

Ministry of Commerce

NOTIFICATION

New-Delhi, the 19th October, 2002

FINAL FINDINGS

Subject: Anti-Dumping investigations concerning import of Cold Rolled Flat Products of Stainless Steel originating in or exported from European Union, Japan, Canada and USA.

No. 24/1/2001- DGAD Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification No. 24/1/2001- DGAD dated 29/11/2001 with regard to anti-dumping investigations concerning imports of Cold Rolled Flat Products of Stainless Steel originating in or exported from European Union, Japan, Canada and USA. and requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 4th March 2002. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any. The petitioners, exporters and members of the user industry were present at the oral hearing.
- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;

- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;
- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings;
- g. Investigations were carried out for the period 1st April 2000 to 31st December, 2000 (9 months).
- h. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION

2. The product under investigation in the present case is Stainless Steel Coils, Sheets and Plates of the following description:-

"Cold rolled Flat Products of stainless steel, of a width of 600mm or more, whether further processed or not of all grades/series."

The subject goods described as Cold rolled Flat Products of stainless steel, are classified under Customs sub-heading nos. 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90 of Chapter 72 of the Customs Tariff Act, 1975. The classification is however indicative only and in no way binding on the scope of the present investigations.

Views expressed by Domestic Industry on Product under Consideration and the product range of the domestic industry:-

It had been argued by the exporters and the importers that the product range of the domestic industry is limited and it does not produce widths exceeding 1250 mm and therefore the same should be excluded from the scope of the investigations. The domestic industry submits that while the bulk of our products are restricted upto 1250 mm only, we have in the past produced sizes upto 1500 mm also. However, we have not pursued with the production of these sizes due to lack of demand and market condition. The product under consideration had deliberately kept in its scope all sizes. It is too simple for the importers to slit the wider widths to narrower ones indicating substitutability between the widths exceeding 1250 mm and those below 1250 mm. It may please be noted that due to the said reasons, there has been no limitations on the width in the application submitted by the domestic industry or in the scope of investigation while initiating the case. The product range has been erroneously taken as the 'capacity' or the lack of it to produce certain grades. The product range had been specified keeping in mind the demand and market conditions. The same cannot be

misconstrued as lack of capability to produce what has not been specifically mentioned in the product range.

The petitioner has capacities and capabilities of producing 1500 mm width material. At Steckel Mill, such materials are rolled through cross-rolling and the cold rollings are also fully capable of rolling 1500 mm width material as rolled at Steckel Mill. The petitioner has in fact rolled material in 1500 mm width and supplied in the markets. A few invoices in support of the above have been given to the Authority.

Views expressed by exporters on Product under Consideration:-

a. Kawasaki Steel Corporation, Japan

It is a known fact that Cold Rolled Stainless Sheet or 'CRSSS' product encompass a broad range of specific product that differ greatly from one another in chemical composition, mechanical properties, finish, structure and physical characteristics. These products differ too, in the difficulty of their manufacture, the purposes for which they are used, and in price. Thus the product under consideration as defined in the proceedings is too broad and vague. On an examination of the position as stated by the Ministry of Steel, it is an accepted position that the 300 series grades and 400 series grades are developed for specific enduses/applications and are not substitutable. In view of the same, the grades in the 300 series were not 'like articles' vis-à-vis 400 series. Therefore, distinct proceedings ought to have been initiated for the 300 series grades and the 400 series grades. No analysis of injury or causal link could be sustainable, co jointly for the 300 series grades and the 400 series grades.

KSC has exported only the following types to India during the period of investigations viz.

- a. Type R409L
- b. Type R436LT
- c. Type SUS420J1
- d. Type SUS420j2

Type R409L is a highly specialised stainless steel used by the Automobile Industry for catalytic converters and exhaust systems. In particular, this product performs well under high temperatures and is resistant to oxidation. Grade R409L is used almost exclusively for automotive exhaust systems which is a distinct use from the many enduses of regular stainless steel. Grade R409L and regular stainless steel product have very limited interchangeability due to significant differences in appearance, corrosion resistance and price. Grade R409L is consistently priced lower than regular

stainless steel and in fact is priced closer to cold rolled carbon steel than it is to grade 304.

Examination by the Authority on Product Under Consideration:-

The Authority notes that the subject goods of stainless steel are normally classified into three categories depending upon their chemical composition and intended application viz.,

- A. Austenitic Stainless Steel comprising of (i) chromium austenitic stainless steel and (ii) Low nickel austenitic stainless steel. The 200 and 300 series comes under this category.
- B. Martensitic Stainless Steel comprising of (i) high chromium grades under which comes the 400 series and (ii) low chromium grades under which comes the 500 series.
- C. Ferritic Stainless Steel under which the 400 series is covered.

Austenitic Stainless Steel with high Nickel are expensive grades in the family of austenitic stainless steel. Austenitic stainless steel with low nickel is a cheaper variety. Ferritic and martensitic stainless steel are other varieties of stainless steel which are normally straight chromium stainless steel with some micro adjustment of other alloy elements.

The grades in the 300 and 400 series have been developed for specific end-uses/applications and the optimum grade is selected by the end-user based on the end-use/applications.

Regarding the capacity of the domestic industry of manufacturing the subject goods beyond 1250mm, the Authority notes that they had made supplies of 1500mm size of the subject goods and have given supporting evidence thereof.

The Authority confirms the preliminary findings on product under consideration.

C. LIKE ARTICLES

(A) Views expressed by Domestic Industry on Like Article:-

The product under consideration in this case is "Cold Rolled Flat Products of Stainless Steel, of a width of 600mm or more, whether further processed or not". Under the anti dumping provisions and practice, while determining the like article, the Authority is required to take into account all the products which fall under the description of the product under consideration as long as the same are technically and commercially

substitutable. The entire range of products have the same production facilities, production process and same distribution channels. The variations are primarily on account of the ingredients and the chemistry of the products. Moreover, the exporters have merely made unsupported and unsubstantiated statements that certain widths need to be excluded. There is no reason to exclude any particular width from the product under consideration either on legal or technical grounds.

Vide their letter dated August 2, 2002, the domestic industry has responded to the automobile sector's statement that the domestic industry is not producing 409 grade of 0.5mm thickness and that M/s Mark Auto India Ltd. has to import the said grade as the same is not domestically available.

In this connection, the petitioner has referred to their detailed brochure wherein it has been clearly mentioned that the company's product range includes the grade and size mentioned by the automobile industry. At the same time, the Anti-dumping Rules do not require that the domestic industry should have actually produced each and every grade of the product under consideration. If this argument of the automotive sector is accepted, it would lead to rampant circumvention by minor and partial modification of the grades. There is no restriction on any of the producers that they cannot carry out minor modifications to the grades produced by them. Since in this case, the domestic industry is fully competent to produce the required thickness of grade 409, there is no reason for the automotive sector to apprehend that the same are not available in India. In fact, the reality is that because of the dumped prices, the automotive sector is not placing orders on the domestic industry. The domestic industry is regularly producing sheets/strips of thickness upto 0.1mm in the ferritic series. Sample invoices in support of the same have been submitted to the Authority. Thus there is no reason for the automotive sector to apprehend that the said grade is not domestically available.

(B) Submissions by Exporters on Like Article:-

a. M/s Kawasaki Steel Corporation, Japan

It is submitted that the definition of like articles does not provide that all products under a heading are 'like'. It is our contention that it can be determined if goods are 'like' on the basis of a consideration of all the following factors namely chemical composition, tensile strength/yield strength/elongation/hardness, size, quantity, uses/applications, functional impact, user perception. It is a known fact, stress by various interested parties, that the applications/use of different grades of CRSS are not similar. The Ministry of Steel has opined that the 300 series and 400 series grade are developed for specific enduses/applications and therefore they are not to be substituted for each other, the findings that the application/overall use of the different grades is unsustainable. As to 409 series, it is developed for automotive purposes,

even in India technical specifications have specifically been formulated for stainless steel for automotive use which distinguished it from other grades/other uses. It is well known fact that the 200, 300 and 400 series of stainless steel are not mutually, technically and commercially substitutable. If that indeed were the case there would be no requirement to classify them into series and one type of stainless steel would suffice for utensils as well as environmentally beneficial car exhaust systems.

(C) Submissions made by Automobile Manufacturers pursuant to the Preliminary Findings:-

i. Maruti Udyog Ltd.:

Maruti Udyog Ltd. is constantly working towards reducing pollution caused by emissions from their vehicles as their Corporate Commitment to the Environment and the Quality of Life. The rulings of the Hon'ble Supreme Court of India and the revision of emission norms for motor vehicles provided in Rule 115 of Central Motor Vehicle Rules, 1989 have directed auto manufacturers automobiles to comply with global standards set for low emissions, namely Euro II.

In order to meet the standards set for low emissions, Maruti Udyog Ltd. is not only developing more efficient engines but also attaching a catalytic converter to the exhaust system on the car which has since the adoption of the Rules become mandatory.

As the emission produced in the form of gas concentrated by catalytic converter is highly corrosive, the exhaust system parts, such as gas tubes and mufflers, for prevision of corrosion and low emissions need specialised characteristics and grades of stainless steel for their manufacture. While variable grades of steel have in the past being used for mufflers and tubes, universally the stainless steel of ferritic grades are used for automotive application.

Maruti Udyog Ltd. is the ultimate buyer of motor vehicles exhaust components which are manufactured with the similar material i.e. Cold Rolled Flat Products of Stainless Steel by their approved Vendors. Cold Rolled Flat Products namely ferritic grades used for car exhaust system manufacture, manufactured by the Japanese Producers may kindly be exempted from the levy of the anti dumping duty. The material supplied by these manufacturers adheres to the quality and accurate technical specifications stipulated by MUL. Further, there is no stainless steel manufacturer in India who can meet exact quality and quantity requirement of cold rolled flat products of stainless steel for MUL vehicles exhaust system.

ii. Hyundai Motor India Ltd.:-

In order to meet the standards set for low emissions, Hyundai is not only developing more efficient engines but also attaching a catalytic converter to the exhaust system on the car which has since the adoption of the Rules become mandatory. As the emission produced in the form of gas concentrated by catalytic converter is highly corrosive, the exhaust system parts, such as gas tubes and mufflers, for prevention of corrosion and low emissions need specialised characteristics and grades of stainless steel for their manufacture. While variable grades of steel have in the past been used for mufflers and tubes, universally the specially stainless steel for automotive use is the R409L and R436LT grades. From the viewpoint of functionality and economics these are recognized as the best quality stainless steel grades for automobiles from also the environmental perspective.

Hyundai parts suppliers are importing stainless steel from countries such as Japan and manufacture the exhaust systems here locally. This ensures low costs and global quality standards in consonance with the standards currently adopted in India i.e., Euro II. The auto part industry is also an employment hub and mainly labour intensive in India. The Authority is requested to consider the special grades of stainless steel viz., Grade R409L or Grade R436LT used in the Automobile sector as outside the scope of this investigation.

iii. Ford India Ltd:-

Ford India Ltd., has established its manufacturing facility at MM Nagar, near Chennai. Ford Ikon manufactured at this plant is received well in India and is exported in large numbers to overseas market. Ford India is today the largest automobile exporter from India.

The Government of India has provisionally imposed anti-dumping duty on SS400 and SS409 Grade material. These special grades of steel are used for exhaust systems to meet global standards and Ford specification. The importance of conformance of these steels to physical, chemical, corrosion resistance, welding strength and flanging specifications need not be stressed as they are directly related to environmental pollution. Any deviation to global standards and Ford specification would adversely affect environmental norms set by Government of India.

In view of the above, it is requested that the anti-dumping duty on SS400/SS409 series of stainless steel imported from Japan, USA be withdrawn as they are required to meet specific design content and to meet the pollution control norms.

iv. Toyota Kirloskar Motor:-

Automobile industry in India is in a nascent stage and is slowly catching up with world standards. To meet global competition it has to produce products which meet world standards, strict quality and safety norms. In this scenario, sourcing of many components and raw materials plays a crucial role to meet the requirement.

Some of the components require quality raw material which are many a time not available in India, especially quality stainless steel. One of the vital components made using stainless steel sheets is exhaust system. Reliability of the component is vital to prevent air and noise pollution as well as conservation of energy. Quality of steel can be assessed through conformation of chemical, physical, corrosion resistance etc.

If the Indian automobile industry does not receive the quality components at a competitive price due to anti-dumping duty or high tariff, manufacturer may look for direct imports of components itself from its global sourcing, which may be more convenient and cost competitive. This will adversely affect the growth of the component industry.

It is requested that the anti-dumping duty on SS400 series of Stainless Steel be waived as the requirement of automobile industry is specific to meet the international quality standards.

D. Submissions made by Manufacturers of Automotive Components:

1. Jay Bharat Maruti Limited :-

Jay Bharat Maruti Limited is a joint venture of Maruti Udyog Ltd. engaged in the manufacturing of various sheet metals assemblies and exhaust systems for all models of Maruti Suzuki Vehicles including Maruti 800 CC, Omni, Zen, Esteem, Gypsy, Wagon R, Alto, Versa, Baleno and their export version. They are also exporting catalytic converter components abroad. They are India's largest automobile exhaust manufacturers for passenger cars supplying to Maruti Udyog Ltd. for 100% of their requirements including after sales requirements for Maruti Suzuki Models. Apart from this they are the sole supplier for muffler assemblies/sub assemblies to M/s Yamaha Motors Ltd..

We have been importing ferritic grades of stainless steel (400 series) from Kawasaki Steel, Japan, Sumitomo Metal, Japan, Nisshin Steel, Japan and Nippon Steel, Japan. The Indian producers are unable to meet automobile specific quality requirement compelling us to rely on imports. In the past, all efforts to indigenise these ferritic grade (400 series) materials developmental trials have not been successful and met with quality problems of waviness, crack, deep scratches etc. These domestic available materials are not suitable for our end application requirement.

The domestic producer of stainless steel predominantly caters to utensils and other industrial usage and not automotive sector. The levy of anti-dumping duty on all grade of stainless steel irrespective of end-use application and domestic availability will jeopardise implementation of new vehicular emission norms of Bharat Stage II and III.

The additional cost impact of anti-dumping duties on ferritic grade 400 series stainless steel will disrupt our cost economics of producing various exhaust assemblies including catalytic converter parts and may lead to direct SKD import of these items directly by automotive manufacturers. These imported SKD products do not attract any anti-dumping duties.

