DIRECTORATE GENERAL OF SAFEGUARDS

NOTIFICATION

F. No. D-22011/10/2009

Dated : 23rd April, 2009

Sub: **Safeguard investigation concerning imports of Hot Rolled Coils/sheets/ Strips into India**

G.S.R. 22011/10/2009 dated 23.04.2009 having regard to Customs Tariff Act, 1975, as amended, and the Customs Tariff (Identification and Assessment of Safeguard Duty), Rules, 1997 thereof;

1. Procedure:

(i) M/s. Ispat Industries Limited and Essar Steel Limited (hereinafter referred to as applicants) filed petition on 5th Feb., 2009 before the Director General in accordance with the Customs Tariff Act, 1975, as amended and Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 notified vide Notification no. 35/97-NT-Customs dated 29.07.1997 (hereinafter referred to as Rules), alleging increased imports of Hot Rolled Coils/Sheets/Strips in India causing serious injury and threat of serious injury to the Domestic producers. The petition has been supported by JSW Steels Limited and Steel Authority of India Limited.

(ii) Preliminary scrutiny of the application showed some deficiencies, which were rectified by the applicants. The applicants filed updated and duly documented application on 21st March 2009.

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(iii) After due verification, it was seen that there is sufficient prima facie evidence regarding increased imports, serious injury or threat of serious injury and a causal link between increased imports and alleged injury or threat of serious Injury to justify initiation of investigations. Accordingly, it was decided to initiate investigations to determine whether imports of the product under consideration have increased under such circumstances as to cause or threaten to cause serious injury to the domestic industry to justify imposition of safeguard duty.

(iv) Notice of initiation of safeguard investigation concerning imports of Hot Rolled Coils/Sheets/Strips into India was issued on 9th April 2009 and was published in Extraordinary Gazette of India vide notification no. D-22011/10/2009.

(v) A copy of initiation notification has been sent to Governments of exporting countries through their embassies in New Delhi

(vi) A copy of the initiation notification has been sent to all known interested parties as under:

Domestic producers:-

(a) Ispat Industries Limited, Mumbai

(b) Essar Steel Limited, Mumbai

(c) JSW Steel Limited, Mumbai

(d) Steel Authority of India Limited, New Delhi

(e) Tata Steel Limited, Mumbai

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Importers/consumers

a) Bhushan steel Limited, New Delhi b) National Steel & Agro Industries Ltd, Indore c) Shree Precoated Steel Ltd, Mumbai d) Uttam Steels, Mumbai e) Yash Pal and Co, New Delhi f) Vishal Tubes & Pipes Pvt. Ltd, Mumbai g) V.D.Swamy and Company Limited, Chennai h) Unimech Engineers, Satna i) Toyota Tsusho Corporation, Bangalore j) The Premier Automobiles Ltd, Mumbai k) Sanco Chemicals Pvt. Ltd, Mumbai	l) Samir Industrial Metal Corporation, Mumbai m) Rane (Madras) Ltd., Chennai n) Ramesh Steel Sales, Mumbai o) National Brass Works, Mumbai p) Gujarat Otofilt, Ahmedabad q) Brakes India Limited, Chennai r) Bharat Tin and Enamel Co. Private Ltd, Kolkata s) Abdul Wajid and Co., Mooradabad t) Mark Auto Industries Limited, Gurgaon u) Kiran Overseas, Mumbai v) Kehr Surgical & Allied Products P. Ltd., Kanpur

Exporters

Wuhan Iron And Steel (Group)	Anshan Iron And Steel Group Corp.

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Corporation, China	China
Baotou Iron And Steel (Group) Co.Ltd. China	Tangshan Grand Faith Steel Co., Ltd, China
Beijing Shougang Co Ltd, China	Evarzholding Group Co. Ltd, Russia
Severstal, Russia	Industrial Union Of Danbass, Ukraine
Ilych, Ukraine	SCM, Ukraine
Eregli Iron And Steel Co.Turkey	POSCO South Korea
Dongbu Group, South Korea	G Steel PCL Thailand
Sahaviriya Steel Industries PCL Thailand	NSM Steel Thailand
PT Krakatau Steel, Indonesia	Saudi Iron And Steel Company Saudi Arabia
Highveld Steel, South Africa	Mittal Steel South Africa
Ispat Karmet, Kazakhstan	JFE Steel Corporation, Japan
Nippon Steel Corporation, Japan	Esfahan Steel Company Iran
Mobarakeh Steel Company, Iran	Megasteel Wisma Lion, Malaysia
Steelcorp, Phillippines	Mittal Steel Galati, Romania
Bluescope Steel Limited, Australia	Onesteel Limited, Australia
Orrcon Pty Limited, Queensland	Duferco Belgium, Belgium
Cockerill Sambre Sa, Belgium	Altasteel Ltd. Canada
Associated Tube – Canada	Stelco/Us Steel Canada
Eramet , France	Ugitech Sa, France
Erasteel SAS, France	Badische Stahlwerke Gmbh, Germany
Hüttenwerke Krupp, Germany	Saarstahl AG, Germany

