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THE GAZATTE OF INDIA- EXTRAORDINARY**

Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
Jeevan Tara Building, 5, Parliament Street
New Delhi 110001

Dated: 18th August, 2017

Final Findings
(Anti-Circumvention Investigation)

Subject: Anti-Circumvention investigations concerning imports of Cold-Rolled Flat Products of Stainless Steel originating in or Exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA.

No. 14/1/2014-DGAD:- Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

A. Background of the Case

1. Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) the Designated Authority, in the Ministry of Commerce and Industry, Department of Commerce, Govt. of India, appointed under the Rules supra, (hereinafter referred to as "the Authority"), vide Notification No. 14/06/2008-DGAD dated 25th November, 2008, initiated an anti-dumping investigation concerning import of Cold-rolled Flat products of stainless steel of the width above 600 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edge and +4mm for Trimmed Edge) of ASTM A240/A480M." "C R Coils" (hereinafter also referred to as the subject goods) from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA (hereinafter also referred to as the subject countries).

2. The Preliminary Findings were issued by the Authority, vide Notification No. 14/06/2008-DGAD dated 27th March, 2009 and provisional duty was imposed by the Central Government, vide Notifications No. 38/2009-Customs, dated 22nd April, 2009. The Final Findings were issued by the Authority vide Notification No. 14/06/2008-DGAD dated 24th November, 2009. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duties were imposed by the Central Government, vide Notifications No. 14/2010-Customs, dated 20th February, 2010 effective from the date of the imposition of the provisional anti-dumping duty i.e., 22nd April, 2009 on the imports of the of the above goods, originating in or exported from the subject countries.
3. The Domestic industry had filed application for mid-term review of the anti-dumping duties and the mid-term review was initiated on 23rd June 2010. The Authority vide its final findings No. 15/16/2010 dated 8th June 2011, clarified the Product under Consideration by specifying tolerances of +30mm for mill edge and 4 mm for trim edge. These clarifications were accepted and amendments carried out by Ministry of Finance vide Customs Notification No. 86/2011 dated 6.9.2011.
4. The Authority reviewed the Final Findings dated 24th November, 2009 subsequent to the Order by Hon'ble High Court of Punjab & Haryana Dated: October 8, 2010. These revised recommendations of the Designated Authority vide File No. 14/6/2008 dated 5th December 2011 were accepted by the Central Government and Corrigendum was issued on 7. 2.2012.
5. The Domestic industry had filed application for sunset review petition of the anti-dumping duties and the mid-term review was initiated on 23rd June 2010 and based on the duly substantiated application filed by the domestic industry, Authority vide Notification No. 15/04/2014-DGAD, dated 17th April 2014, initiated a sunset review of the antidumping investigation. The Authority vide its final findings No. 15/05/2014 dated 12th October, 2015, recommended the extension of duties of another five years which were accepted by Central Government vide Custom Notification 61/2015 dated 11.12.2015.
6. In the ongoing Anti-Circumvention investigation, regarding imports of Cold Rolled flat product of widths not covered under Custom Notification 61/2015 dated 11.12.2015, M/s Jindal Stainless Limited (herein referred as "petitioner" or "Applicant") filed an updated application dated 21.9.2015 before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Section 9A of the Act read with Rule 26(1) Customs Tariff (Identification, Assessment & Collection of Anti-Dumping Duty on the Dumped Articles & for Determination of Injury) Rules, 1995 (AD Rules) for

initiation of Anti-Circumvention Investigation concerning imports of Cold Rolled flat product of widths not covered under Custom Notification 61/2015 dated 11.12.2015 (hereinafter also referred to as the “Product under Investigation” or “PUI”), originating in or exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA (herein referred as subject countries). The applicant requested for extension of existing anti-dumping duties on the imports of the subject goods to the PUI, originating in or exported from the subject country

7. Whereas, in view of the duly substantiated application filed by the petitioner under Rules 26 (1), the Authority initiated the investigation vide notification no 14/1/2014-DGAD sated 19th February, 2016 to determine the existence and effect of the alleged circumvention of the ADD levied and to consider recommendation of extension of ADD on imports of PUC to imports of PUI.

B. Procedure

8. The procedure described below has been followed with regard to the subject investigation:
 - i. The embassies of the subject countries in New Delhi were informed about the initiation of the investigations in accordance with Rule 6(2).
 - ii. The Authority provided copies of the non-confidential version of the application to the known exporters and the embassy of the subject countries in accordance with Rules 6(3) supra. A copy of the non-confidential version of the application was also made available in the public file and provided to other interested parties, wherever requested.
 - iii. The Authority forwarded a copy of the public notice to the following known manufacturers/exporters in the subject countries (whose names and addresses were made available to the Authority) and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules 6(2) & 6(4):

CHINA

1. M/s Shanghai Krupp Stainless.
2. M/s Zhangjiagang POSCO Stainless Steel Co., Ltd

EU

1. M/s. ALZ NV, Belgium
2. Ugine (Division of Usinar), Immeuble Pacific, France
3. Acerinox SA, Spain
4. Acerinox SA, Italy

5. ThyssenKrupp Nirosta GmbH, Germany
6. ThyssenKrupp ACCAi Specialtereni SPA, Italy
7. Outokumpu Stainless, U.K.
8. Outokumpu Stainless, Finland
9. Outokumpu Stainless AB, Sweden.

USA

1. A.K. Steel Corporation, USA
2. Allegheny Ludlum, USA
3. North American Stainless, USA
4. J & L Specialty Steel, Inc., USA

Taiwan

1. Yieh United Steel Corporation (YUSCO)
2. Walsin Lihwa Corporation

South Africa

1. Columbus Stainless (Pty) Ltd

Korea

1. POSCO

9. In response to the initiation notifications following exporters / producers from subject countries have responded:

- i. Outokumpu Oyi, Europe
- ii. Yieh United Steel Corporation, Taiwan (YUSCO)
- iii. Walsin Lihwa Corporation, Taiwan
- iv. Yuan Long Stainless Steel Corporation, Taiwan (YLSS)
- v. Tang Eng Iron Works Co. Ltd., Taiwan
- vi. POSCO Asia
- vii. POSCO, Korea
- viii. Daewoo International, Korea
- ix. Hyundai Corporation, Korea
- x. Samsung C&T, Korea
- xi. SK Networks, Korea
- xii. Toyota Tshusho, Korea

10. The Authority forwarded copies of the public notice to the following known importers/consumers/associations of subject goods in India (whose names and addresses were made available to the authority) and advised them to make their views known in writing within forty (40) days from the date of issue of the letter in accordance with the Rule 6(4):

1. Honest Enterprise Ltd., Vadodara
2. Kuber Steel Impex, Mumbai
3. M.M. Enterprises, Raigadh
4. Advance Metal Corporation, Mumbai
5. Bhandari Foils Pvt. Ltd., Dewas
6. Angel Pipes & Tubes Pvt. Ltd., Mumbai
7. IDMC Ltd., Gujarat
8. M.K. Steel Centre, Raigad
9. Riddhi Siddhi Impex, Mumbai
10. Salem Stainless Steel Suppliers, Chennai
11. Western Metal (India), Mumbai
12. Star Stainless Steel, Mumbai
13. Advance Metal Corporation
14. Arihant Steel Enterprises, Mumbai
15. Jindutt Steel, Mumbai
16. Madras Steel Agencies, Chennai
17. Nobel Impex, Mumbai
18. All India Stainless Steel Industries Association
19. Stainless Steel Exporters Welfare Association
20. Process Plant and Machinery Association of India

11. The Authority has received questionnaire response/submissions from the following importers/users/other interested parties.

1. POSCO India Chennai Steel Processing Private Limited (Questionnaire & Submissions)
2. POSCO India Delhi Steel Processing Private Limited (Questionnaire & Submissions)
3. POSCO India Pune Steel Processing Private Limited (Questionnaire & Submissions)
4. Sun Mark Stainless Pvt. Ltd (Submissions)
5. Suncity Strips & Tubes Pvt. Ltd. (Questionnaire & Submissions)
6. Sunrise Stainless Pvt. Ltd. (Submissions)
7. Suncity Sheets Pvt. Ltd. (Questionnaire & Submissions)
8. Shree Ramdev Metal Mart (Questionnaire & Submissions)
9. M/s Maxgrow Corporation (Questionnaire & Submissions)
10. M/s Shakti Steel (Questionnaire & Submissions)
11. M/s Ramani Steel House (Questionnaire & Submissions)
12. M/s Metal & Steel (India) (Questionnaire & Submissions)
13. M/s NG Industries (Questionnaire & Submissions)
14. The Tamilnadu Stainless Steel Merchants and Manufacturers Association
15. Metal & Stainless Steel Merchant's Association
16. M/s Maruti Suzuki India Limited (MSIL)
17. M/s Hero Moto-Corp Ltd.
18. Representation from European Commission
19. Representation from Government of the Republic of Korea
20. Representation from Government of Taiwan
21. M/s Aesteiron Steels Pvt. Ltd.
22. All India Stainless Steel Industries Association
23. M/s Saraswati Steel (India)

- 24.M/s Ashwin Impex -
- 25.M/s Inox Stainless
- 26.M/s Jayesh Metal Corporation
- 27.M/s Dhanera Impex
- 28.M/s Honesty Impex
- 29.M/s NG Industries
- 30.M/s Dhruv Exim
- 31.M/s Siddhivinayak Steel
- 32.M/s Navnidhi Steel & Engg. Co. Pvt. Ltd.
- 33.M/s B.V.S. Overseas
- 34.M/s Ambuja Metal Industries Pvt. Ltd.
- 35.M/s R.M. Metal Industries
- 36.M/s New Manak Overseas Limited
- 37.M/s All India Metal Corporation
- 38.M/s Navyug Metal Corporation
- 39.M/s Precision Impex
- 40.M/s Neptune Steel Impex
- 41.M/s Nenava Metal Corporation
- 42.M/s Meena Metal Impex Pvt. Ltd. (India)
- 43.M/s MaxGrow Corporation
- 44.M/s Divine Impex
- 45.M/s Acer Steel
- 46.M/s Metal & Steel (India)
- 47.M/s Stainox Alloys Pvt. Ltd.
- 48.M/s Siddhant Steel
- 49.M/s Sanghvi Enterprise
- 50.M/s Tradeport Stainless Alloys
- 51.M/s Saachi Impex
- 52.M/s Glomet Alloys LLP
- 53.M/s Inter Sales Enterprise
- 54.M/s Steel Line (India)
- 55.M/s United Stainless
- 56.M/s Ratnaravi Metal Impex
- 57.M/s Modest Metal Corporation
- 58.M/s Ashok Metal Corporation
- 59.M/s M M Metal International
- 60.M/s M M Metatrade Pvt. Ltd.
- 61.M/s Shubhlaxmi Metals and Tubes Pvt. Ltd.
- 62.M/s World Stainless
- 63.M/s Good Luck
- 64.M/s Inco Steel
- 65.M/s Non- Ferrous Metal Association (Karnataka)
- 66.M/s PS Raj Steels Pvt. Ltd.
- 67.M/s Inox Stainless
- 68.M/s Glomet Alloys LLP
- 69.M/s M.P. Industries
- 70.M/s Divine Impex
- 71.M/s Ashok Metal Corporation
- 72.M/s Navnidhi Steel and Engg. Co. Pvt. Ltd.
- 73.M/s Pacific Metal Trading Co.
- 74.M/s Acer Steel

75. M/s Nixon Steelium LLP
76. M/s Vishal Tubes & Pipes P. Ltd.
77. M/s Accurate Steel
78. M/s Modest Metal Corporation
79. M/s Star Stainless Steel
80. M/s Ashwin Impex
81. M/s Siddhivinayak Steel
82. M/s Merinox Inox
83. M/s NG Industries
84. M/s SI Pavan Steel (India)
85. M/s Ubique Alloys Pvt. Ltd.
86. M/s United Steel (India)
87. M/s Dhruv Exim
88. M/s Domet Trading Pvt. Ltd.
89. M/s The Tamilnadu Stainless Steel Merchants and Manufacturers Association,
90. M/s Saraswati Steel (India)
91. M/s Marvel Impex
92. M/s precision Impex
93. M/s Stainox Alloys Pvt. Ltd.
94. M/s Steel International
95. M/s United Stainless
96. M/s Nocil Steels
97. M/s Neon Metals Impex Pvt. Ltd.
98. M/s S.C. Shah Enterprises
99. M/s Agol Associates
100. M/s Salem Steel Trading Co.
101. M/s Ratnaravi Metal Impex
102. M/s Trust Impex
103. M/s Ganesha Impex
104. M/s Shakti Pumping Life
105. M/s Shiva Trading Co.
106. M/s Navnidhi Steel & Engg. Co. Pvt. Ltd.
107. M/s Santosh Steel Industries
108. M/s Navpad Steel Centre
109. M/s Metal Trading Corporation
110. M/s Angel Pipes & Tubes Pvt. Ltd.
111. M/s Siddhivinayak Steel
112. M/s Anmol Stainless Pvt. Ltd
113. M/s Minox Metal Private Limited
114. M/s Shah Foils Limited
115. M/s M. P. Industries
116. M/s Balaji Impex
117. M/s M/s KPV Impex
118. M/s BRG Iron & Steel Co. Pvt. Ltd.
119. M/s Reliance Fabrications Pvt. Ltd
120. M/s All India Stainless Steel Importers Association
121. M/s Metal & Stainless Steel Merchant's Association
122. M/s CMS Stainless Company
123. M/s Vikram Metal (India)
124. M/s Sharda Motor Industries Ltd.

125. M/s All India Stainless Steel Industries Association
126. M/s Remi Edelstahl Tubulars Ltd.
127. M/s Faurecia Emissions Control Technologies India Private Limited
128. M/s Shakti Steel
129. M/s Ramani Steel House
130. M/s Shah Foils Limited
131. M/s Vedik Ispat Pvt. Ltd.
132. M/s Stainless Steel Impex
133. M/s Regency Impex (India)
134. M/s Nexus Impex
135. M/s Kamlesh Metal & Alloy
136. M/s Anil Metal Corporation
137. M/s Greenline Pipe & Fitting
138. M/s Shri Aanand Metal
139. M/s Parag Metals

12. A large number of responses have been filed by various importers/users and their associations. The Authority in the disclosure clarified that while all relevant issues and all such responding entities have been individually included, in case of any submissions by any applicant, which may have got inadvertently missed out may be pointed out so as to address the same in the final findings.
13. Transaction-wise imports data procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) has been relied upon for the analysis in present circumvention investigation.
14. Exporters, producers, importers and other interested parties, who have neither responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperating interested parties by the Authority.
15. Information provided by the interested parties on confidential basis was examined with regard to reasonableness of the claim of confidentiality. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
16. Non-confidential versions of the evidence presented by interested parties were made available in the form of a public file kept open for inspection by the interested parties as per Rule 6(7).
17. In accordance with Rule 6(6) of the AD Rules, the Authority also provided

opportunity to all interested parties to present their views orally in a public hearing held on 3.7.2017. The interested parties were requested to file written submissions of their views expressed orally.

18. The submissions made by the interested parties during the course of the investigations have been addressed in this finding to the extent they are relevant and backed by evidence.
19. Verification of the information and data submitted by the participating domestic producer was carried out to the extent deemed necessary.
20. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has used "best information available" and has treated such parties as non-cooperative.
21. On the Writ Petition (W.P. (C) No. 3544/2016, CM NOS. 15209/2016 and 25402/2016) filed by one of the importers i.e. M/s Suncity Sheets Pvt. Ltd., the Hon'ble High Court of Delhi through order dated 27.04.2016 stayed the investigation. The writ petition along with the above mentioned CM numbers were dismissed vide order dated 08.03.2017 of Hon'ble High Court thereby leading to vacation of stay on 8.3.2017.
22. The Authority issued a disclosure statement under Rule 16 on 7th August, 2017 and provided an opportunity to give comments to the disclosure statement till 16th August, 2017. Comments received from Domestic Industry/various interested parties have been appropriately addressed in this finding and certain corrections in tabulations also incorporated.
23. In this Final Findings, *** represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the AD Rules.
24. For the purpose of this investigation the period of investigation was taken as July 2014 to September 2015 (15 months) and for the purpose of analyzing circumvention data was taken for the period 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and POI has been considered.
25. The exchange rate for the POI has been taken by the Authority as Rs.63.44 = 1 US\$ wherever the actual rate of conversion was not available.

C. Procedure related/Judicial proceedings:

26. On the basis of Writ Petition No. 3544/2016 filed by M/s Suncity Sheets Ltd., stay was granted by the High Court of Delhi through order dated 27/04/2016. Operative para of the order are as follows:

“10. Rule 25 (1) of the CTA ADD Rules envisages import of an article which is subject to anti-dumping in an "unassembled, unfinished or incomplete form" which is thereafter 'assembled, finished or completed in India'. It is not the case of Respondent No. 4 that the CRSS of width 1250mm and above that is imported is "in an unassembled, unfinished or incomplete form". Consequently, the Court is prima facie of the view that the investigation undertaken pursuant to the impugned notification dated 19th February 2016 is not permissible even in terms of Rule 25 (1) of the CTA ADD Rules.”

Hearings have been held on 27.04.2016, 19.07.2016, and 03.08.2016. The counter affidavits and the stay vacation petitions filed by the Designated Authority before the Hon'ble Division Bench of Delhi High Court. The Hon'ble Division Bench heard the matters in its final hearing on 15.09.2016 the writ petition was dismissed vide order dated 8.3.2017 of Hon'ble High Court thereby leading to vacation of stay. . The total period of stay in the case is 316 days. As one year had expired on 18.02.2017, Designated Authority in accordance with Rule 26 (6) of AD Rules extended the time for 6 months i.e. till 18.08.2017.

The key observations made by Hon'ble High Court of Delhi in its Judgment dated 08.03.2017 are as under:

“10. The initiation of investigation has not caused any prejudice to any of the parties including the petitioner as the determination in terms of Rule 27 would only be made after full data and material is obtained from all the parties. The Authority has no jurisdiction to recommend anti-circumvention duty on any of the importers including the petitioner if the Petitioner through the questionnaire response substantiates that the imports of widths above 1250 mm is not circumvention of existing anti-dumping duties.

15. It is common ground that ADD has been levied on CRSS with a width less than 1250 mm; that duty was maintained in final findings, review of such findings and sunset review proceedings. The petitioner (and interveners) complains that initiation of circumvention proceedings is factually unfounded and also legally indefensible. It is also common ground that anti-circumvention measures can be taken under Rule 25-26 of the Anti-Dumping Rules. Therefore, the grievance here is not regarding the complete absence of jurisdiction, rather, to its unwarranted exercise, given – what according to the petitioners is, the history of the case. The petitioners rely on the observations-repeated at least in two proceedings, by the DA, about the technical and commercial unviability of importing 1250 mm or more wide CRSS and then cutting or slitting it to smaller width for use in India.

22. *The petitioner is correct in contending that the DA had gone into the question, and returned specific findings with respect to the improbability of importation of CRSS strips wider than 1250 mm and their size reduction for use as articles that are the subject of ADD. However, the nature of the inquiry that led to those findings (and observations) were in the context of likelihood of injury. The period covered in respect of those proceedings were 2009-2015. The nature of materials considered during those investigations focused on all those elements that make up the injury. However, in circumvention proceedings, the trajectory of the inquiry is altogether different. It is whether, given the existence of ADD (and the established existence of injury), there is any behaviour – in the form of import of other products, which can be adapted or altered for use as the product or articles that are subject to ADD. Whilst the decisive nature of the observations of the DA in past instances is facially compelling for a court to hold that there should not be a fresh inquiry, yet one cannot be oblivious to the nuanced nature of the circumvention procedure. The power to resort to it should be based on objective material. In the present case, the information, which the respondents rely upon is the stagnancy in demand of the article which is subject to ADD, and the pattern of increase in import of CRSS that is wider than 1250 mm. The Petitioners' argument that the subject matter of the previous orders and observations are the same in circumvention proceedings, is unpersuasive to this court.*

The inquiry of the process of slitting and cutting of a steel strip, as well as if it amounts to “assembling” a disassembled or incomplete article, would then become an issue in respect of which neither party addressed arguments on merits, nor presented the necessary facts. Given the fact that this would be the subject matter of inquiry and arguments before the competent forum, a ruling in this proceeding is neither desirable nor warranted having regard to the established limitations of judicial review under Article 226, which is confined to questions of legality, procedural regularity, fairness and a reasonable decision.”

The High Court's Judgment dated 8.3.2017 was challenged in Supreme Court by M/s Suncity Sheets Pvt. Ltd. and M/s Outokumpu Oyj through Special Leave Petition. The Hon'ble Supreme Court granted' the leave vide its order dated 21.04.2017. The Hon'ble Supreme Court did not stay the investigations.

D. Product under consideration / Product under Investigation and like article

Product under Consideration

27. The product under consideration for the purpose of this circumvention investigation is the same as defined in the previous sunset review investigation whose final findings were issued vide Notification No. 15/04/2014 dated 12.10.2015 has been defined as follows:

“Cold-rolled Flat products of stainless steel of width of 600 mm upto 1250mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm

for Trimmed Edged)”, excluding the following:

- i. The subject goods of width beyond 1250 mm (plus tolerances).
- ii. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509
- iii. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).

Product under Investigation

28. The Product under Investigation alleged to be circumventing the anti-dumping duties is Cold-rolled Flat products of stainless steel of the same description as the Product under Consideration defined in paragraph 27 above but having widths above those described and covered under the scope of the Product under Consideration. These products i.e. product under investigation are also classifiable under Chapter 72 of the Customs Tariff Act, 1975 under the same sub-heading 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90. The Customs classification is indicative only and not binding on the scope of this investigation. The product under investigation which is the subject matter of the alleged circumvention has all the essential and basic characteristics of the product subject to anti-dumping duties with the only difference being in terms of its width.

Submissions made by the Producers/ Exporters/ Importers and Associations

29. Some of the interested parties have submitted that the PUI and PUC are not like articles as the Authority in the original investigation had not treated both products as like articles and excluded widths of above 1250mm from the scope of the investigation. In view thereof, interested parties had requested the Authority not to treat PUC and PUI as like articles.

30. M/s ELP Advocates & Solicitors representing Outokumpu Oyj and YUSCO have stated that the Petitioner has filed the Petition for anti-circumvention in December 2016 claiming to be the producer of the PUC despite the fact that it has hived off the plant at Hisar in its entirety to JSHL prior to the aforesaid filing and even before the Period of Investigation. The claim of the Petitioner is therefore blatantly false and unjustified.

31. M/s GTC Consultants representing M/s Suncity Sheets Pvt. Ltd., M/s Suncity Strips and Tubes P Ltd, M/s Sunrise Stainless Pvt. Ltd and M/s Sunmark Stainless Private Limited have submitted the following:

- The Applicant has initiated the proceedings as it had failed to get the PUC scope expanded in the last proceedings. It is incorrect for the Applicant to assume that the ADD Rules provide for multiple proceedings on the very same cause of action. The Applicant has filed its appeal against the Notification No. 61/2015-Cus dated 11.12.2015 and cannot be allowed to pursue multiple proceedings on the very same cause of action. As indicated earlier, there is no event subsequent to the issuance of the Notification dated 11.12.2015 which could provide a cause of action for the present proceedings to be initiated.
- The Applicant was fully aware that CRSS exceeding a width of 1250 mm was a different class of article and it had been repeatedly held to be so. If at all, there was a grievance against dumping of such an “article”, independent proceedings could have been initiated to investigate such dumping. Having failed to do so, for obvious reasons as the Applicant could possibly not justify its standing as a domestic industry, it filed an application for anti-circumvention, to get an initiation through the back door, which is not permissible.
- In view of the above, the present anti-circumvention proceedings would amount to an abuse of the process of law as the very same issues have already been examined by this Ld. Authority and decided against the Applicant and the only recourse available to it is to initiate fresh investigations for imposition of ADD on CRSS of width above 1250mm.

Submissions made by the Domestic Industry

32. The Domestic Industry submitted that during the original investigations, the wider coils were excluded from the scope of the investigation on the ground that the same were not actually produced and sold by the Domestic Industry during the period of investigation despite treated them technically substitutable. Domestic Industry further submitted that after imposition of the anti-dumping duties large quantities of the widths above 1250mm are being imported into the country without payment of anti-dumping duties even though the same are ultimately slit into narrower widths. According to Domestic Industry, the goods are now brought in widths exceeding 1250mm which are incomplete products as the same are necessarily slit into narrower widths (final complete product) for use by the ultimate customer. The changed composition of the imports bears testimony to the fact that the above arrangement has been made only to circumvent the anti-dumping duties on the subject goods. In view thereof, the Domestic Industry requested the Authority to kindly treat PUC and PUI as like article.

Examination by the Authority

33. The Authority after noting various submissions holds that the product under consideration for the purpose of circumvention investigation stands defined

as follows:

“Cold-rolled Flat products of stainless steel of width of 600 mm upto 1250mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged)”, excluding the following:

- i. The subject goods of width beyond 1250 mm (plus tolerances).*
- ii. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509*
- iii. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).*

34. The Product under Investigation alleged to be circumventing the anti-dumping duties is Cold-rolled Flat products of stainless steel of the same description as the Product under Consideration defined above but having widths above those described and covered under the scope of the Product under Consideration. These products i.e., product under investigation are also classifiable under Chapter 72 of the Customs Tariff Act, 1975 under the same sub-heading 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90 even though the Customs classification is indicative only and not binding on the scope of this investigation. The Authority notes that the product under investigation which is the subject matter of the alleged circumvention has all the essential and basic characteristics of the product subject to anti-dumping duties. The only difference is in terms of its width.