As regards the performance of domestic suppliers, it has been stated that in order to make efforts of developing domestic source for supplies of ferritic grades (400 series), attempt was made in April-May, 2000 to develop M/s Jindal Strips Ltd. in view of their expansion and modernisation of cold rolling facilities. The development trial orders of SUS 436L and other ferritic grades of 400 series met with various quality problems. Jindal Strips has not been able to make supplies in specified sizes and it has been supplied in other sizes with deviation which were allowed in order to salvage developmental materials and reducing the loss to Jindal Strips. The supplies were found not suitable for end application requirement. Details have been provided in the confidential of Jay Bharat Maruti Limited.

It has been stated that India is moving towards implementation of Bharat Stage III Vehicle emissions norms which are in line with developed countries emission requirements. This is being achieved through use of catalytic converters and latest technological advancement in engine design. These efforts have shown significant improvement in checking pollution levels in all metro cities. The use of stainless steel is increasing in exhaust system as high temperature resistance can be sustained using stainless steel materials. It is requested that anti-dumping duties should not be levied on ferritic grade (400 series) stainless steel if imported for automotive exhaust application

2. M/s Mark Auto Industries Ltd. (MAIL) :

MAIL is the component manufacturer to the Indian automobile joint M/s Maruti Udyog Ltd. MAIL is an importer of the subject goods from Japan. MAIL also purchases goods from the Indian domestic manufacturers of the said goods. MAIL imports the goods from Japan mainly on account of the following factors:

- a. Domestic industry is not producing 409 grade of 0.5 mm Thickness. MAIL has to import the said grade as it is not domestically available. Therefore, no anti-dumping duty may be levied on the said grade.
- b. In respect of those grades which are procured from the domestic industry, the quality of indigenously procured steel of 409 grade was proved not upto the mark. In fact, on a number of occasions, the goods procured from the domestic manufacturers had to be rejected and returned to them as they did not meet the required quality specifications. Copies of correspondence in support thereof have been enclosed in their response.
- c. Further, components manufactured by us should also meet the highest standards of quality specified by our customer M/s Maruti Udyog Ltd. Maruti has not only prescribed the technical specifications of the raw materials to be used in the manufacture of components for the car exhaust system, it has also specified the primary steel manufacturer whose specifications/quality is established and matches with the specifications. As a original equipment manufacturer, MAIL does not have an option but to procure goods from the established manufacturer to meet the requirements of M/s Maruti Udyog Limited.
- d. The domestic industry does not adhere to the time schedules for delivery. Often, there are substantial delays in delivery of goods which is not substantiate to maintain the stringent delivery requirement (just in time on single vendor basis) of our customers.

From the above, it is clear that the goods supplied by the domestic industry do not meet the quality standards and specifications which are met by imported goods. Under these circumstances, both the goods are "not comparable" and therefore should not be held to be like products.

E. EXAMINATION BY THE AUTHORITY ON LIKE ARTICLE:-

The Authority notes from the submission of M/s MAIL that MAIL had not imported grade 436 from Nippon Steel or from Kawasaki. It had imported grade 409 from Nippon at an average rate of Rs ***/MT and Rs ***/MT from Kawasaki. It had procured grade 409 from the petitioner at Rs ***/MT.

The Authority notes that the domestic industry has sold a quantity of 411.915MT of a total value of Rs *** (Rs ***/MT) of Grade 409 to buyers such as M/s Sharda Motor Industries Ltd., M/s Walkor Exhaust India P.Ltd., M/s Mark Auto Industries Ltd., M/s Jai Bharat Maruti Ltd., and M/s Ratnaguru. The petitioner has sold a quantum of 19.048MT of grade 410 of a total value of Rs *** (Rs ***/MT) to M/s IDL Industries Ltd, M/s Kevin Enterprises P. Ltd., etc. and a quantity of 56.99MT of grade 430 of a total value of Rs *** (Rs ***/MT) to buyers that include M/s Jai Bharat Maruti, M/s

Deemra Tubes Ltd., etc. A quantity of 4.925MT of grade 436L has also been supplied by the petitioner during the POI. The Authority therefore notes that the domestic industry has been producing the said grades and supplying the same to OE manufacturers.

The Authority further notes that the petitioner had effected a total quantum of 4243.37MT of indigenous sales of the 400 series. The petitioner moreover produces all the grades in 400 series like 409, 409L, 436, 436L. Besides this, the petitioner produces other grades of 400 series like 409RC, 409M, 410, 410S, 405, 430, 430Ti and 420 grades.

In this connection, the Authority notes the petitioner's reference to their detailed brochure wherein it has been mentioned that the company's product range includes the grade and size mentioned by the automobile industry. The domestic industry is producing strips of thickness upto 0.1mm. Sample invoices in support of the same have been submitted to the Authority for the period of investigation.

Rule 2(d) of the anti-dumping rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another Article, having characteristics closely resembling those of the articles under examination.

The Authority has noted that the subject goods of stainless steel are normally classified into three categories of stainless steel depending upon their chemical composition and intended application. While the 200 and 300 series comes under the category of Austenitic Stainless Steel, the 400 series is covered under the Ferritic Stainless Steel category. The Authority has also noted that the grades in the 300 and 400 series have been developed for specific end-uses/applications and the optimum grade is selected by the end-user based on the end-use/applications.

CR Flat products of stainless steel are produced and sold in different grades within certain broad categories/series. While the raw material composition of these various grades vary, there is no significant difference in terms of process, equipment or technology for the production of these various grades. In order to establish that CR Flat products of stainless steel of all grades/series produced by the domestic industry is a Like Article to that exported from the subject countries, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

Some interested parties have stressed on the quality differences between the prime and non-prime or secondary grades of the subject goods that are also imported and that manufactured by the petitioner. The Authority notes that the raw material composition

and the production process are the same for prime and non-prime merchandise. When the quality of the finished products are not as per standards (due to the appearance of surface defects or change in mechanical properties), they are classified as non-prime material as per individual coding norms/technical standards of different manufacturers and not as per any standard gradation norms. The Authority notes that there are no firm physical attributes or technical distinctions that differentiate the prime material from the non-prime or secondary qualities of the subject goods.

The Authority concludes therefore, that the basic manufacturing process, the applications and overall use of the imported product (in both prime and non-prime grades) and that manufactured by the petitioner are similar. There is a high degree of interchangeability and consequently of competition between the imported product in various grades/series and that manufactured by the petitioner being the subject matter of this investigation.

In order to establish that the subject goods in the stated categories/series of stainless steel produced by the domestic industry is a Like Article to the subject goods in the stated categories/series that are exported from EU, Japan, Canada and USA, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority. There are general similarities in physical characteristics, production process, end use in the subject products imported from the subject countries and that produced by the petitioner. The subject products compete directly with each other and with those imported from other countries and together compete with the domestic like product.

The Authority finds that there is no argument disputing that the subject goods produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by CR flat products of stainless steel in various grades/series imported from the subject countries/territory both commercially and technically. Cold rolled Flat Products of stainless steel of all grades/series produced by the domestic industry has been treated as Like Article to the product exported from European Union, Japan, Canada and USA., within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

D. DOMESTIC INDUSTRY:-

4. The production of Cold Rolled Stainless Steel Coils/Sheets by the petitioner has been as given below:-

Year	SAIL Salem Plant (estimated in	Jindal Strips Ltd., Hisar (in	SAIL % of	JSL % of
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	MT)	MT)	total	total
1998-99	20000	10104	66.44	33.56
1999-2000	22000	24388	47.43	52.57
Apr-Dec 2000	15000	29110	34.01	65.99

The petitioner has neither imported the subject goods nor are they related to the exporters or importers of the alleged dumped article. The subject goods are being manufactured in India by SAIL and JSL. The production process for the said item uses the Electric Arc Furnace with refining facilities such as AOD/VOD, continuous casting and associated rolling facilities. There is no difference in the basic process of manufacture adopted by the petitioners and the exporters from the subject countries.

Views given by the Ministry of Steel:-

- As per the information of the Administrative Ministry, there are presently two large Cold Rolled Stainless Steel Coils, Sheets and Plates producers in India, namely Salem Steel Plant of SAIL and Jindal Strips Ltd., Hisar. Only Jindal Strips has captive steel making refining and hot rolling facility. SSP procures stainless steel slabs which is further hot rolled and thereafter cold rolled to produce CRSS coils, sheets and plates. The production capacity of the subject goods of SAIL and Jindal are as follows:-

	1997-98		1998-99		1999-2000		2000-2001	
	Cap.	Prod.	Cap.	Prod.	Cap.	Prod.	Cap.	Prod.
SAIL	70000	56365	70000	41033	70000	43828	70000	28910
JSL	NA	NA	30000	10104	60000	24388	90000	29110

Details of seven other small CRSS sheets and strips producers in the country have been given who are basically manufacturing the subject goods of width less than 600mm. The Authority notes that based on the information above the Petitioner represents 50.17% of the total Indian production in 2000-2001. Therefore, the petitioner satisfies the standing to file the present petition and constitutes the domestic industry under the Rules.

The Authority notes therefore that the petitioner constitutes "domestic industry" and has the required standing to file the present petition under the Rules.

E. Other Issues:-

Submissions made by exporters:-

A. Avesta Polarit Oyj Abp, Linnoltustle 4A, PO Box 270, FIN-02601, Espoo, Finland:-

- i. Avesta Polarit Oyj Abp has stated that it has not filed the questionnaire response as it did not receive the questionnaire from the DGAD.
- ii. Avesta Polarit is one of the world's leading stainless steel producers and was formed in January, 2001 by way of a merger between Avesta Sheffield and Outokumpu Steel, and it was launched with the vision to be "Best in Stainless". Avesta Polarit is a public limited company existing under the laws of Finland and is a subsidiary of the Avesta Polarit Group. It is a public listed company in the stock exchanges of Stockholm, Sweden and Helsinki, Finland, Corus UK Ltd. is a major shareholder and holds 23.2 % of Avesta Polarit's shares.
- iii. Avesta Polarit submits that subsidiary in Sweden namely Avesta Polarit AB, entered into an arrangement with Alfa Laval Sweden for the sale of Stainless Steel Coils, Sheets and Plates. Under this arrangement, Alfa Laval Sweden was to place order on behalf of its subsidiaries world wide, to buy stainless steel coils sheets and plates from Avesta Polarit AB. Payment was made directly by the subsidiaries to Avesta Polarit AB.
- iv. One of the subsidiaries on whose behalf Alfa Laval Sweden entered into the arrangement with Avesta Polarit AB was Alfa Laval (India) Ltd. Having its registered office at Pune. The order placed by Alfa Laval Sweden on behalf of Alfa Laval India was for the purchase of Cold Rolled Stainless Steel Coil of the grade EN 4401/AISI 316. Avesta Polarit submits that it made only a one time delivery to Alfa Laval India during the POI and therefore it should not fall within the scope of this investigation.
- v. The deliveries of the subject goods were made for two categories of thicknesses. The company has specified the quantities sold the invoice value and the rate per unit.

Examination by the Authority:-

The Authority notes that the information furnished is not as per the formats specified in the exporters questionnaire and is without any supporting documentary evidence. The exporter has not given any information/data of domestic sales in the home market of the subject merchandise and has not revealed its cost of production. The Authority is therefore unable to arrive at any material conclusion as far as normal value and export price are concerned.

(B) M/s Ugine S.A., France:-

- i. M/s Ugine S.A., France has stated that during the period of investigations it had no sales nor exported any subject merchandise under investigation to India.

- ii. Ugine S.A. produces the subject merchandise at its cold rolling mills (Gueugnon and Istbergues).
- iii. They have requested that the Authority undertake a new shipper review of Ugine S.A.France as they have not sold or exported any subject merchandise to India. They have further submitted that no duty can be imposed on the products exported by Ugine S.A. in line with the duties imposed under the present investigation on other exporters who had exported during the period of investigations. The Authority may however withhold appraisement and/or request guarantees to ensure that, should such a review result in a determination of dumping in respect of such producers or exporters, anti dumping duties can be levied retroactively to the date of the initiation on the review.

Examination by the Authority:-

M/s Ugine S.A.France, may file an application under the Anti-Dumping Rules for a new shipper review if they have not sold or exported the subject merchandise to India during the period of investigation.

E 5. Public Hearing Held by the Authority on 4th March 2002

(I) Views expressed by Domestic Industry in written submissions and rejoinder:-

- a. Right of interested parties to make oral submissions- Opportunity of being heard and then to make oral submissions can be given only to those interested parties who have first submitted all the relevant information asked for in the Proformas prescribed by the Authority. Kawasaki Steel Corporation has not given non confidential version or the indexed form of any of the crucial appendices in the non confidential version of their response. The revised non confidential version given by them does not contain any information which can be considered meaningful. The response submitted by the Kawasaki may be considered as insufficient and unsubstantiated and therefore not taken cognizance of . M/s Acerinox S.A., Spain has also given a non confidential version but the same is highly inadequate by any standards. Several parts like technical specifications to differentiate the so called 'choices' have been kept confidential without assigning any reasons. The demarcation of choices done by the exporters is not in accordance with any standard practices, technical specification or trade parlance. The Designated Authority may kindly ensure that the claimed normal values for different choices are above the full cost of production as envisaged under the Anti Dumping Rules. As per Rule 6(4), the importers are obliged to furnish information as called for in the importers questionnaire. The importers who made submissions during the public hearing have not given any information in the prescribed format. It may please be seen

that only two importers namely, Mark Auto India Ltd. and Jai Bharat Maruti Ltd. have submitted their written response subsequent to the public hearing. As per the public file, these importers have not submitted the response in the prescribed format. The Authority would be legally obliged to reject all arguments made by the importers until they fulfil the legal obligations. On the basis of the inspection of the public file, it is clear that the exporters namely, Avesta Polarit Oyj Abp, North American Stainless, USA and R.M.Creations have not submitted the required information in the prescribed formats nor have they given any non confidential version. Under the circumstances, following the rules laid down by the Hon'ble Supreme Court in the case of Haldor Topsoe, the Authority should exercise his power to decide the case on the basis of the facts available.

- b. Quality- Several importers and exporters raised the argument that the quality of the steel produced by the domestic industry is not up to mark. The domestic industry had been supplying to a large number of OE suppliers. While there could be some cases of complaints regarding quality, the same had been adequately addressed and repeat orders were received from the same customers. Moreover all the opposing parties had merely made allegations regarding the quality of the products of the domestic industry but no evidence whatsoever was forwarded to enable the domestic industry to defend its viewpoint.
- c. Comment on Injury issues- It was argued that the assessment of the Authority is incorrect as it has been done for all the grades combined. Para (vi) of Annexure II to the Anti-Dumping Rules states as under:-

"vi) The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided."