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Salzgitter Ag Stahl Und, Germany	Nedstaal B.V. , Netherlands
Natsteel Holdings Pte Ltd, Singapore	Ovako Holdings Ab, Sweden
Tang Eng Iron Works Co. Ltd. Taiwan	Yieh United Steel Corporation Taiwan
Corus Group - United Kingdom	Commercial Metals Company - United States
Hoa Phat Steel Pipe Co Ltd VietNam	Euro Gulf Steel Industries LLC, U A.E.

Known trade associations

Automotive Component Manufacturer Association of India, New Delhi	Cold rolled steel Manufacturer Association of India, New Delhi
Builders Association of India, Mumbai	All India Steel Re-rollers Association, New Delhi

(vii) Questionnaire has also been sent to all known domestic producers, known exporters & known importers/consumers and they are being advised to submit their response within 30 days.

(viii) The information being called from the foreign producers, Indian importers/consumers, Indian Producers and other interested parties shall be considered for final determination.

2. Views of domestic industry

The domestic industries viz. Ispat Industries Limited, Essar Steels Limited and supporters M/s. JSW Steels Limited and Steel Authority of

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India Limited constituting 79% of domestic production of the product made following submissions:

(i) The product under consideration in the present investigation is Hot Rolled Coil/Sheet/Strips falling under customs subheading no. 7208 of Customs Tariff Act.

(ii) Imports of the product concerned into India which was 1.67 Lac MT/month in 2005-06 remained at almost same level in 2006-07. In 2007-08 it increased to 2.30 Lac MT/month, but declined to 2.25 Lac MT/month in April08-June08 quarter and to 0.80 Lac MT/month in July08-Sept08 quarter due to increase in import prices. The domestic industry argued that the domestic prices were lower than import prices during this period. With the start of current recession, imports started increasing rapidly at steeply declined prices and increased to 1.479 Lac MT/month in Oct-Dec08 quarter, which increased to 2.306 MT/month in Jan-Feb month.

(iii) Price of imported material started declining from Oct 08 because of unforeseen decline in global demand due to global unexpected recession. The prices declined steeply from the levels of above US$ 1000 pmt in Oct., 08 to below US$ 400/MT at present.

(iv) Material which was booked in Oct-Nov 2008 have started to landing at Indian port since Jan-Feb 2009. In general, there is two months time lag between imports booking and arrival of shipment in India.

(v) In Feb 2008 alone, about 1 Lac MT material landed at Mumbai port at a price of 450 USD/MT. And in January 2009, this quantity was 1.50 Lac MT @ 502 USD

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(vi) The sharp price decline in import prices is unprecedented as is evident from the following. It would be seen that the import price increased significantly in 2007-08, partly due to increase in input costs and partly due to global increase in the import prices. However, with the sudden recession, the import prices plummeted to very low level, as would be seen from the table below. The declining trend in the prices has not stopped even now:-

Year	Price in USD/MT
2005-06	738
2006-07	607
2007-08	781
April-Sept08	1070
Oct-Dec08	1054
Jan 09	858
Feb 09	648
Present offers	380

Even when average import prices in Jan. and Feb. were US$ 858 and 648 pmt respectively, the most peculiar part is that the volume of imports at lower prices has significantly increased, as would be seen from the table below.

Year	Volume in MT (Avg monthly import below 600 US$ or below NIP)	% of below US$ 600 or below NIP in total import	import price in USD
April-Sept08	8,071	5.28%	504.82
Oct-08	2,975	1.85%	518.36
Nov-08	6,192	3.40%	444.12

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Dec-08	27,394	27.17%	538.38
Jan-09	97,182	38.78%	468.35
Feb-09	129,963	61.71%	450.24

(vii) Unforeseen circumstances is in terms of collapse of world economy leading to huge demand supply gap. Resultantly, every producer is finding it very difficult to sell its product and prices are continually falling. Because of price sensitive nature of market, the Indian consumers are increasingly switching to imports.

(viii) As a result of significant increase in imports, there has been significant fall in domestic production, sales and capacity utilization of product covered during the recent period.

