considering the estimates of normal value and the price at which goods have been exported to various countries, dumping margin in respect of exports to other countries was determined on the basis of weighted average export price to third countries for the purpose of establishing likelihood of the recurrence of dumping in the event of revocation of anti-dumping duty. It was found that dumping margin in respect of exports to third countries is USD *** per MT which is ***% of the export price. In view of the above scenario, in all likelihood, Korea RP may export the subject goods to India at the same price at which they are exporting to third countries and in the event of revocation of the anti-dumping duty it may lead to recurrence of dumping. Dumping margin in respect of Korea RP has been calculated as follows:

Particulars	Unit	Price/MT
Normal Value	US\$/MT	***
Export Price	US\$/MT	***
Dumping Margin	US\$/MT	***
Dumping Margin %	%	20-30%

E.4 Likelihood of dumping

GERMANY

Views of the domestic industry

24 (i). The exporters have continued dumping significantly even after the imposition of anti-dumping duty. Thus, it is a situation where the

producers have been able to export significant volumes in spite of anti dumping duties (in fact, volumes have rather increased), it is evident that the volumes would only at best increase, if the present anti dumping duties are revoked. Dumping is likely to continue in significantly increased proportion in the event of revocation of anti dumping duties. There are no changes in the parameters/ circumstances prevailing at the time of original investigation and at present. Dumping has continued and dumping margin has increased, as would be seen from the table below:-

Country	Original Investigation	Present Investigation
<u>Germany</u>		50-60%
➤ BASF	22.97%	
➤ Others	35.55%	
<u>Korea</u>	98.01%	No continued exports

It is evident from the above that dumping margins are not only more than de-minimis and significant, but also the extent of dumping margin has significantly increased.

- (ii) The producers in Germany have created significantly high capacities as can be seen from the table below:

Company	Capacity (TPA)
BASF	***
BASF	***
Bruggmen	***

- (iii) The price at which material is being exported by Germany to India is also an indicator of the continuation of dumping. At the landed price (without anti dumping duty), there is significant price undercutting. Thus, with

the revocation of anti dumping duties, the Indian prices would be too attractive to the Foreign Producers to export significant volumes. In case anti dumping duty in India is revoked, these producers would shift volumes to Indian market to get better realization. Therefore, in case, duty is revoked, this would lead to continuation of dumping and consequent injury to the domestic industry.

Examination by the Authority

25. In order to examine whether the dumping of the product under consideration is likely to continue or intensify with the revocation of anti dumping duties, the Authority considered the following information/evidence:

- (i) The subject goods are continued to be imported at very low and dumped prices from Germany even after imposition of duties. There are no changes in the parameters/ circumstances prevailing at the time of original investigation and at present. In view of the same, the producers in Germany are likely to continue dumping of the product in the event of revocation of duties. This is evident from the table given below:

	2003-04	2004-05	2005-06	POI
Landed price of imports				
Subject countries	41576	41684	49882	46099
Other Countries attracting Duty	36712	30329	26288	42244
Net sales realization (Rs/Mt)	***	***	***	***
Trend	100.00	92.74	99.95	104.38
Non injurious price				***

- (ii) The domestic industries have claimed that the producers in Germany have created significantly high capacities as follows:

Company	Capacity (TPA)
BASF	***
BASF	***
Bruggmen	***

Although no corroborative evidence has been submitted by the domestic industries in support of the above claim and no information is available in the public domain to the above regard, since the exporters have not come forward to rebut the above claim, the authority holds that there are freely disposable capacities in Germany.

