

To be published in Part-I Section-I of the Gazette of India Extraordinary

No. 14/28/2013-DGAD

Government of India

Ministry of Commerce & Industry

Department of Commerce

(Directorate General of Anti-Dumping & Allied Duties)

4th Floor, Jeevan Tara Building

5 Parliament Street, New Delhi - 110001

Dated: 28th July 2017

NOTIFICATION

(Final Findings)

Subject: Anti-dumping investigation concerning imports of “Castings for Wind Operated Electricity Generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators”, originating in or exported from China PR.

No. 14/28/2013-DGAD:- Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof;

A. Background of the case

2. WHEREAS, M/s Larsen & Toubro Limited (hereinafter also referred to as the petitioner) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules, for initiation of Anti-dumping investigation concerning imports of “Castings for Wind Operated Electricity Generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators” (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country), alleging dumping and consequent injury and requested for levy of anti-dumping duty on the imports of the subject goods from the above subject country. M/s. Patel Alloys Steels P Limited (hereinafter referred to as “Patel Alloys”) has supported the petition.
3. And whereas, the Authority on the basis of sufficient prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 14/28/2013-DGAD dated 1st, Feb 2016, published in the Gazette of India, Extraordinary, initiating this Anti-Dumping investigations concerning import of the subject goods, originating in or exported from the

above country, in accordance with the Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry, if any.

4. M/s Bradken India Pvt. Ltd. has purchased the manufacturing facilities of the subject goods at Coimbatore from M/s Larsen Toubro Ltd. on 3rd March 2016 as an ongoing concern and impleaded to be the petitioner in the present investigation. The relevant documents have been placed in the public file for inspection of the interested parties.

B. GENERAL PROCEDURE

5. The procedure described herein below has been followed by the Authority with regard to this subject investigation:
 - i. The Authority notified the embassy of the subject country in India about the receipt of the present anti-dumping application from the domestic industry requesting for initiation of an antidumping investigation before proceeding to initiate the investigation in accordance with Sub-Rule 5 of Rule 5 supra.
 - ii. The Embassies/representatives of the subject country in New Delhi were also informed about the initiation of the investigations in accordance with Rule 6(2).
 - iii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
 - v. The Embassy of the subject country in India was also requested to advise the exporters/producers from China to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR.
 - vi. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. Beijing Belying Foundry Co., Ltd.
 - b. Beijing Global Technotrade Group (BGTG)
 - c. Changzhou Shuangye Machinery & Electric Co., Ltd.
 - d. Changzhou Sinojit Wind Energy Tech Co Ltd., China PR,
 - e. CSR Sifang Co., Ltd.
 - f. Dalian Bingshan Group Refrigerating Equipment Co., Ltd.
 - g. Dalian Huarui Heavy Industry Steel casting Co. Ltd.
 - h. Dalian Huarai Heavy Industry Casting Co. Ltd.
 - i. Dalian Huarui Heavy Industry International Co., Ltd.
 - j. Dalian Huarui Heavy Industry Steel Casting Joint-stock Co., Ltd.

- k. Dingzhou Dongfang Foundry Co., Ltd.
- l. Gexpro Industry Supply Shanghai Co., Ltd.
- m. Guangzhou Hyenergy Co., Ltd.
- n. Hydra Grene Hydraulics Equipment Accessory (Tianjin) Co. Ltd.
- o. Jiangyin Fengdian Flange Manufacture Co., Ltd.
- p. Jiangsu Jixin Wind Energy Technology Co., Ltd.
- q. Jiangsu Wenhui Seel Engineering Co., Ltd.
- r. Jiangsu Faw Foundry Co., Ltd.
- s. Jinan Double Win Unity Manufacturing Technology Co., Ltd.
- t. Liyan Flying Industry Co., Ltd.
- u. Jiangyin Hengrun Ring Forging Co., Ltd.
- v. Nanjing Yisuman Industrial & Trading Co., Ltd.
- w. Nantong Hongde Mechanical Co., Ltd.
- x. Ningbo Ginlong Technologies Co., Ltd.
- y. Ningbo Saivs Machinery Co., Ltd.
- z. Qingdao Aeolos Wing Energy Co., Ltd.
- aa. Qingdao Anhua New Energy Equipment Co., Ltd.
- bb. Qingdao R.H.S International Trading Co., Ltd.
- cc. Qingdao Richuari Precision Machinery Co., Ltd.
- dd. Shaanxi Qinchuan Machinery Import & Export Co., Ltd.
- ee. Satarem China Co. Ltd.
- ff. Shenzhen Shengxin Trading Co., Ltd.
- gg. Shandong LaiwuJinlei Wind-Power Technology Co., Ltd.
- hh. Shanghai Silic E&A International Trade Co., Ltd.
- ii. Shanghai Zhong Zhu Import & Export Co., Ltd.
- jj. Shenyang Huali Energy Equipment Manufacturing Co., Ltd.
- kk. Shenzhen Hejia Trading Co., Ltd.
- ll. Qingdao Sinotrans Bounded Warehousing Logistics Co., Ltd.
- mm. Shi Jia Zhuang Danzhuo Trade Co., Ltd.
- nn. Sinovel Wind Group Co., Ltd.
- oo. Tianjin Kailong Mechanical & Electrical Equipment Co., Ltd.
- pp. Tianjin Municipal Highway Facilitties Engineering Co., Ltd.
- qq. Techtone (HK) Energy Technology Co. Ltd., China PR,
- rr. Wafangdian Mos-Wrc Bearing Manufacturing Co., Ltd.
- ss. Wenzhou Kaicheng Foundry Co., Ltd.
- tt. Wuzi Techance Steel Structure Construction Co., Ltd.
- uu. Yeong Guan Energy Tech. Group- Jiangsu Bright Steel Fine Machinery Co., Ltd., China PR,
- vv. Yeong Guan Energy Tech. Group- Dongguan Yeong Guan Mould Factory, China PR,
- ww. Yeong Guan Energy Tech. Group- Yeong Ghen Asia Pacific Co., Ltd. Ltd., China PR,
- xx. Yeong Guan Energy Tech. Group- Ningbo Lu Lin Machine Tool Foundry Co., Ltd, China PR,
- yy. Yeong Guan Energy Tech. Group- Ningbo Yeong Shang Casting Iron Go., Ltd., China PR

- zz. Zhuzhou Times New Material Technology Co., Ltd.
- aaa. Zhuzhou Jiabang Photoelectric Material Co., Ltd.
- bbb. Zhejiang Jiali Wind Power Technology Co., Ltd.

vii. The following producers/exporters from the subject country filed exporter's questionnaire response in the prescribed format:

- a. Dalian Huarui Heavy Industry Casting Co. Ltd.
- b. Jiangsu Faw Foundary Co., Ltd.
- c. Zhejiang Jiali Wind Power Technology Co. Ltd.
- d. Jiangsu Sinojit Wind Energy Technology Co., Ltd
 - Changzhou Sinojit Wind Energy Tech. Co. Ltd
 - Jiangyin Henghua Machinery Co., Ltd. Jiangyin City
 - Jiangyin Qixing Technology Co., Ltd. Jiangyin City
 - Jiangyin Changling New Energy Co., Ltd. Wuxi City, Jiangsu
 - Techtone HK, Ltd
- e. Nantong Hongde Mechanical Co. Ltd. & KOIZUMI Machinery Co. Ltd.
- f. Yeong Guan Energy Tech. Group Company Limited
 - Dongguan Yeong Guan Mould Factory Co., Ltd.
 - Jiangsu Bright Steel Fine Machinery Co., Ltd
 - Ningbo Lu Lin Machine Tool Foundry Co. ,Ltd
 - Ningbo Yeong Shang Casting Iron Co. Ltd.
 - Yeong Chen Asia Pacific Co., Ltd.

viii. Except for Yeong Guan Energy Tech. Group Company Limited., and its subsidiaries, none of the producers/ exporters from China PR have responded to the Market Economy Treatment (MET) Questionnaire. Hence, the other, cooperating exporters have been given non-market economy treatment in the present investigation. Yeong Guan Energy Tech. Group Company Limited., and its subsidiaries claimed market economy treatment and has submitted Market Economy Treatment (MET) questionnaire response.

ix. The China Chamber of Commerce of Machinery and Electronic Products (CCCME) an association of producers/exporters of the subject merchandise of the above investigation has requested to be the interested party in this investigation.

x. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- a. M/s. Chiranjeevi Wind Energy Limited, Coimbatore.
- b. M/s Gamesa Wind Turbines Private Limited, Chennai.
- c. M/s GE India Industrial Private Limited, Bangalore.
- d. M/s Global Wind Power Limited, Chennai.
- e. M/s Inox Wind Limited, Noida.
- f. M/s Leitwind Shriram Manufacturing Limited, Thiruvallur.
- g. M/s Pioneer Wincon Private Limited, Chennai.
- h. M/s Regen Powertech Private Limited, Chennai.
- i. M/s RRB Energy Limited, Chennai.

- j. M/s Shriram EPC Limited, Chennai.
 - k. M/s Siva Wind turbine India Private Limited, Erode.
 - l. M/s Southern Wind Farms Limited, Chennai.
 - m. M/s Wind World (India) Limited, Mumbai.
 - n. M/s Suzlon Energy Limited, Pune.
- ix. Except M/s Inox Wind Limited, none of the importers listed above have filed the Importer's questionnaire response.
- x. Indian Wind Turbine Manufacturers Association (IWTMA), an association of importers of the subject merchandise of the above investigation has requested to be the interested party in this investigation.
- xi. Initiation notification was sent to the following other domestic producers in India of the subject goods. However, none of the other producers have responded the same.
- a. Lakshmi Machine Works
 - b. Vaksh Steel Pvt. Ltd.
 - c. Walchandnagar Industries Ltd.
- xii. 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.
- xiii. The applicant had furnished transaction-wise imports data from the IBIS source and the Authority had relied upon the same prima facie for initiating the investigation.
- xiv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigations, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions, and relied upon the same in this finding. DG Systems data has been used to complement the analysis, wherever applicable.
- xv. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. Accordingly, the NIP for the domestic industry has been determined as per the PCN.
- xvii. The Period of Investigation for the purpose of the present investigation is from 1st April, 2014 to 30th September, 2015 (18 Months). The injury investigation period has however, been considered as the period from 2011-12, 2012-13, 2013-14 and the POI.
- xviii. The Authority held first oral hearing on 7th September, 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), which was attended by the representatives of domestic industry, exporters from China PR, exporter association, importers and importer association. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the

- views expressed by opposing interested parties.
- xix. Due to change in the incumbency of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, second oral hearing was conducted by the new Designated Authority on 16th December 2016 which was attended by the representatives of domestic industry, exporters from China PR, exporter association, importers and importer association. The hearing was restricted to the issue of change of ownership of the castings business division from M/S L&T to Bradken and the standing of the new petitioner. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally in pursuant to the said issue and were provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.
- xx. The Authority held the third oral hearing on 3rd May, 2017 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6(6), with regard to the merits of the case, which was attended by the representatives of domestic industry, exporters from China PR, exporter association, importers and importer association. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed orally. The interested parties were provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.
- xxi. The Department of Revenue has extended the time period for completion of this investigation up to 30th July 2017 in terms of Rule 17 (1) of the Rules.
- xxii. On the spot verification of the data of the domestic industry, as well as that of the cooperating exporters, was carried out to the extent considered necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of this finding.
- xxiii. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this finding.
- xxiv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as 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.
- xxv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded this finding on the basis of the facts available.
- xxvi. In accordance with the Rules the Authority issued a disclosure statement containing all essential facts of the case on 11th July 2017 for the comments of the interested parties. The comments of the interested parties, to the extent they are relevant, have been addressed in this finding in appropriate places.
- xxvii. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

xxviii. The exchange rate adopted by the Authority for the subject investigation is 1 US
\$= Rs 62.66

B. Product Under Consideration And Like Article

2. The Product under Consideration (PUC) in the present investigation is “Castings for wind-operated electricity generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators”. Castings for wind-operated electricity generators are also known as “windmill” or “wind turbine”.
3. A Windmill requires a number of casting parts, including the
 - i. Hub, Rotohub, Rotor Nabe,
 - ii. Main Frame, Base Frame, Main Foundation, Nacelle, Nacelle Frame, Nacelle Foundation,
 - iii. Bearing Housing, Bearing Support,
 - iv. Hollow Shaft,
 - v. Main Axle, Rotor Shaft, Main Shaft, Rotor Coupling, Axle Pin,
 - vi. Lateral Suspender,
 - vii. Pitch Stop, Stator,
 - viii. Generator castings, Part of Generators, Rotor,
 - ix. Torque Arm support, Gear Box.
4. The product scope includes only wind turbine casting within the scope of the PUC. Casting if imported in raw/unfinished/semi finished or if imported as a part of sub-assembly equipments are within the scope of PUC. The basic function of a casting is in a wind turbine, to be used in a wind mill along with some other non-casting parts and components like blades, etc. which leads to the generation of electricity.
5. The subject goods is subsumed within Customs sub-heading No. 8503 under the Customs Tariff Act, they are also being imported under other tariff heads viz; 84834000, 85030090, 85030010 in Chapter 84 and 85. However, customs classification is indicative only and in no way it is binding on the scope of the present investigation.
6. Petitioner has claimed that there is no difference in subject goods produced by the petitioner and exported from the subject country. Subject goods produced by the petitioner and imported from the subject country are having comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Subject goods produced by the domestic industry and imported from subject country are like article in accordance to the Rules.