(ix) The applicants requested for safeguard duty for two years. Further, in view of critical circumstances, applicant has requested for immediate imposition of provisional safeguard duties.

3. **<u>Finding of the DG</u>**

(A) The issue of imposition of immediate safeguard measures was examined. It has been found that a total of 168 safeguard initiations were reported to the WTO between 29.03.1995 to 12.11.2008. It has been observed that provisional safeguard measures have invariably been recommended/imposed most expeditiously. In fact, in several cases provisional safeguard measures have been recommended on the same date as the date of initiation of the investigation. The Rule 9 of Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 notified vide Notification no. 35/97-NT-Customs dated 29.07.1997 prescribes that the Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary finding regarding serious injury or threat of serious injury. The principles governing investigations have been provided under rule 6 of the Safeguard Rules, which is

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independent to Rule 9. Rule 15 of the Safeguard Rules provides for refund of differential safeguard duty in case of safeguard duty imposed after conclusion of the investigation is lower than the provisional duty already imposed or collected. This implies that if the DG eventually recommends not to impose safeguard duty, the entire interim safeguard duty recommended and collected shall be refunded. The harmonious reading of Rule 6, 9, and 15, of the said Rules leads to a conclusion that the Rules provide for expeditious recommendation of provisional safeguard duty based on preliminary finding and refund of differential duty in case it is ascertained that the duty imposed after conclusion of the investigation following investigation process and natural justice as enshrined in the Rule 6 is lower than provisional safeguard duty. However, in critical circumstances, any delay in imposition of provisional safeguard duty may cause damage which would be difficult to repair. Accordingly, it was considered prudent to analyze circumstances to assess whether the same falls in the category of critical circumstances calling for immediate imposition of safeguard duty.

(B) **Product under consideration** :- The product under consideration in the present investigation is Hot Rolled Coils/Sheet/Strips upto 20 MM thickness and 2000 MM width and is classified under sub-heading No. 7208 of Schedule I of the Customs Tariff Act 1975. The product under consideration is produced and sold in a large number of grades and in combination of various thickness and widths.

(C) **Domestic industry**:- There are currently five producers in India having capacity to produce the product under consideration, namely Ispat Industries Limited, Essar Steel Limited, JSW Steels Limited, Steel Authority of India Limited and TATA Steels Limited. The petition has been filed by Ispat Industries Limited and Essar Steel Limited. M/s. JSW Steels Limited and Steel Authority of India Limited have supported the petition. Share of applicant and supporter varied from 79% to 81% between 2005-06 and April08-Feb09 period.

(D) **Increased imports in absolute term**:- The applicant provided information on imports as compiled by the DGCI&S for the period upto June, 2008. Information for the subsequent period is based on

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information compiled by IBIS. Both the information were made available on transaction by transaction basis. Since this information included imports of various types of hot rolled products, the information was segregated into imports of product under consideration and other products and information relating only to the product under consideration has been considered. Imports of the product under consideration were as given in the following table:

	Imports volume	Imports per month	Indian production	Indian production per month	Imports in relation to production
	Lac MT	Lac MT	Lac MT	Lac MT	%
2005-06	20.040	1.670	153.248	12.771	13.08%
2006-07	19.670	1.639	166.650	13.888	11.80%
2007-08	27.680	2.307	177.810	14.818	15.57%
April-Jun 08	6.770	2.257	38.080	12.693	17.78%
July-Sept 08	2.405	0.802	48.481	16.160	4.96%
Oct-Dec 08	4.436	1.479	32.010	10.670	13.86%
Jan-Feb09	4.612	2.306	27.260	13.630	16.92%

It is thus observed that the imports of the product under consideration have shown sudden, significant, unexpected rapid increase of 55% (imports per month) increased from 1.479 Lac MT in Oct08 – Dec 08 to 2.306 Lac MT in Jan09 – Feb 09. Moreover, it is also seen that despite some increase in production in Jan08 &Feb 08 the Indian industry has lost market share to import. Import share has gone up from about 5% in July –Sep 08, to 13% in oct-Dec 08 to 17% in Jan- Feb 09.

(E) Applicants argued that there was steep decline in the import prices, which lead to sharp and significant increase in imports. The price at which various imports were reported were analyzed in detail. The imports were categorized into different categories on the basis of import

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prices over a period of two years. The categories are (a) price below US$ 600 pmt; (ii) price above US$ 600 pmt. The US $ 600 was considered as reasonable bench mark because this is close to Non injurious price (NIP) of US$ 610 taken at 5% Return on capital Employed (ROCE) of the applicant. This US$ 600 reasonable benchmark Imports below this price constitute injurious imports, while Imports occurring above this price can not cause serious injury to the domestic industry at the ROCE taken at 5%.

