

To be published in the Gazette of India, Extraordinary, Part 1 Section 1

F.No 6/21/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Director General of Trade Remedies

Date: 18th June 2021

NOTIFICATION

FINAL FINDINGS

OI Case No. - 18/2020

Subject: Final Findings-Anti-dumping investigation concerning imports of Aluminium foil 80 microns and below originating in or exported from China PR, Malaysia, Thailand and Indonesia.

F.No. 06/21/2020-DGTR: Having regards to the Customs Tariff Act 1975, as amended from time to time 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 thereof,.

A. BACKGROUND OF THE CASE

1. Whereas M/s Hindalco Industries Ltd., M/s Raviraj Foils Ltd., and M/s Jindal India Ltd., (hereinafter referred to as the 'applicants' or 'applicant companies' or "domestic industry") have jointly filed a duly substantiated application before the Designated Authority, in accordance with the Act and the Rules, alleging dumping of 'Aluminium Foil 80 Microns and below' (hereinafter referred to as subject goods or product under consideration or PUC), originating in or exported from China PR, Malaysia, Indonesia, and Thailand (hereinafter referred to as the subject countries), alleging dumping of subject goods and consequent injury to the domestic industry and requested for levy of anti-dumping duty on the imports of the subject goods from the subject countries.
2. And whereas, the Authority on the basis of sufficient evidence submitted by the applicants to justify initiation of investigation issued a public notice vide Notification No. 06/21/2020 - DGTR dated 20th June 2020, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the Rule, to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

B. PROCEDURE

3. Procedure described herein below has been followed with regard to the subject investigation:
 - a. The Authority notified the Embassies/Representatives of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
 - b. The Authority issued a public notice dated 20th June 2020, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from the subject countries.
 - c. The Authority sent a copy of the initiation notification to the embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users in India, other Indian producers, and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 30 days of the initiation notification.
 - d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
 - e. The Embassy of the subject countries in India was also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from China PR, Indonesia, Malaysia, and Thailand.
 - f. The Authority sent Exporter's Questionnaire to elicit relevant information to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the Rules:
 - i. Dingsheng Aluminium Industries Hong Kong Trading, China
 - ii. Dong Guan Kai Yuan Plastication, China
 - iii. Hangzhou Dingsheng Imp Exp Co Ltd, China
 - iv. Henan Mingtai Technology Development Co Ltd, China
 - v. Jiangsu Dingsheng New Materials Joint-Stock Co. Ltd, China
 - vi. Jiangsu Fengyuan Aluminium Master Technology Co Ltd, China
 - vii. Jiangsu Zhongji Lamination Material Co Limited, China
 - viii. Kunshan Aluminium Co Luoyang Longding Aluminium Industries Co Ltd, China
 - ix. Peixian Fengyuan Import and Export Trade Co. Ltd., China
 - x. Zhengzhou Mingtai Industry Co, Ltd, China
 - xi. PT Alumindo Light Metal, Indonesia
 - xii. PT Starmas Intl Aluminium Industry, Indonesia
 - xiii. PT Beesco Indonesia
 - xiv. PT Intibumi Alumindotama Industry, Indonesia
 - xv. Ezy Metal Enterprise, Malaysia

- xvi. MH Megah Maju Enterprise, Malaysia
- xvii. Modal Gagasan Plt, Malaysia
- xviii. Uacj Foil Malaysia SDN BHD, Malaysia
- xix. Loftan Thailand Co Ltd, Malaysia
- xx. Thai Ding Li New Materials Co, Malaysia
- xxi. Propack Pacific Pte Ltd, Malaysia
- xxii. Toyal Thailand Co Ltd, Malaysia
- xxiii. Varopakorn Public Company Ltd, Malaysia

g. In response, the following producers/exporters from the subject countries filed exporter's questionnaire in the prescribed format:

- i. Thai Ding Li New Materials Co., Ltd
- ii. Dingheng New Material Co., Ltd
- iii. Hangzhou Dingsheng Import and Export Co Ltd
- iv. Dingsheng Aluminium Industries (Hong Kong) Trading co Ltd
- v. Jinagshu Dingsheng New Material Joint Stock Co Ltd
- vi. Shangqiu Yangguang Aluminium Material Co Ltd
- vii. Kunshan Aluminium Co Jiangsu Zhongji Lamination Materials Co. Ltd.
- viii. Jiangsu Zhongji Lamination Material Co (HK) Ltd
- ix. Shanghai Shenhua Aluminium Foil Co Ltd
- x. Varopakorn Public Company Limited
- xi. Loftan (Thailand) Co., Ltd.
- xii. Hangzhou Five Star Aluminium Co Ltd

h. The Authority sent questionnaires to the following known importers/users of subject goods in India calling for necessary information, in accordance with Rule 6(4) of the Rules:

- i. Indomax Industries
- ii. Jil Pack (Importer)
- iii. Dadra Eximp Private Limited
- iv. Samsung India Electronic Pvt Ltd
- v. Paharpur 3P Private Limited
- vi. The Indian Flexible Packaging and Folding Carton Manufacturers Association (IFCA)
- vii. Essel Propack Ltd
- viii. Huhtamaki PPL Ltd
- ix. Uflex Ltd
- x. Silver Foils Pvt. Ltd.
- xi. Rockdude Impex Private Limited
- xii. Paramount Universal Private Limited
- xiii. Veeram Natural Products Pvt. Ltd.
- xiv. Graco Foils
- xv. Dalfo Flexipack Pvt. Ltd.
- xvi. Nagreeka Indcon Products (P) Ltd

- xvii. Unistone Panels Pvt Ltd
- xviii. G M Alloys Pvt. Ltd.
- xix. Jewel Packaging Pvt. Ltd.
- xx. Blue Star Ltd.
- xxi. Banco Products (India) Ltd.
- xxii. R S Foils Pvt. Ltd.
- xxiii. Macleods Pharmaceuticals Ltd.
- xxiv. Dalal Packaging
- xxv. Betts India Private Limited
- xxvi. Cadbury India Limited
- xxvii. Ansa Print Pack Pvt. Ltd.
- xxviii. Green Pack Foils Pvt. Ltd.
- xxix. Glaxosmithkline Pharmaceuticals Ltd.
- xxx. Hitachi Home & Life Solutions (India) Ltd.
- xxxi. Jhaveri Flexi Laminate Pvt. Ltd.
- xxxii. Jain Packaging Pvt. Ltd.
- xxxiii. Cadilla Pharmaceuticals Ltd.
- xxxiv. Pfizer Limited
- xxxv. K A Alu Foil
- xxxvi. Nipra Industries Pvt. Ltd.
- xxxvii. Positive Packaging Industries Ltd.
- xxxviii. The Paper Products Ltd.
- xxxix. Polycom Associates
 - xl. Supermak Industries
 - xli. Rainbow Plastics India Ltd.
 - xlvi. Ranbaxy Laboratories Ltd.
 - xliii. Koch-Glitsch India Limited
 - xliv. Swastik Flexipack Pvt. Ltd.
 - xliv. Alutop Co. Ltd.
 - xlvi. Hindustan Latex Limited
 - xlvi. Danna Laminates
 - xlvi. Dr. Reddy's Laboratories Ltd.
 - xlvi. Technova Tapes India Pvt. Ltd.
 - l. Foilpack industries
 - li. Climate Systems India Ltd.
- i. In response following importers filed importer questionnaire response:
 - i. Indomax Industries
 - ii. Jill Pack
 - iii. Dadra Eximp Private Limited
 - iv. Unistone Panels Pvt Ltd
- j. Following users filed user questionnaire response:
 - i. Samsung India Electronic Pvt Ltd

- ii. Paharpur 3P Private Limited
 - iii. The Indian Flexible Packaging and Folding Carton Manufacturers Association (IFCA)
 - iv. Essel Propack Ltd
 - v. Huhtamaki PPL Ltd
 - vi. Uflex Ltd
 - vii. Silver Foils Pvt. Ltd.
 - viii. Rockdude Impex Private Limited
 - ix. Paramount Universal Private Limited
 - x. Veeram Natural Products Pvt. Ltd.
 - xi. Graco Foils
 - xii. Dalfo Flexipack Pvt. Ltd.
 - xiii. Nagreeka Indcon Products (P) Ltd
- k. The Authority, upon request, granted extension till 15th August, 2020 to the exporters to file the questionnaire response and another extension was granted till 22nd August, 2020.
- l. The Authority directed the parties to share the non-confidential version of their response with the list of interested parties. The parties exchanged the non-confidential version of the response with other interested parties through email.
- m. Further information was sought from the applicants and other interested parties to the extent deemed necessary. Verification of the information provided by applicant domestic Industry by way of table study, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of the Final Findings.
- n. Investigation was conducted on for the period from 01st April 2019 to 31st March 2020 (12 months) (hereinafter referred to as the 'Period of Investigation' or 'POI'). The injury analysis covered the period from 01st April 2016 – 31st March 2017, 01st April 2017 – 31st March 2018, 01st April 2018 – 31st March 2019 and the POI.
- o. Request was made to the Directorate General of Commercial intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has, relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.
- p. The Non-injurious Price (NIP) based on the optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-dumping Rules has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- q. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their submissions orally in the oral hearing held on 24th February 2021 which was attended by various parties. The interested parties who presented their views at the oral hearing were advised to file written submissions of

- their views expressed orally. The interested parties were also provided opportunity to offer rejoinder submissions to the views expressed by opposing interested parties.
- r. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this Final Findings.
 - s. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
 - t. A Disclosure Statement containing the essential facts in this investigation which would have been formed the basis of the Final Findings was issued to the interested parties on 07.06.2021 and the interested parties were allowed time up to 14.06.2021 to comment on the same. The comments on Disclosure Statement received from the interested parties have been considered, to the extent found relevant, in this Final Findings Notification.
 - u. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
 - v. ‘***’ in this Final Findings represents information furnished by an interested party/any other party on a confidential basis and so considered by the Authority under the Rules.
 - w. The exchange rate for the POI has been taken by the Authority as 1 US\$ = Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 Submissions made by the Domestic industry

- 4. The following are the submission made by the domestic industry with regard to product under consideration and like article:
 - i. The product under consideration in the present petition is “Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)” excluding the following:
 - a. Aluminium Foil of thickness ranging from 5.5 micron to 80 microns originating from China PR.
 - b. Alu Alu Laminate: Alu Alu Laminate of 40 - 50 mic in AA8079 & AA8021, is a multi-layered opaque laminate where Aluminium foil and is backed with plastic film on both side with adhesives; for use in packing capsules/tablets.
 - c. Ultra Light Gauge Converted: Aluminium foil having thickness of 5.56 mic to 7 micron which is backed with kraft paper & scrim, or glass cloth, whether plain or

printed for use in insulation, spices packing, thermal fluid lines covering and tea bags application.

- d. Aluminium Foil Composite: Aluminium foil laminated with or backed with Kraft paper and glass scrim or glass cloth with or without poly ethylene, whether printed or not printed. Aluminium foil laminated with or backed with Kraft paper however is within the scope of the product under consideration and proposed measures.
 - e. Aluminium Foil for capacitors width below 500 mm: Aluminum foil for capacitors is an Aluminum foil of 5 micron gauge with width below 500 mm 99.35% purity, for use in electrical equipment such as radios, televisions, telephones, computers, microwave ovens, electrical welders, magnetos, electronic testing equipment, copy machines, air conditioners, automobiles, fluorescent lights, mercury vapour street lamps, power transmission equipment, electric motors, control units, and similar articles.
 - f. Etched or formed Aluminium Foils: Aluminium Foil meant to be used in the manufacture of Electrolytic Capacitor.
 - g. Aluminium composite panel: Aluminium composite panel is a non-aluminium core (often PE) bonded between two thin layers of aluminium, for use in facade cladding and signage.
 - h. Clad with compatible non clad Aluminium Foil: A corrosion-resistant Aluminium sheet formed from Aluminium surface layers metallurgically bonded to high-strength Aluminium alloy core material for use in engine cooling and air conditioner systems in automotive industry, such as radiator, condenser, evaporator, intercooler, oil cooler and heater.
 - i. Aluminium Foil for beer bottle: Aluminium Foil of 10.5 micron with rough surface and perforated whether printed or not; to be used in beer bottle.
 - j. Aluminium-Manganese-Silicon based and/or Clad Aluminium-Manganese-Silicon based alloys, whether clad or unclad: with post brazing yield strength greater than 35 MPA, falling under tariff heading 7607 for use in heat exchangers including radiators, charge air coolers, condensers, oil coolers, heater cores, evaporators, heat ventilation and air conditioning (HVAC) systems and parts thereof.
- ii. The product under consideration is classified under subheading 7607 of the Customs Tariff Act 760711, 76071110, 76071190, 760719, 76071910, 760719 91, 760719 92, 760719 93, 760719 94, 760719 95, 760719 99, 760720, 76072010 and 76072090. The customs classification is indicative only and is not binding on the scope of the product under consideration.

PCN

- iii. The Applicants proposed for the adoption of Product Control Numbers (PCNs) on two broad categories as bare foil and converted foil for fair comparison between different types of products. Bare foil is plain foil and converted foil is backed with, paper, kraft, polythene etc.

- iv. Exclusion requests- With regard to exclusion requests made by the interested parties, the domestic industry has submitted as follows:

Battery Foil

- a. The domestic industry is capable of manufacturing battery foil and has been regularly supplying the same to esteemed customers such as BHEL. Documentary proof of the same was enclosed with the written submissions. Hindalco's Al LiB Battery foil has been tested & qualified against highest standards of foil performance as per Space applications (VSSC/ISRO, BHEL) & also the auto applications. Hindalco is manufacturing Aluminium battery foils in India and actively partnering LiB manufacturing revolution for EVs / various other applications.
- b. The company is working actively with all battery manufacturers, who are setting up plants in India under the guidance of NITI Aayog to fulfil the vision of "Aatmanirbhar Bharat".

Color Coated Aluminium Foil

- c. As stated during the oral hearing and the written submissions, the domestic industry agrees for exclusion of color coated aluminium foil.

Aluminium Foil below 5.5 micron

- d. The product scope in the previous investigation did not include aluminium foil below 5.5 micron because domestic industry could not produce the same. Jindal has already started commercial production of Aluminium foil below 5.5 micron. Jindal has already provided invoices for merchant sales for below 5.5 micron and production capability of Jindal cannot be doubted.
- e. The fact that Hindalco and Raviraj do not produce Aluminium foil below 5.5 micron does not mean that the below 5.5 micron is not produced by the domestic industry. It is not necessary that all the producers should be able to make all kinds of product.
- f. As far as product not being shown on the website is not a criteria for exclusion of any product and that does not mean that the product is not being manufactured by the domestic industry.
- g. Just because Uflex does not know about Jindal producing aluminium foil below 5.5. micron does not mean the product is not being manufactured. The applicants have filed detailed data before the authority and the authority has verified the same. The applicants will provide any other information needed to be submitted to aid the complete verification process.

SRC Foil

- h. SRC foil is not a new product in the market and Hindalco has been producing the same since ages. They are producing it in sufficient quantities. The applicants are producers of the subject goods and their business involves selling subject goods. Total imports of SRC is almost 7,290 MT in the POI and demand for SRC is much more than that in the market and that demand is being fulfilled by the domestic industry only.

Adhesive Tape

- i. The domestic industry does not currently manufacture adhesive tape. Even though the domestic industry can produce this product type, the domestic industry has no objection to exclusion of the same from the product scope of the present investigation, considering that the Designated Authority has applied a test of actual production as the criteria. Authority has applied a test of actual production as the criteria.
- v. There is neither a prescription nor a proscription for defining a product under consideration. The WTO has held that there is no legal mandate with regard to what shall be product under consideration. Analysis of past findings of various investigating authorities shall show that there is no legal requirement of (a) internal homogeneity within the product under consideration, (b) inter-se substitutability of various types of the product under consideration.
- vi. The WTO Panel report in the matter of Farmed Salmon held that "any enterprise that produced any form of the like product should be considered, at least in the first instance, a "producer" of the like product, and as such, part of the domestic industry." The Panel did, however, envisaged some circumstances which may not be sufficient to consider an entity as a "producer" of the product however such circumstances are case specific. While it is appreciated that any activity cannot be treated as "production", the "sufficient activity" needs to be adjudged on an individual case basis. Substantial activity takes place from converting FRP to Aluminium foil.
- vii. The Authority had considered in the case of SDH transmission that if substantial transformation is made to raw material to be come a final product, then such activity is considered as "production". The producers, namely, Raviraj and Jindal, are carrying out activities which result, in a substantial transformation of the inputs, i.e. Aluminium Foil Stock into a distinct and different final product, i.e., Aluminium Foil.
- viii. The facts of the cases, *Oxo Alcohols Industries' Association vs Designated Authority [2001 (130) ELT 58]*, *Cold Rolled Flat Products of Stainless Steel from China PR, Korea, the European Union, South Africa, Chinese Taipei, Thailand and the United States of America*, and *Anti-dumping investigation concerning imports of Hot Rolled Flat Products of Stainless Steel of ASTM Grade 304 with all its variants, originating in, or exported from European Union, Korea RP, South Africa, Taiwan and USA* cited by the other interested parties are different than the present case. The goods produced by the domestic industry cannot be excluded from the product scope. Products not being manufactured by the domestic industry has already been excluded from the product scope. The party has referred to the case without even showing how it applies to the present case.

