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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)**

4th Floor, Jeevan Tara Building
5 Parliament Street, New Delhi - 110001

Dated 9th December, 2016

Notification

Final Findings

Subject: Anti-dumping investigation concerning imports of Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD, originating in or exported from China PR.

No. 14/2/2015-DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the Rules) thereof;

2. Whereas M/s ISMT Ltd., and M/s Maharashtra Seamless Ltd., (hereinafter also referred to as the applicants or domestic industry) have jointly filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules, for initiation of Anti-dumping investigation concerning imports of “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD” (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country), alleging dumping and consequent injury and requested for levy of anti-dumping duty on the imports of the subject goods from the subject country.
3. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice vide Notification No. 14/2/2015-DGAD dated 8th July, 2015, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

4. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - i. The Designated Authority, under the above Rules, received a written application from the Applicant on behalf of the domestic industries, alleging dumping of Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel originating in or exported from China PR.
 - ii. Preliminary scrutiny of the application revealed certain deficiencies, which were subsequently rectified by the Applicant. The application was, therefore, considered as properly documented.
 - iii. The Authority notified the embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
 - iv. The Authority issued a public notice dated 8th July, 2015 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
 - v. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.
 - vi. 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.
 - vii. The embassy of the subject country 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.
 - viii. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in accordance with Rule 6(4) of the Rules:
 - a. HebeiHongling Seamless Steel Pipes Co., Ltd., China PR
 - b. Jiangsu Huacheng Industry Group Co., Ltd., China PR
 - c. Pangang Group Chengdu Iron And Steel Co. Ltd., China PR

- d. Suzhou Seamless Steel Tube Works, China PR,
 - e. Tianjin Pipe (Group) Corporation, China PR,
 - f. Wuxi Dexin Steel Tube Co., Ltd., China PR,
 - g. Wuxi Dongwu Pipe Industry Co. Ltd., China PR,
 - h. Xigang Seamless Steel Pipe Company Limited., China PR,
 - i. ZhangjiagangYiyang Pipe Producing Co., Ltd., China PR,
 - j. YantaiLubao Steel Pipe Co., China PR,
 - k. Pangang Group Chengdu Steel & Vanadium Company Ltd., China PR
 - l. Inner Mongolia Baotou Steel Union Co Ltd., China PR,
 - m. Yangzhou Lontrin Steel Tube Co Ltd., China PR,
 - n. Jiangsu Changbao Precision Steel Tube Co.Ltd., China PR,
 - o. Shengli Oil Feld Freet Petroleum Steel Pipe Co Ltd., China PR
 - p. Jiangsu Chengde Steel Tube Share Co Ltd., China PR,
 - q. Anhui Tioanda Oil Pipe Co Ltd., China PR,
 - r. Changbad Steel Tubes JuangsuChangbao Steel Tube Co Ltd., China PR,
 - s. Mertex UK Ltd, UK
 - t. Kirtanlal International, Dubai
- ix. The following producers/exporters from the subject country filed exporter's questionnaire response in the prescribed format:
- a. Tianjin Pipe Manufacturing Co. Ltd., China PR
 - b. Tianjin Pipe International Economic and Trading Corporation, China PR
 - c. Hubei Xinyegang Steel Co., Ltd., China PR
 - d. Yangzhou Chengde Steel Pipe Co., Ltd., China PR,
 - e. Jiangsu Chengde Steel Tube Share Co. Ltd., China PR,
 - f. Hengyang Valin Steel Tube Co. Ltd., China PR,
 - g. Hengyang Valin MPM Co. Ltd., China PR,
 - h. Hengyang Steel Tube Group Int'l Trading Inc. Ltd., China PR,
 - i. Jiangsu Valin-Xigang Special Steel Co. Ltd., China PR
 - j. Jiangsu Changbao Steel Tubulars Corporation, China PR,
 - k. Jiangsu Changbao Steel Tube Limited Co., China PR,
 - l. Changzhou Changbao Precision & Special Steel Tube Co. Ltd., China PR,
 - m. Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR,
 - n. Yangzhou Lontrin Steel Tube Co. Ltd., China PR,
 - o. Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd., China PR,
 - p. Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR
 - q. Inner Mongolia Baotou Steel Union Co., Ltd, China PR
 - r. Mertex UK Limited, UK
- x. None of the producers/exporters from China PR has claimed Market Economy Treatment (MET) rebutting the non-market treatment in the present investigation.

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

- a. Samir Metal & Tubes, Mumbai
- b. Metallica Metal India, Mumbai
- c. Northern Steel Traders Pvt. Ltd., Delhi
- d. Gandhi Special Tubes Ltd, Mumbai
- e. Bharat Earth Movers Ltd., Kolar, Karnataka
- f. Marathwada Auto Compo Pvt. Ltd., Aurangabad, Maharashtra
- g. G.B. Engineering Enterprises Pvt. Ltd., Tiruchirapalli, Tamilnadu
- h. Endurance Technologies Pvt. Ltd., Aurangabad, Maharashtra
- i. Kishore Vadilal Pvt. Ltd., Ahmedabad, Gujarat
- j. Bharat Enterprises, Mumbai
- k. Sitson India Pvt. Ltd., Thane, Maharashtra.
- l. Wipro Ltd., Thumakuntahindupur, Andhra Pradesh.
- m. Indian Oil Corpn. Ltd., (Refinery Divn.), Mathura, Uttar Pradesh.
- n. Reliance Industries Limited., Jamnagar, Gujarat
- o. Shree Shyam Trading Company, Kolkata.
- p. S.S. Engineers, Pune, Maharashtra
- q. Hmel, Bhandida, Punjab
- r. Vinayak Tubes, Pune, Maharashtra.
- s. RSB Transmissions (I) Ltd., Pune, Maharashtra
- t. Hi-Tech Engg. Corp. India Pvt. Ltd.(India),Pune, Maharashtra,
- u. Alstom Projects India Ltd., Durgapur, West Bengal.
- v. Bharat Petroleum Corporation Ltd., Ambalamugal, Kerala.
- w. Supreme Steels, Vadodara, Gujarat.
- x. Industrial Metal Corporation, Mumbai
- y. Rane (Madras) Ltd., Chennai.
- z. Parveen Industries Pvt. Ltd., Mumbai
- aa. Indian Oil Corporation Ltd. Haldia, West Bengal.
- bb. Fag Bearings India Ltd., Navadodara, Gujarat.
- cc. Technotrack, Ahmednagar, Maharashtra
- dd. Raigad Plastics Pvt Ltd, Raigad, Maharashtra.
- ee. JR Seamless Pvt Ltd, Secunderabad.
- ff. Madras Steels & Tubes, Chennai
- gg. Murugan Steels & Tubes 'Megh Synergy", Chennai
- hh. Maha Fitting Pvt Ltd, Delhi
- ii. Tubes India, Mumbai
- jj. Vibhor Steel Tubes, Pvt Ltd, Raigad, Maharashtra
- kk. Gajanan Tubes, Mumbai

xii. Importer's questionnaire response have been filed by the following:

- a. Micro Industrial Mart, Rohtak, Haryana
 - b. Micro Turners, Haridwar.
 - c. SKF India Limited, Pune.
 - d. FAG Bearings India Limited, Mumbai
 - e. National Engineering Industries Limited, Kolkata
 - f. Rama Cylinders Pvt.Ltd., Mumbai
 - g. Everest Kanto Cylinder Limited, Mumbai
 - h. Cairn India Ltd, Gurgaon, Haryana
- xiii. Initiation notification was sent to the following other domestic producers:
- a. Jindal Saw Ltd, Nasik
 - b. Seamless Ltd, Mumbai
 - c. Remi Metal Gujarat Ltd, Bharuch, Gujarat.
 - d. Bharat Heavy Electricals Ltd, Tiruchirapalli, Tamil Nadu
- xiv. Apart from the respondent exporters, importers, domestic industry and other domestic producers, submissions have been received on behalf of the following parties during the course of this investigation:
- a. Mertex UK Limited
 - b. FAG Bearings India Limited, Mumbai
 - c. National Engineering Industries Limited, Kolkata
 - d. Cairn India Ltd, Gurgaoan, Haryana
 - e. SKF India Limited, Pune
 - f. Micro Turner, Haridwar
 - g. Micro Industrial Mart, Rohtak, Haryana
 - h. Rama Cylinders Pvt. Ltd., Mumbai
 - i. Everest Kanto Cylinder Limited, Mumbai
 - j. Jiangsu Chengde Steel Tubes Share Co Ltd, China PR
 - k. Yangzhou Chengde Steel Pipe Co., Ltd., China PR,
 - l. Seamless Tube Manufacturers Association of India
 - m. Bharat Heavy Electricals Limited
 - n. Heavy Metal & Tubes Ltd
- xv. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xvi. The applicant had furnished transaction-wise imports data from the DGCI&S source and the Authority had relied upon the same prima facie for initiating the investigation. Post initiation, the Authority also obtained transaction-wise imports data from the DGCI&S for the past three years, and the period of investigation, and relied upon the same in this finding.

- xvii. The Non-injurious Price (NIP) based on the 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. Accordingly, the NIP for the domestic industry has been determined as per the following PCNs:

PCN	Description of PUC
A-1-1	Seamless Tubing, of a kind used in drilling for oil or gas, Carbon/Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-2	Seamless Casing, of a kind used in drilling for oil or gas, Carbon/Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-3	Seamless Mother Hollows, Coupling stock, blanks/ Pup Joints, Carbon/ Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-4	Seamless Drill Pipes, of a kind used in drilling for oil or gas, Carbon/Non Alloy, hot finished of an external diameter not exceeding 355.6 mm or 14" OD
A-1-5	Seamless Tubes, Pipes and hollow profiles including Line pipes of Carbon/Non alloy steel, hot finished of an external diameter not exceeding 355.6 mm or 14" OD
A-1-6	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes of Carbon/Non alloy steel, cold drawn or cold rolled or cold reduced of an external diameter not exceeding 355.6 mm or 14" OD
A-1-7	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes and Bearing tubes of Alloy steel, hot finished, of an external diameter not exceeding 355.6 mm or 14" OD
PCN	Description of PUC
A-1-8	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes and Bearing tubes of Alloy steel, cold drawn or cold rolled or cold reduced, of an external diameter not exceeding 355.6 mm or 14" OD

- xviii. Verification of the information provided by the applicant domestic industries, 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 present final findings.
- xix. The Period of Investigation for the purpose of the present investigation is from 1st January, 2014 to 31st December, 2014 (12 Months). The injury investigation period has however, been considered as the period from 2011-12, 2012-13, 2013-14 and the POI.
- xx. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this finding.
- xxi. 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.
- xxii. 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.
- xxiii. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxiv. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs 61.59
- xxv. The Authority, having regard to the Act and the AD Rules, recommended imposition of provisional Anti-Dumping duties concerning imports of Seamless Pipes and Tubes originating in or exported from China PR, vide its Preliminary findings Notification No. 14/2/2015-DGAD dated 31st March, 2016. The recommendations made by the Designated Authority were accepted by the Ministry of Finance and interim duties were levied vide notification no. 18/2016-Customs (ADD) dated 17th May, 2016

- xxvi. The Authority forwarded a copy of the preliminary findings to known interested parties who were requested to furnish their views, if any, on the preliminary findings;
- xxvii. The Authority also forwarded a copy of the preliminary findings to the Embassy of China PR in New Delhi with a request that the exporters and other interested parties may be advised to furnish their views on the preliminary findings;
- xxviii. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 16th June, 2016. All the parties attending the oral hearing were requested to file written submissions by 23rd June 2016 of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to offer their rebuttals. A number of interested parties attended the hearing.
- xxix. The Authority has again provided opportunity to all interested parties in view of the new Designated Authority to present their views orally in a hearing held on 02nd November, 2016. All the parties attending the oral hearing were requested to file written submissions by 7th Nov 2016 of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to offer their rebuttals by 11th Nov 2016. A number of interested parties attended the hearing.
- xxx. The arguments made in the written submissions/rejoinders received from the interested parties have been considered. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties on dated 25th November,2016 and comments received on dated 02nd December,2016, the same have been considered in Final Findings. The interested parties have commented to the disclosure statement and the same have been considered appropriately in this determination.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 5. The product under consideration in the present investigation has been defined as “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD”. The product under consideration includes boiler pipes or line pipes used in hydrocarbon industry and casing and tubing of a kind used in drilling for oil and gas exploration. However, as per the request made by the applicants, the following products have been excluded by the Authority from the scope of product under consideration at the initiation stage:

- i. Seamless alloy-steel pipes, tubes and hollow profiles of specifications of ASTM A213/ASME SA 213 and ASTM A335/ ASME SA 335 or equivalent BIS/DIN/BS/EN or any other equivalent specifications.
 - ii. Non - API and Premium Joints / Premium Connections / Premium Threaded Tubes & Pipes.
 - iii. All 13 Chromium (13CR) Grade Tubes and Pipes, and
 - iv. Drill Collars.
6. Seamless tubes are used where strength, resistance to corrosion, microstructure and product life is very crucial. Casing/tubing are used in extraction of Crude Oil and Gas from sea as well as from earth. Line pipes are used in hydrocarbon and processing industry. Boiler pipes are used in Boilers, Heat Exchangers, Super Heaters and Condensers, and in mechanical, structural and general engineering industry, Railways etc.
7. Seamless Pipes and Tubes are classified under Customs sub-heading No. 73.04 of Chapter 73 of the Customs Tariff Act, 1975. The Customs classification is, however, indicative only and not binding on the scope of the present investigation.