Submissions made by exporter, importer and other interested parties

7. The following are the submissions made by exporters/importers/other interested parties with regard to scope of the product under consideration and like article:
 - i. The product involved is castings for wind-operated electricity generators also known as castings for windmills or wind turbines. The products is including varies shapes based on the customers' request, i.e. machined products, finished or sub-assembled products, parts of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators.
 - ii. There is no difference between the goods sold in home market and exported to other countries including India in physical/ Technical/ Chemical characteristics.
 - iii. M/S L&T has sought initiation of investigation against import "Castings of wind operated Electricity Generator" from China PR. However, the current investigation has been initiated vide the Initiation Notification against "Castings for Wind Operated Electricity Generators whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly, or part of an Equipment/ Component meant for Wind operated electricity generators". Designated Authority has nowhere clarified as to how scope of the PUC has been widened. It is not right on part of the Authority to suo moto revise the PUC to include parts thereof without giving any cogent reasons for the same and without justifying the scope has been enhanced. Initiation Notification has travelled beyond the mandate of M/S L&T – Designated Authority has not mentioned how the scope of PUC as per letter dated 24th July, 2015 has been broadened and the intention of widening the scope with cogent reasons.

Submissions made by the Domestic industry

8. The following are the submissions made by the domestic industry with regard to product under consideration and like article:
 - i. The product under consideration in the present investigation is "Castings for wind-operated electricity generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators".
 - ii. A Windmill requires a number of casting parts, including the Hub, Rotohub, Rotor Nabe, Main Frame, Base Frame, Main Foundation, Nacelle, Nacelle Frame, Nacelle Foundation, Bearing Housing, Bearing Support, Hollow Shaft, Main Axle, Rotor Shaft, Rotor Coupling, Axle Pin, Main Shaft, Lateral Suspender, Pitch Stop, Stator, Generator castings, Part of Generators, Rotor, Torque Arm support, etc.
 - iii. The product is primarily sold in pieces/nos. The price depends upon the design, size, weight, and processing involved in a particular casting. Two castings of the same nature like HUB of two different windmills may not be the same in terms of associated weight, design, machining and process involved. Hence, the two may

- differ significantly in terms of cost and price.
- iv. The basic function of a casting is in a wind turbine, to be used in a wind mill along with some other non-casting parts and components like blades, etc. which leads to the generation of electricity.
 - v. The product under consideration is classified under Chapter 85 of Customs Tariff Act, 1975 which covers “Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles”. The product does not have dedicated classification.
 - vi. Petitioner had suggested a PCN system which is used for identifying the product type for determination of dumping margin, price undercutting and injury margin. Even when the same has been adopted by the Designated Authority and no party has made any submissions in this regard.
 - vii. This PCN system was also used for determination of injury margin in the CVD case, wherein the final findings have already been notified.
 - viii. The average price of PUC is misleading. In fact, dumping margin, price undercutting and injury margin have been determined on PCN basis only for the reason that the average price analysis is misleading.
 - ix. There are no known differences in subject goods produced by the petitioner and exported from China PR. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. The goods produced by the domestic industry are comparable to the imported goods from China PR in terms of essential product properties. In fact, the subject goods are largely produced to meet specific customer requirements. The goods offered by the domestic industry are like article to the goods imported from China PR. All parts are made only as per customer specifications.
 - x. The scope of the investigation is the same as the scope of the product under consideration in the petition. There is no enhancement.

Examination by the Authority

9. The meaning and scope of the product under consideration was defined by the Authority in the initiation notification as follows:

“The product under consideration in this investigation is “Castings for wind operated electricity generators also known as castings for windmills or wind turbines, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators”.

4. A Windmill requires a number of casting parts, including the Hub, Rotohub, Rotor Nabe, Main Frame, Base Frame, Main Foundation, Nacelle, Nacelle Frame,

Nacelle Foundation, Bearing Housing, Bearing Support, Hollow Shaft, Main Axle, Rotor Shaft, Rotor Coupling, Axle Pin, Main Shaft, Lateral Suspender, Pitch Stop, Stator, Generator castings, Part of Generators, Rotor, Torque Arm support, etc. These castings are used in the wind turbines along with some other non-casting parts and components like blades, etc. which leads to the generation of electricity. All such castings, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators are covered in the present investigation.”

10. The arguments of interested parties have been examined by undertaking on the spot verification at the premises of the petitioning companies and calling relevant information from the parties.
11. Following are the observations made by the Authority in regard to the product under consideration:
 - i. The product under consideration in this investigation is “Castings for wind operated electricity generators also known as castings for windmills or wind turbines, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators”.
 - ii. A Windmill requires a number of casting parts, including the Hub, Rotohub, Rotor Nabe, Main Frame, Base Frame, Main Foundation, Nacelle, Nacelle Frame, Nacelle Foundation, Bearing Housing, Bearing Support, Hollow Shaft, Main Axle, Rotor Shaft, Rotor Coupling, Axle Pin, Main Shaft, Lateral Suspender, Pitch Stop, Stator, Generator castings, Part of Generators, Rotor, Torque Arm support, etc. These castings are used in the wind turbines along with some other non-casting parts and components like blades, etc. which leads to the generation of electricity. All such castings, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators are covered in the present investigation.
 - iii. Although the product under consideration is classified under Customs sub-heading No. 8503 under Chapter 85 of Customs Tariff Act, 1975, as reported by the domestic industry and reflected in the relied upon imports data obtained from DGCI&S, the PUC is being imported under various other heads as well. However, customs classification is indicative only and not binding on the scope of the investigation.
 - iv. The product under consideration has also been collectively referred to as castings for wind operated electricity generators (W.O.E.G). The basic function of a casting is to be used in a wind mill along with some other non-casting parts and components like tower, blades, etc. which leads to the generation of electricity. A windmill requires a number of casting parts including Hub, Rotohub, Rotor Nabe,

Main Frame, Base Frame, Main Foundation, Nacelle, Nacelle Frame, Nacelle Foundation, Bearing Housing, Bearing Support, Hollow Shaft, Main Axle, Rotor Shaft, Rotor Coupling, Axle Pin, Main Shaft, Lateral Suspender, Pitch Stop, Stator, Generator castings, Part of Generators, Rotor, Torque Arm support, etc.

- v. In view of the above, the Authority holds that the scope of the product under consideration defined in the notice of initiation is appropriate and defines the scope of the product under consideration as follows:

"Castings for wind-operated electricity generators also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators"

12. With regard to like articles, Rule 2(d) of the AD Rules provides as under: -

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

- vii. The petitioner claimed that the goods are produced as per requirements and specifications given by the consumer/buyer and therefore the goods supplied by the domestic industry and Chinese suppliers have to conform to the specifications laid down by the consumers.
- viii. The product is primarily sold in pieces/nos. The price depends upon the design, size, weight, and processing involved in a particular casting. Two castings of the same nature like HUB of two different windmills may not be the same in terms of associated weight, design, machining and process involved. Hence, the two may differ significantly in terms of cost and price.
- ix. In view of the above, the authority holds that subject goods produced by the domestic industry are like article to the product under consideration imported from China in terms of the Rules.
- x. The product is model specific depending upon the design and capacity of the wind mill required by the wind mill producers. Both the domestic producers and exporters supply to the same wind mill producers in India.

PCN derived by the Authority-

- xi. The petitioner had determined dumping margin, price undercutting and injury margin at the time of application by following criteria to differentiate different types of the product under consideration.
- xii. Post initiation, and after receipt of questionnaire responses from various interested parties, Authority has derived the Product Code Number (PCN) for the collection and analysis of data vide communication dated 4th March,

2016. The authority proposed following criteria [modal match criteria or product control number system (PCN system)] to differentiate different types of the product under consideration in order to determine dumping margin, price undercutting and injury margin.

Parts	PC N	Stage	PC N	Customer	PC N	Capacity		PCN
HUB	A	As Cast	C	Enercon	A	-	-	NPUC
Main frame	B	As Machining	M	Windworld	A	100	299	A
Frame	B	Assembling	A	Gamasa	B	300	499	B
Nacelle	B			Garuda	C	500	699	C
Base frame	B		Global Wind	D	700	899	D	
Main Carrier	B		Hansen	E	900	999	E	
Main frame	B		ZF Wind Power	E	1000	1000	F	
Housing	C		Innoven	F	1001	1199	G	
Main Cover	C		Inox	G	1200	1399	H	
Side Bearing	C		Kenersys	H	1400	1599	I	
Hollow shaft	D		Leitner	I	1600	1799	J	
Axle Pin	E		LSML	I	1800	1999	K	
Main Axle	E		Prakash industries	K	2000	2000	L	
Rotor Coupling	E		Regen	L	2001	2099	M	
Lateral Suspender	F		Vestas	M	2100	2100	N	
Pitch stop	F		Win wind	N	2101	2299	O	
Rotor	G		Winergy	P	2300	2499	P	
Stator	G		Suzon	Q	2500	2699	Q	
Rotor Casted	G		Repower	R	2700	2899	R	
Torque Arm	H				2900	3099	S	
Down Holder	O			3100	3299	T		
Slider Claw	O			Above 3300		Z		
Yaw Base Bottom	O							
Unibody ABS Ring	O							
Blade Adaptor	O							
804 Planet Carrier	O							
Planet Carrier	O							
Ring Base	O							
Yaw Top	O							

xiii. On perusal of essentials facts and on analysis of PCNs exported by various co-operative exporters and PCN produced by the domestic industry, it was noted that two parts namely Hub and Main Frame (PCN for part A & part B) constituted majority of the volume and the rest of the parts which were large in number but each having negligible contribution in volume. Capacities associated with each part were also regrouped and bundled into four ranges as the pricing was largely determined on weight basis for Part A and B. Therefore, in order to facilitate a fair comparison, the PCN devised during initiation of investigation were regrouped and rationalized as follows.

Parts	PCN	Stage	PCN	Capacity	PCN
HUB	A	As Cast	C	-	-
Main frame	B	As Machining	M	100	999
Frame	B	Assembling	A	1000	1499
Nacelle	B			1500	1999
Base frame	B			2000	5000
Main Carrier	B				
Housing	O				
Main Cover	O				
Side Bearing	O				
Hollow shaft	O				
Axle Pin	O				
Main Axle	O				
Rotor Coupling	O				
Lateral Suspender	O				
Pitch stop	O				
Rotor	O				
Stator	O				
Rotor Casted	O				
Torque Arm	O				
Down Holder	O				
Slider Claw	O				
YAW BASE BOTTOM	O				
Unibody ABS Ring	O				
Blade Adaptor	O				
804 Planet Carrier	O				

Planet Carrier	O
Ring Base	O
Yaw Top	O
Wedge	O

17. The newly devised PCN was communicated to the interested parties vide communication dated 25th May, 2017. Comments were invited from all interested parties considering the PCN system determined by the authority. The same has been examined and addressed wherever applicable.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions by producers/exporters/importers/other interested parties

18. The following are the submissions made by exporters/importers/other interested parties have made any submissions in this regard:

- i. The investigation was initiated at the behest of M/S L&T and not at the behest of the manufacturing unit producing the subject goods.
 - The investigation was initiated following a petition filed by L&T.
 - The document available in the public file shows that M/S L&T has filed the original petition and the revised information thereafter.
- ii. Petition is being filed by M/S L&T and the address of the petitioner has been shown as their Mumbai office's address. Bradken has not filed the petition and can't be considered as the petitioner. Mere sale of the Coimbatore business division by M/S L&T to Bradken doesn't allow Bradken to be considered as the petitioner.
- iii. In initiation Notification, M/S L&T was designated as the petitioner and also the Domestic Industry. As per letter dated 11th March, 2016, filed by Bradken, purchased the Coimbatore division from L&T. As per letter filed with BSE Ltd., it has been stated that an agreement for sale of the said business division was entered into between M/S L&T and Bradken on 11th Nov 2015. Approval from Competition Commission was obtained on 20th Jan., 2015. However, no such information has been filed with DGAD by L&T.
- iv. The corporate structure and cost of production of the manufacturing unit located in Coimbatore are affected by the new legal entity which is part of a large group of companies having an Australian parent company.
- v. The sale of the manufacturing unit located in Coimbatore to Bradken was engaged well before the initiation of the present investigations which took place on 1st Feb, 2016.
- vi. The first installment of the consideration for sale was made on 18th May 2015, much before the initiation. The agreement in respect of all terms of

sale had been reached much before the final acquisition. The agreement to make sale had concluded during the period of investigation itself. It was obligatory for L&T, to inform the Authority immediately about such development which was not done.

- vii. Notice was filed on 10th Dec., 2014, under sub-section (2) of Section-6 of the Competition Act, 2002 given by Bradken Operations Pty. Limited. The notice was tiled pursuant to the execution of a Business Transfer Agreement between Bradken and M/S L&T on 11.11.2014. Approval of CCI was obtained on 20th Jan., 2015.
- viii. Order of CCI shows that process of transfer of Coimbatore Business division to Bradken by L&T, had taken place as early as 11.11.2014. It was an onus duty of L&T, to inform the Authority about such transfer agreement.
- ix. As per information provided to BSE, Agreement between L&T, and Bradken for sale of business division was concluded on 11th Nov., 2015 much before the present investigation satisfied. It was obligatory on the part of M/S L&T Ltd., to intimate the Hon'ble Designated Authority about such change in ownership which was not done.
- x. As per the initiation notification, M/S L&T is the domestic industry and continues to be in the present investigation. Change in the legal status of domestic producer is a ground for MTR.
- xi. New application needs/can be filed by Bradken to be considered as the Petitioner.
- xii. Communications have been made by TPM Consultants on behalf of L&T, and not on behalf of Bradken, India. TPM Consultants continued to represent M/S L&T as M/S L&T never notified that TPM Consultants are no more representing them in this matter, till this issue has been raised by interested parties. M/S L&T is still having facilities which can manufacture the subject goods with an installed capacity of 850 Mt.
- xiii. Bradken has informed the DGAD about the sale and not L&T. It was an obligation of M/S L&T to notify DGAD as the petition was filed by M/S L&T itself.
- xiv. M/S L&T shall have filed copy of agreement along with its Board resolution. No such documents have been filed. Bradken shall have filed valuation report for the business division. However, no such document was ever filed by Bradken. Two-page letter by Bradken has been filed without any supporting documents.
- xv. With the change in ownership, there is a strong possibility that there is a change in capacity and various other parameters also as M/S L&T is multi-product company and Bradken India is a single product company. The present cost and all injury parameters are relevant for the current owner of the unit and not of the earlier owner.