Quality Issue

- ix. It is denied that domestic foil is not a like product to imported foil owing to high number of pinhole counts in the former. The exported goods also have large number of pinholes and there is no BIS for how many holes should be there in the foil. This issue was raised in the previous investigation as well and the Authority was of the view that the applicants are selling the subject goods as per the government prescribed standards only.

- x. The users/importers, in their response have not identified any technical/ physical difference between the imported and domestic goods. Contrary to that, the domestic industry has received appreciation and quality approval certificates from the customers. Quality is not a criterion to treat a product as dislike article under Anti-dumping law.
- xi. Difference in quality is not a sufficient justification for exclusion of a product as has been held by the Designated Authority and upheld by the Hon'ble CESTAT in the matter of DSM Idemitsu Limited Versus Designated Authority.
- xii. As far as the rejection rate of domestic industry is concerned, it has come down to a significant level. The rejection rate of domestic industry is low and the statements made by the users/ importers are exaggerated.
- xiii. Hindalco produces all kinds of foil which are used in either food packaging or pharmaceutical or high end battery cars. Even if Hindalco and Raviraj do not produce the same, it is sufficient that one of the applicants produces the subject goods.
- xiv. Hindalco produces SRC and house foil more than their captive consumption and cater to the domestic market. SRC and House foil is being produced by the other Indian producers also. There are other producers in the domestic market who produce SRC and house foil, other than Hindalco. The Indian capacity for SRC and house foil is sufficient to cater to the domestic demand. It is not true that Hindalco will have a dominating position.

C.2 Submissions made by the other interested parties

5. The following are the submission made by the other interested parties with regard to product under consideration and like article:
 - i. A lot of emphasis is put on the fact that there are several process involved in producing aluminium foil from foil stock and it is done with an intention to protect import of foil stock. Foil stock is Aluminium foil of higher micron, if foil stock is excluded from the product scope, the entire PUC can be vitiated. Petitioners cannot ask for exclusion of certain goods being imported. Foil stock is a semi-finished stage of the PUC.
 - ii. The Authority has initiated an anti-dumping investigation concerning imports of flat rolled products. Raviraj and Jindal India who are petitioners in the earlier investigation as well as present investigation along with Hindalco, have been excluded from this case since they are importers of Foil Stock from the subject country. In light of this, the Authority should not have initiated the present investigation.
 - iii. The Authority in final finding in "Anti-dumping investigation concerning imports of Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel originating in or exported from China PR"; Anti-dumping investigation concerning imports of "Hot-Rolled flat products of alloy or non-alloy steel" originating in or exported from China PR, Japan, Korea RP, Russia, Brazil and Indonesia, held that processors cannot be producers.
 - iv. USITC in Aluminium Foil from China, Investigation Nos. 701- TA-570 and 731-TA-1346 (Final) and European Commission Regulation (EU) 2015/1081 of 3 July 2015 imposing a provisional anti-dumping duty on imports of certain Aluminium foils

- originating in Russia, concluded that other producers engaged only in processing activities did not qualify to be considered as domestic industry.
- v. The petitioners have deliberately and mischievously explained the production process of the PUC from the intermediate stage of rolling the foil stock to foil which is essentially a conversion or down-gauging operation and does not qualify as manufacturing activity. Only manufactured products can be included as per Para 3.10 and 3.14 of the Manual of DGTR.
 - vi. Though the subject good are classified under Chapter 76 of the Customs Tariff Act, 1975, it is merely indicative and for the Anti-Dumping duty to be levied the same must be recommended in accordance with product description and usage.
 - vii. Exclusion request- Following exclusions have been requested by the opposing interested parties:
 - a. Battery Foil- None of the Indian producers were able to develop Battery foils as per the technical and mechanical standards mentioned by UFO/UFOM. Battery foil are specialized foils which cater to the needs of Li-Ion battery manufacturers around the world are used in the manufacture of high-performance rechargeable Li-Ion batteries, primarily used for electric vehicles and certain other electronic appliances such as smartphones, laptops etc. No Indian producers manufactures foils of 15 microns thickness with quality/specifications required for Battery foils which distinguishes UFOM/UFO from the PUC.
 - b. No technical specification for Battery foil sold has been provided the petitioners. UACJ Foil Malaysia Sdn Bhd has provided the mechanical and chemical specifications of 'Battery Foils' produced by the company and compared the same with foils manufactured by the Petitioners. The 'battery foils' manufactured by UACJ Foil Malaysia Sdn Bhd and foils manufactured by Petitioners are not like articles.
 - c. Aluminium foil below 5.5 micron- Hindalco and Raviraj does not produce Aluminium Foils below 5.5 microns and the same has been stated on their website. PCN wise data submitted by the applicants show that ULG below 5.5 production of two companies, i.e. Hindalco and Raviraj is Nil. Jindal has also produced some quantities only in the POI. Thus, unless it is proved that they have produced and sold commercial quantity of ULG below 5.5 micron Aluminium foil, the same should be excluded from the product scope. Jindal's ability to produce commercial quantities of the PUC during the POI is doubtful. Hence, Aluminium Foil of less than 5.5 microns was imported into India during the investigation period in significant quantities.
 - d. The Authority must call for specific capacity for AL Foil Below 5.5 Mic and their actual production and sales during the POI and the same should be compared with demand for the product in the country during the POI.
 - e. Aluminium Foil Adhesive Tapes- Adhesive tapes are value added products which has Aluminium Foil as one of their constituent materials, which are specifically use for binding cluster pipes in refrigerators and to enhance heat dissipation. The

domestic industry does not produce such Adhesive tapes, which alone suffices to exclude this product from the purview of the PUC.

- f. House foils and Semi Rigid Container (SRC)- House foil and SRC foils should be excluded from the scope of PUC as they are being produced in insufficient volumes and supplied in some small volumes in the market after depriving the users from adequate material. The producers are not focussed on manufacturing these two types of foil. They are being sold in some quantities in the domestic market so as to seek inclusion of these types into the scope of PUC. Jindal Aluminium Ltd. intimated 2 buyers about its inability to supply SRC at the required quantity due to (a) overbooking of capacity and (b) supply issues due to fire at their factory. Authority must determine product exclusions as per the recent matter of DMAC.
 - g. In India 2 types(thickness) of HHF are mainly sold, one is 10.5 Micron, second is 18 micron. First one having 90% of the market share. 18 micron some are making, 10.5 nobody is making. Reason being rolling to 10.5 micron takes too much time and production is very less. So, if a plant has 500 tonne capacity for SRC, it can only produce 100 tonnes of HHF if run at full capacity. Imposing ADD on it will create a severe scarcity and hamper consumers directly.
 - h. After application of ADD, it would be impossible to compete with the dominant player, Hindalco, in the downstream market. Hence, exclusion of House and SRC foil from the scope of PUC is essential to avoid this situation. Particularly, Hindalco has been manufacturing SRC but that is only for Captive Consumption and during POI did not sell any SRC material in India to any manufacture of SRC. It would play a monopoly role after ADD is imposed as it would supply material to Alchaw Metprint Ltd. who does Job Work for it.
 - i. Color coated Aluminium foil- The domestic industry does not manufacture color coated aluminium foil. This fact was accepted by them during the oral hearing also. In the earlier ADD investigation, the Hon'ble CESTAT upheld the representation by Unistone and Indomax and upheld that color coated aluminium foil is not being produced by the domestic industry, thus should be excluded from the product scope. Accordingly, color coated aluminium foil should be excluded from the present investigation as well.
- viii. DGTR Manual at para 3.10 notes that, mere competence without any production or merchant sales may not be sufficient to include an item in the definition of the PUC. The PUC should include those items, which are produced and commercially sold in the domestic market by the respective domestic industry.
 - ix. The Hon'ble CESTAT in *Oxo Alcohols Industries' Association vs Designated Authority [2001 (130) ELT 58]* held that if the products are not manufactured by the domestic industry, the import of same product cannot cause injury to domestic industry and therefore such product should be excluded from the levy of anti-dumping duty.
 - x. Reliance was also made on various Anti-Dumping investigations which included imports of *Cold Rolled Flat Products of Stainless Steel from the Peoples Republic of China, Republic of Korea, the European Union, South Africa, Chinese Taipei, Thailand and the United States of America*, and Anti-dumping investigation concerning imports

of Hot Rolled Flat Products of Stainless Steel of ASTM Grade 304 with all its variants, originating in, or exported from European Union, Korea RP, South Africa, Taiwan and USA.

- xi. The import of 5.3 micron foil down gauges the composite laminated structure, reduces carbon footprint and consumption of plastics; hence, is the need of the industry. Authority is requested to direct the petitioners to submit the details of their production of foils below 5.5 micron for verification as the largest user, Uflex, has no information regarding supply of the same.
Quality Issue
- xii. 6.3 micron foil is used for flexible packaging laminate as a barrier material to protect food contamination. The product produced by domestic industry is not like article to the imported product for the reason of having high number of pinhole count. Due to this quality issue, even after imposition of duty, 6.3 micron foil would be imported and should be excluded from product scope.
- xiii. The Authority should consider quality issues, like air pockets in foil, flatness, oxidation etc. with the users while determining the product scope. In another ADD matter of DMAC, imports of a specific type were allowed as Indian producers were not supplying such specific type required by the specific segment of users.
- xiv. Foil supplied by the domestic industry has a lot of quality issue like air pocket in the foil roll, flatness, free flow, oxidation, contamination of the foil etc. and due to that the rejection rate of the domestic industry is very high. The Authority kindly decide the product scope base on the quality and quality supplied by the domestic industry.
- xv. Authority may have an objective examination of actual imports, especially in case of exclusions while defining PUC. The non-confidential version has no information of transaction-wise import data for excluding the products leading to withholding crucial information.
- xvi. Authority may require relevant test reports and videos of testing done on domestic products to establish the facts that the goods are not suitable for their specific uses and have a range of quality issues like pin-holes, thickness, not capable of working on high speed machines.

C.3 Examination by the Authority

- 6. Number of interested parties has raised number of issues with regard to the scope of the product under consideration in the present case. Interested parties have sought exclusion of a large number of product types from the scope of PUC on the grounds that the domestic industry is not capable of producing the product type or supply the product in the desired product type, or the quality of the product produced and supplied by the domestic industry is different. The arguments of interested parties have been examined after calling relevant information from the parties and examine the same during the desk verification.
- 7. The product under consideration as noted in the initiation notification is "Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing

materials of a thickness of 80 micron and below (with permissible tolerances)" excluding the following:

- i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.
 - ii. Alu Alu Laminate- Alu Alu Laminate of 40 - 50 mic in AA8079 & AA8021, is a multi-layered opaque laminate where Aluminium foil and is backed with plastic film on both side with adhesives; for use in packing capsules/tablets.
 - iii. Ultra Light Gauge Converted- Ultra Light Gauge Converted is an Aluminium foil having thickness of 5.5 6 mic to 7 mic which and is backed with kraft paper & scrim, or glass cloth, whether plain or printed for use in insulation, spices packing, thermal fluid lines covering and tea bags application.
 - iv. Aluminium Foil Composite- Aluminium foil laminated with or backed with Kraft paper and glass scrim or glass cloth with or without poly ethylene, whether printed or not printed. Aluminium foil laminated with or backed with Kraft paper however is within the scope of the product under consideration and proposed measures.
 - v. Aluminum foil for capacitors width below 500 mm- Aluminum foil for capacitors is an Aluminum foil of 5 micron gauge with width below 500 mm 99.35% purity, for use in electrical equipment such as radios, televisions, telephones, computers, microwave ovens, electrical welders, magnetos, electronic testing equipment, copy machines, air conditioners, automobiles, fluorescent lights, mercury vapour street lamps, power transmission equipment, electric motors, control units, and similar articles.
 - vi. Etched or formed Aluminium Foils- Etched or formed Aluminium Foils is Aluminium Foil meant to be used in the manufacture of Electrolytic Capacitor.
 - vii. Aluminium composite panel- Aluminium composite panel is a non-aluminium core (often PE) bonded between two thin layers of aluminium, for use in facade cladding and signage.
 - viii. Clad with compatible non clad Aluminium Foil- Clad with compatible non clad Aluminium Foil is a corrosion-resistant Aluminium sheet formed from Aluminium surface layers metallurgically bonded to high-strength Aluminium alloy core material for use in engine cooling and air conditioner systems in automotive industry; such as radiator, condenser, evaporator, intercooler, oil cooler and heater.
 - ix. Aluminium Foil for beer bottle- Aluminium Foil of 10.5 micron with rough surface and perforated whether printed or not; to be used in beer bottle.
 - x. Aluminium- Manganese- Silicon based and/ or clad Aluminium- Manganese- Silicon based alloys, whether clad or unclad- with post brazing yield strength greater than 35 MPA, falling under tariff heading 7607 for use in heat exchangers including radiators, charge air coolers, condensers, oil coolers, heater cores, evaporators, heat ventilation and air conditioning (HVAC) systems and parts thereof.
8. The product under consideration is classified under subheading 7607 of the Customs Tariff Act 760711, 76071110 76071190, 760719, 76071910, 760719 91, 760719 92, 760719 93,

760719 94, 760719 95, 760719 99, 760720, 76072010 and 76072090. The customs classification is indicative only and is not binding on the scope of the product under consideration.

9. The Authority notes that the subject goods are being imported in various microns. The applicants had proposed product control numbers (PCN) in order to make PCN to PCN comparison. Considering the parameters that impact the associated cost and prices of the product, and after taking into account the submissions made by the various interested parties, the Authority notified a PCN methodology vide communication no 06/21/2020-DGTR, dated 14th September, 2020. The PCN methodology adopted in the present investigation is as follows:

Sn	Type of Foil	Micron Range	Bare/converted
1.	Alu Alu Stock	45-60 micron	
2.	Home Foil	9 -18 micron	
3.	Light Gauge (LG)	7-18 micron	
4.	Medium Gauge (MG)	20-60 micron	
5.	Semi Rigid Container (SRC)	33 - 80 micron	
6.	Ultra Light Gauge Bare	5.5 - <7 micron	
7.	Ultra Light Gauge Bare	Below 5.5 micron	
8.	Cigarette Foil	Below 7 micron	Bare
9.	SRC Converted	33 - 80 micron	Converted
10.	Medium Gauge (MG) Converted	20-60 micron	
11.	Home Foil Converted	9 -18 micron	
12.	Light Gauge (LG) Converted	7-18 micron	

10. The product under consideration is manufactured from foil stock. Foil stock is flat rolled aluminium (FRP) and is produced by rolling ingot. In other words, Aluminium Flat Rolled products (FRP) are rolled further into foils. The essential difference between the two is in thickness. The FRP have thickness greater than 80 microns. It may be rolled into foil or consumed as it, or printed/laminated (also called backed) with paper, board, plastic or other packaging materials. Aluminium foils may be printed either by the producers or by converters or by end consumers. A significant investment is involved to roll FRP into foils.
11. With regard to the contention that petitioners have misled the Authority by explaining that Aluminium foil is produced from foil stock/FRP directly, it is noted that this is the settled principle and has been recognized by the Authority in the past in previous anti-dumping investigation against China where the product scope was aluminum foil 5.5 to 80 micron. The Authority had applied the same principle in the safeguard investigation which was concluded in 2009. In the present case Aluminium foil is the product scope and the input material for the same is FRP. Thus, applicants are free to import input material and that does not interfere with the eligibility of the producers.
12. The product under consideration in the present investigation is "Aluminium Foil" and the domestic producer of Aluminium foil is the manufacture of the like article. The production activity needs to be seen in this context. For instance the Authority in the anti dumping investigation concerning imports of Stainless steel flat products, where hot rolled and cold

rolled stainless steel products were part of the scope of the PUC, did not consider producers of cold rolled producers as producers of stainless steel flat products as, such producers were either importing hot rolled flat products or were purchasing the same from the other domestic producers, it could lead to double counting of production and the value addition was less. At the same time, the Authority in the Cold Rolled Flat products case, which concluded its sunset review in January 2021, considered producers in unorganized sector (who were manufacturing from the stage of Hot rolled) as domestic producers. Thus, producer needs to be defined based on the product defined in the investigation. It is not important that all the producers need to be backward integrated.