Submissions made by the Domestic industry

8. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
- i. The product under consideration in the present investigation has been defined as “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD”. The product under consideration includes boiler pipes or line pipes used in hydrocarbon industry and casing and tubing of a kind used in drilling for oil and gas exploration.
 - ii. The following products have been up front excluded by the applicants from the scope of product under consideration:
 - (a) Seamless alloy-steel pipes, tubes and hollow profiles of specifications of ASTM A213/ASME SA 213 and ASTM A335/ ASME SA 335 or equivalent BIS/ DIN/ BS/EN or any other equivalent specifications. (b) Non - API and Premium Joints / Premium Connections / Premium Threaded Tubes & Pipes.
 - (b) All 13 Chromium (13CR) Grade Tubes and Pipes, and (d) Drill Collars.
 - iii. Seamless tubes are used where strength, resistance to corrosion, microstructure and product life is very crucial. Casing/tubing are used in extraction of Crude Oil and Gas from sea as well as from earth. Line pipes are used in hydrocarbon and processing industry. Boiler pipes are used in Boilers, Heat Exchangers, Super

Heaters and Condensers, and in mechanical, structural and general engineering industry, Railways etc.

- iv. Seamless Pipes and Tubes are classified under Customs sub-heading No. 73.04 of Chapter 73 of the Customs Tariff Act, 1975. The classification is, however, indicative only and is not binding on the scope of the present investigation.
- v. Each type of product of seamless pipes has different requirements as per the specification and the Petitioners are capable of producing all types of the PUC.
- vi. Scope of product under consideration has been upheld in the recent safeguards investigation as well as the scope covered there is the same as in this petition except for size range.
- vii. Oil Country Tubular Goods (Casing, Tubing etc.) represents 26% of the total import of seamless pipes & tubes from China PR to India. OCTG cannot be excluded from the scope of PUC. Directorate General of Safeguards has covered OCTG as part of PUC in safeguard investigation. Domestic industry is mainly hit as all tenders floated by ONGC and OIL, the primary users of OCTG in India with an estimated demand of about 200000 MT, have mainly gone in favour of China PR.
- viii. There is no difference in the physical characteristics between SPT and Casings. The chemical and mechanical properties, metallurgy will be different irrespective whether it is SPT or casing as the same are guided by the requirements of the specification.
- ix. The Authority has rightly split the PUC into different PCN based on production process, end use and other technical parameters.
- x. MSL has already produced and supplied PUC of grade C-90, R-95, P-110 and Q-125 and the same, therefore, should not be excluded from the purview of the PUC as demanded by some of the interested parties. MSL has already produced and supplied Drill Pipes and PUC equal to 14". In fact, MSL and ISMT both together manufactures all range of PUC defined in the Initiation Notification.
- xi. MSL & ISMT both taken together are capable of manufacturing all grades and types covered under the scope of PUC including Bearinggrade.
- xii. Cairn India Ltd. has raised an issue of exclusion of patented goods from the scope of anti-dumping duty. Cairn imports Non-API and Premium Joints/ Premium Connections/ Premium Threaded Tubes & Pipes, which are clearly excluded from the scope of investigation.
- xiii. Claims of NEI that imported bearing tubes are not like product is totally incorrect. Bearing Tubes have been separately classified under PCN A1.1.8.
- xiv. ISMT and Jindal Saw are regularly producing and supplying bearing grade and MSL has facility to produce bearing grade, however, not producing due to commercial reasons. MSL have shown during verification that the company in past have produced and sold bearing grade seamless pipe.
- xv. In the Post hearing submissions DI submitted that Seamless Pipes are produced in various grades and specifications like API 5CT, API 5L, ASTM, ASME, DIN, BIS etc for the varied applications. All the grades of seamless pipes and tubes are within the scope of the product under consideration

- xvi. There is no justification for their exclusion of secondary, defective, rusted and used pipes and they are like article.
- xvii. Also bearing tubes should not be excluded just because MSL doesn't manufacture it as one of the domestic producer, ISMT manufactures bearing tubes and can meet the demand of the industry.
- xviii. Grades of excluded patented goods should be described properly.
- xix. High pressure gas cylinder should not be excluded from the scope of PUC. Dumping of high pressure gas cylinder will never be checked if once excluded from the scope and the domestic industry would never be able to produce the product commercially. At best, duty on this product may be suspended till the domestic industry gets license from the concerned Government department to supply for Gas Cylinder.
- xx. Burnished tube is nothing but it is cold drawn seamless tubes as per DIN 2391 ST 52 BKT with coating inside tube. Cold drawn seamless tubes as per DIN 2391 ST 52 BKT is being produced by the industry hence cannot be excluded from the scope.

Submissions made by Exporters, Importers, Users and other Interested Parties

- 9. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
 - i. A seamless drill pipe is formed by friction welding of seamless pipe with tool joints on either side. Then it is internally plastic coated. Thus drill pipe is different from the ordinary seam less pipe.
 - ii. The physical and technical characteristics of Oil Country Tubular Goods products are clearly different from other types of Seamless Pipe & Tubes. The production lines for Oil Country Tubular Goods products and that for other types of Seamless Pipe & Tubes are not the same and are not interchangeable.
 - iii. Petitioners are not capable of producing all the higher grades of PUC which are required by ONGC. These higher grades of PUC which are not produced by the Petitioners are C-90, R-95, P-110 and Q-125.
 - iv. For size 13-3/8" MSL is the only qualified producer. No other Indian company has qualified for this size. This size was exempted in previous 2 antidumping initiations initiated against the same PUC in the years 2000 and 2010 and also the safeguard investigation conducted for PUC.
 - v. The Designated Authority has correctly observed that the domestic industry does not have the mandatory certification from the Chief Controller of Explosives, Petroleum and Explosives Safety Organization to manufacture seamless tubes and pipes for High Pressure Gas Cylinders. Further, if the domestic industry starts manufacturing the aforesaid product that does not mean that such new products can be added to the product scope in the present investigation. At any

stage of the investigation, as well as at any later stage, the product scope cannot be enhanced.

- vi. While the Designated Authority has excluded patented premium joints/premium connections/premium threads from the product scope, it is not clear what grades or specifications of such products have been excluded. The Designated Authority should clarify the grades of the patented products that have been excluded from the product scope.
- vii. Designated Authority has put bearing steel tubes in PCNs A-1-7 and A-1-8, where bearing steel tubes have been clubbed with line pipes. However, Line pipes and bearing steel tubes are completely different products and are not substitutable in any respect. Line pipes are used in transportation of oil and gas, while bearing steel tubes are used in manufacturing ball bearings. Further, the metallurgy of line pipes and bearing steel tubes is completely different. PCN should be revised and bearing steel tubes should be separately examined for dumping and injury.
- viii. Import volume of bearing steel tubes is miniscule in demand and imports from the subject country during the POI. Imports of bearing steel tubes during the POI comprise mere 2.49% in imports of the subject goods from China PR. Further, imports of bearing steel tubes during the POI comprise mere 1.09% in demand. Bearing steel grades conforming to SAE 52100, 100 Cr6, EN 31 or other equivalent grades like GCR 15, GCR 15 SK, GCR 15 JN should be excluded from the product scope.
- ix. There is huge variation in the pricing of bearing tubes and other items that are part of the product scope. Bearing steel tubes cannot be clubbed in the product scope as the domestic industry has failed to demonstrate that it is suffering injury in this market segment. The domestic industry never mentioned that imports of bearing steel tubes were causing them injury to them.
- x. Between Petitioners, only ISMT Ltd., manufactures bearing steel tubes. Further, Jindal Saw Ltd., the supporter, also manufactures and supplies bearing steel tubes. The prices offered by Jindal Saw Ltd. are much lower than ISMT Ltd. for bearing steel tubes. Therefore, Jindal Saw Ltd., is causing injury to ISMT Ltd. The domestic industry is unable to manufacture seamless tubes and pipes for high pressure gas cylinders and certain premium patented joints/premium connections/premium threads. Therefore, the domestic industry does not have the requisite standing under Rule 2(b) of the AD Rules to manufacture seamless tubes and pipes for high pressure gas cylinders and certain patented premium joints/premium connections/premium threads.
- xi. The physical and technical characteristics of OCTG products are clearly different from other types of SPT. The production lines for OCTG products and that for other types of SPT are not the same and are not interchangeable. The Petitioners are also not capable of producing all the higher grades of PUC which are required by ONGC. These higher grades of PUC which are not produced by the Petitioners are as follows:
 - C-90
 - R-95

- P-110
- Q-125
- For size 13-3/8" MSL is the only qualified producer. No other Indian company has qualified for this size. This size was exempted in previous 2 antidumping initiations initiated against the same PUC in the years 2000 and 2010 and also the safeguard investigation conducted for PUC

- xii. The physical and technical characteristics of OCTG products are different from other types of SPT. The production lines are also not interchangeable. Petitioners are also not capable of producing all the higher grades of PUC viz; C-90, R-95 and P-110. The market prices for OCTG products are very different from other types of SPT. Compared with line pipes, mechanical pipes and boiler pipes, the prices for OCTG products are up to 50% higher than the others. Therefore, OCTG products should be excluded from the purview of the PUC.
- xiii. Product under consideration is vague and too broad. Designated Authority should exclude the following grades which are not produced by the domestic industry:
- Grades SAE 8720 and C-95
 - Boiler Pipes – T91/P91, T5/P5, T9/P9 and boiler pipes having thickness greater than 40 mm
 - Process Pipes – Grade P5 and P9
 - Mother Pipes (Hollows) for cold drawing
 - OCTG products
 - a. OCTG meant for making premium connections
 - b. High grades like Q 125
 - c. Drill pipes
 - d. Line pipes grades X65, X70
 - e. Line pipes for stringent applications like submarine service that have supplementary technical requirements over and above API standard requirements
- xiv. Welded tubes and seamless tube are interchangeable so welded pipe should not have been excluded from the scope of PUC. It has affected the standing of the DI.
- xv. The import statistics reports imports of secondary pipes, defective, rusted and used pipes which should be excluded while examining the import statistics of product under consideration.

10. Following additional submissions made by the domestic industry subsequent to oral hearing held with regard to product under consideration.

- i. Authority has excluded some categories of patented premium joints/ premium connections/ premium threads from the scope of PUC, following descriptions may kindly be considered for the purpose

"Premium joints/ premium connections/ premium threads for the purpose of the present investigations and proposed measures implies Non-API and Premium joints/ Premium Connections/ Premium Threaded Tubes for OCTG application and certified by the Directorate General of Hydrocarbons (DGH) that these Premium joints/ Premium Connections/ Premium Threaded Tubes are required for petroleum operations essential for oil and gas exploration as prescribed under customs notification no. 12/12012 dated 17th March 2012 at serial number 356."

- ii. The scope of the product under consideration specifically excludes some products. Such exclusion does not include imports of secondary pipes, defective, rusted and used pipes. Nor secondary pipes, defective, rusted and used pipes can be considered as different articles. The Designated Authority has in the past several cases not only included defectives, seconds or off grades within the scope of the product under consideration, but also held that no distinction can be claimed on this account in cost of production for the purpose of determination of dumping margin. Domestic industry objects to any such exclusion from the scope of the product under consideration.
- iii. High pressure gas cylinder pipe should not be excluded from the scope of the product under consideration, as the domestic industry is in the process of getting necessary statutory approvals for selling the product in commercial volumes. However, appreciating that the domestic industry is currently not allowed to sell commercial volumes because of statutory approvals, the product type can be excluded from the scope of anti dumping duty. If this product type is excluded from the scope of product under consideration, it shall imply that the domestic industry would not be prevented from selling commercial volumes of this grade.

11. Following additional submissions made by the opposing parties subsequent to oral hearing held with regard to product under consideration.

- i. Domestic industry is not able to supply bearing grade steel tubes conforming to SAE 52100, 100 Cr6, EN 31 or other equivalent grades like GCR 15, GCR 15 SK, GCR 15 JN. They have failed to produce the same despite repeated request from the industry. These should be excluded from the PUC.
- ii. If bearing tubes are not excluded from the scope of PUC it should be examined separately under separate PCN and dumping margin should be determined separately.
- iii. Import price of bearing tube is highest as compare to other product under consideration. Also the import volume is minuscule.
- iv. In other country's investigation bearing tubes were specifically excluded from the scope of PUC.
- v. At the time of preliminary finding MSL misguided the Authority that it has capacity to manufacture bearing tubes
- vi. Seamless Steel Tubes burnished Tube and Seamless Steel Peeled Tubes, both should be excluded from the scope of PUC.

- vii. These are specially designed tubes which are burnished from ID and seamless peeled tubes. These steel tubes are meant only for manufacture of Hydraulic Cylinder.
- viii. Bearing tubes cannot be clubbed in A-1-8 because line pipes and bearing tubes are different goods
- ix. There are number of Panel reports suggest that there should be similarity in chemical or physical characteristics, price comparability. In the present case it is a comparison between apple and oranges. The products are of separate genus.

Examination by the Authority

12. The submissions made by the interested parties with regard to the scope of product under consideration and considered relevant by the Authority are examined and addressed as follows:

- i. The product under consideration in the present investigation is “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD”. The product under consideration includes boiler pipes or line pipes used in hydrocarbon industry and casing and tubing of a kind used in drilling for oil and gas exploration. However the following products have been excluded from the scope of product under consideration:
 - A. Seamless alloy-steel pipes, tubes and hollow profiles of specifications of ASTM A213/ASME SA 213 and ASTM A335/ ASME SA 335 or equivalent BIS/ DIN/ BS/ EN or any other equivalent specifications.
 - B. Non - API and Premium Joints / Premium Connections / Premium Threaded Tubes & Pipes as prescribed under customs notification no. 12/12012 dated 17th March 2012 at serial number 356.
 - C. All 13 Chromium (13CR) Grade Tubes and Pipes, and
 - D. Drill Collars.
- ii. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:
 -

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

- iii. The Authority as already confirmed in the preliminary findings that the subject goods produced by the domestic industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The consumers importing the product under consideration have also purchased the same from the domestic industry. In view of the same, the subject goods produced by the domestic industry are being treated as domestic like article to the product under consideration imported from subject countries in terms of the Rules.
- iv. As regards the contention that the PUC is too broad and vague, the Authority notes that the PUC has been appropriately defined keeping in view the imports from the subject countries and production and supply position of the domestic industry. Exclusion of any product variety may not be appropriate.
- v. As regards, the submission of certain interested parties to exclude a wide variety of pipes and tubes from the purview of the PUC on the ground that either the domestic industry does not manufacture the same or does not have the capacity to manufacture the same or does not manufacture quality products, the Authority notes that the domestic industry has the required plant and machinery for manufacturing all the varieties of the PUC. Therefore, exclusion of any variety of PUC from the purview of the PUC, other than those which have specifically been excluded from the purview of the PUC, may not be appropriate.
- vi. Domestic industry has provided supportive evidence that they have technology to manufacture and supply such grades like ASTM A335 Gr. and P-91, which are higher than Grades SAE 8720, C-95, Boiler Pipes – T91/ P91/, T5/ P5, T9/ P9 and boiler pipes having thickness greater than 40mm, Process Pipes – Grade P5 and P9, Mother Pipes (Hollows) for cold drawing, being demanded for exclusion from the purview of the PUC. Thus Authority did not find appropriate to exclude from the scope of the product under consideration.
- vii. Domestic industry has also submitted evidence of manufacture and supply of the following OCTG products:
 - a. OCTG meant for making premium connections
 - b. High grades like Q-125.
 - c. Drill Pipes
 - d. Line Pipes grades X65, X70.
- viii. Line pipes for stringent applications like submarine service that have supplementary technical requirements over and above API standard requirements.