Submissions made by the Domestic industry

19. Following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:

- i. The present petition has been filed by Larsen & Toubro Limited whose production constitutes more than 50% of Indian production. M/s Patel Alloys Steels Pvt. Limited has supported the petition. Petitioner is eligible producer of the subject goods in India.
- ii. Production of the petitioner constitutes a major proportion in Indian production. The petitioner, therefore, constitutes domestic industry and satisfies the requirement of standing under the Rules. Further, the petitioner has not imported the product under consideration, nor are they related to any importer or exporter of the product under consideration.
- iii. Business Transfer Agreement between the two companies, M/S L&T & Bradken, materialized after the initiation of the investigation. Investigation was initiated following a petition filed by M/S L&T and the documents available in the public file shows that M/S L&T has filed the original petition and the revised information thereafter. The Business Transfer Agreement materialized post initiation of the investigation and the change of ownership was well intimated to the Authority vide letter dated 11th March, 2016, by the Bradken itself.
- iv. The BTA mentions that any rights and obligations arising in these legal proceedings are to Bradken's account. Bradken had been conferred upon with all the rights and all the liabilities that were with M/S L&T in so far as this business division is concerned. M/S L&T continues to remain responsible for other previous legal proceedings barring the ones arising under this agreement.
- v. At the time of initiation of investigation, M/S L&T was the owner of the Coimbatore Business division, and the business transfer agreement got concluded post initiation of the investigation. The letter filed by Bradken clearly states that the company is interested in order to continue the investigation and for which they authorize M/s TPM Consultants. The Authority may notify the change of ownership in the finding and clearly mention that both M/S L&T and Bradken are considered as the petitioners.
- vi. If Designated Authority wants M/S L&T to inform the development or any other aspects involved therein, the Designated Authority can write to L&T. Because M/S L&T has not informed Designated Authority does not mean the investigation should be terminated.
- vii. The petition, as filed on 29th July, 2015 by L&T, states that the contact person for the petitioner is Dr. Nithyanandan Devaraaj who was the head of Foundry Business Unit Operations at Coimbatore. Later, when on 11th March, 2016, Bradken India wrote a letter to DGAD informing that the unit has been acquired by it; the same was signed by Dr. Nithyanandan Devaraaj, who is now the President & Director of Bradken India. Thus, the petition which was filed on 29th July, 2015, was in fact signed by the

business unit which has been sold and the letter sent to DGAD informing about the sale, was also done by the business unit.

- viii. Both M/S L&T and Bradken should be considered as the petitioners and Bradken has not substituted M/S L&T as the petitioners. Bradken has impleaded itself before the Authority with regard to present investigation and imposition of duty.
- ix. Bradken has provided all relevant data and clarified all facts regarding present petition for which POI is April 2014- September 2015.
- x. Bradken has provided all documents and proof of taking over of business.
- xi. There is no change in the operating structure, production facility and business unit. Also, the nature of various activities of the business division vis-à-vis production, sale etc of subject goods remains the same as compared to the position before acquisition.
- xii. If the business division was part of corporate legal entity, it is natural that the petition would be signed by the manufacturing operations as L&T. However, entire production and product data pertains to the manufacturing location. Further, M/S L&T has not till date withdrawn the letter.
- xiii. The petitioner was bound by the confidentiality clause of the Agreement. Further, ongoing negotiations do not mean that the agreement was complete. Informing to BSE & CCI is one of the procedural requirements and essentials to materialize the Agreement which is the requirement under the law. The interested parties should be well aware of the requirements of the sale purchase being done by any public ltd. company. These procedures have been followed by Bradken and M/S L&T in letter & spirit.
- xiv. Immediately after the agreement was complete, Bradken has informed the Authority about the Business transfer agreement and gave the authorization to TPM consultants vide letter dated 11th March 2016. Further all the communications made by TPM consultants were made on the behalf of Bradken and not L&T. TPM got authorization from Bradken, vide letter dated 11th March, 2016, all further filings done by TPM were on the behalf of Bradken and not L&T.
- xv. The process and negotiations of sale of the business division of Coimbatore from M/S L&T to Bradken may have started way back but the agreement was completed on 4th March, 2016 i.e. post initiation of the investigation. The parties to the agreement were bound by the confidentiality clause of the agreement. M/S L&T could not have informed the Designated Authority or parties about the development, unless it materialized in the form of signature.
- xvi. Standing is required to be determined in respect of petition and not petitioner. The standing is determined on the basis of production and producer is relevant only to the extent that the production has been done by a legal entity. The updated data for the present petition has been filed by Bradken India Pvt. Ltd.

- xvii. The present business transfer is by way of slump sale and the transfer of the unit was done on the basis of ongoing concern. Financial performance and injury information is not impacted by any sale or purchase of business. At the time of sale, the book value of assets and the capital employed had no other revenue implication. Thus, there was no impairment of assets. Instead, there is upward valuation of assets, requiring higher level of profits. Since, there is not impairment of assets, the capital employed is required to be reduced because of change of ownership. In fact, the Designated Authority should now determine return on investment to the domestic industry on the basis of the valuation that has been considered for sale-purchase transaction.
- xviii. M/S L&T is still having another plant of the subject goods at Kansbahal, Odissa, which suspended production in the year 2012-13.
- xix. Till date the MTR conducted by the Authority only after the imposition of the finding. The fact that change in legal status of domestic producer calls for MTR in fact shows that duties imposed and in force shall not be withdrawn, and rather be reviewed. In the present case the investigation is still going on and duty is yet to be imposed so no question of doing MTR. Change in legal status of domestic producer does not establish a need for MTR, as the Designated Authority will have to be consider whether mere change in legal status of domestic producer is sufficient enough to bring significant change in dumping margin or injury margin or any other parameters relevant to imposition or continuation of ADD.
- xx. Authority has conducted on the spot verification at the premises of the petitioner and Chinese companies. If the Petition lacked standing, the interested parties would not and should not have offered verification and the Designated Authority should not have conducted verification.
- xxi. M/S L&T still continued the present petition itself shows that despite sale of the business, the company continued with the petition. Under the law, the petition can be filed by or on behalf of domestic industry. In that case, it should be construed that M/S L&T continued the petition on behalf of domestic industry.
- xxii. There is no relevance of such documents pertaining to a company who has sold the business division. The status of new entity is required to be examined. Not the status of entity who has sold the business.
- xxiii. The argument is based on possibilities and conjectures. The Designated Authority has actual information on record and the same may be considered.
- xxiv. Sale of entire company and sale of PUC operations cannot be distinguished under the law.
- xxv. Parties cannot be sitting silent on the issue for several months. No jurisprudence has been provided to show that the present petition is not maintainable.

- xxvi. The annual report just talks about that the Bradken is planning to acquire a foundry in India. Till the stage the sale is complete the parties are bound by the confidentiality clause of the agreement.
- xxvii. The company has audited accounts for its Coimbatore location where PUC is produced and the same has formed the basis of entire data/information in the petition.

Examination by the Authority

20. Rule 2(b) defines domestic industry as under:-

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers"

21. The Authority notes that the petition has been filed by Larsen & Toubro Limited. Subsequently, a copy of support letter by M/s Patel Alloys has been submitted along with information concerning capacity, production and sales. The production by the petitioner constitutes a major proportion in the Indian production of the subject goods. Petitioner has neither imported the product under consideration from the subject country during the POI nor is related to either importers or exporters of subject goods from the subject country.
22. On the basis of sufficient prima facie evidence of dumping of the subject goods from the subject country; injury to the domestic industry; and causal link between the dumping and injury exist, the Authority initiated the present investigation vide notification no. 14/28/2013-DGAD dated 1st February 2016 to examine the alleged dumping, and consequent injury to the domestic industry, to determine the existence, degree and effect of alleged dumping, if any, and to recommend the amount of antidumping duties, which if levied would be adequate to remove injury to the domestic industry.
23. On 4th March, 2016, M/s Larsen & Toubro Limited sold the business relating to the product under consideration to M/s Bradken India Pvt. Ltd. (hereinafter referred to as "Bradken") through a Business Transfer Agreement. The business division of the company situated at Coimbatore has continued the operations in the name of Bradken India Private Limited w.e.f 4th March, 2016. The Designated Authority was informed about the same by Bradken vide its letter dated 11th March, 2016. Bradken specifically mentioned that the Designated Authority should continue the investigation and recommend anti dumping duty on imports of the product under consideration. In the said letter, apart from giving authorization to TPM Consultants to represent them in the present investigation before the Directorate General of Anti-dumping and Allied Duties, it was also mentioned that, in case, the Designated Authority requires any information regarding

the acquisition of the business as well as business division of the product under consideration by Bradken, they are willing to assist.

24. The said reported event was made known to the interested parties by the Designated Authority by placing the non confidential version of the letter in the public file immediately thereafter. Even when petitioner had informed the Designated Authority about the said development on 11th March, 2016, none of the interested parties made any submissions whatsoever which could establish that the petitioner no longer had standing to maintain the present petition.
25. M/S L&T filed a petition for imposition of anti-dumping duties. Initiation of the investigation by the Designated Authority conferred a legal right on L&T, as this initiation resulted in conferment of valuable right onto M/S L&T which has been transferred to Bradken in pursuance of the Business Transfer Agreement. M/S L&T continues to remain responsible for all other legal proceedings going on in M/S L&T in the country or globally, barring the proceedings relating to this business division. M/S L&T has not filed any communication withdrawing the present petition. If deemed appropriate, the Designated Authority may write to M/S L&T to seek appropriate clarification.
26. In terms of Business Transfer Agreement, all rights with M/S L&T with regard to this business division have been transmitted to Bradken. Bradken has been in particular conferred all rights available to M/S L&T in so far as business division at Coimbatore are concerned. At the same time, Bradken has also acquired all liabilities that were earlier with M/S L&T in so far as this business division is concerned. And, all other rights and liabilities with M/S L&T for any of the division other than Coimbatore unit continue with L&T.
27. Vide letter dated 4th April, 2016, petitioner had filed copies of the non-confidential version of updated data for the POI chosen by the Designated Authority for the present petition has been filed by M/s Bradken India Pvt. Ltd. Thus, not only M/s Bradken India provided updated data, but also clarified facts with regard to past petition. Further, the POI in the present case is April, 2014- September, 2015, a period during which the ownership was with M/S L&T and data for this POI was provided by M/s Bradken India.
28. The Designated Authority asked the petitioner to file “all supporting documents and proof of taking over of the business division from M/s Larsen Toubro Ltd. immediately for further examination” vide email dated 9th May 2016 and the same was submitted by the petitioner via letter dated 17th May, 2016.
29. The acquisition of the Coimbatore unit was done as going concern basis. This combination has been registered with Competition Commission of India as *Combination Registration No. C-2014/12/229* with respect to Section 5 of the CCI Act. There are no changes in assets, production, capacity or any other parameters. Only the ownership has been changed from M/S L&T to M/s Bradken.
30. Further, in reply to the mail dated 9th September, 2016, sent by the Designated Authority,

the costing information of M/s Bradken along with other information was submitted by the Petitioner via letter dated 12th September, 2016.

31. The authority has conducted on the spot verification at the premises of the petitioner and Chinese companies. The issue of standing was discussed by the DGAD and clarifications sought to the extent deemed appropriate by the officers at the time of verification.
32. At the time of previous anti subsidy investigations, the injury period was 1st October, 2012 to 31st December, 2013, the authority directed the petitioner to segregate the information for two plants (which is the normal procedure for verification of information). Thereafter, in the final findings, the authority has adopted information relating to only Coimbatore business division and has discarded the information relating to Kansbahal Plant. Even when M/S L&T was a petitioner in the previous case, the authority had discarded information relating to Kansbahal plant. M/S L&T has not sent any communication to the authority stating therein their unwillingness to provide any information required by the authority with regard to their Kansbahal plant which had formed a part of petition. In fact, M/S L&T has not till date even withdrawn its request for imposition of ADD.
33. Therefore, the Authority holds that the applicants M/S L&T & M/s Bradken both constitute petitioner in the present case. M/S L&T has sold the castings producing unit to the M/s Bradken as an ongoing concern under which there is no impairment of assets have taken place. M/s Bradken has impleaded with the Authority in order to continue the investigation and impose the anti dumping duty and not substituted L&T. The Authority holds that ideally the information regarding the sale and purchase of the unit should have been intimated at the earliest. However, the omission is not substantive enough to vitiate the proceeding of the investigation.

Particulars	UOM	2011-12	2012-13	2013-14	POI (A)
Petitioner					
L&T	MT	9,923	5,574	7,434	12,157
Index		100	56	75	123
Supporter					
Patel Alloy Steel (P) Ltd.	MT	4,268	176	201	121
Index		100	4	5	3
Petitioner + Supporters	MT	14,191	5,750	7,635	12,278
Index		100	41	54	87
Other Producers	MT	3,100	2,900	3,000	3,200
Index		100	94	97	103
Indian Production	MT	17,291	8,650	10,635	15,478
Index		100	50	62	90
Share	UOM	2011-12	2012-13	2013-14	POI (A)
Petitioner					

L&T	%	57%	64%	70%	79%
Index		100	112	122	137
Supporter					
Patel Alloy Steel (P) Ltd.	%	25%	2%	2%	1%
Index		100	8	8	3
Petitioner + Supporters	%	82%	66%	72%	79%
Index		100	81	87	97
Other Producers	%	18%	34%	28%	21%
Index		100	187	157	115
Indian Production	%	100%	100%	100%	100%

34. Further, petitioner command a major proportion of the production of the subject goods in India and for the purpose of this investigation the applicants satisfies the standing requirement in terms of Rule 5(3) and constitutes the domestic industry in terms of Rule 2(b) of the AD Rules.