13. The product under consideration is Aluminum foil having thickness of 80 microns or below. Since the part of the product is already attracting duty from China, the product already attracting duty has been excluded for the purpose of present investigation.
14. Different types of Aluminum foil are comparable in term of essential product characteristics including physical, production technology, manufacturing process, plant & equipment, functions & usage, etc. While different aluminum foils have different specific end applications, it is noted that all aluminum foil essentially performs the same function. Different categories/types are intended to meet different end-user requirements. The design of the aluminum foil differs as per the end -use requirements. However, the operations and machinery necessary for manufacturing are essentially the same for producing different kinds of aluminum foil. Different types of aluminum foils constitute one article and it would not be appropriate to exclude product types, if the domestic industry is manufacturing the like article to the product being imported into India.
15. The Authority considered the exclusion requests of the interested parties. The opposing interested parties have requested for the following exclusions and the Authority has examined all the exclusion request hereinunder:
 - i. Battery Foil
 - ii. Aluminium foil below 5.5 micron
 - iii. House foil and SRC foil
 - iv. Adhesive tapes
 - v. Color coated Aluminium foil
- i. Battery foils – As regards exclusion of battery foil, it is noted that the interested parties have claimed that battery foil is a specialised kind of foil and the domestic industry is unable to manufacture battery foil in the desired specification. However, the domestic industry has submitted documentary evidence to show production and sale of battery foil. Hindalco has submitted that its Battery foil has been tested & qualified against highest standards of foil performance. Hindalco is manufacturing Aluminium battery foils in India and actively partnering LiB manufacturing revolution for EVs / various other applications.

A producer/exporter which has not exported the subject goods to India during the POI has sought exclusion of battery foils for Lithium Ion batteries used in manufacturing of batteries for electric vehicles. The producer agrees that presently there is no production of electric vehicle batteries in India. Consequently, there was no demand for such battery foils in India during POI. The domestic industry has submitted invoices of their sales of such battery foils to BHEL which was utilized in space applications having a higher technical threshold. This establishes the capability of the domestic industry to manufacture the product in case of demand. Therefore, the Authority does not to exclude such a product from the scope of PUC.

- ii. Aluminium foil below 5.5 micron - As regards the exclusion of Aluminium foil below 5.5 microns, it is seen that Jindal India had started manufacturing Aluminium foil below 5.5 micron since 2019 and they sold their first commercial quantity in December 2019. Jindal has also submitted various invoices indicating the total commercial quantity sold during the period of investigation. Thus, the Authority has verified that Jindal India has produced and sold commercial quantity of Aluminium foil below 5.5 microns, during the period of investigation. As regards the fact that Hindalco and Raviraj are not producing ULG below 5.5 micron, it is seen that it is not necessary that each and every constituents of the domestic industry should produce and supply each and every type of product. In fact, in a situation where a large number of producers are producing and selling a product which has a large number of product types, it is quite natural that every producer tends to focus on some product types and none of the producers could wish to produce entirety of the product range. Thus, where the domestic industry is already manufacturing a type of subject goods, that cannot be excluded from the scope of product under investigation. Accordingly, the request for exclusion of Aluminium foil below 5.5 micron cannot be accepted.
- iii. SRC and House foil - As regards exclusion of SRC and House foil, it is noted that the product types are imported into India and the domestic industry is producing and supplying the like article to these product type. In fact, SRC and house foil is being manufactured by all three petitioning companies and they have submitted invoices to substantiate the same. The other interested parties have not given any legal or factual basis for justifying exclusion of these two types of foil from the product scope. The opposing interested parties have contended that since the domestic industry is not producing these types in sufficient quantities and are not focussed on producing these types, it should be excluded from the product scope. It is seen that the opposing interested parties have not submitted any evidence on record to show that the domestic industry is not capable of producing these types of subject goods and is not selling in the domestic market. It is seen that the domestic industry is capable of producing these types of aluminium foil and also supplying these types to the domestic market. Further, in any case, it is noted that this kind of product type is produced and supplied by more than one producer. In case possible demand supply gap does not justify exclusion of particular product type.

- iv. Aluminium Foil Adhesive Tapes - Aluminium Foil Adhesive Tapes - As regards exclusion of adhesive tapes, the domestic industry has contented that they are capable of producing this type but not producing the same at present. It is noted that since adhesive tapes are not being produced by the domestic industry at present and there were no production of the same in the POI as well, the same can be excluded from the product scope. Post the issuance of disclosure statement, certain interested party have requested that the adhesive tape be appropriately redefined. Accordingly, Adhesive tape is defined as "Adhesive tape is Aluminium foil (< 80 mic) single side or both sides coated with adhesive for use as tape".
 - v. Color coated aluminium foil - As regards exclusion of color coated aluminium foil, the same was excluded in the previous investigation on the ground that the domestic industry is not manufacturing the same. Since the fact remains same for the present investigation also, color coated aluminium foil to be excluded from the product scope. Color coated Aluminum foil is defined as "aluminium foil with either PE(polyester) coating of PVDF(flourine Carbon), coating falling under CTH 7607". .
16. Several opposing interested parties have made claim that the product quality being supplied by the domestic industry is not good and the number of pinholes are very high as compared to the number of pinholes in the imported product. It is noted that this concern was raised during the previous anti dumping investigation against China also and the Authority held that there is no standard prescribed by BIS with regard to maximum pinholes in an aluminium foil. If the government has prescribed certain standards of a product and the product supplied by the domestic industry conform to such standards, the consumers cannot contend that the product type produced by the domestic industry does not meet the desired standards. It is also noted that nothing substantial has been provided by the interested parties to demonstrate difference in quality of the product supplied by the domestic industry and imported into India. In fact the domestic industry has submitted evidence to show that the rejection rate has declined significantly.
 17. As regards the contention that the domestic industry does not have sufficient capacity to meet the demand of ULG in the country, the authority notes while there may be a demand supply gap in the Country, the concern raised by the domestic industry is about dumping of the product in the market. Foreign producers can certainly fill the gap in the Country by bringing the product at a fair price. Demand supply gap does not justify dumping of the product in the Country.
 18. In view of the foregoing, para 7 and 15 the scope of product under consideration for the purpose of present investigation is as follows as read with para 7 and 15:
"Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)" excluding the following:
 - i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.
 - ii. Alu Alu Laminate

- iii. Ultra Light Gauge Converted
 - iv. Aluminium Foil Composite
 - v. Aluminum foil for capacitors width below 500 mm
 - vi. Etched or formed Aluminium Foils
 - vii. Aluminium composite panel
 - viii. Clad with compatible non clad Aluminium Foil
 - ix. Aluminium Foil for beer bottle
 - x. Aluminium- Manganese- Silicon based and/ or clad Aluminium- Manganese- Silicon based alloys, whether clad or unclad
 - xi. Adhesive tapes
 - xii. Color coated aluminium foil
19. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry are comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration, in accordance with the AD Rules.

D. DOMESTIC INDUSTRY AND STANDING

D.1 Submissions made by the Domestic Industry

20. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
- i. The Application has been filed by M/s Hindalco Industries Ltd., M/s Raviraj Foils Ltd. & M/s Jindal India Ltd. Applicants have neither imported subject goods from subject countries nor are related to any producer or exporter of subject goods. The applicants thus constitute eligible domestic industry within the meaning of Rule 2(b) and that the application satisfies the requirement of standing under Rule 5(3) of the Rules.
 - ii. A number of other domestic producers have filed letter supporting the application filed. The applicants, along with supporters account for 82% of share of the total domestic production.
 - iii. The supporters have, post oral hearing, filed a letter declaring their production, sales, capacity and capacity utilization. That itself is sufficient to understand the intention of the supporters. They have disclosed all critical information before the Authority.

Disclosure of such information will validate the standing and injury claimed by the domestic industry.

- iv. The previous anti-dumping investigation was filed with regard to the same product scope and the applicants of the present case were applicants in the previous investigation as well. The Authority treated them as an eligible domestic industry under Rule 2 (b).
- v. The allegation that Raviraj and Jindal are merely downgauging the product thus they are merely processors and cannot be called as producers of the subject goods, cannot be accepted. The product can be produced from foil stock/FRP (ranges from 80-300 micron). While Raviraj and Jindal produces subject goods from the stage of aluminium stock, Hindalco is producing foil from its own ingot. However, both are the producers of the subject goods.
- vi. Aluminium foil and foil stock/FRP are two distinct product and it gets established from the fact that there is a separate anti dumping investigation ongoing considering the product scope as FRP. The Authority has considered two different product scope in two different investigation. The Authority in past, during the safeguard investigation had considered FRP and foil under one investigation, but as two different products, and analysed every information separately for Aluminium foil and FRP.
- vii. The European Commission had also conducted investigation on imports of certain aluminium foil originating in Armenia, Brazil and the People's Republic of China. The production process of subject goods was recognized as follows "Aluminium foil is manufactured by rolling aluminium ingots or foil-stock to the desired thickness".
- viii. The WTO Panel report in the matter of Farmed Salmon held that "any enterprise that produced any form of the like product should be considered, at least in the first instance, a "producer" of the like product, and as such, part of the domestic industry." The Authority had considered in the case of SDH transmission that if substantial transformation is made to raw material to be come a final product, then such activity is considered as "production". The producers, namely, Raviraj and Jindal, are carrying out activities which result, in a substantial transformation of the inputs, i.e., Aluminium Foil Stock into a distinct and different final product, i.e., Aluminium Foil.
- ix. It is entirely immaterial whether the producer is backward integrated. For instance, in the matter of PTA, while one producer had its own raw material, one was purchasing. That does not mean that the company buying raw material is not producing PTA, as it is not backward integrated.
- x. The reference made to copper pipes and tubes case is incorrect. The said case also excludes producers who are importing mother tube and drawing the pipes and tubes and in this case mother tube is also the product under consideration.
- xi. Facts of the previous anti-dumping investigation of Aluminium Foil originating in China PR and present investigation is not the same as regards eligibility of Raviraj. Raviraj, in the present case has not imported the subject goods from the subject countries. Thus, it qualifies to be the domestic industry in the present investigation.
- xii. The careful reading of the finding of International Trade Commission, USA in Aluminium Foil from China, Investigation No 701-TA-570 and 731-TA-1346 and EU Regulation 2015/1081 of 3 July 2015 suggests that all kinds of producers/ whether roller

or not, manufacturing any type of aluminum foil were treated as domestic producers of the subject goods.

- xiii. The opposing interested parties had a chance to oppose such determination after the final findings were issued in the 2017 case but none of the parties raised this issue during the oral hearing or before the CESTAT. The determination of the Authority in the previous case, and rightly so has attained finality.

D.2 Submissions made by other interested parties

21. Following submissions have been made by the other interested parties with regard to scope and standing of the domestic industry:

- i. M/s Hindalco is the only integrated producer of the aluminium foil stock and foils, and the Raviraj Foils Ltd., Jindal India Ltd. and other applicant producers are mere converters or processors of imported foil stocks into foils by downgauging the foil stock and they are not engaged in the production of subject goods in terms of Rule 2(b) of the AD Rules.
- ii. A producer who is not engaged in manufacturing of 'like article' and merely engaged in ancillary work with minor value additions, does not constitute a domestic industry. Reliance is placed on an application filed by the domestic industry in an investigation concerning copper pipes and tubes basing which the CVD investigation has been initiated on 25.9.2020 vide File No.04/10/2020-DGTR.
- iii. Conversion of final product from penultimate stage with no significant value addition does not constitute manufacturing. The alleged dumped article and the input material at the penultimate stage in such cases both fall within the scope of PUC.
- iv. The Authority found that Raviraj Foils benefitted from the dumping and disqualified them from being a constituent of the domestic industry as they imported the subject goods from China PR and sold them in the domestic market without giving any plausible reasons for importing the product when the company was engaged in the production of the same.
- v. Raviraj and Jindal India are importing foil stock and therefore cannot claim the status of domestic industry. Moreover, after importing FRP from subject countries, claiming unfair competition from imports of PUC is inappropriate.
- vi. The Authority may examine the standing of the domestic industry as it has been noted in an AD investigation of Aluminium Foil originating in China PR under Para 46 of Final Findings No. 14/06/2015-DGAD (Mar. 10, 2017) that Raviraj Foils is not an appropriate constituent of the domestic industry as volume of imports by the company increased after POI.
- vii. Authority erroneously continued the AD investigation as Jindal is only a converter and not a producer. Authority ought to review the continuation of imposed duty in the 2017 case and withdraw the same *ab initio* as the duties have been imposed based on a wrong determination of domestic industry.
- viii. In anti dumping investigation concerning import of Hot-rolled Flat products of stainless steel from China PR, it was stated that at least a 35% value addition to an end product

- is required to constitute a separate product. The essential difference between Aluminium Foil Stock and Foil is only of thickness, which amounts to an average value addition of not more than 26% which is not significant to qualify as a separate product.
- ix. The supporters have not complied with the Trade Notice No. 13/2018 dated 27.09.2018, where the Authority provided two annexes to be filled by the supporters. None of them have followed that and have simply filed one page letter in support. Absence of such information affects the product scope, standing and material injury to the domestic industry.
 - x. No supporting producer's questionnaire response has been filed, hence, data pertaining to other Indian producers cannot be considered and the investigation should be terminated on this sole count.

D.3 Examination by the Authority

22. Rule 2 (b) of the AD rules defines domestic industry as under:
“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.
23. The application was filed by M/s. Hindalco Industries Ltd., M/s Raviraj Foils Ltd. and M/s Jindal India Ltd. and was supported by M/s Greenberry Foils India Ltd, M/s PG Foils Ltd., M/s Alutech Packaging Pvt Ltd, M/s R S Foils Pvt Ltd and M/s Shree Venkateshwara Electrocast. Further, there are a few other producers of the subject goods, apart from the applicants and supporters.
24. As per the Anti-dumping Rules, the Authority is required to examine whether (a) domestic producers expressly supporting the application account for more than twenty five percent of the total production of the like article by the domestic industry; and (b) the application is supported by those domestic producers whose collective output constitute more than fifty percent of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition to the application. The applicants constitute 50.2% of the total domestic production and with supporters; applicants constitute 82.83% of the total Indian production.
25. The Authority considers that none of the applicants needs to be excluded from the scope of domestic industry since neither they have imported the subject goods from the subject countries during the period of investigation, nor are they related to any exporter or importer of the subject goods. The fact that Ravi Raj imported certain quantities of the subject goods in the previous anti-dumping investigation has no relevance in the present case because as per the facts established in the present case, Raviraj has not imported the subject goods from the subject countries during the period of investigation.

26. As regards the contention that since Raviraj and Jindal are mere processors of the subject goods and they manufacture aluminium foil by merely downgauging Aluminium foil of higher micron, it is noted that as observed above, subject goods can be manufactured either through Ingot or through flat rolled product (FRP). A backwardly integrated producer manufactures the subject goods from the stage of Ingot, like Hindalco is one such producer. Whereas subject goods can be manufactured from foil stock/FRP as well and Jindal and Raviraj manufactures the subject goods from foil stock. Foil stock is a distinct product from Aluminium foil and this gets established by the fact that Authority, at present, is undertaking a separate anti-dumping investigation concerning dumped imports of foil stock. Also, in the previous anti dumping investigation, where the scope of the subject goods was similar to the present investigation and the same applicant companies filed an anti dumping application. The Authority already treated the applicant companies as eligible domestic producers of the subject goods. Raviraj was excluded from the scope of the previous investigation on account that they imported certain quantities of the subject goods from the subject country during the period of investigation and that is not the case in the present investigation, thus there is no ground to exclude Raviraj from the scope of domestic industry or to treat Jindal and Raviraj as ineligible domestic producers.
27. As regards the contention that the supporters have not filed the information in compliance with the Trade notice no 13/2018 dated 27.09.2018, it is seen that all the supporters, post oral hearing filed information with regard to their production, sales, capacity and capacity utilisation. It is noted in this regard that the applicant companies, even without any support, account for major proportion.
28. The Authority after examining the information on record and submissions made by the interested parties has determined that M/s Hindalco, M/s Jindal India and M/s Raviraj Foil constitute "domestic industry" within the meaning of Rule 2 (b) and the application satisfies the criteria standing in terms of Rule 5 (3) of the Rules.

E. ISSUES OF CONFIDENTIALITY

E.1 Submissions made by the domestic industry

29. The following submissions have been made by the domestic industry with regard to confidentiality:
- i. The questionnaire responses filed by the parties are grossly deficient and violates the norms of confidentiality. The opposing interested parties, i.e., the exporter, importer and users completely ignored the requirements set up for them in the trade notice 10/2018 dated 7th September 2018, and several users like Huhtamaki, Essel Propack, Paharpur 3P, Uflex etc. have not filled any details in any of the costing format, information regarding PUC, sales, cost, purchases, imports etc.
 - ii. The applicants are severely handicapped in advancing its arguments in view of excessive confidentiality that has been resorted by the responding exporters/producers. The non-confidential version of the response filed by the opposing interested parties do

- not permit a reasonable understanding of the substance of the information filed on confidential basis.
- iii. The trade notice cannot be selectively binding of the Domestic industry alone, but instead it is binding on all the parties irrespective of type of response being filed by them. Moreover, the domestic industry has given reasoning for not providing certain price information on actual basis and has duly provided non-confidential summary of the same to enable the other interested parties to understand the data.
 - iv. Domestic industry has declared all the necessary information and has claimed only sensitive information as confidential. The application was accompanied with confidentiality summary which explained the reason for claiming certain information confidential.
 - v. NIP is one of the most sensitive information. Also, the issue of non-disclosure of NIP has caused serious prejudice to the interested parties have already been settled by the CESTAT in its recent order in the matter of AIA Engineering vs Union of India.
 - vi. The DGTR had given guidelines to the parties to file and share non confidential version of submissions with the other parties through email to serve the purpose of “public file”. The interested parties ignored this guideline and failed to adhere to the stipulated time limit. It was only after the sending repeated mails and getting two extensions that the interested party finally shared the questionnaire responses.