KOREA RP

Views of the domestic industry :

26. The following views have been submitted by the domestic industries:
- (i) Since there is no import from Korea, the Authority is required to determine likelihood of recurrence of dumping.
 - (ii) Korea RP is importing significant volumes from China at very low prices. Therefore, revocation of duty would result in recurrence of dumping.
 - (iii) The price at which Korea is exporting the product to third countries is materially below associated normal value, thus establishing dumping in third country exports.
 - (iv) The prices at which Korea is exporting to third countries are significantly below prevailing prices in India. Therefore, in the event of revocation of duty Korean producers will be in a position to export the material at a price higher than third country, and yet, the same should be substantially lower than the prices in India.
 - (v) Korean exports would be undercutting the Indian prices to a significant extent and yet Korean supplies will get a higher price than the prices being realized in third countries. This clearly establishes likelihood of dumping and injury

Examination by the Authority

27. The published data of Korea RP in www.kita.org shows significant continued imports of sodium hydrosulphite in to their country. Majority (about 99%) of these imports are from China, a country already attracting antidumping duty in India. Further, the price of export from Korea RP, which is lower than the estimated normal value, is significantly higher than the import price into Korea RP as would be seen from the table below:

	Volume (Mt)	US\$ per Mt
Constructed Normal Value		***
Import in to Korea from world	7946.08	671.78
Import in to Korea from China	7867.65	663.48
Export price of Korea		867.82

In view of the above situation, in the event of revocation/reduction of anti-dumping duty against Korea RP, in all likelihood Korea RP may restart dumping in to India. Although due to the extant anti-dumping duty against China the subject goods of Chinese origin may not find a safe passage in to India through Korea RP directly, it may result in creation of productive surplus in Korea RP which they may dump in India. Moreover, considering the selling price in India as Rs. ***/ Mt (USD ***/ Mt), the low import prices of the subject goods in Korea RP and high price/demand of the subject goods in India may become highly attractive for the Korean producers/exporters to dump subject goods in Indian market.

F. Injury and Causal Link Determination

F.1 Views of exporters, importers, users and other interested parties.

28. No response has been received from any producer/exporter in Germany and Korea RP, or from any other interested parties.

F.2 Views of the domestic industry

29. The domestic industry has raised a number of arguments with regard to injury and causal link, which are summarized below. The main arguments are that

- (i) Performance of the domestic industry deteriorated significantly in 2004-05 and improved thereafter in 2005-06. Performance has however declined once again in the proposed investigation period.
- (ii) Parameters such as profits, capacity utilization show a deterioration over the injury period.
- (iii) Parameters such as cash profits and return on investments continued to remain negative.
- (iv) Parameters such as market share, production, sales volumes continued to remain sub-optimal.
- (v) Domestic industry could have sold more material, in the absence of dumped imports, which would have resulted in improvement in production, profitability and all related parameters.

F3. Examination by the Authority

30. The Authority has taken note of various arguments raised with regard to injury to the domestic industry. The Authority notes that the current dumping margin from the subject countries are above de minimis level. The Authority, therefore, proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

31. Article 3.1 of the WTO Agreement and Annexure-II of the Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in 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 the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

32. As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states as follows.

"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments."

33. The Authority has taken note of the arguments on injury examination and addressed the issues raised at appropriate places. The Authority has examined the injury parameters objectively taking into account the facts and the arguments of the interested parties.

34. For the purpose of current injury analysis the authority has cumulatively examined the volume and prices effects of dumped imports of the subject goods from the subject countries on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any. Accordingly the volume and price effects of dumped imports have been examined as follows:

a) Assessment of Demand

35. For the purpose of assessment of the domestic consumption/demand of the product under consideration, the Authority added the sales volume of the domestic industry and other Indian producers to the total imports into India, which has been summarized as under:

Unit in MT	2003-04	2004-05	2005-06	POI Annualized
Sales of Domestic industry	23412	24015	25716	25971
Sales of Other Indian Producers	7500	7500	9022	8397
Total Imports	1518	1365	987	3888

Demand	32430	32880	35725	38256
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The Authority notes that the demand has shown a positive trend and grew over the injury period. The growth in demand during POI over base year was about 18%.

b) Import volumes and market share

36. With regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. Annexure-II (ii) of the Anti-dumping rules provides as under :-

"While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute term or relative to production or consumption in India"

37. The Authority has examined the claim of the domestic industry as per DGCI&S data up to February 2007 and thereafter IBIS data and after comparing with transaction wise import data from DGCI&S source, it has been found that there is no significant difference. The Authority has determined the volume of imports based on only DGCI&S source.