D. CONFIDENTIALITY

Submissions by exporter, importer and other interested parties

35. The exporter, importer and other interested parties made the following submissions:

- i. The petition lacks adequacy and accuracy, required under rule 5 and 7 of Anti-dumping Rules. Data given by the DI is insufficient and inconsistent. Excessive confidentiality claimed by the DI.
- ii. Soft copy of the import data on a transaction-by transaction basis as recorded by the DGCI&S during the POI has not been furnished even after the decision by Delhi High Court in Sandisk international Ltd. vs The Designated Authority & Ors.
- iii. Data provided in NCV are confidential and against Rule 7 of ADD. Non confidential version of the information should allow interested parties to exercise their rights of defense throughout the investigation.
- iv. DI is silent on Section VI i.e. costing data.
- v. Castings require all utilities such as power, steam or any other utilities and Petitioner has not provided such information as working capital, interest in terms loans, overdue and or compounding interest, depreciation, details of miscellaneous income and details of WIP, Return profit: Statement showing desirable return on capital equity along with justification in support thereof.
- vi. Gross fixed assets are not as per Annexure III of ADD Rules and kept confidential
- vii. Purchase policy including long terms contracts for major materials.
- viii. Sales Policy indicating marketing distribution channels, commission/discount policy, credit terms etc., sale policies to bulk consumers.

- ix. Stores accounting and inventory stock, WIP Valuation.
- x. Quality control procedure and tests being conducted.
- xi. Why Import data of major consumers sourced from IBIS Import data has been claimed confidential unless it is wrong and manipulated data. The Authority shall direct the Petitioner to disclose this information.
- xii. Excessive Confidentiality claimed against the judgement given by Hon'ble Supreme Court in the matter of *Alkali Manufacturers Associations of India vs. Designated Authority 2006 (194) E.L.T 161* and *Reliance Industries vs. Designated Authority 2006 (202) EL T 23 (SC)*. Confidentiality claimed in Sales Volume data, Summary of DM, IM & Price Undercutting cannot be accepted.
- xiii. The consumer wise import data is not confidential in nature.

Submissions by Domestic industry

36. The Domestic Industry made the following submissions:

- i. The raw import data sourced from DGCI&S is confidential information. Some interested parties had earlier misled the Hon'ble High Court of Delhi in believing that bill of entry wise data is publically made available by DGCI&S and a party can obtain this information even under RTI. However DGCI&S does not publically make available bill of entry wise import data and provides month wise, country wise import data at 8 digit level. This, however, cannot be construed as bill of entry wise data, which is largely understood by DGAD as transaction wise data. Month wise country wise data and bill of entry wise data are different information and are poles apart. The issue is already under consideration before Hon'ble Supreme Court, who has since stayed the order of Hon'ble High Court of Delhi. Notwithstanding the stay order, the petitioner has already made available bill of entry wise import data.
- ii. Domestic industry has claimed only such information as confidential, confidentiality of which is provided under Rule 7. The Rules provide that information which is confidential in nature or which has been provided on confidential basis can be treated confidential by the Authority. Thus, any information provided to the Designated Authority on the grounds that it is confidentiality shall have to be kept confidential by the Authority.
- iii. The domestic industry has not claimed any information as confidential which is available in public domain.
- iv. The consumer wise import data is confidential in nature. There is no wrong data provided to the Authority and the actual figures are submitted with the Authority. The Authority may call the information from the interested parties and may verify the same.

- v. In the present case, the responding exporters have resorted to excessive confidentiality and have not provided even such information which is publicly available.
- vi. The interested parties cannot simply withhold some information from the domestic industry. Even if some information is fully confidential, the interested parties are obliged to provide sufficient NCV of the same and not blank pages, permit the domestic industry to reasonably understand the substance of the information and have full right of defense.
- vii. Designated Authority is not required to mechanically treat the information provided by a party as confidential merely because that party has desired it to be kept confidential. Rules confer discretion upon the Designated Authority to consider the request for confidentiality made by a party and if it is satisfied that the same is not warranted or that the supplier of the information is unwilling to make information public or to authorize its disclosure in a generalized or summary form, it may disregard such information.

EXAMINATION BY AUTHORITY

37. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule(2),(3)(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2)The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

38. Submissions made by the interested parties with regard to confidentiality and considered

relevant by the Authority are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

E. Misc. submissions made by interested parties and the Examination thereof

Submissions by exporter, importer and other interested parties

39. The exporter, importer and other interested parties made the following submissions:

- i. The present investigation is affected by severe procedural deficiencies. Absence of original petition.
- ii. The Petitioner has significantly impeded the investigation and should be considered as non-cooperative by filing four different sets of containing contradicting data. US - Hot-Rolled Steel and in Egypt Rebar the Panel and Appellate Body ruled that any cooperating party should act in good faith during the investigation.
- iii. The Petitioner has submitted four different sets of data containing contradicting information and no explanation provided to explain the discrepancies in data; waited for three months before providing clarification on two letters dated 4 April 2016 and only provided clarification on the eve of the public hearing. A new set of data filed on 12th September 2016.
- iv. Serious doubts about authenticity and accuracy of import data as different figures of imports volumes and value have been claimed in the CVD and ADD investigations.
- v. The frequency of changes in data has only raised questions on credibility and accuracy of the Petitioner's claims and allegations. Guatemala case (WT/DS60/AB/R) - sufficiency' of the evidence shall not rely on its accuracy and adequacy' and it shall be the discretion of the authority to decide- adequacy and accuracy' may be ignored by DA, but for that the evidence needs to be sufficient. The initiation should be quashed and a fresh initiation and examination of the data for the revised POI should be carried out if Authority is satisfied with the data as required in Rule 5.
- vi. If anti-dumping duty were to be imposed in the form of a fixed amount this amount of duty should take into account the wide scope of the subject goods and should be adapted to each types of castings.

- vii. Any determination of the injury should exclude factors other than limited imports. The residual CVD imposed on imports of castings were equal to the subsidy margin and injury margin was higher. DI has to wait for reasonable amount of time for CVD to show impact on injury caused and not resort to forum shopping, claiming injury on inaccurate and misleading data to eliminate competition.
- viii. Letter of support by M/s Patel Alloys Steels (P) Limited alone is not sufficient- Direct Patel alloy to file response giving their economic parameters; simple support letter is not sufficient.
- ix. Why Import data of major consumers sourced from IBIS Import data has been claimed confidential unless it is wrong and manipulated data.
- x. The Petition is silent about as to how the number/pieces have been converted into MT.
- xi. POI fails to take into account the impact the CVD on the imports and the price of PUC imported from the subject country. POI should have been selected to investigate whether the levied CVD duties have addressed the material injury faced by the DI. The CVD should not be double counted when levying any ADD as required under Customs Tariff Act, 1975 to the extent of export subsidies should be subsumed in the ADD levy to ensure that there is no unfair double levy.
- xii. POI fails to take into consideration the sale of Coimbatore which suggests that the Petitioner could not have been injured due to the imports.
- xiii. The situation and profitability have improved post the imposition of the CVD which would have lead to an increased valuation of the unit thus making the sale by M/s Bradken a viable option. DA should call upon the Project Report to accurately assess the profitability and growth predictions of the company.
- xiv. The Present Initiation is in Contravention of ADD Rules due to exclusion of Hong Kong and changing the POI after the initiation.
- xv. Updated data filed by the petitioner has the imports coming from Hong Kong during the POI which is above 3%, which is above the de-minimis margin. Price of imports from Hong Kong are 2%-3% that the price of goods coming from China. The price undercutting for China is 20-30%, then in such situation the price undercutting for Hong Kong will be much more less. Hong Kong is not only above de minimis but also at a price lower than the subject imports. There is not only a breach in causality due to the exclusion of Hong Kong.
- xvi. The DI should provide proof of transshipment from Hong Kong. The DA must seek information on export from Hong Kong.
- xvii. Petition filed on September 29, 2015 is referring to Initiation Notification issued on February 1, 2016. The Respondent is not able to find out reason how a document that was filed almost 5 months prior to issuance of the Initiation Notification can very accurately specify the Initiation Notification. However, legal representative of M/S L&T submitted that this

was a minor error and that as per practice being followed in the DGAD, non-confidential version of the Petition is required to be filed after issuance of the Initiation Notification. Such irresponsible statements made before the Authority shows approach of the Petitioner towards the current investigation and puts question mark on the sanctity of present investigations.

- xviii. Rule 5 of the AD Rules, nowhere mentions that two versions of petition have to be filed, one while applying for initiating of investigation and other i.e. non-confidential version after issuance of initiation notification. If there is any specific provision confirming what M/S L&T submitted during the Public Hearing, then they must make other interested parties aware of the same. The procedure followed by the Petitioner is unlawful and the Hon'ble Designated Authority must dismiss the Petition. This action of the Petitioner is not only fatal to the present investigation but unethical also and calls for serious review of the current procedure being followed in the matter of conducting ADD investigations.

Submissions by Domestic industry

40. The Domestic Industry made the following submissions:

- i. Petition with regard to the imposition of anti dumping duty was filed way back in the year 2013. The reason for mentioning the word “*updated petition*” on the NCV petition is due to the repeated filing of petition since the year 2013.
- ii. Quality and quantity of information and evidence improves, as an investigation progresses. Purpose of initiation is to gather relevant information. The requirements of Rule 5 and 6 have adequately been met.
- iii. The Designated Authority has not recorded a finding recommending anti-dumping duties upon initiation of investigations. Information sufficient for the purpose of initiation may not be sufficient for the purpose of determination and information required for determination need not be insisted upon at the time of initiation.
- iv. There is some difference in some of the statistics between NCV petition denoted as updated petition dated 29th September, 2015, two letters dated 4th April, 2016 and the letter filed on 12th September, 2016. The four different sets of data filed are-

SN	Name	Date	Reason for variation in data
i.	Updated petition	29 th September, 2015	Based on IBIS data, having POI- 2014-15
ii.	First letter	4 th April, 2016	Based on IBIS data, having POI- April, 2014-September, 2015- Having some calculation error in the

			figures of imports and return on capital employed
iii.	Second letter	4 th April, 2016	Based on IBIS data, having POI- April, 2014-September, 2015, filed to rectify the error, dated 4 th April, 2016 received in DGAD on 18 th April, 2016
iv.	Third letter	12 th September, 2016	Based on DGCI&S data, having POI- April, 2014-September, 2015. Letter filed based on revised data filed as per directions of the DGAD

- v. Petitioner has already provided the explanation with regard to the discrepancy in the data filed vide letters dated 4th April, 2016 through letter filed dated 6th September, 2016, acknowledging the error made.
- vi. There is no discrepancy in the data filed in the letter dated 4th April, 2016 and in the letter filed on 12th September, 2016 as the letter filed on 4th April, 2016 was based on IBIS data whereas the later was based on DGCI&S data.
- vii. The Authority in the present investigation has already formed the PCN looking at the wide range of products within the range of PUC followed the same principle in the CVD investigation concluded in November, 2015.
- viii. The Designated Authority has issued questionnaires only to exporters and importers and not issued any questionnaire to consumers or their association. Consumers are being represented through association, it is imperative that the authority calls information from consumers and from such consumer association as neither the user association nor the consumers have filed any information whatsoever considering that the imports have been made by them. DA may kindly direct the association to provide relevant information as specified in rules.
- ix. Petitioner reiterates that the numbers have been converted into Weights by the following methods- PCN wise we make the same castings or have made them before. In cases where we do not make, these have been estimated based on market information.
- x. The domestic industry was continuously facing injury since 2012 as the first petition was filed in the year 2013. Meanwhile the CVD was imposed, which is still unable to redress the injury. Authority cannot wait for the industry to be wiped off in order to see the impact of CVD imposed. Post imposition of CVD, the performance of the domestic industry has deteriorated.
- xi. ADD case was initiated on 1st February, 2016 for which the CV petition was filed on 29th July, 2016. The POI in the same petition was appropriately taken

as March 2014 to April 2015. The CVD duty was imposed on 19th January, 2016. In order to see the impact of CVD duty, it was not feasible to wait when the CVD was not even imposed and the duty was not able to redress the injury being faced by the domestic industry. Nor, there is a legal obligation to take into account the effect of CVD. The only obligation is to address dual remedy issue.

- xii. The exporter has compared the figures of volume of imports given in updated petition, which was based on 2014-15 data as POI, first letter, having error, second letter, which was based on IBIS data and the POI, was April, 2014-Sept. 2015, and the third letter of 12th September, which was based on DGCI&S data.
- xiii. Petitioner has provided the comparative analysis of the DGCI&S data and the IBIS data vide 12th September, 2015. The exporter has compared the average selling price of DI with the average price of imports from China.
- xiv. DI is selling various types of products coming within the PUC; whereas majority of imports from China are coming as HUB and Main Frame. The average price of the PUC is totally misleading.
- xv. Price of imports from China in all the four submissions are varying, especially in the POI, as the data in the updated petition was based on IBIS and POI was 2014-15, whereas the data taken in the second and the third letter was based on IBIS data but the POI was April 2014 to September 2015. The third letter is based on the DGCI&S data.
- xvi. DI is producing various types of products coming within the PUC and the quantities of the PUC are misleading whereas the selling price of the PUC shows material injury.
- xvii. Designated Authority considers only injury period for determination and not consider post POI period for determination. In the matter of SBR and STPP, the Designated Authority recommended ADD despite the fact made known at the time of recommendation that the concerned domestic industry had ceased production. Authority conducted MTR subsequently and recommended withdrawal of ADD. However, the original investigation remained unaffected by cessation of production.
- xviii. If the interested parties feel that there is material change in the situation after the POI, they can seek midterm review.
- xix. There is no production of PUC in Hong Kong and the exporter from Hong Kong has admitted having exported PUC. If goods produced in China have been exported from Hong Kong, no case can be made out against Hong Kong for imposition of anti dumping duty. Authority is required to determine possible transshipment of the goods. Domestic industry is not required to provide evidence of Hong Kong.