E.2 Submissions made by other interested parties

30. The following submissions have been made by other interested parties with regard to confidentiality:
 - i. The domestic industry comprising of the 3 producers, Raviraj Foils, Hindalco Industries and Jindal India has not complied with the specific requirement in the Trade Notice No. 10/2018 dated 07.09.2018 and the reasoning given by the domestic industry that the reporting of actual figures as required under Trade Notice will lead to disclosure of business sensitive information to the domestic producers inter-se and to other interested parties questions the rationale of the Trade Notice itself.
 - ii. The domestic industry has also failed to provide non-confidential summaries that permit a reasonable understanding of the substance in the Petition, as required under *Rule 7 of the AD Rules and Article 6.5 of the WTO ADA*.
 - iii. The methodology for arriving at the final non-injurious price for the domestic industry, compared with the landed value of imports to arrive at the injury margin is not disclosed, leaving ambiguities on how the final non-injurious price was arrived at.
 - iv. The Authority may direct the domestic industry to provide information along with a non-confidential summary of the same as the information filed already is grossly deficient and its non-confidential version violates the requirements under Rule 7 of the Rules and Trade Notice No. 1/2013 (Dec. 09, 2013) issued by DG.
 - v. The domestic Industry has also failed to comply with the confidentiality requirements. Despite request transaction wise import data has not been provided. The Authority should take note of the CESTAT Decision in Exotic Décor Pvt. Ltd. vs Designated Authority. The production and sales volume of individual petitioners as well as other

Indian producers have been kept confidential, further, non-confidential disclosure of performance indicators has not been made. The Authority should properly examine these confidentiality claims as per Hon'ble Supreme Court decision in Sterlite Industries (India) Ltd. v. Designated Authority 2003 (158) E.L.T. 673 (S.C.).

- vi. No confidential disclosure has been made on the performance parameters of the domestic industry and the same should be disclosed as per Sterlite Industries (India) Ltd. v. Designated Authority (2003 (158) E.L.T. 673 (SC)) and Rule 7 of AD Rules.
- vii. The domestic industry has no locus to raise the claim regarding excessive confidentiality of other interested parties, when its own confidentiality claims are excessive in nature.

E.3 Examination by the Authority

- 31. Various submissions have been made by the applicant as well as other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined below.
- 32. With regard to confidentiality of information, Rule 7 of the 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 summarisation 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 authorize its disclosure in a generalized or summary form, it may disregard such information."*
- 33. 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 the 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. The Authority made available the non-confidential version of the evidence submitted by various interested parties through circulation of email.

F. MISCELLANEOUS SUBMISSIONS

F.1 Submission made by the Domestic Industry

34. The following miscellaneous submissions have been made by domestic industry:

- i. Imposition of duty will not impact the demand supply gap. In fact the domestic industry has recently expanded capacity and there will other producers who will make expansion. The domestic capacity is sufficient to meet the demand of the country, thus there is no question of demand supply gap.
- ii. The argument that no ADD should be recommended on PUC as domestic suppliers would increase the foil price disproportionately, lacks reasoning and logic. The industry was incurring losses earlier because of unfair imports. Imposition of duty is likely to lead to some increase in selling price. It has not been established how the price increase has not followed the movement of input costs.
- iii. The investigation has been initiated for price correction and for providing a level playing field. The importers/users have unduly benefited themselves from dumped imports for a long period. The users should demonstrate how imposition of duty is going to affect its prices and to what extent. Without providing any reasoning or evidence, such claims should be rejected by the Authority. The users have not demonstrated how the ADD will impact them.
- iv. The Annual report of Hindalco is not the true representative performance of the company in aluminum foil segment. The Chairman of the company speaks for the company as a whole. Similarly, the figures mentioned in the annual report represents company as a whole. Hindalco is a multi-product company, thus Hindalco's annual report cannot be relied on to map the performance of the company. The companies have submitted their data before the Authority and it will be seen that the domestic industry has suffered material injury.
- v. The contention of the other interested parties that 'the move of the Indian companies including Hindalco, increasing the aluminium prices in line with international price movements is not justified' is not a justification for not taking action against dumped imports.
- vi. There is no verifiable evidence put on record to show that the manufacturing process and technology of Hindalco and subject countries producers are different. Also, it is a well settled principle of law that the domestic industry needs to be seen as it exists. The Hon'ble Tribunal in the matter of *Nippon Zeon Co. Ltd versus Designated Authority* held the same.
- vii. Change in technology does not render the products as different as has been considered by the Authority in past several cases such Cold Rolled Flat products.
- viii. The other interested parties are free to analyze import data and submit it before the authority. The Authority will in any case call its own imports and make due analysis in the findings.

- ix. Jindal has three manufacturing plants and one of them caught fire in September 2017 the plant was shut for a period from September to December 2017. During that period all the other plants were completely operational.
- x. Unfortunately, the domestic industry never got an opportunity to capture the market share emptied by Chinese imports. It was completely taken over by present set of subject countries. Detailed submission made in written submission is referred to and relied upon.

F.2 Submissions made by other interested parties

35. The following miscellaneous submissions have been made by other interested parties:

- i. The Authority has prima facie evidence regarding dumping and injury to domestic industry as per Para 15 of the Initiation Notification. However, the same is not 'sufficient evidence' in accordance with Rule 5(3) of the AD Rules. Moreover, the authority did not determine 'accuracy' and 'adequacy' of information as per Article 5.3, Article 3.5 of AD Agreement and does not fulfil standards laid down by the WTO Panel in Mexico-Pipes and Tubes, US- Softwood Lumber from Canada, Guatemala – Cement II.
- ii. Aluminium Foil is an eco-friendly alternative to plastic bags and imposition of AD Duty will further worsen the demand-supply gap for the subject goods.
- iii. No ADD should be recommended on the PUC as domestic suppliers would increase the foil price disproportionately, impacting the users heavily. Last ADD imposed on China PR for foils between 5.5 micron to 80 microns resulted in domestic suppliers increasing price from Rs. 35 to Rs. 40 per kg, which was a substantial rise and users had to bear duties which such product was not available at adequate quantity and desired quality.
- iv. Domestic industry is trying to block all competitive sources of procurement for user industries so that they can increase product costing and monopolize the market which would cause injury to flexible packaging industry in India.
- v. The information provided by the domestic industry with respect to sorting of transaction wise imports data clarifying how the exclusion has been considered is not at all sufficient.
- vi. The contentions against Loften is not at all true and should be rejected by the Authority. It is contended that Loften group was founded in August 2000, in China and now they have expanded to Thailand. This is wrong. Loften Thailand has no ownership held by any Chinese entity and that was the case applicable even in the POI which alone is relevant.
- vii. As per the domestic industry FRP and Aluminium foil are two different products because there is an ongoing investigation on FRP. This means that Hindalco is seeking protection on both, input material and finished goods.
- viii. The global caster technology is efficient and widely followed whereas Hindalco uses Hot Milling technology. Hindalco's incompetence cannot be used to burden the users

- with additional duties. A product-wise production, total number of hours used and available should be examined.
- ix. Authority must determine other factors as per Para (v) of Annexure II to AD Rules. One of the units of Jindal Ltd. was shut down for a considerable period due to fire, which led to considerable loss and this information has been suppressed.
 - x. China's market share of 90% in the base year has come down to 50% and this gap has been filled-in by domestic industry. Further, petitioner's high price despite decline in metal prices indicates their dominant position.
 - xi. Hindalco does not have the raw material i.e. foil stock to supply it to the downstream industries and when they themselves are importing due to capacity issue. There should be no restriction on imports for users also.
 - xii. An interested party Shanghai Shenhua Aluminium Foil Co., Ltd), which is a producer/exporter of subject goods has claimed that they have undergone a name change and is now referred as Shanghai Sunho Aluminium Foil Co., Ltd. They have also attached the requisite approval they have received for the same from the Chinese Authorities.

F.3 Examination by the Authority

36. The Authority has noted all the miscellaneous submissions by all other interested parties and has examined all aspects of the submissions.
37. With regard to the submissions made by interested parties that the domestic industry is trying to block all the competitive source of procurement and imposition of duty will lead to monopoly of the domestic industry, it is noted that the purpose of the anti-dumping law is to create a level playing field for production and consumption of the goods in the Indian market by protecting domestic production of the goods against unfair trade practices of producers from other countries. It is also noted that existence and sustainability of a domestic production base is important for general economic development which has to be protected against injurious dumping. In any case, imposition of anti-dumping duties does not create a situation of monopoly as the imports from other suppliers including those from the subject countries are not prevented from competing in the Indian market. However, the Authority has examined the cost and price behaviour of the domestic producers in this finding in an objective manner to arrive at the conclusion on injury and causal link to address the concerns of the consumer industry.
38. With regard to the contention that imposition of duty will lead to disproportionate price increase of the subject goods, it is noted that the anti-dumping investigation has been initiated on the ground that the domestic industry is selling the subject goods below the cost of sale due to presence of dumped imports in the market, thus, in case duty is levied, it will only provide a fair priced market to the domestic industry where they can sell the subject good at least above the cost of sale.
39. With regard to unreliable data presented by the domestic industry, it is noted that none of the other interested parties have submitted analysed import data to show discrepancy in the

import data filed by the domestic industry. However, the Authority has called for the import data and has analysed imports independently.

40. The authority accepts to change name of the of Shanghai *Shenhuo Aluminium Foil Co., Ltd.* to *Shanghai Sunho Aluminium Foil Co., Ltd* based on request received.

G. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

G.1 Normal Value

41. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

- (i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either*
 - (a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

G.2 Submissions made the Domestic Industry

42. The following are the submissions made by the domestic industry with regard to normal value:
- i. The responding exporters must establish that the elements of costs referred for determination of normal value are appropriately reflected in the records kept by such exporters or producer under investigation. In the event of not appropriate match of such records, the Authority shall reject the claim of individual dumping margin.
 - ii. The Authority should follow para 1 to 6 of Annexure I to the rules for determination of normal value only if the responding Chinese are able to demonstrate that their costs and prices can be adopted. The Authority should follow para 7 of Annexure I to the rules for determination of normal value for Chinese producers.

- iii. The Domestic industry has not been able to gather information on prices of subject goods in market economy third country and thus even constructed value in such third market economy was not possible. Further, the domestic industry does not have any information on export of subject goods from any market economy third country to other country.
- iv. Normal value has been determined on the basis of best estimates of cost of production of subject goods in the subject countries considering cost of production in India along with associated selling, general and administrative expenses, and reasonable profit.
- v. The producer in Thailand has benefited from Chinese raw material, thus, domestic selling prices or cost of production in these countries cannot be considered for determination of normal value.
- vi. These prices does not represent comparable price in the ordinary course of trade for the like article. The Designated Authority is not bound to adopt the cost of production of the exporter without satisfaction whether the same reasonably reflect the cost associated with production and sale of the product under consideration.
- vii. The reference has been made to the findings issued in "Rubber Chemicals viz. MBT CBS TDQ PVI and TMT imports from China and PX 13 6PPD from China and Korea RP", wherein, the authority was of the opinion that since Korean producers were exporting raw material from China at unfair prices, their cost records did not reasonably reflect cost of production and hence liable to be rejected.
- viii. The approach adopted by the Authority was upheld by the Hon'ble Tribunal [Kumho Petrochemicals Co. Ltd. Vs. Designated Authority, reported in 2015 (322) E.L.T. 514 (Tri. - Del.)], and was subsequently affirmed by the Hon'ble Supreme Court as well [Kumho Petrochemicals Co. Ltd. v. Designated Authority - 2016 (342) E.L.T. A48 (S.C.)].
- ix. The other interested parties do not want the authority to use higher ratio in the determination of the constructed normal value. The applicants content that the Authority may consider the practice being followed by the DGTR in determining the constructed normal value. The applicants do not have any further comments on this.
- x. The sole obligation on the Designated Authority is to determine individual dumping margin and not individual normal value. This has been confirmed by WTO in US-Japan Hot Rolled products and also by the Indian Supreme Court in the matter relating to certain catalysts and thereafter in the matter relating to PTA.
- xi. Provisions relating to determination of SGA and profit under Annexure-I clearly provide that SGA and profit can be determined on the basis of information relating to other producer from the same country in certain situations. This establishes that the constructed normal value is not always solely based on the data pertaining to the producer concerned. Such being the case, it cannot be said that the normal value can only be determined on the basis of data of the company concerned.
- xii. Cost of production of the Thailand producers cost of production is likely to not be representative of the cost of the subject goods in normal market scenario. The import price of FRP which is a key raw material is significantly cheap thus the cot will not reasonable reflect the cost associated with the products in terms of AD Rules. In such

- a situation, the Authority may, upon verification, reject the cost of raw material for the determination of normal value as the raw material prices are distorted.
- xiii. None of the exporter/producer have denied the fact of dumping. Dumping margin claimed for the subject countries is on the facts available. The other interested parties may provide accurate and reliable information in this regard.
- xiv. The Authority may kindly check the sufficiency of information provided by the exporters and completion of value chain while determining the normal value and export price for the responding exporters. In the event of incomplete value chain and incomplete information by the exporters/producers, the Authority is requested to reject the information provided by them and use the facts available. The dumping margin calculated by the domestic industry shows that there is significant dumping of the subject goods.

G.3 Submissions made by other interested parties

43. The following submissions were made by other interested parties with regard to normal value:
- i. The Normal Value calculation method submitted by the domestic industry is legally untenable. Reference was made to a recent sunset review concerning "*Front Axle Beam and Steering Knuckles meant for heavy and medium Commercial vehicles*" originating in or exported from China PR.
 - ii. The ratio of profit for the main aluminium rolled producers is at 5% or lower in 2019 and 2020 and the authority should not use a higher ratio in the determination of the constructed normal value.
 - iii. All the related entities in the Dingsheng Group, both from China PR and Thailand, namely, producers/exporters who are involved in export of the product under consideration have filed a response. The Respondents have also provided sufficient details of export price and dumping margin in their questionnaire response. The companies in the Dingsheng Group identified by the domestic industry on the basis of USITC investigation concerned Aluminium Foil of less than 5.5 micron, further, the value chain of these products to USA are not identical to that of India.
 - iv. Related entities that are not producing aluminium foil in China PR but other aluminium products are not required to participate in the anti-dumping investigation concerning aluminium foil.
 - v. The domestic industry's argument to reject cost of production of producers/exporter in Thailand on the ground that certain raw materials are being sourced from China PR is contrary to *Para. 1 of Annexure 1 of the Anti-Dumping Rules*.
 - vi. The domestic industry is considered as a producer of the PUC when it is producing subject product from foil stock, similarly producers/exporters from subject countries should also be treated as producers/exporters and normal value should be determined based on the prices or costs as recorded in the books of cooperating exporters.
 - vii. India has no legal basis under the agreements of the WTO to calculate normal value in anti-dumping investigation of products from China using the non-market economy

- methodology. Any such action by India would be inconsistent with the requirements of the Agreement on Implementation of Article VI of the GATT.
- viii. While constructing the normal value the Authority accepted the petitioners' computation based on the last option without exhausting the first two options of *Para 7 of Annexure I of the AD Rules* because the relevant information is not available with the petitioners.
 - ix. Authority may not use surrogate country methodology in calculating normal value, regardless of whether China is treated as a market economy due to the principle of *pacta sunt servanda*, Section 15 of China's Accession Protocol to WTO and Appellate Body Report on EC- Fasteners initiated by China PR.
 - x. China should not be treated as a non-market economy as per China's accession protocol to WTO, the same was also confirmed by the WTO appellate body in "EC-Fasteners". US and EU in their respective bilateral agreement with China had also noted about the expiry of non-market economy status after 15 years after China enters WTO.
 - xi. Authority may determine normal value on the basis of normal value of producers and exporters in the countries of exports and reject the contention of determining normal value based on India's cost of production as the petitioners themselves import from subject countries.
 - xii. The Normal value estimated by the domestic industry is inflated and exaggerated and this is to disregard appropriate prices of raw materials and international pricing standards. The domestic industry failed to take in to consideration LME prices for Aluminium ingots, which is a globally accepted standard.
 - xiii. Loften did not purchase any Raw material from its related parties. All purchases of raw materials have been made from unrelated parties. Only about 60% exports have been to India and it cannot be said that its manufacturing only for India.
 - xiv. The Authority was requested to seek from the domestic industry data of their export prices in POI which can be compared to the domestic process offered by them in the same period to Indian buyers as they have been exporting at a much lower price.
 - xv. The dumping margin estimates of the domestic industry are inflated by approx. 10% and dumping margin of 30 – 45% claimed in the petition for China PR and Thailand is exaggerated.
 - xvi. The determination of dumping should solely be on data supplied by the cooperating producers, as domestic industry is taking advantage by (a) importing sheet coils above 200 microns and only rolling to produce PUC; (b) blocking the import of foil by de-linking it to metal (raw material) exchange price by taking recourse to anti-dumping duties.
 - xvii. Individual margin should be determined for the exporter based on the response filed by them.
 - xviii. The calculation of dumping margin is misleading as petitioner has calculated a too high and unrealistic dumping margin. The normal offer from suppliers comes to USD2550 which has been stated to be USD3000-4000, which is simply not possible.

