

F.No. 15/2/2008-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping and Allied Duties

NOTIFICATION

New Delhi the 27th March , 2009

Final Findings

Sub : Sunset Anti-dumping review investigations in the matter relating to imports of Measuring Tapes originating in or exported from China PR.

No.15/2/2008- 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 Measuring Tapes (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) classified under Chapter 90 of the Customs Tariff Act under Sub-heading 9017.80 and 9017.90. The preliminary findings were published vide Notification No 14/31/2002-DGAD dated 31/1/2003 and provisional duty was imposed on the subject goods vide Customs notification No. 65/2003-Customs dated 14th April 2003. The Designated Authority came out with final findings vide Notification No 14/31/2002-DGAD dated 1.9.2003 and definitive anti dumping duty was imposed by Ministry of Finance as per Notification No. 147/2003-Customs dated 7.10.2003.

2. The Designated Authority initiated the sunset review investigation of anti-dumping duty imposed on imports of Measuring Tapes originating in or exported from China PR following a request to this effect by the Domestic Industry M/s FMI Ltd., Ludhiana and M/s Freemans Measures Pvt Ltd,

Ludhiana. 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. 15/2/2008-DGAD dated 31.03.08 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 Embassy of the subject country in New Delhi was 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 China PR.
 - Nangbo Land Tools & Measuring Tools Company Limited, China
 - Ningbo Hongdi Measuring Tape Industries Company, China
 - Shaanxi Machinery & Equipment Import Export Corporation, China
 - Shanghai Yu Hua Industries Company Limited, China
 - Yuyao Foreign trade (Group) Company Limited, China
 - Cixi Zunbao Steel Tapes Company Limited, China
 - Sino-USA Sunlight Tapes Industries, China
 - Zhejiang Yiwu Wudian Greatwall Hardware Factory, China

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 Freemans Measure Pvt Ltd, Ludhiana,
 - M/s FMI Limited, Ludhiana.
- (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)
 - Lohia Trade Concern, Delhi
 - Vinay Brothers, Mumbai
 - VK International, Mumbai
 - Ghanshyam Dass & Sons (VeeKay Industries), Mumbai
 - New Wave Industries, Jalandar
 - AL- Fahad enterprises, Mumbai
 - Ashiana Exports, Mumbai
 - Sterling Enterprises, Mumbai
 - SK Enterprises, Mumbai

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) In accordance with Rule 16 of the anti-dumping Rules, the essential facts/basis considered for these findings were disclosed to the known interested parties and comments received on the same are duly examined in the final findings.
- (xiii) 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.
- (xiv) 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.

- (xv) The Authority issued a detailed Disclosure Statement on 20.3.2009 for submission to the interested parties giving thereby essential facts under consideration and views expressed thereon have been duly incorporated in the present findings.
- (xvi) *** In the Final Findings 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 article to the imported product.
- (iii) Measuring Tapes are generally of three varieties: Steel Tapes, Fiber Glass Tapes and Metal Wired Tapes. However imports are being made under different nomenclature to evade the anti-dumping duty.
- (iv) Producers and exporters from the subject countries have continued to export subject goods to India at dumped prices inspite of the imposition of Anti Dumping duty.
- (v) Domestic Industry continues to be injured by the dumping of the subject goods.
- (vi) In spite of imposition of Anti dumping duty the product continuous to be available in the market at almost the same price and almost in similar volumes as it was during original investigation.

(vii) Imports are offering the subject goods to the Indian customers at prices lower than the bench mark price implying that imports are taking place evading Anti Dumping Duty.

(viii) Imports are over invoiced to keep the landed prices of imports just above the bench mark.

(ix) Since the prescribed unit of measurement is in Nos and the bench mark is on weight basis, the weight are being understated resulting in significantly higher import price on weight basis.

(x) Minimum weight for the different sizes of measuring tapes should be prescribed by the Authority to avoid circumvention.

(xi) Imports from countries other than China PR continue on unabated including those where there no manufacturing facilities.

(xii) Measuring Tapes are being imported into India under different nomenclature including "Plastic Tapes" without payment of Anti Dumping duty.

(xiii) The scope of the product needs to be redefined suitably to avoid evasion of anti dumping duty.