35. As regards the issue of like article, the Authority notes that under the provisions relating to circumvention, the Authority is not required to *per se* examine whether the PUC and the PUI are like articles or not. The only requirement in terms of rule 25(1) is to examine whether an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in such country. Nevertheless, it is observed that the rationale for excluding the PUI from the scope of anti-dumping duties was the finding of the Authority that the PUI was not being produced and sold by the Domestic Industry during the original period of investigation. Therefore, the exclusion of a particular category of a product does not *per se* imply that they are not like articles. As the exclusion was on the basis of width only with production process being the same, there is enough evidence on record to establish that the PUI imports have replaced the PUC imports substantially without any economic or commercial

justification. Therefore, the Authority holds that the submissions of the interested parties on the issue of like article are not relevant either in terms of the legal provisions or the facts of this case.

E. Domestic Industry and Standing

36. The application for the circumvention investigation has been filed by M/s Jindal Stainless Limited who accounted for a major proportion of the total domestic production during the period of investigation. As per the information available with the Authority, there are three other known producers of the product under consideration in the country i.e., M/s BRG, M/s Salem Steel Plant (SAIL) and M/s Shah Alloys. There is no opposition to the domestic industry's application from any other producer in the country in the present investigation.

Submissions made by the Producers/Exporters/Importers and Associations

37. It has been stated by the interested parties that Jindal Stainless Limited (JSL) ceased to be the domestic industry for the PUC under Rule 2(b) pursuant to the de-merger scheme dated March 31, 2014. They have further contended that pursuant to the de-merger JSHL, the newly formed company became the major proportion producer of the PUC in India since it is the legal entity that owned and operated the plant for the PUC in Hisar.

38. It is submitted that the petitioner had filed the petition for anti-circumvention investigations in December 2016 claiming to be the producer of PUC despite the fact that it had hived off the plant at Hisar in its entirety to JSHL prior to the aforesaid filing and even before the Period of Investigation.

39. It is submitted that the Petitioner should provide its production figures in order to determine if the PUC produced by the Petitioner at the time of initiation accounts for more than 25% of the total domestic production. Moreover, they requested the Authority to carry out 25% test at the time of initiation and POI.

40. M/s ELP Advocates & Solicitor submitted that as per Rule 26(1) and Rule 2(b) of the AD Rules, the 'domestic industry' must at least be a manufacturer of the major proportion of the total domestic production of the PUC in India. The current Petitioner, Jindal Stainless Ltd. ('JSL'), ceased to be the domestic industry for the PUC under Rule 2(b) of the AD Rules pursuant to the de-merger scheme dated March 31, 2014. Pursuant to the de-merger as per the Petitioners' own showing, JSHL, the newly formed company, became the major proportion producer of the PUC in India since it is the legal entity that owned and operated the plant for the PUC in Hisar. Therefore, Jindal Stainless Hisar Ltd. ('JSHL') became the domestic industry, if at all, in its stead since it formally owned and operated the plant at Hisar which had been

the basis for Petitioner being deemed the 'domestic industry' in prior investigations and it is trite in law that when a party approaches a tribunal for discretionary relief, he must not only come with clean hands but must also show utmost good faith and disclose all material facts which are within his knowledge. It is submitted that the Petitioner itself failed to provide information on Jindal Stainless Hisar Ltd., which is a related party to the Petitioner and JSHL is also the major producer of the PUC in India.

41. M/s ELP Advocates & Solicitor further submitted that the onus to prove its standing as the 'domestic industry' solely rests on the Petitioner and the Petitioner cannot shift the onus of proof on other interested parties. Moreover, the Petitioner has completely disregarded the directions of the Hon'ble Designated Authority at the public hearing wherein the Hon'ble Designated Authority directed the Petitioner to provide its production figures in order to determine if the PUC produced by the Petitioner at the time of initiation accounts for more than 25% of the total domestic production.

Submissions made by the Domestic Industry

42. The petitioner submitted that the contention of the interested parties that JSL ceased to be a Domestic Industry is completely misconceived and based on flawed premises of law and facts. They further submitted that the Interested parties are attempting to mislead the Authority by ignoring the fact that on the date of the application, both the plants were operated under the same legal entity namely Jindal Stainless Ltd. (JSL). Therefore, it is completely incorrect to state that the application was not filed on behalf of the Domestic Industry as defined under Rule 2(b) of the Anti-dumping Rules. It is further submitted that the interested parties also ignored the fact that the Demerger Scheme, as approved by the Hon'ble High Court, was made effective from November 1, 2015. In other words, all operations and actions upto after 31st October, 2015 were undertaken by the transferor entity. It is pertinent to note that the entire scheme of arrangement for demerger was to become effective only when conditions as per Clause 1.5(a) of Section V of the Scheme are met with. As can be seen from the scheme of arrangement itself, the scheme was to be effective from the date of the last approval. The filing of the HC order with ROC was the last approval which was done on 1st November 2015. Hence, it is submitted by the Domestic Industry that the scheme became operationally effective only from 1st November 2015. In other words, the date on which the application for circumvention was filed, the demerger scheme was not operational and in the eyes of law only JSL was in existence. In view thereof, it cannot be said that the application was not filed by domestic Industry.
43. The petitioner submitted that in any case, scheme has been sanctioned by the Hon'ble High Court with a specific direction that the same is binding on all concerned. Therefore, all legal, tax regulatory, quasi-judicial, administrative proceedings, suits, appeal, applications or other proceedings of whatsoever nature initiated by JSL in connection with the Hisar Unit were to continue as if they were initiated by the JSHL itself. Therefore, under the arrangement of

scheme, all actions taken by JSL are to be treated as actions taken by JSHL under the scheme.

44. Domestic Industry submitted that the issue of standing is not applicable in the circumvention investigations. However, the Domestic Industry has stated that they are eligible industry to file anti-circumvention petition as they are well above the threshold of 25% of the total production of PUC and PUI both at any given point of time.
45. In view thereof, it is clear beyond any doubt that as of the date of filing, the application in September 2015, JSL had the full legal authority to do so. That being the case, petitioner submitted that the requirement of Rule 26 that the application has to be “by or on behalf of the Domestic Industry” was fully satisfied. Without prejudice, it is submitted that JSL alone also satisfies the conditions of filing an application on behalf of the Domestic Industry. Therefore, the submissions of the interested parties are devoid of any merit either in law or on facts.

Examination by the Authority

46. The Authority notes that the petition for anti-circumvention investigation and extension of existing ADD on imports of PUC to the imports of PUI is filed by M/s Jindal Stainless Limited as per Rule 26(1) which reads as under;

“(1) Except as provided herein below, the designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the anti-dumping duty levied under section 9A of the Act , upon receipt of a written application by or on behalf of the domestic industry.”

47. The Authority notes that Rule 26 (1) requires an anti-circumvention petition to be filed by the Domestic Industry of the ADD already levied. In this investigation, the Domestic Industry of the existing ADD comprised of M/s Jindal Stainless Limited who had neither imported the PUI nor the PUC from any of the subject countries during entire investigation period nor were they related to any importer or exporter of the PUI or the PUC.
48. As regards eligibility of JSL as Domestic Industry notes that the Authority the order regarding demerger of JSL was effective from November 1, 2015, i.e., post the filing of application for anti-circumvention investigation by JSL and that period of investigation being 1.7.2014 to 30.9.2015, is also prior to November 1, 2015. In any case, the Authority in the present investigation had considered data filed on behalf of both JSL and JSHL.
49. In any case, the Authority notes that JSL alone also qualifies the test of 25% and 50% even though the said conditions are not per se applicable for an investigation initiated under Rule 26. In view of the aforesaid, it is considered that the application in this case filed by JSL did not suffer from any legal

infirmity and the same is considered to have been filed by and or on behalf of the Domestic Industry for the purpose of this circumvention investigation.

F. Confidentiality and Other Issues

Submissions made by the Domestic industry

50. With regard to the confidentiality, the domestic industry while quoting Rule 7 of the Rules and WTO Panel in its report in the case of Guatemala — Cement II (WT/DS156/R) has submitted as follows:

- (i) Domestic Industry have claimed confidentiality only on the information which is related to its cost and prices. They also provided the indexed figures for the cost and prices.
- (ii) None of the exporters had provided the non-confidential version which is supposed to be an exact replica of their responses in confidential version. Further, the producers/exporters had kept even the volume related information confidential even, the statement of claiming confidentiality was not provided.
- (iii) Many interested parties have kept even the Annexures to their written submissions as confidential thereby not allowing the domestic industry an opportunity to provide comments on the same.

Submissions made by the Producers/Exporters/Importers and Associations

- (i) Excessive confidentiality has been claimed by the Domestic Industry on a number of details without showing good cause for the same or providing non-confidential summary of the same.
- (ii) M/s DGS Associates representing POSCO, Korea and its related entities have submitted that they have claimed confidentiality in accordance with the guidelines prescribed by the Hon'ble Designated Authority in its Trade Notice No 1/2013 dated December 09, 2013 and as per Rule 7 of the Anti-dumping Rules. To the contrary, the Petition is based on mere conjectures rather than substantiation by submission of evidence as is the mandate of the AD Rules.
- (iii) The matter is since pending before the Supreme Court, the investigation may be kept in abeyance till the orders are pronounced by the Supreme Court.
- (iv) M/s Wirana Pte. Ltd., Singapore stated that they would like to be an interested party and that POI be extended by 5 month, scope of investigation be restricted to 304 and 316 only as the imports are of few grades only and this investigation would adversely affect users.
- (v) M/s Suncity Sheets Pvt. Ltd. has challenged the initiation of the present proceedings before the Hon'ble Delhi High Court in Writ Petition (C) No. 3544

of 2016, *inter alia*, on the grounds that this Ld. Authority does not have the jurisdiction to initiate the present proceedings. It is submitted that while dismissing the said writ petition, the Hon'ble High Court has made categorical observations to the effect that this Ld. Authority is required to go into the inquiry of the process of slitting and cutting of a steel strip, as well as if it amounts to "assembling" a disassembled or incomplete article or not. Further, where this Hon'ble Authority comes to a conclusion that the threshold specified under Rule 25 and 26 are not met in the present case, the Application for Anti-Circumvention will have to be dismissed, inasmuch as, the existence of pre-conditions of Rule 25 and 26 is *sine qua non* for proceeding with the present investigations. Accordingly, on the basis of a limited enquiry, as is also contemplated in the order of the Hon'ble Delhi High Court, a finding with respect to satisfaction of the pre-conditions of Rule 25 are required to be given.

(vi) M/s ELP Advocates & Solicitors representing Outokumpu Oyj and YUSCO have stated the following:

- In response to Domestic Industry Questionnaire, filed additional information with the Hon'ble Designated Authority vide communication dated 10th April, 2017. It is the Exporter's submission that the Petitioner has claimed most of this information confidential unjustifiably, which is in gross violation of Rule 7 of the AD Rules and Trade Notice No. 1/2013 dated December 2013.
- The Designated Authority vide the initiation notification of the present investigation at paragraph 17 has specifically stated that "any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority."
- The Hon'ble CESTAT in the matter of ***Alkali Manufacturers Association of India vs. Designated Authority*** 2006 (194) E.L.T. 161 (Tri. - Del.) held as follows:
"15.1 ...The interested parties should not be denied the basis on which decision has been arrived at by the Designated Authority. Reasons cannot be confidential, only the data or figures which may harm the party claiming confidentiality in their business dealings are to be kept confidential. But the reasons for arriving at a conclusion or reason for accepting or rejecting any ground in the representation made by other interested parties cannot be the confidential and proper reasons for accepting or rejecting the point of view or the information furnished should be given by the Designated Authority in his order."

- Further, the Hon'ble Supreme Court has also addressed the issue of excessive confidentiality in the landmark case of **Reliance Industries vs. Designated Authority** 2006 (202) ELT 23 (SC) held that:

“43 ...In our opinion, excessive and unwarranted claim of confidentiality defeats the right to appeal. In the absence of knowledge of the consequences, grounds, reasoning and methodology by which the DA has arrived at its decision and made its recommendation, the parties to the proceedings cannot effectively exercise their right to appeal either before the Tribunal or this Court.

The Anti Dumping Law is extremely important for the country's industrial progress and hence there should be total transparency and fairness in its implementation.”

- Furthermore, the Ministry of Commerce vide Trade Notice No. 1/2013 dated December 2013 at paragraph vi has stated that data upon which excessive confidentiality is claimed, shall be disregarded:

“Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on by the authority.”

- Therefore, it is a settled principle that when a party to an investigation provides confidential information, the party must also provide meaningful non-confidential summaries thereof. In the event that information cannot be summarized, the party in question is required to state the reasons for such non-summarization.
- M/s ELP Advocates & Solicitors has stated that an unsubstantiated and completely illogical link between the non-participation of the Exporter in the sunset review of the anti-dumping duty imposed on the PUC and the participation now in circumvention investigation has been drawn. Outokumpu did not participate in the sunset review for commercial reasons, particularly in view of the extreme burden placed on exporters/producers from subject countries to file data for the period of investigation, post-POI period, as well as other likelihood information. The Exporter submits that non-participation in the abovementioned sunset review was due to a business decision with respect to the PUC and has no bearing on the PUI that is imported into India. In fact, even if the assumption is made (without conceding) that the Exporter was engaged in circumvention, the Exporter would not have participated so extensively in the present proceeding, having filed a copious amount of information and opening its confidential data to the Authority prove the absence of circumvention. As explained above, Outokumpu is an internationally renowned and legacy manufacturer of stainless steel, and the Petitioner's spurious allegations should be out rightly rejected by the Authority.

Examination by the Authority

51. The Authority notes that with regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

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

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

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

52. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority also notes that all interested parties have claimed their business related information as confidential, which has been kept confidential as per Rule and consistent practice of the Authority.

53. The Authority notes that it had sent questionnaires to all known producers/exporters of subject countries and also to the embassies of the subject countries in India to make the questionnaires, relevant application

available to all those who desired to participate. Any producer/exporter from a non-subject country is not considered as an interested party, as per Rules.

54. As regards the issues on legality of the investigation, non-fulfillment of conditions of circumvention stipulated in AD Rules, the Authority notes that in the judgment dated 8th March, 2017, the Hon'ble High Court of Delhi has dismissed the petition filed by the importer/exporter which primarily contained issues on legality as stated above. The Authority notes the submissions made by various interested parties, most of which were also made before the Hon'ble High Court. The Authority notes that the Hon'ble High Court in its judgment dated 8th March, 2017 has held that the trajectory of the inquiry is altogether different in an Anti-Circumvention investigation and that the facts and arguments of various interested parties need to be placed before the competent Authority. The Authority in view of the operative para of the aforesaid judgment, notes various submissions and evaluated all relevant parameters as per relevant AD Rules 25 – 28 in this final findings.

Determination of Circumvention

G. Evidence of Circumvention

Submissions made by the Producers/Exporters/Importers and Associations/Embassies of Subject Countries

55. Following submissions have been made by the exporters/importers/users and associations with regard to circumvention are as follows:

- a. The Product under Investigation is not in unassembled, unfinished or incomplete form and, therefore, the provisions of Rule 25(1) cannot be invoked.
- b. Value addition involved in the process of slitting is huge, this makes circumvention economically and commercially unviable.
- c. The producer / exporter from EU has submitted that they are selling widths above 1250 MM, even prior to the imposition of the anti-dumping duties. Further, their goods of width above, 1250MM is using as such in the applications which genuinely requires widths above 1250MM.
- d. The producer/exporter from Korea, POSCO has stated that **% of the wider width imports are being slit into widths below 600mm which is technically not PUC, therefore there is no circumvention. They have further stated that they have been slitting the imported articles into widths below 600mm even prior to the imposition of duties.

- e. That there has been a change in the usage pattern in the domestic market and there is a natural increase in demand of PUI which can be substantiated by the increase in production of PUI by the domestic industry as well.
- f. That the fact that the petitioner has set up a plant to manufacture PUI which is an evidence of the fact that there is adequate demand of PUI. They have further contended that there has been no change in the import pattern and there is a simultaneous increase in imports of both PUC & PUI.
- g. That the circumvention is not commercially viable as there are wastages and there are issues related to welding which can increase the cost and also raise safety issues.
- h. Interested parties have also contended that in order to apply anti-circumvention provisions, the article that is being imported must be subject to anti-dumping duty and since there is no anti-dumping duties on imports of PUI, this clause is not applicable.
- i. Interested parties made representations that they are not slitting the PUI nor they have any intend to circumvent the anti-dumping duties.
- j. M/s DGS Associates representing POSCO Korea and its related entities have submitted the following:
 - The petition is contrary to the explicit provisions of the AD Rules, as it fails to establish the prerequisites of Rule 25, being that the goods be imported in unassembled, unfinished or incomplete form and as such the instant Investigation is sans jurisdiction;
 - More than **% of the Product under Investigation (PUI) imported into India from POSCO is being utilized to supply products that do not fall either within the ambit of the PUI or the Products under Consideration, being products of width between 600mm to 1250mm (PUC). As claimed by the Petitioner itself, the wider widths of the subject goods have limited application. In the automotive industry, being the industry that is essentially catered to by the answering interested parties herein the demand is only of cut to length or CTL sizes. It is not economical or commercially viable for the importers to import the desired CTL sizes directly as the production and transportation of the smaller widths is not only cost ineffective but also thwart with the dangers of rejection as transportation can result in damage, thus rendering the CTL size useless for the customers. Furthermore, since the automotive industry is fairly

dynamic by nature there is a high possibility of it having outgrown the size that it had ordered a few months back. Also for transportation of desired narrow width of the coil should be done through container delivery, which would only result in substantial increase in cost.

- Furthermore, in the event that the exporter directly provides coils of requested dimensions, the coils must undergo an “edge trimming process” prior to final use in India, which would further lead to production of scrap. Therefore, it is simply not pragmatic for the automotive industry to import the exact CTL sizes and importing wider widths of the product is the only pragmatic option available to the parties, making the imports economically and commercially viable. It is reiterated that importing wider widths, to be slit to the desired sizes in India, reduces yield loss, transportation cost, wastage and also allows end user the flexibility to alter its demanded sizes basis the requirement at the time of actual supply.
- It is evident that there exists valid economic justification for importing wider widths into India to be supplied as CTL sizes. It is also submitted that there has not been any change in trade pattern as the subject goods have always been imported in wider widths to be slit into CTL sizes for the consumption of the automotive industry. As has already been stated in the written submissions, the automotive industry has evolved over the years and is now primarily using widths below 600mm for the production of the exhaust systems where the PUI supplied by POSCO is used. This is a shift in the user industry and cannot be termed as circumvention, as alleged by the Petitioner, or otherwise. The Petitioner can possibly not be suggesting that the entire market forces have undergone a change consequent to the imposition of anti-dumping duty. Such a suggestion would be too absurd and far-fetched.
- While trying to invoke the express provisions pertaining to Anti-Circumvention under the AD Rules, the Petitioner has completely failed to satisfy the prerequisites laid down in law. Further, while alleging circumvention, the petitioner has not bothered to examine the end-use trend of the PUI being imported, which analysis would have sufficiently established that the PUI being imported is primarily used either as PUI or widths below 600mm making it a non PUC for purposes of this Investigation.
- The Petitioner’s specific contention w.r.t. the increased imports of grade EN1.4512 is again misplaced in as much as the said grade is being imported specifically for meeting the requirements of the automotive

industry and is being imported as PUI to be supplied in CTL sizes of widths below 600mm, being outside the scope of both PUC and PUI. It may be noted that the said grade is used by the automotive industry for the manufacture of the exhaust systems and the CTL sizes being currently used for the said manufacture are below 600mm. It is submitted that the Petitioner's sole objective is to misguide this Hon'ble Authority into believing that there is circumvention in existence, when in fact no circumvention of anti-dumping duty exists. Petitioner's bald assertion that the imports of PUI have increased is insufficient to establish circumvention since what must be considered is the final utilization of the PUI.

k. M/s ELP Advocates & Solicitors representing Outokumpu Oyj and YUSCO have stated the following:

- The Petitioner has failed to provide the following information which is important for analysing the PUI and the possibility of circumvention of the various series or widths that are exported into India:

a) No segregation of the series or widths produced by the Petitioner

b) Import data segregation

Without the abovementioned information, the import trend of the PUC and the PUI cannot be effectively addressed as the present submitted data fails to show which products of a particular width have been imported and are truly circumventing the anti-dumping duty imposed on the PUC, if at all.

- Product under Investigation is not unassembled, unfinished or incomplete form due to which Rule 25(1) of the Anti-dumping Rules does not apply to the present investigation,
- The present investigation should be terminated the anti-circumvention proceeding, at least against the Exporter as there has been no change in pattern of trade;
- Circumvention as alleged by the Petitioner is commercially unviable as the Petitioner has failed to provide any evidence to substantiate its circumvention claim;
- Increase in the volume of imports of Product under Investigation is due to an increase in the consumption of the Product under Investigation and is not due to slitting the Product under Investigation for converting it into the Product under Consideration.

- The Petitioner is unable to meet the demands of the user industry with respect to the Product under Investigation due to which the present investigation should be terminated.
- I. M/s GTC Consultants representing M/s Suncity Sheets Pvt. Ltd., M/s Suncity Strips and Tubes Pvt. Ltd, M/s Sunrise Stainless Pvt. Ltd and M/s Sunmark Stainless Private Limited have submitted the following:
- M/s Suncity Strips and Tubes Pvt. Ltd has imported the CRSS other than PUC from China PR, Malaysia and Korea RP. The width wise imports of CRSS is as under:

Width – wise Imports of Suncity Strips and Tubes Pvt. Ltd

CHINA			
Year	Width 0-600	600-1250 (Incl. Tolerance)	1250 and above (Excl. Tolerance)
	QTY in(MT)	QTY in(MT)	QTY in(MT)
2008-09	NOT APPLICABLE		
2009-10			
2010-11	****	-	-
2011-12	****	****	****
2012-13	****	****	****
2013-14	****	****	****
2014-15	****	****	****
2015-16	****	****	****
Jul'14 to Sep'15	****	****	****
MALAYSIA			
Year	Width 0-600	600-1250 (Incl. Tolerance)	1250 and above (Excl. Tolerance)
	QTY in(MT)	QTY in(MT)	QTY in(MT)
2008-09	NOT APPLICABLE		
2009-10			
2010-11	-	-	-
2011-12	-	-	-
2012-13	-	-	****
2013-14	-	-	****
2014-15	-	-	****
2015-16	-	-	****
Jul'14 to Sep'15	-	-	****
KOREA			
Year	Width 0-600	600-1250 (Incl. Tolerance)	1250 and above (Excl. Tolerance)

	QTY in(MT)	QTY in(MT)	QTY in(MT)
2008-09	NOT APPLICABLE		
2009-10			
2010-11	-	-	-
2011-12	-	-	-
2012-13	-	-	-
2013-14	-	-	-
2014-15	-	-	-
2015-16	-	-	****
Jul'14 to Sep'15	-	-	-

From the above table, it is pertinent to note that M/s Suncity Strips and Tubes Pvt. Ltd. has never and ever imported PUC since its inception. Hence, the circumvention of PUC cannot be alleged on the part of the M/s Suncity Strips and Tubes Pvt. Ltd. and since they are the manufacturer of stainless steel pipes, wherein, CRSS is the main raw material. For manufacturing of pipes, the respondent requires the width of not more than 400mm and not from 600mm to 1250mm.

- M/s Suncity Sheets Pvt. Ltd. has never imported the PUC since its inception in 2012-13. Further, the respondent has only imported the CRSS other than PUC only from China, PR. The width wise imports of CRSS is as under:

Width – wise Imports of Suncity Sheets Pvt. Ltd

Year	Width 0-600	600-1250 (Incl. Tolerance)	1250 and above (Excl. Tolerance)
	QTY in(MT)	QTY in(MT)	QTY in(MT)
2008-09	NOT APPLICABLE		
2009-10			
2010-11			
2011-12			
2012-13			
2013-14	****	****	****
2014-15	****	****	****
2015-16	****	****	****
Jul'14 to Sep'15	****	****	****

From the above it may be noted that M/s Suncity Sheets Pvt. Ltd. has never and ever imported PUC since its inception. Hence, the circumvention of PUC cannot be alleged on the part of the respondent.

- Impugned Notification has been issued without fulfilling the jurisdictional pre-conditions and is wholly without jurisdiction. By their very nature, anti-

circumvention proceedings are such that a new trend of imports specified in Rule 25 of the ADD Rules ought to have been noticed subsequent to the notification, which are seeking to circumvent the ADD imposed by the notification. In the present case, the final notification which is alleged to be circumvented, was issued only on 16.12.2015 and the application for circumvention was filed within a couple of months of that notification. The application does not rely on any new fact or data and discloses that the trend of imports prevalent presently has continued for long. Therefore, the present Anti-circumvention investigations are liable to be dropped, being without jurisdiction.

- Rule 25 (1) of the ADD Rules requires the following jurisdictional pre-conditions to be satisfied for initiation of Anti-circumvention investigation under Rule 26 of the ADD Rules:-
 - An “article” should already be subjected to ADD is imported into India from any country;
 - The said “article” should be imported into India in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India;
 - The said operations of assembly, finishing or completion started or increased after, or just prior to the Anti-dumping investigation and the parts and components are imported from the country of origin or country of export notified for the purpose of levy of ADD; and
 - The value consequent to assembly, finishing or completion operation is less than 35% of the cost of assembled, finished or complete article.