G.4 Examination by the Authority

44. The Authority had sent questionnaire to the know producer/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in the investigation by filing the prescribed questionnaire responses:

- i. M/s Loften (Thailand) Co. Ltd, Thailand
- ii. M/s Jiangsu Dingsheng New Materials Joint Stock Co. Ltd., China PR
- iii. M/s Dingsheng Aluminium Industries (Hongkong) Trading Co. Ltd.
- iv. M/s Hangzhou Dingsheng Import and Export Co. Ltd., China PR
- v. M/s Hangzhou Five Star Aluminium Co. Ltd., China PR
- vi. M/s Shanghai Shenhua Aluminium Foils Co. Ltd.
- vii. M/s Kunshan Aluminium Co M/s Jiangsu Zhongji Lamination Materials Co. Ltd. China PR
- viii. M/s Jiangsu Zhongji Lamination Materials Co. (HK) Ltd
- ix. M/s Shangqiu Yangguang Aluminium Materials Co., Ltd.
- x. M/s Varopakorn Public Co., Ltd
- xi. M/s Dingheng New Materials Co., Ltd, Thailand
- xii. M/s Thai Ding Li New Materials Co., Ltd, Thailand

Market Economy status for Chinese producers

45. Article 15 of China's Accession Protocol in WTO provides as follows: "Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

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

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

b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special

difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

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

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

46. It is noted that while, the provisions contained in Article 15(a)(ii) have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since neither of the responding producer and the exporter from China PR have submitted supplementary questionnaire response, the normal value computation is required to be done as per provision of para 7 of Annexure I of the Rules.

47. Accordingly, the normal value and export price for all the producers/exporters from China PR have been determined as below.

I. China PR

a. Determination of normal value for China PR

48. As none of the producers from China PR has filed the supplementary questionnaire response for market economy treatment, the normal value has been determined in accordance with para 7 of Annexure I of the Rules. In the absence of sufficient information on record regarding the other methods enshrined in Para 7 of Annexure I of the Rules, the Authority has determined the normal value by considering the method on "any other reasonable basis".

49. The Authority has therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and additional of reasonable profits. The constricted normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table below.

b. Determination of export price

i. M/s Jiangsu Zhongji Lamination Materials Co., Ltd.

50. M/s Jiangsu Zhongji Lamination Materials Co., Ltd. is a producer of the subject goods in China PR and has exported the subject goods directly to unrelated customers in India and also through its related trading company M/s Jiangsu Zhongji Lamination Materials Co., (HK) Limited. M/s Jiangsu Zhongji Lamination Materials Co., Ltd and M/s Jiangsu Zhongji Lamination Materials Co., (HK) Limited have provided the relevant information in the prescribed exporters questionnaire format.
51. It is noted that during the POI, M/s Jiangsu Zhongji Lamination Materials Co., Ltd. has exported *** MT of subject goods directly to unrelated customers in India and *** MT through M/s Jiangsu Zhongji Lamination Materials Co., (HK) Limited to unrelated customers in India. The companies have claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, sales commission, bank charges and credit cost which have been allowed by the Authority. Further, it is noted that M/s Jiangsu Zhongji Lamination Materials Co., (HK) Limited has exported the subject goods to India at a loss. Accordingly, loss incurred by M/s Jiangsu Zhongji Lamination Materials Co., (HK) Limited has been adjusted by the Authority while calculating the ex-factory export price. The ex-factory export price as determined is given in the dumping margin table.

ii. M/s Shanghai Shenhua Aluminium Foils Co. Ltd. (Now Known as Shanghai Sunho Aluminium Foil Co., Ltd w.e.f. 19.05.2021)

52. M/s Shanghai Shenhua Aluminium Foil Co., Ltd. is a producer of the subject goods in China PR and has exported the subject goods directly to unrelated customers in India. It is noted that the company has exported the subject goods to India manufactured by itself and also purchased from a related trader M/s Shangqiu Yangguang Aluminium Materials Co., Ltd who in turn has purchased the subject goods from an unrelated Chinese producer. It is also noted that some minor quantities have also been exported by M/s Shanghai Shenhua Aluminium Foil Co., Ltd. purchased from unrelated producers in China PR. The unrelated Chinese producers whose goods have been exported to India by M/s Shanghai Shenhua Aluminium Foil Co., Ltd. have not filed exporter questionnaire response. Therefore, Authority has taken only those export transactions to India which are manufactured by M/s Shanghai Shenhua Aluminium Foil Co., Ltd. for determining the ex-factory export price and landed value. M/s Shanghai Shenhua Aluminium Foil Co., Ltd and M/s Shangqiu Yangguang Aluminium Materials Co., Ltd have provided the relevant information in the prescribed exporters questionnaire format.
53. It is noted that during the POI, M/s Shanghai Shenhua Aluminium foil Co., Ltd. has produced and exported *** MT of subject goods directly to unrelated customers in India. The responding producer/exporter has claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses and credit cost which have

been allowed by the Authority. The ex-factory export price as determined is given in the dumping margin table.

iii. **M/s Jiangsu Dingsheng New Materials Joint-Stock Co Ltd & M/s Hangzhou Five Star Aluminium Co Ltd**

54. M/s Jiangsu Dingsheng New Materials Joint-Stock Co Ltd ("Jiangsu Dingsheng") and M/s Hangzhou Five Star Aluminium Co Ltd ("Hangzhou Five Star") are related companies engaged in manufacturing of the subject goods in China PR. Jiangsu Dingsheng and Hangzhou Five Star have exported the subject goods directly to India and also through related trading companies, M/s Hangzhou Dingsheng Import & Export Co., Ltd ("Dingsheng I&E") and M/s Dingsheng Aluminium Industries (Hongkong) Trading Co., Limited ("Dingsheng HK"). All the 4 companies, namely, Jiangsu Dingsheng, Hangzhou Five Star, Dingsheng I&E and Dingsheng HK have provided the relevant information in the prescribed exporters questionnaire format.
55. It is noted that during the POI, M/s Jiangsu Dingsheng has produced and exported *** MT of subject goods directly to unrelated customers in India and *** MT has been exported to India through related exporters. It is further noted that during the POI, M/s Hangzhou Five Star has produced and exported *** MT to India through related exporters. All these exports were made to unrelated customers in India. The responding producers/exporters have claimed adjustments on accounts of ocean freight, insurance, inland transportation, port and other related expenses, sales commission, bank charges and credit cost which have been allowed by the Authority. The ex-factory export price as determined is given in the dumping margin table.

iv. **M/s Kunshan Aluminium Co. Ltd., China PR**

56. M/s Kunshan Aluminium Co. Ltd is producer of the subject goods. During the POI M/s Kunshan has exported *** MT subject goods directly to unrelated customer in India. The producer/ exporter has claimed the adjustment on accounts of ocean freight, insurance, inland transportation, port and other related expenses, bank charges and credit cost which have been allowed by the Authority. The ex-factory export price as determined is given in the dumping margin table.

v. **M/s Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd.**

57. M/s Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., is the producer and exporter of subject goods. The company has exported subject goods directly as well as through its related company namely Peixian Fengyuan Import and Export Trade Co., Ltd., China PR. During POI, Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., has directly exported *** MT of PUC to India, out of which Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., has sourced *** MT and *** MT from two different unrelated producers/suppliers namely Shanghai Sitan Aluminum Co., Ltd., and Longxi Northwest Aluminum Industry Co., Ltd., China PR respectively and rest was

produced by itself. Since Shanghai Sitan Aluminum Co., Ltd., and Longxi Northwest Aluminum Industry Co., Ltd., China PR, have not filed their exporters questionnaire response with the DGTR, the same quantity has not been considered to workout ex-factory export price, which constitute only *** % of total exports to India by Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd.

58. Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., has also exported *** MT of PUC to India indirectly through one related trader namely Peixian Fengyuan Import and Export Trade Co., Ltd., China PR, out of which Peixian Fengyuan Import and Export Trade Co., Ltd., China PR has directly exported *** MT of PUC to India and *** MT of PUC to India indirectly through another unrelated trader namely Trade Partners Pte, Singapore. Since Trade Partners Pte, Singapore has not filed its exporter's questionnaire response with the DGTR. Hence the same quantity has not been considered to workout ex-factory export price, which constitute only *** % of total exports to India by Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd. It has been observed that the related trader has incurred a loss of ****% and reported the same in relevant appendices. While arriving at ex-factory export price, impact of such loss has been duly considered.
59. Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., China PR, has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost and any other expenses. Accordingly, the net export price at ex-factory level for Jiangsu Fengyuan Aluminum Mstar Fengyuan Technology Co., Ltd., has been determined and same is shown in Dumping Margin table below.

II. Thailand

i. M/s Varopakorn Public Company Limited, Thailand.

Normal Value

60. Varopakorn Public Company Limited, has provided information pertaining to their sales and cost of production in the exporter's questionnaire. It is noted from the response that during the POI the company has sold *** MT of PUC in domestic market and exported *** MT of to India. Since, domestic sales are less than 5 % of export to India, it does not satisfy sufficiency test for determination of normal value. There is no export of PUC. Therefore the normal value is determined in terms of Section 9A(c)(ii)(b). Accordingly, normal value determined for M/s. Varopakorn Public Company Limited (Thailand) is mentioned in the dumping margin table below.

Export price

61. It is noted that the producer has exported *** MT of subject goods directly to unrelated party in India during POI. The exporter/producer has claimed adjustment towards Ocean Freight, Insurance, Port handling and other charges, Inland freight, Credit cost, banking

charges and packaging cost to arrive at ex-factory export price. Thus the dumping margin for export price has been worked out as mentioned in the dumping margin table.

ii. M/s Loften (Thailand) Co., Ltd

Normal Value

62. M/s Loften (Thailand) Co., Ltd, has provided information in the prescribed exporter's questionnaire format. The PUC in the present case has a large number of grades nomenclature as PCNs. It is noted from the response that during the POI the company has not sold any quantity of subject goods in domestic market. The next available option for determination on normal value in terms of the prescribed hierarchy is third country sales. However, given the factual matrix where the product has several grades it is not feasible to identify single country which could be appropriate for all PCNs. Keeping in view the aforesaid challenge and limited data provided by the exporter the normal value was determined in terms of Section 9A(c)(ii)(b) which is as under:

"(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section(6)."

Accordingly, normal value determined for M/s. Loften (Thailand) Co. Ltd (Thailand) is mentioned in the dumping margin table below.

Export price

63. It is noted that during the POI, the producer has exported *** MT of subject goods directly to unrelated party in India. The exporter/producer has claimed adjustment towards Ocean Freight, Insurance, Port handling and other charges, Inland freight, Credit cost, banking charges and packaging cost to arrive at ex-factory export price. Thus the dumping margin for export price has been worked out as mentioned in the dumping margin table.

iii. M/s Dingheng New Materials Co., Ltd, Thailand and M/s Thai Ding Li New Materials Co., Ltd, Thailand

Normal Value

64. M/s Thai Ding Li New Materials Co., Ltd. ("TDL") and Dingheng New Materials Co., Ltd. ("Dingheng Thailand") are related producers of subject goods in Thailand. Both the companies have provided the relevant information in the prescribed exporters questionnaire format. It is noted from the response that TDL has sold very small quantity (*** MT) of the subject goods directly to unrelated customers in the domestic market. The sales made by TDL in the domestic market are less than 1 % of total exports to India and accordingly do not satisfy the sufficiency test for determination of normal value. Therefore, Authority has not considered these domestic sales for determination of normal value.

65. It is noted from the response that Dingheng Thailand has not made any sales of subject goods in the domestic market during the POI.
66. It is also noted that both the companies have purchased the raw material (Aluminum Coil/Foil Stock) from their related company in China PR. Accordingly, the Authority has determined normal value for both the companies based on (a) LME prices of raw material (b) conversion cost and SGA of respective producer and (c) reasonable profit margin. The ex-factory normal value so determined has been mentioned in the dumping margin table below.

Export Price

67. During the POI, TDL has exported the subject goods to unrelated customers in India directly and also through Dingheng Thailand. TDL has exported *** MT of subject goods directly to unrelated customers in India and *** MT through Dingheng Thailand.
Dingheng Thailand has exported *** MT of subject goods directly to unrelated customers in India.
68. TDL and Dingheng Thailand have claimed adjustments on account of ocean freight, insurance, inland freight, port and other related expenses, quality discount, misc expenses, credit cost and bank charges. The ex-factory export price as determined for both the companies is given in the dumping margin table.

Determination of normal value for all the non-cooperative producers from China and Thailand

69. Normal Value for non-cooperative producers/exporters from China and Thailand has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below:

Determination of export price for all the non-cooperative producers from China and Thailand

70. The export price for other non-cooperative producers / exporters from China and Thailand have been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The export price so determined is mentioned in the dumping margin table below:

III. Indonesia

Determination of normal value for Indonesia

71. The Authority notes that none of the producers/exporters from Indonesia has participated in the present investigation. For the non-cooperative producers/exporters, the Authority has determined normal value at ex-factory level on the basis of facts available.

Determination of export price for Indonesia

72. In the absence of cooperation by any producer of Indonesia, the Authority has determined the net export price based on the transaction wise DGCI&S import data after making appropriate adjustment on account of ocean freight, insurance, commission, port expenses and inland freight charges to arrive at net export price at ex-factory level. Accordingly, the net export price at ex-factory level at exports from Indonesia has been calculated.

IV. Malaysia

Determination of normal value for Malaysia

73. The Authority notes that none of the producers/exporters from Malaysia has participated in the present investigation. For the non-cooperative producers/exporters, the Authority has determined normal value at ex-factory level on the basis of facts available.

Determination of export price for Malaysia

74. In the absence of cooperation by any producer of Malaysia, the Authority has determined the net export price based on the transaction wise DGCI&S import data after making appropriate adjustment on account of ocean freight, insurance, commission, port expenses and inland freight charges to arrive at net export price at ex-factory level. Accordingly, the net export price at ex-factory level at exports from Malaysia has been calculated.

G.1 Dumping Margin

75. Considering the normal values and export prices determined as above, the dumping margin for producers/exporters from the subject countries has been determined by the Authority and the same is provided in the table below:

Dumping Margin Table

Sr No	Country	Producer	NEP USD/MT	CNV USD/MT	DM	DM%	Range
1	China	M/s Jiangsu Zhongji Lamination Materials Co., Ltd	***	***	***	***	20-30
2	China	M/s Shanghai Shenhua Aluminium Foils Co. Ltd. (Now Known as Shanghai Sunho Aluminium Foil Co., Ltd w.e.f. 19.05.2021)	***	***	***	***	20-30
3	China	M/s Jiangsu Dingsheng New	***	***	***	***	20-30

		Materials Joint-Stock Co., Ltd.					
4	China	M/s Hangzhou Five Star Aluminium Co. Ltd.	***	***	***	***	20-30
5	China	M/s Jiangsu Fengyuan Aluminium Mstar Technology Co., Ltd.,	***	***	***	***	20-30
6	China	M/s Kunshan Aluminium Co., Ltd.	***	***	***	***	20-30
7	China	All Others	***	***	***	***	40-50
8	Thailand	Thai Ding Li New Materials Co., Ltd.	***	***	***	***	0-10
9	Thailand	Dingheng New Materials Co., Ltd	***	***	***	***	0-10
10	Thailand	M/s Loften (Thailand) Co. Ltd	***	***	***	***	0-10
11	Thailand	M/s Varopakorn Public Company Limited	***	***	***	***	0-10
12	Thailand	All Others	***	***	***	***	10-20
13	Malaysia	All Others	***	***	***	***	30-40
14	Indonesia	All Others	***	***	***	***	10-20

H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

76. Rule 11 of the Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

H.1 Submissions made by Domestic Industry

77. The following submissions were made by the domestic industry with regard to injury and causal link:

- i. The Indian industry has sufficient capacity to cater to the demand in India. There is no requirement of imports into India to that extent. Despite increase in demand the