It is clear from the above that the Authority is required to assess the injury with respect to the product under consideration as a whole and not for the subsets or the grades within the product under consideration. The said provision has been enacted precisely keeping in mind the impossibility of carrying out series-wise injury analysis. While some of the parameters are admittedly identifiable, major parameters like the production process as well as the production facilities are not separately identifiable. While series 300 and 400

are not substitutable, the same is not true for the series 200 and 300. It may be mentioned that the observations of the Ministry of Steel in no way supports the case of the exporters that the stainless steel of various grades cannot be considered as like articles.

- d. Market share of the imports from the subject countries- The market share of the imports from the subject countries as a percent of the total imports has gone up from 61.70% in the year 1998-99 to 66.49% during the period of investigation. Even though the share of imports from the subject countries has marginally declined over the immediately preceding year, the fact is that the imports from these countries were disproportionately high during the entire period on account of their abnormally low prices and aggressive pricing policies. Further the imports from the subject countries have maintained their prices at the same level despite a substantial increase in the cost of major raw material.
- e. Capacity utilisation- The petitioner has enhanced its Cold Rolling manufacturing facilities with substantial capital investment of almost Rs 350 crores (Rs 159 crores in 1998-99 followed by Rs 93 crores in 1999-2000 and a further sum of Rs 84 crores during the period of investigation). The operational capacity increased from ***MT/annum to ***MT in September 1999 and then from ***MT to ***MT in September 2000 which have been reflected in Proforma IVA. In order to ensure that the additional capacities do not suffer on account of loss of market share to the dumped imports, the domestic industry made all efforts to increase their capacity utilisation even though the losses on their sales remained unabated. However, the aggressive pricing policies followed by the subject countries led to losses and a considerable drop in the level of capacity utilisation.
- f. Price Erosion- In order to match declining prices from the subject countries, the petitioner has either lost sales or in order to retain customer base has been forced to sell at suppressed prices. As regards the domestic industry's sales prices, there is some apparent improvement over the last few years but the increase in price is due to the increase in the cost of the major raw materials. The apparent increase in the selling price is not adding to the net realisation of the domestic industry. The increase in the sales price does not even cover the direct increase in the raw material prices and evidence of price suppression is therefore apparent.
- g. Sales prices of imports from the subject countries- The prices from the subject countries have remained more or less the same over the last three years despite increases in the raw material costs. The nickel prices in the international market have gone up by about USD 1200/MT. The direct effect of this increase on the sale price of the subject goods is to the extent of about Rs 4500/MT. This clearly indicates that the dumped goods are continued to be sold almost at the same prices after entirely absorbing the increase in the cost of the raw material.

We apprehend that these countries are selling the subject products below their full cost of production.

(II) Submissions by Exporters in written submissions and rejoinder:-

(a) M/s Kawasaki Steel Corporation, Japan

1. Deficiency in Initiation-

- The preliminary levy is on the specific grades, the analysis of the substantive issues had not been done grade for grade.
 - No evidence produced by the petitioner inter alia on injury and causal link grade for grade.
 - For determination of dumping margin a grade wise margin is stated;
 - On the issue of margin of injury, all factors have been done on a generic basis without reference to grade;
 - The issue of profitability has been determined not grade wise but series wise;
 - The issue of causal link is decided on a generic basis with no reference to grades;
 - At the stage of recommended levy, it is stated that the weighted average landed value for the 400 series is used, whereas the actual recommendation is grade-wise;
 - For the levy of duty, as to all countries other than Belgium, the levy is made on grade wise recommendation, whereas for Belgium, the reference is to the metallic content viz., CR, CRNI and CRNIMO.
2. The preliminary findings have failed to consider the various submissions made by the interested parties, particularly the importers. The preliminary findings do not contain a full explanation for the reasons, formulae or methodology used in the establishment and comparison of the export price and the normal value under Rule 12. While the details and calculations of the normal value have been kept confidential in the Preliminary Findings, this does not justify withholding the information from KSC. The margin of dumping calculated for KSC appears to be inflated and inaccurate.
3. Further, it is submitted there are two elements unknown from the conclusion of the Preliminary Findings viz., the calculations made on the basis of weighted average landed value and the non-injurious price. When the grades R409L and R436LT are technically and commercially substitutable in terms of functions and in prices, there has been no proper basis of coming to the recommendations of duties on these grades.
4. The cost of production and non injurious price calculated for the domestic industry appears to be incorrect and inflated.

5. Submissions on Injury- The following points which were raised by KSC have not been dealt with:-

"As per information of the petitioner stated on their website and publications and as per different web sites specified below, the facts as to the consumption patterns and markets in India are:

- i. The 200 series which caters for the lower end of the market (mainly household articles) accounts for over 75% of the petitioner's volumes.
(Source: www.indiainfoline.com)
 - ii. In India 76% of the consumption is in the form of utensils. Industrial segment accounts for 10 to 12%, pipes and tubes account for 3 to 4%, architecture and buildings with automotive, railways and transport account for just 1% of usage
(Source: Interview of Nirmal Chandra Mathur, Chief Executive of the petitioner on www.indiainfoline.com)
6. The petitioner has claimed that during the POI, the price of nickel rose significantly, inspite of this the prices of the dumped imports were held constant. The LME price graph for nickel clearly contradicts the claim of the petitioner.
7. The petitioner has quoted para (vi) of the anti-dumping Rules and is of the opinion that the Authority is required to assess the injury with respect to the product under consideration as a whole and not for the subsets or the grades within the product under consideration. At one stage the petitioner admits in his submissions that the 200, 300 and 400 series are not substitutable. On the other hand the petitioner opines that the Authority has rightly assessed the injury to the domestic industry for the product under consideration as a whole and not for the individual series separately.
8. There are no conditions of competition with regard to steels for automotive purposes (R409L and R436LT), special grade steels (SUS420J1 and SUS420J2) and steels of width 1250mm and above, as these are not manufactured in any significant quantity by the domestic industry. The R409L and R436LT grades for automotive use constitute a very small portion 1% of the petitioners market and are incapable of causing injury to the petitioners.
9. Inadequate Non-confidential version- The petitioner claims that KSC and its exporters have not filed adequate information in the non-confidential version. Rule 7(ii) of the Anti-Dumping Rules, requires a non-confidential summary, however allows discretion to the exporter to withhold information if information is not "susceptible of summary". It was communicated to the Designated Authority that the export price of KSC and its traders is available in the public domain. If the cost of product and other commercially sensitive

information were to be indexed, through simple arithmetic the entire economics and commercial aspects of KSC and its traders dealings will be compromised. The petitioners may seek to sensationalise the issue by citing the Lead Acid Battery case, Where ostensibly the exporters data was rejected on the grounds that the same was not properly indexed. A perusal of the Preliminary Findings in that case will make it clear that there were several fundamental issues why the exporters information was not considered at the preliminary stage. Further it is also a well settled principle of anti-dumping that different qualities have to be shown clearly in all the relevant documents and the differences should be clearly definable. In this behalf the petitioner has not even furnished the evidence based on the above principles. Furthermore, it is clearly erroneous to state that the information submitted by KSC is "insufficient and unsubstantiated" since KSC has furnished the data based on various grades which the petitioner has failed to do. There cannot be a position where the petitioner and exporters are obligated to serve information on a differential basis. We further submit that the indexation of information in Appendix IV and V which is sensitive and critical commercial information can lead to serve adverse consequences for KSC.

(b) M/s Acerinox S.A, Spain

1. Determination of injury margin is correct - we agree with the findings of the Authority that the weighted average landed values of the exports made by M/s Acerinox S.A., Spain are higher than the non injurious price determined for the domestic industry and that it did not indicate any price injury.
2. Products not produced by the domestic industry be excluded. The domestic industry does not have the capacity to produce products with
 - a. thickness of 0.46 mm to 0.6 mm and width exceeding 1000 mm;
 - b. thickness of 0.61 mm to 4.0 mm and width exceeding 1250 mm; and
 - c. thickness of 0.10 mm to 0.45 mm and width exceeding 500 mm.

Domestic industry has neither the capacity to produce nor has it actually produced the goods of the above said three ranges. Therefore, no anti dumping duty shall be levied on the products having the above specifications. A similar decision was taken in the case of Styrene Butadiene Rubber (SBR) wherein anti-dumping duty was imposed on SBR 1500 series, 1700 series and 1900 series but no duty was imposed on SBR 1000 series as the said series was not produced in India.

3. Dumping margin should be determined for each 'series' of the product - In the instant case all interested parties agree that the product under consideration can be grouped into four district series viz., 200 series, 300 series, 400 series and

500 series. Every series possess different physical and chemical properties. Every series is meant for different end use applications. In this connection, decision of the DA was invited to the case of SBR wherein SBR of 1500, 1700 and 1900 series were treated separately. Minor variations in grades within 1500 series, etc. was considered as not amounting to an independent product.

4. Calculation of dumping margin for Acerinox - In the Preliminary Findings, the Authority has adopted a uniform overseas of *** E/kg for all qualities and grades for determining the ex-factory export price. Acerinox had claimed adjustment towards ocean freight based on the average actual expenses incurred in exporting each of the said grades/qualities to India.
5. A proper non confidential version of the petition was not provided - A perusal of the non confidential version of the petition indicate that in para 4.2, 4.3 and 4.5 relating to price erosion and profitability, the petitioner has simply *** . A number of rows and columns in proforma IV A are left blank. Normally when non confidential summaries are prepared, confidential figures are indexed so that at least the trends in the movement of the relevant parameters are made known.
6. Injury analysis is incomplete and not in conformity with the relevant rules. The Authority should not have determined injury for all the grades put together. All the 15 mandatory injury parameters were not evaluated. The parameters evaluated by the Authority do not show any injury to the domestic industry. No casual link has been established.
7. Injury determination for all grades put together is not correct - The Authority has determined individual dumping margin for each of the different grades or series of the product under consideration. Such a determination of individual grade specific dumping margin pre- supposes the following:-
 - a. domestic industry has the production capacity and actual production in respect of those grades; and
 - b. domestic industry has furnished the relevant data to enable the Authority to determine injury corresponding to the grades for which dumping margin is determined.

The dumping margin has been determined gradewise while the injury margin has been determined for the product under consideration as a whole (all series and grades have been treated as one product). As every series represents a different product to be sold in an entirely different market segment, it is highly unlikely that they do not even have production data relating to each series separately. Only when identification of production data becomes impossible, the Authority can resort to 'narrowest group or range of products, which includes the like products' for injury analysis.

8. Written submissions of domestic industry contradict what they stated in the public hearing - During the public hearing, - During the public hearing, the Designated Authority specifically asked the consultant for the domestic industry as to whether there were any lacunae in the non confidential version submitted by M/s Acerinox S.A., Spain. The consultant for the domestic industry answered unequivocally that the non confidential version of the response admitted by Acerinox was complete in all respect. Contrary to what they had admitted during the public hearing, the domestic industry has, in the written submission, stated that the non confidential version given by Acerinox was highly inadequate by any standard.
9. In so far as the question of gradation of product into four different choices/qualities is concerned, we have already submitted detailed technical basis used by Acerinox in grading their products to the Authority. The gradation followed by Acerinox in their response is the same as the gradation followed by it consistently in all their operations and are reflected in the records of the company.
10. Grades not produced by domestic industry should be excluded - In para (b) of the written submissions of the domestic industry, they have stated that they had produced sizes having width upto 1500 mm in the past. They have not given any evidence to support that they produced sizes above 1250 mm. It is not known as to when they produced such sizes and in what quantity.

(c) M/s ALZ, n.v., Belgium

1. CR grade (ferritic) - we have a negligible export of chromium of stainless steel (ferritic grades) to the Indian market abt 111 M/tons which is a negligible portion of Indian imports which can cause no serious injury to the Indian manufacturers.
2. ALZ do not produce 200 series of material. When we do not produce means we cannot sell locally or export to India.
3. All other grades - anti dumping duty US \$ *** per kg - all other grades means in our opinion ' duplex grades of stainless'. ALZ do not produce duplex material and therefore do not sell locally or export to India.
4. Our request - anti dumping duty levied for Other (200 series) grades and for All other grades of stainless steel on ALZ may be withdrawn.

(d) M/s R.M.Creations, Inc., 303, 5th Avenue, Suit No. 1707, New York - 10016, USA/M/s North American Stainless, Ghent, USA

1. Our company is incorporated under Laws of United States of America. We are in the business of trading in stainless steel products and are exporting secondary and /or defective cold rolled stainless steel sheets/scrips/coils from

USA. We are buying these materials from various producers in USA and offer the same to our prospective buyers. During January, 2001 and December, 2001 we have shipped about 1295 MT of this material to India.

2. We want to draw attention of the Designated Authority mainly on two points. One M/s Jindal Strips Ltd., cannot produce material of widths higher than 1250 mm and second we are not selling material at a price lower than theirs compared with price of their equivalent material.
3. We are exporting only defective and /or secondary material of width above 1250 mm which Jindal Strips Ltd. is not making. Jindal Strips Ltd. had pointed out that after imports the coils can be slit and can be made into smaller widths . This means they do not produce material which is being exported by us.
4. CIF price of our defective and /or secondary material imported into India is available with the Authority which is around USD ***/MT. Jindal Strips Ltd. had exported their prime quality material to USA. They had not disclosed their fob price of exports and wanted to keep it confidential. They will give you that price and we understand the difference is negligible.
5. In addition to that they are enjoying monopolistic status and therefore the users are forced to buy material from them and have quality problems as pointed out by the representative of Jai Bharat Maruti Ltd. Besides this, they do not have any fixed delivery schedule because they are not the regular producer of such material.
6. Price - It was informed that price for imports from USA is Rs. ***/MT where as their sale price is Rs. ***/Ton. A normal practice scrap price quoted on LME is taken as base price and since secondary and /or defective material is not scrapped and better than scrap, therefore it is priced app. 30% more than scrap price, but again it is much less than prime material price.
7. Regarding local supplies - The spokesperson of M/s Jai Bharat Maruti Ltd. had placed some orders for stainless steel of grade 400 series. M/s Jindal took almost 8 months in supplying the material and thereafter the buyer had political problems with that material.

(III) Submissions made by Importers

a. M/s Jay Bharat Maruti Ltd.

1. Domestic producer is producing predominantly 200/300 series grade of stainless steel. The 400 series stainless steel used for Automobile Exhaust application is not been produced by the domestic producer. The developmental trials being carried with domestic producer to meet Automobile Exhaust requirement have badly failed. As such calling 400 series grade stainless steel being imported by us as LIKE ARTICLES is not appropriate. In many of the lower gauge thicknesses domestic industry is not being able to submit even the

samples for our applications.

As such calling 400 series stainless steel grade being imported by us as LIKE ARTICLES is not correct.