- In the present case, none of the aforesaid conditions are satisfied, inasmuch as:-
 - CRSS of width more than 1250mm is a completely different class of article and it is undisputed that the same is not subjected to ADD and has a distinct commercial usage- therefore, any import of CRSS of width more than 1250mm cannot be regarded as import of the “article” which is subject to ADD. Rule 25(1), therefore, does

not apply at all to the present case;

- CRSS of width above 1250mm are finished goods and are not imported in an unassembled, unfinished or incomplete form. There is no basis whatsoever, disclosed in the Application to the effect that this condition is even prima facie satisfied to justify initiation of proceedings;
- There is no assembly, finishing or completion process undertaken in India in respect of CRSS of width more than 1250mm. The CRSS imported in India are in finished condition and no further 'assembly', 'finishing' or 'completion' is required in India;
- In any case, such operations have not started or increased after or just prior to the Anti-dumping investigations so as to constitute circumvention of ADD, in as much as:-
 - The data relied upon by the Applicant in support of the application filed before this Ld. Authority shows that high volumes, in excess of 70% of the total imports of CRSS were of width more than 1250mm above from the year 2010-2011 onwards;
 - There is no demonstrable change in import pattern after the initiation of proceedings which resulted in imposition of ADD pursuant to final findings dated 12.10.2015. It is important to note that the final findings dated 12.10.2015 in the sunset review, pursuant to which the Customs Notification No. 61/2015 dated 16.12.2015 was issued, was a full-fledged investigation as is also evident from Rule 23 (3) wherein, the entire procedure under the ADD Rules in terms of Rule 6,7,8,9,10,11,16,17,18,18 and 20 was required to be followed. It is, these proceedings that the Applicant has claimed in its application that were being circumvented. No data showing any demonstrable change in the import pattern after the issuance of the final findings has been filed by the Applicant to justify initiation and the initiation was made on a complete non-

application of mind by merely accepting the statements in the application without even testing whether the jurisdictional conditions were satisfied to justify initiation.

- As there is no assembly, finishing or completion operation even alleged in the application, the question of testing the value addition consequent to such operation does not arise. Even otherwise, the cost of slitting operation relied upon in the initiation notification, apart from being incorrect, is contrary to the findings in earlier proceedings where this Ld. Authority itself had found that there was a heavy cost involved in such operations and the losses of high priced material that would be incurred would make such operations unviable.[Para 9 of Findings dated 24.11.2009]
- The jurisdictional pre-conditions contained in Rule 25 (1) of ADD Rules have not been satisfied in the present case. It is submitted even on the limited enquiry, the present proceedings can be dropped, inasmuch as, none of the threshold conditions are satisfied in the present case. It is incumbent upon the Ld. Authority to examine the question of jurisdiction before proceeding to decide on the other issues in the present case, if any. It is a settled position in law that before deciding a case on merits, jurisdictional issue has to be decided. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in Union of India v. Adani Exports Ltd. 2001 (134) ELT 596 (SC) wherein the Hon'ble Supreme Court set aside the judgment of the Hon'ble Gujarat High Court on the sole ground that the Gujarat High Court proceeded to decide the matter on merits by assuming jurisdiction. The Hon'ble Supreme Court categorically held that the question of jurisdiction should be first decided as a preliminary issue before going into the merits of the case. It is humbly submitted that in the present case also, this Ld. Authority may decide the issue of jurisdiction as a preliminary issue instead of giving findings on the merits of the present case.

- The import data supplied by the Applicant discloses that there is no demonstrable change in import pattern after the initiation of proceedings which resulted in imposition of ADD pursuant to final findings dated 12.10.2015. Further, even with respect to the data relied upon by the Applicant for the period prior to 2015, it is pertinent to note that there is a simultaneous change in quantum of imports from time to time which is consistent for both PUI as well as PUC.
- The increase in the quantum of imports of the PUC clearly appears to be natural and not on account of any alleged circumvention, inasmuch as:-
 - There is an overall/simultaneous increase in the PUI as well as PUC;
 - There is an increase of import of PUIs even from non-subject countries;

Therefore, there is no unusual change in pattern of imports of the PUC and the increase is natural.

- it is submitted that most of the data which allegedly is the basis for alleging circumvention has been claimed by the Applicant as 'confidential' without any rationale and such claim is without any merits and further, contrary to Rule 7 of the ADD Rules. It is submitted that there is no explanation forthcoming from the Application as to why should the claim of the Applicant be accepted. It is a settled principle of law, inter alia, laid down in the case of Reliance Industries vs. Designated Authority, 2006 (194) ELT 673 (SC) that the Designated Authority should not automatically accept the claim of the parties regarding confidentiality of information and the authority is expected to apply its mind on the nature of information. In the present case, the claim of 'confidentiality' of the Applicant in the Application filed before this Ld. Authority is without any basis and prejudices the rights of the Importer and accordingly, ought to be rejected such a claim.
- It is submitted that the issue whether CRSS of width more than 1250mm is a commercially substitutable article or whether the process of slitting

etc. is viable, have already been decided in the earlier investigations. Once CRSS of width more than 1250mm were expressly excluded by this Ld. Authority for the purpose of imposition of ADD on CRSS by rendering detailed findings, it is not open for the Applicant to re-agitate the very same issues under the garb of the present application and reopening the findings rendered in the earlier investigations which were given after considering detailed evidence and investigations. The submissions of the Applicant to include CRSS of width more than 1250mm in the scope of PUC were specifically rejected time and again by this Ld. Authority and this aspect is not disputed by the Applicant. The findings at each stage of the earlier investigations are tabulated herein below for the sake of brevity:-

Details of Previous Investigation stage-wise

Particulars	Findings
Notification 14/06/2008-DGAD dated 24.11.2009 with recommendation of Final Findings the contention of the Applicant to include CRSS of width above 1250mm in the scope of PUC was rejected	<ul style="list-style-type: none"> • Importing the PUC in higher width and then attempting the process of slitting will result in wastages and higher costs [Para 9]; • User industry imports in almost exact length for the end use application in order to economise and remain competitive [Para 9]; • Analysis of the import data and information provided by interested parties shows significant volume of imports of higher width plates [Para 10]; • Price of higher width plates is higher than lower width material [Para 10]; • Even it might be technically feasible for consumers to cut the sheet into smaller width plates, it has not been established that the same is commercially as well as technically feasible [Para 10]; • Both technical and commercial substitutability of a product are important in order to establish that the product offered by the domestic industry is indeed like article to the imported product [Para 10]; • The authority maintains the restriction of PUC up to 1250mm (width) as no evidence of actual supply of width beyond 1250mm has been provided by the domestic industry [Para 12.2a].
Order dated 05.12.2011 in pursuance of Order of P&H High Court dated 08.10.2010 in relation to its Final Findings No. 14/06/2008-DGAD dated 24.11.2009	<ul style="list-style-type: none"> • Even though it is claimed by the domestic industry that slitting of higher widths into smaller widths is technically and commercially feasible, no evidence has been placed on record to establish that it is technically and commercially feasible to convert the smaller widths into higher widths [Para k]; • Even if the claim of substitutability of higher width to lower widths by slitting is accepted, the vice-versa cannot be established [Para k]; • Subject goods of width beyond 1250mm were rightly excluded from ambit of ADD [Para 21a].

<p>Final Findings to the Sun-Set review <i>vide</i> Notification No. 15/04/2024-DGAD dated 12.10.2015</p>	<ul style="list-style-type: none"> • It is further observed that in this case, the review has been initiated for the scope of the product as defined in the final finding and as modified by subsequent reviews. The domestic industry did not file any application for the review of the scope of the product under consideration as it did in 2011 [Para 27]; • The authority cannot accept the arguments of the domestic industry for inclusion of the excluded grades within the scope of the product under consideration [Para 27].
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- A perusal of the above tabulated findings disclose that the following issues have attained finality on account of the categorical findings:-
 - The CRSS of width above 1250mm are not technically or commercially substitutable with the CRSS of width lesser than 1250mm; and
 - Slitting of CRSS above 1250mm to manufacture CRSS of lesser width is not commercially or economically viable.

Once the aforementioned findings have been rendered on the basis of import data as well as detailed investigations, it is most respectfully submitted that the re-agitating the very same issues should not be allowed more-so, when the Applicant has filed an appeal under Section 9C of the Customs Tariff Act, 1975 before the CESTAT, New Delhi against the final findings of the Ld. Authority in terms of which CRSS of width above 1250mm were excluded from scope of PUC for the purpose of imposition of ADD.

- m. The issue of PUI has already been examined in earlier main examination and investigation be therefore terminated.
- n. The NCV version of petition does not provide data on usage pattern which does not give a fair understanding.
- o. Initiation has not legal basis as PUI is assembled, finished and in complete from.
- p. The application alleges that there is evidence to show that only about 3% of imports of widths of above 1250 mm is going into a genuine usage and the balance 97% of the imports are used only after slitting. The applicant further alleges that the value addition required to convert the PUI into PUC is way below the threshold limit of 35% and there is a further allegation that there is a change of pattern of trade due to the above process. These claims are not substantiated.

- q. There is no demonstrable change in the pattern of trade after initiation of proceedings which culminated in final finding dated 12/10/2015.
- r. The surge in PUI is a general growth trend and in fact imports of Stainless Steel flat products increased from 324460 MT in 13-14 to 532033 MT in 15-16.
- s. Volume of imports from subject countries be examined individually and not cumulatively.
- t. Many traders have submitted that no processing/slitting have been done on PUI before selling them.
- u. Importing higher width and slitting is not economical as it adds 15-20% on cost, when PUC (600-1250 mm) is easily available from DI.
- v. M/s Metal and Stainless Steel Merchant's Association who have more than 5000 merchant entities as their members have filed submissions as under on behalf of a large number of their members
- M/s Metal & Stainless Steel Merchant's Association submission filed dated 23.6.2016
More than 5000 merchants/exporters/importers and manufacturers are our members and are engaged in Trade of Metal & Stainless Steel various products in Mumbai. Our members are having about 5000 Shops and Establishment.
 - Members have not done any slitting activity on the PUI and that it may not be viable to do so with cost of slitting being Rs. 10 to Rs. 15 for a local centre.
 - Domestic Industry is just making repeated application since last 10-12 years with New Cases of Anti-Dumping, Safeguard Duties etc. M/s Jindal Stainless Ltd. enjoys monopoly in controlling supplies and pricing power with 85% Market Share. The Prices of Stainless Steel are kept Artificially Higher over International prices as there is No Competition now.
 - Domestic User Industry consists of small units/SME/MSME and due to higher Cost of Raw Materials (Stainless Flat Products) Limited Resources of Trade/Distribution, There is a suffering. There is large scale drop in Manufacturing Activities of Domestic User Industry – which comprises of : Kitechenware, Cutlery, Cookware; Home Appliance Mfg (Sinks, Washing Machine, Geysers, Chimney, Hobbs; Welded Pipe & Tubes Mfgs; Building Hardware, Fitting, Railings and Accessories; Industrial Tank, Vessel, Heat Exchangers, Boilers; Pharma Machinery and Lab Equipments; Elevators and Escalators; Various Engineering Equipment & Machineries; Milk Dairy and Food Industries Equipments; Automobile Industries and their Parts supplies; Tools, Office Supplies, Blades, Scissors, Gift & Accessories; Heavy Engineering, Power Plant, Petro Chemical & Fertilizer Industries; Water Treatment Plants, Pumps and Water Tanks; Railways, Ship Building; Various other very small scale units.
 - Import of all above Finished Articles itself has Risen continuously in last 5-7 Years at the cost of closure of Indian Manufacturers of above product

due to High Cost of Raw materials and unavailability of varieties in Size, Finish, Thickness Range.

- Price of Stainless Steel Flat Product is cheaper in other countries by about 20-30%.
- Overseas Mfg's has easy access to source with Wide Range of option of Finish, Thickness, and Width, Lower Wastages, Timely Delivery, Low Cost Materials etc. help them to be more Efficient.
- Importing into India Finished Articles itself is cheaper in cost and of Better Quality & Finish.
- On one side the finished goods are being flooded in Indian market with Newly Developed Designed, Finishes and Low Cost with Concessional Import duty under Free Trade Agreement, On the other side the domestic manufacturers are left with Monopoly in their basic raw material at Artificially Higher Prices and limited scope of supply chain resources.

- STS Railing Pipes, Welded Tubes & Pipes are Cheaper to Import then Produced here; Cookware, Kitchenware, Flasks and High End Cutleries are Import is rising into India; Heavy Engineering Unites are Established outside India. (Middle East); Building Hardware, Accessories Imported are of Cheaper in Cost & Better Finish then India; Elevators and its parts are imported now and just Assembling & Servicing Part is done in India.
- Our Manufacturer are Slowing Down, Could not grow in past few years, Hence No new investments seen, some of them are just now importing finished articles and marketing them. Remaining will either Closed Down or Go Bankrupt.
Indian Distributor/Supply Chain Service have not Grown in last few years, almost collapsed and moving toward speculative Business from Service Oriented Businesses.
- Important service from Trade/Distribution is not available to above USER Industry, as limitation of availability of Range of varieties (Width, Thickness, Finish, DDQ etc), Extreme higher prices compared to International market prices, shortage and Difficulties in timely deliveries enhance the problem further.
This is the main reason Indian Manufacturers are losing their competitive edge. Government must secure the interest of small and medium manufacturers by not paralyzing them by buying material Higher prices from uncompetitive sources.

- The application of Anti-Circumvention duty should be verified subject to Monopolies and Restrictive Trade Practices ACT, 1969. Jindal Stainless Ltd, is only Manufacturer having fully integrated plant in India, Manufacturing CR Flat Products of Stainless Steel of 200, 300, & 400 series. Controlling 85% Market Share by Jindal Stainless Ltd. (Jindal Stainless (Hissar) and Orissa Units) and many sizes, grades are 100% Controlled & Monopoly of Jindal Stainless Ltd.

- Non-Manufactured Product in India is also included in Anti-Dumping:

Bright Annealed CR Stainless Steel Coils & Sheet in Width of 1000 MM, 1250 MM, & 1500 MM width in 200, 300, & 400 Series was included in

Anti-Dumping Duty, Even though it is not being produced in India by any of the Manufactures.

“BA” surface stainless steel is much premium over normal CR 2B Stainless Steel because of shiny surface finish, saves cost and times as there is no need of manual polishing used in Kitchenware, Cookware, Cutlery, Sinks, Pipe & Tubes, Elevators, Home Appliances.

Due to Non-Availability of “BA” Finish Stainless Steel we are still using 2B surface with Conventional polishing which is uneven and Manual/Labor Orient process; Reduced the Total production due to time consuming process; Increasing the Cost and Higher Rejection Quantities; Lost Export Orders and Customer whereas “BA” Finish is must; and Import of Finished Articles from overseas which has been made of “BA” Finish had increased.

The Authority should verify the facts and cold Rolled Stainless Steel in “BA” Finish should be removed from Scope of Anti-Dumping Duties on all case.

- Stainless Steel Sheet – Surfaced Treated – Polished (Decorative Ti Clor, Etch Pattern, Polish Mirror Surface) they are all High Technical needed product and used in Elevators, Escalators, Hotels/Offices Entrance, Lobby’s, Name Plates etc by default it was included in Anti-Dumping.
- Stainless Steel CR Coils & Sheet in Thickness of 0.50 mm & Below (0.20 mm, 0.30mm, 0.40mm,etc) is also not available in with of 1000 mm, 1220mm, Still included in Anti-Dumping.
- Checkered/Tear Drop/Anti Slip and other Treated Stainless Steel – is used as floor plates which is not available in India.
- Circumventing is completely unviable and baseless be cause
- Cut length Sheet cannot be slitted they are ready to use. They are cut to length supplied and imported, so it should be excluded from the Initiation itself.
- Worldwide Standard Width is 1220mm, 1250mm, 1500mm, 2000mm. Price of 1500mm, 2000mm is always higher side by 3-7%. Slitting to Narrow Width involved extra work load, Transportation, Cutting Expense and 10-20% Wastage/Scraps.
- There is no Economical sense in cutting 3-7% High priced Coils to Low Priced Coils + Generate Scraps of 10-20%+ Incur expenses like slitting, Re-Packing, Loading& Transportation. This will increase Total cost by about 20-25%.
- Customer is King, the requirement of Customer goes on changing depending upon Consumer choice and Technical Changes & Innovation, Quality controls etc. We have to supply what customer needs.
- Total Import Volume is dropping and import of Anti-Dumping product (CR Stainless Steel Flat Product 600mm-1250mm width is drop by 70%, from 53240 Tons in 2008-09 to 18437 Tons in 2014-15 Infact, It should have grown average 8-10% every year should have reached 80000-100000 Tons to maintain User Industry Price Competitiveness and growth.
- Anti-circumvention case is just based on 1 Large Scale Importer 7 Service Center – POSCO India Service Centers in India for 400 Series – Automobile Grade Stainless Steel.

- As 400 Series Coils are processed in Width Below 600 mm for Automobile Industry, hence No Point in applying Anti-Circumvention Duty for All Grade of 200, 300, 400 Series in CR Stainless Flat Product for 600 mm – 1250 mm under Notification No. 61/2015-Customs dated 11.12.2015.
 - Multiplier Effect on Revenue & Growth: Stainless Steel is not Luxury Good like High end watches, Cell Phone, LED TV or Luxury Car or other Luxury Consumer Goods.
 - Stainless Steel is Raw Materials to Industry – Procurement and Storage, De-coiling, Cutting, Slitting, Polishing, Warehousing, Wholesale-Distribution to Retail Sales, End-Consumer Supplies across India and Export to Worldwide Customer, Shipping & Transportation are step involved.
 - Further, it is 100% RECYCLABLE and its SCRAP is REUSED again by smelting and making new Stainless Steel. Therefore Anti-Circumvention duties should not be imposed.
- w. M/s Agol Associates representing M/s N.G. Industries, M/s M.P. Industries, and M/s Shree Ramdev Metal Mart have submitted that these companies have not done any slitting process of the product during the period of investigation and all the quantities have been sold without any slitting/conversion process.
- x. The cost of materials of width between 600 mm to 1250 mm is lesser and easily available in the domestic and overseas market when compared to the expenses incurred in slitting the product of width more than 1250 mm. General cost of slitting is Rs 1 per kg at a normal small local service centre, but the service centre of M/s POSCO charges Rs 3 per kg. In addition a substantial amount is generated as scrap if slitting is resorted to.
- y. M/s All India Stainless Steel Importers Association, who are members as a part of metals and stainless steel merchant association, members have also reiterated the submissions made by M/s Metal & Stainless Steel Merchant's Association.
- z. POSCO is exporting wider width to maximise production and distribution. 80% of the PUI is sold below 600 mm and only 20% of it is sold as PUC.
- aa. All PUI are used as it is cut to length in sheet and coils. Some of the importers have mentioned that they have been importing widths of higher size now for many years.
- bb. M/s Sharda Motor Industries Limited for Korea have also stated that Cold Rolled Stainless Steel (CRSS) imported from Korea for automobile exhaust systems is not locally available and also the domestic suppliers product is not approved and their test trails have failed. Therefore Anti-circumvention duty not be imposed on such imports.
- cc. M/s Faurecia Emission Control Technologies have stated that Cold Rolled Stainless Steel imported from Korea for automotive exhaust system are

not locally available nor have quality, which meet their requirements and also there are delivery issues. There Anti-circumvention duty may not be levied on CRSS for automotive exhaust system.

- dd. M/s Reliance Fabrications Pvt. Ltd. have stated that they stated that they use widths greater than 1250 and AD duty should not be extended beyond 1250 mm.
- ee. M/s Remi Edelstahl Tubulars Ltd. Have stated that they require coils beyond 1250 mm for higher diameter pipes these are used without slitting. Techno economy calls for importing such sizes.
- ff. M/s Nexus Impex reiterating the legal submissions on faulty initiation, no circumvention due to slitting have stated that cost of slitting is generally Rs. 1/Kg at a local center and Rs. 3/kg. at POSCO's center. The DI's has in their company's brochure/website material accepted that requirement of higher width is growing.
- gg. Most of the higher width imports are sold to user industry like Thyssenkrupp/schindler/Sulzer/Koch chemical/France Faber without slitting or cutting.
- hh. Higher width sheets lead to a better yield in Dairy Tanks/Chemical equipment/elevators/Oil and gas and Automobile sector.
- ii. The levy of AD on imports from POSCO will adversely affect Indian Automobile industry. The losses suffered by the petitioner are due to its inefficiencies. This has been investigated and also published by the DG safeguards.
- jj. Imposition of Anti-circumvention duties will adversely affect make in India programme.
- kk. Conditions for extending duties to PUI from EU are not met as imports from EU of PUI have decreased by 10% since 2009. Even if a number of exporting producers have circumvented the measures, extending measures on PUI to all countries will be disproportionate.

Views of the Domestic Industry

56. The domestic industry has made the following submissions:

- a. The interested parties have failed to appreciate that the words "unassembled, unfinished or incomplete form" have to be interpreted in the context of the fact whether such products require any further operations in the form of "assembly, finishing or completion". Once the imported goods are subject to certain operations in India before being

finally used, it cannot be said that the imported goods were finished or complete. It is further submitted that the PUI would not be a 'complete' or 'finished' product if they require further process of 'slitting' before being put to the use and that too when the whole process of slitting is being carried out purely and solely for the purpose of avoiding the anti-dumping duties levied by the Hon'ble Authority on the articles below 1250mm width.

- b. The producer/exporter from Korea, POSCO has accepted that 80% of the wider width imports are being slit into narrower widths. However, the producer / exporter has failed to answer the pointed question of the Hon'ble Designated Authority during the Oral Hearing about why input pattern has changes. Domestic Industry also submitted that in an anti-circumvention investigation the requirement under law is to examine whether there has been a change in the imports pattern in order to avoid the existing anti-dumping duties. It is clear from POSCO's own submissions that they are admittedly slitting the PUI into lesser widths. Even assuming but not accepting that prior to the imposition of the anti-dumping duties, the slitting operations were carried out to obtain widths below 600mm, no justification has been offered by any of the interested parties as to why the import pattern has changed from PUC to PUI only after the imposition of anti-dumping duties.
- c. It is established that there is no change in the pattern of trade or applications which could justify the complete change in the pattern of imports from lower widths (PUC) to higher widths (PUI) other than circumvention of anti-dumping duties. However, none of the interested parties has been able to provide any plausible economic justification other than to avoidance of anti-dumping duties in the context of the changed pattern of imports. As per the Domestic Industry the ratio of the PUC and the PUI imports from the countries not subject to anti-dumping duties remained the same as it was prior to the imposition of anti-dumping duties. However, the ratio of PUC and PUI imports for the subject countries, changed in a manner so as to completely circumvent the anti-dumping duties. This phenomena completely proves circumvention of anti-dumping duties beyond any doubt.
- d. Domestic Industry submitted that the contention of the interested parties regarding operations of Odisha plant that it primarily produce PUI is incorrect. As can be seen from the information already on record, that despite having the capability to produce higher widths in Odisha, majority of the sales are made in PUC segment only which clearly establishes that there is no surge in demand of PUI alone as is being attempted to be projected by the interested parties.

- e. Domestic Industry submitted that the ratio between PUC and PUI of the imports from non-subject countries is similar to the sales pattern of the Domestic Industry. As per the Domestic Industry these facts establish beyond any doubt that the ratio of imports changed completely in favour of PUI post imposition of anti-dumping duties only from the subject countries. The only inescapable conclusion is that unscrupulous exporters and importers have resorted to circumvention of the existing anti-dumping duties on the PUC.
- f. Domestic Industry submitted that interested parties are once again misleading the Authority by mentioning that the circumvention process is not commercially viable. They submitted that as per the material on record, it can be clearly seen that the whole process of slitting of PUI requires cost ranging from 2% to 3%, which is minimal as compared to the existing anti-dumping duties. Moreover, the data has been verified by the Authority.
- g. Domestic Industry submitted that the contention of interested parties that in order to apply anti-circumvention provisions, the article that is being imported must be subject to anti-dumping duty, is completely misplaced and devoid of any merit. It is further submitted that if the provision has to be read in the manner proposed by the interested parties, it would make the entire law trite as there is no need for any kind of anti-circumvention duties if the concerned goods are already subject to anti-dumping duties. Any interpretation which makes the entire scheme of anti-circumvention law otiose, is to be rejected in terms of the settled principles of interpretation of statutory provisions.

Examination by the Designated Authority

57. The Authority has noted the aforesaid submissions and alleged circumvention phenomena under relevant Act/Rules i.e. section 9 A (1) of the Customs Tariff Act, 1975 and Rule 25 of the AD Rules which state as follows—

Section 9A(1A) of the Customs Tariff Act Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such antidumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an

article originating in or exported from such country, as the case may be.”

Rule 25 of AD Rules.” Circumvention of anti-dumping duty. - (1) Where an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in such country, such assembly, finishing or completion shall be considered to circumvent the anti-dumping duty in force if,-

(a) the operation started or increased after, or just prior to, the anti dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty;

and

(b) the value consequent to assembly, finishing or completion operation is less than thirty-five percent of the cost of assembled, finished or complete article.

Explanation I. – ‘Value’ means the cost of assembled, complete or finished article less value of imported parts or components

Explanation II. - For the purposes of calculating the ‘value’, expenses on account of payments relating to intellectual property rights, royalty, technical know-how fees and consultancy charges, shall not be taken into account.

58. The Authority notes various submissions filed by the user industry on non-slitting, actual genuine use of higher widths of PUI by users. The Authority notes that the AD measures are producer/exporter specific and in an Anti-Circumvention investigation, the producers/exporters who are subjected to an AD investigation need to participate so that the shift in trade pattern specifically by them post levy of a measure can be evaluated. Also the Value addition related to such a circumvention phenomena being investigated by a process needs to be computed. The Authority notes that in case of Korea the producer, POSCO along with its 6 exporting entities and 3 slitting centres in India has cooperated. The Authority has been examined the trade pattern shift, the Value addition in converting PUI further to lower sizes and its disposal due to the data provided by the cooperating entry.

59. The value addition evaluated for one of the slitting centres of POSCO is to be considered as representative and the submissions made by various importers/importer association also corroborate that Value addition is below 35% which is the threshold stated in the concerned AD Rules. The concerns

of importers that the higher widths are not slitted and are for genuine use are not substantiated by their actual disposal. Further the change in trade pattern of PUC and PUI require justification by the producers/exporters.