	Per month imports Volume in MT		Ratio of Imports volume		
Period	Below US$ 600	Above US$ 600	Below US$ 600	Above US$ 600	Indian Prices
April08-Sept08	8,071	144,836	5.28%	94.72%	40,031
Oct-08	2,975	158,235	1.85%	98.15%	39,160
Nov-08	6,192	175,745	3.40%	96.60%	32,522
Dec-08	27,394	73,420	27.17%	72.83%	28,513
Jan-09	97,182	153,421	38.78%	61.22%	27,467
Feb-09	129,963	80,641	61.71%	38.29%	26,296

It is seen while the surge in total imports is 55% as discussed in para (D) above, the total surge in imports of below NIP is steeply going up from 2975 MT in Oct 08 to 6192 MT in Nov 08 to 24394 MT in Dec 08. Imports further surged to 97182 MT in Jan 09 or 256% as compare to previous month and 129963 MT in Feb 09 (or 330% increase over previous month or 375% over Dec. 08 imports). This surge is causing not only serious injury but also threat of serious injury to the domestic industry.

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It is evident from the above that while earlier volume of low priced imports [below NIP or below US$ 600] were in the region of 1000-8000 MT per month, the volume of lower priced imports has suddenly surged to as high as 97000 MT and 130000 MT in Jan and Feb., 2009 respectively i.e. the share of imports of less than NIP grew from 5.28% April to Sep 2008 to 38.78% in Jan 09 and 62 % in Feb 2009. It is thus concluded that there is significant increase in imports at low prices and significant decline in imports at high prices. The volume of imports surged in view of steeply falling import prices, which has impacted the domestic industry prices leading to significant decline in domestic prices from Rs.40,000 per M.T. in April – Sep. 2008 to Rs. 26,296 in Feb. 2009 and consequent decrease in profits to such an extent that the domestic industry suffered significant financial losses and negative return on capital employed, as discussed in detail in the subsequent paras relating to serious injury. Domestic industry has argued that the imports would continue to surge due to declining landed cost of imports causing further serious injury. It is under these circumstances these imports in bulk quantities at low prices are being made that the same are causing serious injury and threatening further serious injury to the domestic industry and imports capturing significant market share.

(F) **Increased imports in relation to production & consumption in India** – It was examined whether the imports of the product under

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consideration increased in relation to production and consumption in India. The table below gives factual position

Year		2005-06	2006-07	2007-08	April-Sept 08	Oct-Feb 09
Imports (Lac MT)	1	20.04	19.67	27.68	9.17	9.05
Domestic production (Lac MT)	2	153.25	166.65	177.81	86.56	59.27
Total quantity Available (Lac MT)	3=1+2	173.29	186.32	205.49	95.74	68.32
Share of import %	4=1/3	11.56%	10.56%	13.47%	9.58%	13.25%
Share of domestic production %	5=2/3	88.44%	89.44%	86.53%	90.42%	86.75%
Sales of domestic industry	6	76.07	90.59	96.39	44.46	31.92
Consumption in India	7=1+6	96.11	110.26	124.07	53.63	40.98
Market share						
Import	8=1/7	20.85%	17.84%	22.31%	17.11%	22.09%
Domestic Industry	9=6/7	79.15%	82.16%	77.69%	82.89%	77.91%

It is thus seen that the share of imports increased both in relation to Indian production and consumption in 2007-08. The same however declined for a while in April-Sept., 2008, when the average import prices increased. The market share of imports has gone up from 17% in April-Sept., 2008 to 22% in Oct., 2008-Feb., 2009. This sharp increase in market share is due to recent sharp fall in the import prices of these products and consequent surge in imports in Jan. & Feb., 2009 period. The average price during April-Sept., 2008 was US$ 1054 pmt and the same has declined to US$ 858 in the month of Jan., 09 and US$ 648 in the month of Feb., 09. However, when data was further broken up for to

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see the trend at import price less then US $ 500 and more. It was noted that huge imports were in increased quantity were taking place substituting not only high priced import but also domestic market leading to increased market share of imports. The appellant have given offers that are being made at USD 380 or even below that thus resulting in a price decline of more than 50%. The domestic industry represented that the most recent offers for supply were below US$ 400 (as low as US$ 380) pmt. These abysmally low prices are the main cause of concern to the domestic industry in terms of its impact on plummeting profitability and return on capital employed, thus resulting in serious injury and threat of serious injury.