- domestic industry has not been able to utilize its capacity to the optimum level. This clearly indicates that the Indian users/importers are inclined towards imports because of low price and not because of non-availability of goods with the domestic industry. It is a settled position of law that demand supply gap does not justify dumping. The applicant refers and relies on DSM Idemitsu Limited versus Designated Authority.
- ii. The imports from subject countries increased significantly to the tune of almost 2500% throughout the injury period from 1858 MT in the base year to 46,907 MT in the POI. Imports have also increased in relation to production and consumption. This increase is also characterised by the imposition of anti-dumping duty in imports of the subject goods from China PR.
 - iii. During the POI 51% of the total subject imports was of Aluminium Foil of less than 5.5 microns and amounted to 23,953 MT out of 46,907 MT of Aluminium Foil imports. This is the precise reason why duty should be imposed against this product from China.
 - iv. The imports from subject countries are significantly undercutting and depressing the prices of the domestic industry.
 - v. The capacity, production, capacity utilisation of the domestic industry has increased over the injury period. The increase in production is lower than increase in capacity because of market captured by dumped imports from subject countries.
 - vi. The domestic industry has increased its capacity in line with the increase in demand for the subject goods in country. Capacity expansion by the domestic industry is a step towards a fair competition and fulfilling the demand of the Indian market. Production of the domestic industry did not increase as much as the capacity increased. The domestic industry was able to increase its sale because they did not increase the price to the extent of increase in cost, due to presence of dumped imports. This led to significant financial losses to the domestic industry. There is a clear causal link between the dumped imports and the injury being suffered by the domestic industry.
 - vii. The market share of the domestic industry increased slightly by 3% only, whereas, same for the subject countries increased by 29% from base year to the POI. This market share after imposition of duty on Chinese imports should have reached a level of 82%, however, the same remains at 46% in the POI due to dumped imports.
 - viii. The inventories with the domestic industry almost doubled in the POI from base year.
 - ix. The profitability, PBIT, ROI increased initially thereafter declined significantly to negative values in the POI.
 - x. Performance of the domestic industry shows a deterioration even if interest and depreciation cost is considered at the same level as in the past. Thus increase in depreciation cost, if any has no impact on the injury being suffered by the domestic industry and injury is solely account of dumped imports from the subject countries.
 - xi. The dumping and injury margin for the subject countries is significant.
 - xii. Authority is obliged to examine other factors and segregate injury caused by dumped imports and by other factors, the industry by way of NIP law also removes any inefficiencies or non ideal situation of the domestic industry while determining NIP and consequently the injury margin which is relevant for the quantification of duties.
 - xiii. Imports has shifted to Thailand, dumping has largely shifted from China to other countries, leading to continued injury to the domestic industry despite antidumping measure in force. Further, even China shifted dumping of aluminum foil of above 5.5

- micron to imports of 5.5. micron and below. Thus, shifting imports from China is not "other factor" but one of the factor causing injury to the domestic industry.
- xiv. The interested parties arguments on domestic country not having sufficient capacity is contradictory. Some of them are of an opinion that domestic industry has suffered injury due to capacity expansion and others say the domestic industry has not added capacities at all. Upon comparing the capacities of the domestic industry with the previous investigation, it will be seen that the domestic industry has increased the capacity in line with the increase in demand.
 - xv. The increase in demand for below 5.5 micron is not a genuine increase in demand. It is shift in requirement to take undue advantage of the product at dumped prices. Duty imposed on above 5.5 micron led to massive increase in imports below 5.5. micron from China. Further, demand for a particular good does not justify dumping. There is no evidence by interested parties of placing orders to the domestic producer which was declined.
 - xvi. In a case where dumping has shifted to new sources after imposition of duty on other sources, it is most logical that the situation of domestic industry would show some improvement as a result of anti-dumping duty in force. Article 3(5) European Commission Regulation specifically considers this as a factor showing injury.
 - xvii. The European Commission imposed definitive anti-dumping duty on imports of polyester staple fibres originating in Belarus, wherein anti-dumping duties were already in place against other countries. The EC conducted the injury analysis keeping the fact of existence of antidumping duty in place in against other sources. The fact that of domestic industry is recovering, in fact, shows the impact of dumping on the domestic industry.
 - xviii. The other factors listed by the interested parties have not been established by the interested parties. The lockdown period began on 23rd March and the plant shut down during the POI was hardly for a week. In-fact some of the domestic producers did not even completely shut down its plant.
 - xix. The WTO Panel Report in the matter of Thailand – Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel And H-Beams from Poland observed that existence of other factors causing injury should be such that vitiates or breaks the causal link between dumping from subject country and injury to the domestic industry so as to conclude no injury on account of dumped imports from subject country. The law does not warrant a determination that dumping should be the sole cause.
 - xx. The issue of inverted duty is irrelevant. A party cannot demand its survival on the strength of dumped imports.
 - xxi. Hindalco has reported profit for company as a whole it cannot be considered for the subject goods.
 - xxii. In order to be excluded as subject country the share of import should be 3% or below, import share of Malaysia is 3.1%, hence cannot be excluded as subject country.
 - xxiii. The applicants have provided the import summary. The interested parties are free to procure imports and make analysis and provide quantifiable evidence to the Authority enabling the Authority to make a reasoned decision.

H.2 Submissions made by other interested party

78. The following submissions were made by other interested parties with regard to injury and causal link:
- i. No injury to the domestic industry, if there is any injury, that is self inflicted, cannot be attributed to imports.
 - ii. Total imports of Aluminium foil between 5.5 micron to 80 micron has declined by 37,567 MT in the POI as compared to the base year. The total imports from subject countries have declined from 75,002 MT in 2016-17 to 64,123 MT in the POI.
 - iii. The claims regarding increase in imports is based on the import of Aluminium foil below 5.5 microns. Out of total subject imports of 49,365 MT in the POI, imports of 24,302 MT is of Aluminium Foil at less than 5.5 micron i.e. approximately 50% of total subject imports in the POI was of Aluminium Foil of less than 5.5 micron.
 - iv. The capacity of the domestic industry increased 30% during the POI, the production of DI increased significantly during the POI, capacity utilization of the domestic industry increased every year, domestic industry recorded 40% in the number of employees during the POI which also increased its productivity/day. The market share of petitioners and supporters also shows a positive trend during the POI which do not establish any material injury.
 - v. The Authority should investigation circumvention rather than fresh anti-dumping investigation concerning imports of subject goods from Thailand as suggested by the facts stated in the petition. The pattern of imports from China to Thailand is on account of circumvention of duty by entities namely Ding Sheng Group and Loften Industrial Co., Ltd. The Authority should examine the volume and value of imports from these companies from China and Thailand.
 - vi. Domestic industry neither claims any causal link nor placed in evidence in this respect which shows or alleges that there is any material injury or threat of material injury by the import of color coated aluminium foil from subject country.
 - vii. The importers were forced to import the instant product into India during the POI due to unavailability of the same domestically. The domestic industry cannot claim to suffer any injury from such imports.
 - viii. Performance of the domestic industry improved post imposition on ADD on Chinese imports. There is no need for further protection of domestic industry.
 - ix. There is an absence of causal link between dumped imports and injury to the Domestic Industry. Injury caused to the Domestic Industry, if any, is attributable to other factors like trade war, economic slowdown and worldwide decrease in aluminium consumption coupled with increased cost of raw materials.
 - x. There is no causal link between alleged dumping and injury claimed as the industry produced the product as per their choice leading and it cannot claim injury thereafter as supply led to a large demand-supply gap and a range of quality issues in India. The domestic industry did not suffer from any injury in real terms and the claims of causal link are unsubstantiated.
 - xi. In order to evaluate the causal link, the Authority should refer to the findings of the Director General (Safeguards) in the safeguards investigation on Cold Rolled Flat Products of Stainless Steel of 400 Series, wherein, the Authority categorically held that

- abnormally high depreciation and finance charges were responsible for the losses to the domestic industry as a result of which the causation analysis fails
- xii. There is a wide gap between capacity and demand due to which imports take place and no capacity was added, even during the profit period. Authority was requested to evaluate the gap based on the petitioner's capacity only for injury examination as other producers did not provide any data.
 - xiii. Highest production during POI rules out any decline in production and injury. Further, new capacity was added during POI but it was only miniscule and would take time to stabilise and this increase in production in real terms led to slight decline in percentage of capacity utilization.
 - xiv. The market has been robust as share of Indian producers, including the petitioners, increased from 39% to 48% which is a huge increase.
 - xv. The market share of domestic industry has increased from 20.1% in 2016-17 to 23.7% in the POI. Market share of other supporting producers has increased from 9.3% in 2016-17 to 15.9% in the POI
 - xvi. Jindal and Raviraj cannot claim injury as they themselves import foil stock, which is PUC at semi-finished stage, from subject countries and only do finishing work which involved rolling and slitting. Such process cannot be considered as any significant manufacturing which should not be considered while examining injury.
 - xvii. Hindalco has registered huge profits of 77% in the post POI period at overall level. Annual Report of Hindalco showcases the healthy state of Indian foil manufacturing on account of huge demand and profits of 25 crore from sale of a particular foil manufacturing unit. Hindalco incurred costs in closing foil plant overseas; but no problem has been narrated in the Chairman's message with respect to foil business or threat from dumping. No injury has been incurred by the Indian foil manufacturing and it does not need ADD protection.
 - xviii. Indian companies including Hindalco has increased aluminium price in line with international price movements which is not justified as the users end up paying high prices and never get the benefit of lower prices as ADD would be put in place.
 - xix. Abnormally high depreciation costs and finance charges during the POI compared to its previous years is the actual cause of loss to the domestic industry and not imports.
 - xx. Imports from Malaysia should be treated as de minimis as they constitute 3% of the total imports and investigation against Malaysia should be dropped.
 - xxi. Imports from Indonesia have dropped significantly by more than 70% from the previous year, hence, transaction-wise import data needs to be provided.
 - xxii. The imports from Malaysia accounts for exact 3% of the total imports. Investigation against Malaysia is in violation of rules. Imports from Indonesia also accounts for only 4.13%, thus, claim regarding shift of dumping to these sources have no ground.
 - xxiii. The domestic industry managed to maintain the same price levels despite decline in prices of the Aluminium during the POI.
 - xxiv. The cost of sales and selling price have moved in tandem during the POI upon comparison with the base year.
 - xxv. The Authority should suo moto review the existing anti-dumping duty on China PR concerning imports of Aluminium Foil.

- xxvi. The domestic industry was incurring losses when the imports were not undercutting the domestic prices in 2016-17, the domestic industry was earning substantial profit in 2017-18 and 2018-19, when the imports from the subject country started undercutting domestic selling prices.
- xxvii. Total imports of aluminium foil between 5.5 microns to 80 microns have declined by 27,172 MT in the POI as compared to the base year.
- xxviii. Even after the increase in capacity of the petitioners, there is a substantial gap of 91,856 MT between the total capacity of Petitioners and demand in the POI.
- xxix. Imposition of anti-dumping duty will put pressure on an already struggling domestic user industry. It will also further worsen the demand-supply gap for the subject goods.
- xxx. There is no co-relation between price undercutting and profitability. When price undercutting has been negative, the DI was in losses; when price undercutting was positive, the DI was in profits.
- xxxi. Petitioners' profitability has been severely impacted due to significant increase in global prices of raw material to produce the PUC. The same has been admitted to by Hindalco in its Annual Report 2018-19.
- xxxii. DI made losses in the base year, price undercutting from subject countries were negative. There after landed price of imports increased from Rs202/Kg in the base year to Rs223/Kg in the POI but the DI turned into losses. Thus, the cause of losses claimed by the petitioners cannot be linked to landed price of imports in any manner.
- xxxiii. Capacity and capacity expansions as claimed by the petitioners must be collected by the Authority product wise and total claims of capacity have no meaning. Installed capacity as shown in the application has changed by 1500 MT only. Only to produce 5.5, micron the petitioners might need 67500 additional hours which means almost 9 rolling mills and huge no of furnaces and slitting machines. Such investment is nowhere seen. Thus, the whole claim of capacity addition needs specific examination by the Authority.
- xxxiv. Imposition of ADD on aluminium foil would lead to import of finished containers under HSN7615 and there will be a situation of inverted duty. Such imports would attract a duty of 10% only whereas imports of raw material would attract a 7.5% customs duty + ADD additional. This levy is a serious concern of the SRC container producers using SRC foil.
- xxxv. Authority was requested to call in type-wise production and sale of House foil and SRC foil for the past 5 years, including POI, from all petitioners to evaluate their status as bona fide producers of House Foil and SRC Foil as they have been hiding the real facts of their production and sale to rig the downstream market. The overall capacity to produce 5.5 micron is not comparable with House Foil or SRC foil capacity. Just stating overall capacity is not sufficient to gauge the realities of capacity and production, hence, a type wise production should be provided by the petitioners.
- xxxvi. The claim regarding source of dumping shifting from China to other subject countries is without basis. The imports of foil less than 5.5 micron are primarily due to consumer preference and technological upgradation in tandem with global demand.
- xxxvii. The machinery and technology used by the domestic producers are old and obsolete resulting in various quality issues with domestically produced foils.

- xxxviii. The purpose of anti-dumping duty is to provide a price cushion to the domestic industry and domestic industry takes advantage of the same by increasing prices. The domestic industry has increased prices by Rs. 35.40 per kg post initiation.
- xxxix. Varopakorn has only exported foils for semi-rigid containers (SRC foils) to India. It was to bridge the demand-supply gap as Indian producers were unable to provide the requisite volume of SRC foils, as per the desired specification. Hindalco and Raviraj focused on pharma/flexible packaging and Jindal has a very limited supply of SRC foils.
- xl. Raviraj and PG Foils have imported about 842.42MT of Foils Stock in the Month of January 2021 and the same is being done because there is no adequate supply. While these companies are importing Foils Stock from countries like Bahrain, Indonesia and China PR at an average price of Rs172/Kg (CIF) and thereafter selling them after rolling, how come a higher priced import of PUC at Rs213/Kg (CIF) level from subject countries could do any harm to the petitioners.

H.3 Examination by the Authority

79. The Authority has taken note of the submissions made by the interested parties and has examined various parameters in accordance with the relevant Anti-Dumping Rules and Annexure III after duly considering the submissions made.

Cumulative Assessment

80. Para (iii) of Annexure II of the Anti-Dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
- a. Margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of imports from each country is three percent (or more) of the import of like article or where the import of individual countries is less than three percent, the imports collectively account for, more than seven percent of the import of like article; and
 - b. Cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles.
81. The Authority notes that:
- a. The subject goods are being dumped into India from subject countries. The margin of dumping from each of the subject countries is more than the de minimis limits prescribed under the Rules.
 - b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
 - c. Cumulative assessment of the effect of the imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like article offered by the Domestic Industry in the Indian market.
82. In view of the above, the Authority considers that it is appropriate to assess injury to the Domestic Industry cumulatively from imports of the subject goods from the subject countries.

83. Rule 11 of Antidumping Rules read with Annexure II provides that an injury determination shall involve examination of factors that may indicate injury to the Domestic industry, *taking into account all the relevant facts, including the volume of the dumped imports, their effect on the prices of the domestic market for like articles and consequent effect of such imports on domestic producers of such articles.*
84. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is, otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the dumped imports on the Domestic Industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-Dumping Rules.
85. The submissions made by interested parties with regard to injury and causal link, which have been considered relevant by the Authority are examined and addressed as under.

H.4 Volume effect of Dumped Imports on the Domestic Industry

a. Assessment of Demand/Apparent Consumption

86. Demand or apparent consumption of the product in India has been determined as the sum of domestic sales of the Indian producers and imports from all sources.

Demand in India	Unit	2016-17	2017-18	2018-19	POI
Sales of domestic industry	MT	27,643	28,244	32,199	34,813
Sales of Supporters	MT	12,630	19,302	21,930	23,268
Sales of other Indian producer	MT	13,363	12,332	12,035	12,175
Subject Countries	MT	1,858	17,647	35,889	46,907
Thailand	MT	260	4,230	6,109	16,730
Indonesia	MT	853	6,804	11,176	3,399
Malaysia	MT	707	484	887	2,476
China below 5.5	MT	38	6,129	17,716	24,302
Country attracting ADD-China PR	MT	73,112	36,552	19,343	14,757
Other Countries	MT	7,368	20,970	19,900	20,651
Total Indian Demand	MT	1,35,974	1,35,047	1,41,296	1,52,571

87. It is seen that demand has slightly declined in 2017-18 since the base year and increased thereafter in 2018-19 and the POI.

b. Import Volumes from the subject countries

88. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports from the subject countries, either in absolute terms or relative to production or consumption in India. The factual position is as follows:

Imports Volume	Unit	2016-17	2017-18	2018-19	POI
Subject Countries	MT	1,858	17,647	35,889	46,907
Thailand	MT	260	4,230	6,109	16,730
Indonesia	MT	853	6,804	11,176	3,399

Malaysia	MT	707	484	887	2,476
China below 5.5	MT	38	6,129	17,716	24,302
Country Attracting ADD-China	MT	73,112	36,552	19,343	14,757
Other Countries	MT	7,368	20,970	19,900	20,651
Total Imports Volume	MT	82,338	75,169	75,132	82,315

89. It is seen that:

- a. Imports from the subject countries have increased throughout the injury period. It was contended by the domestic industry that imports of subject goods increased by many folds post imposition of anti-dumping duty on aluminium foil 5.5 micron to 80 micron from China in 2017. It is seen that imports from the subject countries almost doubled in 2018-19 since 2017-18 and thereafter further increased in the POI.
- b. Imports from country attracting duties have declined post imposition of anti-dumping duties.

c. Subject Countries Imports in relative terms

90. Imports in relative terms shows as follows:

Imports from subject countries in relation to	Unit	2016-17	2017-18	2018-19	POI
Production	%	3.01	26.25	47.74	59.66
Consumption	%	1.37	13.07	25.40	30.74

91. It is seen that imports from the subject countries in relation to production has increase from 3% in POI to 59% in the POI, whereas imports in relation to consumption has shown the same trend and has increased from 1.36% in the base year to 30% in the POI.