60. As regards excluding certain grades on quality, non-availability and delivery schedules the Authority holds that the present investigation's scope is restricted to examine 'PUC' and 'PUI' with respect to the aspect of widths only and not other parameters which may have been appropriately dealt in the original findings. As regards issue of wider public interest/make in India programme, the Authority holds that the scope of the present investigation is to evaluate the undermining of existing AD measure due to the phenomena of established circumvention which may not be counterproductive to any public interest or make in India programme.
61. The Authority referenced the trade pattern shift of PUC to PUI for the subject countries post levy of ADD since February 2010 for subject-countries on an overall basis as per DGCIS data from where there is no response filed by any producer/exporter.
62. In case of producers/exporters who have filed response to the Questionnaire, the Authority referenced the trade pattern shift of PUC to PUI as per producers/exporters data and related submissions for the same to evaluate this shift. The trade pattern shift has been submitted by M/s POSCO, Korea, Outokumpu, EU and YUSCO, Taiwan. The exports stated by YLSS during 2008-09 and 2009-10, are not specifically categorized as PUC or PUI and those also do not get correlated with the DGCIS data and therefore they have not been considered.
63. As regards submissions of M/s POSCO, Korea and its processing centres, the Authority notes the disposal of imported PUC, PUI and non-PUC/non-PUI since 2008-09 till POI. The Authority referenced the usage pattern of PUC as PUC or as non-PUC prior to levy of measure and usage pattern of PUC and PUI post the measure to examine the disposal/sale patterns of PUC and PUI.
64. As regards slitting activity construing change of form of PUC as per AD Rules on circumvention, the Authority notes that as the usage of PUC/PUI by an user industry is dependent on the width of PUC/PUI, the conversion process by slitting tantamount to a process of finishing/conversion and therefore the process of slitting is covered under relevant AD Rules, to examine circumvention.
65. The Authority notes that Rule 25 (1) requires that the finishing, completion and assembly of any unassembled, unfinished or incomplete should be done in India or any such country, further, the Rule 25 (1) (a) requires to establish the onset and increase in phenomena of circumvention and further the Rule 25 (1) (b) requires to establish that 'value addition' associated with the said phenomena is in accordance with the stipulated threshold in this sub

Rule. The Authority's notes ADD was earlier imposed on imports of the PUC from the subject countries vide notification no. 20/2010 dated 20.2.2010. Sunset review investigations were initiated on the imports of the PUC and after determination, ADD was extended on by the Central Government vide Customs Notification No. 61/2015 dated 11.12.2015. The duties so imposed are still in force. The Authority has examined noted the change in trade pattern to evaluate circumvention of existing ADD after the imposition of ADD i.e., from February 2010 till POI. The Authority also has examined whether there is change in pattern of trade and whether this change has stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of duty. The tables below depict the trade pattern.

Table 1 – Trade Pattern of PUI/PUC from subject countries as a whole from 2008-09

MT	Subject Countries					
	PUC	PUI	Total	PUC %	PUI %	Total
2008-09	53420	19936	73356	73%	27%	100%
2009-10	13105	11820	24925	53%	47%	100%
2010-11	20263	46804	67066	30%	70%	100%
2011-12	29700	69555	99255	30%	70%	100%
2012-13	17908	79346	97254	18%	82%	100%
2013-14	13037	55219	68256	19%	81%	100%
2014-15	18437	67716	86152	21%	79%	100%
POI	20657	75785	96442	21%	79%	100%
POI Annualized	16525	60628	77153	21%	79%	100%

Table 1A – Trade Pattern of PUI/PUC from each of the subject countries as a whole from 2008-09

Quantity (MT)	China PR			EU			Korea		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
2008-09	2,117	616	2,733	23,840	10,612	34,452	13,553	2,818	16,371
2009-10	349	144	493	2,699	8,960	11,659	8,223	234	8,457
2010-11	1,996	7,737	9,733	1,948	23,735	25,683	14,626	4,688	19,314
2011-12	4,257	18,942	23,199	3,285	23,757	27,042	20,596	10,276	30,872
2012-13	9,092	17,848	26,940	3,248	19,604	22,852	2,583	27,554	30,137
2013-14	7,177	10,265	17,442	1,945	12,885	14,830	1,042	21,502	22,544
2014-15	9,657	13,998	23,655	2,254	12,500	14,754	1,475	27,337	28,812
POI (Annualized)	9,658	15,414	25,072	1,723	9,710	11,433	1,289	23,344	24,633

Quantity (MT)	South Africa			Taiwan		
	PUC	PUI	Total	PUC	PUI	Total
2008-09	3,816	2,596	6,412	6,703	2,326	9,029
2009-10	622	1,278	1,900	415	896	1,311
2010-11	624	1,606	2,230	176	5,988	6,164
2011-12	33	1,861	1,894	289	6,871	7,160
2012-13	56	3,359	3,415	211	2,114	2,325
2013-14	149	1,629	1,778	370	1,002	1,372
2014-15	2,062	2,435	4,497	632	4,026	4,658
POI (Annualized)	1,345	1,581	2,926	503	3,550	4,053

Quantity (MT)	Thailand			USA		
	PUC	PUI	Total	PUC	PUI	Total
2008-09	3,022	716	3,738	368	252	620
2009-10	733	59	792	65	249	314
2010-11	797	1,451	2,248	97	1,598	1,695
2011-12	729	1,585	2,314	512	6,263	6,775
2012-13	1,320	979	2,299	1,399	7,889	9,288
2013-14	1,170	619	1,789	1,183	7,317	8,500
2014-15	1,094	2,422	3,516	1,262	4,998	6,260
POI (Annualized)	1,014	1,581	2,595	994	5,447	6,441

Table 2 – Trade Pattern of PUI/PUC from each of the subject countries as a whole from 2008-09 (Index)

Share (%)	China PR			EU			Korea		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
2008-09	77%	23%	100%	69%	31%	100%	83%	17%	100%
2009-10	71%	29%	100%	23%	77%	100%	97%	3%	100%
2010-11	21%	79%	100%	8%	92%	100%	76%	24%	100%
2011-12	18%	82%	100%	12%	88%	100%	67%	33%	100%
2012-13	34%	66%	100%	14%	86%	100%	9%	91%	100%
2013-14	41%	59%	100%	13%	87%	100%	5%	95%	100%
2014-15	41%	59%	100%	15%	85%	100%	5%	95%	100%
POI (Annualized)	39%	61%	100%	15%	85%	100%	5%	95%	100%

Share (%)	South Africa			Taiwan			Thailand		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
2008-09	60%	40%	100%	74%	26%	100%	81%	19%	100%
2009-10	33%	67%	100%	32%	68%	100%	93%	7%	100%
2010-11	28%	72%	100%	3%	97%	100%	35%	65%	100%
2011-12	2%	98%	100%	4%	96%	100%	32%	68%	100%
2012-13	2%	98%	100%	9%	91%	100%	57%	43%	100%
2013-14	8%	92%	100%	27%	73%	100%	65%	35%	100%
2014-15	46%	54%	100%	14%	86%	100%	31%	69%	100%
POI (Annualized)	46%	54%	100%	12%	88%	100%	39%	61%	100%

Share (%)	USA		
	PUC	PUI	Total
2008-09	59%	41%	100%
2009-10	21%	79%	100%
2010-11	6%	94%	100%
2011-12	8%	92%	100%
2012-13	15%	85%	100%
2013-14	14%	86%	100%
2014-15	20%	80%	100%
POI (Annualized)	15%	85%	100%

66. The Authority has also analyzed the pattern of imports within the PUI also. It is noted that the majority of the imports are just above the threshold limits and only a small proportion of imports of the PUI are above 1650mm. This fact indicates that the producers/exporters from the subject countries are bringing higher widths keeping in view the notified tolerances in widths by and large rather than technical or usage based assessment.

67. It is noted from the above that the volume of imports of PUC from subject countries declined post imposition of the anti-dumping duties. Further, volume of imports of PUI from subject countries increased significantly. It is thus seen that whereas imports of PUC declined, imports of PUI increased since the imposition of anti-dumping duties

68. Imports from countries other than subject countries also analyzed to ascertain the pattern of change in the country. The tables below depicts the trade pattern from non-subject countries:

Table 3 – Trade Pattern of PUI/PUC from non- subject countries as a whole from 2008-09

Non Subject Country	PUC/PUI	Quantity (MT)	Share (%)
2008-09	PUC	1940	47%
	PUI	2177	53%
2009-10	PUC	639	62%
	PUI	395	38%
2010-11	PUC	24123	83%
	PUI	4882	17%
2011-12	PUC	31566	82%
	PUI	7071	18%
2012-13	PUC	48593	81%
	PUI	11440	19%
2013-14	PUC	32192	88%
	PUI	4441	12%
2014-15	PUC	56421	81%

Non Subject Country	PUC/PUI	Quantity (MT)	Share (%)
	PUI	13169	19%
POI (Annualized)	PUC	55480	79%
	PUI	14392	21%

69. It is noted from the above that the volume of imports of PUC from non-subject countries remained more or less the same in the investigation period. This indicates that there is no change in the consumption pattern so as to justify the change in the import pattern from the subject countries.

70. It is further noted that one of the grade i.e., EN 1.4512 which was included in the scope of the PUC with effect from 7.2.2012, the pattern of imports from subject countries changed completely without any change in demand pattern. The Table below clearly shows the shift in pattern of trade for grade EN 1.4512 post inclusion in scope of PUC.

Table 4 – Change in Imports of EN 1.4512 post inclusion in PUC w.e.f. 7.2.2012

EN 1.4512	2010-11	2011-12	2012-13	2013-14	2014-15	POI
600-1250 (MT)	11134	19517	87	90	10	10
1250& Above (MT)	1676	7924	20030	15365	11455	9902
Total (MT)	12810	27442	20117	15455	11465	9912
% Share of Imports						
600-1250	86.92%	71.12%	0.43%	0.59%	0.09%	0.10%
1250 & Above	13.08%	28.88%	99.57%	99.41%	99.91%	99.90%

71. The Authority has also analyzed the pattern of imports from subject countries, non-subject countries and sales made by the Domestic Industry. According to the pattern, it is noted that the pattern of imports from subject countries and sales made by Domestic Industry are in the same range. However, the pattern of imports from subject countries shows totally different results. The pattern analyzed is depicted in Table below:

Table 5 – Comparison of Trade pattern for Subject Countries, Non-Subject Countries and Domestic Industry:

MT	Subject Countries			Non-Subject Countries			Domestic Industry		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
2008-09	73%	27%	100%	47%	53%	100%	100%	0%	100%
2009-10	53%	47%	100%	62%	38%	100%	100%	0%	100%
2010-11	30%	70%	100%	83%	17%	100%	99%	1%	100%

2011-12	30%	70%	100%	82%	18%	100%	99%	1%	100%
2012-13	18%	82%	100%	81%	19%	100%	87%	13%	100%
2013-14	19%	81%	100%	88%	12%	100%	87%	13%	100%
2014-15	21%	79%	100%	81%	19%	100%	87%	13%	100%
POI Annualized	21%	79%	100%	79%	21%	100%	83%	17%	100%

Table 6 - Trade Pattern of PUC/PUI - POSCO (Korea)

Quantity (MT)	Exports to India			Domestic Sales			Exports to Third Countries		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
1 April 2008 to 31 March 2009	****	****	****	****	****	****	****	****	****
Share %	95-100	0-5	100%	90-95%	5-10	100%	90-95%	5-10	90-95%
1 April 2009 to 31 March 2010	****	****	****	****	****	****	****	****	****
Share %	95-100	0-5	100%	90-95%	5-10	100%	90-95%	5-10	90-95%
1 April 2010 to 31 March 2011	****	****	****	****	****	****	****	****	****
Share %	95-100	0-5	100%	90-95	5-10	100%	90-95%	5-10	90-95%
1 April 2011 to 31 March 2012	****	****	****	****	****	****	****	****	****
Share %	75-80	20-25	100%	90-95%	5-10	100%	90-95	5-10	100%
1 April 2012 to 31 March 2013	****	****	****	****	****	****	****	****	****
Share %	5-10	90-95	100%	90-95	5-10	100%	90-95	5-10	100%
1 April 2013 to 31 March 2014	****	****	****	****	****	****	****	****	****
Share %	5-10	90-95	100%	90-95	5-10	100%	95-100	0-5	100%
1 April 2014 to 31 March 2015	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	90-95	5-10	100%	95-100	0-5	100%
POI : July 2014 to September 2015	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	90-95	5-10	100%	90-95	5-10	100%

It is noted that the pattern of trade to India especially post AD measure has shifted from PUC to PUI. This trend is however not noticed in sales of POSCO Korea to countries other than India and their domestic market.

Table 7 - Trade Pattern of PUC/PUI - Yieh United Steel Corporation, Taiwan

Quantity (MT)	Exports to India			Domestic Sales			Exports to Third Countries		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
1 April 2008 to 31 March 2009	****	****	****	****	****	****	****	****	****
Share %	30-35	65-70	100%	80-85	15-20	100%	70-75	25-30	100%
1 April 2009 to 31 March 2010	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	80-85	15-20	100%	80-85	15-20	100%
1 April 2010 to 31 March 2011	****	****	****	****	****	****	****	****	****
Share %	25-30	70-75	100%	70-75	25-30	100%	80-85	15-20	100%
1 April 2011 to 31 March 2012	****	****	****	****	****	****	****	****	****
Share %	65-70	30-35	100%	70-75	25-30	100%	80-85	15-20	100%
1 April 2012 to 31 March 2013	****	****	****	****	****	****	****	****	****
Share %	0	0	0	75-80	20-25	100%	75-80	20-25	100%
1 April 2013 to 31 March 2014	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	70-75	25-30	100%	75-80	20-25	100%
1 April 2014 to 31 March 2015	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	65-70	30-35	100%	70-75	25-30	100%
POI : July 2014 to September 2015	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	70-75	25-30	100%	70-75	25-30	100%

The Authority notes that there is a visible shift in trend from PUC to PUI for exports to India post 2012 – 13. This change in trend is not visible in domestic sales or third country sales of YUSCO.

Table 8 - Trade Pattern of PUC/PUI - Outokumpu Oyj, EU

Quantity (MT)	Exports to India			Domestic Sales			Exports to Third Countries		
	PUC	PUI	Total	PUC	PUI	Total	PUC	PUI	Total
1 April 2008 to 31 March 2009	****	****	****	****	****	****	****	****	****
Share %	50-55	45-50	100%	50-55	45-50	100%	50-55	45-50	100%
1 April 2009 to 31 March 2010	****	****	****	****	****	****	****	****	****
Share %	40-45	55-60	100%	50-55	45-50	100%	40-45	55-60	100%
1 April 2010 to 31 March 2011	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	45-50	50-55	100%	45-50	50-55	100%
1 April 2011 to 31 March 2012	****	****	****	****	****	****	****	****	****
Share %	5-10	90-95	100%	45-50	50-55	100%	60-65	35-40	100%
1 April 2012 to 31 March 2013	****	****	****	****	****	****	****	****	****
Share %	20-25	75-80	100%	40-45	55-60	100%	65-70	30-35	100%

1 April 2013 to 31 March 2014	****	****	****	****	****	****	****	****	****
Share %	30-35	35-70	100%	40-45	55-60	100%	50-55	45-50	100%
1 April 2014 to 31 March 2015	****	****	****	****	****	****	****	****	****
Share %	15-20	80-85	100%	40-45	55-60	100%	65-70	30-35	100%
POI : July 2014 to September 2015	****	****	****	****	****	****	****	****	****
Share %	0-5	95-100	100%	40-45	55-60	100%	45-45	55-60	100%

There is a shift in trend post 2010-11 to POI from PUC to PUI on exports to India which is also noted in domestic market of Outokumpu, EU.

72. Based on the above, the Authority holds that the pattern of imports from the subject countries have changed without any genuine change in the usage of the final product since the imposition of anti-dumping duties on the PUC from 2009-2010.

73. Rule 25(1) (b) of AD Rules requires that “value consequent to assembly, finishing or completion operation is less than thirty-five percent of the cost of assembled, finished or complete article”. In order to fully satisfy itself, the Authority through its officers also undertook onsite verification prior to initiation of the investigation to get an idea about the actual cost involved in the slitting process. The value addition ascertained by the Authority based on the verified information works out to be in the range of 2% to 5% depending upon the series which is imported from the subject countries.

74. The Authority observes that the value addition involved in the process of slitting is much below the limits prescribed under the law. It is noted that the landed value of PUC worked out from the imported PUI i.e., after adjusting the landed value of PUI with value addition (2% to 5%) is lower than the landed value of PUC including existing ADD when imported directly in finished form from the subject countries. It is therefore commercially advantageous to import PUI instead of PUC even after the slitting costs are taken into account.

75. The investigation indicates that there exists no economic justification other than to circumvent the anti-dumping duties imposed on the PUC for the producers/exporters in the subject countries. This is evident in the steep rise in the imports of PUI. This along with the fact that the value addition is much lower than the prescribed thresholds indicates circumvention of existing anti-dumping duties in terms of the Rules.

76. The Authority notes that M/s Sunrise Stainless Pvt. Ltd and Sunmark

Stainless Private Limited have only filed legal submissions but have not filed any data regarding imports made by them as per the prescribed questionnaire.

77. M/s Suncity Sheets Pvt. Ltd. and Suncity Strips and Tubes Pvt. Ltd. have filed both legal submissions and also the importers questionnaire. The Authority notes that M/s Suncity sheets and M/s Suncity Strips M/s Suncity Sheets Pvt. Ltd. and Suncity Strips and Tubes Pvt. Ltd. have stated that since inception of their company in 2012 – 13, they have only imported PUI or non PUC/PUI but not PUC and have therefore not resorted to circumvention.
78. The Authority notes the submissions made by various interested parties, most of which were also made before the Hon'ble High Court of Delhi. The Authority notes that M/s Suncity Sheets Pvt. Ltd. and Suncity Strips and Tubes Pvt. Ltd. have imported from 2 subject countries viz. china and Korea. The phenomena of circumvention is required to be established for producers/exporters from subject countries on whom an AD measure is already in existence. For this various provisions of Rule 25 to Rule 28 have to be examined regarding the dumping of the circumventing product (PUI) as per Rule 26 (4) and its effect as per Rule 26 (1) and aspects of change in trade pattern and value added as per AD Rule 25 (1) (a) and 25 (1) (b) respectively.
79. Therefore the aforesaid parameters are firstly to be established for a cooperating producer/exporter who needs to provide complete data as per the prescribed questionnaire. In case of M/s Suncity Sheets, it is noted that significant exports have been made from China from where none of the producers/exporters have responded. The Authority evaluated specific behaviour of a cooperating producer/exporter for all relevant parameters and evaluate the non-cooperating producers/exporters on various parameters as per the best available information.
80. The Authority notes that Posco India Pune Steel Processing Pvt. Ltd., Posco India Delhi Steel Processing Pvt. Ltd., Posco India Chennai Steel Processing Pvt. Ltd. who are the subsidiaries of Posco Korea have imported PUC, PUI and even non PUC during POI from South Korea and undertaken slitting activities as tabulated below:

Table 9

(Amount in INR)							
S. No.	Company Name	PUC/PUI	Qty(MT)	Value of Imported parts or Components	VALUE ADDITION (Cost/ Expenses Incurred for Such Operations)	Cost of assembled, finished or complete article	Value Addition As % of Cost of assembled, finished or complete article
1	POSCO-ICPC	PUI	****	****	****	****	0-5
		PUC	****	****	****	****	0-5
2	POSCO-IDPC	PUI	****	****	****	****	0-5
		PUC	****	****	****	****	0-5
3	POSCO-IPPC	PUI	****	****	****	****	0-5
		PUC	****	****	****	****	0-5
			****	****	****	****	0-5
TOTAL			****	****	****	****	0-5
PUI			****	****	****	****	0-5
PUC			****	****	****	****	0-5
TOTAL			****	****	****	****	0-5

The value addition on account of converting any PUC/PUI material to smaller sizes viz. PUC or Non PUC is thus less than 35 %.

Therefore as regards 'value addition' incurred in changing the form of PUI further, the Authority has referenced the best available information as per verification conducted for such processing centres, and also responses filed by importers on this aspect, who have admitted that slitting costs are not more than 5% value addition. The disposal of various sizes of the subject goods viz. be it PUI, PUC or non PUC by the slitting centres of POSCO in India is as under:

Table 10 (Source: data provided by slitting centers of POSCO Korea)

Particulars	*****								
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	POI (July 2014 - September 2015)	POI (Annualised)
	Qty.	Qty.							
1. Utilization of Imports									
Opening Stock	****	****	****	****	****	****	****	****	****

Add: Imports	****	****	****	****	****	****	****	****	****
A. Less than 600mm	****	****	****	****	****	****	****	****	****
B. 600-1250mm	****	****	****	****	****	****	****	****	****
C. Above 1250mm	****	****	****	****	****	****	****	****	****
Less: Closing Stock	****	****	****	****	****	****	****	****	****
Utilization I	****	****	****	****	****	****	****	****	****
II. Break-up of utilization of Imports	****	****	****	****	****	****	****	****	****
1. Product Sold	****	****	****	****	****	****	****	****	****
(a) Domestic	****	****	****	****	****	****	****	****	****
A. Less than 600mm	****	****	****	****	****	****	****	****	****
B. 600-1250mm	****	****	****	****	****	****	****	****	****
C. Above 1250mm	****	****	****	****	****	****	****	****	****
D. Scrap	****	****	****	****	****	****	****	****	****
(a) Export	****	****	****	****	****	****	****	****	****
Losses	****	****	****	****	****	****	****	****	****
Total	****	****	****	****	****	****	****	****	****

The Authority notes that availability of non PUC/non PUI in India since 2008-09 has been catered to by conversion of PUC, which later on, shifted to PUI when imports shifted mainly to PUI. PUI was also converted to PUC besides non PUC. The Authority considered this disposal pattern of PUC and PUI between 2008 – 09 to POI for the purpose of considering circumvention and consequential undermining of existing AD measures on PUC.

H. Determination of Normal Values, Export Prices and Dumping Margins

81. The investigation was initiated against the goods originating in or exported from Peoples Republic of China, Republic of Korea, the European Union, South Africa, Chinese Taipei, Thailand and the United States of America. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. In response to the initiation notification the following producers/exporters have filed their questionnaire responses:

- (i) OtoKumpu Oyi, Europe
- (ii) Yieh united Steel Corporation, Taiwan (YUSCO)
- (iii) Walsin Lihwa Corporation, Taiwan

- (iv) Yuan Long Stainless Steel Corporation, Taiwan (YLSS)
- (v) Tang Eng Iron Works Co. Ltd., Taiwan
- (vi) POSCO Asia
- (vii) POSCO, Korea
- (viii) Daewoo International, Korea
- (ix) Hyundai Corporation, Korea
- (x) Samsung C&T, Korea
- (xi) SK Networks, Korea
- (xii) Toyota Tshusho, Korea

82. No response has been filed by any producer/exporter from Peoples Republic of China, South Africa, Thailand and the United States of America. Domestic industry has submitted that in the absence of response from these countries/territories normal values in these countries/territories should be constructed as per the best information available, including that of the domestic industry.

83. The Authority has considered the responses submitted by various interested parties and have arrived at the determination based on these submissions after verification, wherever considered necessary and unless rejected summarily. The Normal value has been arrived at by undertaking appropriate comparison at grade to grade/ series level based on the information, after applying the (ordinary course of trade test) OCT test and sufficiency test and as per the methodology prescribed under the rules. The export price and adjustments claimed have been allowed on the basis of submissions and verification, wherever undertaken.

84. Determination of Normal Values and Export Prices with respect to the cooperating exporters and other non-cooperating exporters in the subject countries/territories have been outlined in the following paragraphs.

(1) **All Producers/ Exporters from China, South Africa, Thailand and USA**

Examination by the Authority

None of the producers/exporters have filed any response from China, South Africa, USA and Thailand.

85. The Authority in respect of all the producers/exporters from China, South Africa, USA and Thailand as considered non-cooperative, since none of the producers/exporters have filed any response has referenced, the best available information for constructing normal value and export price (Ex-EP and CIF) as per Rule 6 (8) of AD Rules. In this regard the Authority has adopted its consistent practice of constructing the normal value for all

producer/exporter of these countries on the basis of international prices for major raw materials (HR Coils) and for rest of the cost elements adopting domestic industry's data on cost of production for PUI during POI.

Regarding export price, the DGCIS transaction wise data of POI for PUI has been adopted. The adjustments on CIF have been provided for ocean freight, ocean insurance, commission, inland freight, bank charges & credit cost and port charges on the basis of evidence/consistently adopted norms to an extent of (USD/MT **, **, **, **, **, ** for China, Korea, Thailand, South Africa, USA, EU and Taiwan respectively),, **% of CIF, **% of FOB, **% of FOB, **% of FOB and **% of FOB respectively. Further, in case of China, 'VAT' adjustment to an extent of **% has also been provided.

Based on the above the dumping margin in US\$/MT is computed as under:

Table 11

Countries	CNV	Ex EP	DM	DM %	DM Range
China	****	****	****	****	0-10
Thailand	****	****	****	****	15-25
South Africa	****	****	****	****	10-20
USA	****	****	****	****	40-50

(2) Producers/Exporters from Korea RP

A. For Producers/Exporters from Korea who have filed questionnaire responses

a. POSCO Korea

86. M/s POSCO, Korea, who is a major producer and exporter of the subject goods in Korea has filed questionnaire response. During the POI, POSCO has exported the subject goods to India through its related and unrelated Trading Companies situated in Korea and Hong Kong. These companies are POSCO Asia, Daewoo International, Korea, Hyundai Corporation, Korea, Samsung C&T, Korea, SK Networks, Korea and Toyota Tshusho, Korea. POSCO Korea has filed its questionnaire response as producer supported by the questionnaire responses of the above trading/exporting companies. The responses of POSCO and the trading companies named above were also verified in accordance with the procedure. The dumping margins of the Korean producer have been determined on the basis of the responses filed by them. Dumping margins for other non-cooperating producer/exporters from Korea are determined on the basis of the best available information as per the methodology adopted for other

non-cooperating producers/mentioned above and other facts available.