EXAMINATION BY AUTHORITY

41. With regard to miscellaneous submissions made, Authority holds as follows:-

42. The petition for imposition of anti dumping duty on the product under consideration was filed before the present Authority way back in the year 2013. However, on being prima facie satisfied the anti dumping investigation got initiated on 1st February 2016.
43. Whereas, the anti subsidy/countervailing duty investigation was initiated on 29th May, 2014 vide notification no. 17/6/2013-DGAD pursuant to which the final finding was recommended by the Authority on 27th November, 2015 and CVD was imposed by the ministry of finance dated 19th January, 2016 vide notification No. 1/2016-Customs(CVD).
44. Authority initiated the ADD investigation based on the petition having all information for the period April 2014-March 2015. Considering it necessary to examine the data for period closer to the initiation and accordingly, for the purpose of this investigation the Authority extended the period of investigation to April 2014- Sept 2015.
45. Petitioners filed the non confidential version of the petition vide letter dated 29th September, 2015 based on IBIS data, having POI April 2014-March 2015. In due course petitioner filed the updated petition having extended POI April, 2014-September, 2015, vide letter dated 4th April, 2016, received in 4th April 2016. The said information was based on April, 2014-September, 2015 on IBIS data. However due to some calculation error in the figures of imports and return on capital employed petitioner filed a revised data on vide letter dated 4th April, 2016 which was received in DGAD on 18th April, 2016 based on IBIS data.
46. Referring to the arguments during the first public hearing regarding multiple submissions by the DI and data inconsistencies therein, the Authority asked the domestic industry to furnish a full submission containing the correct data along with a non-confidential version which will be placed in the public folder and notified to the interested parties. In response to the said mail the petitioner filed the updated data of M/s Bradken along with other information via letter dated 12th September, 2016 for the POI April, 2014-September, 2015 based on DGCI&S data.
47. Regarding argument of difference in data provided by the petitioners and that available publically, it is noted that the findings of the Authority is based on the verified data. Further, public statements do not alter the conclusion based on verified data by the Authority. The discrepancy was resolved by the petitioner vide the above mentioned letter dated 12th September, 2016 and explained the discrepancy in the data while acknowledging the error made.
48. As regards the argument of dual remedy and forum shopping being done by petitioner, the Authority notes that the purpose of anti subsidy/countervailing/anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidized imports and dumping so as to re-establish a situation of open and fair competition in the Indian market. The CVD duty was imposed on 19th January, 2016. While levying any ADD Authority will consider the requirements under Customs Tariff Act, 1975 and no double counting will be done to the extent of export subsidies. In the

event of Designated Authority making a positive determination and deciding to recommend anti dumping duty, it is clarified that the Central Govt. shall be requested to adjust the anti-subsidy/countervailing duty payable, if any.

49. Regarding the contention raised that the petitioner has given the NCV petition dated 29th September, 2015, referring to Initiation Notification issued on February 1, 2016 projecting wrong POI beneath the injury data, domestic industry accepted that this was a typographical error and that as per practice being followed in the DGAD is non-confidential version of the Petition is required to be filed after issuance of the Initiation Notification.
50. Looking at the wide range of products scope and to have a fair comparison, the Authority has considered regrouping PCN, which was communicated to the interested parties vide letter dated 25th May, 2017.
51. With regard to the contentions raised that the imports of PUC coming from Hong Kong, Hong Kong is not the subject country for the present investigation.

Market Economy Treatment (MET), Normal Value, Export Price and Dumping Margin

a. **NORMAL VALUE**

52. 'Normal Value' under the Rules- 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):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the

country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Submissions by exporter, importer and other interested parties

53. The following are the submissions made by exporters/importers/other interested parties have made any submissions in this regard:

- i. As per the Initiation Notification, normal value has been claimed on the basis of cost of production in India, duly adjusted. This is in contravention of the requirements of law under Annexure 1(7) of the ADD Rules the Authority has relied upon the data provided by the petitioners, which is the last option provided under Rules. Authority can resort to the last option only if first two options of paragraph 7 of Annexure I are exhausted.
- ii. Methodology used for working Normal value, is vague and does not meet requirements set out In Para-7 of Annexure-I of the AD rules.
- iii. AB Report on the “Fasteners Case” has provided strong justification for China to automatically obtain the market economy status once the article 15 of protocol expires. China has been performing its obligation seriously since its accession and India must fulfill its obligation under agreements to recognize China’s full market economy status and stop using the “surrogate country” approach in anti-dumping investigations.
- iv. After 11th Dec, 2016, India has no legal basis to calculate normal value in anti-dumping investigation against Chinese products using the non-market economy methodology and any such action will be inconsistent with the GATT, 1994 and other agreements.
- v. No calculation provided as to how ex factory export price was arrived at. The calculation is unsubstantiated and highly speculative. Unclear how grade to grade comparison is made. Provide dumping margin calculation in complete and substantiated manner.

Submissions by Domestic industry

54. The domestic industry inter alia submitted as follows:

- i. China is a non-market economy country and no country has granted market economy status to China. Further none of the exporters satisfy each and every condition developed from jurisprudence to qualify for grant of market economy status. Thus, the Chinese producers’ cost and price cannot be relied upon for determination of normal value.
- ii. Normal value must be “comparable price in the ordinary course of trade for the like article when meant for consumption in such market economy third country”. In order to arrive at normal value on this basis, the Designated Authority shall

- require complete and exhaustive verifiable information on all domestic sales made by a cooperating producer in such third country, along with its cost of production and all other associated information and evidences.
- iii. Petitioner has not been able to procure information in respect of any country and resorted to the last option as they did not have information required for an appropriate market economy third country.
 - iv. The interested parties had sufficient time and opportunity since initiation of investigation to suggest an appropriate market economy third country and produce appropriate evidence for the same. There is no bar in interested parties suggesting an appropriate market economy third country.
 - v. India is an appropriate surrogate county for China as it would result in access to accurate and adequate information. Further, India has been considered as an appropriate surrogate country by other investigation authorities too.
 - vi. In proceedings under SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.
 - vii. Article 15(b) implies that provisions of Clause 15(a)(ii) shall expire 15 years from date of China's Accession. The effect of this provision is that the DA is not considering costs and price in China in order to determine normal value.
 - viii. Chinese producers should be treated as companies operating under non-market economy environment and normal value determined on the basis of Para 7 of Annexure-I till such time the investigation period includes the period up to Dec., 2016.
 - ix. POI in the present case is April 2014- September 2015, the provisions of article 15 shall be fully applicable to the present investigation period. The normal value in China should be determined on the basis of Para-7 of Annexure-I.
 - x. Provisions of Article 15(a) (i) are still applicable and must be considered for determination of normal value in China. There cannot be any other interpretation of the above provisions. The Designated Authority may therefore kindly direct the Chinese produces to show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product under consideration, so that the Designated Authority can use Chinese prices or costs for the industry under investigation.
 - xi. The responding exporters must establish that the elements of costs referred to in the context of determination of normal value are appropriately and completely reflected in the records kept by the exporter or producer under investigation. In case some elements of costs are not appropriately and completely reflected in the records kept by the exporter or producer under investigation, the Designated

- Authority shall reject the claim of individual dumping margin.
- xii. The Designated Authority shall follow Para 1-6 for determination of normal value only if the responding Chinese companies establish that their costs and price information is such that individual normal value and dumping margin can be determined. If the responding Chinese companies are not able to demonstrate that their costs and price information can be adopted, the Designated Authority shall reject the claim of individual dumping margin.
 - xiii. Authority should determine Normal Value in China on the basis of cost of production in India, duly adjusted with selling, general and administrative expenses and considering the consumption norms of the petitioners.
 - xiv. PUC is produced and sold in a number of different types/forms which differ significantly in terms of associated costs and/or prices. Therefore the petitioner has devised a PCN system which is used for identifying the product type involved in individual transactions.
 - xv. PCN has been used to arrive at the dumping and injury margin.
 - xvi. Export price has been determined as the weighted average import price, separately for each PCN. Export price has been calculated at the CIF level. According to the WTO Agreement on Anti Dumping and Indian Rules, comparison of normal value and export price should be done at same level of trade. Therefore, the export price has been adjusted for Ocean Freight, Marine Insurance, Commission, Port Expenses, Bank charges and Inland freight expenses which may have been incurred by the exporter for exporting the material to India.

Examination by the Authority- China as non-market economy

55. Article 15 of China's Accession Protocol provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

(a) In determining price comparability under Article VI of the GATT 1994 and the AntiDumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the nonmarket economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”

56. Authority notes that following exporter/producers have responded and filed questionnaire response.

- a. Dalian Huarui Heavy Industry Casting Co. Ltd.
- b. Jiangsu Faw Foundry Co., Ltd.
- c. Zhejiang Jiali Wind Power Technology Co. Ltd.
- d. Jiangsu Sinojit Wind Energy Technology Co., Ltd
 - Changzhou Sinojit Wind Energy Tech. Co. Ltd
 - Jiangyin Henghua Machinery Co., Ltd. Jiangyin City
 - Jiangyin Qixing Technology Co., Ltd. Jiangyin City
 - Jiangyin Changling New Energy Co., Ltd. Wuxi City, Jiangsu
 - Techtone HK, Ltd
- e. Nantong Hongde Mechanical Co. Ltd

- KOZUMI Machinery co. Ltd
- Nantong Hongde Mechanical Co. Ltd
- f. Yeong Guan Energy Tech. Group Company Limited
 - Dongguan Yeong Guan Mould Factory Co., Ltd.
 - Jiangsu Bright Steel Fine Machinery Co., Ltd
 - Ningbo Lu Lin Machine Tool Foundry Co. ,Ltd
 - Ningbo Yeong Shang Casting Iron Co. Ltd.
 - Yeong Chen Asia Pacific Co., Ltd.

57. Except for Yeong Guan Energy Tech. Group Company Limited., China PR and its subsidiaries none of the producers/ exporters from China PR have responded to the Market Economy Treatment (MET) Questionnaire. Hence, the other, cooperating exporters have been given non-market economy treatment in the present investigation. Yeong Guan Energy Tech. Group Company Limited., China PR and its subsidiaries claimed market economy treatment and has submitted Market Economy Treatment (MET) questionnaire response.

58. Yeong Guan Energy Tech. Group Company Limited., China PR and its subsidiaries have requested for MET status. Following are the related companies-

- i. Yeong Guan Energy Tech. Group- Dongguan Yeong Guan Mould Factory Co., Ltd.
- ii. Yeong Guan Energy Tech. Group- Jiangsu Bright Steel Fine Machinery Co., Ltd
- iii. Yeong Guan Energy Tech. Group- Ningbo Lu Lin Machine Tool Foundry Co. Ltd
- iv. Yeong Guan Energy Tech. Group- Ningbo Yeong Shang Casting Iron Co. Ltd.
- v. Yeong Guan Energy Tech. Group- Yeong Ghen Asia Pacific Co., Ltd.

59. The exporter group company has submitted as follows-

- i. Each of the five subsidiaries is indirectly owned by the Company through Yeong Guan International Co., Limited (“Yeong Guan HK”), a company incorporated under the laws of Hong Kong and is wholly owned by the Company. All these companies are wholly owned by the Company, a publicly-traded company in Taiwan, and thus are 100% foreign invested subsidiaries.
- ii. The Company is a listed company in Taiwan acting as a holding company registered in the Cayman Islands. Its business operations are carried out by subsidiaries wholly owned directly or indirectly by the Company in China PR and Taiwan. During the P01, all exports of the PUC by Yeong Guan Group to India were manufactured in China PR while exporters are (i) Yeong Shang Ningbo and (ii) Yeong Chen Taiwan. The other three subsidiaries, Bright Steel Jiangsu, Yeong Guan Dongguan and Lu Lin Ningbo, manufactured the PUC in China PR, and sold the same in China PR except that they sold the same to related companies for them to resell to third countries (including India) during

the POI.

- iii. As the Company is a public company, there are only two shareholders who hold at least 5% of the shares of the Company. The two shareholders of the Company are individuals and are nationals of Taiwan. Yeong Guan HK is the sole shareholder of each of the Four Subsidiaries except for the Bright Steel Jiangsu, which is partly owned by Yeong Guan HK and Yeong Guan Dongguan. The Company is the sole shareholder of Yeong Guan HK. The Company is a Cayman company, and is listed on the Taiwan Stock Exchange.
- iv. All the suppliers are private companies incorporated in China PR. The Yeong Guan Group did not purchase any raw materials from any person who is a government officer, or from any company which is governed-owned or controlled. The purchase prices of the raw materials were determined by negotiations between the parties, taking into account the market conditions, and were in line with market prices. All utilities are charged at normal rates. There is no restriction or condition on imports of raw materials used by the Company or its Five Subsidiaries.
- v. Yeong Guan Group offers selling prices of the PUC by taking into account key business considerations including market conditions, cost of production, ordered quantity and delivery schedule, and other sales terms. All selling prices are subject to direct negotiations between Yeong Guan Group and its customers, and are determined after Yeong Guan Group and customers reach an agreement. The selling prices are not subject to review or guidance from any Government.
- vi. The management of the Company is decided by its Directors. The management team does not require approval from the Government, or required to notify the Government, except that the Chief Finance Officer should be registered with the Ministry of Finance of China PR for the purpose of tax filing. The management of the Company and Five Subsidiaries is under the control of their Directors. Before they became Directors of the Company and Five Subsidiaries, they all worked for private companies. There is no restriction on use of export revenues of the Company or its Five Subsidiaries. The bank account is held under name of the Company or Five Subsidiaries as the case may be.
- vii. The employees of the Company are remunerated with salary, overtime pay, and statutory allowances once a month. Overtime pay and allowances to the employees are paid in terms of applicable laws. Compensation to the employees is paid monthly. Each of Five Subsidiaries is the final payer for its employees. According to the Chinese Labor Law, a company should contribute funds for five types of insurances and housing, which include endowment, medical, unemployment, employment injury, maternity, and housing provident fund for the employees. The Company or its Five Subsidiaries hires 2 employees with Malaysian nationality, and many of its key management is of Taiwan nationality.