- ix. However, the domestic industry could not demonstrate with documentary evidence production and supply of seamless tubes and pipes for High Pressure Gas Cylinders. During the verification of DGAD officials, the documents have been shown that the product has been sent for certification by the Concerned Government Department. Although the domestic industry have the capacity to manufacture seamless tubes and pipes for High Pressure Gas Cylinders and supplied the same for prototypes, they do not have the mandatory certification to manufacture and supply the same.
- x. Since the domestic industry could not substantiate with the copy of certification with regard to high pressure gas cylinder seamless tubes, Authority find appropriate to exclude this product from the scope of the product under consideration in this investigation.
- xi. As regards the contention that the import statistics reports imports of secondary pipes, defective, rusted and used pipes which should be excluded while examining the import statistics of product under consideration, the Authority notes that such products are the part of PUC and cannot be excluded while examining the relied upon imports data.
- xii. As regards the contention that the scope and purpose of anti-dumping / subsidy investigation is different to safeguard investigations and therefore the scope of PUC in safeguard investigation cannot be adopted in anti-dumping investigation, the Authority notes that the purpose and scope of anti-dumping and safeguard investigations are broadly the same i.e. to provide level playing field to the domestic industry vis-à-vis imported goods. Safeguard duty is imposed on goods which enter in increased quantities and cause or threaten to cause serious injury to domestic industry producing like or directly competitive goods. Antidumping duty is imposed on the dumped imported goods and dumping is said to occur when the goods are exported by a country to another country at a price lower than its normal value.
- xiii. As regards the contention that the patented goods and other subcategory excluded from the scope of PUC by DG, Safeguards should also be excluded in the present investigation, the Authority notes that patented goods and other sub category cannot be excluded from the scope of PUC as long as are technically and commercially substitutable with the domestic like goods and any such exclusion will lead to circumvention. However, some categories of patented premium joints/premium connections/ premium threads have already been excluded from the scope of PUC as prescribed under customs notification no. 12/12012 dated 17th March 2012 at serial number 356.

With regard to bearing tubes, the interested party has also submitted that only ISMT and Jindal Saw produce bearing tubes. Thus, Bearing tube should be taken out from the product under consideration as it is not produced by the domestic industry. Authority notes that the anti dumping rules does not prescribe that all the grades/types to be produced by all constituents of the domestic industry.

- (i) The authority has proposed imposition of anti-dumping duties only on those product types only for which like article has been offered by the domestic industry. In fact, authority has proposed exclusion of a number of product types which is not the part of the PUC.
- (ii) The authority notes that volume of production by the domestic industry for a particular product type is not relevant in deciding the scope of PUC. However, the authority can consider exclusion of a product type provided the domestic industry has neither produces nor supplied the PUC and not a like article.
- (iii) A number of parties reiterated their submissions regarding inclusion of seconds in PUC. The authority notes that scope of PUC clearly included seconds and defective at the stage of initiation itself. The petition filed by the domestic industry clearly included a number of import transactions pertaining to imports of seconds and defectives. None of interested parties have demonstrated how seconds and defectives do not constitute PUC. Merely because a product has been sold as seconds or defectives, the same does not imply that it does not constitute PUC. It is also noted in this regard that the authority has consistently held that the mere difference in quality is immaterial to decide the scope of PUC. It is also noted that none of the interested parties have provided any reasons why imports of seconds/defectives should be treated as product not under consideration and should be excluded from the scope of the PUC.
- (iv) As regards PCN A-1-4, where the authority has stated "NA", it is clarified that there is no import of this particular product type during the POI. A-1-4 is "Seamless Drill Pipes, of a kind used in drilling for oil or gas, Carbon/Non Alloy, hot finished of an external diameter not exceeding 355.6 mm or 14" OD and therefore clearly constitutes one of the types of PUC. Seamless Drill Pipes is a kind of seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel. Further, there is import of this particular type over the injury period and this particular type has been produced and supplied by the domestic industry. The authority notes in this regard that only those product types which have been imported in POI and like article of which have not been offered by the domestic industry can be excluded from the scope of PUC. Product type not imported in the POI cannot be considered for exclusion. A-1-4 has not been imported in the POI and therefore cannot be excluded.
- (v) Some interested parties contended that the scope of PUC has been altered at the stage of preliminary findings. It is, however noted that the scope of PUC at the most has been restricted/reduced in the preliminary findings. The scope of the PUC has not been enhanced after initiation of investigations.

Restricting scope of PUC at the stage of preliminary findings in any case does not prevent any party from providing relevant information in the form and manner prescribed. Had a party provided all relevant information to the authority, it was merely a question of eliminating imports of some product types which have been excluded from the scope of PUC at the stage of preliminary findings.

- (vi) The domestic industry has reiterated written submissions with regard to inclusion of high pressure gas cylinders. The authority however notes that it has consistent practice of excluding a product type in case it is established at the particular type has not been produced and supplied by the domestic industry. The authority therefore does not consider it appropriate to include the product type within the scope of PUC and exclude the same from the scope of proposed measures.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions made by the Domestic industry

13. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing and considered relevant by the Authority are as follows:

- i. MSL and ISMT jointly represent 63% of the domestic production of the subject goods in India. The petition is supported by Jindal Saw which has a 29% share of the domestic production. Thus, the applicants along with supporters constitute 92% of the domestic production.
- ii. While Quality Group is a manufacturer of stainless steel seamless pipes which are excluded from scope of PUC, the others are processors of seamless pipes and not producers of seamless pipes as such. They procure hot finished seamless pipes and work upon the same.
- iii. None of the alleged domestic producers, except Oil Country Tubular, were considered as eligible bidders in tenders of ONGC and OIL for the PUC. This also shows that these producers are not producing the PUC in India.
- iv. The position of the 10 other alleged domestic producers of the subject goods in India is as follows:

Company	Status
1. Sainest Tubes Pvt. Ltd.	They are cold rolling/cold reducing processors only and not Seamless pipe manufacturers. Their basic input raw
2. Mahalaxmi Seamless	material is hot finished seamless mother hollows/ pipes

Ltd. 3. Patels Airflow Ltd.	which is the PUC. Hence they cannot be termed as producer of subject goods in India.
4. Quality Group	Quality Group is a manufacturer of Stainless Steel seamless pipes (excluded from PUC).
5. Oil Country Tubular Ltd.	Oil Country Tubular Ltd. is a processor of seamless pipes and not a seamless pipe manufacturer. Their basic input is hot finished seamless mother hollows/ pipes which is the PUC and which they process further into a finished Seamless pipe. Hence cannot be termed as producer of the subject goods in India.
6. Bhatia Steel Tubes	Bhatia Steel tubes is a Manufacturer of ERW pipes with a negligible capacity for cold rolling of seamless pipes. Their basic input material is hot finished seamless/ mother hollows pipes which is the PUC and which they process further into a cold reduced/ Cold finished Seamless pipe. Hence they cannot be termed as producer of subject goods in India www.bhatiatubes.com
7. Shubhalaxmi Metals & Tubes Pvt. Ltd.	Shubhlaxmi Metals & Tubes Pvt. Ltd. is a manufacturer of Stainless Steel seamless pipes. The same is excluded from PUC.
8. Shree Sai Tubes Pvt. Ltd.	Shree Sai Tubes Pvt. Ltd. is engaged in the trading of ERW Tubes, Cold Drawn Welded (CDW) Tubes, Pre-Galvanized Tubes, Hot Dip Galvanized Tubes, Air- Pre-heater Tubes, Heat Exchanger, Condenser, and Boiler Tubes and Cold Rolled Open Profiles. These products are not covered under Product under Investigation. Hence they cannot be termed as producer of subject goods in India.
9. Heavy Metal & Tube Ltd.	Heavy Metal & Tube Ltd. is mainly producing cold drawn seamless tubes in alloy steel specs. ASTM/ASME A/SA-213 and ASTM/ ASME A/SA 335. The same are excluded from product under investigation.
10. Ratnamani Metals & Tubes Ltd.	Ratnamani Metals & Tubes Ltd. is producing ERW, SAW and Stainless steel pipes. These products are excluded from scope of investigation. Hence the cannot be termed as producer of subject goods in India

Submissions made by Exporters, Importers, Users and other Interested Parties

14. The submissions made by the producers/exporters/importers/other interested parties during the course of the investigation with regard to scope of domestic industry & standing and considered relevant by the Authority are as follows:

- i. Petitioners do not have the locus to maintain the present Petition. The petitioners do not qualify as 'producers as a whole' in terms of Rule 2 (b) of Anti-dumping Rules as almost ten other producers, as per the list given below, are manufacturing PUC, but not included in the purview of the domestic industry.

S.No.	Company Name
1	Sainest Tubes Pvt Ltd
2	Quality Group
3	Mahalaxmi Seamless Limited
4	Oil Country Tubular Limited
5	Patels Airflow Limited
6	Bhatia Steel Tubes
7	Shubhalaxmi Metals & Tubes Pvt Ltd
8	Shree Sai Tubes Pvt Ltd
9	Heavy Metal & Tube Limited
10	Ratnamani Metals & Tubes Limited

- ii. The petitioners have concealed material facts from the authority and the investigation has been initiated based on incorrect and false information and without proper determination under the provision of Rules 5 (3) with regards to accuracy and adequacy of the evidence presented by the petitioners.
- iii. In the Post hearing submissions it was submitted that MSL is not producer of bearing tubes neither from the customer's point of view nor from the producer's point of view.
- iv. The Applicants do not satisfy the requirement of representing a "major proportion" of the domestic industry and therefore have no standing as domestic industry.

15. Opposing interested parties made following additional submissions subsequent to second oral hearing held.

- ij. ISMT and MSL both have imported raw materials in substantial quantities so they should not be treated as DI.

Examination by the Authority

16. The various submissions made by the interested parties with regard to the scope of domestic industry & standing and considered relevant by the Authority are examined and addressed as follows:

- i. Authority notes that Rule 2(b) provides as follows

“(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”

- ii. The Application has been jointly filed by M/s Maharashtra Seamless Ltd and M/s ISMT Limited on behalf of the domestic industry. The application is supported by Jindal Saw Limited, a producer of subject goods. Bharat Heavy Electrical Limited (BHEL) and Remi Metals Ltd are the other known producers of the subject goods in India. The applicants alone constitute 62% of the total domestic production and along with Jindal Saw Limited, they constitute 92% of the total domestic production.
- iii. 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 themselves constitute 62% of the total domestic production and further support or opposition by any other eligible domestic producer is immaterial for the present investigation.
- iv. The applicants have also declared that they have neither imported the product under consideration, nor any of their related parties in India have imported the product during the POI. It has been further declared that the applicants are not related to any of the importers of the subject goods in India or exporters of the subject goods from the subject countries.
- v. The other alleged domestic producers, as stated by the domestic industry, are either processors of subject goods or are producers of stainless steel seamless pipes and tubes, which are beyond the purview of the present investigation.
- vi. There is no requirement that each of the constituent of domestic industry should produce each type of the product under consideration for which ADD has been sought. In fact, it is quite common in a situation where a product involves a large number of different product types and a number of different producers are involved, different producers tend to produce different types and it may not be a situation that all the producers produce all the types. Authority notes that ISMT

and Jindal Saw produces bearing tubes on which anti dumping duty has been sought.

- vii. As regards cancellation of API certificate of ISMT, the issue is irrelevant to the authority for the present purposes, as the other petitioning company has produced and supplied the product and there is no claim that their API certificate has also been rejected. It has not been established that other petitioning company's (MSL) product is not acceptable for the intended application. The authority notes that in a situation where domestic industry comprises of more than one producer, it is not necessary that every constituent of the domestic industry should produce and supply every kind of PUC. In fact, in a situation where there are a large number of producers producing and selling a product produced and sold in a large number of different types or variants, it is quite natural that different producers focus on different types of the product.
- viii. In the light of the detailed examination made above, the Authority holds that M/s Maharashtra Seamless Ltd. and M/s ISMT Ltd. account for a major proportion of the total domestic production of the subject goods during the POI and constitute domestic industry within the meaning of the Rule 2 (b) and satisfies the criteria of standing in terms of Rule 5 (3) of the Anti- dumping Rules.

D. CONFIDENTIALITY

Submissions made by the Domestic industry

17. The submissions made by the domestic industry with regard to confidentiality and considered relevant by the Authority are as follows:
- i. The petitioner has claimed only such information as confidential, confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
 - ii. The petitioner has provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
 - iii. Information such as gross volume of exports to India, gross volume of sales in domestic market, production, sales, average price for exports to India have not been claimed confidential.

- iv. Most of the exporters have not even provided indexed information even when information is capable of being summarized in an indexed form.
- v. In the Post hearing submissions it was submitted that Excessive confidentiality is claimed by all the interested parties and a lot of information, which is available in public domain, has been treated as confidential.