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 involved in the original investigation as well as present sunset review is "Measuring Tapes and Parts and Components thereof". This investigation being a sunset review of the product against which duty is already in force, the scope of the product under consideration remains the same as has been defined in the original investigation. The Authority holds that the goods being manufactured by the domestic industry and the goods being

manufactured and exported from subject country are like articles as per Rule 2(d) of Anti-Dumping Rules.

8. The product under consideration in the present petition is Measuring Tapes and parts and components thereof so long as these imports in effect constitute imports of Measuring Tapes. Petitioner has submitted in the petition that Measuring tapes can be of following types:-

- Steel Tapes,
- Fiberglass Tapes,
- Metal wired Tapes.

Steel tapes are broadly divided into two types: -

- Pocket tapes,
- Other than pocket tapes

Pocket tapes can be of 2, 3 or 5 meters, while other tapes are larger than 5 meters. Large tapes can be of 10,15, 20, 25, 30, meters etc. with different width. While these are the lengths in which it is largely made, tapes can be made in other lengths also.

9. All types of Steel Tapes and Fibre Glass Tapes and their parts or components (so long as the imports constitute in effect import of measuring tapes) are the subject matter of the present petition. Metal wired tapes are beyond the scope of the present petition. Metal wired tapes are made of high quality copper wires.

10. Petitioner argued that even though there are no tapes other than what is specified above, imports have been reported claiming that the product is not covered under the scope of the existing duties. Petitioners have therefore requested the Authority to redefine the scope of the product under consideration. Petitioners have argued that there are no other types of tapes

produced and sold and therefore any claim of the product description being different than what is covered under the scope of the present duties should be considered as an attempt to evade anti dumping duties.

11. The Authority considered the request of the petitioner regarding re-defining scope of the product under consideration. The Authority holds that there is no scope to redefine the product under consideration (PUC) during the Sunset Review differently from the original investigation. The scope of the PUC has to remain same during the Sunset Review as that during the original investigation.

12. The domestic industry produces Measuring Tapes having characteristics and specifications similar to the imported product. No other argument has been extended by any interested party on the issue of product under consideration or like article. The Authority holds that the product being manufactured by the domestic industry is a like article to the product being exported from the subject country as per Rule 2(d) of Anti Dumping Rules.

D. Standing and Scope of the Domestic Industry

D.1 Views of the domestic industry

13. (i) The petitioner constitutes a major proportion in Indian production.
(ii) Domestic Producers expressly supporting the application account for more than 50% of total production of the like product produce by the domestic industry.
- (iii) The application has been made by or on behalf of the domestic industry.
- (iv) The petitioners satisfy the requirement of standing under the Rules
- (V) The participating companies constitutes domestic industry within the meaning of the Anti Dumping Rules.

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

14. None of the exporters, importers, consumers and other interested parties has filed any comment or submissions with regard to standing of the domestic industry.

D.3 Examination by the Authority

15. (i) The petition was jointly filed by M/s FMI Limited and M/s Freemans Measures Pvt. Ltd and supported by M/S Klas Tapes company, Mumbai. Apart from the petitioners and supporters there are two other companies who have the capacity to manufacturer measuring tapes in India namely M/s Skanan Hardware Ltd Mumbai and M/s. APT Manufactures Pvt Limited Ludhiana. The petitioners and the supporter together constitute as "Domestic Industry" within the meaning of the rules.

(ii) In the original investigations, FMI Limited and Freemans Measures Pvt. Ltd. had filed the petition before the Designated Authority. In the present investigation also, FMI Limited and Freemans Measures Pvt. Ltd. have filed the petition. The petitioners constitute domestic industry within the meaning of the Anti Dumping Rules. The investigation has not shown any fact to the contrary to what has been claimed and established by the petitioners. Having regard to the Rules and information on record, the Authority holds that FMI Limited and Freemans Measures Pvt Ltd constitute domestic industry for the purpose of the present investigations within the meaning of the Rules

E. Methodology for calculation of Dumping Margin

(Dumping Determination: Normal Value, Export Price and Dumping Margin)

E1. Views of the domestic industry:

16.(i) Producers and exporters from the subject country have continued to export at dumping prices.