60. Article 15 implies that provisions of one of the subparagraph shall expire 15 years from date of China's Accession. The provisions of this paragraph expired in 11th Dec., 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is April, 2014 to September, 2015. Since the subparagraph of Article 15 was in existence during the period of investigation, the Authority may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
61. The Authority notes that in the past three years China PR has been treated as non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules.
62. 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 PR provides information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China PR 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
63. In view of the above position and in the absence of rebuttal of non-market economy presumption by any Chinese exporting company, the Authority considers it appropriate to treat China PR as a non-market economy country in the present investigation and proposes to proceed with para-7 of Annexure-I to the Rules for determination of normal value in case of China PR.

Normal value determination for China PR

64. In view of the above, the Authority has determined normal value having regard to para-7 of Annexure-I for the purpose of present investigation. The normal value for the subject products imported from China PR into India has been constructed considering optimum consumption norms of the domestic industry for major raw materials, cost of raw materials as per domestic industry prices, conversion cost, interest, SGA etc. at the levels allowed for the domestic industry. Besides a margin of *** % on cost of sales excluding interest has been allowed towards reasonable profit.

EXPORT PRICE

65. The following producers/exporters groups filed exporter's questionnaire (EQ) response in the present investigation-

- a. Dalian Huarui Heavy Industry Casting Co. Ltd.
- b. Jiangsu Faw Foundary Co., Ltd.
- c. Zhejiang Jiali Wind Power Technology Co. Ltd.
- d. Jiangsu Sinojit Wind Energy Technology Co., Ltd.
 - Changzhou Sinojit Wind Energy Tech. Co. Ltd
 - Jiangyin Henghua Machinery Co., Ltd. Jiangyin City
 - Jiangyin Qixing Technology Co., Ltd. Jiangyin City
 - Jiangyin Changling New Energy Co., Ltd. Wuxi City, Jiangsu
 - Techtone HK, Ltd
- e. Nantong Hongde Mechanical Co. Ltd
 - KOIZUMI Machinery co. Ltd
- f. Yeong Guan Energy Tech. Group Company Limited
 - Dongguan Yeong Guan Mould Factory Co., Ltd.
 - Jiangsu Bright Steel Fine Machinery Co., Ltd
 - Ningbo Lu Lin Machine Tool Foundry Co. ,Ltd
 - Ningbo Yeong Shang Casting Iron Co. Ltd.
 - Yeong Ghen Asia Pacific Co., Ltd.

66. After examination of the responses, the exporter's data was verified by the Authority. The DGCI&S data has been examined. The data submitted by the exporters were verified and the appendix wise response to the exporter's questionnaire was taken up for examination.

67. In view of the above, the Authority has accepted the data submitted by the producers/exporters and verified subsequently by the Authority for determination of export price and dumping margin. For the responding exporter whose export prices and price adjustments have been verified, the export price has been determined after taking into account their prices to India given in their appendix wise information and all

adjustments claimed by them and verified by the Authority.

68. The Authority has determined the export price for other non-responding exporters as per the facts available on record.

69. The dumping margin thus arrived has been given group wise in the tabular form below.

Dumping Margin

70. The export price to India (net of all the adjustments claimed by the exporter and accepted by the Authority) have been compared with the normal value to determine dumping margin. The dumping margin during the POI for all exporters/producers from subject country has been determined as provided in the table below:

DUMPING MARGIN TABLE						
Sl. No.	Producer	Exporter	Normal value US\$/MT	Export price US\$/MT	Dumping Margin US\$/MT	Dumping Margin %
1.	Dalian Huarui Heavy Industry Casting Co. Ltd	Dalian Huarui Heavy Industry Casting Co. Ltd	***	***	***	15-25
2.	Zhejiang Jiali Wind Power Technology Co. Ltd.	Zhejiang Jiali Wind Power Technology Co. Ltd.	***	***	***	15-25
3.	Jiangsu Sinojit Wind Energy Technology Co., Ltd ➤ Changzhou Sinojit Wind Energy Tech. Co. Ltd ➤ Jiangyin Henghua Machinery Co., Ltd. Jiangyin City ➤ Jiangyin Qixing Technology Co., Ltd. Jiangyin City ➤ Jiangyin Changling New Energy Co., Ltd. Wuxi City,	Jiangsu Sinojit Wind Energy Technology Co., Ltd Techtone HK, Ltd	***	***	***	15-25

	Jiangsu					
4.	Nantong Hongde Mechanical Co. Ltd KOIZUMI Machinery Co. Ltd	Nantong Hongde Mechanical Co. Ltd	***	***	***	15-25
5.	Jiangsu Faw Foundry Co., Ltd.	Jiangsu Faw Foundry Co., Ltd.	***	***	***	30-40
6.	Yeong Guan Energy Tech. Group Company Limited ➤ Dongguan Yeong Guan Mould Factory Co., Ltd. ➤ Jiangsu Bright Steel Fine Machinery Co., Ltd ➤ Ningbo Lu Lin Machine Tool Foundry Co., Ltd ➤ Ningbo Yeong Shang Casting Iron Co. Ltd. ➤ Yeong Ghen Asia Pacific Co., Ltd.	➤ Ningbo Yeong Shang Casting Iron Co. Ltd. ➤ Yeong Ghen Asia Pacific Co., Ltd	***	***	***	15-25
	Residual other		***	***	***	45-55

INJURY AND CAUSAL LINK

Submissions by exporter, importer and other interested parties

71. The following submissions were made by producers/exporters/importers/other interested parties with regard to injury to the domestic industry:

- i. DA should not have initiated the present investigation & should be accordingly terminated forthwith as the information and documents submitted by the Petitioner are incomprehensible and misleading with regard to various parameters.
- ii. Firmly rejects the allegations that there is an injury and dumping and/or that there is a threat of material injury, if measures are not imposed.
- iii. Injury suffered by the DI, *quod non*, is not attributable to imports originating in

- china. The losses experienced by the DI are not caused by the imports from China
- iv. POI as in the Initiation Notification is April 2014 to Sept 2015, whereas all information given in the petition pertains to April 2014 to March 2015. In absence of accurate and exact data of POI what basis Authority has initiated the investigation and has sought comments from other interested parties. Authority should instruct the DI to provide all injury parameters for the POI as in the Initiation Notification.
 - v. No significant increase in the volume of imports. The evidence presented simply fails to demonstrate that imports have caused any injury to DI. Imports did not have negative effects in the prices of domestic industry and injury suffered, quod non, is artificially created.
 - vi. The landed price has therefore increased between the two POIs despite the decrease in the customs duty levied on the subject goods from 7.5% to 5%.
 - vii. Increased volume of imports does not indicate dumping of the PUC in the Indian Market nor does it indicate that any exponential growth of market share of the PUC from the Subject Country.
 - viii. Demand Claimed in the Petition for CVD Investigation, Petition for AD Investigation and Final Findings issued in CVD Investigation do not match.
 - ix. Price undercutting claimed by the Petitioner is incorrect.
 - x. DI is performing well and growth is positive. Proforma IV (A) needs proper analysis and not to conceal information.
 - xi. DI managed to increase its production, market share, capacity utilization, domestic sales and labor force undoubtedly underscores that it is a thriving industry that has not suffer any injury. Cost of production of DI has decreased.
 - xii. Return of 22% on capital employed is added to the cost of production to determine NIP.
 - xiii. Increase in demand of the domestic industry showing substantial increase in the sales volume and increase of about 8% in the market share of the DI in the POI
 - xiv. There is no apparent handicap/material injury caused to the DI due to imports of the PUC.
 - xv. Lack of correlation between the import volume and the profit of the DI. When the import volume sharply declined the DI profitability declined whereas when imports were increasing DI witnessed a positive trend.
 - xvi. Increase in the number of employees during the period considered for the injury determination while the wages dropped.
 - xvii. No clear methodology employed for determining injury margin and appears totally incorrect and misleading. The injury margin claimed by the petitioner is unrealistic based on the data submitted and has dramatically increased compared to the injury margin established in anti-subsidy investigation.
 - xviii. Suspension of the production at the Kansbahal unit should be seen as an extraordinary expense within the meaning of Annexure III, para 4(iv) and should not be charged to the cost of production.
 - xix. The troubling element in the economic factors of the Petitioner is reduction

in the production capacity that is not reflected in its fixed assets.

- xx. Various inconsistencies and contradictory claims made in the Petition and the facts reported by DI in its Audit Reports.
- xxi. CESTAT in the matter of Bridge Stone Tyre Manufacturing (Thailand) Vs. DA, held that injury determination and causal link should be carried out in a convincing manner and the absence of the same may lead to setting aside of the imposed anti-dumping duty.
- xxii. No correlation between import price and DI's price movement. No reason for the DI to reduce the selling price specially during POI when the Import price increased
- xxiii. No Causal link between import prices and profitability of the domestic industry. Injury due to business strategies. Injury due to plant shut down during Period of investigation.
- xxiv. Injury due to other factors such as Imports from Hong Kong. Import price from Hong Kong is lower than of China. After imposition of CVD on China, so there is no possibility that imports from China has caused injury to the DI.
- xxv. The product sold by DI or the techniques used by them is of inferior quality. The DI fails to meet the technical specifications of the product. That is the major reason why import from the subject country is continued even after imposition of CVD. L&T's raw castings are transported to other places which takes involves more time and cost.
- xxvi. Losses due to loss in wind energy sector. The DI suffered severe losses in the same year when wind energy sector was going through losses. This cannot be a mere coincidence. Wind capacity expansion in 2013 lead to decrease in accelerated depreciation and Generation based incentives. This could be a reason of injury to the DI. So the DI suffered major losses in 2013.

Submissions made by the Domestic Industry

- 72. The petitioner has initially provided information for the POI, April 2014-March 2015 on the basis of the investigations were initiated by the Authority. The Authority considered it necessary to examine the data for period closer to the initiation and accordingly, period of investigation (POI) April 2014- Sept 2015 was filed by the domestic industry for the extended Period as above.
- 73. Petitioner has provided all revised information post initiation for the period April 2014- Sept 2015 for investigation. The injury investigation period will however, cover the period 2011-12, 2012-13, 2013-14 and April 2014- Sept 2015 (POI). The domestic industry has inter alia made the following submissions with regard to the injury and causal link:
 - i. Total imports as well as the imports from the subject country have declined from the base year till the year 2012-13, further increased till the POI. The market share in demand of the subject country has remained constant.
 - ii. The imports from China from 2010-11 to Post POI, 2015-16, there is a drastic increase in the import volumes even after imposition of the CVD. With regard

- to market share, subject country imports increased over the injury period.
- iii. The subject country imports declined due to the decline in demand in the year 2012-13 and 2013-14 due to the global recession. However, this can be seen in the light of increased market share of the subject country imports in the same year.
 - iv. Decline in demand from the base year till the year 2012-13, further increased till the POI. Petitioner is having the capacity alone that can meet current and potential demand in the Country, however, not been able to do so due to continuous presence of dumped imports.
 - v. Imports in relation to consumption have increased throughout the injury period and Imports in relation to production have declined from the base year till the year 2013-14 and further increased in the POI.
 - vi. Landed prices of imports have been significantly below the selling prices of the domestic industry, thus resulting in significant price undercutting.
 - vii. The cost of sales of the subject good has increased from the base year in the year 2012-13 and further declined till the POI. The selling price of the subject good has declined throughout the injury period. The domestic industry was forced to reduce its selling prices far below cost resulting in price depression and significant financial losses. The imports of subject goods are significantly suppressing and depressing the prices of the domestic industry. Thus, the effect of dumped imports on the domestic industry has been adverse and significant.
 - viii. Designated Authority must consider overall performance and not adopt pick & choose position.
 - ix. The production of the product under consideration has declined from the base year in the year 2012-13 and further increased in the year 2013-14 and the POI despite sufficient demand in the Country;
 - x. The capacity utilization of the domestic industry is suffering adversely and declined very significantly from base year to year 2012-13 and further increased till the POI.
 - xi. Sales of the domestic industry have followed the same trend as like capacity utilization.
 - xii. Profitability of the domestic industry has deteriorated significantly as DI is suffering significant financial losses over the injury period. The cash profits showed the same trend as profits of the domestic industry and DI is suffering significantly negative return on investment for past sometime.
 - xiii. Price parameters of the domestic industry are very significantly impacted and deteriorated due to dumping of the product.
 - xiv. The return of 22% has been adopted by the DI as per the usual practice of the Authority.
 - xv. NFA decreased by 34% over the injury period.
 - xvi. Domestic industry has reduced the selling price in order to match the price of the dumped imported goods. Also the variants of PUC are of different prices and the average price or the weighted average price may give the misleading picture.