2. There is no inter-changeability of 400 series grades material with any 200/300 series grade stainless steel.
3. **CASUAL LINK** - Since the domestic industry is not capable to produce 400 series Automobile Exhaust application requirement materials, there is no question of improvement in market share of domestic industry. As such no casual link can be attributed due to import of 400 series grade imports.
4. **IMPORT Vs. DOMESTIC PRICES** - For certain ferritic grade (400 series) stainless steel an extra premium is being borne by us for imports compared to the agreed prices of domestic producers. The details has already been given by us vide our letter JBML/rcs/rm/2002 dated 7th January, 2002. This premium is being paid only because domestic producer is not able to make these grade materials suitable for automobile requirement.

b. M/s Mark Auto Industries Ltd. (MAIL):

Cold Rolled Products meant for Auto Component Manufacturing purposes should be excluded.

1. Cold Rolled Stainless Steel of '409 Grade' is required for automobile component manufacturing purposes. The 409 grade consist of a number of variants. The domestic industry is not in a position to produce all the variants under 409 grade. For instance, they do not produce 409 grade with 0.5 mm thickness. It produces certain other variants of 409. However, quality of 409 grade of stainless steel manufactured by the domestic industry has not been satisfactory. Automobile components have to meet highly stringent quality norms, otherwise the components will be rejected by the automobile manufacturers. Due to quality problems, the goods procured from the domestic industry had to be rejected and returned to them. As the domestic industry is not in a position to supply Stainless Steel of 409 grade, auto component manufacturers are left with no other option but to import them.
2. As there is no domestic industry for manufacturing stainless steel grade meant for automobile component manufacturing purposes, there is no need to give protection to a non-existing domestic industry by way of levying antidumping duty. Therefore, stainless steel products imported by auto component manufacturers for making automobile components shall be excluded from the levy of anti dumping duty.

(IV) **Views expressed by Delegation of the European Commission in India:-**

1. The European Commission wishes to obtain clarification on whether the 40% customs duty already applicable in India to imports of the product under investigation were taken into consideration when assessing price undercutting.
2. The Commission wishes to obtain further information on the level of the non injurious price.
3. All factors causing injury should be assessed separately in order to isolate the injury caused by imports of the product under investigation.
4. The residual duty applied by the Designated Authority is disproportionate when compared with those applied to cooperating companies. The European Commission wishes to receive disclosure of the method used to determine the residual duty.

Examination by the Authority on Views expressed by Delegation of the European Commission in India:-

- a. The prevailing level of basic customs duty applicable to the imports of the product under consideration has been taken into account by the Authority when assessing price undercutting;
- b. The level of the non-injurious price is information confidential to the domestic industry as the same is based on the cost information on all relevant factors concerning the production and the production process of the domestic industry;
- c. The Authority has analysed all injury factors. It is clear from the records that the imports of subject goods from other than subject countries are either de minimis or not exported at dumped prices. Further, the demand of the subject goods in the country are more or less stable and contraction of demand is not a factor of injury to the domestic industry. The domestic industry has suffered losses during the period of investigation. The return on investment has also been negative. No other factors other than dumping have been brought to the notice of the Designated Authority which could have been considered as a factor causing injury to the domestic industry.
- d. The residual duty has been calculated on the basis of 'facts available'.

6. Examination by the Authority on Other Issues raised by interested parties:-

1. M/s Kawasaki Steel Corp., has stated that the petitioner has quoted para (vi) of the anti-dumping Rules and is of the opinion that the Authority is required to assess the injury with respect to the product under consideration as a whole and not for the subsets or the grades within the product under consideration.

The Authority has noted in para B2 of these findings that the product under consideration is "Cold rolled Flat Products of stainless steel, of a width of 600mm or more, whether further processed or not of all grades/series." The

Authority has also noted that the subject goods of stainless steel are normally classified into three categories of stainless steel depending upon their chemical composition and intended application. While the 200 and 300 series comes under the category of Austenitic Stainless Steel, the 400 series is covered under the Ferritic Stainless Steel category. The Authority has also noted that the grades in the 300 and 400 series have been developed for specific end-uses/applications and the optimum grade is selected by the end-user based on the end-use/applications. The Authority has therefore done a series-wise injury analysis as some of the parameters are identifiable, while others like the production process as well as the production facilities are not separately identifiable.

2. M/s Kawasaki Steel Corp., has also stated there are no conditions of competition with regard to steels for automotive purposes (R409L and R436LT), special grade steels (SUS420J1 and SUS420J2) and steels of width 1250mm and above, as these are not manufactured in any significant quantity by the domestic industry. Rule 2(d) of the anti-dumping rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another Article, having characteristics closely resembling those of the articles under examination. The Authority has noted under para C that the domestic industry has sold a quantity of 411.915MT of Grade 409 to buyers such as M/s Sharda Motor Industries Ltd., M/s Walkor Exhaust India P.Ltd., M/s Mark Auto Industries Ltd., M/s Jai Bharat Maruti Ltd., and M/s Ratnaguru. The petitioner has sold a quantum of 19.048MT of grade 410 to M/s IDL Industries Ltd, M/s Kevin Enterprises P. Ltd., etc. and a quantity of 56.99MT of grade 430 to buyers that include M/s Jai Bharat Maruti, M/s Deemra Tubes Ltd., etc. A quantity of 4.925MT of grade 436L has also been supplied by the petitioner during the POI. The Authority therefore notes that the domestic industry has been producing the said grades and supplying the same to OE manufacturers. The Authority further notes that the petitioner had effected a total quantum of 4243.37 MT of indigenous sales of the 400 series and therefore conditions of competition do exist with regard to steels for automotive purposes (R409L and R436LT).
3. It had been argued by the exporters and the importers that the product range of the industry is limited and it does not produce widths exceeding 1250 mm. The Authority notes that it is simple for the importers to slit the wider widths to narrower ones indicating substitutability between the widths exceeding 1250 mm and those below 1250 mm. The petitioner has capacities and capabilities of producing 1500 mm width material. At Steckel Mill, such materials are rolled through cross-rolling and the cold rollings are also fully capable of rolling 1500 mm width material as rolled at Steckel Mill. The petitioner has in fact

rolled material in 1500 mm width and supplied in the markets. A few invoices in support of the above have been given to the Authority.

4. M/s Acerinox has stated that the domestic industry has neither the capacity to produce nor has it actually produced the goods of thickness 0.10- to 0.6 mm and width exceeding 1250 mm. Therefore, no anti dumping duty shall be levied on the products having the above specific. The Authority has noted that the domestic industry is regularly producing sheets/strips of thickness upto 0.1mm. and sample invoices in support of the same have been submitted to the Authority. The issue of width has been addressed in the para above.
5. M/s Acerinox has stated that dumping margin should be determined for each 'series' of the product since the product under consideration can be grouped into district series. The Authority has determined the dumping margin series-wise.
6. **Submissions by M/s R.M Creations in written submissions consequent to Public Hearing Held by the Authority on 4th March 2002:-**

M/s R.M.Creations, Inc., USA has stated that M/s Jindal Strips Ltd., cannot produce material of widths higher than 1250 mm and second they are not selling material at a price lower than theirs compared with price of their equivalent material. The issue of widths has already been addressed above and in the relevant sections of this notification.

As already noted when the quality of the finished products are not as per standards (due to the appearance of surface defects or change in mechanical properties) they are classified as non prime material as per individual coding norms/technical standards of different manufacturers and not as per any standard gradation norms. The determination of 'Like Article' has included a view on the secondary qualities of the subject goods also as the interested parties stressed on the quality differences between the prime and non-prime or secondary grades of the subject goods that were also imported.

The Authority notes that R.M Creations is an exporter/trader of secondary quality material. The Authority has brought out a determination on the issue of secondary material vs. prime material for the purpose of the Preliminary Findings in view of the representations made by certain interested parties and in these findings. M/s R.M Creations by their own submission are traders. The secondary and/or defective goods are sold locally by the Mills in the USA to traders such as M/s R.M Creations. M/s R.M Creations therefore can at best only comment on the prices at which the goods have been exported by them.

Only a single producer from USA has responded to the Authority's request for information in these investigations and the response filed by them is not complete in all respects as brought out in para F (1)G and F 2 (F) of these findings. The Authority

has taken into consideration the response to the exporters questionnaire which has been filed by a co-operating exporter from the USA on confidential basis. The said exporter has sold second quality coils in the domestic market in the USA and has furnished information on such sales on which they have incurred losses. The cost of production of domestic sales has been given by them. The exporter has furnished information on exports of second quality coils to India on which they have again incurred losses. Therefore, in view of the information available with the Authority, the assertions by M/s R.M Creations that they are not selling material at a price lower than the petitioners are not relevant.

The Authority notes that M/s R.M Creations have not filed a response to the Exporters Questionnaire. However, they were given another opportunity to file any further submissions that they wished to make in these investigations latest by 31st July 2002. The Authority notes that no further submissions were filed by them.

7. M/s Mark Auto Industries Ltd., (MAIL) has stated that the domestic industry does not produce 409 grade with 0.5 mm thickness. It produces certain other variants of 409. However, quality of 409 grade of stainless steel manufactured by the domestic industry has not been satisfactory.

The Authority notes that the petitioner has referred to their detailed brochure wherein it has been clearly mentioned that the company's product range includes the grade and size mentioned by the automobile industry. At the same time, the Anti-dumping Rules do not require that the domestic industry should have actually produced each and every grade of the product under consideration. As stated at point 2 above, the petitioner had effected a total quantum of 4243.37 MT of indigenous sales of the 400 series and therefore conditions of competition do exist with regard to steels for automotive purposes. The domestic industry has produced sheets/strips of thickness upto 0.1mm in the ferritic series. Sample invoices in support of the same have been submitted to the Authority. Thus it cannot be said that the said grade in the required thickness is not domestically available.

8. Authority's Examination of Comments received on Disclosure Statement

A. Acerinox S.A , Spain

The exporter has said that they have no comments on the determination per se of ex-factory domestic sale price, normal value and ex-factory export price. However, the rules require a fair comparison of normal value with prices of comparable export transactions for the purposes of establishing dumping margin. A fair comparison can only be made by comparing the normal values of every quality with the export prices of the same quality.

The Authority in the para on like article has observed that, "Some interested parties have stressed on the quality differences between the prime and non-prime or secondary grades of the subject goods that are also imported and that manufactured by the petitioner. The Authority notes that the raw material composition and the production process are the same for prime and non-prime merchandise. When the quality of the finished products are not as per standards (due to the appearance of surface defects or change in mechanical properties), they are classified as non-prime material as per individual coding norms/technical standards of different manufacturers and not as per any standard gradation norms. The Authority notes that there are no firm physical attributes or technical distinctions that differentiate the prime material from the non-prime or secondary qualities of the subject goods.

The Authority concludes therefore, that the basic manufacturing process, the applications and overall use of the imported product (in both prime and non-prime grades) and that manufactured by the petitioner are similar. There is a high degree of interchangeability and consequently of competition between the imported product in various grades/series and that manufactured by the petitioner being the subject matter of this investigation. "

In view of the above, the Authority has made a fair comparison of the normal value and export price on a weighted average to weighted average basis.

B. M/s Kawasaki Steel Corporation, Japan

1. The exporter has said that highly specialised grades manufactured in the 300 and 400 series cannot be used interchangeably. The Authority has failed to examine the injury and causal link on a like for like basis.
2. While there may be isolated example of some purchases of various grades by the consuming industry, the fact is that these grades do not perform as per the standards required. This is not a quality issue, but rather one of functionality.
3. The Preliminary Findings do not contain a full explanation for the reasons, formulae or methodology used in the establishment and comparison of the export price and the normal value under Rule 12. The calculation of KSC's normal value should, on a confidential basis have been disclosed by the Authority. The Designated Authority has marginally reduced the export price by erroneously deducting overseas freight, overseas insurance and other charges although KSC's export selling price being an fob price any charges incurred after fob should not be deducted to calculate ex-factory price.
4. The Disclosure statement adopts differential basis for determination of distinct issues:
 - i. For determination of margin of dumping a grade-wise margin is stated:

- ii. On the issue of margin of injury all factors have been done on a generic basis without reference to grade
- iii. The issue of profitability has been determined not grade-wise but series-wise
- iv. The issue of causal link, is decided on a generic basis with no reference to grades;
- v. At the stage of calculating dumping margin, it is stated that the weighted average landed value for the 400 series is used whereas the actual recommendation is gradewise.

The Authority notes that:

1. Annexure II (Principal for Determination of Injury) Sub Rule (vi) of the Anti Dumping Rules states that 'The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products., which includes the like product, for which the necessary information can be provided'.

Under the anti dumping provisions and practice, while determining the like article, the Authority is required to take into account all the products which fall under the description of the product under consideration as long as the same are technically and commercially substitutable. The entire range of subject goods have the same production facilities, production process and same distribution channels. However, the injury analysis was made series wise for quantity produced, sales quantum, cost of production and sales price.

2. The Authority has noted that the domestic industry has sold a quantity of 411.915 MT of Grade 409, 19.048MT of grade 410 and 56.99MT of grade 430 to various buyers. A quantity of 4.925MT of grade 436L has also been supplied by the petitioner during the POI. The Authority therefore notes that the domestic industry has been producing the said grades and supplying the same to OE manufacturers.

The Authority further notes that the petitioner had effected a total quantum of 4243.37 MT of indigenous sales of the 400 series. The petitioner moreover produces all the grades in 400 series like 409, 409L, 436, 436L. Besides this, the petitioner produces other grades of 400 series like 409RC, 409M, 410, 410S, 405, 430, 430Ti and 420 grades. A total quantity of 4243.3 MT in the 400 series has been sold by the domestic industry during the POI There are

general similarities in physical characteristics, production process, end use in the subject products imported from the subject countries and that produced by the petitioner. The subject products compete directly with each other and with those imported from other countries and together compete with the domestic like product. In light of the above, the Authority notes that conditions of competition do exist between the imported article and the like domestic articles.

3. It has been stated by the exporter that the Preliminary Findings do not contain a full explanation for the reasons, formulae or methodology used in the establishment and comparison of the export price and the normal value. However the details/data and methodology used in the comparison of the normal value and the export price have been fully brought out in the Disclosure statement and has been disclosed to KSC on a confidential basis on which the exporter has offered no comments. The Authority notes that KSC's export selling price is an fob price and has re-worked the dumping margin for KSC accordingly.
4. The Disclosure statement has not adopted differential basis for determination of distinct issues:
 - i. For determination of margin of dumping a grade-wise margin is stated for each grade as required under the Rules and a weighted average dumping margin for the 400 series has also been worked out;
 - ii. On the issue of margin of injury all factors have been done on a generic basis without reference to grade as the entire range of subject goods have the same production facilities, production process and same distribution channels;
 - iii. The issue of profitability has been determined series-wise as available data permitted the same on a series-wise basis;
 - iv. The issue of causal link, can be decided on a generic basis with no reference to grades as the Authority is required to take into account all the products which fall under the description of the product under consideration as long as the same are technically and commercially substitutable;
 - v. The weighted average landed value has been used only for determining the injury margin and not for calculating dumping margin. The actual recommendation is not grade-wise but series-wise.