- (ii) China being a non market economy country, normal value should be determined by taking India as surrogate country since information with regard to a market economy third country is not available.
- (iii) Despite the Anti Dumping Duty dumping of the subject goods continues and import volumes are increasing through circumvention of the anti Dumping Duty.
- (iv) The domestic industry continues to suffer injury due to intensified imports.

E.2. Views of exporters /Importers and other Interested parties.

17. 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

18. 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);*

19. The Designated Authority, as per para 8 (2) of the annexure 1 of AD rules, for the purpose of assessing the normal value, proceeded with the presumption that any country that has been determined to be or has been treated as a non-market economy for the purposes of anti-dumping investigations by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economy country. In the past three years China PR has been treated as a non-market economy country in the anti-dumping investigations by WTO members such as EU and USA. In the instant case China PR has been proposed to be investigated as a non-market economy country.

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

- (a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- (b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- (c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and;
- (d) the exchange rate conversions are carried out at the market rate.

21. The Authority sent copies of the questionnaires to all the known exporters for the purpose of determination of normal value. No exporters/producer responded to the Exporter's and Market Economy Treatment (MET) questionnaire. Hence, the presumption of non-market economy remain unrebutted, therefore, the Authority is proceeding treating exporters/producers in China PR as operating in non-market economy.

22. In view of the above, the Authority is unable to apply the principles set out in paragraph 1 to 6 of Annexure 1 for determination of normal value for the Chinese exporters. Therefore, the normal value in respect of all exporters/producers from China PR is determined as per Rules relating to non-market economy as contained in para 7 of Annexure 1 of AD Rules.

23. As per para 7 of Annexure 1 of AD Rules, the Authority is required to determine normal value on the basis of 'price or constructed value in the market economy third country or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product.' No data or information was made available by the domestic industry about normal value in market economy third country. Exporters/Producers have also not responded in this case. The Authority, therefore, in absence of any other option, has determined the normal value by resorting to method 'any other reasonable basis'.

Normal Value

24. Under the circumstances, the authority has constructed the normal value by considering the major raw material for manufacture of Steel Tapes and Fiber Tapes separately at the international prices, the consumption norms and other cost elements as per most efficient domestic unit and reasonable profit. Based on above information available, the normal value has been calculated as US\$ ***/Kg. and US\$ ***/Kg. for Steel Tapes and Fibre Glass Tapes respectively.

Export Price

25. The Authority has examined the import data provided by the DGCI &S. Since the same include various other types of measuring instruments such as Tools, Steel Rules, Blade, Rulers, Guage Assembly , etc. and the CIF price so worked out is found to be abnormally low. The Authority also examined the data from World Trade Atlas (WTA) source which shows that there is no dedicated code for Steel and Fibre Glass Measuring Tapes. Moreover, the tapes are being shown in numbers (quantity, not weight) and Parts are being shown in Kg. (weight). Thus, the Authority decided to adopt the transaction wise data provided by the domestic industry from the IBIS source.

26. The Authority relied upon the data of IBIS for determination of export price. During POI, the CIF value of weighted average export price was US\$ ***/kg and US\$ ***/kg for Steel Tapes and Fibre Glass Tapes respectively. After making adjustments on account of ocean freight and marine insurance, the ex-factory export price has been worked out as US\$ ***/kg and US\$ ***/kg for Steel Tapes and Fibre Glass Tapes respectively.

Dumping Margin

27. Based on the normal value and export price as determined above, the Authority determined the dumping margin as under:

Exporter/Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin
All exporters from China PR	US\$/kg.	US\$/kg.	US\$/kg.	%
Steel Tape	***	***	***	275-325
Fibre Glass Tape	***	***	***	625-675

E.4.Likelihood of dumping

Views of the Domestic industry

28. (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. 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. The exporters have resorted to dumping the subject goods by adopting various nomenclatures to circumvent and evade the anti dumping duty.