87. POSCO Korea the producer has filed the exporter questionnaire response providing data on trade pattern shift, domestic and export sales of PUC and PUI during the POI and prior years. Its related/unrelated exporters/traders i.e. Posco Daewoo Corporation, Korea, Toyota Tsusho Korea Corp, Korea, Samsung C&T Corporation, Korea, Hyosung Corporation, Korea, Hyundai Corporation, Korea have also filed the exporter questionnaire response and similar data.

The producer has provided data on the cost of production of PUI during POI also, for different series/grades of PUI.

Examination by the Authority

Normal Value (NV)

The producer has sold **** MT of PUI in the domestic market and has claimed adjustments on account of Inland freight, credit cost, packing cost, warehousing expenses and warranty. The Authority had carried out onsite verification of the data filed by POSCO Korea and its 6 traders/ exporters. The ordinary course of trade test has been carried out on the domestic sales for different series of PUI which have been sold during POI to India, so that appropriate series to series comparison for dumping margin evaluation could be undertaken. Based on the above methodology, the ex-factory weighted average normal value has been computed as **** US\$/MT.

Export Price

The producer has exported PUI of **** MT to India during POI. Adjustments have claimed on account of Inland transportation, overseas transportation credit cost, packing cost and duty drawback have been allowed by the Authority.

The producer has exported PUI during POI through different trading/exporting entities as under:

Table 12

S. No.	Exporter/producer	Series	Exports (MT)	CIF \$/MT
1	Posco Daewoo Corporation, Korea			
2	Samsung C&T Corporation, Korea			
		200	****	****
		300	****	****
		400	****	****
	Total		****	****
3	Hyosung Corporation, Korea		****	****
		200	****	****
		300	****	****

		400	****	****
	Total		****	****
4	Hyundai Corporation, Korea		****	****
		200	****	****
		300	****	****
		400	****	****
	Total		****	****
5	SK Networks Co. Ltd., Korea		****	****
		200	****	****
		300	****	****
		400	****	****
	Total		****	****
6	Toyota Tsusho Korea Corp, Korea		****	****
		200	****	****
		300	****	****
		400	****	****
	Total		****	****
7	Posco Asia Co. Ltd		****	****
		200	****	****
		300	****	****
		400	****	****
	Total		****	****

The S & D expenses incurred by the above traders and their profitability is determined as under:

Table 13

S. No.	Exporter/producer	US\$/MT				Profit %
		Ex factory selling price	Expenses including S&A	Ex factory Purchase price	Purchase price	
1	Posco Daewoo Corporation, Korea	****	****	****	****	0-10%
2	Samsung C&T Corporation, Korea	****	****	****	****	0-10%
3	Hyosung Corporation, Korea	****	****	****	****	0-10%
4	Hyundai Corporation, Korea	****	****	****	****	0-10%
5	SK Networks Co. Ltd., Korea	****	****	****	****	0-10%
6	Toyota Tsusho Korea Corp, Korea	****	****	****	****	0-10%
7	Posco Asia Co. Ltd	****	****	****	****	0-10%

Based on the above, the weighted average dumping margin for POSCO, Korea is computed as under:

Table 14

Normal Value	USD/ MT	****
Exfactory Export Price	USD/ MT	****
Dumping margin	USD/ MT	****
Dumping Margin %	%	****
Dumping Margin Range	%	15-25

B. Producers/exporters from Korea RP other than above

88. For all other producers/exporters from the Korea RP dumping margins are considered on the basis of best information available as per constructed CNV methodology and DGCI&S data:

Table 15

Producers/exporters	EP (US\$/MT)	NV (US\$/MT)	DM (US\$/MT)	DM%	DM Range
Wt. Average	****	****	****	****	50 - 60

(3) European Union

A. For Producers/Exporters from European Union who have filed questionnaire response

89. Outokumpu Oyj, Finland, only responding producer/exporter from European Union has filed questionnaire response. The producer/exporter has stated that their ERP system can identify PUC and PUI on the basis of width. Outokumpu is not aware about conversion of PUI to PUC. The Mill sells directly to end users in India. Outokumpu has provided information regarding domestic sales, pattern of trade and top 10 customers in India. Further grade/series wise, customer wise information has also been provided to support their view the shift in trade pattern.

Examination by the Authority

90. The Authority notes that M/s Outokumpu has provided their Domestic selling prices of PUI in the Questionnaire response but not the Associated Cost of Production. The Authority has therefore computed CNV on the basis of best available information by referencing COP of the DI for the series of PUI exported to India during POI and also referencing international Raw Material Prices (HR Sheets) in Europe. The CNV is evaluated as ****\$/MT 300 /400 series of PUI. The ex-factory Export Price has been computed by allowing

adjustments on account of freight, Selling Expenses including Credit Cost. The ex-factory Export Price comes to ****\$/MT. The Dumping Margin is evaluated as ****\$/MT (****%), which is above the de minimis limit.

For all other exporters from the EU dumping margins are considered on the basis of best information available as per constructed CNV for all series and the DGCI&S data:

Table 16

All Producers/exporters other than Outokumpu	EP (US\$/MT)	NV (US\$/MT)	DM (US\$/MT)	DM%	DM Range
Wt. Average	****	****	****	****	5 - 15

(4) Taiwan

A. For Producers/Exporters from Taiwan who have filed responses to the Questionnaire:

91. The following producers/exporters from Taiwan have filed questionnaire responses:

- i. Walsin Lihwa Corporation
 - ii. Yieh United Steel Corporation, Taiwan (YUSCO)
 - iii. Yuan Long Stainless Steel Corp., Taiwan (YLSS)
 - iv. Tang Eng Iron Works Co. Ltd., Taiwan
- i. Yieh United Steel Corporation, Taiwan (YUSCO)

The producer/exporter has stated that it has identified PUC and PUI on the basis of identification through coil number in their ERP system. No sales were made through related parties during POI to India. Sales in domestic market have been reported to independent and related customers. Export sales have been reported which are made to independent Indian customers.

During POI M/s YUSCO has sold both PUC and PUI in domestic Market. M/s YUSCO has also exported PUC and PUI to India and is not aware if PUI has been subjected to any further processing. M/s YUSCO did not export PUI to India through any intermediary countries.

There is no change in pattern of trade and that sales value of PUI is greater than sales value of PUC. There is no difference in manufacturing process of PUC or PUI. M/s YUSCO has provided information regarding domestic sales, pattern of trade and top 10 customers in India. Further grade/series wise, customer wise

information has also been provided in support of change regarding trade pattern of PUC and PUI.

Examination by the Authority

The Authority has evaluated the Normal Value of PUI by applying OCT test on the Domestic Selling Price of PUI during POI by adopting the COP of PUI during POI. The Normal Value comes to ****\$/MT. The ex-factory Export Price is evaluated as **** \$/MT by allowing adjustments on Inland Freight, Overseas Freight, Overseas Insurance, Bank Charges, Credit Cost, and Customs Charges. The Dumping Margin is evaluated as ****\$/MT (****%) which is above the *deminimis* limit.

ii. M/s Walsin Lihwa, Taiwan

M/s Walsin Lihwa has filed questionnaire response providing details of domestic and export sales of PUC and PUI during POI stating that it has exported very small quantity of PUC only during POI to India and that further this was imported under the advance license.

Examination by the Authority

The Authority notes that the producer/exporter has not exported PUI to India during POI and it cannot be evaluated whether PUI exports in POI is dumped. The Authority therefore holds that this producer/exporter may apply for a review as per Rule 28 of AD Rules in case of exports of PUI made by them. For the purpose of this investigation, this producer/exporter will be considered along with the residual category of producers/exporters.

iii. M/s Yuan Long Stainless Steel Corp., Taiwan (YLSS)

M/s YLSS has made following submissions:

- We provide 430 series, 304-BA & 304-2B, 430YD, 439, 443CT and 430J1L. The production range can be 1260mm (slit edge) and 1280mm (mill edge), and we can provide the width under 600mm.
- Although strip coil or narrow width coil is in our product range, YLSS only sold full width coil (i.e. 1250mm) to India during the investigation period. No processing or assembly was involved in the sales activity then.
- We don't have the channels in the domestic market, but we sold the materials to our customer (distributors) in India. Our price is according to our cost of raw material plus the processing cost; therefore, we didn't sell the material without any profit.
- When we get inquiries from our customers in domestic market, we ask the final customer name because we have to check whether the customers

are double or not. If the customer's channel is no problem, then we send our official offer to them, and wait for their comments. When we get the price bid, then we will check the cost and reasonable price with market price to adjust the price.

- The coil we produce is standard coil and our factory without any slitting machine for further processing.
- We do not know the product we sold are being converted into PUC in a third country before being put to final use. Based on business consideration customer will not allow or inform what is the purpose is or where is the destination.
- During the investigation period, YLSS only has direct sales to India, no other sales methods in terms of through intermediate countries or third country. YLSS is a stainless steel manufacturer able to conduct export activity on his own and directly deal with Indian buyers. However, the volume we sold to India is very less, only ****MT per month, which literally do not cause damage to the whole Indian market.
- There is only one sales method regarding our sales to India, which directly from YLSS to Indian buyers.
- The material by process of slitting will be in product under consideration. Our company can provide the material by slitting process, but the price is not workable in India due to the processing cost is very high, therefore, our export quantity to India is very few.
- For allocating cost to PUC and PUI, separate cost is calculated by types, thickness, surface, grade, brightness and production line in production process. Then separate cost is distributed to each inventory cot and cost of goods sold. The methodology is the same between PUC and PUI.
- There is no difference in factory cost for exports to India, for domestic market and for other countries. We do not have separate accounting system for PUC and PUI.
- The production cost data supplied in reply to this questionnaire and costs is normally determined by using accounting system and there is no material difference between costs provided and as determined by our accounting system.
- The potential production for 400 series is ****MT, 300 series is **** MT.

Examination by the Authority

M/s YLSS has filed questionnaire response wherein they have stated having exported both PUC and PUI to an extent of ****MT to India during POI. On correlating the same with DGCIS data it is noted that **** MT is of PUI while rest is **** MT is PUC. The producer/exporter has claimed net domestic selling price of ****Taiwanese \$/MT for PUC. The producer/exporter have stated that their accounting system does not allow them to distinguish between PUC and PUI and have claimed weighted average cost of production of PUC/PUI. The normal value correlated with the domestic selling price after applying ordinary course of trade test comes to ****US\$/MT. The exfactory export price of PUI

during POI comes to **** Taiwanese \$/MT (**** US\$/MT), thereby evidencing dumping to an extent of ****% which is above de minimus.

The producer/exporter has sold PUC to an extent of more than **** in the domestic market during POI and therefore the trend of shift to PUI is only limited to exports to India.

Further the data on exports made to India submitted by the producer/exporter in 2008 – 09 and 2009 – 10 does not indicate about its categories i.e. PUC and PUI and also does not correlate with the DGCIS data. Since the producer/exporter has not categorically confirmed these to be PUC or PUI, the Authority holds that the producer/exporter evidences a shift of exports post levy of ADD to PUI to India especially when its majority sales in domestic market is of PUC.

iv. Tang Eng Iron Works Co. Ltd., Taiwan (Tang Eng)

Tang Eng have stated that they did not sell the PUC to India during the POI and that they have never produced or sold any PUI because its production equipment is not capable of manufacturing the PUI. Therefore, it is unlikely for Tang Eng to circumvent the anti-dumping duty by way of selling the PUI as alleged in the above notification. It was further submitted that Tang Eng does not conduct any action to circumvent the duty and that the anti-dumping duty imposed on the PUC should not be extended to the PUI.

Examination by the Authority

The Authority holds that producer/exporter from subject countries who did not export PUI to India during POI will be considered in the residual category and who are eligible for review under Rule 28 of AD Rules if the situation so warrants and as per merits under the Rules.

B. All Producers/Exporters from Taiwan other than above

92. For all other producers/exporters from Taiwan other than the above the dumping margins are determined on the basis of best information available as per DGCI&S and constructed CNV:

Table 17

Non-Cooperative Producers/exporters other than YUSCO and YLSS	EP (US\$/MT)	NV (US\$/MT)	DM (US\$/MT)	DM %	DM Range
Wt. Average	****	****	****	****	10 - 20

Dumping Margins

93. Comparing the Constructed Normal Value and the Export price at ex-factory level determined as per DGCI&S, the Dumping Margin for the residual category producers/exporters in the subject countries are depicted as under:

Table 18

<u>Particulars</u>	<u>Unit</u>	<u>China</u>	<u>EU</u>	<u>Korea</u>	<u>South Africa</u>	<u>Taiwan</u>	<u>Thailand</u>	<u>USA</u>
CNV	USD/ MT	*****	*****	*****	*****	*****	*****	*****
NEP	USD/ MT	*****	*****	*****	*****	*****	*****	*****
Dumping Margin	USD/ MT	*****	*****	*****	*****	*****	*****	*****
Dumping Margin	%	*****	*****	*****	*****	*****	*****	*****
Dumping Margin	Range	0 - 10	5 - 15	50-60	10-20	5-15	15-25	40-50

Thus for all non-responding producers/exporters dumping margin is above *de minimis* and significant.

For all responding producers/exporters, the dumping margin is tabulated as below:

Table 19

Particulars	Unit	POSCO Korea	Outokumpu, EU	YUSCO, Taiwan	YLSS, Taiwan
NV/CNV	USD/ MT	****	****	****	****
NEP	USD/ MT	****	****	****	****
Dumping Margin	USD/ MT	****	****	****	****
Dumping Margin	%	****	****	****	****
Dumping Margin	Range	15-25	10-20	15-25	15-25

The dumping margin of above responding producers/exporters is also above *de minimis* level of 2%.

Assessment of effect of circumvention on existing Anti-dumping measures and Domestic Industry.

Submissions made by various interested parties other than Domestic Industry:

94. European commission submitted that the Authority should not cumulatively evaluate the impact of circumvention from all the subject countries, in order to analyze the impact of circumvention on Domestic Industry. Domestic Industry is not suffering any injury on account of imports of PUI.
95. M/s DGS Associates representing POSCO, Korea and its associated entities

have submitted that the data provided by the Petitioner is merely indicative of the nature of imports and in no way establishes either utilization or injury or an undermining of the remedial effect of anti-dumping duties already imposed on the imports of the PUC.

96. M/s ELP Advocates & Solicitors representing Outokumpu Oyj and YUSCO have stated the following:
- The Authority in paragraph 6 of the Initiation Notification, notes that there is evidence to show that “the remedial effects of the existing anti-dumping duties on the product under consideration are being undermined on account of the significant volumes of imports of the product under investigation appear to having replaced imports of the product under consideration.”
 - It is not clear, how and why the Authority considers this evidence to be relevant for the present investigation. The Petitioner has stated that it has filed the anti-circumvention investigation on grounds of Rule 25(1). As stated above, Rule 25(1) does not take into account whether the remedial effects of the anti-dumping duties are being undermined. In fact, in terms of Explanation (b) to Rule 25(3), this is a condition which must be met to satisfy if there has been a change in trade practice, pattern of trade or channels of sales under Rule 25(3). The Exporter has already stated and shown that Rule 25(3) does not apply to the information alleged in the Application as this is not the case of the Petitioner that PUC is being imported into India through exporters or producers or countries not subject to anti-dumping duty. Accordingly, evidence on undermining the remedial effects of anti-dumping duties, if any, is irrelevant on the basis of information submitted by the Petitioner.
 - Even assuming that such information is relevant, there is no evidence in the Application to the effect that remedial effects of the anti-dumping duty on PUC are being undermined. The Petitioner has submitted that volume of imports of PUC have seen a steep fall from 2010-11 onwards i.e. volume of imports of PUC which stood at 53420 MT has come down to 20682 MT in the POI. If anything, it shows that due to the imposition of anti-dumping duty on PUC, the imports of PUC have been retarded and therefore, we are unable to see how the remedial effects of anti-dumping duty are undermined. The Petitioner has not provided any information on its own volume and price parameters. If it is

the case of the Petitioner that despite the levy of anti-dumping duty on PUC, Petitioner's financial performance has not improved, then the Petitioner must provide duly substantiated evidence to that effect. In absence of any such information, we are surprised how the Hon'ble Authority was able to find evidence in the Application to the effect that 'remedial effects of anti-dumping duties are being undermined'.

Submissions made by Domestic Industry:

- 97. The producers / exporters of PUC/PUI from subject countries have undermined the remedial effect of anti-dumping duties by indulging in the process of circumventing the anti-dumping duties since the time anti-dumping duties imposed by the government in February, 2010.
- 98. That they are continued to suffer injury as imports of PUI started in place of PUC. This shift in pattern from PUC to PUI without any corresponding change in consumption pattern has impacted Domestic Industry severely.

Examination by the Authority

- 99. The Authority notes that the impact of circumventing product i.e., PUI which if dumped from the subject countries needs to be examined by comparing the landed values of imports PUC (with ADD) and PUI (with no measure) during POI from the subject countries with its price depressing effect on the net sales realization of PUC of Domestic Industry on which the circumventing product would cause an adverse effect. The following Tables depict the price impact of circumventing product on net sales realization of PUC of Domestic Industry and the erosion of efficacy of existing anti-dumping measures on PUC. The landed value of product under consideration with anti-dumping duty during POI from the subject countries are noted to be higher from the landed value of PUI.

Table 20 - Price undercutting by PUI on Domestic Industry's PUC Sales

Countries	Series	PUI Import Quantity (MT)	Landed value of PUI (Rs/MT)	Selling Price of DI PUC (Rs/MT)	Price Undercutting (Rs/MT)	Price Undercutting %	Price Undercutting (Range)
China PR	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting		19268	164192	****	****	****	(5) - 5

China							
EU	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
	Duplex	****	****	****	****	****	****
Weighted Average Price Undercutting EU		12138	194073	****	****	****	(15) - (5)
Korea RP	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting Korea		29180	109320	****	****	****	10-20
South Africa	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting South Africa		1901	175496	****	****	****	(10) - 0
Taiwan	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting Taiwan		4437	147656	****	****	****	5-15
Thailand	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting Thailand		1976	138748	****	****	****	10-20
USA	200	****	****	****	****	****	****
	300	****	****	****	****	****	****
	400	****	****	****	****	****	****
Weighted Average Price Undercutting USA		6809	144167	****	****	****	5-15

Table 21 - Price Undercutting by PUI on Domestic Industry's PUC sales by responding Producers/Exporters

Producers/Exporters	Series	Quantity of Imports of PUI MT	CIF (RS/MT)	Landed Value (Rs/MT)	NSR of Domestic Industry - PUC (Rs/MT)	Price Undercutting (Rs./MT)	Price Undercutting %	Price Undercutting (Range)
POSCO	300	****	****	****	****	****	****	****
	400	****	****	****	****	****	****	****
Weighted Average		****	****	****	****	****	****	20-30
	300	****	****	****	****	****	****	****
Outokumpu	400	****	****	****	****	****	****	****
	Duplex	****	****	****	****	****	****	****
Weighted Average		****	****	****	****	****	****	(25-35)
YUSCO	200	****	****	****	****	****	****	****
	300	****	****	****	****	****	****	****
	400	****	****	****	****	****	****	****
Weighted Average		****	****	****	****	****	****	(10) -0
YLSS	400	****	****	****	****	****	****	5-15

As regards effect of anti-dumping duty on the efficacy of existing AD measures, the landed value of PUI (without ADD) and landed value of PUC (with ADD) has been compared with net sales realization of PUC sales of domestic industry to evaluate the effect of circumvention of PUC by PUI. The table below highlights this effect/impact.

The Authority considered the above two phenomena to conclude the effect of circumventing product on efficacy of existing anti-dumping measures and a consequential price effect on Domestic Industry's sales of product under consideration.

Table 22- Effect of circumvention on Anti-Dumping Duty by responding producers /exporters

Producers/Exporters	Series	Landed Value of PUI (Rs/MT)	Landed Value of PUC with Duties (Rs/MT)	Effect of circumvention on Anti-Dumping Duty (Rs./MT)	Effect of circumvention on Anti-Dumping Duty %	Effect of circumvention on Anti-Dumping Duty (Range)
POSCO	300	****	****	****	****	60-70
	400	****	****	****	****	50-60
Outokumpu	300	****	****	****	****	10-20
	400	****	****	****	****	
	Duplex	****	****	****	****	
YUSCO	200	****	****	****	****	NA*
	300	****	****	****	****	
	400	****	****	****	****	
Weighted Average		****	****	****	****	
	200	****	****	****	****	
YLSS	300	****	****	****	****	
	400	****	****	****	****	75-85

*Undermining to the extent of anti-dumping on PUC for 300/400Series

Table 23 - Effect of circumvention on Anti-Dumping Duty by producers /exporters from subject countries

	Wt. Average Landed Value PUI (Rs/MT)	Wt. Average Landed Value PUC With Duties (Rs./MT)	Effect of circumvention on Anti-Dumping Duty (Rs./MT)	Effect of circumvention on Anti-Dumping Duty %	Effect of circumvention on Anti-Dumping Duty (Range)
China PR	****	****	****	****	30-40
EU	****	****	****	****	55-65
Korea RP	****	****	****	****	35-45
South Africa	****	****	****	****	15-25
Taiwan	****	****	****	****	80-90
Thailand	****	****	****	****	40-50
USA	****	****	****	****	95-105
Total Subject Country	****	****	****	****	45-55

The Authority has considered the effect of circumvention on the efficacy of existing AD measures in the final findings.

The Authority notes that there is a shift in trade pattern of PUC/PUI from subject countries at an aggregate level. There is also an evidence of slitting of the circumventing product to lower sizes with a value addition much lower than the prescribed threshold. The landed values of PUC/PUI at aggregate level for POI indicates effect due to circumvention of existing AD measures on PUC. For the responding producers/exporters there is also a shift in trade pattern from PUC to PUI. In case of POSCO Korea, there is quite significant shift from PUC to PUI for imports to India with all other required conditions of circumvention also being met. For Outokumpu though there is a shift from PUC to PUI besides India in EU and third countries also, but for India it is much more significant and coinciding with AD measures. For YUSCO also the trade pattern shift is stronger as compared to their domestic and third country markets. In view of this the Authority holds that while some shift may be due to emerging user requirements but largely it is coinciding with AD measures.

With regard to the submissions of POSCO on usage of PUI by them for non PUC the Authority on the basis of data filed by IDPC, ICPC and IPPC, the three slitting centres of POSCO Korea in India notes that during 2008-09 to 2011-12, i.e. pre-AD measure levy period, 20-25% of non-PUC sales in domestic market was met by direct imports of non-PUC category. For the remaining sales of non-PUC, 45-50% was met by slitting of PUC and 30-35 % by slitting of PUI. During 2012-13 to POI, i.e. post levy of AD measure, 0-5% of non-PUC sales in domestic market was met by direct imports of non-PUC category. The remaining 95-100% was met by slitting of PUI. As regards PUC sales in domestic market during this period, 10-15% of sales of PUC in domestic market was met by direct imports of PUC and 85-90% was met by slitting of PUI. It is noted that the PUI imported during this period was sold as 'PUI only' to an extent of 10-15% and the rest was used for slitting into PUC and/or non-PUC. The Authority in view of the aforesaid utilization pattern of imports considered the slitting operation of PUI to non PUC also as circumvention.

The Authority notes that various interested parties (Exporters as well as Importers) have stated that they are not resorting to any circumvention and that they are not slitting the PUI to use it as widths of lower sizes either to PUC or below that. The Authority in this regard also appreciates the need of not

imposing Anti-dumping duty on the PUI imported for genuine use of PUI only without being slitted further for use except to the extent of tolerances allowed for trim and mill edge as stated in the final findings dated 12/10/2015.

The Authority noting that any bonafide user of PUI need not be saddled with extension of anti-dumping duties on PUI, also appreciates that it is not possible for any government agency to enforce monitoring of any exemption granted to any bonafide user and therefore for this purpose all importers importing PUI will be required to give a legally enforceable declaration/undertaking to customs authorities that the PUI being imported by them will be used without any slitting except to the extent of tolerances as mentioned in final finding dated 12/10/2015 imposed vide custom notification 61/2015 CUS-ADD dated 11/12/2015 if they desire not to pay existing ADD .

Post Disclosure Comments

100. The Domestic Industry and the following interested parties has filed the post disclosure comments:
- 1) M/s Meena Metal Impex
 - 2) M/s Vishal Tubes & Pipes Ltd.
 - 3) M/s Star stainless steel
 - 4) M/s Maxgrow Corporation
 - 5) M/s Seth carbon & Alloys Pvt. Ltd.
 - 6) M/s Siddhivinayak Steel
 - 7) M/s Dhruv Exim
 - 8) M/s Shakti Steel
 - 9) M/s Steel International
 - 10)M/s Seth Iron & Steel Pvt. Ltd.
 - 11)M/s Aesteiron
 - 12)M/s Acer Steel
 - 13)M/s Divine Impex
 - 14)M/s Steel Yard Overseas
 - 15)M/s Ramani Steel House
 - 16)M/s Non-ferrous Metal Association
 - 17)M/s Nexus Impex
 - 18)M/s Rakesh Metals
 - 19)M/s Modest Metal Corporation
 - 20)M/s Steelyard Overseas
 - 21)M/s Inox Stainless
 - 22)M/s Saraswati Steel
 - 23)M/s KNM & Partners on behalf of Maruti Suzuki India Ltd.
 - 24)M/s Wirana Pte. Ltd., Singapore

- 25)M/s GTC Consultants representing M/s Suncity Sheets Pvt. Ltd., M/s Suncity Strips and Tubes P Ltd, M/s Sunrise Stainless Pvt. Ltd and M/s Sunmark Stainless Private Limited
- 26)M/s Agol Associates representing NG Industries, MP Industries and Shree Ramdev Metal Mart
- 27)M/s DGS Associates representing POSCO and its related entities
- 28)M/s ELP representing Outokumpu Oyj, Finland and YUSCO
- 29)M/s M M Metal International
- 30)Taiwan Embassy
- 31)M/s Metal & Steel (India)
- 32)Pacific Metal Trading Co.
- 33)Glomet Alloys LLP
- 34)Stainox Alloys Pvt. Ltd.