- xvii. The growth of the domestic industry in terms of volume has been positive whereas in terms of price parameter is negative
- xviii. Given the state of affairs of the domestic industry where running the product is consistently not performing well because of persistent dumping over last few years, substantial fresh investments cannot even be imagined. The domestic industry is already holding significant capacities.
- xix. The NIP calculated by the Authority in the anti-subsidy investigation was done going beyond the law and taken the estimated capacity utilization for normation instead of actual capacity utilization.
- xx. The PUC is having various types of products, due to which the Authority has derived the PCN. The cost of production varies as per the product type produced as well as the machining done. Thus the average cost of production of the DI is misleading.
- xxi. The product under consideration is a labour-intensive product. Further, given that the petitioner is a multi product company and given the labour laws in the Country, these parameters may not show adverse effect of dumping.
- xxii. The numbers of employees increased over the injury period. The wages paid have drastically declined over the injury period. Further, wage cost per unit of production has significantly declined over the injury period. If wage cost per unit of production incurred in base year is considered for the POI, it would be seen that the losses in the POI would have been much higher.
- xxiii. The petitioner is unable to find that which audit report is being referred by the exporter. The previous domestic industry, M/S L&T was the multi-product company and the data presented thereof does not show the clear picture of the injury faced by the castings segment of the company.
- xxiv. Petitioner has not concealed anything. Designated Authority may verify and then adopt the data. Domestic industry has not sought blind acceptance of its information.
- xxv. The submission made by the exporter is wrong as there was no shut down of the plant during the POI. Only the production of the subject goods was suspended from the Kansabahal unit in the year 2013.
- xxvi. CVD imposed on China has not completely addressed the injury being faced by the domestic industry.
- xxvii. Material injury is being caused to domestic industry from dumped imports from subject country. There is no legal basis for the contention that since the domestic industry has suffered injury on account of other factors also, there cannot be injury to the domestic industry from dumped imports. The placement of the word "a" (and not "the") before causal link clearly implies that the Authority shall record a positive finding of dumping causing injury so long as dumping is "one of the causes" of injury to the domestic industry.
- xxviii. The factors identified by the interested parties do not establish that it is the other factors which have alone caused injury to the domestic industry. At the same time there is clear evidence that the price deterioration in the market is due to dumped imports.

xxix. The recession in the wind energy sector was in the year 2012-13 and not throughout the injury period and injury faced due to withdrawal of accelerated depreciation and Generation based incentives have been already taken in account during the year 2012-13.

Examination by the Authority

74. The Authority has taken note of submissions made by the interested parties. The Authority has examined the injury to the domestic industry in accordance with the Antidumping Rules and considering the submissions made by the other interested parties.
75. Rule 11 of AD Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, *“...taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”*
76. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the AD Rules.
77. Further, it is noted that while imposing anti-dumping duty the position that has to be considered is not in the context of ideal conditions but in the specific circumstances of the domestic industry.
78. As regards the submissions of absence of injury, the injury analysis carried out hereunder is self explanatory to establish that the dumping has caused injury to the domestic industry.
79. Further, public statements like annual reports of companies do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.
80. As regards the submission that separate injury analysis is required, the Authority notes that as per the Anti-dumping Rules, injury is required to be determined for the domestic industry as a whole.

81. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as below:

82. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.

83. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of Antidumping rules states as under:-

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

84. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration; while some may show improvement. The Designated Authority considers all injury parameters and thereafter concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments in the submissions.

Assessment of Demand

85. The demand of the product under consideration in India has been determined as the sum of sales of the Indian producers and imports from all sources. The Authority notes that the demand of the product under consideration has increased over the injury period.

Particulars	Unit	2011-12	2012-13	2013-14	POI (A)
Sales of Domestic Industry	MT	8,079	5,133	5,908	11,242
Sales of Other Indian Producers	MT	7,368	3,076	3,201	3,321

Subject countries-Imports	MT	15,117	10,430	13,751	17,941
Other Countries-Imports	MT	1,661	502	282	2,190
Total Demand	MT	32,225	19,141	23,142	34,693

86. It is noted that that the demand of the subject goods have declined from the base year to the year 2012-13 due to recession in the particular sector, though increased further throughout the injury period.

Volume Effect of Dumped Imports and Impact on Domestic Industry

87. Annexure II (ii) of the anti dumping rules provides as under:

“While examining the volume of dumped imports the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the designated authority shall consider whether there has been a significant price under cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred, to a significant degree.”

i. Import volume in absolute and relative terms-

88. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. As per this data the imports of the subject goods during the injury investigation are as follows:

Imports - Volume	Unit	2011-12	2012-13	2013-14	POI (A)
China	MT	15,117	10,430	13,751	17,941
Other Countries	MT	1,661	502	282	2,190
Total Imports	MT	16,778	10,932	14,033	20,131
Subject country Imports					
In Relation to Consumption	%	47%	54%	59%	52%
In Relation to Indian Production	%	87%	121%	129%	116%
In relation to total imports	%	90%	95%	98%	89%

89. It is noted that that

- i. The total imports as well as the imports from the subject country have declined from the base year till the year 2012-13, further increased till the POI.
- ii. Imports from subject country in relation to consumption have increased from the base year till the year 2013-14 and declined slightly in the POI.
- iii. Imports from subject country in relation to production have increased from the base year till the year 2013-14 and declined slightly in the POI.
- iv. Imports from subject country in relation to imports have increased from the base year till the year 2013-14 and declined slightly in the POI.

ii. Market Share

90. It may be seen that imports from the subject country in India have declined from the base year till the year 2012-13 and further increased till the POI.

91. The market share in demand of the subject country has increased from the base year till the year 2013-14 and further declined in the POI.

Particulars	Unit	2011-12	2012-13	2013-14	POI (A)
Sales of Domestic Industry	MT	8,079	5,133	5,908	11,242
Sales of Other Indian Producers	MT	7,368	3,076	3,201	3,321
Subject country	MT	15,117	10,430	13,751	17,941
Other Country	MT	1,661	502	282	2,190
Total Demand	MT	32,225	19,141	23,142	34,693
Market Share in Demand					
Sales of Domestic Industry	%	25%	27%	26%	32%
Sales of Other Indian Producers	%	23%	16%	14%	10%
Subject country	%	47%	54%	59%	52%
Other Country	%	5%	3%	1%	6%
Total Demand	%	100%	100%	100%	100%

92. Further, so long as the domestic industry charges prices in competition to imports and comparable to imports, the domestic industry has no problems in selling the product.

Price effect of dumped imports and impact on domestic industry

93. Annexure II (ii) of the Rules lays down as follows

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price under cutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to

depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

94. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
95. In order to determine whether imports from the subject country were adversely effecting the prices of Domestic industry, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.
96. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject country have been examined with reference to price undercutting, price underselling, price suppression and price depression.

i. Price undercutting effects of dumped imports

97. The Authority has devised a PCN system (as explained in section I above) which is used for identifying the product type involved in individual transactions. As the PCN mix of imports and that of domestic sales are varied, average of all imports and domestic sales have been considered for analyzing price undercutting effects.

Particulars	Unit	2011-12	2012-13	2013-14	POI-A
Landed price of imports	Rs/MT	94,417	115,838	123,971	121,024
Net Selling Price	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting	%	***	***	***	***
Price Undercutting	Range	50-60%	10-20%	0-10%	(20)- (10)%

ii. Price underselling

98. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from China PR. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports for each product type. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	Rs/MT	US\$/MT
Non Injurious Price (NIP)	***	***
Landed Price	121,024	1,931
Injury Margin	***	***
Injury Margin-%	***	***
Injury Margin (Range)	15-25%	15-25%

iii. Price Suppression / Depression

99. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position is shown as per the table below:

Particulars	Unit	2011-12	2012-13	2013-14	POI (A)
Cost of sales	Rs./MT	***	***	***	***
Index		100	114	94	70
Selling price	Rs./MT	***	***	***	***
Index		100	88	88	71

100. It is noted that
- i. the domestic industry cost of sales increased in the second year but decreased significantly thereafter.
 - ii. The selling price of the subject good has declined throughout the injury period.
 - iii. The cost of sales and selling price have declined in sync, when compared with base year.

101. The petitioner was forced to reduce its selling prices far below cost resulting in price depression and significant financial losses. The imports of subject goods are significantly suppressing and depressing the prices of the domestic industry. Thus, the effect of dumped imports on the domestic industry has been adverse.

Economic parameters of the domestic industry

102. Annexure II to the AD Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of like product. 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.”

103. The various injury parameters relating to the domestic industry are discussed below.

i. Production, Capacity, Capacity Utilization and Sales

104. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization was as follows:

Parameters	Unit	2011-12	2012-13	2013-14	POI (A)
Capacity	MT	30,000	30,000	30,000	30,000
Index		100	100	100	100
Production - PUC	MT	9,923	5,574	7,434	12,157
Index		100	56	75	123
Production - NPUC	MT	3,382	2,982	343	757
Index		100	88	10	22
Total Production	MT	7,907	8,556	7,778	12,914
Index		100	108	98	163
Capacity Utilization	%	26%	29%	26%	43%
Plant Utilization	%	35%	22%	26%	43%
Index		100	108	98	163
Domestic Sales	MT	8,079	5,133	5,908	11,242
Assessed Demand	MT	32,225	19,141	23,142	34,693

105. The following is noted from the above table:

- i. Domestic industry has sufficient capacity to meet current and potential demand in the Country;
- ii. The production of the product under consideration has declined during 2012-13 but increased consistently thereafter.
- iii. The decline in production is despite sufficient demand in the Country;
- iv. The capacity utilization of the domestic industry is suffering adversely. Capacity utilization has declined from base year to year 2012-13 and increased thereafter but it remained sub- optimal;

- v. Sales of the domestic industry have followed the same trend as like capacity utilization.

ii. Market Share in Demand

106. The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Particulars	Unit	2011-12	2012-13	2013-14	POI (A)
Market Share in Demand					
Sales of Domestic Industry	%	25%	27%	26%	32%
Sales of Other Indian Producers	%	23%	16%	14%	10%
Subject country	%	47%	54%	59%	52%
Other Country	%	5%	3%	1%	6%
Total Demand	%	100%	100%	100%	100%

107. It is noted that

- i. market share of the domestic industry has remained mostly constant during 2011-12 to 2013-14 and increased during POI.
- ii. whereas market share of the subject country has increased from the base year till the year 2013-14 and declined in the POI.
- iii. Market share of other Indian producers has declined significantly over the period.
- iv. Further, market share of other countries have also decreased from the base year till the year 2013-14 and increased in the POI.

iii. Profitability, return on investment and cash profits

108. The profit/loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Profit /(Loss)	Unit	2011-12	2012-13	2013-14	POI (A)
Profit/(Loss)	Rs.Lacs	***	***	***	***
Index		-100	-745	-265	-76
Cash Profit	Rs. Lacs	***	***	***	***
Index		100	-170	24	93
PBIT	Rs. Lacs	***	***	***	***
Index		-100	-757	-264	-75
ROCE -NFA	%	***	***	***	***

Index		-100	-1,119	-501	-151
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109. The domestic industry suffered losses throughout injury period though it made cash profits during 2013-14 and POI. All parameters show worst performance during 2012-13 which improved subsequently, though overall performance is negative.

iv. Employment and Wages

110. The position with regard to employment, wages and productivity is as follows:

Parameters	Unit	2011-12	2012-13	2013-14	POI (A)
No. of Employees	Nos	***	***	***	***
Index		100	100	105	108
Wages	Rs. Lacs	***	***	***	***
Index		100	70	43	45

111. It is noted that the employment levels of the domestic industry has remained consistent throughout the injury period whereas the wages have declined throughout the injury period.

v. Inventory

112. Inventories have been NIL during injury period. The subject goods are “make to order” product. Thus the criterion of inventory is not the proper parameter to evaluate the injury in this case.

vi. Growth

Growth year by year	Unit	2011-12	2012-13	2013-14	POI (A)	POI*
Production - PUC	%	-	-29%	33%	42%	42%
Domestic Sales Volume	%	-	-36%	15%	60%	60%
Cost of Sales/Unit	%	-	14%	-18%	-17%	-17%
Selling Price/Unit	%	-	-12%	0%	-13%	-13%
Profit/ Loss/Unit	%	-	1073%	-69%	-56%	-56%
Return on Capital Employed (ROCE)	%	-	-16%	10%	5%	5%

113. With the rising demand of the product in the country, the growth of the domestic industry in terms of volume has been positive after 2012-13 whereas in terms of price parameter, growth was negative. Though parameter of growth in ROCE show improvement since 2013-14, it is noted that ROCE was negative throughout the injury period

vii. Ability to raise capital investments

114. The domestic industry is already holding significant capacities. In the event of consistent non-performance, substantial fresh investment cannot be envisaged.

viii. Level of dumping & dumping margin

115. The Authority notes that the dumping margin from subject country is not only more than de minimis but also very substantial. The impact of dumping on the domestic industry is significant.

ix. Factors Affecting Domestic Prices

116. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of the imported material from the subject country is below the selling price and the non-injurious price of the domestic industry, causing significant price under selling in the Indian market. Thus, the factor affecting the domestic prices is landed value of the subject goods from the subject country.

x. Causal Link

117. The Authority has examined other factors listed under the Antidumping Rules which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

I. Imports from third countries

118. The Authority has examined the imports data of the subject goods from DGCI&S. In the present scenario the imports are coming from Hong Kong.

II. Contraction in demand

119. There has been rise in demand post year 2012-13, of the product concerned over the injury period. Possible decline in demand could not have caused injury to the domestic industry.

III. Changes in the patterns of consumption:

120. The pattern of consumption with regard to the product under consideration has not undergone any significant change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.

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

121. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

V. Developments in technology:

122. Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.

VI. Export performance:

123. The Authority notes that Petitioner does not have exports of the product under consideration, thus claimed injury to the domestic industry is not on account of exports.