- (ii) The producers in China have created significantly high capacities.
- (iii) The price at which material is being exported by Chinese exporters to India is also an indicator that dumping would continue in the event of revocation of anti dumping duty. 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.
- (iv) Situation of the domestic industry clearly establishes that the domestic industry is extremely vulnerable to injury from dumped imports. The antidumping duty imposed by the order of the Authority has had a restraining effect to a great extent on the volume and market share of the import from China till 2005-06. However, more and more ways of circumvention of anti dumping duty are being resorted and import volumes are increasing. Such being the case, it is evident that revocation of duty would result in flooding of the dumped material in the Indian market.
- (v) The circumstances existing at the time of original investigation are still in existence as may be seen from the dumping margin existed in the two periods. There is no reason to believe why producers in the subject countries would not sell significantly higher volumes in Indian market and increase their market share in the event of revocation of anti dumping duty.

- (vi) Producers in China have built significant capacities. Further, there are several large-scale producers of subject goods who are competing very aggressively with each other not only in their domestic market but in export markets as well.

Examination by the Authority

29. 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 China PR 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 China PR are likely to continue dumping of the product in the event of revocation of duties. This is evident from the table given below:

	Unit	2003-04	2004-05	2005-06	POI (April, 2006-Sep., 2007)	POI annualized
Landed price of imports						
Subject country						
Steel Tapes	Rs./kg	***	***	***	***	***
Fibre Glass	Rs./kg	***	***	***	***	***
Other countries						
Steel Tapes	Rs./kg	***	***	***	***	***
Fibre Glass	Rs./kg	***	***	***	***	***
Net sales realization (Steel Tapes)	Rs./kg	***	***	***	***	***
Trend	Indexed	100.00	100.26	95.24	96.59	96.59
Net sales realization (Fibre Glass Tapes)	Rs./kg	***	***	***	***	***
Trend	Indexed	100.00	98.01	94.34	100.13	100.13
NIP(Rs. Kg)						
Steel Tapes	Rs./kg					***
Fibre Glass	Rs./kg					***

- (ii) The domestic industries have claimed that the producers in China PR have created significantly high capacities and in the event of revocation of Anti Dumping Duty they may dump the same in India. But the petitioners have not submitted any corroborative evidence to that effect. However,

considering the fact that none of the exporters /producers from the subject country has come forward to rebut the claim of the domestic industry, the Authority holds that there are freely available capacities in the subject country and in the event of revocation of Anti Dumping Duty the same may get dumped in India.

(iii) The price at which material is being exported by Chinese exporters to India indicates that dumping would continue in the event of revocation of anti dumping duty. 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. This is evident from the data given in the table below.

CIF Price of subject countries (Rs/Kg)						
Export price-Steel Tapes	***	***	***	***	***	***
Export price-Fibre Tapes	***	***	***	***	***	***
Net sales realization (Steel Tapes)	***	***	***	***	***	***
Trend	100.00	100.26	95.24	96.59	96.59	
Net sales realization (Fibre Glass Tapes)	***	***	***	***	***	***
Trend	100.00	98.01	94.34	100.13	100.13	
Landed price(Steel Tapes)	***	***	***	***	***	***
Landed price(Fibre Glass Tapes)	***	***	***	***	***	***
Price undercutting						

(Steel Tapes)	***	***	***	***	***
(Fibre Glass)	***	***	***	***	***

- (iv) Although the data provided by the DGCI &S has not been relied upon because the same does not reflect the required data in a segregated manner, nevertheless an analysis of the same data shows that measuring tapes are being exported into India under various nomenclature such as Rulers, Rules, Scale, Gauge, etc.
- (v) The demand for the subject goods has gone up from *** MT in the base year to *** MT during the POI registering an increase of 48%. But the share of the domestic industry has gone down from 66% in the base year to 49% during the POI. The increasing demand for the subject goods in the country and decreasing market share of domestic industry signifies a vacuum in the market which is being catered by the exporters at dumped prices despite the Anti Dumping duty in place. In the event of revocation of Anti Dumping Duty the domestic industries are likely to be swept off their feet.