It is thus seen that imports have increased in both absolute terms as also in relation to production and consumption in India, causing serious injury and threat of serious injury.

(G) **Unforeseen developments:-** From the information relating to imports, and as stated hereinabove, it is seen that the import price of the product has declined very significantly. Applicants have provided copies “World Steel Dynamics, Steelometer**,** Steel Benchmarker, Inside Track, Global Steel Finance”. Applicants claimed that these are well recognized international trade journals/news bulletins in the Country. These journals, inter-alia, applicants submits reveals that (a) global producers of the product are faced with significant decline in demand of the product, (b) the decline in demand of the product is due to sudden and unexpected current global economic situation, (c) steel production is such that the producers cannot regulate the production to the extent they desire, (d) global producers are under tremendous pressure to sell the material, (e) given highly price sensitive market, once low priced supply offers are being made by one producer, others have no option but to reduce their prices. Resultantly, there is continued decline in the prices. The domestic industry argues that the trend of lowering the prices has not stopped even now and producers continue to reduce the prices further. Domestic industry has argued based on these journals that material has been offered at as low as US$ 380 pmt in most recent period, (g) domestic industry argued that there is a time lag of at least two months between booking of imports and arrival of shipments. However, the domestic producers have to react to the prices lowered by the foreign producers, even if shipments have arrived Indian ports.

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Domestic industry argued that in Feb 2009 month itself, about 1 lac MT material landed at Mumbai port at a average price of US$ 450 pmt.

Thus, it can be seen that with the current economic recession, demand of product under consideration has declined internationally, which has resulted in unprecedented and uneven surplus capacities with global producers of the product under consideration. This has forced the global producers to search for markets even at reduced prices. This has led to sudden and significant drop in the prices of the product. Furthermore, such drop in prices was not one time phenomena. There appears to be a chain reaction. With price reductions offered by one supplier, other suppliers seems to have offer higher price reduction in order to get some demand for their product. Vast Indian highly price sensitive market is becoming a choice for the foreign producers, resulting in huge surge in low priced imports.

This, then constitutes unforeseen developments within the meaning of the Indian safeguard laws and WTO Agreement on Safeguards.

(I) **Serious injury and threat of serious injury**:- It has been examined whether increased imports of the said goods are causing serious injury to the domestic industry. It was also examined whether the increased imports of the said goods are threatening serious injury to the domestic industry. The imports of the said goods have shown sudden and significant surge in absolute terms and in relation to production and consumption in India. It is noted that imports volume increased significantly, and at rapidly declining import prices. The applicants have claimed that recently offer prices of said product declined sharply to even below US$ 380. Domestic industry has been forced to lower its prices as customers were seeking import parity prices. Domestic industry has been forced to sell at prices below its cost.

(a) The Rules provide as under with regard to serious injury to the domestic industry

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The Director General shall determine serious injury or threat of serious injury to the domestic industry taking into account, inter alia, the principles laid down in Annex to these rules.

Annexure to the Rules provides as follows.

In the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a demonstrate industry, the Director General shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of the increase in imports of the article concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

As held by the WTO, it is not necessary that each and every parameter listed under the Rules should show injury. Even if one or more parameter show significant deterioration in performance, it may be sufficient enough to hold that the domestic industry has suffered serious injury.

As stated hereinabove, the imports of the product under consideration have shown sudden and significant surge. The rate and amount of increase in imports is significant in absolute and relative terms. With regard to impact of the increased imports causing injury to the domestic industry have been analyzed below:

(b) Price effect – In order to determine whether imports of the product under consideration are undercutting the prices of the domestic industry in the market, the landed price of imports have been compared with the selling price of the domestic industry. It is noted that there is significant increase in imports where the import price is below US$ 500 pmt. In fact, about 1 lac MT subject goods have been imported in the month of Feb., 09 alone at an average price of US$ 450 pmt. The It is seen that

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the landed price of imports were materially below the selling price of the domestic industry. The CIF import prices of product concern as reported in Metal Bulletin has been shown below.

The domestic industry argued that the trend of reduction in the import prices started sometime in Oct. 2008 and has not stopped now. The import prices started declining from above US$ 1000 pmt and have continued to fall even now. Domestic industry provided evidence to show that the import prices/offerings have declined to as low as US$ 380 pmt, landed price of imports is materially lower than the selling price of the domestic industry. It is noted that the imports are materially undercutting the prices of the domestic industry.

As a result of significant price undercutting by the imports, the domestic industry has been forced to reduce its prices. It is noted that the selling price of the domestic industry has very significantly declined, as would be seen from the table given below. It is thus seen that the imports are depressing the prices of the domestic industry in the market.