Submissions made by Exporters, Importers, Users and other Interested Parties

18. The submissions made by the producers/exporters/importers/other interested parties with regard to confidentiality and considered relevant by the Authority are as follows:
- I. The Applicant have resorted to excessive claim of confidentiality without offering meaningful non-confidential summaries of the critical information concerning the net selling price, price undercutting, production volume, domestic sales volume, export sales volume etc.
 - II. All evidences that the domestic industry has provided to the Designated Authority to demonstrate that they manufacture the range of products should be placed in the public file.
 - III. Raw and refined import statistics have not been provided to respondents. The Authority should provide raw and refined import statistics in MS Excel format so that interested parties including the Respondents could examine the correctness of the import data. Further there is no clarity on how the Petitioners have sorted the raw import statistics to arrive at the import volume of the subject goods. Further, Petitioners should clarify how they have determined thickness of subject goods for each transaction and arrived at the import volume.
 - IV. Designated Authority should disclose PCN-wise landed value as the same cannot be kept confidential.
 - V. The Producer/Exporter's responses have been rejected on the basis of import data filed by Domestic Industry, but the said import data has been treated as confidential and not shared with other interested parties. Information data procured from a private source as IBIS cannot be treated as confidential.
 - VI. Non-confidential version of Petition provided to us does not clarify how raw data/information has been classified into PUC & Non-PUC and which are the products excluded from the raw data to arrive at PUC and its classification into various PCN.

- VII. Domestic Industry must provide import data in its raw form sourced from DGCI&S and must explain how Domestic Industry has segregated the import data in respect of the PUC and non PUC from the raw data.
- VIII. The non-confidential information supplied by the respondents during the course of the present investigation is sufficiently detailed to permit understanding of the confidential information filed by them. The Designated Authority has not issued any letter to the Respondents till date stating that the non-confidential information supplied by the Respondents does not meet the legal requirement. Thus, the domestic industry has no locus to question the sufficiency of non-confidential versions of the information supplied by the Respondents.
- IX. Confidential information is defined as information the disclosure of which is likely to have a significantly adverse effect on the supplier or the source of such information. It is implicit in this definition that information will not be confidential if it is in the public domain. It should be noted that the information is defined as confidential by reference to its effect on its supplier or its source and not by reference to its usefulness to other parties.
- X. Petitioners have exercised excessive confidentiality by not providing information in non-confidential format on several parameters. No supporting evidence is also given for adjustments in net export price.
- XI. Petitioners have resorted to a methodology convenient to them and literally restricted the interested parties from gauging the factual position with regard to alleged injury/likelihood.
- XII. Petitioners claimed costing information as “Business proprietary information not amendable to summarization” and no related information provided. Costing and price information as provided by the domestic industry don’t permit any reasonable understanding of such due to wide range of products in PUC which significantly vary in terms of cost and price.
- XIII. In the Post hearing submissions it was submitted that DI has claimed confidentiality even in the matter which is not business sensitive.

Examination by the Authority

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

Confidential information: (1) Notwithstanding anything contained in sub-rules and (7) of rule 6, sub-rule(2),(3)(2) of rule 12, sub-rule(4) of rule 15 and sub-rule

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

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

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

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

21. As regards claims of confidentiality, the confidentiality claims of all the interested parties were examined by the authority. The authority has considered only such information to be treated as confidential, confidentiality of which has been relevant under the rules and which are being permitted as confidential information as per the practice generally being applied by the authority.

E. MISCELLANEOUS SUBMISSIONS

Submissions made by the Domestic industry

22. The miscellaneous submissions made by the domestic industry and considered relevant by the Authority are as follows:

- i. Comments of National Engineering Industries Ltd. that requisite information in prescribed format has not been furnished by the applicants are factually incorrect. The Applicants have provided complete information in the form and manner as and when sought by the Authority.
- ii. Safeguards duty has been imposed after detailed investigation by DG Safeguards, Government of India. After imposition of Safeguard duty Chinese exporters have reduced their prices to such an extent that the Export Price charged by Chinese Exporters does not even cover the bare cost of raw materials. Therefore, it was necessary for the Petitioners to approach the Government for removal of adverse impact of unfair practice of dumping practiced by Chinese exporters.
- iii. ISMT, as a manufacturer, has the right and the reason to submit bids for whatever it wants based on considerations specific to its business strategy and it cannot and should not be attributed to 'incapacity'.
- iv. Mertex and the Chinese suppliers have adopted a strategy of supplying ONGC at dumped prices year after year and ensuring that the domestic suppliers cease to qualify for bidding. Resultantly, the domestic industry has failed to bid in the tenders floated by ONGC. It is ironical that after supplying huge quantities in the past, ISMT has ceased to qualify and Mertex claims it is because of lack of experience.
- v. Substantial quantity of the orders was for supplies into Non Petroleum Exploration License/ Mining Lease area where Mertex had to be evaluated with full customs duty (approx 25%). Due to impact of Customs Duty Mertex was not successful in getting the orders. Instead, MSL got these orders, otherwise proving its capacity to supply P-110 and C-95 casings. MSL, the co-petitioner has qualified for all items in all the tenders indicated by Mertex in its response. The domestic industry is qualifying technical bids of the consumers.
- vi. China is facing slow down, resulting into huge surplus capacities. It is important to mention that countries like USA, EU and Canada etc. have already imposed anti-dumping duty and other measures in respect of exports from China PR to safeguard interests of their domestic industry.
- vii. In the post hearing submission made by the DI that the raw import data sourced from DGCI&S is indeed confidential information. DGCI&S does not publically make available bill of entry wise import data. The DGCI&S only provides month wise, country wise import data at 8 digit level. This is described by DGCI&S as transactions level data. This, however, cannot be construed as bill of entry wise

data, which is largely understood by DGAD as transaction wise data. Month wise country wise data and bill of entry wise data are two information which are poles apart. The domestic industry has already made available bill of entry wise import data.

Submissions made by Exporters, Importers, Users and other Interested Parties

23. The submissions made by the producers/exporters/importers/other interested parties with regard to miscellaneous issues during the course of the investigation and considered relevant by the Authority are as follows:

- I. There are several deficiencies in the petition filed by the domestic industry. The petition does not satisfy the adequacy and accuracy standards under Rule 5(3)(b) of AD Rules.
- II. The intent of the applicant is to unfairly curb imports and monopolize domestic market.
- III. Applicants are manufacturing substandard products which fail to meet the requirements of ONGC and others. While bidding for tenders floated by ONGC and others, applicants have stood disqualified at certain times.
- IV. During the POI, all the export transactions to India by Mertex were accomplished through Tender Bidding Contract issued through International Competitive Bidding Process (ICB). The consequences of Bidding Sales were obvious that the most competitive prices were selected and therefore such prices cannot be called as dumping.
- V. The price determination for any given product for which tenders / offers are invited through an ICB process is dictated by the logic of competing price bids being offered by suppliers through sealed tenders. The prospective suppliers file their respective price bids on the basis of their own costing and reasonable margins and the authority inviting the tenders accepts the lowest price (called the 'L1 price'). This is a methodology which is designed to drive prices down by inducing the bidders to quote their lowest price without knowing the prices of the other bidders.
- VI. Thus, the ICB process caters to the interest of the buyer and establishes what may be called a "buyer's market" in which a buyer like ONGC occupies the position of a monopolistic buyer who is able to extract the lowest/best price from prospective bidders. Thus, ONGC uses the ICB methodology to get the best price and the successful bidder is one who in such a market offers the lowest among the competing price bids. In such a market, the bidders are driven by the buyer to offer the lowest price.

- VII. The supply and export of PUC for consumers like ONGC and the volumes are driven by the demand for the subject goods by ONGC only. While analysing price movement and behaviour in the Indian market, the use of Bidding Contract price has to be taken into account as a base to allege pricing differences.
- VIII. The overseas suppliers and the domestic producers do not really enjoy much discretion to fix their prices in an open competitive system, but are primarily impelled by the buyer to offer low prices independently of any pricing policy that may be pursued by the suppliers in a free market. In a sense, the very logic of the ICB process creates or invites dumping of goods into such a market which ONGC and such monopolistic end-users work to their advantage. Therefore, the supply and export product for consumers like ONGC and the volumes are driven by the demand for the subject goods by ONGC only.
- IX. Designated Authority inappropriately recommended and Central Government imposed provisional anti-dumping duty on reference price basis when the raw material prices for the subject goods are volatile. It is submitted that reference price duty is appropriate only in those cases where the raw material prices are stable or raw material prices do not fluctuate in a volatile manner.
- X. Designated Authority has failed to take into account 20% safeguard duty in the landed value, which has been imposed by the Ministry of Finance on the subject goods vide Notification No. 02 /2014-Customs (SG) dated 13 August 2014. If safeguard duty is taken into account, price undercutting would be almost nil and price underselling would be much lower than what is stated in the preliminary findings. Further, because of imposition of reference price anti-dumping duty, in the presence of safeguard duty, amounts to double protection to the domestic industry.
- XI. Designated Authority has overlooked adjustment for safeguard duty, which is in force on the subject goods, in the recommended reference price duty. As a result of this, the domestic industry is availing double protection.
- XII. There is no locus for the domestic industry to now come before the Designated Authority and request for imposition of anti-dumping duty as well when safeguard duty is already in force. The domestic industry should establish that despite existence of safeguard duty on imports from all sources it is still facing injury due to alleged dumped imports from China PR.
- XIII. Considering that the Authority has excluded certain products from the scope of subject goods, the figures concerning the import volumes from

subject country as relied upon in the preliminary findings should have been lower than the import figures as given in the application filed by the Domestic Industry. However, the 2 figures seem to be same and the Authority (despite the exclusion) has used the same import figures as given in the Domestic Industry's application. Hence, the import figures as given in the preliminary findings are to that extent incorrect and accordingly, the much of injury analysis done by the Authority is erroneous and merits revision.

- XIV. Relief may be considered for Power Equipment manufacturers as a whole, as a step towards containing the cost of power generation for development of country's economy.
- XV. There is no history of dumping of subject goods from the subject country as claimed by the domestic industry. Anti-dumping duty was never levied on China PR.
- XVI. PCN system has not been appropriately devised as bearing steel tubes have been wrongly clubbed with line pipes in PCNs A-1-7 and A-1-8. The domestic industry has admitted during the public hearing that bearing steel tubes and line pipes are not comparable items. In view of the same, PCN system should be revised.
- XVII. It is not clear how the Petitioners have determined import volume. Though the Petitioners have clarified that they have used outer diameter as given in an item's description, but the Petitioners have not clarified whether the same item description also mentioned thickness or not. The Petitioners should clarify how they have determined thickness of subject goods for each transaction and arrived at the import volume.
- XVIII. Designated Authority should reduce import volumes after exclusion of secondary pipes, defective, rusted and used pipes. Import volume should further reduce after exclusion of high pressure gas cylinders that have been specifically excluded by the Designated Authority from the product scope. This does not appear to have been done in the PF. Furthermore, import volume should further reduce after exclusion of un-dumped imports under PCN A-1-5.
- XIX. Due to the inherent difficulties in applying reference price form of anti-dumping duty when safeguard duty on the subject goods is in ad valorem form, the form of duty in the preliminary findings should be changed. Ideally, the form of anti-dumping duty in this case should be changed to ad valorem form since safeguard duty on the subject goods is also in ad valorem form. Further, the Designated Authority should recommend one aggregate duty on the subject goods rather than multiple anti-dumping

duties. If this is done, safeguard duty could be easily adjusted in the anti-dumping duty, and the duty so collected would not only be appropriate to address injury to the domestic industry but it would also avoid excessive protection to the domestic industry.

- XX. The petition does not satisfy the adequacy and accuracy standards. Petitioners have either not provided any information on several parameters or have not corroborated the information given in the petition with credible evidence.
- XXI. The methodology adopted by the petitioner for sorting import statistics is unclear. Petitioners should clarify how they have determined thickness of subject goods for each transaction and arrived at the import volume.
- XXII. Petitioners have only provided refined DGCI&S import statistics along with the petition and that too in hard copy. To establish authenticity of the data, it is requested that Petitioners be directed to provide raw and refined import statistics in MS Excel format. DI must explain how import data has been segregated in respect of PUC and non PUC.
- XXIII. The import data is not made available to the exporters claiming confidentiality. But same cannot be treated as confidential because any information available in public domain or can be obtained after paying requisite fee cannot be treated as confidential.
- XXIV. Domestic industry is already protected by safeguard duty till 12 February 2017. Safeguard duty in force is not taken into consideration
- XXV. There is no locus for the domestic industry to request for imposition of anti-dumping duty as well. The domestic industry should establish that despite existence of safeguard duty on imports from all sources it is still facing injury due to alleged dumped imports from China PR.
- XXVI. The Indian market of subject goods is different as the exports to India are taking place due to International competitive bidding process. The prices quoted during the course of bidding are confidential and are not disclosed to other participant. The supply and export products for consumers like ONGC and the volumes are driven by the demand of subject goods by ONGC only.
- XXVII. The imposition of anti-dumping duty on product under consideration specifically meant for use in petroleum operations have been specifically excluded under Oilfields (Regulation and Development) Act, 1948 read with Petroleum and Natural Gas Rules, 1959. Imposition of anti-dumping duty is in contravention to the aforesaid Act and Rules.