F. Injury and Causal Link determination.

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

30. No response has been received from any producers /exporters or from any other interested parties.

F.2 Views of the Domestic Industry

31. The arguments of the domestic industry with regard to injury are summarized below:

(i) Imposition of anti-dumping duty has helped the domestic industry to improve its performance. Profitability of the domestic industry improved after imposition of duty and domestic industry started making marginal profits as compared to earlier significant losses. ROI and cash profit also followed the same trend that of profit. On the other hand market share of the domestic industry has declined despite increase in demand and production resulting in increase in inventory and the Capacity utilization is also remained more or less

same. Landing price of imports is significantly below the net sales realization of the domestic industry. Thus it is evident that imposition of ADD helped the industry to revive its performance to some extent; but the situation of DI is still dilapidated as it has only started to improve and further protection is required to stabilize its positive growth.

(ii) Injury to the domestic industry is likely to recur in case present duty in force is revoked. The likely volumes and prices of imports from China subsequent to any repeal of measures would put the domestic industry at further risk.

Examination by the Authority

32. The Authority has taken note of various arguments raised by domestic industry in regard to injury. The Authority also notes that anti-dumping duty is in force against China PR. In its final determination in respect of China PR, the Authority has determined that import from subject country was at dumped prices. Therefore, for the purpose of injury and causal link analysis, the imports from subject country has been treated as dumped imports.

33. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

34. For the purpose of injury analysis the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal links between the dumping and injury, if any.

Volume Effect: Volume effect of dumped imports and impact on domestic industry:

35. The effects of volume of dumped imports from subject country have been examined as follows:

i) **Import Volumes and share of the subject country:-**

Particulars	Unit	2003-04	2004-05	2005-06	POI (April, 2006-Sep., 2007)	POI annualized
Imports						
China	MT	145.70	125.69	119.93	437.05	291.37
Trend	Indexed	100	86	82	300	200
Others	MT	85.48	161.24	69.14	328.69	219.13
Trend	Indexed	100	189	81	385	256
Total imports	MT	231.18	286.93	189.07	765.74	510.49
Trend	Indexed	100	124	82	331	221
Market share of subject country in total import volume						
China	%	63.03	43.80	63.43	57.08	57.08
Trend	Indexed	100	70	101	91	91
Others	%	36.97	56.20	36.57	42.92	42.92
Trend	Indexed	100	152	99	116	116

From the above data it is evident that due to imposition of Anti dumping Duty the imports from China PR has gone down from the base year till 2005-06 by increase substantially thereafter during Period of investigation .Similarly imports from other countries also increased substantially during the POI vis-a-vis the earlier period. However the market share of the subject country has

remained more or less at same level through the injury period and the same slightly gone down during the POI vis-a-vis the preceding year. However, the market share of other countries has gone up during the POI vis-a-vis the preceding year.

36. Petitioner has given the transaction-wise data for import provided by IBIS. However, IBIS does not cover the all Custom port. The transaction-wise data provided by DGCI&S shows huge import volume (i.e. inclusive of other non-PUC items) as compared to IBIS. Moreover, the CIF value worked out as per DGCI&S data is abnormally low. Thus, in this investigation, transaction-wise data provided by IBIS has been relied upon for analysis. Information provided by IBIS shows that imports from the subject country from base year to POI increased by 100%. There are imports from other countries also. Import from china command 57% share in the total import during POI. The Authority notes that the domestic industry has been affected due to imports during POI and previous years.

ii) **Demand, Output and Market shares:-**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Imports - Subject Country	MT	145.70	125.69	119.93	437.05	291.37
Imports - Other Countries	MT	85.48	161.24	69.14	328.69	219.13
Sales of Domestic industry	MT	***	***	***	***	***
Trend	Indexed	100	97	98	160	107
Sales of Other Indian Producers	MT	***	***	***	***	***
Trend	Indexed	100	199	219	329	220
Demand	MT	***	***	***	***	***

Trend		100	115	110	222	148
Share of domestic industry and Import in demand						
Subject Country	%	***	***	***	***	***
Trend	Indexed	100	75	75	135	135
Other country	%	***	***	***	***	***
Trend	Indexed	100	163	74	173	173
Domestic industry	%	***	***	***	***	***
Trend	Indexed	100	84	90	75	75
Other Indian Producers	%	***	***	***	***	***
Trend	Indexed	100	172	199	148	148

37. The demand of the subject goods has been calculated by addition of domestic sales including captive consumption of the domestic industry, sales of the other Indian producers and all imports from all countries

38. It has been noted that the demand of the subject goods increased by ***% in POI as compared to base year. The market share of the domestic industry declined to ***% in POI. However, it is noted that the share of imports from subject country has increased from 13.63% in base year to 18.41% in the POI.