	2003-04	2004-05	2005-06	POI Annualized
Imports (MT)				
➤ From Germany	335	156	338	1423
➤ From Korea	36	67	0	0
➤ Subject countries	371	223	338	1423
➤ Other countries attracting ADD	517	765	545	1937
➤ Other countries	630	378	103	528
➤ Total imports	1518	1366	986	3888

Market share in imports (%)				
➤ Germany	22.07	11.42	34.28	36.60
➤ Korea RP	2.37	4.91	0.00	0.00
➤ Subject countries	24.44	16.33	34.28	36.60
➤ Other countries attracting ADD	34.06	56.00	55.27	49.82
➤ Other countries	41.50	27.68	10.45	13.58
Demand (MT)	32430	32880	35725	38256
Market share in demand (%)				
➤ Germany	1.03	0.47	0.95	3.72
➤ Korea RP	0.11	0.21	0.00	0.00
➤ Subject countries	1.14	0.68	0.95	3.72
➤ Other countries attracting ADD	1.60	2.33	1.53	5.06
➤ Other countries	1.94	1.15	0.29	1.38
➤ Domestic industry	72.19	73.04	71.98	67.89
➤ Other producers	23.13	22.81	25.25	21.95
➤ Indian industry	95.32	95.85	97.23	89.84
Production of Indian industry (MT)	32288	34578	36172	35626
Dumped imports in relation to production of Indian industry (%)				
➤ Germany	1.04	0.45	0.93	4.00
➤ Korea RP	0.11	0.19	0.00	0.00
➤ Subject countries	1.15	0.64	0.93	4.00
➤ Other countries attracting ADD	1.60	2.21	1.51	5.44

The Authority concludes that

- i) The volume of dumped imports from subject countries stagnated between 2003-04 and 2005-06. The volume however increased sharply in POI.
- ii) Share of subject countries increased significantly over the injury period and particularly during POI.
- iii) The market share in demand in respect of subject imports which was only 1.14% during 2003-04 reached to level of 3.72% in POI. At the same time, share of other countries which are already attracting anti dumping duties has also increased over this period. As a result, market share of domestic industry, which was 72.19% during 2003-04 declined to 67.89% during POI.
- iv) The import from subject countries in relation to Indian production declined upto 2005-06 but went up thereafter and reached to a level of 4% during POI as compared to 1.15% during 2003-04.
- v) Even when the subject imports are attracting anti dumping duties, the imports have increased in absolute terms as also in relation to production and consumption in India.

c) Price effect of the dumped imports on the Domestic Industry

38. In a review investigation, it is required to examine whether there has been a significant price effect by the dumped imports as compared with the price of like product in India or wheather there is likelihood of recurrence of price effect after revocation of duty.

39. With regard to the effect of the dumped imports on prices, it has been examined 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 to prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the effect of imports on the domestic market an analysis of import prices over the injury period has been made, as shown below:

CIF export price Rs/MT	2003-04	2004-05	2005-06	POI Annualized
Exports from subject country	32931	34392	42946	41493
Other Countries attracting Anti Dumping Duty	29079	25024	22633	38023
All Imports	28871	26206	29690	37105
Net sales realization	***	***	***	***
Trend	100.00	92.74	99.95	104.38

40. The Authority notes that the movement in the selling price of the domestic industry are in tandem with the import price in India. It is also noted that the price difference between other countries attracting anti dumping duty and subject countries was high in 2004-05 and 2005-06, thus resulting in low volume of imports from subject countries. However, with the price difference reducing in POI, the volume of subject imports increased significantly.

d) Price undercutting

41. In order to ascertain the price undercutting being caused by the dumped imports, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry. This is evident from the table given below:

	2003-04	2004-05	2005-06	POI
<i>CIF export price Rs/MT</i>				
Subject countries	32931	34392	42946	41493
Other Countries attracting Duty	29079	25024	22633	38023
<i>Customs duties</i>	25%	20%	15%	10%
<i>Landed price of imports</i>				
Subject countries	41576	41684	49882	46099
Other Countries attracting Duty	36712	30329	26288	42244
<i>Net sales realization (Rs/Mt)</i>	***	***	***	***
Indexed	100	92.74	99.95	104.38
<i>Cost of sales (Rs/Mt)</i>	***	***	***	***
Indexed	100	102.62	97.05	102.94
<i>Price undercutting price Rs/MT</i>				
Exports from subject countries	***	***	***	***
Other Countries attracting duty	***	***	***	***
<i>Price undercutting price (%)</i>				
Exports from subject countries	1-10	Negative	Negative	1-5
Other Countries attracting duty	10-20	20-30	40-50	10-15
<i>Non Injurious price Rs/Mt</i>				***

42. It is noted that the dumped imports were undercutting the prices of the domestic industry during POI. Thus, if the present anti dumping duties are withdrawn, it is evident that the imports would significantly undercut the prices of the domestic industry in the market. It is also noted that price undercutting is quite significantly positive from other countries which are at present attracting anti dumping duties. The domestic industry requested for upward revision in these duties and the Authority is at present conducting mid term review investigations in respect of imports from these countries.

e) Price suppression/depression

43. In order to assess whether the imports from the subject countries were suppressing/ depressing the prices of the domestic industry, the Authority compared the trends in selling prices and cost of production, as seen in the table above. It is noted that selling prices of the domestic industry declined very significantly in 2004-05 as compared to preceding year. Thereafter, whereas cost of production declined, selling price increased in 2005-06. However, in the POI, where the volume of imports increased very significantly from the subject sources, increase in the selling price was less than increase in the cost of production. The imports were thus suppressing the prices of the domestic industry whenever the volume of dumped imports was significant.

f) Economic Parameters relating to the Domestic Industry

44. Annexure II to the Rules requires that a determination of injury shall involve an object examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

Production, sales, capacity and capacity utilization

45. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below.

	Unit	2003-04	2004-05	2005-06	POI Annualized
Capacity	Mt	31000	31000	32625	37500
Production	Mt	25169	26371	27152	27361
Domestic sales	Mt	23412	24015	25716	25971
Capacity utilization	%	81	85	83	73
Unutilized Capacity	Mt	5831	4629	5473	10139

It is noted that capacity, production and sales of the domestic industry increased but capacity utilization declined over the period. Thus, the domestic industry has been able to improve its volumes after imposition of anti dumping duties. It is however found that the subsequent increase in import volumes prevented further growth in production and sales. Consequently, capacity utilization declined and domestic industry is left with unutilized capacity of 27% during POI.

Profit, return on capital employed and cash flow

46. The profit of the domestic industry declined up to 2004-05 and improved thereafter in 2005-06 with decline in import volumes. However, profitability deteriorated once again in the POI with significant increase in the imports. This is evident from the table given below:

	Unit	2003-04	2004-05	2005-06	POI
Profit/(Loss) per unit	Rs/Mt	***	***	***	***
Trend	Indexed	-100.00	-1,651.75	357.34	123.08
Profit/(Loss) (PBT)	Rs/Lacs	***	***	***	***

Trend	Indexed	-100.00	-1,777.40	415.06	144.32
Profit/(Loss) (PBIT)	Rs/Lacs	***	***	***	***
Trend	Indexed	100.00	-683.44	327.31	232.61
Return on investment	%	***	***	***	***
Trend	Indexed	100.00	-702.34	259.65	173.10
Cash profits	Rs/Lacs	***	***	***	***
Trend	Indexed	100.00	-1,740.11	788.99	687.02
Volume of imports					
➤ Subject countries	MT	371	223	338	1423
➤ Total imports	MT	1518	1366	986	3888

47. The domestic industry was faced with low return in 2003-04, which turned negative in 2004-05. The domestic industry could significantly improve its return on investments in 2006-07. However, with decline in profits in POI as a result of increase in imports once again, return on capital employed declined in POI. In any case, the return on investments were substantially lower than the reasonable levels.