A. Views of Domestic Industry

101. M/s APJ-SLG Law offices on behalf of Domestic Industry have submitted the following:

- Domestic Industry submits that the response of Outokumpu ought to be rejected as they have failed to provide complete information as required in the questionnaire format. The Authority would like to appreciate that without complete information about cost, the Authority cannot even perform “Ordinary Course of Trade Test” which is mandatory for calculating normal value and dumping margin.
- Attention of the Authority is invited to the recent findings of the Authority [Sodium Chlorate F. No. 14/13/2015 – DGAD dated 10.8.2017] wherein the Authority has rejected response of M/s. Akzo Nobel only because they have not provided sufficient information for carrying out the mandatory tests. Since without costing information, the Authority cannot conduct mandatory OCT test, the ratio of rejection of M/s. Akzo Nobel is fully applicable to the facts and circumstances of the present case with regard to Outokumpu. In view of the above, it is requested that the Authority may reject the response of Outokumpu in view of the general practice adopted by the Authority in similar circumstances. Any departure from this would be discriminatory. The relevant portion of the referred findings are produced herein below for the ease of reference:

“20(i).The Authority holds that any producer/exporter cannot partially choose to respond to the prescribed questionnaire. The data sought by the Authority in the questionnaire response is required to be fully completed for the Authority to take a composite assessment. The Authority does not accept partially filed information of M/s Akzo Nobel and therefore treats them non-cooperative and consider them only under the residual category and determine AD measure in accordance with the best

available information referencing information available regarding the sales in EU filed by the cooperating exporter and also the DGCIS data.”

- In view of the equity and consistency of practice, it is requested that the response of Outokumpu be rejected.
- Domestic Industry requests the Authority to recommend the anti-circumvention duties from the date of initiation of the investigation in terms of the Rule 27. The Authority would like to appreciate that good 18 months have lapsed since the initiation of the investigation while the Domestic Industry continued to suffer because of the established malpractice of circumvention of the anti-dumping duties carried out by the exporting producers/exporters.
- Domestic Industry submits that if the Authority recommends only prospective anti-circumvention duties, the motive of importers / exporters to delay the extension of duties by blocking the investigation will be achieved. It is submitted that in such a situation the decision of the Authority will only be partially effective and in fact, would amount to an undue favor to the interested parties who have been found to be circumventing the anti-dumping duties. In any case, the Authority needs to appreciate that extension of anti-dumping duties would not have any impact of genuine users in view of the specific exemption proposed by the Authority. Only those traders / users / importers who are involved in the act of circumvention shall be prevented from “gaining” from their malpractices. It is humbly submitted that such unscrupulous parties cannot be given any concession of any sort by the DGAD.
- Attention is also invited to Rule 27 wherein it may be seen that while the law uses the term “may” for the date of levy, the apparent discretion is no longer available as soon as the condition precedent i.e., the existence of circumvention, is proved. The discretion, if any, also cannot be used arbitrarily. In any case, there is no reason whatsoever not to impose the duties from the date of initiation of the investigation in the facts and circumstances of this case.
- It is submitted that the undertaking proposed for exclusion of users of PUI by the Authority should be backed by a bank guarantee (equivalent to the ADD amount) and this bond should be cleared once importers/user/trader gives a certificate from the jurisdictional indirect taxation authority that the material has been used without slitting. These bank Guarantees are typically issued for an initial period of 6 months or 12 months wherein the importer should submit the end-use certificates within this time period failing which the bank guarantee will have to be renewed. If the importer fails to renew the bank guarantee, the Customs may initiate legal proceedings against the importer which could primarily be in the form of IEC suspension till the situation of default is cleared. This is very important, as a PUI importer may resort to slitting even after submission of undertaking (unless it is backed by a bank guarantee as proposed above). There should be a monitoring mechanism to ensure that the material is

not being slit after submission of undertaking. This would be somewhat similar to provisional clearance under Customs (Provisional Duty Assessment) Regulations, 2011.

- Domestic Industry requests the Authority to confirm their proposed conclusion of extending anti-dumping duties on the product under investigation as PUI is circumventing the existing duties on the product under consideration and thereby injuring the Domestic Industry. Since the act of circumvention is proved beyond any point, we request the Authority to confirm their proposed conclusion of disclosure statement and recommend levy of duties from the date of initiation. In case, the Authority changes its view, we request the Authority to issue a fresh disclosure statement and also give us a personal hearing to explain our case.

B. Views of Other Interested Parties (Embassies of subject countries, producers/exporters from subject countries and importers)

102. Taiwan Embassy have submitted the following:

- In the disclosure statement, the designated authority has observed that circumvention of exiting anti-dumping duties on the product under consideration (“PUC”) is indeed happening from all subject countries due to imports of widths higher than 1250mm, which is the product under investigation (“PUI”). As a result, the designated authority has proposed to extend existing anti- dumping duties on imports of the PUI.
- Taiwan would like to understand the background designated Authority has not calculated price underselling in the present case to assess the level of injury being faced by the domestic industry and the requirements under Rule 11 read with Annexure II of the AD Rules have not been satisfied in the disclosure statement. The Designated Authority has nowhere assessed if the alleged circumvention has caused injury to the domestic industry. Circumvention cannot be merely established by change in the pattern of trade. The requirements of Rule 11 read with Annexure II ought to be met in an anti-circumvention investigation as well. Rules 25 to Rule 28 of the AD Rules do not dispense with the requirement of establishing injury and causal link in an anti-circumvention investigation.
- Taiwan submits that the Designated Authority ought to satisfy the requirements under Rule 11 read with Annexure II of the AD Rules. Specifically, there is a requirement to establish that there is dumping of the PUI, there is injury to the domestic industry and there is causal link between imports of the dumped PUI and injury to the domestic industry. Injury to the domestic industry and causal link ought to be assessed in the period of investigation of the present investigation. Without satisfying this requirement, this investigation would violate the very fundamental of the AD Rules and the WTO AD Agreement, which is, the requirement of establishing dumping, injury and causal link. Further, the Designated

Authority ought to calculate price underselling (also called injury margin) as well in this case. Without an injury margin, the level of injury being faced by the domestic industry would not be known.

- YUSCO, Taiwan's price undercutting is negative (10-0), as per the table on page 68 of the disclosure statement. YUSCO's effect of circumvention on existing anti-dumping duty is also negative (45-55) as per the table on page 69 of the disclosure statement. In view of this, the Designated Authority should amend its observations regarding YUSCO and hold that exports of YUSCO are causing no circumvention of existing anti-dumping duty and exports of widths above 1250 mm by YUSCO would not attract any anti-dumping duty.
- Taiwan hopes that the Designated Authority would consider the above aspects and issue a revised disclosure statement taking into account the above submissions.

103. Various Importers have submitted the following:

- The Anti-Dumping Duty is not Applicable for the 2 periods mentioned below as there is Lapse of AD Duty in this period. Therefore applying any Anti circumvention duty will be Illegal. 22nd April 2014 up to 12th May 2014; No Anti-Dumping Duty Applicable. 17th Oct 2015 up to 11th Dec 2015; No Anti-Dumping Duty Applicable. According to Laws and recent Supreme Court Judgement, the Applicability of Anti-Dumping Duty or SSR after Any Lapse even of 1day is Illegal. Hence the Applicability of Sun Set Review and Anti Circumvention itself does not arise.
- We did not see any substantial evidence of circumvention done by majority of respondents, which makes it evident that the ratio of slitting coils to PUC must be much lower than claimed. As per your statement in disclosure, There is Only one company POSCO service centres, who does slitting of majority 400 series materials only but that too 20% of Quantities in PUC of 600-1250mm width. Please note that, 400 series is one grade which is mostly used in small widths in the auto sector and hence use of products in one sector should not be taken as general example for all (POSCO specialises in it).
- As per Initiation notification, the Claim of 97% Quantities being Slitted to PUC is not justified. We are surprised, how did Authorities get convinced on such vague claims.
- There is no Evidence whatsoever of Slitting to PUC in 300 Series and 200 Series.
- There is no case for circumvention in case of 300 series grade and 200 series grades.

- The authorities has not respond on cut to length sheet, as they are technically not possible to get slitted and there is no evidence for circumvention on the same. If any available, please disclose the same. As there is no case for circumvention for cut-to length sheet, hence it should be excluded from the circumvention investigation.
- The following 2 categories should not be levied with Anti-circumvention duty i.e. who need higher widths 1250mm & up and are not doing any Slitting as per PUC and who Import Higher width and slit it to below 600 mm which does not have any dumping duty.
- There should not be any need of a legally enforceable declaration/undertaking to customs authorities, for those Importers/Users who had already certified that they do not do any Slitting Process or Own Slitting Process factories.
- Only those Factories who are having Slitting Processing Machinery or Doing Slitting Process can be asked for Declaration Only. Asking for Legal Enforceable Bank Guarantees or Bonds is not correct or can be legally challenged.
- This seems to be punishment to those who even did not did any Slitting to PUC or Circumvention.
- There is no reply from Domestic industry on why are they producing so much of PUI when there is no such genuine requirement of PUI , why have they set up such big plant with special capacity to produce higher widths when there is no such need for it ?
- Jindal Stainless was SEZ Unit until 23rd August 2011. Jindal Stainless Production, Sales, Import and Export Figure cannot be considered as Indian market.
- Also, Authorities should make sure that their Sales Figure to Indian market are considered as IMPORT into India and hence to be excluded from the Various Table of Data Analysis, Change in Pattern of Imports and Sales in India.
- The Authority has also analyzed the pattern of imports within the PUI also. It is noted that the majority of the imports are just above the threshold limits and only a small proportion of imports of the PUI are above 1650mm. This fact indicates that the producers/exporters from the subject countries are bringing higher widths keeping in view the notified tolerances in widths by and large rather than technical or usage based assessment.

- How can a width range of 1250-1650 (more than 30% range) being considered just above threshold limits and compared, the next standard width after 1250, is 1285mm, 1300mm, 1500 mm and 1524mm. They cannot be considered as just above Threshold limits, how can a 30% range be considered as just above the threshold limits? This looks strange. When we say just – we believe it should be 1-3% range and there is already a 2.5% tolerance margin imposed in the anti-dumping duty. This is well accepted by DGAD in all previous Investigation of 2005, 2009-10 and Sun Set Review of 2015, and they kept the Width of 1250mm for application of ADD. Surprising, the Authorities are challenging their own Investigation in SSR 2015, ADD 2010 case, with regards to Width limit of 1250mm.
- Trade pattern changes are logical and practical – Even DI has been producing lots of PUI as the demand for the same has risen, the bigger the width it's better for scale of economy.
- The Technological change, business environment changes happens around the world, there is big difference in 2008 and 2017. Authorities are forcing the User Industry to use the materials based on 2008 and not to Innovate or Change?
- The products below should be out of scope for investigation as they are not produced domestically :
The Authority should verify the facts and cold Rolled Stainless Steel in “BA” Finish should be removed from Scope of Anti-Dumping Duties on all case.
 - Stainless Steel Sheet – Surfaced Treated – Polished (Decorative Ti Color, Etch Pattern, Polish Mirror Surface) they are all High Technical needed product and used in Elevators, Escalators, Hotels/Offices Entrance, Lobby's, Name Plates etc. by default it was included in Anti-Dumping.
 - Stainless Steel CR Coils & Sheet in Thickness of 0.50 mm & Below (0.20 mm, 0.30mm, 0.40mm,etc) is also not available in with of 1000 mm, 1220mm, Still included in Anti-Dumping.
 - Checkered/Tear Drop/Anti Slip and other Treated Stainless Steel – is used as floor plates which is not available in India.
- We did not find any comment on above from Authorities, We request the Authorities to make sure that all the calculation on Circumvention should only be for “cold rolled stainless steel flat product of width of 600mm up to 1250mm of all series further worked then Cold Rolled with a thickness of up to 4mm.”
- Hence Investigation should be restricted to that product range only. Any product included outside above range is Illegal. User Industry needs your support and timely action to discontinue such cases, so that the Actual user Industry can concentrate on Business Expansion, Development, Innovation and not such unwanted litigations, investigation and legal expenses. We request the Authorities to discontinue this application of

Applicant as the Claim Raised in the application are misrepresented and does not hold true in any Aspect, and in some cases Illegal.

104. M/s KNM & Partners representing M/s Maruti Suzuki India Limited (MSIL) have submitted the following:

- The PUI and products in the anti-dumping imposed on the import of Cold Rolled flat product of widths 600 mm to 1250 mm originating in or exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA (“Product Under Consideration” or “PUC”) in final finding dated October 12, 2015 (hereinafter referred to as “Original Investigation”), imposed vide Custom’s Notification 61/2015 CUS-ADD dated December 11, 2015 are not like articles, as the Authority in the original investigation had not treated both products as like articles and excluded widths of above 1250mm from the scope of the investigation.
- The Authority, during the mid-term review of the Original Investigation, explicitly excluded the PUI from the scope of Product Under Consideration. The Authority noted that the scope of the Product Under Consideration cannot be expanded in the mid-term review of an investigation to include the PUI. The Designated Authority noted in the Original Investigation that the PUC excludes from its scope the Cold Rolled Steel of width more than 1250 mm.
- Therefore, where the PUI was explicitly excluded in the Original Investigation, the Petitioner cannot initiate the anti-circumvention investigation, forming a part of the Original Investigation, in respect of the products which were explicitly excluded from the scope of Original Investigation and in respect of which the Authority recommended that no levy of anti-dumping duty is required.
- The scope of the PUC has itself been restricted after the deliberate consideration and detailed deliberation before proceeding for determination of dumping and the Original Investigation is in respect of those included products of specific types, sizes, shape or specification only.
- Subsequently, based on the final finding dated October 12, 2015 in respect of the Original Investigation by the Authority, the Central Government vide Custom’s Notification 61/2015 CUS-ADD dated December 11, 2015 also recognized the exclusion of PUI, i.e., the cold rolled steel of widths greater than 1250 mm.
- Therefore, where the request for inclusion of the Cold Rolled Steel of widths greater than 1250 mm was explicitly rejected by the Authority in the above final finding in respect of the Original Investigation and by the

Central Government vide the above notification, the Petitioner cannot through another window initiate anti-circumvention investigation in respect of import of PUI.

- The Applicant was fully aware that Cold Rolled Stainless Steel exceeding a width of 1250 mm was a different class of article and it had been repeatedly held to be so. If at all, there was a grievance against dumping of such an “article”, independent proceedings could have been initiated to investigate such dumping. Having failed to do so, for obvious reasons as the Applicant could possibly not justify its standing as a domestic industry, it has now filed an application for anti-circumvention, to get an initiation through the back door, which is not permissible.
- The Petitioner ceased to be the domestic industry for the PUC under Rule 2(b) of the Anti-Dumping Rules pursuant to the de-merger scheme dated March 31, 2014. Pursuant to the de-merger as per the Petitioners’ own showing JHSL, the newly formed company, became the major proportion producer of the PUC in India, since it is the legal entity that owned and operated the plant for the PUC in Hisar.
- In the light of the above demerger and the definition of domestic industry, the Authority needs to evaluate whether the Petitioner fulfils the criteria of Domestic Industry or not, also considering the fact the application has been filed only by the Petitioner and not by Jindal Stainless (Hisar) Limited.
- The Product Under Investigation is imported by the Respondent from POSCO of Korea. Once the Product Under Investigation is imported by the Respondent, it is cut to width of various sizes. Further, the cost of value addition involved in the process of slitting is huge, this makes circumvention economically and commercially unviable.
- Furthermore, the producer/exporter from Korea, POSCO has stated that 80% of the wider width imports are being slit into widths below 600mm, which is technically not PUC, therefore there is no circumvention.
- The Product Under Investigation is cut to sizes, which are suitable for the purposes of Respondent in using them in automotive components. Since the ultimate product used by the Respondent falls outside the scope of the Product Under Investigation, the same cannot be subject matter of the present investigation.
- There has been a change in the usage pattern in the domestic market and there is a natural increase in demand of PUI, which can be substantiated by the increase in production of PUI by the domestic industry as well.

- In the automotive industry, being the industry that is essentially catered to by the answering interested parties herein, the demand is only of cut to length (“CTL”) sizes. It is not economical or commercially viable for the importers to import the desired CTL sizes directly as the production and transportation of the smaller widths is not only cost ineffective but also fraught with the dangers of rejection as transportation can result in damage, thus rendering the CTL size useless for the customers.
- Furthermore, since the automotive industry is fairly dynamic by nature, there is a high possibility of it having outgrown the size that it had ordered a few months back. Also for transportation of desired narrow width of the coil should be done through container delivery, which would only result in substantial increase in cost.
- It is not pragmatic for the automotive industry to import the exact CTL sizes and importing wider widths of the product is the only pragmatic option available to the parties, thus making the imports of PUI economically and commercially viable. It is reiterated that importing wider widths, to be slit to the desired sizes in India, reduces yield loss, transportation cost, wastage and also allows end user the flexibility to alter its demanded sizes, basis the requirement at the time of actual supply.
- The Authority may therefore exclude the products imported by the Automobile industry, as the said products do not form part of the Product Under Consideration, from the scope of Said Investigation.
- A number of Automobile companies and OEMs are extensive importers of the subject product, and such import of the products being termed as circumvention of the anti-dumping duty imposed pursuant to the Said Notifications, will affect the business interests of the said importers substantially.
- The Petitioner has contended in the application that there has been a surge in the import of the PUI from 27% to 79% from 2008-2009 to 2014-2015. It may be noted that this increase in import of PUI is a general trend in increase of import of steel. Globally, stainless steel production has been growing steadily. The domestic stainless-steel industry has also been growing at a Compound Annual Growth Rate of 9% for the last seven-eight years. However, like any other manufacturing sector in India, the stainless-steel industry has also been facing extreme difficulty in the last few years.
- One of the main reasons for this is the huge import surge from China, which has primarily contributed to the deteriorating condition of the stainless-steel industry. The imports of stainless steel flat products rose from 3,24,460 million tonnes in 2013-14 to the highest ever record of 5,32,033 MT in 2015-16.

- There is no evidence furnished by the Domestic Industry to indicate that this change in the pattern of trade appears to stem from a simple slitting/cutting operation carried out in India, whereby imports of the Product Under Investigation are converted into Product Under Consideration before final usage by the customers including the Respondent, and therefore, the Said Investigation should be terminated.
- Further, there is no evidence in the Application to the effect that remedial effects of the anti-dumping duty on PUC are being undermined. The Petitioner has not provided any evidence to that effect.
- Therefore, the Authority may note that the trend in increase of the import has increased naturally as an import norm and not on the ground of imposition of anti-dumping duty on the Product Under Consideration.
- Aggrieved by the order dated March 08, 2017 of the Delhi High Court passed in writ petition W.P. (C) 3544/2016, Suncity Sheets Pvt. Limited have filed a Special Leave Petition bearing SLP (Civil) No. 10252/2017 before the Hon'ble Supreme Court and the Hon'ble Supreme Court has admitted the said Special Leave Petition vide its order dated April 21, 2017 (Supreme Court order attached herewith). The next date of hearing before the Supreme Court in the said matter is yet to be notified.
- It is hereby submitted that since the matter regarding the initiation of the subject circumvention investigation is already pending before the Supreme Court, the subject circumvention investigation initiated by the Authority be presently stayed or kept in abeyance till the finding or order, interim or final, of the Supreme Court in the said matter is pronounced.

105. M/s GTC Consultants representing M/s Suncity Sheets Pvt. Ltd., M/s Suncity Strips and Tubes P Ltd, M/s Sunrise Stainless Pvt. Ltd and M/s Sunmark Stainless Private Limited have submitted the following:

- As noted in the background of the Disclosure Statement, the present anti-circumvention proceedings have been initiated on the basis of Application of the Domestic Industry ("DI") dated 21.09.2015. Having noticed that the said Application was filed as early as in September, 2015, the present proceedings could not have been proceeded with given that a new trend of imports specified in Rule 25 of the ADD Rules ought to have been noticed subsequent to the notification, which are seeking to circumvent the ADD imposed by the notification. In the present case, the final notification which is alleged to be circumvented, was issued only on 16.12.2015 and the application for circumvention having been filed on 21.09.2015, the same ought to have been rejected.
- A bare perusal of the Disclosure Statement suggests that the specific contentions raised by the Importer regarding non-fulfilment of the jurisdictional preconditions of Rule 25 have not been considered and no

specific examination by the Ld. Authority has been done in this regard. In the present case, none of the pre-conditions of are satisfied, inasmuch as:-

- a. CRSS of width more than 1250mm is a completely different class of article and it is undisputed that the same is not subjected to ADD and has a distinct commercial usage- therefore, any import of CRSS of width more than 1250mm cannot be regarded as import of the “article” which is subject to ADD. Rule 25(1), therefore, does not apply at all to the present case;
 - b. CRSS of width above 1250mm are finished goods and are not imported in an unassembled, unfinished or incomplete form. There is no basis whatsoever, disclosed in the Application to the effect that this condition is even *prima facie* satisfied to justify initiation of proceedings;
 - c. There is no assembly, finishing or completion process undertaken in India in respect of CRSS of width more than 1250mm. The CRSS imported in India are in finished condition and no further ‘assembly’, ‘finishing’ or ‘completion’ is required in India;
- In any case, no operations have not started or increased after or just prior to the Anti-dumping investigations so as to constitute circumvention of ADD. Thus, the above submissions ought to be considered by the Ld. Authority. A perusal of the Disclosure Statement that no consideration has been given to the above fundamental aspects which goes to the very root of initiation of the present proceedings.
 - It is further reiterated that the Importer has never imported the PUC since its inception and hence, no circumvention can be alleged against the Importer.
 - It is submitted that the suggestion contemplated in the Disclosure Statement to prevent genuine importers is that ‘all importers importing PUI will be required to give a legally enforceable declaration/undertaking to customs authorities that the PUI being imported by them will be used without any slitting except to the extent of tolerances as mentioned in the Final findings dated 12.10.2015 imported vide Customs Notification dated 11.12.2015’. In this regard, the Ld. Authority is requested to consider the following:-
 - The suggestion appears to be vague and the actual manner of implementation ought to have been provided in the Disclosure Statement especially in the light of Rule 16 of the ADD Rules, which requires the Disclosure Statement to be specific;
 - The requirement of a general undertaking with words such as ‘*will be used without any slitting*’ will frustrate the very purpose of granting the exclusion. Various importers such as the present Importer have substantiated that the PUI can be imported to slit the products for widths less than 600mm, which is required by the importers for manufacturing pipes etc. and which process cannot be considered to be ‘circumvention’ under Rule 25/26 of the ADD Rules. Thus, the expansive and non-specific measure contemplated in the Disclosure

Statement should be modified by considering the above.

- The Importer reiterates that the claim of 'confidentiality' of the Applicant in the Application filed before this Ld. Authority is without any basis and prejudices the rights of the Importer and accordingly, ought to be rejected such a claim.

In view of the above, the present anti-circumvention proceedings would amount to an abuse of the process of law as the very same issues have already been examined by this Ld. Authority and decided against the Applicant and the only recourse available to it is to initiate fresh investigations for imposition of ADD on CRSS of width above 1250mm.

106. Submission by M/s AGOL ASSOCIATES representing M/s N.G. Industries, M/s M.P. Industries and M/s Shree Ramdev Metal Mart submitted the following:
- Without prejudice to the submission that M/s N.G. Industries, M/s M.P. Industries and M/s Shree Ramdev Metal Mart have not done any slitting process of the product during the period under investigation and all the quantities have been sold without any slitting/conversion process, it is submitted that the Designated Authority has no power or jurisdiction to consider as to what happens post-importation to invoke Rule 25 of the customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. It is a settled proposition that goods imported have to be assessed to duty 'as presented'. It is also a settled position in law that the goods would have to be assessed in the form in which they are imported and presented to the customs and not on the basis of the finished goods manufactured after subjecting them to some process after the import is made. In the reported decision in *Vareli Weaves Pvt. Ltd. v. Union of India* [1996 (83) E.L.T. 255 (S.C.)] the question was as to whether the countervailing duty was liable to be left on the imports made by the assessee at a stage they would reach subsequent to their import after undergoing a process. It was contended that such goods could be subjected to duty only in the state in which they were imported. It was held that the countervailing duty must be levied on goods in the state in which they are when they are imported. This was on the basis of Section 3 of the Customs Tariff Act. Similar view was taken in *Dunlop India and Madras Rubber Factory Ltd. v. UOI* [1983 (13) E.L.T. 1566 (S.C.)]. Reliance is also placed on the decision of the Hon'ble Supreme Court in the case of *Commissioner of Customs, New Delhi Vs. Sony India Ltd.* reported in 2008 (231) ELT 385 (S.C.).
 - It is seen from the application filed by the applicant that they are placing reliance on Rule 25(1) of the ADD Rules. It is submitted that even assuming without conceding that the allegations of the applicant are true, the same cannot be a ground to initiate investigation unless it is proved factually as well as legally that the product under consideration is being imported in an unassembled, unfinished or incomplete form and is assembled, finished or

completed in India. Mere slitting of products of width of more than 1250mm after their import into India will not lead to a process of either an assembly, finishing or completion. The slitting of the products having width of more than 1250 mm into smaller sizes will not attract the provisions of Rule 25 of the said Rules. Rule 25(1)(a) states that the operation mentioned in sub-rule (1) should have started or increased after or just prior to the anti-dumping investigation “and that the parts and components” are imported from the notified countries. Therefore, on a complete reading of Rule 25(1) it is clear that it is only those cases where parts and components of the product under consideration are imported in an unassembled, unfinished or incomplete form and are assembled, finished or completed in India, which come under the purview of Rule 25(1). Neither the applicant nor the initiation notification explains as to how an unassembled, unfinished or incomplete article is assembled, finished or completed to attract the provisions of Rule 25(1). Therefore, the requirement to execute a legally enforceable declaration/undertaking to customs authorities is unjustified and has no sanction in terms of the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975. Without prejudice no such declaration should be insisted on entities who have not facility for slitting or processing.