39. From the table given above it is evident that the demand of the subject goods has increased substantially during POI vis-à-vis the preceding year. Similarly the sales of domestic industry have also increased substantially during the POI vis-à-vis the preceding year. Further the share of subject country and other countries in demand has gone up substantially whereas, the share of domestic industry and other Indian producers has gone down substantially. Despite the imposition of Anti Dumping Duty on the subject country the imports have continued unabated.

40. **Production of the Domestic Industry:-**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Capacity	MT	***	***	***	***	***
Trend	Indexed	100	100	100	150	100
Production	Mt	***	***	***	***	***
Trend	Indexed	100	103	97	167	111
Capacity Utilization	%	***	***	***	***	***
Trend	Indexed	100	103	97	111	111

From the data given in the above table shows that the capacity of the domestic industry remains more or less at the same level during the entire injury period. However, as compared to base year, the production of the domestic industry has increased by 11% during POI, although the same has not increased in the same ratio in which demand has increased. Demand of the product has gone up by 48% whereas production has increased by only 11%.

41. **Sales of Domestic Industry:-**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Sales	MT	***	***	***	***	***
Trend	Indexed	100	97	98	160	107

The data shows that the sales of the domestic industry have increased during POI by 11% as compared to base year. But, the same is much less compared to the increase in demand by 48

(B) **Price Effect of the Dumped imports on the Domestic Industry**

42. The impact on the prices of the domestic industry on account of dumped imports from the subject country has been examined with reference to the

price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis the weighted average cost of production, weighted average Net Sales Realisation (NSR) and the Non-Injurious Price (NIP) of the domestic industry (worked out on the basis of the costing information of the domestic industry) have been compared with landed value of imports from the subject country. The landed value of imports has been calculated by taking imports Volume and value information provided by IBIS.

Price Undercutting

(Value in Rs./Kg)

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Export price-Steel Tapes	Rs./kg	***	***	***	***	***
Export price-Fibre Tapes	Rs./kg	***	***	***	***	***
Landed price-Steel Tapes	Rs./kg	***	***	***	***	***
Landed price-Fibre Tapes	Rs./kg	***	***	***	***	***
Net sales realization - Steel	Rs./kg	***	***	***	***	***
Net sales realization - Fibre	Rs./kg	***	***	***	***	***
Cost of production -Steel Tapes	Rs./kg	***	***	***	***	***
Cost of production -Fibre Tapes	Rs./kg	***	***	***	***	***
Price undercutting - Steel Tapes	Rs./kg					***
Price undercutting - Fibre Tapes	Rs./kg					***
Price undercutting - Steel Tapes	%					***
Price undercutting - Fibre Tapes	%					***

Price undercutting range - Steel Tapes	%					225-275
Price undercutting range - Fibre Tapes	%					650-700

43. Price Underselling

POI (Value in Rs./Kg)

Net Sales Realisation - Steel Tapes	***
Net Sales Realisation - Fibre Tapes	***
Non Injurious Price - Steel Tapes	***
Non Injurious Price - Fibre Tapes	***
Landed Value - Steel	***
Landed Value - Fibre	***
Price Underselling - Steel	***
Price Underselling - Fibre	***
Price Underselling (%) - Steel	***
Price Underselling (%) - Fibre	***
Price Underselling range (%) - Steel	300-350
Price Underselling range (%) - Fibre	600-650

During the POI the landed value of imports from the subject country in respect of Steel Tapes was much lower than the net sales realization of the domestic industry. Therefore, the price undercutting during POI was much significant. Similarly, the price undercutting in respect of Fiber Glass tapes is much significant.

In determining the net sales realization of the domestic industry, the rebates, discounts and commission offered by the domestic industry and the Central Excise Duty have been adjusted.

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

The data on cost of production shows that cost of production has gone up marginally from base year to POI. The data on selling price shows that selling price has same trend as cost of production.