48. All the domestic producers are multi product companies and cash flow situation of the company would not be indicative of the situations in the subject product. Hence the Authority has examined cash profits over the years and the same is as shown above. The position with regard to cash flow shows the same trend as that of profits and return on investments. The domestic industry was faced with low cash flow in 2003-04, which turned negative in 2004-05. The domestic industry could significantly improve its cash profits in 2006-07. However, with decline in profits in POI as a result of increase in imports once again, cash profits declined in POI.

Employment, wages and productivity

49. The details regarding employment, wages and productivity are given below:

	Unit	2003-04	2004-05	2005-06	POI
Number of employees	Nos.	***	***	***	***
Trend	Indexed	100.00	100.19	102.46	103.60
Wages	Rs/Lacs	***	***	***	***
Trend	Indexed	100.00	99.74	103.22	116.98
Productivity	MT/person	***	***	***	***
Trend	Indexed	100.00	104.57	105.29	105.03

The Authority notes that there was no significant changes in employment level. Wages have shown normal increases. Productivity, expressed in terms of production per employee shows some improvement.

Inventories

50. Average stock of finished products with the domestic industry showed declining trend from the table below:

	Unit	2003-04	2004-05	2005-06	POI
Average stock	Mt	1733	1549	1219	1003
No. of days sales in stock	Mt	27	24	17	14

Growth

51. Large number of the injury parameters show adverse trend during the period under examination. While there was substantial improvements and positive growth in 2005-06, the same once again became negative in respect of a number of parameters, even though this was positive in respect of production, sales volumes and inventories.

H. FINAL FINDINGS:

52. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority through the submission of interested parties or otherwise as recorded in the above findings and on the basis of the above analysis of the state of current and likely dumping and injury and likelihood of continuation or recurrence of dumping and injury, the Authority concludes that:

- i) The subject goods are entering the Indian market at dumped prices and dumping margins of the subject goods imported from Germany is substantial and above de-minimis.
- ii) The subject goods are likely to enter the Indian market at dumped prices and the likely dumping margins in respect of imports from Korea RP is substantial and above de-minimis.
- iii) The subject goods are likely to enter Indian market at dumped prices, should the present measures be withdrawn.
- iv) *Even though the domestic industry has marginally improved its performance in terms of capacity, production and sales, its profitability deteriorated during the POI and the situation of domestic industry continues to be fragile. The dumped imports from Germany continues to cause substantial injury to the domestic industry and the likelihood of dumping from Korea RP is lurking above the heads of the domestic industries threatening to cause substantial injury in the event of revocation of the anti-dumping duty. Should the present anti dumping duties be revoked, injury to the domestic industry is likely to continue and intensify.*

I. Indian industry's interest and other issues

53. The Authority recognises that the imposition of anti dumping duties might affect the price levels of the product in India. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practice, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. The Authority notes that the imposition of the anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the

availability of the products to the consumers. The consumers could still maintain two or even more sources of supply.

54. 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.

J. Recommendations

55. Having concluded that the situation of the domestic industry continues to be fragile and there is likelihood of continuation or resumption of dumping and injury on account of imports from Germany and Korea RP if the duties are revoked, the Authority is of the opinion that the measure is required to be extended in respect of imports from the subject countries.

56. Having examined the current dumping and likelihood of dumping to be imminent in case of withdrawal of the current measure in place, the Authority recommends continued imposition of Anti-Dumping Duty in place as recommended by the Authority vide Final Findings Notification No. 14/34/2002-DGAD Dated 20.10.2003 published in the Gazette of India, Extraordinary, Part-I, Section-I, Dated 22.10.2003 and notified by the Central Government vide Notification No. 173/2003-Customs Dated. 3.12.2003.

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

R. Gopalan
Designated Authority