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It was further examined whether the decline in the selling price of the domestic industry was a result of decline in the input costs. It was noted that even though input costs have declined over this period, the decline in the selling prices of the domestic industry was far more than decline in the cost of production on account of input price reduction, as would be seen from the table below. Resultantly, the contribution margin of the domestic industry very steeply declined.

Prices of major inputs required for steel production

Name	Quarter ending Jun-07	Quarter ending Sep-07	Quarter ending Dec-07	Quarter ending Mar-08	Quarter ending Jun-08	Quarter ending Sep-08	Quarter ending Dec-08	Month Jan-09	Month Feb-09
Iron Ore	5,545	5,887	6,031	6,261	10,504	5,976	4,515	-	5,846
Metcoke	9,746	10,463	11,032	13,316	23,487	30,266	28,226	19,812	-
Coal	5,455	5,143	5,468	5,520	7,110	10,856	15,056	12,237	15,487
Natural Gas	10,328	8,899	10,543	12,379	15,225	17,499	35,690	20,950	25,625
Scrap	30,185	25,624	25,934	21,140	26,732	32,017	23,482	16,061	16,968

Source : India's imports as reported by DGCI&S for the period upto Sept., 2008 and IBIS thereafter

The above has been shown on indexed basis by considering prices in the first quarter as 100.

Applications	Quarter ending	Quarter ending	Quarter ending	Quarter ending	Quarter ending	Quarter ending	OctDec08	Jan09	Feb09

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	Jun-07	Sep-07	Dec-07	Mar-08	Jun-08	Sep-08			
Iron Ore	100	106	109	113	189	108	81	81	105
Metcoke	100	107	113	137	241	311	290	203	NA
Coal	100	94	100	101	130	199	276	224	284
Natural Gas	100	86	102	120	147	169	346	203	248
Scrap	100	85	86	70	89	106	78	53	56

Prices of the domestic industry in different application segments moved as follows

Grade	**SEPT '08**	**Oct '08**	**NOV '08**	**DEC '08**	**JAN '09**	**FEB '09**
API/Structural	100	89	81	83	88	65
Auto	100	97	94	69	75	71
CR	100	96	72	59	58	58
Gen Engg	100	103	65	61	61	57
P&T	100	93	71	57	58	59
PEB	100	88	78	74	55	54
Project	100	95	76	62	64	60
	100	97	83	73	75	64

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It is seen that the increased imports of low priced imports have forced the domestic industry to reduce the prices. Such price reductions were steeper than reduction in the cost of production. The imports have thus had adverse price effect on domestic prices and has depressed the profits and ROCE to such an extent that the domestic industry suffered significant financial losses and negative ROCE .

(c) **Production**: Production of said product by the applicants increased from 47.20 Lac MT in 2005-06 to 56.32 Lac MT in 2006-07 and further to 61.13 Lac in 2007-08 and 32.94 Lac MT in April-Sept., 2008. The production has however drastically fallen to 8.34 Lac MT in Oct.-Dec., 2008. Even though the production marginally improved to 7.40 Lac MT in Jan.-Feb., 2009, yet the same is significantly lower than previous levels.

Year	Production in LAC MT	
	For the period	Monthly
2005-06	47.20	3.93
2006-07	56.32	4.69
2007-08	61.13	5.09
April-Sept 08	32.94	5.49

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Oct-Dec 08	8.34	2.78
Jan-Feb09	7.40	3.70

(d) **Capacity utilization**: Capacity Utilization of the applicants increased from 83% in 2005-06 to 85% in 2006-07 and further to 93% in 2007-08 and 96% in April-Sept., 2008. The Capacity Utilization has, however, drastically fallen to 49% in Oct.-Dec., 2008. Even though the Capacity Utilization marginally improved to 65% in Jan.-Feb., 2009, yet the same is significantly lower than previous levels.

Year	Capacity Utilization
2005-06	83 %
2006-07	85 %
2007-08	93 %
April-Sept 08	96 %
Oct-Dec 08	49 %
Jan-Feb09	65 %

It is noted that even though capacity utilization increased in Jan.-Feb., 09, the same is still abysmally low. Moreover, this has to be viewed in the context that even though production went up marginally in Jan09 - Feb09, yet imports' market share increased from 17% to 22% during this period. This is reflective of serious injury and threat of serious injury to the industry, as on the one hand landed costs are lower than the domestic industry prices in recent past, while on the other hand, domestic prices have fallen much more sharply that raw material cost thus leading to losses causing surge in imports & causing threat of serious and critical injury to the domestic industry.