The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out separate non-injurious price for the Steel Tapes and Fibre Glass Tapes and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producer by appropriately considering the cost of production for the product under consideration during the POI. The analysis shows that the landed value of the subject goods from subject country is much less than the non-injurious price determined for the domestic industry during the period of investigation.

Examination of other *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.

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

46. Profits and Actual and Potential Effects on Cash Flow:-

The profit of the domestic industry has declined and became negative during 2004-05 due to massive dumping of the subject goods. Thereafter the profit has registered substantial increase during 2005-06 after imposition of Anti Dumping Duty. However, the profit shows a declining trend during the POI due to continued and substantial dumping of the subject goods.

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Cost of Production	Rs./kg	***	***	***	***	***
Trend	Indexed	100	106	100	100	100
Net selling price	Rs./kg	***	***	***	***	***
Trend	Indexed	100	102	101	101	101
Profit /loss	Rs./kg	***	***	***	***	***
Trend	Indexed	100	-806	382	363	363
Profit/loss before tax and interest	Rs./kg	***	***	***	***	***

Trend	Indexed	100	-779	376	601	401
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47. **Employment and Wages:-**

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
No of employees	No	***	***	***	***	***
Trend	Indexed	100	86	98	99	99
Wages	Rs./Lakhs	***	***	***	***	***
Trend	Indexed	100	93	91	117	78
Wages paid per employee	Rs./Lakhs	***	***	***	***	***
Trend	Indexed	100	107	93	124	83
Wages per MT production	Rs/ kg	***	***	***	***	***
Trend	Indexed	100	90	93	70	70

48. The Authority notes that the number of employees of domestic industry has been more or less same, there is no any significant change in employment level during POI as compared to base year. Similarly, wages paid to employees decreased by 17% as compared to base year. However, wages per unit of production has also decreased by 30% as compared to base year.

Productivity:-

49. The Authority notes that the production per employee has increased during POI as compared to base year.

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Productivity	MT	***	***	***	***	***
Trend	Indexed	100	119	99	168	112

Inventories: -

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
Average Inventories	MT	***	***	***	***	***
Trend	Indexed	100	132	89	89	81
No. of days' sales in stock	Days/MT	***	***	***	***	***
Trend	Indexed	100	136	90	80	73

50. The above table shows that average inventory as well as number of days' sales in stock has been decreased by 19% and 27% respectively during the POI as compared to the base year.

51. Return on Investment and Ability to Raise Capital

Particulars	Unit	2003-04	2004-05	2005-06	POI	POI annualized
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Net Fixed Assets	Rs./Lakhs	***	***	***	***	***
Trend	Indexed	100	79	96	95	63
Working Capital	Rs./Lakhs	***	***	***	***	***
Trend	Indexed	100	72	65	69	46
Capital Employed	Rs./Lakhs	***	***	***	***	***
Trend	Indexed	100	71	70	82	55
ROCE	%	***	***	***	***	***
Trend	Indexed	100	-36	31	219	133

Return (PBIT) on capital employed became negative during 2004-05, however, remained positive afterwards till POI.

52. Growth

The growth in demand shows positive trend from base year to POI. The growth in production and sales were also positive. However, cost of production and selling price has remained almost at same level throughout the injury period. The profitability and return on investment show positive trend.

6. Other known factors

Volume and prices of imports from other sources

53. The Authority notes that Imports from other countries has increased substantially during 2004-05 compared to base year. The same has fallen drastically during 2005-06 and increased substantially during the POI. The CIF prices from the other countries are higher than that of imports from the subject country over the injury period.

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

The subject goods are freely importable and there are no trade restrictive practices in the domestic market. Therefore, this factor could not have been reason to cause injury to the domestic industry

55. Contraction in demand ,Development of technology and export performance

The Authority notes that the total demand of the subject goods has shown 48% growth during POI as compared to base year. However, technology or technology related issues have not been raised by any interested party as cause of injury to the domestic industry.

H. Causal Link

56. The submissions made by domestic industry in respect of the issue of causal link have been examined. A detailed examination was made with regards to the issues pertaining to the material injury to the domestic industry and causal link between the material injury to the domestic industry and dumped imports. Paragraph (v) of Annexure II of the Anti-dumping Rules reads as under:

" It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in

technology and the export performance and the productivity of the domestic industry."