- XXVIII. The patented goods are not eligible to anti-dumping duty and are outside the scope of PUC.
- XXIX. In ONGC tenders, ISMT have either not fully participated for the entire range of the products or did not qualify on quality grounds.
- XXX. Imposition of anti-dumping duty on the imports of subject goods will have an inflationary impact on their prices and adversely affect downstream industries.
- XXXI. In post hearing submissions it is submitted by the interested parties that there is no clear distinction between the importers and users. Both have been treated as same.
- XXXII. Imposition of duty on reference price is incorrect because the price of raw material keeps fluctuating.
- XXXIII. The exporter questionnaire of the exporter is rejected on the basis of import data submitted by the DI.
- XXXIV. The first case in 1999 where the duty was not continued in SSR and top of that duty was not imposed on China. The second case in 2009 was filed by the same parties who are before the Authority today; the same was terminated by the Authority citing that the DI failed to provide information on various parameters.
- XXXV. Reliance on safeguard investigation is irrelevant because that is to address sudden, sharp and significant recent import. Same is not the present case. The DI is already protected under such high safeguard duty. So history of the past cases has no relevance for the present case.
- XXXVI. The petition is in contravention of Rule 5 and 6 of the ADD Rules.
- XXXVII. Procurement price of ONGC and OIL is taken out, the DI should disclose the source, and otherwise it will be doubtful information.
- XXXVIII. If comparison has to be done user-wise, the domestic industry should establish how imports from China PR and sales of domestic industry are compared with respect to each user in India.'
- XXXIX. No form of duty should be imposed on PCN A-1-5.

Examination by the Authority

24. Various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority are examined and addressed as follows:
- i. The investigation was initiated based on a well documented application and after satisfying prima facie the adequacy and accuracy of the information concerning alleged dumping and injury to the domestic industry and causal link between the alleged dumping and injury.
 - ii. As regards the submission that imposition of anti-dumping duty on the imports of subject goods will have an inflationary impact on their prices and adversely affect downstream industries, the Authority notes that the object of anti-dumping duty is to prevent the unfair trade practices and to redress its injurious effect on the domestic industries by providing them a level playing field. Moreover, imposition of anti-dumping duty neither restricts nor prevents imports.
 - iii. The Authority notes that the argument of imposition of anti-dumping duty on the imports of the subject goods would accrue undue advantage to domestic Industry is presumptuous and pre-mature. Anti-dumping investigations are based on facts and law to analyze and assess the magnitude of dumping and consequent injurious effect on the domestic industry and to recommend imposition of suitable and adequate antidumping measure to provide a fair and level playing field to the domestic industry vis-à-vis dumping.
 - iv. As regards the methodology of sorting out the imports data by the petitioner, the non-confidential petition made available in the public file, is self explanatory. The Authority further notes that the interested parties have no locus to demand for information in any particular form or manner. What is important under the relevant law is whether the non-confidential information has been made available by the Authority or not.
 - v. The contention that imposition of anti-dumping duty on product under consideration specifically meant for use in petroleum operations have been specifically excluded under Oilfields (Regulation and Development) Act, 1948 read with Petroleum and Natural Gas Rules, 1959, is not correct. The anti-dumping duty is meant to prevent unfair trade and there cannot be any rule that facilitates dumping.
 - vi. Patenting of a good does not make the good different from the PUC. If anti-dumping duty is imposed on a good, and the patented good is technically and commercially substitutable with the good attracting anti-dumping duty, such patented good cannot be excluded from the purview of the anti-dumping duty. However, taking in to account the technical suitability, commercial availability and

substitutability, certain premium threaded joints have been excluded from the purview of the PUC at the stage of initiation itself.

- vii. As regards the contention that imports in to India are taking place in response to international competitive bidding process by ONGC etc and therefore cannot be said to be dumped, the Authority notes that dumping occurs when goods are exported at a price lesser than their normal value and it is a price correction measure.
- viii. Some interested parties have contended that the injury to the domestic industry has been determined without including safeguard duty. The argument of the interested parties has been examined with reference to impact of safeguard duty on existence of injury to the domestic industry, causal link and quantum of anti dumping duties. It is noted that the purpose of safeguard duty and anti dumping duties is quite different, even when both result in the same situation of increase in the cost of imported product. While safeguard duty is imposed under Section 8B of the Customs Tariff Act, if the Central Government, after an investigation conducted by the Director General of Safeguards, is satisfied that the article is imported into India in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry; anti dumping duties is imposed under Section 9A of the Customs Tariff Act, where the article is exported by an exporter or producer from a country or territory to India at less than its normal value and such dumping causes injury to the domestic industry. While safeguard duty is imposed on imports from all sources at uniform rates, anti dumping duties can vary for supplier to supplier and be different even for different product types. Further, Section 9B of the Customs Tariff Act lays down a prohibition and provides that no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization. Section 9B comes after Section 8B and therefore Central Govt. has created a prohibition only on imposition of countervailing duty and anti dumping duties at the same time. WTO also has not laid down a restriction on imposition of both safeguard duty and anti dumping duties at the same time. Thus, it cannot be said that the Central Govt. cannot impose anti dumping duties because the product is suffering safeguard duty. As far as injury to the domestic industry is concerned, it is noted that the performance of the domestic industry shows deterioration in respect of parameters such as price suppressing significant unutilized capacities, decline in profitability, return on capital employed, cash profits. Profits, return on capital employed and cash profits marked negative growths in POI. Growth in respect of most of the parameters such as production, sales, capacity utilization, profits, cash profits, return on capital employed, market share & inventory etc shows an adverse impact on the domestic industry. It is also seen that the CIF price of imports from China declined steeply and market share of the Chinese imports has increased whereas that of the domestic industry has declined. The weighted average injury margin in the POI is positive even after adding safeguard duty. It is thus evident that the

quantum of safeguard duty was not sufficient to address injury suffered by the domestic industry. It is also noted that imposition of safeguard duty cannot fall in the category of "other factors" under para (v) of the Annexure-I or Article 3.5 of the WTO Agreement.

- ix. Notwithstanding, considering that in any case it is the duty of the designated authority to recommend to the Central Government the amount of anti-dumping duty equal to the margin of dumping or less, which if levied, would remove the injury to the domestic industry, after considering the principles laid down in the Annexure III to these rules, the Designated Authority shall consider the safeguard duty appropriately while recommending the quantum of anti dumping duties. Thus, while Designated Authority decides to recommend imposition of anti dumping duties, the Designated Authority may recommend that the quantum of anti dumping duties to be collected shall be adjusted for the quantum of safeguard duty charged on the imports.
- x. It has been contended by interested parties that domestic industry is not in a position to meet the demand of the product in the country. The authority notes that the demand-supply gap of the product cannot be a justification for export of the product at dumped price to such an extent that the same causes injury to the domestic industry in India.
- xi. It has been contended that imposition of anti-dumping duty shall not be in public interest. It is however noted that interested parties have not quantified how imposition of proposed duty shall not be in public interest. Further, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods bringing fair competition in the domestic market.

DUMPING MARGIN

MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

25. While the domestic industry submitted that considering China as a non market economy, normal value for China PR should be determined in terms of Para 7 of Annexure-I of the Anti-Dumping Rules, on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and reasonable profit, none of the exporters, importers, users and other interested parties has made any relevant submission in this regard. None of the respondent Chinese producers/exporters in the present investigation have filed Market Economy Treatment questionnaire response and claimed market economy treatment.

G. Determination of Normal Value

Normal Value

26. Under Section 9A(1)(c), normal value in relation to an article means:-

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

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

Provisions relating to Non- Market Economy countries

27. Annexure-I to AD rules states as under:

7. In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where

appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in subparagraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a nonmarket economy country

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in subparagraph (3)

(3) The designated authority shall consider in each case the following criteria as to whether:

(a) the decisions of the concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

(b) the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;

(c) Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and

(d) The exchange rate conversions are carried out at the market rate.

Provided, however, that where it is shown by sufficient evidence in writing

on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”

Submissions by Domestic Industry

28. Following submissions made by the domestic industry with regard to determination of dumping margin.

- I. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- II. Market economy status cannot be granted unless following conditions are fulfilled:
 - ij]. State interference should be completely ruled out.
 - ii]. The prices of major inputs should substantially reflect market values
 - iii]. The account books should have been audited in line with International Accounting Standards (IAS)
 - iv]. All the required parameters should be met with to grant the market economy status.
 - v]. The onus/obligations to establish market economy status is onto responding Chinese exporters and not onto the Designated Authority.
 - vi]. The responding company and its group, as a whole, should make the claim.
 - vii]. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- III. According to these Rules, the normal value in China can be determined on any of the following basis:
 - i. the price in a market economy third country,*
 - ii. constructed value in a market economy third country,*
 - iii. the price from such a third country to other country, including India.*
 - iv. the price actually paid in India, adjusted to include a reasonable profit margin.*
 - v. the price actually payable in India, adjusted to include a reasonable profit margin.*

- IV. The petitioner submitted that according to Section 9A (1) (c), the following can form the basis for determination of normal value in the exporting country.
 - i. The price of the like article in the domestic market of the exporting country *in the ordinary course of trade*,
 - ii. Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country,
 - iii. The cost of production of the said article in the country of origin along-with reasonable addition for administrative, selling & general costs and for profits.

- V. If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

29. In post hearing the DI made following additional submissions

- I. Dumping margin cannot be determined for one PCN alone. It is determined as a whole. If dumping margin of a PCN is negative, that cannot be excluded from calculation of dumping margin.
- II. Even when the exporter have not exported other PCN, still the duty should be imposed for all PCNs
- III. The exporter is required to provide information in the form and manner prescribed and in respect of product under consideration. The authority has not made any modifications to the product under consideration, except deleting certain product types for which exclusions were demanded by the interested parties. The authority has not made any other such change in product under consideration which could have created a handicap to the exporter. Evidently, it appears that the parties wanted to file questionnaire response having regard to the petition, which implies that the exporter did not intend filing their information in the form and manner prescribed; but, intended to color it based on information contained in the petition.
- IV. All products under consideration transactions have been included in the data and transactions of other products have not been included. The argument of the exporter is malafide.
- V. ISMT continues to be eligible to supply the product. Without prejudice, MSL is also a petitioner and is eligible to produce and supply the product.
- VI. The reasons for not using the information given by the exporters have already been explained adequately in the preliminary findings. Unless the exporters have responded adequately and provided all information in the form and manner prescribed by the authority, the exporters cannot claim that the authority should determine individual dumping margin.

- VII. Unless an exporter can establish its case for individual margin of dumping, the authority is not obliged to determine individual dumping margin. Dumping margin is the difference between normal value and export price and unless complete information is available with regard to both normal value and export price, the authority is not obliged to determine individual dumping margin.

Submissions made by Exporters, Importers, Users and other Interested Parties

30. Following submissions have been made by Exporters, Importers, Users and other Interested Parties

- i. The imports attributable to a producer or exporter for whom a de-minimise or negative margin of dumping is calculated are not treated as dumped imports or should be treated as un-dumped imports. Such un-dumped imports are not added to the volume of dumped imports to examine injury to the domestic industry from the subject imports. Imposition of anti-dumping duty is permissible only if injury to the domestic industry is caused due to dumped imports. If it is found that imports from a source are un-dumped, such imports are not to be examined by the Designated Authority for volume and price effects for determination of injury and causal link from dumped imports. In this line, exports of certain cooperating exporters from China PR under the PCN A-1-5 are neither dumped nor causing injury to the domestic industry. Further, as per the Designated Authority's own preliminary findings, both dumping margin and injury margin for the exports of these cooperating exporters from China PR for the PCN A-1-5 are negative. Therefore, it is submitted that such volume of un-dumped imports of these exporters under PCN A-1-5 should be excluded from the import volume from China PR for the purpose of injury analysis.
- ii. Hengyang Group and Xinyegang are producers / exporters of the subject goods. The said companies though are related companies; there is no interference / involvement of Hengyang Group with Xinyegang or vice versa. Hengyang Group and Xinyegang work independently, autonomously and are separate legal entities. Although requested to be treated as separate entities, Authority wrongly treated them as single entity. The Authority has unduly and arbitrarily rejected the data given by Hengyang Group and Xinyegang.
- iii. As regards Authority's observation that major exports of Xinyegang are made through 'trading entities situated at Dubai, Sharjha, etc., who have not filed EQ response in the present investigation.' Xinyegang has no direct or indirect control over the said unaffiliated UAE distributors and therefore cannot force them to file Exporters Questionnaire Responses. Therefore, Xinyegang cannot be penalized if the unaffiliated distributors either do not participate or files a limited response.

- iv. No observation has been made by the Authority with respect to exports made by Hengyang Group and yet the Authority has proceeded to reject its data without any reasonable cause as none exists. None of the entities related to Hengyang Group and Xinyegang have produced / exported the subject goods to India in the POI.
- v. Authority sought response from a trader Baotou International which had been only a disclosed Agent for a portion of the POI and had not itself been a trader exporter of Baotou's PUC in the POI. Having only acted briefly as an Agent and not as an exporter itself a separate Response from Baotou International was not necessary. Solely due to the absence of the said (Agents) response, Baotou's entire response was unlawfully rejected by the authority and it was unlawfully treated as non-cooperating.

31. Following additional submissions have been made by Exporters, Importers, Users and other Interested Parties subsequent to second hearing

- vi. Questionnaire response was rejected wrongly. The data provided by the DI at the time of initiation was different and it was changed without informing the interested parties.
- vii. The goods exported on high price were removed from the list to claim greater dumping margin.
- viii. The information provided by the Exporters has not been used for determination of dumping margin.
- ix. Availability or non-availability of the information of any unrelated entities cannot have a detrimental effect on individual dumping margin for the responding exporter.
- x. Even though the exporters have participated fully they have not been given individual dumping margin.
- xi. Anti Dumping duty should not be levied beyond margin of dumping/margin of injury.

Examination by the Authority

32. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules. The Authority further notes that in the present investigation, none of the Chinese producers/exporters have filed the questionnaire rebutting market economy treatment. Hence all participating producers/exporters from China PR have been treated as operating under non market economy conditions.

33. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required. No such information with regard to prices and costs prevalent in these markets have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country at this stage. In view of the above, the Authority proceeds to construct the normal value based on any other reasonable basis.

34. The Authority proceeds to determine the Normal value for China PR on available facts basis in terms of second proviso of Para 7 of Annexure 1 to the Anti-dumping Rules. Accordingly, the ex-works Normal Value of the product under consideration has been determined based on constructed costs of production, duly adjusted to include selling, general & administrative costs and profits. Accordingly, the Authority determined the PCN wise normal value for the PUC as mentioned in the dumping margin table.