VII. Subsidization of the product:

124. The Authority notes that the product under consideration is being subsidized by the Govt. of China. Designated authority has already imposed anti subsidy/countervailing duty on the subject goods.

VIII. Performance of other products being produced and sold by the domestic industry:

125. The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only. Claimed injury to the domestic industry is on account of product under consideration.

xi. Factors establishing causal link

126. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject country. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- i. There is significant difference between the prices offered by the domestic industry and foreign producers. Resultantly, domestic industry suffered volume injury as domestic industry could not take its production and sales to the optimum level;
- ii. Resultantly, domestic industry was not able to get sufficient sales volumes. Thus, despite significant demand in India, the domestic industry was not able to

utilize its capacities, which is a direct consequence of dumped imports from the subject country;

- iii. Imported product is significantly undercutting the prices of the domestic industry. Resultantly, the domestic industry has been forced to reduce the prices and sell the product at a price where it is suffering significant financial losses.
- iv. Negative profits and return on capital employed are directly a result of dumped imports;
- v. Production, sales and capacity utilization of the domestic industry has been significant lower than earlier achieved levels
- vi. Significant increase in imports has led to significant stock piling with the domestic industry. The domestic industry is unable to liquidate the same even after reducing the prices;
- vii. Growth of the domestic industry has become negative in respect of a number of parameters.

Magnitude of Injury Margin

127. The non-injurious price of the subject goods produced by the domestic industry determined has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. The injury margin determined are as under:-

INJURY MARGIN TABLE						
Sl. No.	Producer	Exporter	NIP US\$/MT	Landed Price US\$/MT	Injury Margin US\$/MT	Injury Margin %
7.	Dalian Huarui Heavy Industry Casting Co. Ltd	Dalian Huarui Heavy Industry Casting Co. Ltd	***	***	***	15-25
8.	Zhejiang Jiali Wind Power Technology Co. Ltd.	Zhejiang Jiali Wind Power Technology Co. Ltd.	***	***	***	5-15
9.	Jiangsu Sinojit Wind Energy Technology	Jiangsu Sinojit Wind Energy Technology Co.,	***	***	***	10-20

	Co., Ltd <ul style="list-style-type: none"> ➤ Changzhou Sinojit Wind Energy Tech. Co. Ltd ➤ Jiangyin Henghua Machinery Co., Ltd. Jiangyin City ➤ Jiangyin Qixing Technology Co., Ltd. Jiangyin City ➤ Jiangyin Changling New Energy Co., Ltd. Wuxi City, Jiangsu 	Ltd Techtone HK, Ltd				
10.	Nantong Hongde Mechanical Co. Ltd KOIZUMI Machinery co. Ltd	Nantong Hongde Mechanical Co. Ltd	***	***	***	15-25
11.	Jiangsu Faw Foundry Co., Ltd.	Jiangsu Faw Foundry Co., Ltd.	***	***	***	25-35
12.	Yeong Guan Energy Tech. Group Company Limited <ul style="list-style-type: none"> ➤ Dongguan Yeong Guan Mould Factory Co., Ltd. ➤ Jiangsu Bright Steel Fine Machinery Co., Ltd ➤ Ningbo Lu Lin Machine Tool Foundry Co., Ltd ➤ Ningbo Yeong Shang Casting Iron Co. Ltd. ➤ Yeong Ghen Asia Pacific Co., Ltd. 	<ul style="list-style-type: none"> ➤ Ningbo Yeong Shang Casting Iron Co. Ltd. ➤ Yeong Ghen Asia Pacific Co., Ltd 	***	***	***	15-25
	Residual other		***	***	***	35-45

Post disclosure Comments

Submissions by exporter, importer and other interested parties

128. The following submissions were made by producers/exporters/importers/other interested parties
- i. Authority has failed to provide details on the methodology on the basis of which the export price has been established in the disclosure statement. The Authority has made certain adjustments as per the information provided. Authority shall provide details for each supply chain separately; the manner in which the export price was determined for each supply chain should have been recorded.
 - ii. Supply chain relating to export of the subject goods by Respondent has been erroneously recorded in the table on dumping margin and injury margin provided in the disclosure statement. Nantong as the producer and exporter. Nantong Hongde has produced and exported the subject goods to India during the POI. Koizumi is not involved with the export of the subject goods to India and only process the semi finished product for Nantong Hongde into a finished product. In particular, Koizumi has entered into a production cooperating agreement with Nantong Hongde.
 - iii. Anti-dumping margin computed should be based on adjustment for countervailing duty imposed.
 - iv. Yeong Guan Group has provided explanation/information with regard to MET claim. Authority has not rebutted/objected to information and documents/evidences provided. In absence of any objection/rebuttal on part of Designated Authority in the Disclosure Statement regarding non-market economy status of China PR against submissions made in relation to criteria specified in (a) to (d) of para 8(3) of Annexure I is grossly erroneous and presumption of NME taken is not sustainable in law and facts of the case.
 - v. The scope of the PUC has been expanded beyond request of the Domestic Industry. L&T sought initiation of investigation against import of "Castings of Wind Operated Electricity Generator" from China PR. However, the current investigation has been initiated against "Castings for Wind Operated Electricity Generators whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or part of an Equipment/ Component meant for Wind-Operated Electricity Generators". It is not appropriate on the part of the Authority to suo mota revise the scope of the PUC to include parts thereof without giving any cogent reasons for the same and without specifying and giving justification that scope of the PUC has been enhanced.
 - vi. L&T ceased to be Domestic industry and hence the investigation becomes non-est. Pursuant to conclusion of sale of Coimbatore Unit to Bradken India at the beginning of the instant investigation, L&T ceases to be Domestic Industry for the purpose of present investigation. Designated Authority has grossly erred in disregarding the submissions made on maintainability of the instant Petition

and holding that both L&T and Bradken India constitute petitioner in the present case.

- vii. Petitioner is resorting to forum shopping to eliminate any kind of competition in India which is anti-trade, anti-consumer and anticompetitive. Petition was filed without waiting for result of the CVD investigation which clearly shows impatience of the Petitioner and hurry to get rid of high quality imports of the PUC and drive out competition. Instead of giving reasonable amount of time for CVD to show impact on injury caused
- viii. Petitioner has claimed injury margin of 40% which seems highly unrealistic as compared to the 10% injury margin on which CVD has been imposed. 30% increase in the injury margin as claimed over such short span of time considering the fact that POI in the present investigation is prior to imposition of CVD. Thus, the Petitioner has resorted to forum shopping and claiming injury on inaccurate and misleading data to eliminate competition. Designated Authority has completely ignored such submissions in the Disclosure Statement.
- ix. Concealment of material information by L&T on sale of the Coimbatore Unit to Bradken.
- x. Domestic industry has not suffered injury during the POI and observations of Authority on various economic parameters is completely opposite on the face of records depicted even in the Disclosure Statement in terms of demand, imports in absolute terms, price suppression/depression.
- xi. Material injury, threat of material injury or material retardation to L&T due to alleged dumped imports, is not established. Petitioner during the POI has been showing upward trend in production, market share, sale and capacity utilization is shown as 41%, which is not an indicator of retardation of an industry.
- xii. With regard to the supply chain of Jiangsu Sinojit Wind Energy Technology Co., Ltd and Nantong Hongde Mechanical Co. Ltd, the interested party has requested to the Authority to provide value of exports during the POI, export price as recorded for dumping margin and landed price as recorded for Injury margin, basis of dumping margin and injury margin computation, namely whether the drawing weight, finished weight or unfinished weight has been considered.

Submissions made by the Domestic Industry

129. The domestic industry inter alia submitted as follows

- i. The authority determined PUC as "Castings for wind operated electricity generators also known as castings for windmills or wind turbines, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component, meant for wind-operated electricity generators".
- ii. To facilitate a fair comparison, the PCN devised and regrouped and rationalized by the Authority. Petitioner does not have reservation on such regrouping, it

- needs to be recognized that the petitioner has sold the product in unfinished form whereas product has been imported in finished form.
- iii. The weight of the products is required to be considered on one uniform basis in order to undertake apple-to-apple comparison for the purpose of injury margin. Mere addition of finished costs to the NIP of the domestic industry is insufficient for the purpose. The weights associated are also required to be taken into account.
 - iv. Since the customs classification is indicative only, the Designated Authority may kindly specify in duty table that the product under consideration should attract duty regardless of the customs classifications under which goods are being cleared by the importers and that the customs classification is indicative only.
 - v. Dumping margin and injury margin determined by the Authority in disclosure statement is significantly lower than what has been determined by domestic industry.
 - vi. Duty may kindly be imposed on ad-valorem basis as there are a number of different product types, having significant difference in the associated prices.
 - vii. The Anti-Subsidy/countervailing Duty is already in place the product under consideration. Accordingly, anti dumping duty payable on the subject goods as per the current investigation can be subjected to the CVD already in place.

Examination by the Authority

130. The Authority has taken note of post disclosure submissions made by the interested parties. The authority notes that most of the submissions are repetitive in nature and these are already examined and addressed at appropriate places in these findings
131. With regard to the submission concerning adjustments done in the export price, since some of the information constitutes business sensitive confidential information of the interested parties, the authority is not bound to disclose such information to the other interested parties. However, the confidential workings of the Export Price and Landed Values have been provided to the exporters wherever requested
132. With regard to the submission concerning Supply chain relating to Nantong Hongde and Koizumi, Authority has taken note of the same.
133. With regard to the submission concerning adjustment of CVD in the ADD, the same has already been considered by the Authority.
134. With regard to the submission concerning dumping margin and injury margin determined by the Authority in disclosure statement is significantly lower than what has been determined by domestic industry, Authority communicated to the interested parties vide mail dated 17th July, 2017 to clarify that the weights reported by the interested parties are finished castings or raw weight of finished castings. Further, in case the interested party has reported the finished castings weight, provide the raw weight of the finished castings i.e. the weight of the unfinished castings.
135. This measure was taken to doubly check the workings and calculations made by Authority and to assure that the workings are in sync with verified data.
136. The Authority notes that the basis of indicating weight in the packing list by exporters and invoice of DI is by and large the same. Changing the weight claimed by

exporters will not be appropriate as the same is duly verified from the packing list and the declaration made before Custom Authority.

Indian Industry's Interest and Other Issues

137. The Authority recognizes that imposition of anti dumping duties might affect the price level of the subject goods in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantage gained, by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

RECOMMENDATIONS

138. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- a. The product under consideration has been exported to India from the subject country below normal values.
- b. The domestic industry has suffered material injury on account of subject imports from subject country.
- c. The material injury has been caused by the dumped imports of subject goods from the subject country.

139. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the Rules and having established positive subsidy margins as well as injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of anti dumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti dumping duty on imports of subject goods from China in the form and manner described hereunder.

140. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic

industry. Since, the product under consideration is already attracting anti-subsidy/countervailing duty under other notifications of Central Government. Accordingly, an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per Col No.8 below and the quantum of anti-subsidy/countervailing duty payable, if any, is recommended to be imposed on all imports of the subject goods originating in or exported from China.

Duty Table

S N	Subheading or Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Duty amount as % of landed value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	84834000, 8503009	Castings for Wind Operated Electricity Generators, also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly, or as a part of an equipment/component meant for wind-operated electricity generators	China PR	China PR	Dalian Huarui Heavy Industry Casting Co. Ltd	Dalian Huarui Heavy Industry Casting Co. Ltd	18.48
2.	0, 85030010 in		China PR	China PR	Zhejiang Jiali Wind Power Technology Co. Ltd.	Zhejiang Jiali Wind Power Technology Co. Ltd.	6.27
3.	Chapter 84 and 85 of Customs Tariff Act		China PR	China PR	Jiangsu Sinojit Wind Energy Technology Co., Ltd <ul style="list-style-type: none"> ➤ Changzhou Sinojit Wind Energy Tech. Co. Ltd ➤ JiangyinHenghua Machinery Co., Ltd. Jiangyin City ➤ JiangyinQixing Technology Co., Ltd. Jiangyin City ➤ Jiangyin Changling New Energy Co., Ltd. Wuxi City, Jiangsu 	Jiangsu Sinojit Wind Energy Technology Co., Ltd Techtone HK, Ltd	14.44
4.			China PR	China PR	➤ Nantong Hongde Mechanical Co. Ltd KOIZUMI Machinery co. Ltd	Nantong Hongde Mechanical Co. Ltd	18.64
5.			China PR	China PR	Jiangsu Faw Foundary Co., Ltd.	Jiangsu Faw Foundary Co., Ltd.	28.83
6.			China PR	China PR	Yeong Guan Energy Tech. Group Company Limited <ul style="list-style-type: none"> ➤ Dongguan Yeong Guan Mould Factory Co., Ltd. ➤ Jiangsu Bright Steel Fine Machinery Co., Ltd ➤ Ningbo Lu Lin Machine Tool Foundry Co.,Ltd ➤ Ningbo Yeong Shang Casting Iron Co. Ltd. ➤ Yeong Chen Asia Pacific Co., Ltd. 	Ningbo Yeong Shang Casting Iron Co. Ltd Yeong Chen Asia Pacific Co., Ltd	15.46
7.			China PR	China PR	Any other combination than SN 1 to 6		35.92
8.			China PR	Any	Any	Any	35.92
9.			Any	China PR	Any	Any	35.92

Note –

- i. Castings for wind-operated electricity generators for the purpose of the present notification implies "*Castings for wind-operated electricity generators also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators*".
 - ii. The Anti-Subsidy/countervailing Duty is already in place on Castings for wind operated electricity generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly, or as a part of an equipment/ component meant for wind-operated electricity generators. Custom Notification NO. 1/2016-Customs (CVD) dated 19th January, 2016.
141. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
142. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Dr. InderJit Singh)
Additional Secretary & Designated Authority