The Authority notes that the imports from the subject country are substantial and at dumped prices. The petitioner has contented that the subject goods are being exported into India under various description and nomenclature and even diverting the same through other countries to avoid and evade the Anti Dumping Duty imposed on the subject goods. Although no conclusive evidence were produced to establish the above contention, no response were received from the exporters/other interested parties to the contrary as well. The Authority notes that the imports from the subject country at dumped prices continue to injure the domestic industry .

Vulnerability of the Domestic Industry

57. The Authority notes that the performance of the domestic industry had improved with the imposition of anti dumping duties. However, considering the present level of volume and value of imports, the constructed normal value of the subject goods, the demand for the subject goods in the country and huge dumping margin , in the event of revocation of the anti dumping duty the domestic industry in all likelihood would once again be subjected to the recurrence of dumping and injury.

Significant price undercutting by imports with current measures

58. The Authority notes that imports from subject country are undercutting price of the domestic industry and would further undercut prices of domestic industry in case duty is revoked. There is a great likelihood of further injury to the domestic industry from dumped imports as the level of price difference between imported product and domestic industry's product is too significant.

Level of dumping margin

59. The Authority notes that the level of dumping margin is significant and above de-minimis.

I. Final Findings:

60. 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 China PR 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 China PR 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 performance of the domestic industry has improved with the imposition of anti dumping duties, considering the present level of volume and value of imports, the constructed normal value of the subject goods, the demand for the subject goods in the country and huge dumping margin, the situation of the Domestic Industry continues to be fragile and vulnerable and in the event of revocation of the anti dumping duty the domestic industry in all likelihood would once again be subjected to the recurrence of dumping and injury.

J.Indian industry's interest and other issues

61. 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.

62. 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.

K. Recommendations

63. Having concluded that the situation of the domestic industry continues to be fragile and vulnerable and there is likelihood of continuation or resumption of dumping and injury on account of imports from China PR 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 country.

64. 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 the Anti-Dumping Duty in place as recommended by the Authority vide Final Findings Notification No. 14/31/2002-DGAD Dated 1.9.2003 published in the Gazette of India, Extraordinary, Part-I, Section-I, and notified by the Central Government vide Notification No. 147/2003-Customs Dated. 7.10.2003. However the Authority recommends change in the form of duty from reference price to definitive anti-dumping duty following the lesser duty rule and recommends that imposition of Definitive Anti Dumping Duty as set out below be imposed by the Central Government on all imports of subject goods under consideration falling under customs heading, 9017.8010 or 9017.90 00 originating in or exported from the subject country. The Anti-Dumping duty shall be the amount mentioned in column no.9 of the following table on all imports of measuring tapes, falling under chapter 90 of the Customs Tariff, originating or exported from the subject country mentioned below:-

SN	Sub-heading	Description of goods	Specification	Country of origin	Country of Export	Producer	Exporter	Duty Amount	Unit of Measurement	Currency
1	9017.801 0 or	Measuring Tape	Steel tapes and parts and components	Peoples Republic of China	Peoples Republic of China	Any .	Any .	4.19	Kg.	US\$

	9017.90 00		thereof							
2	- do -	Measuring tape	Steel tapes and parts and components thereof	Peoples Republic of China	Any other than Peoples Republic of China	Any	Any	4.19	Kg.	US\$
3	- do -	Measuring Tape	Steel tapes and parts and components thereof	Any Country	Peoples Republic of China	Any	Any	4.19	Kg.	US\$
4.	- do -	Measuring Tape	Fiberglass tapes and parts and components thereof	Peoples Republic of China	Peoples Republic of China	Any	Any	4.10	Kg.	US\$
5.	- do -	Measuring Tape	Fiberglass tapes and parts and components thereof	Peoples Republic of China	Any other than Peoples Republic of China	Any	Any	4.10	Kg.	US\$
6.	- do -	Measuring Tape	Fiberglass tapes and parts and components thereof	Any Country	Peoples Republic of China	Any	Any	4.10	Kg.	US\$

65. 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