92. Thus, imports have increased significantly in absolute as well as relative term throughout the injury period.

H.5 Price Effect of Dumped imports on the Domestic Industry

93. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject countries have been examined with reference to price undercutting, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realisation, selling price and the non-injurious price (NIP) of the Domestic Industry have been compared with landed price of imports of the subject goods from the subject countries.

a. Price Undercutting

94. With regard to the effect of the dumped imports on prices, it is required to be analysed whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course.

Particulars	Units	2016-17	2017-18	2018-19	POI
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	116	123	115
Landed price	₹/MT	***	***	***	***
Trend	Indexed	100	107	122	110
Price undercutting	₹/MT	***	***	***	***
Trend	Indexed	100	454	179	325
Price undercutting	% Range	0-10	11-20	0-10	0-10

95. It is seen that the landed prices from the subject countries have been below the selling price of the domestic industry, thus undercutting the domestic prices.

b. Price Suppression and Depression

96. In order to determine whether the dumped imports are suppressing or depressing the domestic prices, changes in the costs and prices over the injury period have been compared. The factual position is as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of Sales	₹/Mt	***	***	***	***
Trend	Indexed	100.00	111.87	118.72	116.13
Selling Price	₹/Mt	***	***	***	***
Trend	Indexed	100.00	115.82	123.22	115.27
Landed price	₹/MT	2,02,770	2,17,022	2,46,914	2,22,669
Trend	Indexed	100	107	122	110
Change in					
Cost of Sales		--	***	***	***
Trend		--	100	57.67	(21.88)
Selling Price		--	***	***	***
Trend		--	100	46.67	

					-50.25
--	--	--	--	--	--------

97. It is seen that cost of sales and selling price both have increased till 2018-19 and declined thereafter in the POI. The landed value has also followed the same trend. Thus, the cost of sale, selling price and landed value have declined in the POI. It is seen that at one hand, decline in cost of sale is less than decline in selling price, and on the other hand, decline in landed value is way below the decline in selling price. Cost of sale has declined by ** points in the POI since the previous year, the selling price has declined by ** points and at the same time landed value has declined by 12 points in the POI since the previous year. Thus, imports have not let the domestic industry to increase its prices even to the level of cost of sale and have depressing effect of the selling price of the domestic industry.

H.6 Economic Parameters of the Domestic Industry

98. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The Authority has examined the injury parameters objectively taking into account various facts and submissions made.

a. Production, Capacity, Sales and Capacity Utilization

99. Capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the following table: -

Particulars	Unit	2016-17	2017-18	2018-19	POI
Capacity	MT	47,004	47,004	48,504	61,593
Trend	Indexed	100	100	103	131
Production	MT	31,887	31,818	37,078	39,324
Trend	Indexed	100	100	116	123
Capacity utilization	%	68	68	76	64
Trend	Indexed	100	100	113	94
Domestic sales	MT	27,643	28,244	32,199	34,813
Trend	Indexed	100	102	116	126

100. It is seen that:

- i. Domestic industry has enhanced capacity in 2018-19 and in the POI. It was contended by the domestic industry that capacity has been enhanced in line with the increase in demand for the subject goods.
- ii. Production and sale of the domestic industry have increased in view of the increase in demand.

- iii. Capacity utilisation has declined in the POI since the previous year as well as the base year.

b. Profitability, Return on investment and Cash profits

101. Profitability, return on investment and cash profits of the Domestic Industry over the injury period is given in the table below: -

Particulars	Unit	2016-17	2017-18	2018-19	POI
Profit/Loss	₹/Mt	***	***	***	***
Trend	Indexed	(100.00)	(8.03)	(0.37)	(138.59)
PBIT	₹ Lacs	***	***	***	***
Trend	Indexed	(100.00)	94	107	(267)
Cash Profit	₹ Lacs	***	***	***	***
Trend	Indexed	100	265	279	87
ROI	%	***	***	***	***
Trend	Indexed	(100)	80	70	(99)

102. It is seen that:

- It is seen that profitability of the domestic industry has improved slightly till 2018-19 and declined drastically in the POI. The domestic industry has contended that the industry was trying to recover from the ill effect of dumping from China and post imposition of ADD on China, the industry was able to improve the profitability. But such improvement was short lived as soon after the imposition of ADD on China in 2017, imports started to increase significantly from the subject countries and resultantly, the domestic industry witnessed losses in the POI. It is seen that the selling price of the domestic industry is below the cost of sale.
- PBIT, cash profit and ROI, all three parameters have followed the same trend as the profitability. All these parameters have improved till 2018-19 and declined significantly in the POI.

c. Market share in demand

103. Market share in demand over the injury period is given in the table below:

Particulars	Units	2016-17	2017-18	2018-19	POI
Domestic industry	%	20.33	20.91	22.79	22.82
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>103</i>	<i>112</i>	<i>112</i>
Other producers including Supporters	%	19.12	23.42	24.04	23.23
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>123</i>	<i>126</i>	<i>122</i>
Subject country imports	%	1.37	13.07	25.40	30.74

<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>956</i>	<i>1,858</i>	<i>2,249</i>
Other imports	%	59.19	42.59	27.77	23.21
<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>72</i>	<i>47</i>	<i>39</i>

104. It is seen that the market share of the domestic industry has slightly increased over the injury period. It has gone up by 2.5% in the POI since the base year whereas market share of the subject countries has increased consistently and significantly from 1.36% in the base year to 29.3% in the POI. The domestic industry has contended that they have not been able to increase the market share despite there is increase in demand. It was also contended that the domestic industry could not take advantage of the market share emptied by China post imposition of ADD, because it was completely hijacked by the dumped imports from the subject countries.

d. Employment, productivity and wages

105. Employment, productivity and wages of domestic industry over the injury period is given in the table below.

Particulars	Unit	2016-17	2017-18	2018-19	POI
No. of employees	No.	768	922	955	1,076
Trend	Indexed	100	120	124	140
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	100	116	123
Productivity per employee	MT/No	***	***	***	***
Trend	Indexed	100	83	94	88
Wages	₹ Lakhs	***	***	***	***
Trend	Indexed	100	133	157	162

106. It is seen that number of employees, productivity and wages have increased throughout the injury period.

e. Inventories

107. Inventory position with the Domestic Industry over the injury period is given in the table below:

Particulars	Units	2016-17	2017-18	2018-19	POI
Average inventory	MT	796	801	1,176	1,709
Trend	Indexed	100	101	148	215

108. It is seen that inventories have increased throughout the injury period. It has doubled from the base year to the POI. The domestic industry has contended that the domestic industry has not been able to sell the subject goods despite the fact that there is increase in demand and the domestic industry has highly compromised on the selling price. The closing stock in the POI was at the highest level.

f. Growth

109. It is seen that growth of the domestic industry in terms of production and sale have been positive during POI and growth in terms of cash profits and return on investment was negative in the POI.

Growth	Units	2016-17	2017-18	2018-19	POI
Production	%	-	(0.22)	14.19	5.71
Domestic Sales	%	-	2.13	12.28	7.51
Cash Profit - Rs. Laacs	%	-	62	5	(219)
Return on Capital Employed	%	-	5.84	(0.32)	(5.48)

g. Factors affecting domestic prices

110. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc. shows that the landed value of imported material from the subject countries is below the selling price of the domestic industry, causing price undercutting. The price undercutting has led to price depression in the Indian market. The demand for the subject goods increased over the injury period and therefore it could not have been a factor affecting domestic prices.

H.7 Magnitude of Injury and Injury Margin

111. Non-Injurious Price for the domestic industry has been determined on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP has been considered for comparing the landed price of each PCN from each of the subject country for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed as pre-tax profit to arrive at the NIP as per procedure prescribed in Annexure-III. The non-injurious price for each PCN so determined has been compared with the landed prices of imports from the subject countries for comparable PCN to determine the injury margin as follows:

Injury Margin table

Sr No	Country	Prducer	LV USD/MT	NIP USD/MT	IM	IM%	Range
1	China	M/s Jiangsu Zhongji Lamination Materials Co., Ltd	***	***	***	***	10-20
2	China	M/s Shanghai Shenhua Aluminium Foil Co., Ltd. (Now Known as M/s Shanghai Shunho Aluminium Foil w.e.f 19.05.2021)	***	***	***	***	10-20
3	China	M/s Jiangsu Dingsheng New Materials Joint-Stock Co Ltd	***	***	***	***	10-20
4	China	M/s Hangzhou Five Star Aluminium Co., Ltd	***	***	***	***	10-20
5	China	M/s Jiangsu Fengyuan Aluminium Mstar Technology Co., Ltd.,	***	***	***	***	10-20
6	China	M/s Kunshan Aluminium Co., Ltd.	***	***	***	***	10-20
7	China	All Others	***	***	***	***	30-40
8	Thailand	Thai Ding Li New Materials Co., Ltd and.	***	***	***	***	20-30
9	Thailand	Dingheng New Materials Co., Ltd	***	***	***	***	20-30
10	Thailand	M/s Loften (Thailand) Co. Ltd.	***	***	***	***	30-40
11	Thailand	M/s Varopakorn Public Company Limited	***	***	***	***	20-30
12	Thailand	All Others	***	***	***	***	30-40
13	Malaysia	All Others	***	***	***	***	30-40
14	Indonesia	All Others	***	***	***	***	20-30

I. OTHER KNOWN FACTORS AND CAUSAL LINK

112. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which at the same time are injuring the Domestic Industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the Domestic Industry.

a. Volume and price of imports from third countries

113. Imports from other countries are at higher than import price from subject countries or low in volume. Further imports from China are already attracting anti-dumping duty.

b. Export Performance

114. It is seen that domestic industry is largely in the domestic market. In any case, the Authority has considered the data for domestic operations for its injury analysis.

c. Development of Technology

115. There are no known material developments in technology over the injury period. Changes in the technology could not have caused claimed injury to the Domestic Industry.

d. Performance of other products of the company

116. The Authority has considered performance of the domestic industry only in respect of product under consideration. The injury claimed to the domestic industry is only in respect of the subject goods.

e. Trade Restrictive Practices and Competition between the Foreign and Domestic producers

117. There is no known trade restrictive practice which could have contributed to the injury to the domestic industry.

f. Contraction in Demand and Changes in pattern of consumption

118. It is noted that the demand of the subject goods has increased consistently over the entire injury period. Thus, it is the injury to the domestic industry was not due to contraction in demand or changes in pattern of consumption.

J. FACTORS RELEVANT FOR INJURY AND CAUSAL LINK

119. The following parameters are relevant for injury and causal link determination:

- a. Dumped imports from the subject counties have increased in absolute terms, in relation to production and consumption in India.
- b. Dumped imports are undercutting the prices of the domestic industry.
- c. Imports have depressing effect on the selling price of the domestic industry.
- d. Imports are preventing the domestic industry from raising its prices even to the extent of cost of production, leading to financial losses. The decline in profits has led to decline in cash profits/cash flows and return on investment;

K. POST DISCLOSURE COMMENTS

120. Following are the post disclosure submissions made by the Domestic Industry and Other interested parties.

K.1 Submissions made by the domestic industry

121. Following are the brief of comments to disclosure submitted by the domestic industry.

- i. UCAJ in their submission neither stated that there is no demand for electric vehicle battery foil in India at present, nor that they have not exported the subject goods to India during the POI. There is no demand for battery foil for EV in India and no cause of action has arisen to UACJ. Their claim for exclusion of battery foil was solely on the ground of potential demand.
- ii. UCAJ is not an exporter of the subject goods and has not exported any quantity of Battery foil in India during the POI.
- iii. Authority rightly observed that Aluminium Foil can be manufactured from both flat rolled product (FRP) and Ingot. European Commission, in Commission Regulation 287/2009 of 7 April 2009 while imposing provisional anti-dumping duty on imports of certain Aluminium Foil originating in Armenia, Brazil and the People's Republic of China, held that Aluminium foil is manufactured by rolling aluminium ingots or foil-stock to the desired thickness.
- iv. Authority rightly defined the PUC with the exclusions of 12 products. The domestic industry agrees to the exclusion of Adhesive tapes and Color coated Aluminium foil and requests the authority to specify the Adhesive tape in the exclusion as it is Aluminium foil (<80 mic) both sides coated with adhesive and also to specify the Color coated Aluminium foil as it Aluminium Foil with either PE (polyester) coating of PVDF (fluorine Carbon), coating falling under CTH 7607.
- v. No substantial evidence has been put on record by the other interested parties to show that the quality of the like article being sold by the domestic industry is bad.
- vi. As per the Designated Authority finding and subsequent CESTAT order in DSM Idemitsu Limited v. Designated Authority, difference in quality is not a sufficient justification for exclusion of a product.
- vii. The authority proposed to change name of Shanghai *Shenhua Aluminium Foil Co., Ltd.* to *Shanghai Sunho Aluminium Foil Co. Ltd.* based on request received, however they have not enclosed the prescribed proforma for name change as per Trade Notice 12/2018. The authority is requested to specify the nature of change and specify that the same is only due to name change in the company as the change affects only the English name of the company and not the Chinese name.
- viii. The respondents have suppressed all expenses forming the important part of an export transaction, which are required to determine net export price. There is no justification for different exporters claiming expenses on different account to determine ex-factory export price when all of them have sold to Indian buyers at CIF level.

- ix. The domestic industry completely agrees with the proposed conclusion of the Authority for Injury and Causal link analysis. Imports from the subject countries have increased significantly and has hit the price parameters of the domestic industry.
- x. There shall be no adverse impact of ADD on consumers and public at large. The ADD's have had a positive impact on the performance of the domestic industry in the past and the imposition of duties shall arrest the decline in performance of the industry.
- xi. Owing to the increasing demand the domestic industry had increased its capacity recently and for the producers to be able to run these new capacity expansions, it is necessary that adequate measures are imposed to ensure fair competition in the market.
- xii. The domestic producer should recover from the injury suffered due to the dumped imports to cater to the consumers' interest to have a competitive domestic industry capable of supplying the product to the consumers in competition to fair priced imports.
- xiii. The consumers will have to maintain higher degree of inventory if they have to depend on imported material. However, in case of procurement from the domestic industry, inventory holding can be kept at much lower levels.
- xiv. Despite of the duties on subject goods since 2017 on China, the user industry has shown growth.
- xv. There is enough inter-se competition between the 3 applicants, 12 other producers and 2 new producers who will commence their manufacturing in the coming months in the domestic market and the domestic industry will have competitive prices thereby benefitting the domestic industry. Imports are also coming from various sources too. Hence, there is no possibility of monopoly.
- xvi. The domestic industry requests the data of the domestic industry which is the basis for the normal value in China PR to be disclosed. The domestic industry requests the non-confidential version of disclosure of the verification reports of the participating exporters, communications exchanged with exporters and any information filed by the exporter post filing of initial questionnaire response.
- xvii. Anti-dumping duty may be imposed only as fixed quantum of anti-dumping duty, expressed as duty in US\$/MT.

K.2 Submissions by other interested parties

122. Following are the brief of comments to disclosure submitted by the domestic industry

- i. The Authority is bound as per decision of the Supreme Court in Automotive Tyre Manufacturers vs DA, to give findings on all issues raised by the respondents. The Authority has failed to take note about the preliminary objection raised by the user industries about maintainability of the proceedings.

- ii. The Authority has failed to examine the issue of two applicants involved in only re-rolling of the Aluminium foils from foil-stock, mostly imported from the same countries.
- iii. The domestic industry does not have capacity to produce Aluminium foil below 5.5 micron. The domestic industry has claimed material injury for this product as well when they have introduced this in market in the last quarter of POI.
- iv. The PUC from China is different from the PUC for other subject countries in the same investigation. This will lead to a situation where two different product sub-types from same country will attract different duties and also for two different durations. This is in violation of principle where dumping is determined for product as a whole.
- v. The Authority has failed to consider legal submissions regarding non-fulfillment of condition of inter-se competition and thus should not have carried out cumulative injury analysis.
- vi. The Authority has failed to examine whether the product from domestic industry confirms to the standard and also whether the rejection rate is negligible.
- vii. Other investigating Authorities with regard to the scope of the domestic industry in similar situations, USITC, in Aluminium Foil from China, Investigation Nos. 701-TA-570 and 731-TA-1346 (Final) and European Commission Regulation (EU) 2015/1081 of 3 July 2015 imposing a provisional anti-dumping duty on imports of certain aluminium foils originating in Russia, , dealing with the same product, clearly recognize the production of foils and Foil Stock from the basic material and treats the rolling and other activities from the Foil Stocks or Flat Rolled Products as industrial processing activities.
- viii. There is no transparency about the methodology adopted by the Authority regarding determination of Normal value and export prices of each participating producer- exporters and others. It is also not clear how the foils above 5.5 micron and below 5.5 microns have been treated while calculating the dumping margins from each of these countries.
- ix. The imports from Malaysia, being below 3%, are de minimis and should not have been included in the investigation.
- x. The Authority failed to examine the data of Domestic industry. The data given by them is not reliable.
- xi. The total import of aluminum foils from Thailand and Indonesia, taken together, has increased marginally in the POI compared to the previous year. Therefore, no justification for include 5.5 micron foils against these countries and further marginal increase of volume from these countries cannot have any major volume impact on the domestic industry.
- xii. The Authority failed to take into account impact of capacity addition to the extent of 25% in the POI impacting cost and prices of the domestic industry, and also, the global price trends of subject goods during that time period.
- xiii. A PCN level analysis would have shown that there are no price undercutting, underselling, suppression, and depression effects of the alleged dumped imports.