- In the present case as per the final disclosure, it is stated that there is evidence of slitting of the PUC after import into India. Even if this were to be true, it is not a ground to invoke Rule 25. In fact in cases where goods are imported in a disassembled or unassembled condition to evade existing ADD, Court have interpreted that applying Rule 2(a) of the General Rules of Interpretation of the Customs Tariff, goods have to be considered as complete article provided the disassembled or unassembled goods are presented together. Thus, the converse situation cannot be held to be within the ambit of ADD. Reliance is placed on the decision of the Delhi High Court in the case of Nav Durga Associates Vs. Union of India reported in 2013 (287) ELT 19 (Del.).
- It is submitted that the Hon'ble Supreme Court of India in the case of Union of India vs M/s Kumho Petrochemicals Company Limited (Civil Appeal Nos. 008309-008310 of 2017 arising out of SLP (C) Nos. 29268-29269 of 2014) has held that one-year extension of antidumping duty after the expiry of existing antidumping duty would be illegal. In the present case the antidumping notification no. 14/2010-Cus. Dated 20.02.2010 was in force till 22.4.2014 and the Government issues a notification no. 20/2014-Customs (ADD) on 12.05.2011 extending the ADD on the subject products till the period 21.04.2015. This extension notification was issued more than two weeks after the expiry of the earlier notification and therefore, in terms of the decision of the Hon'ble Supreme Court in the case of Kumho Petrochemicals Company (Supra), the extension of the anti-dumping duty after the expiry of the existing anti-dumping would be illegal. Therefore, when the extension itself is illegal then the consequent initiation of anti-circumvention duty would also be illegal. It is further submitted that as per the findings of the sunset review, ADD was

continued, vide notification no. 61/2015 dated 11.12.2015. Therefore, there was a further lapse before notification no. 61/2015 dated 11.12.2015 was issued extending the ADD. Therefore, the decision of the Hon'ble Supreme Court squarely fits into the case and consequently, the repetitive extension of ADD was illegal. Consequently, it must be held that when initiation of investigation into the anti-circumvention duty itself would be illegal when there was not ADD on the subject goods in the first place.

- The Authority has already gone into the question of leviability of ADD on Cold Rolled Stainless Steels of more than 1250 mm and in the final findings dated 24.11.2010, and rejected the arguments of the applicant relating to the inclusion of products of width more than 1250 mm by rendering detailed findings in support of the exclusion. The said recommendations were accepted by the Central Government and ADD was imposed on the product under consideration, vide notification No. 14/2010-Cus. Dated 20.02.2010. Thereafter, on 23.06.2010, mid-term-review was also limited with regard to the products under consideration only. The applicant then approached the Hon'ble High Court of Punjab & Haryana and filed a writ petition No. 6544 of 2010 by challenging the scope of the mid-term review. The Hon'ble High Court, vide order dated 8.10.2010 disposed the aforesaid writ petition by directing that the challenge raised by the applicant in the writ petition was also to be considered at the time of mid-term review. In the mid-term review proceedings, the Designated Authority held that the review was only for classification with regard to prescribing tolerances in respect of width of the product under consideration and that neither had Jindal requested for enhancement for scope of the product nor was it been considered. The Designated Authority held in its mid-term review dated 8.6.2011 that the goods of width beyond 1250 mm were rightly excluded from the ambit of ADD. It is submitted that subsequently, in terms of Rule 25 of the ADD Rules and on the basis of application filed by Jindal seeking continuation of ADD imposed on the product under consideration, the Designated Authority initiated the notification for sunset review. During the proceedings in the sunset review, M/s Jindal requested the Designated Authority for inclusion of products of width more than 1250 mm. The said request was rejected by the Designated Authority, vide its final findings dated 12.10.2015 and the Central Government issued the Customs Notification No. 61/2015-Cus dated 11.12.2015 continuing the imposition of ADD on PUC. The contention of M/s Jindal with respect to interchangeability or use of strips with larger width with those of smaller width was considered by the Designated authority in its final findings dated 5.12.2011, where it was observed that importing products of higher width and slitting requires a complete different operational set up in turn calling for substantial investment by the user, which too was commercially unfeasible especially small and medium scale users due to the wastages and higher costs involved. From the above it is clear that the request of M/s Jindal to include products of width more than 1250 mm was repeatedly rejected by the Designated Authority on the ground that domestic industry has neither produced nor supplied goods of width more than 1250mm despite the claim of the domestic

industry that they have the facility to manufacture width upto 1550mm and also for the reason that the process of importing higher width and slitting the same was technically and economically unviable. M/s Jindal has filed the present application raising the same grounds alleging circumvention by import of products of width above 1250mm by relying upon the date of import relating to the period 2008-09 to 2014-15 despite the that the imports made during the period were already considered during the earlier proceedings of rendering final findings and the sunset review proceedings. By issuing the present initiation notification dated 19.2.2016, an attempt is being made to review the decision earlier taken by the Designated Authority and it is a settled law that things which cannot be done directly cannot also be done indirectly. In the sunset review, the Designated Authority has admitted that the scope is restricted to the products as defined in the final finding and that there is no power to review or expand the scope of the product under consideration. In fact, even in the grounds for alleged circumvention, it is stated that M/s Jindal is seeking to review the exiting anti-dumping duties.

- It is further submitted that the applicant has failed to substantiate as to how they constitute “domestic industry” as defined in the Rules above. Further, no evidence has been filed to demonstrate that they are manufacturing and supplying in substantial quantities product under investigation. This is necessary to first establish that injury is being caused to them by the alleged circumvention. There is no reply from the Domestic Industry as to why they are producing the stated quantity of the PUI when there is no market or requirement of the PUI in the domestic market. No justification has been given by the applicant as to why have they set up such big plant with special capacity to produce higher widths when there is no demand for it in the local market. All these aspects raise doubt on the bonafides of the applicant. M/s Jindal Stainless was a Special Economic Zones Unit till August 23, 2011. Therefore, the statistics produced by the applicant with regard to production, sales, Import and Export Figure cannot be considered as that representing the domestic industry or the Indian market position. The application filed by them is not maintainable on this ground alone. However, the Designated Authority has not given any finding on this submission and on the other hand had proceeded to hold that there has been price effect on Domestic Industry’s sales of product under consideration. Needless to mention that the disclosure statement has been non-speaking to this extent and thus violative of the principles of natural justice. Without prejudice it is submitted that the Designated Authority should make sure that the sales figure to Indian market given by the applicant include the quantity of imports made by them this quantity should be excluded from the data considered and tabulated in the final disclosure statement.
- It is submitted that M/s. N.G. Industries, M/s M.P. Industries and M/s Shree Ramdev Metal Mart have not done any slitting process of the product during the period under investigation and all the quantities have been sold without any slitting/conversion process. Further, it is technically not possible to carry

out any slitting process on sheets in general. It is to be noted that it does not make any technical or financial prudence to import the products of width of more than 1250mm. The import cost of products of width more than 1250mm is expensive when compared to products having width of more than 600mm to 1250mm. It is an admitted position and the data of the Director General of Valuation would reveal the fact that the price for product of width more than 1250mm is usually higher by USD 50-100 per MT as compared to products width 600mm to 1250mm. Therefore, it is extremely unviable to import products of higher width and then carry out slitting as the operation of slitting would add considerable cost to the end product. These costs include cost of transportation for movement of goods to the slitter, cost of slitting, cost of repacking, cost of re-transportation and waste and scrap generated on slitting. In fact, the cost of materials of width between 600mm to 1250mm is lesser and easily available in the domestic and overseas market when compared to the expenses incurred in slitting the product of width more than 1250mm. The cost of slitting and the substantial amount of scrap that is generated make the entire process unviable.

- It is submitted that no evidence has been produced whatsoever by the applicant that majority of the end users in India do not use the products of width above 1250 mm. The products of width more than 1250mm have application for fabrication of storage tanks in dairy and chemical industry, where the tank sizes are bigger. In such cases higher the width of the material used, lesser are the number of joints and this ensures better corrosion properties and lesser maintenance for long period of time. Therefore, the importers mentioned above import products of width more than 1250mm and sell them as such without subjecting them into any further process. It is submitted that we have not been furnished with the evidence and support of the allegation that 97% of the imported products having width more than 1250mm are sold after slitting and that only 3% goes into genuine usage as such.
 - As per the final disclosure statement, there is only one company, viz. M/s POSCO Service Centre, who does slitting of 400 series materials but that too only 20% of the quantity of the PUC of width of 600-1250mm. As per Initiation notification, the claim of the applicant that 97% quantities were being slit is thus not justified. There is No Evidence whatsoever of Slitting to PUC in 300 Series and 200 Series. The application filed by M/s. Jindal is thus writ with huge factual discrepancies.
107. M/s Wirana Pte. Ltd, Singapore has submitted that finishes like BA, 2D, 2 E, SB (Scotch Brite), No. 3, No. 4 etc. should be excluded from investigation. Importers are also citizen of India and that they also generate employment.
108. M/s DGS Associates representing POSCO, Korea and its related entities have submitted the following:

- The Authority while recording the names of the responding exporters / producers, has missed out on the name of Hyosung Corporation (Korea) who has also responded and has been verified by this Hon'ble Authority. Similarly, reference to Hyosung Corporation is also required to be made in para 80 and 85 of the Disclosure Statement. As a consequence, para 57 should state, "in case of Korea, the producer, POSCO along with its 7 exporting entities and 3 slitting centres in India has cooperated".
- The Authority has acknowledged the Producer / Exporters submission that POSCO's exports of the PUI are essentially used to supply products of sizes that do not fall within the scope of PUC. It is reiterated that 80% of the exports made by POSCO have been utilized for supplying Cut to Length or CTL sizes below 600mm, being non-PUC and the same are beyond the scope of both PUC and PUI. It is respectfully submitted that for purposes of the subject goods in the instant Investigation what is critical is the end use of the goods imported into India. As has already been submitted the Producer / Exporters primarily cater to the automotive industry. By very nature of this user industry, it is an ever evolving and high safety industry. The manufacture of auto parts demand precise sizes of the subject goods and irrespective of the coil width being imported, the same would require to be cut / slit to CTL sizes.
- Since CTL sizes are critical to the automotive industry, the role of the processing centres in India cannot be undermined and/or reduced merely to treat them as centres set up to slit the PUI with a view to circumvent the ADD imposed. POSCO's processing centres in India have been in existence since 2006 and have been set up with substantial investment, being equipped with state-of-art equipment. These processing centres play an integral role in the supply chain as the end customers lack the wherewithal to slit / cut the wider width coil to CTL sizes and are dependent on the processing centres to supply them the requisite sizes.
- The automotive industry is dynamic and the latest designs of the auto parts are becoming smaller, hence requiring smaller CTL sizes. It is, however, neither pragmatic nor economical for the customers to import the desired CTL sizes directly as the production and transportation of the smaller widths is not only cost ineffective but also thwart with the dangers of rejection as transportation can result in damage, thus rendering the CTL size useless for the customers. There is also a high possibility of the customer having outgrown the size that it had ordered a few months back. Also transportation of desired narrow width of the coil should be done through container delivery, which would only result in substantial increase in cost. Furthermore, in the event that the exporter directly provides coils of requested dimensions, the coils must undergo an "edge trimming process" prior to final use in India, which would further lead to production of scrap. Therefore, importing wider widths of the product is the only pragmatic option available to the customers, making the imports economically and commercially viable. Importing wider widths, to be slit to the desired sizes in India, reduces yield loss, transportation cost, wastage

and also allows end user the flexibility to alter its demanded sizes basis the requirement at the time of actual supply.

- Width of the coil to be imported is on the basis of “nesting” done for the requisite sizes (which are variable) and which would result in least generation of scrap and yield loss. It is the requirement of the subject goods by the customer coupled with these factors that determine the width sizes to be imported. In this regard, reference is also drawn to this Hon’ble Authority’s observation in para 63 of the Disclosure Statement, where the Authority has observed “that as the usage of PUC/PUI by an user industry is dependent on the width of PUC/PUI, the conversion process by slitting tantamount to a process of finishing/conversion and therefore the process of slitting is covered under relevant AD Rules, to examine circumvention.” This conclusion is erroneous for the reason that the customer’s requirement for various widths is the starting point for an import order. It is only basis this requirement that “nesting” is done and wider widths are imported to be eventually cut into the desired CTL sizes that were previously requisitioned. A wider width is imported only because of the economic reasons set out above. There is technically no finishing/conversion happening, contrary to this Authority’s observations.
- Further, POSCO has always been catering to the PUI, PUC and the non-PUC segment depending on the customer’s requirement. Increasingly, POSCO’s market has shifted to PUI and non-PUC segment. However, this shift in the market segment cannot be termed as circumvention, as alleged by the Domestic Industry or otherwise. It is submitted that circumvention could possibly have been alleged, had POSCO been exporting PUI to supply PUC, which is not the case. Basis the “nesting” being done, PUI is being imported to be slit into the CTL sizes of less than 600mm, being non-PUC. Such supply of non-PUC widths can neither be termed as circumvention of the ADD imposed on the imports of PUC nor be held to be causing any injury to the Domestic Industry in the PUC segment.
- POSCO has always been supplying the widths required by its end customers, be it PUI, PUC or non-PUC. This has been the import pattern and it remains the import pattern. The pattern is demonstrated graphically. However, the demands of the user automotive industry changes and the widths being imported are directly linked to the user requirement, bearing in mind the economic considerations of yield loss, transportation cost, wastage and allowing the end user the flexibility to alter its demanded size basis the requirement at the time of actual supply.
- In view of the foregoing, the Authority’s observation in para 74 of the Disclosure Statement, that there exists no economic justification other than to circumvent the anti-dumping duties imposed on the PUC for the producer/exporters in the subject countries and that the same is evident in the steep rise in the imports of PUI is misplaced and erroneous. It is reiterated that the increase in imports of PUI cannot be viewed in isolation

but must be examined in conjunction with the usage of the PUI being imported. In POSCO's case, the PUI being imported is primarily being used to supply CTL sizes that are below 600mm, being the desired sizes of the user automotive industry or as PUI itself. There is only a small portion of the supply that is going into the PUC segment.

- The Authority has stated that it proposes to consider the impact of circumventing product on efficacy of existing anti-dumping measures and a consequential price effect on Domestic Industry's sales of PUC. In this regard it is submitted that since the supply of PUC by the Producer / Exporters is minimal, the said two parameters will not yield a positive outcome in favour of the Domestic Industry. For a meaningful examination of the alleged circumvention it is critical to conclude that the PUI is being slit into PUC and consequently impacting the efficacy of existing anti-dumping measures and a consequential price effect on Domestic Industry's sales of PUC. However, this is contrary to the facts of this case where PUI is being primarily slit into non-PUC or used as PUI itself, leaving the PUC segment unaffected.
- If the Authority was to extend the ADD even to the supply of non-PUC, it would not benefit the Domestic Industry as the user industry may just consider importing the CTL sizes directly. However, such extension will have a definite adverse impact on the user automotive industry for the reasons set out in paragraph 4 above causing it grave hardship. Hence, on a balance of convenience it is critical that the ADD be not extended to slitting and supply of PUI into CTL sizes below 600mm, being non-PUC. Further to para 62 of the Disclosure Statement, the Authority has stated that it proposes to reference the usage pattern of PUC as PUC or as non-PUC prior to levy of measure and usage pattern of PUC and PUI post the measure to examine the disposal / sales pattern of PUC and PUI, it is respectfully submitted that the Authority may consider the foregoing submissions to arrive at a dispassionate and objective conclusion in this investigation.
- The Producer / Exporters and the Importers would also like to volunteer submission of periodic and legally enforceable declaration / undertaking to customs authorities that the PUI being imported by them would be used only as PUI and/or non-PUC pursuant to the slitting process. Any slitting of the PUI into PUC would be subject to payment of ADD. It is respectfully submitted that this would be a fair and justified outcome of this Investigation and would serve the interests of all interested parties.

109. M/s ELP Advocates & Solicitors representing Outokumpu Oyj and YUSCO have stated the following:

- The Authority at paragraph 34 has stated that “the exclusion of a particular category of a product does not per se imply that they are not like articles.”
- The Exporter submits that the Hon’ble Designated Authority’s observation is inaccurate as the Hon’ble Designated Authority vide its final finding dated November 24, 2009 and December 5, 2011, with regard to the PUC, has excluded the PUI from the product on account the PUI and PUC not being “like articles”.
- Therefore Rule 25(1) does not apply due to the following reasons:
 - (a) Product under Investigation is not subject to the anti-dumping duty. Only after the Product under Investigation is slit into widths under 1250 mm, does it become comparable to the Product under Consideration.
 - (b) Product under Investigation is in itself an assembled, finished and complete product and it does not require any assembling, finishing or completion operation to be used.
- The Exporter submits that the Hon’ble Designated Authority is required to analyse the production of PUC and not PUI of domestic producer for the standing of the domestic industry. However in the present investigation, the Hon’ble Designated Authority has analysed whether JSL is importing the PUI as well even though the present investigation has been initiated to analyse the effect of the PUI on the PUC.
- For determining the eligibility of JSL as the domestic industry, the Authority is required to determine the ownership of the Hisar plant and not the effective date of de merger. The transfer of the Hisar plant from JSL to JSHL was effective retrospectively from March 31, 2014. From the above appointed date i.e. March 31, 2014, JSL ceased to be the domestic industry for the PUC under Rule 2(b) since it no longer constituted a major proportion of the production of the PUC in India.
- JSL did not own the Hisar plant during the period of investigation. Despite the same, JSL has claimed that it is the largest producer of the PUC in India at page 2 of the Application, when in fact the rightful producer, if at all, was JSHL.
- Additionally, the certification filed by JSL in the Application was dated December 13, 2013, which is well before the de-merger as well as the Period of Investigation. Therefore, even if the application was made in 2012 when the Hisar plant was with JSL, the application is bad in law because (i) the application could not have had the data for period of investigation and (ii) the initiation of the present investigation has not taken place within six months of the date of filing the application.
- The Authority has asserted that the test of 25% and 50% are not conditions applicable for an application made under Rule 26 of the Anti-dumping Rules. The Exporter submits that this is a highly inaccurate interpretation of the Anti-dumping Rules.
- Pursuant to Rule 26(1) read with Rule 2(b) of the Anti-dumping Rules, the ‘domestic industry’ must at least be a manufacturer of the major proportion of the total domestic production of the PUC in India. The Hon’ble

Designated Authority vide its Disclosure Statement has stated that JSL alone qualifies the test of 25% and 50%. The Hon'ble Designated Authority must ensure that its directions to the Petitioner are not subverted by carrying out the following tests:

- (a) The Petitioner does not file production information from the Hisar plant to qualify for the 25% test;
- (b) If in either of the examined periods i.e. period of investigation and time of initiation, the Petitioner does not meet the 25% threshold, it cannot be classified as domestic industry and the investigation must be terminated with immediate effect;
- (c) The Hon'ble Designated Authority must require the production information to be made available in a non-confidential form; and
- (d) The information filed by the Petitioner should be fully verified for accuracy to ensure that inflated production figures are not placed on record by the Petitioner merely to overturn the issue.

- Any information that is required for establishing the standing of the domestic industry is an essential fact. PUC data of JSL and any other data that is on record that has been relied upon are essential facts under Rule 16 of the Anti-dumping Rules. Given the time bound nature of the present proceeding, the Hon'ble Designated Authority is requested to kindly disclose the above essential facts immediately.
- As per the de-merger scheme the Hisar plant belonged to JSHL from 31st March 2014 i.e. prior to the period of investigation.
- JSL does not have the appropriate authorisation or right to file data on behalf of a separate legal entity i.e. JSHL.
- The Petitioner has claimed most of this information confidential unjustifiably, which is in gross violation of Rule 7 of the AD Rules and Trade Notice No. 1/2013 dated December 2013. All the economic parameters reported in the response have been claimed completely confidential. Additionally, information with respect to production breakup, Normal Value, Export Price, Dumping Margin, alleged saving of duty circumvented, conversion cost have been completely claimed confidential in the Application.
- The Authority has relied on inconsistent and inaccurate data while analysing the evidence of circumvention such as:
 - (a) The Hon'ble Designated Authority has not analysed the data from 2008 even though it had directed the interested parties to provide the same; and
 - (b) The import data with respect to the PUC provided by JSL vide its updated Petition dated April 10, 2017, is highly inconsistent to the data referred to in the Disclosure Statement dated August 7, 2017.
- The Authority at paragraph 65 of the Disclosure Statement had analysed major proportion of imports falling under 1650mm. If the Hon'ble

Designated Authority has analyzed widths up to 1650mm, then the tolerance level that was set by the Hon'ble Designated Authority has at ad hoc been replaced by the present 1650 mm.

- The analysis carried out by the Authority with respect to change in pattern of trade, while factually correct, does not represent a holistic analysis of the pattern of trade. In fact, the charts merely indicate a relative analysis based on the percentage of total Imports of PUC and PUI, which is incomplete without examining the context under which these changes took place.
- While the proportionality analysis relied upon by the Authority reflects the changing trends in PUI and PUC trends, a deeper analysis of the data behind this proportionality test also clarifies that the increase of PUI imports cannot be correlated to the anti-dumping duty levied on the PUC, based on the following factors.
 - (a) The Decline in PUC imports is Natural: A decline in product under consideration imports is bound to occur upon imposition of anti-dumping duty, and is a commonly seen occurrence in other products as well. This also explains why there is a substantial increase in PUC imports in the assessed period from non-subject countries.
 - (b) Increase in Imports of PUI is not on account of Circumvention: The increase in PUI imports over the assessed period was due to a genuine increase in demand:
 - i. Production in India has increased in the last four years leading up to the POI – Imports of PUI from subject countries have declined in the same period.
 - ii. Imports of the PUI from non-subject countries have increased over the last ten years
- While conducting its analysis the Authority neglected the copious data and analysis placed on record by the Exporter.
 - (a) An overwhelming majority of the exports of PUI to India made by the Exporter are directly to end users;
 - (b) The Producer has divided the Imports during the period of investigation into two (2) periods i.e. Duty period (July 1, 2014 to April 21, 2015) and No Duty Period (April 22, 2015 to September 30, 2015). The behaviour of the Exporter's sales during this period clearly demonstrates that there is no circumvention taking place in the Exporter's specific case.
 - (c) The customers to whom the Exporter sells are established to be of a nature where there is no requirement of circumvention.
- However, despite such substantial data being placed on record, the Authority has not taken any of the above into consideration while coming to its conclusion in the above issue.
- The Authority has not provided the calculation methodology that has been used for arriving at the Normal Value of the Exporter. In the least, the same ought to be provided at least in non-confidential form.

- There is negative price undercutting from EU-origin exports and particularly from exports made by the Exporter. In fact, the extent of negative undercutting for the Exporter (minus 25 to minus 35 percent) is so vast that there could not possibly have been any depressing price effect due to the exports made by the Exporter in the present factual matrix. It is therefore submitted that there is no justification for an anti-circumvention levy on the Exporter.
- At table 25 of the Disclosure Statement, the Hon'ble Designated Authority has indicated that the effect of circumvention on anti-dumping duty by the Exporter is in the range of 35-45% in case of Outokumpu and in the range of (45) – (55) % in case of YUSCO. The Exporter submits that, the Hon'ble Designated Authority has taken into consideration the wrong Anti-dumping duty in the calculation of “Landed value of PUC with duties”. It appears from the calculation that the Hon'ble Designated Authority has considered duties which were recommended and levied in the SSR. The Exporter submits that, duties recommended and levied in SSR came in effect from December 11, 2015 onwards which is beyond the period of investigation i.e. (July 14 to Sept 15) and therefore cannot be applied for any landed price calculation during the POI. The Hon'ble Designated Authority is accordingly requested to kindly take the above into consideration and revisit its landed price calculations for all other considerations as well. Until such corrections are appropriately incorporated, the present investigation should not be allowed to proceed.
- With respect to the economic parameters used to determine the existence of circumvention, the Authority has taken into consideration only price undercutting.
- The Authority in case of Diclofenac Sodium had analysed both price and volume effect in domestic industry.
- EU in some cases like citric Acid, crystalline silicon photovoltaic modules and key components and open mesh fabrics of glass fibres have undertaken detailed injury analysis.
- The comparison of undermining of AD duty need to be made with duties as applicable during POI and not those imposed in SSR. This needs to be revisited and corrected.
- The negative price undercutting from EU origin imports imply that there is no price depressing effect and there is no justification for imposing Anti-circumvention duties.
- The Authority has not disclosed production figures of M/s Jindal stainless Limited and M/s Jindal Stainless Hisar Limited. M/s Jindal Stainless Limited ceased to be domestic industry w.e.f. appointed date i.e. 31/3/2014. M/s Jindal Stainless Hisar Limited has not formally participated in the investigation and M/s Jindal Stainless Limited does not own up the

Hisar plant. Therefore the Authority must ensure that M/s Jindal Stainless Limited does not file production information from Hisar plant to quality 25% test.