35. A number of exporters have reiterated their submissions in disclosure comments with regard to rejection of their questionnaire responses by the authority. The authority has examined the information filed by these exporters and claims made by them. The authority considers that individual dumping margin cannot be determined unless export price can be appropriately, adequately and accurately established.

36. While dumping and injury margin for one PCN is negative, the dumping and injury margin for the PUC as a whole is positive. It is thus factually incorrect that the overall dumping margin and injury margin for YCS/JCS is negative. In fact, the overall injury margin and dumping margin for YCS/JCS is positive. The authority considers that it is the dumping margin for the PUC alone which is relevant for the present purposes. Under Section 9A, the margin of dumping is defined as margin of dumping in relation to an "article". The article under investigation is "Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD". The product type identified in the form of PCNs is merely different types of article identified in the present investigation. The product under consideration was categorized into a number of product types only for the purpose of determination of dumping margin and injury margin and to ensure fair comparison between normal value with export price and NIP with landed price. The authority also notes that the WTO decision clearly holds that the margin of dumping means dumping margin for the product under consideration and not the margin of dumping for individual product types. The authority also notes that the

question of negative dumping margin or injury margin in a particular product type had earlier arisen in the past in other investigations conducted by the authority. The authority has held that negative margin of dumping in a particular case does not justify exclusion of a particular product type so long as the margin of dumping for the product under consideration as a whole is positive.

37. Some interested parties have contended that information given by responding exporters alone can constitute necessary information for determination of normal value and export price. The authority notes that normal value in case of a Chinese company is required to be determined on the basis of Para 7 Annexure-I in case the company is not able to establish market economy status. A company can be granted market economy status only if it provides necessary information in accordance with Para 8. In the instant case, none of the Chinese companies have established their claim of market economy status in accordance with Para 8 of Annexure-I. Thus, the normal value is determined in accordance with Para 7 which provides that the normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. As regards individual dumping margin, the authority notes that individual dumping margin can be determined only if company has provided sufficient information with regard to export price. As brought out in detail above, none of the Chinese companies have accurately and adequately established the price at which goods have been exported to India. The authority is unable to determine export price in respect of responding exporters. Since individual export price could not be determined, the authority is unable to determine individual dumping margin for the responding exporters, barring Jiangsu Chengde Steel Tube Share Co., Ltd., China PR & Yangzhou Chengde Steel Tube Co., Ltd.

38. The entire investigation and determination of dumping, standing, injury and causal link has been carried out with reference to PUC. Various PCNs devised by the authority have merely been considered for the purpose of determining dumping margin by undertaking comparison of normal value and export price on the basis of comparable product types. Various PCNs merely constitute different types of product and do not constitute different articles.

EXPORT PRICE

39. The following producers/exporters filed exporter's questionnaire (EQ) response in the present investigation:

- i. Yangzhou Chengde Steel Pipe Co., Ltd., China PR
- ii. Jiangsu Chengde Steel Tube Share Co. Ltd., China PR
- iii. Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd., China PR
- iv. Inner Mongolia Baotou Steel Union Co., Ltd, China PR
- v. Hubei Xinyegang Steel Co., Ltd., China PR
- vi. Hubei Xinyegang Special Tube Co., Ltd.
- vii. Tianjin Pipe Manufacturing Co. Ltd., China PR
- viii. Tianjin Pipe International Economic and Trading Corporation, China PR
- ix. Jiangsu Valin-Xigang Special Steel Co. Ltd., China PR
- x. Hengyang Valin Steel Tube Co. Ltd., China PR
- xi. Hengyang Valin MPM Co. Ltd., China PR
- xii. Hengyang Steel Tube Group Int'l Trading Inc. Ltd., China PR
- xiii. Jiangsu Changbao Steel Tubulars Corporation, China PR
- xiv. Jiangsu Changbao Steel Tube Limited Co., China PR
- xv. Changzhou Changbao Precision & Special Steel Tube Co. Ltd. China PR
- xvi. Jiangsu Changbao Precision Steel Tube Energy Co.Ltd., China PR
- xvii. Jiangsu Changbao Precision Steel Tube Co.Ltd., China PR
- xviii. Yangzhou Lontrin Steel Tube Co. Ltd., China PR
- xix. Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR
- xx. Mertex UK Limited, UK

Jiangsu Chengde Steel Tube Share Co., Ltd., China PR (JCS)

40. As per the EQ response, Jiangsu Chengde Steel Tube Share Co., Ltd., China PR, a producer/exporter of the subject goods, was originally set up as a collective enterprise in 1988. As stated in the EQ response, JCS has two related companies involved in the subject goods – (i) Yangzhou Chengde Steel Tube Co., Ltd., also exported subject goods to India during POI and filed EQ response in the present investigation, and; (ii) Taizhou Chengde Steel Tube Co., Ltd., a producer of subject goods but not exported to India during POI and therefore not filed EQ response in the present investigation.

41. As stated in the EQ response, during POI, JCS sold the subject goods, both in domestic market and Indian market, directly. During the POI, JCS exported *** MT of subject goods to India for the gross value of US\$ ***.

Yangzhou Chengde Steel Tube Co., Ltd. (YCS)

42. As per the EQ response, Yangzhou Chengde Steel Tube Co., Ltd (YCS), a producer/exporter of subject goods, is a related company of Jiangsu Chengde Steel Tube Share Co., Ltd., China PR. As stated in the EQ response, YCS was established as a sino-foreign joint limited liability company on 11 October 2006.

43.As stated in the EQ response, during POI, YCS sold the subject goods, both in domestic and India markets, directly. During the POI, YCS exported *** MT of subject goods to India for the gross value of US\$ ***.

44.The Authority further notes that Jiangsu Chengde Steel Tube Share Co., Ltd., China PR and Yangzhou Chengde Steel Tube Co., Ltd., the producers and exporters of subject goods to India during the POI, are related parties. In view of this, the Authority determined PCN wise average net export price for both the related parties as mentioned in the dumping margin table.

Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd., China PR

45.As per the EQ response, Shengli Oilfield FREET Petroleum Steel Pipe Co. Ltd. is a producer/ exporter of the subject goods. It is stated to have only one production facility in China. One of its related companies i.e. Shengli Oil Field Freet Petroleum Equipment Co., Ltd., is also involved in the subject goods and procures the same from Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd.

46.As stated in the EQ response, during the POI, Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd sold the subject goods in the domestic market, through two channels as given below:

Channel 1: Freet Steel Pipe →domestic trading company's →domestic or international customers.

Channel 2: Freet Steel Pipe →domestic or international customers.

47.In the Indian market, during the POI, Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd is stated to have sold the subject goods directly, without involving any trading entity. In response to the deficiency letter, Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd replied that the trading companies involved in domestic sales did not export the subject goods to India during the POI. It further replied that Shengli Oil Field Freet Petroleum Equipment Co., Ltd., which procures the subject goods from it, did not export the said goods to India during the POI.

48.While examining the EQ response filed by Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd, the Authority notes that the main raw material used by the

company in its production process is green pipe and not ingots or billets. They were asked to clarify the position. In response to the deficiency letter, the company replied that it processes green pipes by inspecting, cutting, threading, machining, etc. Such processing activities significantly add values to the exports, which are much more expensive than green pipes. Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd informed that since it is not related to the suppliers of green pipes, under the Chinese law, they are unable to force them to cooperate in the investigation and requested the Authority to treat it as a producer of subject goods instead of pure trading company.

49. From the information available in the EQ response, the Authority notes that during the POI, Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd exported *** MT of subject goods to India for a gross value of US\$ ***. However, from the above clarification of the company, it is clear that they are not the producer of seamless pipes, but merely a processor of seamless pipes procured from other producers, who have not cooperated in the present investigation. Further, from the EQ response, the Authority notes that Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd has exported both PUC and non-PUC and did not provide the bifurcated details. In view of the above position, the Authority did not find appropriate to allow individual export price and margins to Shengli Oilfield FREET Petroleum Steel Pipe Co., Ltd, China PR.

Inner Mongolia Baotou Steel Union Co., Ltd, China PR

50. As per the EQ response, Inner Mongolia Baotou Steel Union Co., Ltd, China PR (Steel Union) is producer of subject goods. The company was established in 1999. The principal shareholder of Steel Union is Baotou Iron & Steel (Group) Co., Ltd. As stated in the EQ response, Baotou Steel International Economic and Trading Co., Ltd (Baotou Steel International), a related company of Steel Union, acts as a sales agent for the exportation of products produced by Steel Union to the world markets including India. But, Baotou Steel International is not involved in purchasing the products concerned from Steel Union. During the POI, the product concerned was physically shipped from Steel Union to the ports of destination in India, according to the terms and conditions in sales contract. Baotou Steel International simply acts for purposes of handling Customs formalities for exports. As per the EQ response, during the POI, Steel Union made exports to India through unrelated traders. As per the EQ response, during the POI, Steel Union exported *** MT of subject goods for the gross invoice value of US\$ *** to India through Mertex UK Ltd, UK.

51. Mertex UK Ltd has also filed EQ response in the present investigation and claimed to have exported the subject goods manufactured and supplied by Inner

Mongolia Baotou Steel Union Co., Ltd, China PR, apart from Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR.

52. From the EQ responses filed by Inner Mongolia Baotou Steel Union Co., Ltd, China PR (Steel Union) and Mertex UK Ltd, UK, the Authority notes that the export transactions cover both PUC as well as non-PUC. Despite request, the concerned parties did not furnish bifurcated details in terms of MT. In view of the above position, , the Authority does not allow individual export price and margins to Inner Mongolia Baotou Steel Union Co., Ltd, China PR and Mertex UK Ltd, UK.

Hubei Xinyegang Steel Co., Ltd., China PR

53. As per the EQ response, Hubei Xinyegang Steel Co., Ltd., is a producer/exporter of subject goods. Although Xinyegang has a long history of existence, since 2004, it has been incorporated as a sino-foreign equity joint venture. During the POI, Xinyegang is stated to have exported the subject goods to India entirely through unrelated trading companies in China. In the domestic market, Xinyegang sold subject goods directly and also through traders.

54. In the EQ response, Xinyegang claimed to have exported the subject goods to India during the POI entirely through unrelated traders. From the information given in Appendix 2 of the EQ response, the Authority notes that the names of Chinese and Japanese entities were mentioned as Indian buyers. In response to the deficiency letter issued by the Authority, Xinyegang replied that buyers in Japan and China are traders and the goods bought by them were ultimately exported to India during the investigation period. Xinyegang further explained that these buyers are unrelated and thus it is not possible to persuade them to file EQ response.

55. As further stated in the EQ response, Xinyegang has a related company in China i.e., Hubei Xinyegang Special Tube Co., Ltd. (Special Tube Company), which is also involved in the production of the product concerned, but did not export the product concerned directly to India during the POI. As explained by Xinyegang, Special Tube Company acts as its factory and sells all its products to Xinyegang first, which resells those products in both domestic market and foreign market. A very limited quantity of product concerned produced by Special Tube was exported to India through Xinyegang during the POI.

56. Although, Xinyegang has claimed to have exported the entire exports to India through traders during the POI, the Authority notes that none of the trading companies have filed EQ response in the present investigation. In view of the

above position, the Authority does not allow individual export price and margins to Hubei Xinyegang Steel Co., Ltd.

Hubei Xinyegang Special Tube Co., Ltd, China PR

57. Hubei Xinyegang Special Tube Co., Ltd, China PR is a related producer of Hubei Xinyegang Steel Co., Ltd., producer/exporter of subject goods to India during the POI. Hubei Xinyegang Special Tube Co., Ltd, China PR filed a EQ response, without furnishing non-confidential version. As stated in the EQ response, Hubei Xinyegang Special Tube Co., Ltd, China PR did not export subject goods to India during the POI directly. Further, it is stated to be acting as the factory of Hubei Xinyegang Steel Co., Ltd and exported a small quantity of subject goods to India during the POI through this related company. As per the channel of export to India, as stated in the EQ response, the Company claimed to have exported the entire volume of export through its related Chinese Company i.e. Hubei Xinyegang Steel Co., Ltd, which in turn exported through unrelated trading companies in China. However, the Authority notes that none of such trading companies have filed EQ response in the present investigation. The Authority further notes that from the given information, nothing is evident that Hubei Xinyegang Special Tube Co., Ltd, China PR has actually exported the subject goods to India during POI. In view of the above position, the Authority does not allow individual export price and margins to Hubei Xinyegang Special Tube Co., Ltd, China PR as well.

Tianjin Pipe Manufacturing Co. Ltd., China PR and Tianjin Pipe International Economic and Trading Corporation, China PR

58. As per the EQ response, Tianjin Pipe Manufacturing Co. Ltd., China PR (TPM), 100% owned by Tianjin Pipe (Group) Corporation, China PR is a manufacturer and processor of the subject goods. Tianjin Pipe International Economic and Trading Corporation, China PR (TPINT'L) is a related trading concern of TPM. During the period of investigation, TPM exported the subject goods to India through TPINT'L. TPINT'L was established on January 15th, 1999 and TPM was established on December 10, 2010. As stated in the EQ response, both TPM and TPINT'L are fully Chinese limited liability companies.