(e) Domestic Sales – Domestic Sales of said product by the applicants increased from 20.94 Lac MT in 2005-06 to 28.85 Lac MT in 2006-07 and further to 31.71 Lac in 2007-08 and 16.77 Lac MT in April-Sept., 2008. The sales has however drastically declined to 5.09 Lac MT in Oct.-Dec., 2008. Even though the sales marginally improved to 4.19 Lac

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MT in Jan.-Feb., 2009, yet the same is significantly lower than previous levels.

Year	Sales in LAC MT	
	For the period	Monthly
2005-06	20.94	1.79
2006-07	28.85	2.40
2007-08	31.71	2.64
April-Sept 08	16.77	2.80
Oct-Dec 08	5.09	1.70
Jan-Feb09	4.19	2.10

(f) Market share: Market share of applicants has fallen significantly. Applicants had a market share of 21.79% during 2005-06 and 26.17% in 2006-07. Market share further increased to 25.56% in 2007-08 and 31.27% in April-Sept 2008. Market share, however, declined steeply to 24.50% in Oct-Dec 08 and further to 20.79% in Jan09-Feb09. Share of all domestic producers taken together has also fallen in Jan.-Feb., 2009 period.

Year	Market Share of Applicants in Demand
2005-06	21.79 %
2006-07	26.17 %
2007-08	25.56 %
April-Sept 08	31.27 %
Oct-Dec 08	24.50 %
Jan-Feb09	20.79 %

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(g) Profit/loss : Profitability of the applicants has fallen significantly. Whereas the domestic industry was profitable till Sept 2008, it has started suffering financial losses after Sept 2008. The losses increased significantly thereafter. Applicants earned profit of 222.57 Crs in 2006-07, 93.99 Crs in 2007-08 and 370.78 Crs in April-Sept., 2008. Applicants however suffered financial losses of 234.51 Crs in Oct-Dec 2008 and 369.31 Crs in Jan09-Feb09.

Period	Profit/Loss Rs. Crs	Return on capital employed %
2005-06	(544)	(0.08)
2006-07	222	9.58
2007-08	94	8.87
April 08 – Sept 08	371	24.81
Oct 08 – Dec 08	(235)	(3.53)
Jan 09 – Feb 09	(369)	(8.91)

Note Figures in bracket implies negative

Applicants claimed that even though the prices of the inputs required for production of subject goods declined, the decline in the product prices were significantly more than the decline in input costs. The contribution per unit of sales (i.e., the difference between the selling price and costs on account of raw materials alone) declined significantly as is evident from the following.

Period	Contribution margin	
	Rs. Per MT	Indexed
2005-06	6374	100
2006-07	9391	147

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2007-08	8979	141
April 08 – Sept 08	12911	203
Oct 08 – Dec 08	6967	109
Jan 09 – Feb 09	3933	62

As a consequence of decline in profits, return on capital employed declined significantly. Applicants earned 10% return on investments 2006-07, 9% in 2007-08 and 24.81% in April-Sept., 2008. Return on investment becomes negative to (4)% in Oct-Dec 2008 and (9)% Jan09-Feb09.

(h) Employment: It is noted that the employment level does not show injury. The domestic industry had recruited addition personnel after the period of April-Sept 08 in view of the buoyant economy and in the current crisis, this incremental employment is only adding up to the cost. Applicants have claimed that due to stringent rules & regulations of company, permanent employment in the companies could not be reduced in a short time frame.

(i) Productivity: Productivity per employee of the domestic industry moved in tandem with production. Productivity increased upto Sept 2008 but declined thereafter in Oct-Dec 2008 and Jan-Feb 2009. Applicants claimed that the decline in productivity was due to increased imports. Applicants further claimed that even if the level of productivity was kept at the same level as was in April-Sept., 2008, they would have suffered financial losses.

(j) Inventory: Inventory of the applicants was 0.89 Lac MT in 2005-06, declined to 0.82 Lac MT in 2006-07. It remained more or less same level in 2007-08 at 0.85 Lac MT. In April08-Sept08 inventory increased to 1.72 Lac MT, which declined to 0.63 Lac MT in Oct 2008-Dec2008 and 0.46 Lac MT in Jan-Feb 2008. Domestic industry claimed that decline in inventory is because they regulated the inventory.. Domestic

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industry has been forced to regulate its production because of low sales volumes, otherwise, inventory levels would have been much higher.