- xiv. The Authority has excluding 'Adhesive Tapes' from the scope of PUC. The Authority is requested to confirm the same in the final findings. The Authority is requested to describe the product exclusion as "*Aluminium Foil Adhesive Tapes*" in the Final Findings.
- xv. The Authority is requested to correct the name of the Respondent to "Kunshan Aluminium Co., Ltd" in the final findings to be issued by the Authority.
- xvi. The Authority has not disclosed the volume of Ultra-Light Gauge produced and sold by Jindal India Limited even in range form, as a proportion of total domestic production in India. It should also be clarified whether Ultra-Light Gauge was sold in other months as well. Sale in December 2019, one month, cannot be representative of the commercial quantities.
- xvii. Two other major producers did not produce Ultra-Light Gauge during the POI questions the validity of the inclusion of this type within the scope of the PUC.
- xviii. The demand supply gap is an important factor in determination of the exclusion of a particular product from the scope of PUC. The Authority should also keep in mind interests of the downstream industry in excluding this product from the scope of the PUC. The Authority decided in similar manner in final findings dated 19 January 2021 in the anti-dumping original investigation concerning imports of "Newsprint in rolls or sheets, excluding glazed newsprint" originating in or exported from Australia, Canada, EU, Hong Kong, Russia, Singapore and UAE.
- xix. The standing of the domestic industry is questionable since they did not manufacture or commercially sell Ultra-Light Gauge during the POI and may have instead imported the same from the subject countries.
- xx. The imposition of ADD will lead to a strengthening of the monopolistic situation of the domestic industry.
- xxi. The Authority failed to objectively examine the request for exclusion of Battery Foils from the scope of investigation. The pre-conditions for imposition of duty, i.e., imports at dumped price causing injury is not satisfied in the present case. There was no imports of battery foils in India during POI. The price of battery foil is much above the normal value as well as NIP. All types of foils meant for commercial applications have been excluded, Battery Foils are specialized foils developed by UACJ Foil Malaysia SDN BHD to cater the needs of lithium-ion battery manufacturers.
- xxii. The Petitioners claim to have sold Battery Foils in the Indian market, however, they do not confirm on whether the same has been produced by them and sold in commercial quantities.
- xxiii. There is a substantial price difference between Battery Foils manufactured by UACJ Foil Malaysia SDN BHD and foils manufactured by Indian producers. The normal aluminum foils and specialized foils of metal alloys are not technically and commercially substitutable.
- xxiv. The levy of duty on Battery Foils will adversely impact the prospects for electric vehicles and other similar electric-powered products in the Indian market. UACJ Foil Malaysia SDN BHD has not exported 'battery foils' or subject goods during the POI as well as the injury period.

- xxv. Authority should consider the LME price as the cost of aluminium ingot during the POI for constructing normal value. Additionally, the Authority should not use a higher ratio since the aluminium foil industry is not a high profit industry.
- xxvi. If the Authority concludes in the final findings that anti-dumping duty is to be recommended, the Authority is required to consider the lower of injury margin and dumping margin determined in the disclosure statement while recommending the duty in accordance with Rule 17(1)(b) of the AD Rules.
- xxvii. The Authority must re-examine the volume effect of imports on the domestic industry after revising the import data to exclude the imports of adhesive tapes and color coated aluminium foil in order to undertake a fair analysis.
- xxviii. No injury could have been caused to the domestic industry from imports of Aluminium Foil of less than 5.5 micron until commencement of commercial production and sales of this product in December 2019.
- xxix. That there has been a significant decline in imports of subject goods from China PR. Imports of Aluminium foil of less than 80 micron from China PR has declined by almost 50% in the POI as compared to base year. That there has been a decrease in the import of subject goods from subject countries. Imports of Aluminium Foil of less than 80 micron has decreased by 18% in the POI as compared to base year. Therefore, the observation of the Authority in paragraph 43 of the Disclosure Statement that imports from subject countries has increased is incorrect.
- xxx. That domestic industry has incurred losses and has witnessed a decline in PBIT due to increasing depreciation cost.
- xxxi. The cost of production determined for Loften for the purpose of Normal Value appears unrealistically high and the same needs reconsideration based on real cost information of the provided by the Company. Accordingly, Dumping Margin determined for Loften needs to be corrected.
- xxxii. The cost data thereafter shows that the Authority has considered separate conversion cost for each PCNs for Loften, whereas conversion cost does not vary significantly between PCNs as the difference in cost between PCN is primarily driven by differing raw material cost and conversion cost remain comparable as conversion cost is nothing but an allocation of cost based on a specific allocation method.
- xxxiii. It appears that the overhead cost/conversion cost considered by the Authority in case of Loften is not as per the information submitted by the Company. The conversion cost in case of Loften is ***Thai Baht per MT as claimed by the Company in App-8 and against which the Authority has taken a conversion cost as high as *** Thai Baht per MT (Medium Gauge) which requires reconsideration and actual conversion cost of the Company alone should be adopted.
- xxxiv. With regard to the key raw material cost that is the cost of Foil Stock, it is apparent that the Authority has calculated a cost of US\$ *** /MT (*** THB@ *** Baht per US\$), which is apparently based on LME cost of ingots, appears completely exaggerated and way too high than the actual raw material cost incurred by the Company.
- xxxv. The decision not to exclude SRC and House foil from the scope of PUC is not fair. The exclusion is warranted as the said products have not been supplied as per demand in India and imports were essential.

- xxxvi. Disclosure shows that Jindal India had started manufacturing Aluminium foil below 5.5 micron since 2019 and they sold their first commercial quantity in December 2019. This is when the POI of the present matter is 01st April 2019 to 31st March 2020. Thus, even if they were producing and selling the said type of product, it was only for about 4 months during the POI as the commercial production admittedly started only in December 2019 and the users were compelled to import the same for substantial part of the POI. Aluminium foil below 5.5 micron should be excluded from the product scope for this reason alone.
- xxxvii. Exclusion request for 6.3 Micron foils is reiterated as the same is getting imported due to quality issues and users cannot use the Indian material as shown in our submission.
- xxxviii. The capacity claim by manufacturer needs to be per product basis and what quantities they have assumed for each product to arrive at capacity. The current claims of capacity by manufacturers are totally false.
- xxxix. A producer producing the subject goods from ingot stage and a producer producing the subject goods from imported foil stock/FRP from countries including subject countries cannot be put in the same pedestal. Injury examination should be done separately for Hindalco and other companies if the importing producers like Raviraj and Jindal are considered as part of DI.
- xl. The Disclosure shows that import of subject goods increased from 1858MT from the base year to 46,907 in the POI. But the basic cause of such increase in import is not examined and addressed at all. The basic cause of import is capacity constraints of Domestic Producers to produce the required types of PUC and this fact must be considered while evaluating increase in imports and claims of injury in this matter. Thus, the DI did not suffer any injury on account of alleged dumped imports.
- xli. The Authority must disclose the facts of type wise import of PUC, the corresponding capacity available with the petitioners and actual production of such types during the injury period to understand the real cause of imports and injury
- xlii. The alleged injury also cannot be linked to price of subject goods imported. The DI incurred less losses at PBT level when the price undercutting was in the range of 11-20% in the 2017-18 period and the losses significantly increased when the price undercutting gap declined to 0-10% in the POI. In fact, ROI, which was positive in the 2017-18 period become negative when the price undercutting halved. There is no relation between imports and injury.

K.3 Examination by the Authority

123. The Authority notes that most of the submissions by the domestic industry and interested parties are repetitive in nature. These submissions have already been examined at appropriate places in this finding. Further, the Authority has examined additional/new relevant submissions of the interested parties as under:
- a. The interested parties have argued that the subject good is manufactured from the stage of Ingot and manufacturing Aluminium foil from the stage of Flat rolled product should be considered merely as processing. In this

regard, it is noted that this issue has been examined at length by the Authority at the relevant stage in the findings. It is noted that the approach taken by the Authority is consistent with its past practice.

- b. As regards requests for exclusion of certain product types, the Authority notes that most of the interested parties have by and large reiterated their previous submissions. Although no material evidence substantiating such claims has been brought before the Authority. It may also be noted that demand supply gap is not a ground for exclusion of a product type. As far as Aluminium foil below 5.5 micron is concerned, the Authority has verified the evidence provided by the domestic industry that they are producing the subject goods and have started selling in commercial quantities within the POI. Reasons for non-exclusion of battery foil has also been examined in detail by the Authority. With regard to exclusion of Aluminium foil 6.3 micron, the other interested parties have not brought any material evidence on record to show the quality difference. Since the domestic industry is producing the same, thus it cannot be excluded from the product scope.
- c. As regards the product type excluded from the product scope i.e. Adhesive tape and color coated Aluminium foil. It is clarified that Aluminium Foil Adhesive Tapes can be defined as "Adhesive tape is Aluminium foil (< 80 mic) single side or both sides coated with adhesive for use as tape " and color coated Aluminum foil can be defined as "aluminium foil with either PE(polyester) coating of PVDF(flourine Carbon), coating falling under CTH 7607".
- d. The Authority notes the submissions by M/s Loften (Thailand) Co., Ltd. regarding the normal value computed for them by adopting LME prices of Aluminium and other conversion cost which they have stated are erroneous. Further, the consumption norms have not been correctly applied and apportionment methodology of overheads is also incorrect. The exporter providing the details of LME prices of raw material has submitted that their actual price of raw material is infact higher than the LME prices. The Authority after re-examining both the raw material consumption data and conversion cost methodology in light of submission made by the exporter has amended the normal value as *** \$/MT
- e. As regards the contention of Shanghai Shenhua Aluminium Foil Co., Ltd, to change their name to Shanghai Sunho Aluminium Foil Co., Ltd, considering the submissions made by the company, and having regard to the nature of change claimed by the company, the Authority considers it appropriate to specify name of the new entity as well in lieu of the name of the companies investigated by the Authority. The company has clarified that this is merely change in English name of the company and the Chinese

name remains the same. This name change does not impact the shareholding pattern or identity of the company. Thus, the Authority agrees for the name change of the entity from Shanghai Shenhua Aluminium Foil Co., Ltd, to Shanghai Sunho Aluminium Foil Co.

INDIAN INDUSTRY'S INTEREST

124. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.

PUBLIC INTEREST

125. The Authority considered whether imposition of ADD shall have adverse public interest. For the same, the Authority examined whether imposition of duty on imports of the product under consideration would be against the large public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers and consumers of the product.
126. The Authority issued gazette notification inviting views from all interested parties, including importers, consumers and other interested parties. Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to present investigations, including possible effect of ADD on their operations. The Authority sought information on, inter-alia, interchange ability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of ADD on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of ADD. Several users have filed questionnaire response. Further the users have made claims that imposition of ADD will lead to increase in price, however none of them have quantified the impact of imposition of duty. The interested parties have not demonstrated how these prices of Aluminium foil will impact the consumers. Even though the Authority has prescribed specific questions with regard to impact of ADD on the users, it is noted that none of the users have provided relevant information. It is, thus, noted that the interested parties have not established impact of ADD on the user industry with verifiable information. The product under consideration, at present is attracting anti-dumping duty from other source as well, no evidence has been provided by the users to show that the duties imposed in past have had any adverse impact on the users or the consumers at large. The domestic industry has contended that

even after imposition of duty on another source the user industry has shown growth. The imposition of anti-dumping duties will also discourage the import of low-priced subject goods from subject countries and it will provide a fair and competitive market to the user industry. This will also discourage the user Industry to be import dependent. Even the domestic industry has made significant capital investment and expanded its capacity in the recent period and as per information on record, two new producers have set up their plant and about start their commercial production, non-imposition of anti-dumping duty will adversely impact the indigenous production of the product concern. The fact that the impact of anti-dumping duty is miniscule to the consumers of the product under consideration, the Authority is of the view that the imposition of anti-dumping duty will be in public interest.

127. Imposition of duties will be in interest of the domestic industry which has suffered injury due to dumped imports. The duties will ensure that domestic industry can compete in the market and will ensure wider availability of options to the users which will be in large public interest.
128. The Authority thus concludes that the anti-dumping duties will not be against the public interest at large.

L. CONCLUSION

129. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these findings and on the basis of the determination of dumping and consequent injury to the domestic industry made hereinabove, the Authority concludes that:
- (i) The product under consideration has been exported at a price below normal value, thus resulting in dumping.
 - (ii) The domestic industry has suffered material injury.
 - (iii) Material injury has been caused by the dumped imports of subject goods from the subject countries.
 - (iv) Factors such as no quantification of adverse impact of duties by the interested parties, capacity expansions in the country which will ensure no demand and supply gap, inter-se competition between Indian producers, and absence of any evidence of adverse impact of anti-dumping duties imposed in the past on the subject goods reasonably demonstrates that imposition of duties will not be against public interest.

M. RECOMMENDATION

130. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link thereof in terms of Rules and having established positive dumping margin as well material injury to the domestic industry caused by dumped imports, the Authority is of the view that imposition of anti-dumping duty is necessary to offset dumping and injury.
131. In view of above, the Authority, in terms of provisions contained in Rule 17(1)

(b) read with Rule 4(d) of the Rules, recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the Domestic Industry. The Authority accordingly recommends imposition of anti-dumping duty equal to the amount indicated in Column 7 of the table below on all imports of goods described in Column 3 of the duty table originating in or exported from China PR, Indonesia, Malaysia and Thailand from the date of notification to be issued in this regard by the Central Government.

132. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

DUTY TABLE

Sn	Heading	Description	Country of origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	7606	Aluminium Foil 80 micron and below*	China PR	Any country including China PR	Jiangsu Zhongji Lamination Materials Co., Ltd	506.81	MT	USD
2.	-do-	-do-	China PR	Any country including China PR	Shanghai Sunho Aluminium Foil Co., Ltd.	398.45	MT	USD
3.	-do-	-do-	China PR	Any country including China PR	Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.	523.67	MT	USD
4.	-do-	-do-	China PR	Any country including China PR	Hangzhou Five Star Aluminium Co., Ltd	523.67	MT	USD
5.	-do-	-do-	China PR	Any country including China PR	M/s Jiangsu Fengyuan Aluminium Mstar Technology Co., Ltd.,	510.24	MT	USD

6.	-do-	-do-	China PR	Any country including China PR	M/s Kunshan Aluminium Co., Ltd.	577.59	MT	USD
7.	-do-	-do-	China PR	Any country including China PR	Any producer other than mentioned in serial no 1 to 6	976.99	MT	USD
8.	-do-	-do-	Any country other than China PR, Indonesia, Malaysia and Thailand	China PR	Any	976.99	MT	USD
9.	-do-	-do-	Thailand	Any country including Thailand	Thai Ding Li New Materials Co., Ltd.	100.07	MT	USD
10.	-do-	-do-	Thailand	Any country including Thailand	Dingheng New Materials Co., Ltd	100.07	MT	USD
11.	-do-	-do-	Thailand	Any country including Thailand	M/s Loften (Thailand) Co., Ltd.	93.53	MT	USD
12.	-do-	-do-	Thailand	Any country including Thailand	M/s Varopakorn Public Company Limited	178.47	MT	USD
13.	-do-	-do-	Thailand	Any country including Thailand	Any producer other than mentioned in sl. No. 9, 10, 11, 12	339.93	MT	USD

14.	-do-	-do-	Any country other than China PR, Indonesia, Malaysia and Thailand	Thailand	Any	339.93	MT	USD
15.	-do-	-do-	Malaysia	Any country other than Malaysia	Any	850.45	MT	USD
16.	-do-	-do-	Any country other than China PR, Indonesia, Malaysia and Thailand	Malaysia	Any	850.45	MT	USD
17.	-do-	-do-	Indonesia	Any country other than Indonesia	Any	422.28	MT	USD
18.	-do-	-do-	Any country other than China PR, Indonesia, Malaysia and Thailand	Indonesia	Any	422.28	MT	USD

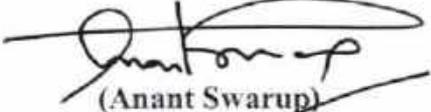
*Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)" excluding the following:

- i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China PR
- ii. Alu Alu Laminate
- iii. Ultra Light Gauge Converted
- iv. Aluminium Foil Composite
- v. Aluminum foil for capacitors width below 500 mm
- vi. Etched or formed Aluminium Foils

- vii. Aluminium composite panel
- viii. Clad with compatible non clad Aluminium Foil
- ix. Aluminium Foil for beer bottle
- x. Aluminium- Manganese- Silicon based and/ or clad Aluminium- Manganese- Silicon based alloys, whether clad or unclad
- xi. Aluminium Foil Adhesive tapes
- xii. Color coated aluminium foil

FURTHER PROCEDURE

133. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.


(Anant Swarup)
Designated Authority