59. As stated in the EQ response, the following are the four related companies of TPM and TPINT'L that are involved with the product concerned, but stated to have no exports to India during POI:

- I. Tianjin Pipe (Group) Corporation (TPCO)
- II. Tianjin Pipe Special Steel Co., Ltd. (TPSS)
- III. Tianjin TPCO Steel Development Co., Ltd. (TPSD)
- IV. Tianjin Pipe Iron Manufacturing Co., Ltd.(TPIM)

60. Despite issuing a deficiency letter, TPM did not furnish required information concerning exports to India in Appendix 2. As a result, the linkage between the domestic sales made to TPINT'L and exports made by the later to India cannot be established. Moreover, as per the export flow chart furnished by TPM and TPINT'L, the exports to India are claimed to have been made by TPINT'L as well as through traders. However, the information given by TPINT'L in Appendix 2 of its response does not give details of the customers and neither TPM nor TPINT'L have declared the names of the trading companies involved in their export transactions to India. The Authority notes that none of the traders involved in the exports transactions of TPM through TPINT'L has filed EQ response in the present investigation. Moreover, the respondent companies have not furnished the transaction wise bifurcated details of the PUC and non-PUC exported by them to India during the POI. In view the above position, the Authority does not allow individual export price and margins to Tianjin Pipe Manufacturing Co. Ltd., China PR and Tianjin Pipe International Economic and Trading Corporation, China PR.,

Jiangsu Valin-Xigang Special Steel Co., Ltd., China PR
Hengyang Valin Steel Tube Co. Ltd.
Hengyang Valin MPM Co., Ltd.
Hengyang Steel Tube Group Int'l Trading Inc. Ltd.

61. As per the EQ responses, all the above stated Chinese companies are related. Jiangsu Valin-Xigang Special Steel Co., Ltd., China PR is a producer/exporter of subject goods. As stated in the EQ response, the other three related companies, Hengyang Valin Steel Tube Co., Ltd. ("HVST"), Hengyang Valin MPM Co, Ltd. ("MPM") and Hengyang Steel Tube Group Int'l Trading Inc. ("Int'l"), are also involved in the production and sale of the product concerned to India during the POI. Although the exporters contended that they are indirectly related and requested the Authority to treat them as separate companies, the Authority notes that all of them belong to a single group of companies (collectively regarded as one group) and therefore cannot be treated as separate companies.

62. Although the channel of sales have not been provided in the EQ response, from the export information furnished at Apendix 2, the Authority notes that Jiangsu Valin-Xigang Special Steel Co., Ltd has exported majority of the subject goods to India, through trading entities situated at Dubai, Sharjha, etc., who have not filed EQ response in the present investigation. Out of the total *** MT of exports to

India during POI, *** MT has been exported through ITECO Oilfield Supply Group, UAE, *** MT through Tubulars International FZE, UAE and *** MT through MASF Speciality Tubes FZC. Despite issuing deficiency letter, the concerned exporters did not file EQ response. Moreover, the related companies exported both PUC and non-PUC to India during the POI, but did not furnish bifurcated transaction wise details.

63. In view of the above position, the Authority does not allow individual export price and margins to Jiangsu Valin-Xigang Special Steel Co., Ltd., China PR and its above stated related companies for the purpose of the final finding.

Jiangsu Changbao Steel Tubulars Corporation, China PR,
Jiangsu Changbao Steel Tube Limited Co., China PR,
Changzhou Changbao Precision & Special Steel Tube Co. Ltd., China PR,
Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR,
Jiangsu Changbao Precision Steel Tube Co. Ltd., China PR,

64. As per the EQ response, the above stated companies are related and belong to Changbao group. The details of the respondent companies, as per the EQ responses filed by them are as follows:

Jiangsu Changbao Steel Tube Limited Co., China PR,

65. As per the EQ response, Jiangsu Changbao Steel Tube Limited Co., China PR is a producer and exporter of subject goods. During the POI, the Company has made domestic sales to both affiliated and non-affiliated companies. As per the information available in the EQ response, the Company has sold *** MT and to non-affiliated parties *** MT during POI. While sales to affiliated parties are from own manufactured subject goods, the sales to non-affiliated parties contained both own products and also subject goods procured from others.

66. As per the information available in the EQ response, during the POI, the Company exported *** MT of subject goods to India for the gross invoice value of US\$ ***. The entire volume of export was made through M/s Tubular International FZE, a trading company situated in UAE.

Changzhou Changbao Precision & Special Steel Tube Co., Ltd., China PR

67. As per the EQ response, Changzhou Changbao Precision & Special Steel Tube Co. Ltd., China PR is a producer and exporter of subject goods. During the POI,

the Company has made domestic sales to both affiliated and non-affiliated parties. As per the information available in the EQ response, the Company has sold *** MT and to non-affiliated parties *** MT during POI. While sales to affiliated parties are from own manufactured subject goods, the sales to non-affiliated parties contained both own products and also subject goods procured from others.

68.As per the information available in the EQ response, during the POI, the Company exported *** MT of subject goods to India for the gross invoice value of US\$ ***. Out of this, *** MT was exported by the Company directly to India and *** MT was exported through M/s Babacock & Wilcox Co., USA, constituting 37.06% of the total exports by the Company.

Jiangsu Changbao Steel Tubulars Corporation, China PR,

69.As per the EQ response, Jiangsu Changbao Steel Tubulars Corporation, China PR is a trading company under Changbao group. As per the information available in the EQ response, during the POI, the Company exported *** MT of subject goods to India for the gross invoice value of US\$***. During the POI, the Company has sold the subject goods to India both directly and also through traders. During the POI, the Company has sold *** MT of subject goods for a gross invoice value of US\$*** directly to India by procuring from three affiliated producers namely: Jiangsu Changbao Steel Tube Limited Co., China PR (*** MT), Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR (*** MT) and Jiangsu Changbao Precision Steel Tube Co. Ltd., China PR (*** MT).

Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR,

70.As per the EQ response, Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR is a producer of the subject goods. During the POI, the Company sold *** MT of subject goods in the domestic market, out of which *** MT were sold to affiliated parties and *** MT were sold to non affiliated parties. As per the EQ response, Jiangsu Changbao Precision Steel Tube Energy Co. Ltd., China PR has not exported subject goods to India during POI. However, as per the EQ response filed by Jiangsu Changbao Steel Tubulars Corporation, China PR, its affiliated trading Company, the later had procured *** MT of subject goods from Jiangsu Changbao Precision Steel Tube Energy Co. Ltd and exported to India.

Jiangsu Changbao Precision Steel Tube Co. Ltd., China PR,

71. As per the EQ response, Jiangsu Changbao Precision Steel Tube Co. Ltd., China PR, is a producer of the subject goods. During the POI, the Company sold *** MT of subject goods in the domestic market, out of which *** MT were sold to affiliated parties and *** MT were sold to non affiliated parties. As per the EQ response, Jiangsu Changbao Precision Steel Tube Co. Ltd., China PR has not exported subject goods to India during POI. However, as per the EQ response filed by Jiangsu Changbao Steel Tubulars Corporation, China PR, its affiliated trading Company, the later had procured *** MT of subject goods from Jiangsu Changbao Precision Steel Tube Co. Ltd and exported to India.

72. The Authority notes that all the above stated Chinese Companies are related and belong to one group. The Authority further notes that significant volume of subject goods exported by these related companies, mainly through trading companies situated in Dubai and USA have not been brought before the Authority by filing EQ response. Moreover, the Authority notes that the related companies exported both PUC and non-PUC to India during the POI, but did not furnish bifurcated transaction wise details. In view of the above position, the Authority does not allow individual export price and margins to the above stated related Chinese Companies.

Yangzhou Lontrin Steel Tube Co., Ltd., China PR

73. As per the EQ response, Yangzhou Lontrin Steel Tube Co., Ltd., China PR is a producer/exporter of subject goods. As per the EQ response, during the POI, the Company sold subject goods to only non-affiliated parties in the domestic market. As regards exports to India, Yangzhou Lontrin Steel Tube Co., Ltd., China PR exported *** MT of subject goods to India during POI for a gross invoice value of US\$ ***. As per the information available in the EQ response, the entire exports to India has been made by the Company through two Dubai based companies namely *** and ***, both of whom have not filed EQ response in the present investigation. Moreover, the Authority notes that the Company has exported both PUC and non-PUC to India during the POI, but did not furnish bifurcated transaction wise details. In view of the above position, the Authority does not allow individual export price and margin to Yangzhou Lontrin Steel Tube Co., Ltd., China PR.

Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR

74. As per the EQ response, Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR is a producer/exporter of subject goods. As stated in the EQ response, during the POI, Pangang Group sold subject goods in the domestic market, both directly and through distributors. However, the Company claimed to have exported to India the subject goods only through distributors. As per the EQ response, during the POI, Pangang Group claimed to have exported to India *** MT of subject goods for a gross value of US\$ *** through Mertex UK Ltd, UK.

75. Mertex UK Ltd. has also filed EQ response in the present investigation and claimed to have exported the subject goods manufactured and supplied by Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR. In its response, Mertex also claimed to have exported the subject goods manufactured and supplied by another Chinese company namely Seamless Tube Mill Of Baotou Steel Union Co., Ltd. From the EQ responses, the Authority notes that these Companies exported both PUC and non-PUC to India during the POI, but did not furnish the bifurcated transaction wise details in terms of metric ton. In view of the above position, the Authority does not allow individual export price and margins to Pangang Group Chengdu Steel & Vanadium Co., Ltd., China PR and Mertex UK Ltd, UK.

All other Producers/Exporters from China PR

76. In respect of all other exporters from China PR who are treated to be non-cooperative, the Authority determined their PCN wise net export price as per facts available in terms of Rule 6(8) of the Rules as mentioned in the dumping margin table.

DUMPING MARGIN

77. Comparing the normal value and export prices, the dumping margin for Jiangsu Chengde Steel Tube Share Co., Ltd., China PR and Yangzhou Chengde Steel Tube Co., Ltd., has been determined by the Authority as below:

Particulars	Unit	A-1-5	A-1-6	Total
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Constructed Normal Value	US\$/Mt	***	***	***
Net Export Price	US\$/Mt	***	***	***
Dumping Margin	US\$/Mt	***	***	***
Dumping Margin	%	***	***	***
Dumping Margin	% Range	(Negative)	20-30	20-30

78. In respect of all other exporters from China PR, who are treated to be non-cooperative, the Authority determined the dumping margin as below:

Particulars	Unit	A-1-1	A-1-2	A-1-3	A-1-4	A-1-5	A-1-6	A-1-7	A-1-8	Total
Constructed Normal Value	US\$/Mt	***	***	***	***	***	***	***	***	***
Net Export Price	US\$/Mt	***	***	***	-	***	***	***	***	***
Dumping Margin	US\$/Mt	***	***	***	-	***	***	***	***	***
Dumping Margin	%	***	***	***	-	***	***	***	***	***
Dumping Margin	Range	20-30	15-25	40-50	N/A	20-30	15-25	50-60	45-55	20-30

F. INJURY AND CAUSAL LINK

Submissions made by domestic industry

79. The following submissions with regard to injury and causal link have been made by the domestic industry and considered relevant by the Authority:

- i. The Volume of imports from China PR has increased very significantly in relative terms during the injury period despite a decline in demand. Further, the increase in Imports from China PR is most significant and prominent during the proposed POI. As a result of increase in imports in relation to domestic sales and consumption, share of the domestic industry has declined. Further, there is a steep fall in the market share of the domestic industry. Market share of Domestic Industry has declined by 12%, whereas market share of the imports from China PR has increased by 13% during the POI as compared to the base year. Chinese producers have been able to capture significant market share of domestic industry and other countries.

- ii. During the period of investigation there is a significant increase in imports due to which domestic industry's production reduced by 39% as compared to the base year.
- iii. China is facing slow down, resulting into huge surplus capacities. Countries like USA, EU and Canada etc. have already imposed Anti-dumping and other measures in respect of exports from China PR to safeguard interests of their Domestic Industry. In the absence of any Anti-Dumping duties in India, dumped imports from China PR have impacted adversely the profitability of the Domestic Industry in India and continued dumping can cost hundreds of jobs in near future.
- iv. China is dumping low priced goods into the Indian Market which is resulting into domestic industry losing sales in stable market demand. This in turn resulted in decline in production and capacity utilization. There is a sharp decline in market share of the Domestic Industry as well.
- v. Despite all efforts by the Petitioners to keep plant running it can be seen that its capacity utilization declined significantly during the period of investigation and Petitioners incurred heavy losses due to decline in sales and utilization.
- vi. Indian producers were able to secure only (8%) of the tenders floated by various Public sectors undertakings and oil exploration companies. By dumping low priced imports into India, Chinese exporters got (92%) of the tendered quantities. During the recent periods, 100% tendered quantity in the tenders floated by major national oil PSUs namely BPCL, ONGC and OIL India Ltd. have been captured by Chinese Exporters by quoting very low price which do not even recover the cost of basic raw materials as per prevalent international steel prices.
- vii. Trends of current prices during the POI clearly show that the exporters from China PR have lowered their export prices further to absorb the impact of existing Safeguards duties imposed by Government of India. This intensified dumping has resulted into significant injury to the Domestic Industry.
- viii. Landed value of imports from China PR is significantly below the selling price and hence significantly undercutting the prices of Domestic Industry. Due to which the Petitioners could not increase their prices and were forced to offer lower prices to match the prices offered by the exporters from China PR so as to maintain its domestic sales volumes.

- ix. There exist large unutilized capacities in China PR for subject products. Existence of significant price undercutting and underselling, coupled with very large disposable capacities with the producers in the subject country is a clear evidence of threat of injury to the domestic industry from these dumped imports.
- x. In real US Dollar terms, CIF prices from China have been intentionally reduced from the base year when world over prices have only gone higher in the corresponding period.
- xi. The imports are suppressing the prices of the domestic industry in the market and domestic Industry is suffering an adverse and remarkable impact due to these dumped imports of the subject goods.
- xii. Capacity utilization of the domestic industry has shown a sharp decline. The domestic industry which was operating at 53.50% during the year 2011-12 declined to 32.76% during the period of investigation. The capacity utilization of the Domestic Industry declined by 21%. Balance capacities are unutilized and due to high unutilized capacities, the petitioners are facing severe financial problems.
- xiii. There is a sharp decline in the sales of the domestic industry. Market Share of domestic industry, which was contributing 37.30% in the domestic demand, declined to 32.86% during the period of investigation.
- xiv. Profitability of the domestic industry has gone down drastically during the injury period due to intensified dumping by Chinese Exporters. The domestic industry was earning profits during 2011-12 but witnessed sharp decline in profits during next year. Due to dumped imports, it has incurred huge losses during later years and on account of intensified dumping losses of the Domestic Industry increased manifold.
- xv. Return on capital employed and cash profits were positive during the year 2011-12. However due to intensive dumping the same became negative in later years.
- xvi. Inventory with the domestic industry have increased in absolute term as well as in relation to domestic sales of the domestic industry.