Period	Inventory in Lac MT
2005-06	0.89
2006-07	0.82
2007-08	0.85
April 08 – Sept 08	1.72
Oct 08 – Dec 08	0.63
Jan 09 – Feb 09	0.46

(J) Causal Link between increased imports and serious injury or threat of serious injury:-

As can be seen from the above, it is seen that the foreign suppliers are continually reducing their prices for exports to India. The domestic industry complained that the trend of decline in the import prices started in Sept.-Oct., 08 has not stopped till date. Resultantly, the domestic industry was forced to reduce the prices continuously from Rs. 40000 in April-Sept 2008 to 26000 in Feb 2009 (please see table at (E) above. The price undercutting being caused by the imports therefore resulted in decline in domestic industry prices far beyond the cost of production. Resultantly, the financial losses of the domestic industry increased significantly. Inspite of reduction in the prices by the domestic industry, volume of imports surged, thus leading to decline in the sales volumes and market share of the domestic industry. Even in face of declining domestic prices at the rate more than fall in raw material prices, the

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domestic industry could not match the low landed cost and lost market share recently causing serious injury. Since trend of reduction in import prices is continuing, this is also case of threat of serious injury. . It is thus noted that the injury suffered by the domestic industry was due to increased imports at abysmally low prices.

(K) Other factors

The applicants have filed anti dumping application before the Designated Authority on Anti Dumping. The investigations have been initiated vide notification no. 14/23/2008 dated 28th Nov 2008 with April, 2007 – Sept., 2008 as the investigation period. Thus, the investigation period being considered by the Designated Authority and the period being considered in the present investigation are different. It is noted that no other factor appears to have caused injury to the domestic industry.

(L) Developing nations: Share of imports in India. There have been imports from developing nations from China PR and Thailand, which are more than 3% as shown below:

Source	Qty MT	Share
Above 3%		
China PR	331,508	36.62%
THAILAND	42,401	4.68%

Exports of the products from all other developing countries taken together do not contribute more than 9% of exports to India. Accordingly imports of the product under consideration from all developing nations as notified vide Notification no. 103/98 dated 14.12.1998 (as amended) except China PR, and Thailand may not attract safeguard duty.

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(M) **Adjustment plan:** The domestic producers have proposed measures for reduction in cost of manufacture by reduction in interest cost, increase spending in infrastructure and stability in availability of domestic raw material in terms of pricing.

(N) **Critical circumstances**:- The critical circumstances have been explained in detail in preceding paras. Further, till Sept 2008, applicants were earning profits, while they have suffered unprecedented level of financial losses in the current period (in Jan-Feb 2009 months alone, applicants suffered financial loss of about 369 crores) There is further decline in import prices, which would further increase imports and cause irreparable losses of the domestic producers.

(O) In view of the above, critical circumstances exists justifying imposition of provisional safeguard measures immediately in order to save the domestic producer from damage, which would be difficult to repair if the application of safeguard measure is delayed.

(P) Conclusion and recommendation:-

(i) On the basis of above preliminary findings, it is seen that increased imports of the said product have caused serious injury to the domestic industry. Further, increased imports are threatening to cause further serious irreparable injury to the domestic industry. There exist Critical circumstances, where any delay in application for safeguard measures would cause damage which it would be difficult to repair, necessitating immediate application of provisional safeguard measures for a period of 200 days, pending final determination of serious injury and threat of serious injury. Considering the average cost of production of the domestic producers (confidential), a reasonable return on capital employed ROCE taken @ 5% for the applicants, the present level of import duties including anti dumping duties and the average import price of the product under consideration, the end user interests, a provisional safeguard duty of 25% for import of said products up to and including the CIF value of US$ 600 per MT considered to be the minimum required provisional safeguard duty to protect the interest of domestic industry and is recommended to be imposed on imports of Hot

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Rolled Coils/Sheet/Strips upto 20 MM thickness and 2000 MM width classified under sub-heading no. 7208 of Scheduled I of the Customs Tariff Act, 1975.

(ii) However, for the import for which anti dumping duty is or would be applicable, safeguard duty for such import will be the difference of the provisional Safeguard duty proposed in para P (i) above and the applicable anti dumping duty. Further, for the import for which applicable anti dumping duty would be more than the provisional safeguard duty, no safeguard duty shall be levied on such import. However, for other imports Safeguard Duty would be as proposed in para P (i) above.

(Q) Further process:

(a) The information provided by various parties may be subject to verification wherever necessary for which they will be informed separately.

(b) A public hearing will be held in due course before making final determination, for which date will be informed separately.

(c) Interested parties may make their views known to the DG on this preliminary finding on or before 20.05.2009.

Sd/

(S. S. RANA)
Director General (Safeguards)

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