(C) Domestic Industry

1. ALZ has admittedly not submitted any non-confidential version at all.
2. The revised version of KSC's non-confidential version did not contain any information which can be considered as meaningful.
3. Acerinox has given a non-confidential version that is highly inadequate by any standards. The exporter has given misleading information with regard to the exchange rates. Due to the wrong application of the exchange rate, the export

price had been exaggerated by over 21% resulting in an increased landed value. The response needs to be summarily rejected on this ground alone.

4. The Designated Authority is requested to kindly impose variable anti-dumping duties and fix reference prices.

The Authority notes that:-

1. No-submission of non-confidential version by ALZ was a matter that was not brought up by the domestic industry at any stage prior to their response to the Disclosure Statement in these investigations.
2. The views of KSC have been brought out in para E 5.II (a) 9. Of the Final Findings regarding their non-confidential version of the exporters response.
3. Para E5 II (b) 8 of the Final Findings bring out the views of Acerinox regarding their non-confidential version of the exporters response: "Written submissions of domestic industry contradict what they stated in the public hearing - During the public hearing, the Designated Authority specifically asked the consultant for the domestic industry as to whether there were any lacunae in the non confidential version submitted by M/s Acerinox S.A., Spain. The consultant for the domestic industry answered unequivocally that the non confidential version of the response admitted by Acerinox was complete in all respect. Contrary to what they had admitted during the public hearing, the domestic industry has, in the written submission, stated that the non confidential version given by Acerinox was highly inadequate by any standard."

(D) European Union

1. On the findings for Avesta Polarit the Authority has noted in para E. A of the Final Findings that the information furnished is not as per the formats specified in the exporters questionnaire and is without any supporting documentary evidence. The exporter has not given any information/data of domestic sales in the home market of the subject merchandise and has not revealed its cost of production. The Authority is therefore unable to arrive at any material conclusion as far as normal value and export price are concerned. The explanation of landed value has been given in para 11 of the Final Findings.
2. The volume of imports from the subject countries have increased from 18,244,420kg in 98-99 to 25,547,617kg (annl.) in the POI.
3. As regards production figures of SAIL, for the purpose of examining the standing of the domestic industry, it is the production data which is of relevance. It would be incorrect to say that the Authority did not have full access to the production information of the domestic industry as the required information was obtained from alternate sources also.

4. On the issue of sales, the injury analysis is required to be done on the basis of best information available which include the information which is reasonably available to the domestic industry for making out its case. Further, the issue with regard to market share is to be analysed in the context of the apparent demand in the country.
5. The Authority has analysed in detail the issue relating to the claim of the Domestic Industry with regard to the expanded capacity. The apprehension expressed by EC is not borne out from the facts as the Authority has duly considered and taken into account the effect of non consideration of expanded capacity. Since the Domestic Industry could not substantiate by documentary evidence the increase in the installed capacity, the Authority has examined the costs related to such claim of the expansion and has not considered the same while arriving at the Non Injurious Price. It is presumptive on the part of the EC to say that a thorough analysis with regard to the expanded capacity has not been done. With regard to the non disclosure of Non Injurious Price established for the Domestic Industry, it is clarified that since the Non Injurious Price is based on the cost of production of the Domestic Industry the same is not disclosed to any of the interested parties except the Domestic Industry as per the consistent practice of the D.A. The non injurious price is not disclosed as it is of critical commercial interest to the domestic industry.
6. The comments of the EC to the Disclosure Statement were received after the due date.

F. DUMPING:-

Exporters and Producers of the Subject Goods in the Country of Origin:-

None of the exporters/producers of Cold Rolled Flat Products of Stainless Steel in Canada responded to the Authority's request for relevant information. As brought out in Para 4(D) of the Preliminary Findings, M/s North American Stainless furnished an incomplete response to the questionnaire forwarded by the Authority and has not made available a non-confidential summary thereof. They have not furnished information on Price structures and sales arrangements in Appendices 4,5 and 6. Discounts/commissions (if any), and charges before and after fob on account of various costs in order to arrive at the domestic and export price at the ex-factory level are not known. The cost of production required to be furnished as per format in Appendix 8, 9 and 10 does not state the ex-factory cost per unit. Information on Indian customers (Appendix-5) have not been provided. .

M/s Acerinox S.A., Spain, M/s Kawasaki Steel Corporation., Japan and M/s ALZ nv, Belgium have co-operated with and responded to the questionnaire sent by the

Authority. The Authority deputed a team in the premises of these co-operating exporters to verify the data submitted by them in response to the exporters questionnaire and to obtain such further information as was considered necessary for these investigations.

(1) Normal Value:-

(A) M/s Acerinox S.A., Spain

1. Normal Value has been claimed based on sales in the home market and information on sales in the home market have been furnished in Appendix 1 of the response. The exporter had furnished information pertaining to sales of the subject goods viz. exports to India, domestic market sales and exports to other countries as per Appendix 3. The information has been furnished for Aisi 304 Group, Aisi 310 S Group, Aisi 316 Group and Aisi 430 Group. It is seen that the information has been furnished for all qualities, viz., 1 quality, 2 quality, 3 quality, and 4 quality in respect of sales made in each of these grades. The factory costs and profit furnished in Appendix 8,9 and 10 has also been furnished for all grades combined and for qualities 1 to 4 individually. In Appendix 4 (sales price structure for exports to India), adjustments before and after fob have been claimed apart from commission. In Appendix 5 (sales price structure for domestic sales, EU) adjustments have been claimed on account of charges before and after fob. The exporter has also furnished all invoices of export sales to India and sample invoices of domestic sales in EU. Annual reports have also been attached. It is seen from the Profit and Loss Accounts for the years ended 31 December 2000 and 1999 in the Annual Report, that the company has made profits.
2. **Cost of Production:-** Back up details for the cost of production shown in Appendix 7 was sought at the time of verification. It was informed that the cost shown in Appendix 7 was the average cost for the 9 months of the period of investigation. Copies of the COP sheets for the months of April to December, 2000 were collectively submitted. The cost of production shown in the monthly statement was, in turn, derived from the cost accounting system. The average cost shown for each series for the POI was split up amongst raw materials, utilities etc. according to the standard mix for each series i.e. 304, 316, 430 etc. Thus, the actual cost has been reported in the response. It is only the bifurcation of this actual cost that has been made as per the standard mix for each series. The correctness of the total cost appearing in the costing system was demonstrated by linking them with the Audited Accounts for the year 2000. A statement reconciling the cost accounts and the Financial Accounts was submitted.

3. The counsel for the exporter has stated that the subject goods are joint products which have emanated from a joint process. The joint products may consist of a number of independent products as in the case of a coke oven plant where in addition to coke the process also produces ammonium sulphate, light oil, tar and gas. Joint products may also consist of different grades of the same product where each grade has a separate market and the values are significantly different as in the case of stainless steel products. They have further clarified that joint products have relatively high sales value and are not separately identifiable as individual products until the split of points. The raw materials and other inputs that go into the production process remain the same and are inseparable. The total costs are to be apportioned amongst the joint-products. In the present case, the total costs incurred in the production of different grades of stainless steel products are apportioned to each grade based on the sales realisation value of each grade.

Examination by Authority

1. The Authority notes that in the present case there is only a single production process that has yielded the subject goods albeit in various qualities. The prime qualities have yielded a positive sales value and the non prime or secondary qualities of the same product /grade have had a relatively lower sales realisation as compared with the sales value of the prime grade material. As already noted, the raw materials and other inputs that go into the production process remain the same for the output and are inseparable. There are also no set or firm distinctions or standard gradation norms between the various qualities or 'choices' of these individual grades of the subject goods which have been identified in the response either physically or technically. The cost of raw materials and other inputs cannot vary from the start to the end of the production process because the products that emerge are not different. The production process is a single process that has not yielded independent products.
2. The Authority notes that the demarcation of 'choices' for sales made in the domestic market in EU has been made by the exporter without elaborating on the specific physical or technical attributes differentiating these 'choices' in their response to the questionnaire. At the time of verification, the exporter has made available to the Authority on a confidential basis, an 'Album of Defects' wherein the definition/description of defects, the possible causes and detection thereof have been identified in the Spanish language. The Authority notes that these defects cannot be set apart from each other on the basis of any firm or standard norms. The Authority notes that for each of the grades sold, the cost of production of each quality (categorised as quality 1, quality 2, quality 3 and

quality 4) has been separately provided. The combined cost of production of all qualities for each grade has also been given. It is seen that the cost of raw material and other inputs vary significantly between the choices/qualities of each grade.

3. Adjustments claimed in Appendix 5 (sales price structure for domestic sales in EU):-

For 304 group, the exporter had claimed adjustments/deductions on account of handling (before fob) and on account of overseas freight (after fob) from the domestic sales. Similarly, for 316 group and 430 group, the exporter had claimed adjustments on account of handling (before fob) and overseas freight (after fob) for the domestic sales. As far as adjustments claimed in Appendix 5 (sales price structure for domestic sales in EU) are concerned, it is seen that the system of gradation in 'choices' has been followed with regard to adjustments claimed for each choice of material without assigning any reasons whatsoever. However, the adjustments claimed for each choice of material under all groups is the same on account of freight and handling. The back up papers for commission, handling, insurance (copy of insurance policy) and ocean freight were made available for domestic and export sales. The exporters made available ten invoices for each month of the period of investigations at the time of verification (i.e. collectively a total of 90 invoices). It was pointed out at the time of the verification conducted by the Designated Authority that the domestic shipment has been effected in three modes. These are, by trucks, by vessels in full container loads and by ships in partial loads. The domestic freight has been indicated under the column overseas freight because of the fact that shipments to a number of countries in the EU takes place through ships/vessels. The total tons transported during the year 2000 by each of these modes and the average cost for each mode were verified with reference to the consolidated shipping statement and sample invoices.

(a) 304 group- In the 304 Group, the selling prices for 1st, 2nd, 3rd and 4th choice material are *** E/kg, *** E/kg, *** E/kg and *** E/kg respectively. The average selling price for 304 group (all qualities) is E ***/kg. For grade 304 the Authority has considered the claims of the exporter on account of handling at E ***/kg and overseas freight at E ***/kg bringing the total costs before and after fob to *** E/kg for all choices.

(b) 316 group- In the 316 Group, the selling prices for 1st, 2nd, 3rd and 4th choice material are *** E/kg, ***E/kg, ***E/kg and *** E/kg respectively. The average selling price for 316 group (all qualities) is E ***/kg. For 316 Group the claims of the exporter on account of handling at E ***/kg and overseas freight at *** E/kg has been considered by the Authority bringing the total costs before and after fob to *** E/kg for all choices.

(c) 430 group- In the 430 Group, the selling prices for 1st, 2nd and 4th choice material are *** E/kg, *** E/kg and *** E/kg respectively. The average selling price for 430 group (all qualities) is E ***/kg. For grade 430 the Authority has considered the claims of the exporter on account of handling at *** E/kg and overseas freight at *** E/kg bringing the total costs before and after fob to *** E/kg for all choices (1st, 2nd and 4th choice only).

4. After considering adjustments as given above, the domestic selling price at ex-factory level for each choice of material in the said grades sold in the EU are as given below:

E/kg

Grade	1st choice	2nd choice	3rd choice	4th choice
304	***	***	***	***
316	***	***	***	***
430	***	***	-	***

5. The quantities sold in the domestic market are as given below:-

Grade	1st choice	2nd choice	3rd choice	4th choice
304	***	***	***	***
316	***	***	***	***
430	***	***	---	***

Based on the quantities sold in the domestic market of EU as given above and the individual ex-factory selling prices of the different qualities/choices after considering adjustments claimed, the Authority has determined a weighted average ex-factory normal value of ***E/kg or USD ***/kg for the 304 grade, ***E/kg or USD ***/kg for the 316 grade and ***E/kg or USD ***/kg for the 430 grade at an average exchange rate of USD.90=1E. The Authority notes that these values are above their respective costs of production of E ***/kg for 304 family, E ***/kg for 316 family and E ***/kg for 430 family. The Authority also notes that the loss-making transactions in the 304, 316 and 430 grades constitute only 5.58%, 8.09% and 14.38% of the total quantities sold in the domestic market in the said grades.

(B) M/s ALZ, nv, Belgium:-

1. The exporter has made the following submissions in their response to the questionnaire and subsequently:-

- a. They have stressed the importance of the difference of the product mix sold in India compared to the product mix sold in the domestic market and other export market. During the POI 95.5% of the ALZ sales in India are second choice material and only 4.5% of the sales are prime first choice material. On the home market of ALZ 3.3% of ALZ sales are second choice while 96.7% of the sales are prime first choice material. On the export market besides India 5.4% of the ALZ sales are second choice while 94.6% of the sales are prime first choice material.
- b. ALZ has coded second choice merchandise in its own system. ALZ classifies material that is rejected during quality control because of a bad surface as second choice material. Even for second choice material, the chemical composition of the material should not differ from the standard.
- c. The Authority's position in the matter has been given under Para I (A) (I) of the preliminary findings and at para C3 of these findings.
- d. In the Profit and Loss Account in the Annual Report for the year 2000, the consolidated profit for the year 2000 is ***EUR against a consolidated loss of ***EUR for the year 1999. The Annual Income Statement at 31st December 2000 of ALZ reflected in the Annual Accounts 2000 shows the profit for the period (in thousand EUR) at ***.
- e. The exporter has furnished information on sales in the home market in Appendix 1 and information regarding sale of the subject goods in the domestic market, exports to India and exports to other countries in Appendix 3. The information has been furnished for different grades sold in the period of investigation which are as follows:-

Grade	Qty (kg)	Value (eur)
Cr	***	***
Cr Ni	***	***
CrNiMo	***	***

ALZ has grouped all the grades in the above three families of grades. The composite description of the grades correspond to the following individual grades sold in the home market:-

	ALZ-Code (4 digits)	Standard ASTM
Cr (ferritic)	4000	S41003
	4300	430
Cr-Ni grades (austenitic)	3010	301
	3041	304L
	3045	304
	3210	321
Cr-Ni-Mo Grades (austenitic)	3161	316L

	3164	316Ti
	3166	316
	3167	316L

2. ALZ's books and records are kept in accordance with Belgium's accounting and book keeping regulations as per the General Bookkeeping and Accounting Law of July 17, 1975 and the Royal Decree of October 8, 1976. ALZ's physical year is from January 1 through December 31. Since 1999, ALZ has kept its books, all other internal documentation, and official financial documents in Euro (as opposed to Belgian Francs). ALZ's year-end financial statements are audited annually.