- Data filed by Domestic Industry on PUC/PUI in its petition is in consistent with data in the disclosure.
- Trade pattern shift needs to be identified from 2008 onwards.
- The decrease in volume of PUC post levy of ADD is natural and that PUI imports are not for circumvention.
- Indian Stainless Steel Development Association (ISDA), process plant and machinery association of India and other importers have stated that PUI imported is for genuine use and not for slitting.
- Imports of PUI have also come down since 2012-13 from subject countries.
- Demand of PUI is growing and so is the case with petitioner.
- M/s Outokumpu's exports are to Auto, Heavy transport and process machinery industries where there is no scope of circumvention.
- In the POI when there were two periods (AD Duty in force and no AD Duty in force), the Outokumpu's export behaviour does not reflect circumvention.
- M/s Outokumpu's major exports to India have been to SEZ units or under Advance License where no AD duty is leviable and hence there is no need to circumvent by the exporter.
- M/s YUSCO exported 35% of PUI during no duty period of POI. On an annualised basis 50.14% of exports were in no duty period implying YUSCO is not circumventing. Exports of PUI remained consistent irrespective of the fact that ADD or no ADD was there in POI. There is a negative price undercutting by YUSCO's exports and hence there is no price depressing effect.
- Effect of circumvention should be evaluated with actual AD Duty in force during POI and not SSR duties.
- The Authority has stated as follows at page 72 of the Disclosure Statement:

"The Authority noting that any bonafide user of PUI need not be saddled with extension of anti-dumping duties on PUI, also appreciates that it is not possible for any government agency to enforce monitoring of any exemption granted to any bonafide user and therefore for this purpose proposes that all importers importing PUI will be required to give a legally enforceable

declaration/undertaking to customs authorities that the PUI being imported by them will be used without any slitting except to the extent of tolerances as mentioned in final finding dated 12/10/2015 imposed vide custom notification 61/2015 CUS-ADD dated 11/12/2015 if they desire not to pay existing ADD.”

- M/s ELP has summarized as follows:
 - a) JSL does not constitute domestic industry due to which the investigation has been illegally initiated and therefore should be terminated immediately;
 - b) Product under Investigation is not unassembled, unfinished or incomplete form due to which Rule 25(1) of the Anti-dumping Rules does not apply to the present investigation;
 - c) The present investigation ought to be terminated, at least against the Exporter as there has been no change in pattern of trade;
 - d) JSL has failed to provide any evidence to substantiate its circumvention claim;
 - e) An increase in the volume of imports of Product under Investigation is due to an increase in the consumption of the Product under Investigation; and
 - f) Remedial effects of the existing anti-dumping duties on the product under consideration are not undermined.

Examination by the Authority

- i. As regards the submissions made by various interested parties on the issue of standing of Domestic Industry, the Authority notes that the application filed by M/s Jindal Stainless Ltd. which includes data of both M/s Jindal Stainless Limited and M/s Jindal Stainless Hisar Limited is in accordance with various provisions of the demerger scheme. In any case both M/s Jindal Stainless Limited and M/s Jindal Stainless Hisar Limited independently meet the standing test and with no opposition by any domestic producer to the application, M/s Jindal Stainless Limited meets the criteria of domestic industry as per Rule 2 (b) of AD Rules, with reference to PUC.
- ii. As regards claim of certain interested parties that M/s Jindal Stainless Ltd/ was a SEZ unit till 23/8/2011 and therefore appropriate analysis regarding its production be done, the Authority notes that the production of PUC/PUI in the Orissa unit only started after it became a DTA unit and therefore the issue of addressing the SEZ aspect is not necessary.
- iii. The Authority notes the submissions made by various interested parties regarding undertaking unwarranted anti circumvention investigation, including faulty initiation and addressal of alleged circumvention of PUC by PUI stating that these issues have already been settled in the earlier original investigations of the same product including the SSR. The Authority holds that the present investigation under the AD Rules is to examine the aspect of circumvention of PUC by PUI and that this requires conditions of Rule 25 and Rule 26 to be satisfied on various aspects of circumvention phenomena. The scope of PUC

which includes certain exceptions and tolerances remains unaltered. The Anti-Circumvention Rules do not require establishing that PUI and PUC are like article as has also been submitted. The Authority has kept in view the judgment of Hon'ble High Court of Delhi wherein it has been held that the trajectory of the inquiry is altogether different in an Anti-Circumvention investigation and that the facts and arguments of various interested parties need to be placed before the competent Authority.

- iv. The Authority also notes that it has been submitted that the matter is subjudiced in the Hon'ble Supreme Court. The Authority however notes that though the matter is pending before Hon'ble Supreme Court but it is not stayed for completion of investigation.
- v. The Authority notes that there are submissions to restrict circumvention only to cold rolled stainless steel flat product of width of 600mm up to 1250mm of all series further worked than Cold Rolled with a thickness of up to 4mm. and also to exclude finishes like BA, 2D, 2 E, SB (Scotch Brite), No. 3, No. 4 etc. from investigation. The Authority holds that the only difference in the PUC and PUI is the width and that there is no change in excluded grades or any technical description as has been mentioned in the initiation notification and in the disclosure.
- vi. The Authority notes the submissions regarding broadening the scope of original investigation, back door entry by Domestic Industry to reopen the already settled issues, and holds that PUI imported for use as PUI only without any alteration/splitting is not being considered for continuation of existing Anti-dumping duty on PUC but only to situation where PUI imported from subject countries is not used as PUI but altered for use as PUC or non PUC.
- vii. The Authority notes that it has been submitted that there is no evidence of undermining of remedial effects of Anti-dumping duty on PUC and also that DG Safeguards had held that losses to Domestic Industry were due to internal reasons of Domestic Industry. The Authority holds that undermining of Anti-dumping duty on PUC by circumvention due to imports of PUI not intended to be used as PUI is in fact undermining the remedy provided by the Authority to provide a level playing field to PUC. The issue of Dumping, Injury and Causal Link on PUC has already been settled in the original investigation and thereafter in Sunset Review investigations.
- viii. The Authority notes the submissions made by various interested parties on the proportion of PUC and PUI imports claimed by Domestic Industry and that by M/s ELP in variations in claim of domestic industry and data reported in the disclosure. The Authority notes that data regarding PUI for the years 2008 – 09 to 2012 – 13 was already reported in the final findings dated 12th October, 2015 regarding Sunset Review related to PUC. Data for PUC for the years 2010-11, 2011-12 and 2012-13 was also reported in the aforesaid finding. This has been

adopted ipso facto in the present investigation. DGCI&S data beyond 2012 – 13 to POI has been further analysed and reported in the finding. For the non-cooperative producers/exporters the DGCI&S data as stated above has been considered in the present finding and referenced for trade pattern and for the cooperative/responding exporters the exports of PUC and PUI from 2008 – 09 to POI as reported by them has been referenced for the purpose of analysing the trade pattern.

- ix. The Authority notes that the Domestic Industry has submitted to reject the response of M/s Outokumpu while M/s ELP Advocates representing M/s Outokumpu has desired that methodology for the normal value for them be disclosed. The Authority notes that Outokumpu in the questionnaire response had provided data on the domestic selling price and export price only and not cost of production to undertake ordinary course of trade test. The Authority has therefore adopted constructed CNV approach on the basis of the best available information which has so been mentioned in the disclosure in the summarisation for evaluation of dumping margin. As the present investigation is on Anti-Circumvention wherein data on various attributes of circumvention are also of significance besides the aspect of dumping, the data provided by M/s Outokumpu on its export trend has been considered to analyse such relevant aspects.
- x. The Authority notes submissions of M/s ELP regarding further details on normal value methodology for Outokumpu and YUSCO and notes that M/s ELP after the disclosure vide letter dated 11/8/2017 had requested for certain clarification on the NCV data related to Domestic Industry which was provided on 14th August, 2017. No details regarding methodology of normal value were sought. The Authority has in the confidential version of disclosure provided the relevant confidential values computed on the basis of data filed by the two exporters. The 'normal value' methodology was narrated in the NCV version of the disclosure. The Authority reiterates the computation methodology on the normal value for the two exporters as mentioned in the disclosure statement dated 7th August, 2017.
- xi. The Authority notes that it has omitted the name of the POSCO's responding exporter M/s Hyosung Corporation (Korea) in the disclosure which was also verified on site. The Authority has included the data of all exporters of POSCO who filed response to evaluate the dumping margin. This is evidenced from the description in paragraph of export price (table 15 of disclosure) and S&D expenses (table 16 of disclosure) wherein the name of M/s Hyosung Corporation is mentioned.
- xii. The Authority notes arguments by various interested parties that Automotive sector in particular needs 'CTL' sizes for which larger sheets are cut to such requirements. Further POSCO's slitting centres have also emphasized the concept of 'nesting' wherein the user requirements are the starting point to plan

imports of PUC/PUI and that it is not the AD circumvention motivation to import PUI. In this regard the Authority holds that the requirement of 'nesting' and business modelling to maximize efficiency by importing larger sizes being prudent economic rationale should also trigger similar trends of PUC and PUI sales to countries other than India. POSCO has not been able to demonstrate emergence of such models in third countries. 'CTL' sizes can be serviced by various options viz. by imports of PUC, PUI or non PUC/PUI. The Authority therefore holds that genuine use of PUI imports as PUI only without slitting needs to be exempted from AD Duties. Many interested parties have also argued that PUC and PUI are not like article and that is why PUI remained excluded in original investigation. The Authority therefore reiterates that by allowing PUI for use as PUI only such issues are also addressed as any use of imported PUI for PUC or Non PUC/PUI purpose by the importers/users only needs to be saddled with extension of existing AD Duties on PUC to PUI.

With regard to the post disclosure submissions of POSCO on usage of PUI by them for non PUC application the Authority reiterates its earlier observations made on the basis of data filed by IDPC, ICPC and IPPC, the three slitting centers of POSCO Korea in India (table 10) that during 2008-09 to 2011-12, i.e. pre-AD measure levy period, 21% of non-PUC sales in domestic market was met by direct imports of non-PUC category. For the remaining sales of non-PUC, 46% was met by slitting of PUC and 33% by slitting of PUI. During 2012-13 to POI, i.e. post levy of AD measure, 2% of non-PUC sales in domestic market was met by direct imports of non-PUC category. The remaining 98% was met by slitting of PUI. As regards PUC sales in domestic market during this period, 14% of sales of PUC in domestic market was met by direct imports of PUC and 86% was met by slitting of PUI. It is noted that the PUI imported during this period was sold as 'PUI only' to an extent of 11% and the rest was used for slitting into PUC and/or non-PUC. The Authority therefore in view of the aforesaid utilization pattern of imports considers the slitting operation of PUI to non PUC also as circumvention.

- xiii. M/s GTC Consultants representing M/s Suncity Sheets Pvt. Ltd., M/s Suncity Strips and Tubes P Ltd, M/s Sunrise Stainless Pvt. Ltd and M/s Sunmark Stainless Private Limited have stated that none of the conditions for circumvention are satisfied and that no operations started or increased after or just prior to the AD investigation. Further they have stated that they have never imported PUC since inception of their company and that no charge of circumvention is applicable to them. Further the declaration to be given by importer as stated in disclosure is vague and will frustrate importers as many of them have stated that they slit below 600 mm. The Authority noting these submission holds that determination of change in trade pattern is exporter specific and that thereafter the role of an importer pertains primarily to the change of form of PUI to PUC or non PUC which may lead to the process of circumvention. An importer can therefore cannot be evaluated in isolation. The

recommendation on continuation of existing AD measures are exporter specific with appropriate safeguards to ensure that bona fide importers of PUI who are not circumventing are not saddled with the extension of AD duties on PUI. The legally enforceable undertaking by a genuine importer is a mechanism to ensure such an exemption.

- xiv. The Authority notes the submissions by M/s ELP that decline in imports of PUC post AD measures is natural citing certain examples where Anti-Dumping Duty is levied and imports have come down and that increase in imports of PUI is not on account of circumvention. The Authority holds that if levy of an AD measure is effective and its efficacy is not undermined by phenomena of circumvention the remedy provided by AD imposition will address the intended purpose to create a level of playing field, and imports of dumped goods will naturally decrease. However if imports of different form of goods which can substitute the dumped goods by alterations as per Rule 25 and 26, then the efficacy of AD Duty is undermined. Any genuine increase of PUI is therefore not to be obstructed but only the diversion of PUI to fill the gap of PUC as identified under the ambit of AD Rules 25 and 26 needs to be checked.
- xv. The Authority holds that in cases where AD Duty has reduced imports of dumped subject goods after levy of AD Duty, if the Domestic Industry files a petition with evidence of circumvention phenomena, the Authority is obligated to investigate the same as is the case in the present investigation.
- xvi. As regards practice on anti-circumvention investigation of EU cited by M/s ELP, the Authority holds that it has addressed issues under the relevant AD Rules of the country.
- xvii. The Authority notes the submissions of M/s ELP regarding their major exports being under duty free authorisations and to SEZ units and holds that as these exports do not attract AD Duty, their exports are not within the realm of circumvention and in future also if such kind of exemptions continue, the exporter will not be impacted by extension of AD Duty on PUI intended for use other than PUI.
- xviii. As regards the Outokumpu's export behaviour in duty and no duty period of PUC during POI, the Authority holds that export behaviour during POI was in a state of uncertainty and in a situation where results of Sunset Review were in pipeline, and therefore switching export behaviour for a short duration in a phase of uncertainty does not appear to be a convincing. In this regard the Authority further notes that since M/s Outokumpu did not participate in the Sunset Review, on conclusion of sunset review, it would have been saddled with highest residual duties. Further if PUI exported by an exporter is destined for genuine use as PUI only without slitting, it does not cause any prejudice to the exporter if the concerned importer files an undertaking not to slit the imported PUI.

- xix. The Authority also notes that it has been submitted by many interested parties that there is no evidence of slitting of 200 and 300 series and also many importers have stated that they are not undertaking any slitting. In this regard the Authority notes that if this is the case, there would be no prejudice caused or injustice to such bonafide importers/end users who are not slitting PUI imported from subject countries and are using PUI for genuine PUI purpose only without slitting.
- xx. The Authority notes submissions by various importers that Anti circumvention be not levied for the period when AD Duty has ceased and holds that the earlier period of existing Anti-dumping duty on PUC is not relevant as Authority is recommending extension of existing Anti-dumping duty on PUC to PUI from the date of notification.
- xxi. The Authority notes that while for 400 series the slitting centres have filed response along with the cooperating producer/exporter, in other cases, there is no specific response filed on slitting operations. In case certain series are not being slitted, the importers should not have any reservation to file a legally binding/enforceable undertaking, as filing of an undertaking in no way causes any prejudice to any importer if the imports of PUI by them are genuinely destined for usage as PUI only without any further slitting.
- xxii. As regards submissions of domestic industry for supplementing undertaking by an importer backed by a certificate from the jurisdictional indirect taxation Authority, the Authority holds that it would be appropriate the Ministry of Finance to formulate an appropriate monitoring mechanism to ensure compliance of such an undertaking based on their field structures and resources.
- xxiii. As regards applying the applicable AD Duty during POI on PUC and not that imposed during sunset review on PUC to determine undermining effect, the Authority notes that AD Duty during SSR was changed to ad valorem basis as compared to fixed AD Duty in the earlier years. The weighted average fixed AD Duty on PUC during POI is noted to be higher than the ad valorem duty fixed in sunset review for the subject countries from where there has been no response by producers/exporters. Thus price undermining determined for these countries due to circumvention is further higher. As regards the submissions by M/s ELP Advocates to evaluate undermining of AD Duty on the basis of the applicable AD Duties during POI, the Authority notes that in case of YUSCO only 200 series of PUC was exported during POI on which there was no AD Duty applicable during POI and hence determining undermining effect for this series is trivial. For other two series viz. 300 and 400 as the trade has shifted from PUC to PUI during POI, the AD Duty foregone is the indicator of the extent of price undermining. Therefore the Authority holds that for YUSCO, the price undermining on the basis of applicable AD Duty during POI is positive. As regards revisiting undermining of AD Duty on PUC by exports of M/s

Outokumpu, the same has been recomputed by applying the applicable AD Duties during POI and the same is noted to be positive as also correlated with the response to disclosure filed by M/s Outokumpu. The revised range has been mentioned in the relevant table in the foregoing paras. The Authority based on application of applicable Anti-Dumping Duties during POI, has revised the concerned tables for subject countries which evidences positive and generally higher undermining of AD Duties.

- xxiv. The Authority notes the submissions made by various interested parties including M/s ELP on negative price undercutting reported for certain producers/exporters and subject countries. The Authority in this regard notes that in terms of Rule 26(4), the Authority is required “to determine the existence and effect of any alleged circumvention of the antidumping duty in force”. Section 9A(1A) of the Act also envisages that the act of circumvention should not make the anti-dumping duties so imposed ineffective. In other words, the normal requirements of examining the factors of material injury including price effect to the Domestic Industry are not per se envisaged for the purpose of an anti-circumvention investigation relating to circumvention of anti-dumping duties and the limited obligation is to examine the “effect” of circumvention of AD duties. Therefore, the primary objective of this investigation is to ensure that the interested parties are not negating or diluting the effect of the anti-dumping duties imposed by the Central Government by indulging in any kind of circumvention of duties. Further the Rules relating to circumvention do not have explicit provisions of either Rule 11 or Annexure II for anti-circumvention investigations. Keeping this in view, the Authority is of the view that the large scale shift of volumes to PUI at prices much lower than the effective prices of PUC has rendered the existing Anti-Dumping Duties on PUC largely ineffective.

Conclusions

110. Having examined the contentions of the Domestic Industry and various interested parties and on the basis of the analysis as above, the Authority concludes that:
- i. The Authority notes that imports of PUI i.e. “**Cold-rolled Flat products of stainless steel of width greater than 1250 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged)**”, excluding:
- **Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;**
 - **Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan)”**

have increased post levy of Anti-Dumping Duty.

- ii. The value addition in converting PUI to PUC is less than the prescribed threshold in the Rules.
- iii. The PUI has been exported at dumped prices during the POI.
- iv. The PUI has undermined the existing AD measure on PUC imposed vide Custom Notification No. 14/2010-Customs (ADD) dated 20th February, 2010.

Recommendations

111. The Authority keeping in view the aforesaid, recommends extension of the existing Anti-Dumping Duty on PUC imposed vide Custom Notification No. 61/2015-Customs (ADD) dated 11th December, 2015 on PUI also as tabulated in the duty table in the Custom Notification No. 61/2015-Customs (ADD) dated 11th December, 2015, as enclosed at Annexure 1, subject to following:
- i. The Anti-Dumping Duty on PUI will be applicable from the date of its notification by the Ministry of Finance i.e. Central Government.
 - ii. The validity of the Anti-Dumping Duty on PUI would be co-terminus with the duty on PUC levied through Custom Notification No. 61/2015-Customs (ADD) dated 11th December, 2015.
 - iii. (a) The PUI which is imported by an importer for end use in the same form without slitting (except to the extent of tolerances as mentioned in the Custom Notification No. 61/2015-Customs (ADD) dated 11th December, 2015) will not be liable for payment of the applicable AD Duty as per Custom Notification No. 61/2015-Customs (ADD) dated 11th December, 2015.
(b) Further in case a PUI is slitted into 2 or more PUI only i.e. sizes above 1250 mm (with permissible tolerances), it will not be subjected to any Anti-Dumping Duty (For example a 2600 mm piece slit into two 1300 mm size pieces)
(c) However if PUI is slit for a combination of PUI and below PUI size or below PUI sizes, it will be liable for applicable AD Duty. (For example a 1800 mm piece being slit into a 1400 mm and a 400 mm piece or a 2200 mm piece is slit into 1400 mm and 800 mm or a 1400 mm piece being slit into 600, 500 & 300 mm sizes)
 - iv. For the cases falling under (iii) (a) and/or (iii) (b) above, the importer will give a legally enforceable undertaking to the concerned Custom Authorities.

- v. The Ministry of Finance may put in place an appropriate monitoring mechanism to monitor the genuineness of the usage of the PUI so imported for categories falling under (iii) (a) and/or (iii) (b) above without payment of AD Duty on the basis of aforesaid undertaking by its appropriate agencies.

Further Procedure

- 112. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Dr. Inder Jit Singh
Additional Secretary & Designated Authority

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 11th December, 2015.

Notification No. 61/2015-Customs (ADD)

G.S.R. (E).- – Whereas, the designated authority, *vide* notification No. 15/04/2014-DGAD, dated the 17th April, 2014, published in the Gazette of India, Extraordinary, Part I, Section 1, had initiated a review in the matter of import of Cold Rolled Flat Products of Stainless Steel, (hereinafter referred to as the subject goods), falling under heading 7219 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) and originating in, or exported from the People's Republic of China, Korea, European Union, South Africa, Taiwan (Chinese Taipei), Thailand and United States of America (USA) (hereinafter referred to as the subject countries / territories), imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 14/2010-CUSTOMS, dated the 20th February, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 95(E), dated the 20th February, 2010;

And whereas, the Central Government had extended the anti-dumping duty on the subject goods, originating in or exported from the subject countries / territories upto and inclusive of the 21st April, 2015, *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 20/2014-Customs (ADD), dated the 12th May, 2014, published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary, *vide* number G.S.R 337(E), dated the 12th May, 2014;

And whereas, in the matter of review of anti-dumping duty on import of the subject goods, originating in or exported from the subject countries / territories, the designated authority in its final findings, published *vide* notification No. 15/04/2014-DGAD, dated the 12th October, 2015, in the Gazette of India, Extraordinary, Part I, Section 1, has come to the conclusion that -

- (i). there is continued dumping of the subject goods from the subject countries/territories though the volume of imports has declined after imposition of duties;
- (ii). the performance of the domestic industry has deteriorated in the current injury period due to the impact of the dumped imports from the subject country and diversion of imports to product ranges outside the scope of the product under consideration;
- (iii). the dumping is likely to continue and the performance of the domestic industry is likely to deteriorate, should the present anti-dumping duty is revoked,

and has recommended the imposition of definitive anti-dumping duty on imports of the subject goods originating in, or exported, from the subject countries / territories;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject

goods, the description of which is specified in column (3) of the Table below, the specification of which is specified in column (4), falling under tariff heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries/territories as specified in the corresponding entry in column (5), exported from the countries/territories as specified in the corresponding entry in column (6), produced by the producers as specified in the corresponding entry in column (7), exported by the exporters as specified in the corresponding entry in column (8), and imported into India, an anti-dumping duty at the rate to be worked out as percentage of the landed value of imports of the subject goods as specified in the corresponding entry in column (9) of the said Table, namely:-

Table

Sl. No.	Tariff heading	Description of goods	Specification	Countries/Territories of origin	Countries/Territories of export	Producer	Exporter	% of landed value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	7219	Cold-rolled Flat products of stainless steel	All Grades, All Series except the exclusions as per Note below	People's Republic of China	Any	Any	Any	57.39%
2	-Do-	-Do-	-Do-	Any country other than the subject countries/territories	People's Republic of China	Any	Any	57.39%
3	-Do-	-Do-	-Do-	Korea RP	Korea RP	POSCO	1. Hyundai Corporation 2. Daewoo International Corporation	5.39%
4	-Do-	-Do-	-Do-	Korea RP	Korea RP	Any combination other than above combination		13.44%
5	-Do-	-Do-	-Do-	Korea RP	Any	Any	Any	13.44%
6	-Do-	-Do-	-Do-	Any country other than the subject countries/territories	Korea RP	Any	Any	13.44%
7	-Do-	-Do-	-Do-	Chinese Taipei	Any	Any	Any	15.93%

Sl. No.	Tariff heading	Description of goods	Specification	Countries/Territories of origin	Countries/Territories of export	Producer	Exporter	% of landed value
8	-Do-	-Do-	-Do-	Any country other than the subject countries/territories	Chinese Taipei	Any	Any	15.93%
9	-Do-	-Do-	-Do-	South Africa	South Africa	Columbus Stainless (Pty) Ltd	Columbus Stainless (Pty) Ltd	12.34%
10	-Do-	-Do-	-Do-	South Africa	South Africa	Any combination other than above combination		36.91%
11	-Do-	-Do-	-Do-	South Africa	Any	Any	Any	36.91%
12	-Do-	-Do-	-Do-	Any country other than subject countries/territories	South Africa	Any	Any	36.91%
13	-Do-	-Do-	-Do-	Thailand	Thailand	POSCO Thainox	1. POSCO Thainox 1. Hyundai Corporation	4.58%
14	-Do-	-Do-	-Do-	Thailand	Thailand	Any combination other than above combination		5.39%
15	-Do-	-Do-	-Do-	Thailand	Any	Any	Any	5.39%
16	-Do-	-Do-	-Do-	Any country other than the subject countries/territories	Thailand	Any	Any	5.39%
17	-Do-	-Do-	-Do-	USA	Any	Any	Any	9.47%
18	-Do-	-Do-	-Do-	Any country other than	USA	Any	Any	9.47%

Sl. No.	Tariff heading	Description of goods	Specification	Countries/Territories of origin	Countries/Territories of export	Producer	Exporter	% of landed value
				the subject countries/territories				
19	-Do-	-Do-	-Do-	European Union	European Union	Acerinox Europa SAU, Spain	Acerinox Europa SAU, Spain	29.41%
20	-Do-	-Do-	-Do-	European Union	European Union	Any combination other than the above combination		52.56%
21	-Do-	-Do-	-Do-	European Union	Any	Any	Any	52.56%
22	-Do-	-Do-	-Do-	Any country other than the subject countries/territories	European Union	Any	Any	52.56%

Note

The subject goods include cold-rolled Flat products of stainless steel of width of 600 mm upto 1250 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4 mm (width tolerance of +30 mm for Mill Edged and +4 mm for Trimmed Edged), excluding the following:

- (i) the subject goods of width beyond 1250 mm (plus tolerances);
- (ii) Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;
- (iii) product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).

2. The anti-dumping duty imposed under this notification shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

Explanation .- For the purposes of this notification, "Landed Value" shall be the assessable value as determined under the Customs Act 1962 (52 of 1962) and all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act.

[F. No. 354/87/2009-TRU(Pt.-III)]

(K.KALIMUTHU)

Under Secretary to the Government of India