ALZ's cost accounting system is totally integrated into its general financial accounting system. The cost accounting system is based on two key systems which were developed by ALZ. In one system, all bookings are done by cost center and cost code (i.e. type of cost). The other system records and follows the complete stainless steel production process coil by coil and records all the processes that a coil undergoes, from the casting in the melt shop until the packing of the material. Every slab that is produced in the melt shop immediately receives a coil number, which is a number that is used to track the costs of a coil throughout its production process.

Normal Value:-

Cost of Production:-

The Factory Cost and Profit of Domestic Sales Exports was reported by the exporter as per Appendix 9 of the questionnaire. At the time of verification, the break-up of costs of various grades as reported in different fields in the coil card system was checked to arrive at individual costs for each grade sold. The Analytical Income Statement was reconciled with the profit and loss account as given in the Annual Accounts of the company for the year 2000. The break-up of costs and the analytical income statement are a part of the verification report.

Examination by the Authority:-

- a. **S41003, 430 (Cr ferritic)**- The total production of this grade in 2000 was ***kg. The raw material cost was E *** and the cost per unit was E ***/kg. The raw material cost was derived from the related fields in the coil card system. Direct labour and utilities include the sum of fields reporting, conversion cost, hot rolled variable cost, cold rolled fixed cost, pickling and annealing fixed cost, skinpass variable cost, finish i.e., cutting and slitting variable cost and other costs viz., coil preparing line. The sum of direct labour

and utilities cost works out to E*** or E ***/kg. The manufacturing overheads and depreciation cost were also derived from the related fields in the coil card system and includes the sum of fields reporting fixed overhead for melt shop, fixed cost for hot rolled coils, variable cold rolled cost, variable annealing and pickling cost and fixed skin pass cost. The sum of manufacturing overheads and depreciation cost works out to E *** or E ***/kg. The financing and interest cost is E ***/kg and the average packing cost is E ***/kg. The selling and administration cost works out to E ***/kg. The ex-factory cost is E ***/kg and the ex-factory unit selling price is E*** /kg or USD ***/kg.

- b. **Grade 304 (Cr Ni)**- The total production of this grade in 2000 was ***kg. The raw material cost was E *** and the cost per unit was E ***/kg. The raw material cost was derived from the related fields in the coil card system. Direct labour and utilities include the sum of fields reporting, conversion cost, hot rolled variable cost, cold rolled fixed cost, pickling and annealing fixed cost, skinpass variable cost, finish i.e., cutting and slitting variable cost and other costs viz., coil preparing line. The sum of direct labour and utilities cost works out to E *** or E ***/kg. The manufacturing overheads and depreciation cost were also derived from the related fields in the coil card system and includes the sum of fields reporting fixed overhead for melt shop, fixed cost for hot rolled coils, variable cold rolled cost, variable annealing and pickling cost and fixed skin pass cost. The sum of manufacturing overheads and depreciation cost works out to E *** or E ***/kg. The financing and interest cost is E ***/kg and the average packing cost is E ***/kg. The selling and administration cost works out to E ***/kg. The ex-factory cost is E ***/kg and the ex-factory unit selling price is ***E/kg or USD ***/kg.
- c. **Grade 316 (Ni Cr Mo)**- The total production of this grade in 2000 was ***kg. The raw material cost was E *** and the cost per unit was E ***/kg. The raw material cost was derived from the related fields in the coil card system. Direct labour and utilities include the sum of fields reporting, conversion cost, hot rolled variable cost, cold rolled fixed cost, pickling and annealing fixed cost, skinpass variable cost, finish i.e., cutting and slitting variable cost and other costs viz., coil preparing line. The sum of direct labour and utilities cost works out to E *** or E ***/kg. The manufacturing overheads and depreciation cost were also derived from the related fields in the coil card system and includes the sum of fields reporting fixed overhead for melt shop, fixed cost for hot rolled coils, variable cold rolled cost, variable annealing and pickling cost and fixed skin pass cost. The sum of manufacturing overheads and depreciation cost works out to E *** or E ***/kg. The financing and interest cost is E ***/kg and the average packing cost is E ***/kg. The selling and administration cost works out to E ***/kg. The ex-factory cost is E ***/kg and the ex-factory unit selling price is ***E/kg or USD ***/kg.

Adjustments claimed for Domestic Sales in Appendix-5 :-

a. S41003, 430 (Cr ferritic)-

As stated in Appendix 1, the exporter has sold ***kg of Cr grade in the domestic market of a value of E ***. The average invoice value is E ***/kg or USD ***/kg.

In the Sales price structure for domestic sales (Appendix 5), the exporter has claimed adjustments on account of commission, packing, overall transport and overall insurance.. The exporter has calculated an average cost for packaging which works out to E ***/kg and has been stated as such in Appendix 9 (Factory Cost and Profit of Domestic Sales). Each transport invoice is booked and on each invoice the packing list number is stated. The skid numbers are available corresponding to this packing list number. Based on the gross weight the invoiced costs are allocated to each individual skid. The transport charge is ***/kg. There is no insurance charge. The total costs on account of adjustments claimed is E ***/kg. The selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory domestic selling price for ferritic grades is ***E/kg or USD ***/kg at an average exchange rate of 1E=USD .90.

The ex-factory cost is E ***/kg and the ex-factory unit selling price is E***/kg The Authority notes that loss making transactions account for 91.41% of the total quantity sold. As per Rule 2 Annexure 1 of the Anti-Dumping Rules, 'Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price. The designated authority may disregard these sales, in determining normal value, provided it has determined that-

- i. such sales are made with in a reasonable period of time (not less than six months) in substantial quantities, i.e. when the weighted average selling price of the article is below the weighted average per unit costs or when the volume of the sales below per unit costs represents not less than twenty per cent of the volume in transactions under consideration, and
- ii. such sales are at prices, which do not provide for the recovery of all costs within a reasonable period of time. The said prices will be considered to provide for recovery of costs within a reasonable period of time if they are above weighted average per unit costs for the period of investigation, even though they might have been below per unit costs at the time of sale."

The normal value is therefore the net sales realisation of the profit making transactions which is E ***/kg or USD ***/kg.

b. Grade 304 (Cr Ni)-

As stated in Appendix 1, the exporter has sold *** of CRNI grade in the domestic market of a value of E ***. The average invoice value is E ***/kg or USD ***/kg.

For sales of this grade, the exporter has claimed adjustments on account of packing, overall transport, overall insurance and bonus. The exporter has calculated an average cost for packaging which works out to E ***/kg. The transport charge is ***/kg and the insurance cost is ***/kg. The bonus cost claimed is ***/kg bringing the total costs on account of adjustments claimed to E ***/kg. The selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory domestic selling price for Cr Ni grade is ***E/kg or USD ***/kg at an average exchange rate of 1E=USD .90.

The ex-factory cost is E ***/kg and the ex-factory unit selling price is ***E/kg. The Authority notes that loss making transactions account for 19.77% of the total quantity sold i.e., the volume of the sales below per unit costs are less than twenty per cent of the volume in transactions under consideration. The ex-factory normal value is therefore E ***/kg or USD ***/kg.

c. Grade 316 (Ni Cr Mo)-

As stated in Appendix 1, the exporter has sold ***kg of CRNIMO grade in the domestic market of a value of E ***. The average invoice value is E ***/kg or USD ***/kg.

For sales of this grade, the exporter has claimed adjustments on account of packing, overall transport, and overall insurance. The exporter has calculated an average cost for packaging which works out to E ***/kg. The transport charge is ***/kg and the insurance cost is ***/kg. The total costs on account of adjustments claimed is E ***/kg. The selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory domestic selling price for Cr Ni MO grades is ***E/kg or USD ***/kg at an average exchange rate of 1E=USD .90.

The ex-factory cost is E ***/kg and the ex-factory unit selling price is ***E/kg. The Authority notes that loss making transactions account for 2.11% of the total quantity sold i.e., the volume of the sales below per unit costs are less than twenty per cent of the volume in transactions under consideration. The ex-factory normal value is therefore E ***/kg or USD ***/kg.

(C) Assessment of Non-cooperative Producers/Exporters from EU:-

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

For the co-operative exporter from Spain, the Authority has determined a weighted average ex-factory normal value of ***E/kg or USD ***/kg for the 304 grade, ***E/kg or USD ***/kg for the 316 grade and *** E/kg or USD ***/kg for the 430 grade at an average exchange rate of E 1=90 USD. The Authority has noted that these values are above their respective costs of production of E***/kg for 304 family, E***/kg for 316 family and E***/kg for 430 family. The Authority also notes that the loss-making transactions in the 304, 316 and 430 grades constitute only 5.58%, 8.09% and 14.38% of the total quantities sold in the domestic market in the said grades. Therefore, for non-cooperative exporters, the Authority has adopted the ex-factory normal value of E ***/kg or USD ***/kg for all groups/series.

(D) M/s Kawasaki Steel Corporation, Japan:-

(a) Cost of Production:-

The exporter has furnished the non-consolidated statement of income for the years ended March 31, 2001 and 2000. It is seen that in 2001 they have made an ordinary profit of ***millions of yen. In the cost of production, the allocation and apportionment of expenditure for the period of investigation (gradewise) was submitted by the exporter.

1. In respect of the allocation and apportionment of expenditure necessary to arrive the cost of production, the worksheet enumerating the required calculations was submitted for each of the grades in question. The respective worksheet was reconciled with the data submitted as per the Exporter's questionnaire.
2. The costing for each of the grades is based on the standard costs of each grade calculated to which at the end of the financial period variance cost is arrived and accounted for, finally to arrive at the actual cost of production for each of the grades.

Regarding Accounting and Financial reporting practices, the exporter has furnished information on allocation of cost from larger cost categories, stock valuation, depreciation methods and useful life of fixed assets, etc. The details of its cost accounting system are provided in Exhibit - D2 of volume 1 of the questionnaire response. As noted in Exhibit-D2, because Kawasaki has a standard cost accounting

system, the cost production data supplied in reply is based on the standard costs plus an allocation of variances.

Information on Factory Cost and profit of domestic and export sales to India has been furnished in the relevant appendices. Data has also been furnished under Formats A, B, CI, CII, D E & F.

Normal Value:-

(b) Sales in the home market (Appendix 1):-

The exporter has furnished information on sales in the home market in Appendix 1 and information regarding sale of the subject goods (exports to India, domestic market sales and exports to other countries) in Appendix 3. The information has been furnished for different grades sold in the period of investigation which are as follows:-

Grade	USD / MT (POI -Total)	Qty (kg)
409L	***	***
436LT	***	***
420J1	Nil	Nil
420J2	***	***
Ferritic Type (409, 410, 420 and similar)	***	***
Ferritic Type 430 and similar)	***	***
Other Ferritic	***	***
Ferritic Type Super Oxidation resistant steel	***	***
Austenitic Type (304 and Similar)	***	***
Other Austenitic	***	***

The exporter has stated that consumption tax incurred for sales to consumers is tax tentatively collected by companies from consumers before being paid to the Government. The prevailing rate of consumption tax is 5%. Payment for purchase excluding consumption tax is accounted in the ledger and consumption tax amount is separately accounted.

(c) Adjustments claimed on domestic sales:-

M/s Kawasaki has furnished transaction wise information on inland freight, insurance and storage costs for domestic sales for each grade. Kawasaki has a contract for inland freight insurance by ship transportation. Copies of the costs incurred for inland freight in the domestic market were made available. It was explained that the cost difference is not caused by grade, but by types of transportation and distance to destinations. The insurance costs has been calculated as per a formula and the copy of the insurance

contract has been provided. Kawasaki has furnished the location of warehouses of the transportation company and the warehousing expense at Nagoya and Yokahama.

409L- In the Sales price structure for domestic sales (Appendix 5), the exporter has claimed adjustments on account of inland freight, insurance, and storage. The selling price is USD ***/MT for 409L. The average inland freight for sales of R409L is USD ***/MT. The insurance costs is USD ***/MT and the storage costs is ***/MT. After allowing adjustments on account of the said charges and discounts/commissions of USD ***/MT the price at ex-factory level is USD ***/MT.

436LT- The selling price is USD ***/MT for 436LT. The average inland freight for sales of 436LT is USD ***/MT. The insurance costs is USD ***/MT and the storage costs is ***/MT. After allowing adjustments on account of the said charges and discounts/commissions of USD ***/MT the price at ex-factory level is USD ***/MT.

420J2- The selling price is USD ***/MT for 420J2. The average inland freight for sales of 420J2 is USD ***/MT. The storage costs is ***/MT. After allowing adjustments on account of the said charges and discounts/commissions of USD ***/MT the price at ex-factory level is USD ***/MT.

420J1- There are no domestic sales of this grade in the Japanese market. However, the said grade has been exported to India during the period of investigation. The cost of production of 420J1 is Y ***/MT as claimed by the exporter in Appendix 8. The constructed normal value after addition of notional profit of ***% is therefore USD ***/MT.

After allowing adjustments on account of the above mentioned charges, the ex-factory domestic selling price for various grades sold are as follows:-

Grade	Ex-factory price (USD / MT)
409L	***
436LT	***
420J2	***
420J1	***

(E) Assessment of Non-cooperating Producers/Exporters from Japan:-

The Authority observes that other producers/exporters from Japan have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers such producers/exporters to be non-cooperative and has proceeded on best available information. After allowing adjustments as claimed by the co-operative

exporter from Japan, the ex-factory weighted average domestic selling price for various grades sold in the 400 series in USD/MT are as follows:-

Grade	Ex-factory price (USD / MT)
409L	***
436LT	***
420J2	***
420J1	***

Therefore, for non-cooperative exporters, the Authority has adopted the ex-factory normal value of USD ***/MT for all groups/series.

(F) Canada:-

The Authority notes that no producer/exporter from Canada has responded to the questionnaire in the prescribed format and have not furnished information relating to normal value and export price. There is therefore no information from concerned exporters regarding the normal value of the subject goods prevailing in the domestic market in Canada. The Authority therefore considers all such exporters to be non-cooperative and has proceeded on best available information.

In the circumstances the Authority has been constrained to determine the normal value which has been derived considering the fact that the NAFTA is also working towards the free movement of goods and member countries have tariff (and not quantitative) barriers between them. The petitioners have submitted an extract of customs tariffs prevailing in Canada from where it is seen that the MFN rate on customs heading 7219 is 4%. The constructed normal value determined for USA is USD ***/MT based on the response of the exporter from USA. After considering the MFN rate the normal value in Canada has been considered to be USD ***/MT.

(G) M/s North American Stainless, USA:-

The exporter has sold second quality coils in the domestic market and has furnished information on such sales in Appendix 1 and 3. The information has been furnished for Grade 304 (304L , 304DQ, 304DDQ) sold in the period of investigation. A quantity of ***lbs or *** kg of a value of USD***was sold at a unit value of USD ***/lbs or USD ***/kg.. As already noted, information on price structures and sales arrangements in Appendices 4,5 and 6 have not been furnished. Discounts/commissions (if any), and charges before and after fob on account of various costs in order to arrive at the domestic and export price at the ex-factory level are not known. The cost of production shown in Appendix 9 for domestic sales does not state the per unit ex-factory cost. The exporter however has shown losses incurred

on domestic sales. An amount of ***(USD) has been stated as the cost of domestic sales. Considering the quantity of *** lbs or *** kg sold in the domestic market, the per unit cost of production works to USD ***/lbs or USD ***/kg. The domestic selling price per unit is therefore less than the cost of production. As per Annexure I of the Anti-Dumping Rules, the Designated Authority may disregard the sales of the like article in the domestic market of the exporting country in determining normal value when the weighted average selling price of the article is below the weighted average per unit costs. Accordingly, after adding a reasonable return @ ***% on the cost of production submitted by the company for the period of investigation, the constructed normal value has been worked out which is USD ***/lbs or USD ***/kg for the purpose of these final findings.

(H) Other Producers/Exporters from USA:-

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

Therefore, for non-cooperative exporters, the Authority has adopted the ex-factory normal value of USD ***/lbs or USD ***/kg for the purpose of these final findings for all groups/series.

(2) Export Price

(A) M/s Acerinox S.A., Spain:-

The exporter had furnished information pertaining to sales of the subject goods viz. exports to India, domestic market sales and exports to other countries as per Appendix 3. The information has been furnished for Aisi 304 Group, Aisi 310 S Group, Aisi 316 Group and Aisi 430 Group. It is seen that the information has been furnished for all qualities, 1 quality, 2 quality, 3 quality, and 4 quality in respect of sales made in each of these grades. The factory costs and profit furnished in Appendix 8,9 and 10 has also been furnished for all grades combined and for qualities 1 to 4 individually. In Appendix 5 (sales price structure for domestic sales, EU) adjustments have been claimed on account of charges before and after fob.

Examination by Authority

1. The Authority notes that the demarcation of 'choices' has been made by the exporter without elaborating on the specific physical or technical attributes

differentiating these 'choices'. The Authority notes that for each of the grades exported to India, the cost of production of each quality (categorised as quality 1, quality 2, quality 3 and quality 4) has been separately provided. The combined cost of production of all qualities for each grade has also been given. It is seen that the cost of raw material and other inputs vary significantly between the choices/qualities of each grade.

2. As far as adjustments claimed in Appendix 4 (sales price structure for exports to India are concerned, it is seen that the system of gradation in 'choices' has been followed with regard to adjustments claimed for each choice of material without assigning any reasons whatsoever at the time of preliminary findings. The Authority noted that the commission amount and overseas freight varied between the different choices/qualities of each grade although the same had been shown in terms of E/kg. The exporter has since clarified that the choices have different prices and cost allocations. Expenses on freight, insurance, commission and handling are not dependent on 'choices' but on weight and value. For the purpose of arriving at an uniform cost for each charge, the Authority has considered the average charge per unit on account of each cost/adjustment claimed after considering the total cost of each charge for all the qualities put together and the total value thereagainst.
3. **(a) 304 Group-** In the 304 Group, the selling prices shown for 1st, 2nd, 3rd and 4th choice material are ***E/kg, ***E/kg, ***E/kg and ***E/kg respectively. The average export price for 304 group (all qualities) is E***E/kg. The Authority has considered the total cost on account of commission paid for 304 group (all choices) and arrived at a uniform commission amount of ***E/kg. The Authority has similarly worked out the overseas freight amount at ***E/kg. The cost on account of handling is ***E/kg and ***E/kg on account of overseas insurance. The total cost before and after fob (for 304 group inclusive of all 'choices') on adjustments claimed is therefore ***E/kg.

(b) 316 Group- For 316 Group, the selling prices shown for 1st, 2nd, 3rd and 4th choice material are ***E/kg, ***E/kg, ***E/kg and ***E/kg respectively. The average export price for 316 group (all qualities) is E ***E/kg. The Authority has considered the total cost on account of commission paid for 316 group (all choices) and arrived at a uniform commission amount of ***E/kg. The Authority has similarly worked out the overseas freight amount at ***E/kg. The cost on account of handling is ***E/kg and ***E/kg on account of overseas insurance. The total cost before and after fob (for 316 group inclusive of all 'choices') on adjustments claimed is therefore ***E/kg.

(c) 430 Group- For 430 Group, the selling prices shown for 1st, 2nd, 3rd and 4th choice material are ***E/kg, ***E/kg, ***E/kg and ***E/kg respectively. The

average export price for 430 group (all qualities) is E ***/kg The Authority has considered the total cost on account of commission paid for 430 group (all choices) and arrived at a uniform commission amount of ***E/kg. The Authority has similarly worked out the overseas freight amount at *** E/kg. The cost on account of handling is *** E/kg and *** E/kg on account of overseas insurance. The total cost before and after fob (for 430 group inclusive of all 'choices') on adjustments claimed is therefore ***E/kg.

4. After considering adjustments as given above, the export price at ex-factory level for each choice of material in the said grades exported to India are as given below:

E/kg

Grade	1st choice	2nd choice	3rd choice	4th choice
304	***	***	***	***
316	***	***	***	***
430	***	***	***	***

5. The export quantities to India are as given below:-

Grade	1st choice	2nd choice	3rd choice	4th choice
304	***	***	***	***
316	***	***	***	***
430	***	***	***	***

Based on the quantities exported to India as given above and the individual ex-factory export prices of the different qualities after considering adjustments claimed, the Authority has determined a weighted average ex-factory export price of E ***/kg or USD ***/kg for the 304 grade, E ***/kg or USD ***/kg for the 316 grade and E ***/kg or USD ***/kg for the 430 grade.

The Authority notes that the exporter had indicated an average exchange rate of 1E x .90 = 1USD in its response to the exporters questionnaire. In Appendix 4(Sales price structure for Exports to India) the selling (export) price shown is in terms of E/kg. The Authority had adopted this exchange rate for the purpose of arriving at the export price in terms of USD/kg at the time of the preliminary findings. At the time of verification the exporter had provided export invoices for the grades sold by them to India during the period of investigation. The Authority compared these invoices with

the transaction wise details furnished in Appendix 2 which shows the cif value sold to India in terms of USD and Euro and noted that the value in US dollars was less than the value in Euro.

In response to the query regarding the exchange rate raised by the Authority, the exporter vide their letter dated 3/9/2002 has clarified that during the period of investigation the average rate was 1Euro=0.9089USD. In Appendix 4,5 & 6 of the response, while indicating the exchange rate, it has been shown as "1E x 0.90=1US\$". It should have been shown as "1E x 0.90=US\$". Thus 1000 Euros would be equal to US\$ 900."

(B) M/s ALZ, nv, Belgium:-

In Appendix 3 the exporter has furnished the following information regarding exports made to India:-

Grade	Oty (kg)	Value (eur / kg)
Cr	***	***
CrNi	***	***
CrNiMo	***	***

Adjustments claimed for Export Sales in Appendix-4 :-

(a) S41003, 430 (Cr ferritic)-

In the Sales price structure for export sales (Appendix 4), the exporter has claimed adjustments on account of commission, packing, and overall transport. The exporter has calculated an average cost for packaging which works out to E ***/kg. At the end of the production process the material that is ultimately sold receives a package number, and for each invoice issued on a sale there is an accompanying packing list with all the package numbers. Thus, the link between sales and production is maintained. The Authority has examined each individual charge against each invoice (as stated in Appendix 2) and worked out the weighted average cost of the different adjustments claimed per kg. The weighted average transport charge from Genk to port is E ***/kg and the weighted average ocean freight is E ***/kg. The commission charge works out to E ***/kg. In Appendix 2 the insurance charge has been shown against the relevant invoices of exports sales of CR group and the weighted average insurance charge works out to E ***/kg. The total costs on account of adjustments claimed is E ***/kg. The unit selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory export price for Cr grade is E ***/kg or USD ***/kg at an average exchange rate of .90USD=1E.

(b) Grade 304 (Cr Ni)-

For sales of this grade, the exporter has claimed adjustments on account of commission, packing, overall transport and overall insurance. The exporter has calculated an average cost for packaging which works out to E ***/kg. The Authority has examined each individual charge against each invoice (as stated in Appendix 2) and worked out the weighted average cost of the different adjustments claimed per kg. The weighted average transport charge from Genk to port is ***/kg and the weighted average ocean freight is E ***/kg. The weighted average insurance cost is ***/kg. The commission amount is E ***/kg. The total costs on account of adjustments claimed is E ***/kg. The unit selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory export price for Cr Ni grade is ***/kg or USD ***/kg at an average exchange rate of .90USD=1E.

(c) Grade 316 (Ni Cr Mo)-

For sales of this grade, the exporter has claimed adjustments on account of commission, packing, overall transport, and overall insurance. The exporter has calculated an average cost for packaging which works out to E ***/kg. The Authority has examined each individual charge against each invoice (as stated in Appendix 2) and worked out the weighted average cost of the different adjustments claimed per kg. The weighted average transport charge from Genk to port works out to E ***/kg and the weighted average ocean freight is E ***/kg. The weighted average insurance cost is ***/kg and the commission amount is ***/kg. The total costs on account of adjustments claimed is E ***/kg. The unit selling price is E ***/kg. After allowing adjustments on account of the above mentioned charges, the ex-factory export price for Cr Ni MO grades is E ***/kg or USD ***/kg at an average exchange rate of .90USD=1E.

(C) Assessment of Non-cooperating Producers/Exporters from EU:-

The Authority observes that other producers/exporters from EU have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority has relied upon best available information on record in the absence of co-operation from other exporters/producers in the EU.

The ex-factory export price for all non-cooperative exporters for all groups/series from the EU is assessed as USD ***/kg.

(D) M/s Kawasaki Steel Corporation, Japan:-

In Appendix 3 the exporter has furnished the following information regarding exports made to India:-

Grade	Qty (kg)	Value (USD / MT)
409L	***	***
436LT	***	***
420J1	***	***
420J2	***	***

The exporter has stated that consumption tax levied on steel products is reimbursed when such steel products are exported. However, this is not an incentive given on export sales but implementation of the policy of Consumption Tax Act of Japan. The revised appendix 2 as per the questionnaire format has been submitted by the company. M/s Kawasaki has furnished transaction wise information on inland freight, and insurance costs for export sales for each grade. In the revised Sales price structure for exports to India (Appendix 4), the exporter has claimed adjustments on account of inland freight, insurance, handling, overseas insurance and others. Copies of the costs incurred for inland freight in the domestic and export market were made available. It was explained that the cost difference is not caused by grade, but by types of transportation and distance to destinations. Kawasaki's inland insurance for exports sales has been given which includes a copy of contract of insurance. Ocean freight charges are decided and agreed upon between trading companies and shipping companies.

409L- In the Sales price structure for exports to India (Appendix 4), the selling price for 409L is USD ***/MT. The average inland freight for export sales of 409L is USD ***/MT. The insurance is USD ***/MT and handling charges is USD ***/MT. Overseas freight is USD ***/MT and overseas insurance is USD ***/MT. The charges on account of others is USD ***/MT. The total costs on account of these adjustments is USD ***/MT. After allowing adjustments on account of the said charges the price at ex-factory level is USD ***/MT.

436LT- The selling price for 436LT is USD ***/MT. The average inland freight for export sales of 436LT is USD ***/MT. The insurance is USD ***/MT and handling charges is USD ***/MT. Overseas freight is USD ***/MT. The charges on account of others is USD ***/MT. The total costs on account of these adjustments is USD ***/MT. After allowing adjustments on account of the said charges the price at ex-factory level is USD ***/MT

420J1- The selling price for 420J1 is USD ***/MT. The average inland freight for export sales of 420J1 is USD ***/MT. The insurance is USD ***/MT and handling charges is USD ***/MT. Overseas freight is USD ***/MT and overseas insurance is

USD ***/MT. The charges on account of others is USD ***/MT. The total costs on account of these adjustments is USD ***/MT. After allowing adjustments on account of the said charges the price at ex-factory level is USD ***/MT.

420J2- The selling price for 420J1 is USD ***/MT. The average inland freight for export sales of 420J2 is USD ***/MT. The insurance is USD ***/MT and handling charges is USD ***/MT. Overseas freight is USD ***/MT and overseas insurance is USD ***/MT. The charges on account of others is USD ***/MT. The total costs on account of these adjustments is USD ***/MT. After allowing adjustments on account of the said charges the price at ex-factory level is USD ***/MT.

After allowing adjustments on account of the above mentioned charges, the ex-factory export price for various grades sold are as follows:-

Grade	Ex-factory price (USD / MT)
409L	***
436LT	***
420J1	***
420J2	***

(E) Assessment of Non-cooperating Producers/Exporters from Japan:-

The Authority observes that other producers/exporters from Japan have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority has relied upon best available information on record in the absence of co-operation from other exporters/producers in the EU.

The ex-factory export price for all non-cooperative exporters for all groups/series from Japan is assessed as USD ***/kg.

(F) M/S North American Stainless

In the costs and profits of exports to India (Appendix 8) the total costs of exports to India is stated to be USD **. Considering the quantity of ** lbs or ** kg exported to India, the per unit cost works out to **/lbs or USD **/kg. The exporter has shown losses incurred on export sales. Second quality coils have been exported to India to India and information on quantities of the subject goods exported to India has been furnished in Appendix 3. From the information submitted, it is seen that a quantity of ** lbs or **kg was exported of a value of USD **. The per unit export price works out to USD **/lbs or USD **/kg. final

The exporter has not furnished any information on costs incurred before and after fob as per Appendix 4 of the questionnaire. The Authority has therefore relied upon best available information as available in the petition. After considering ocean freight at USD ***/kg, insurance @***%, transportation costs at USD ***/kg, the ex-factory export price works out to USD ***/kg which is adopted for the purpose of these final.

(G) Assessment of Non-cooperating exporters Exporters/Producers from USA:-

The Authority has relied upon DGCIS data in the absence of information from all other producers/exporters in the USA. The total quantity exported during Apr-Dec 2000 is 4,071,709 kg of a value of Rs ***bringing the cif value to Rs ***/kg or USD ***/kg at an average exchange rate of Rs 45.62=1USD during the POI.

The exporters have not furnished any information on costs incurred before and after fob as per Appendix 4 of the questionnaire. The Authority has therefore relied upon best available information as available in the petition. After considering ocean freight at USD ***/kg, insurance @***%, transportation costs at USD ***/kg, the ex-factory export price works out to USD ***/kg for all groups/series which is adopted for the purpose of these final findings.

(H) Canada

The Authority has relied upon DGCIS data in the absence of information from the producers/exporters in Canada. The total quantity exported during Apr-Dec 2000 is 1,032,102 kg of a value of Rs ***bringing the cif value to Rs ***/kg or USD ***/kg at an average exchange rate of Rs 45.62=1USD during the POI.

The exporters in Canada have not furnished any information on costs incurred before and after fob as per Appendix 4 of the questionnaire. The Authority has therefore relied upon best available information as available in the petition. After considering ocean freight at USD ***/kg, insurance @***%, transportation costs at USD ***/kg, the ex-factory export price works out to USD ***/kg for all groups/series which is adopted for the purpose of these final findings.

(3) Dumping Margin:-

The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. Based on the ex-factory normal values and ex-factory export prices as indicated above, the Authority assessed the dumping margins in case of all exporters from EU, Japan, Canada and USA as given in the table below:-

Grade / Group	Producer/Exporter	Dumping Margin (%)		
		Normal Value (USD / kg)	Export Price (USD / kg)	DM
European Union				
300 series	(1) M/s Acerinox S.A., Spain			
304		***	***	21.53%
316		***	***	42.14%
300 series (wt. average)		***	***	23.25%
	(2) ALZ nv, Belgium			
304		***	***	46.77%
316		***	***	30.40%
300 series (wt. Average)		***	***	42.54%
300 series	(3) All other exporters	***	***	46.77%
400 series	(1) M/s Acerinox S.A., Spain			
430		***	***	20.93%
430	(2) M/s ALZ nv, Belgium	***	***	265%
400 series	(3) All other exporters/producers	***	***	265%
All other groups /series	(3) All exporters/producers			265%
Japan				
400 series	(1) M/s Kawasaki Steel Corporation			
409L		***	***	32.22%
436LT		***	***	30.56%
420J1		***	***	-12.96% (de-minimis)
420J2		***	***	5.05%
400 series (Wt average)		***	***	30.81%
	(2) M/s Kawasaki Steel Corporation and M/s Kawasaki Steel Corp in conjunction with Kawasho Corp, Sumitomo, Corp and Nikko Boeki Kaisha Ltd. etc			
409L		***	***	54.47%
436LT		***	***	48.75%
420J1		***	***	1.77% (De-minimis)

420J2		***	***	24.01%
400 series (Wt average)		***	***	51.77%
400 series	(2) All other exporters	***	***	171.9%
All other groups/ series	(3) All exporters/producers			171.9%
Canada				
All groups/ series	All exporters/producers	***	***	75.41%
USA				
300 series	(1) M/s North American Stainless	***	***	70.24%
300 series	(2) All other exporters/producers	***	***	136.78%
All other groups/Series	(3) All exporters/producers			136.78%

G. INJURY:-

Under Rule 11 supra, Annexure-II, when a finding of injury is arrived at, such finding shall involve determination of the 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 article..." 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 increase, which otherwise would have occurred, to a significant degree.

Annexure II(iii) under Rule 11 supra further provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, only when it determines that the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of the imports from each country is three per cent of the imports of the like article or where the export of the individual countries is less than three per cent, the imports cumulatively account for more than seven per cent of the imports of the like article, and cumulative assessment of the

effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

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

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

a. Quantum of Imports

As per DGCIS Quantity (kg)

Country	1998-99	1999-2000	POI (Apr-Dec 2000)
EU	11,027,022	18,449,128	11,727,895
Japan	2,672,356	1,548,542	2,329,007
Canada	1,787,349	1,486,733	1,032,102
USA	2,757,693	4,513,508	4,071,709
Sub Countries	18,244,420	25,997,911	19,160,713 (annl. 25,547,617)
Other Sources	8,428,020	9,797,331	3,304,587
Total Imports	26,672,440	35,795,242	22,465,300 (annl. 29,953,733)

The total imports of CR Flat Products increased by 134% in 99-2000 over that of 98-99. The increase in the total imports of the subject goods from the subject countries was 142.49% in 99-2000 over the level of 1998-99. The DGCIS has provided transaction wise import data for the period of investigation. It is observed that although the quantum of total imports (annualised) came down during the period of investigation, the imports from the subject countries increased as compared to the level of 1998-99.

The share of the imports from the subject countries as a percent of the total imports has gone up from 68.40% in the year 1998-99 to 72.63% in 1999-2000 to 85.29% during the period of investigation. The share of imports as a share of total imports have therefore shown a rising trend.

b. Production and Capacity Utilisation:-

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

Petitioners	Year	Installed Capacity (MT)			Production (MT)			Capacity Utilisation %
Jindal Strips	1998-99	30000			10104			33.68%
	1999-2000	30000			24388			81.29%
		200	300		7608.48	15938	841	
	POI (Apr- Dec 2000)	22500			25220			112.13%
		200	300	400	8891	11806	4532	

It has been claimed by the domestic industry that they had made substantial investments in expansion of their capacities during the period of investigation. It was stated that their production capacity was increased from 30,000MT per annum to 60,000MT in September 1999 and further to 90,000 MT in September 2000. Since the expansion of capacities was not reflected in the official documents submitted to the Authority, further information was called for from the domestic industry to substantiate their claim that they had started the commercial production from the expanded capacities in September 1999 and September 2000. The petitioner submitted certain documents including the project report, copies of certain invoices in support of their claim that the additional capacities became operational on the specified dates. The Authority has carefully examined the contentions of the petitioners and also the documents available on record. It is clear that the petitioner has not been able to furnish any conclusive documentary proof that they had begun commercial production from the expanded capacities during the stated periods. The balance sheets of the concerned periods also do not show the increased capacities. At the same time, there are sufficient indications on the basis of the invoices and the production trends that some quantities of the product under consideration would have been the produced from the expanded capacities. In view of the facts and circumstances of this case, the Authority is of the view that capacity utilization in this specific case cannot be considered as a relevant factor for injury analysis.

c. Sales and Market Share:-

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

Year	Volume (MT)	Price (Rs/MT)
1998-99	10018.14	***
1999-2000	22691.36	***
POI	25237.91	***

Sales (MT)

Series	1999-2000	POI
200	7246.05	9258.48
300	14733.54	11736.06
400	622.04	4243.37

Total	22691.36	25237.91
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As regards sales price the apparent improvement has been attributed to the increase in the cost of the major raw materials. The average LME prices of nickel have gone up from USD 4639/MT in Jan-March'99 to USD 8382/Mt in the POI. The apparent increase in the sales price is not real and not adding to the net sales realisation of the petitioner. The increase does not cover the direct increase in the raw material prices. Overall sales quantity have shown marginal improvement.

The demand of CR Flat products of stainless steel was approximately 36,690 MT, 58,486 MT and 47,703 MT in 98-99, 99-2000 and the POI respectively. The annualized demand for the POI is 63,604 MT. The share of total imports in demand was 72.69%, 61.20% and 47.09% in 98-99, 99-2000 and the POI respectively. The share of dumped imports from the subject countries in demand was 49.72%, 44.45% and 40.16% in 98-99, 99-2000 and the POI respectively. The share of the domestic industry was 27.30 %, 38.79 % and 52.90% in 98-99, 99-2000 and POI respectively.

d. Price undercutting and price depression

The landed prices of the imported material as per DGCIS data are below the non-injurious price of the domestic industry .

Rs/MT

Year	Sales Realisation of Dom. Industry	Landed Price of Imports			
		EU	Japan	Canada	USA
1998-99	***	***	***	***	***
1999-2000	***	***	***	***	***
POI	***	***	***	***	***

e. Profitability:-

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The petitioner has incurred losses of Rs 2269.61 lacs in 1999-2000 and Rs 5403.64 lacs in the POI. The injury to the domestic industry is evident from the per unit profit/loss made by the industry from sales in the domestic markets, as shown below:-

Rs/ kg	97-98	98-99	99-2000	POI
Jindal Strips COP (Rs. / MT)				
All series	---	---	***	***
200 series	---	---	***	***
300 series	---	---	***	***

400 series	---	---	***	***
Selling Price (Rs/MT) net of excise				
All series	***	***	***	***
200 series	---	---	***	***
300 series	---	---	***	***
400 series	---	---	***	***
P/L (Rs. /MT)				
All series	---	---	(***)	(***)
200 series	---	---	(***)	(***)
300 series	---	---	(***)	(***)
400 series	---	---	(***)	(***)

It can be seen from the table above that while cost of production has increased, the sales realisation has not increased proportionately. The domestic industry is suffering serious injury in the form of direct losses per unit of sale. In the instant case, it is the price effect of dumping which is extremely significant as compared to the volume effect. It is the price factor alone which has led to extensive injury to the domestic industry. It is extremely damaging to the interests of the domestic industry to continue to suffer losses despite substantial investments in capacity enhancement and technology upgradation.

f. Closing Stocks (MT)

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

Closing Stocks (MT)	98-99	99-2000	POI
	756	1732	1943

The petitioners closing stocks have increased.

(g) Loss of potential sales:-

Due to the continued dumped imports from the subject countries the domestic industry has also lost potential sales.

(h) Price Erosion:-

The domestic industry had to reduce its prices which led to loss of revenue due to the dumped imports from the subject countries. The petitioner in order to match declining prices of the article from the subject countries have either loss sales or in order to retain customer base have been forced to sell at suppressed prices. This is evidenced by the price realisation of the petitioner for the period 1998-99, 1999-2000 and POI.

(i) Evidence of lost contracts:-

The complainant domestic industry tried its best to hold on to the customers. Yet the fact that huge quantities of dumped imports arrived into India during POI is adequate evidence that it lost potential customers.

(j) Employment:-

The manpower strength which was 295 in 1998-99 is 417 in the period of investigation.

(k) Actual and potential negative effect on cash flows:-

Considering the direct cash losses in the CR division, the domestic industry is having difficulties in cash management.

(l) Wages:-

There was no impact on wages as it is not feasible under the existing laws/situation to vary the wages in line with the financial performance of the company.

(m) Growth:-

The domestic industry has been making all attempts to put in additional funds to increase its capacities but it is becoming increasingly difficult to sustain or service such investments in view of the poor financial performance due to dumping.

(n) Return on Investment (Capital Employed):-

Due to severe underselling by the subject countries, the domestic industry is incurring heavy losses and, therefore, there is no question of any positive Return of Investment.

H. CONCLUSION ON INJURY

7. In view of the foregoing the Authority confirms the conclusions on injury at Para O of the Provisional Findings and reiterates that:-

- a. cold rolled flat products of stainless steel described under para B originating in or exported from the subject countries/territory have been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject countries/territory.

I . CAUSAL LINK

8. It is clear from the data available with the Authority that the imports of subject goods from other than subject countries are either de minimis or not exported at dumped prices. Further, the demand of the subject goods in the country is more or less stable and contraction of demand is not a factor of injury to the domestic industry. The Authority notes that dumped imports account for 40.16% of demand. The share of the imports from the subject countries/territory as a percent of the total imports has gone up from 68.40% in the year 1998-99 to 72.63% in 1999-2000 to 85.29% during the period of investigation. The volume effect of dumped imports is thus established. In examining the price effect, the Authority notes that the low priced imports from the subject countries/territory has forced the petitioner to sell at suppressed prices and incur losses on the sale of the subject goods during the period of investigation. Dumped imports of subject goods has prevented the domestic industry from realizing a reasonable remunerative selling price in the domestic market. The domestic industry in its attempts to match the dumped import prices was forced to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. No other factors other than dumping have been brought to the notice of the Designated Authority which could have been considered as a factor causing injury to the domestic industry. The causal link between material injury to the domestic industry and the dumped imports is, therefore, clearly established. The Authority therefore holds that the material injury to the domestic industry was caused by the dumped imports from the subject countries/territory.

J. Anti-Dumping duty imposed:-

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Cold Rolled Flat Products of Stainless Steel and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry.

K. FINAL FINDINGS:-

9. The Authority after considering the foregoing, concludes that:

- a. Cold Rolled Flat Products of Stainless Steel originating in or exported from EU, Japan, USA and Canada has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury suffered by the domestic industry is on account of the dumped imports from the subject countries/territory.

10. It was decided to recommend the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry. The landed price of imports was also compared with the non-injurious price of the domestic industry, determined for the period of investigation. The weighted average landed values for the 200, 300 and 400 series was compared with the NIP determined for the domestic industry for the said series. Accordingly, it is proposed that provisional anti-dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on Cold rolled Flat Products of stainless steel, of a width of 600mm or more, whether further processed or not of all grades/series classified under Customs sub-heading nos. 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90 of Chapter 72 of the Customs Tariff Act, 1975. The anti-dumping duty shall be the difference between the amount mentioned in Col.4. and the landed value of imports.

Country / Territory	Group / Series	Producer / Exporter	Amount (USD / MT)
European Union	300 series		
		(1) M/s Acerinox S.A., Spain	2431
		(2) ALZ nv, Belgium	2431
		(3) All other exporters	2431
	400 series		
		(1) M/s Acerinox S.A., Spain	1470
		(2) M/s ALZ nv, Belgium	1470
		(3) All other exporters/producers	1470
	All other groups /series 200 series	(3) All exporters/producers	1899
Japan	400 series		
		1) M/s Kawasaki Steel Corporation and M/s Kawasaki Steel Corp in conjunction with Kawasho Corp, Sumitomo Corp and Nikko Boeki Kaisha Ltd. etc	1470
		(2) All other exporters	1470
	All other groups/ Series	(3) All exporters/producers	1899
	200 series		2431
	300 series		
Canada	All groups/ series	All exporters/producers	
	200 series		1899
	300 series		2431
	400 series		1470
USA	300 series		
		(1) M/s North American Stainless	2431
		(2) All other exporters/producers	2431
	All other groups/Series	(3) All exporters/producers	1899
	200 series		1470
	400 series		

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

12. Subject to the above, the Authority confirms the preliminary findings dated 29th November, 2001.

13. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

L.V.SAPTHARISHI
DESIGNATED AUTHORITY