- xvii. Employment in the Domestic Industry has declined by 10% since 2011-12 which is a clear threatening declining trend.
- xviii. Performance of the domestic industry has materially deteriorated in terms of production, capacity utilization, domestic sales values & volume, profits, return on investments, cash flow, inventories and market share. It would be seen that all the parameters, collectively and cumulatively establish that the domestic industry has suffered material injury.
- xix. Considering the massive capacities of the subject goods in China PR, it is clear that the imports of the subject goods into India shall continue to rise rapidly leading. There is imminent and clear danger of not only material injury but serious injury to the Domestic Industry in India. Hence, the threat of serious injury to the Domestic Industry in India is established.
- xx. The price difference between the imports and the sales of the Domestic Industry is very high and is likely to increase. Thus, the imports of the subject goods from China PR are likely to remain lucrative.
- xxi. The profitability of the Domestic Industry has steeply deteriorated due to increased imports in the recent period and inconsideration of the continued availability of the cheap imports, the profitability of the Domestic Industry is likely to further decline.
- xxii. The market share of the Domestic Industry has been captured by the increased imports of the subject goods from China PR. In light of the unabated imports of the subject goods, a further decline in the market share of the Domestic Industry is likely.
- xxiii. In the absence of immediate protection to the Domestic Industry in the form of an Anti-dumping Duty on the imports of the Product under consideration from China PR, the serious injury suffered by the Domestic Industry is likely to increase manifold and may result into imminent threat of closure of the Indian Domestic Industry.
- xxiv. Jindal Saw in not suffering injury is irrelevant because the applicants alone, makes the Domestic Industry. Also there is no basis to say that Jindal Saw is not suffering injury.
- xxv. MSL is not suffering injury, has no basis. Injury is calculated actual and potential decline in sales, profits, production/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.

- xxvi. The profitability of the DI has deteriorated to INR 80 Corers. Decline in demand would not have impacted the domestic industry in respect of parameters such as profits, cash profits and return on investment.
- xxvii. While imports from subject country declined over the injury period, its share increased significantly by 5% as compared to base year and by 7% as compared to 2012-13. Whereas market share of Chinese imports and domestic industry were quite comparable in base year, the same gap has increased very significantly by the POI (from 2% difference to 12% difference).
- xxviii. DI suffered material injury in terms of price parameters. The prices have declined by as high as 69% over the period.
- xxix. Productivity of the domestic industry, measured in terms of productivity per day as well as per production per employee declined significantly during the POI as compared to base year in line with the decline in production. Growth of the domestic industry in respect of production, capacity utilization, domestic sales, profit/loss, cash profits, market share, ROI, etc was negative.
- xxx. There are no other factors responsible for injury to the DI. Imports from other countries are not causing injury. Either they are de minimus or at higher price. Shares of import have increased despite there is decline in demand due to decline in fresh exploration activities. The performance of domestic industry has not deteriorated due to developments in technology.
- xxxi. The decision of Delhi High Court was for addressing entirely different issue. Every decision has to be seen in the context of the issues arising in the case and facts of the particular case.

Submissions made by Exporters, Importers, Users and other Interested Parties

80. The following submissions with regard to injury and causal link have been made by the Exporters, Importers, Users and other Interested Parties and considered relevant by the Authority:

- i. The economic parameters of the Petitioners do not indicate existence of injury due to alleged dumped imports. Further, there exist other known factors than the alleged dumped imports which are causing injury to the domestic industry. There is no injury as well as causal link between alleged dumped imports and injury in this case.

- ii. Demand for the subject goods has consistently come down in India from the base year 2011-12 to the POI. In line with decline in demand, imports from China PR have also come down consistently during the injury analysis period. Thus the actual reason for injury alleged by domestic industry is decline in demand for the subject goods.
- iii. Further, the annual reports of the Petitioners as well as the supporter establish that the demand for the subject goods had declined due to fall in crude oil prices. This was a major factor, due to which exploration and drilling activities reduced during the injury analysis period, leading to a sharp fall in demand for the subject goods. Therefore, any injury due to decline in demand for the subject goods cannot be attributed to imports of the subject goods.
- iv. The domestic industry's capacity is much more than the demand for the subject goods in India. However, in view of decline in demand, the high domestic capacity failed to result in a proportionate increase in production and sales. Increase in capacity by the domestic industry, despite decline in demand, further aggravated the situation. This caused injury to the domestic industry. Further, it is because the domestic industry's exports have drastically declined from 121,324 MT in 2011-12 to 78,667 MT during the POI, it is suffering injury due to this reason as well.
- v. While the domestic industry's market share declined by 5% from 2011-12 to the POI, market share of other Indian producers increased by 5% during the same period. Even though it appears that market share of imports from China PR also increased during the same period, it can be seen that actual imports from China PR had declined consistently during the injury analysis period in line with increase in demand. On the other hand, market share of other Indian producers in demand increased from 9% in 2011-12 to 14% during the POI. Therefore, other Indian producers increased their market share by increasing their sales during the injury analysis period when demand for the subject goods was on the decline. This shows the aggressive nature of inter se price competition between the domestic industry and other Indian producers.
- vi. The domestic industry's own data shows the extent of high interest cost they are burdened with. This is a major reason for injury to the domestic industry. Further, annual reports of M/s ISMT Ltd. also shows very heavy finance costs being incurred by the company during the injury analysis period. The domestic industry is suffering injury due to certain intrinsic factors, such as high fixed costs, depreciation costs and finance costs. Both Maharashtra Seamless Ltd. and Jindal Saw Ltd. have been in profits during the injury analysis period. On the other hand, ISMT Ltd. is making losses. This is because ISMT Ltd. is incurring high finance costs, fixed costs and depreciation costs due to significant increase in its capacities in 2010-11.

- vii. While the employment of the domestic industry declined during the injury analysis period, interestingly, the wages offered by the domestic industry have sharply increased in this period. Further, as per M/s ISMT Ltd.'s Annual Report 2014-15, their losses increased by 29.77% on account of remuneration paid to its Key Managerial Personnel. This is also a major factor of injury to the domestic industry.
- viii. Profitability of the domestic industry has been adversely affected as a direct result of decline in demand for the subject goods. The domestic industry was earning profits during 2011-12 when demand for the subject goods was highest. Imports of the subject goods were also highest during 2011-12. However, as demand declined after 2011-12, profitability of the domestic industry also suffered. Therefore, there is no correlation between profitability of the domestic industry and imports of the subject goods.
- ix. The cost of production of the domestic industry appears to have increased during the injury analysis period as the fixed costs of the domestic industry had dramatically increased owing to significant capacity expansion. Large surplus capacities with the domestic industry have led to increased fixed costs and as a result increase in the cost of production. It is obvious that the domestic industry would not be able to recover such high costs, even though the selling price of the domestic industry has increased consistently during the injury analysis period. Even the landed value of the subject goods has increased since 2012-13. In such a scenario, imports cannot be the cause of injury to the domestic industry.
- x. Applicants have installed capacity in excess of the demand of the domestic market and thus it is but natural that there would be accumulation of inventories.
- xi. Imports of the subject goods are neither depressing nor suppressing the prices of the domestic industry. The domestic industry's selling price increased to 105 indexed points in 2012-13 in comparison to 2011-12, even though the landed value slightly decreased during this period. Further, the domestic industry's selling price declined to 99 indexed points in 2013-14, when the landed value increased in the same period. Thereafter, the domestic industry's selling price significantly increased to 108 indexed points during the POI when the landed value of the subject goods also increased. There is thus no clear link between prices of the domestic industry and the landed value of the subject goods. The domestic industry's prices have moved independently of the landed prices of the subject goods.
- xii. Maharashtra Seamless Ltd., a petitioner company and Jindal Saw Ltd., a supporter to this petition, have performed exceedingly well during the injury analysis period, which is evident from their annual reports. It is not clear why ISMT Ltd., which is the second petitioner, is not able to perform well.

- xiii. Injury alleged by the petitioners is self-inflicted. While the sale of Applicants has declined from 303,737 Mt during 2011-12 to 179,798 Mt during the POI, i.e., January 2014-December 2014, at the same time the sale of PUC by other producers in India has increased from 71,227 Mt during 2011-12 to 74,816 Mt during the POI and there is a rise in market share of these other producers from 8.75% in 2011-12 to 13.67% during the POI. Thus, the decline in sale of PUC by the applicants is on account of their own inefficiencies and there is no causal link between the injury caused to the applicants and the import of PUC from China PR.
- xiv. Despite imposition of safeguard duty, it is difficult to reckon as to how injury is still being caused to the domestic industry, when the sole purpose of safeguard duty is to promote the domestic production of product under consideration and providing an opportunity to the domestic producers to compete in the market.
- xv. The Applicants have alleged injury on account of dumping even with respect to certain grades which are not produced/supplied by the Applicants in the market.
- xvi. During the Tender Bidding Process, Applicants have generally offered prices lower than the Chinese Companies. Therefore, the Applicants cannot allege dumping and injury against the Chinese exporters.
- xvii. Un-dumped imports have increased the volume of dumped articles thereby rendering the entire investigation flawed. Imports of high pressure gas cylinders, which have been specifically excluded from the product scope should be excluded for the purpose of injury analysis. Further, imports of secondary pipes, defective, rusted, used pipes and stock lots, should be excluded from the import volume.
- xviii. Domestic Industry has filed wrong and misleading claims about their installed capacities. Both MSL and ISMT have enhanced their capacities during the injury period and it is this enhancement of capacities beyond the demand in the Country that has, in fact, led to deterioration in the performance of the Domestic Industry. The unwarranted enhancement of capacity is the sole cause of injury to the Domestic Industry and not increase in imports from China PR, as alleged in the petition, or at all.
- xix. From the annual reports of the respective companies and otherwise, it is evident that: injury to the domestic industry is not due to alleged dumped imports but due to known factors other than dumped imports. These known factors are 'change in demand for the subject goods' and 'change in the pattern of consumption of the subject goods', huge fixed cost, finance cost and depreciation cost.
- xx. Only because of decline in demand for the subject goods, the domestic industry was unable to increase its market share. Further, other Indian producers increased their market share by the same margin the domestic industry's market share had declined during the injury

analysis period. This demonstrates strong inter-se competition which is another reason for injury to the domestic industry.

- xxi. Despite decline in demand, Maharashtra Seamless Ltd. and Jindal Saw Limited have remained profitable during the injury analysis period. The reason for injury to ISMT Ltd. on the other hand is high finance cost, high depreciation cost and high fixed cost that resulted from a bad business decision to expand capacities significantly, that did not translate into increased production and sales due to decline in demand for the subject goods.
- xxii. There is no causal link between alleged dumping and injury. Demand for the subject goods is directly linked with drilling and exploration activities in oil and gas sector. Due to decline in drilling and exploration activities, demand for the subject goods declined in the injury analysis period. In this scenario, the domestic industry took a bad business decision to expand its capacities in anticipation of strong domestic and international demand. However, increase in capacities did not translate into increased production and sales for the domestic industry. The domestic industry was left with huge surplus capacities in light of weak demand for the subject goods.
- xxiii. There is no price suppression or price depression in this case. Prices of the domestic industry have moved independently of the landed value of the subject goods. Both the landed value as well as the domestic industry's prices had increased during the injury analysis period.
- xxiv. Unutilised capacities with the domestic industry are a direct result of decline in demand for the subject goods. Even though the domestic industry increased its capacities in anticipation of strong domestic and international demand, this step was a bad business decision, because soon after the domestic industry increased its capacity, demand for the subject goods fell. This adversely impacted the profitability and return on capital employed of the domestic industry.
- xxv. Demand for the subject goods is directly linked with drilling and exploration activities in oil and gas sector. Due to decline in drilling and exploration activities, demand for the subject goods declined in the injury analysis period. In this scenario, the domestic industry took a bad business decision to expand its capacities in anticipation of strong domestic and international demand. However, increase in capacities did not translate into increased production and sales for the domestic industry. The domestic industry was left with huge surplus capacities in light of weak demand for the subject goods.
- xxvi. Prices of the domestic industry have moved independently from the landed value of the subject goods. Imports from China PR are not preventing the domestic industry from increasing its prices, which is clear from the present facts. Further, the domestic industry is incurring huge fixed costs, depreciation costs and finance costs, which is adding on to the injury being suffered by the domestic industry.

- xxvii. The domestic industry is faced with huge surplus capacities and if they operate at full capacity, they would not be able to sell their entire production in India as capacity of the domestic industry is way higher than Indian demand;
- xxviii. During the Tender Bidding Process, the Applicants offered prices lower than the Chinese Companies. The price offered by Mertex UK was over and above the price offered by MSL for several grades. Therefore, the Applicants cannot allege dumping and injury against the Chinese exporters.
- xxix. The Applicants even while bidding for Tenders floated by ONGC have stood disqualified at certain times for not being able to meet the requirements as prescribed by the Tenderer. Accumulation of inventories by the Applicants is on account of the fact that developmental orders are being placed and further that the Applicants are manufacturing substandard products which fail to meet the requirements of the Tenderers like ONGC. Further, the Applicants have installed capacity in excess of the demand of the domestic market and thus it is but natural that there would be accumulation of inventories.
- xxx. The injury information as provided in Proforma IVA suggests that the domestic industry has not suffered any injury on account of dumped imports from subject countries. Even after lapse of years since imposition of safeguard duty on PUC, the domestic industry has not taken steps towards capacity building. There are certain high-end equipment included within PUC, which the Applicant does not have the capacity to produce. The Applicant cannot be allowed to take protection by imposition of anti-dumping duty, when alleged injury to the Applicant is self-inflicted and is caused on account of the inefficiencies of the Applicant.
- xxxi. Injury caused to the applicants is on account of the internal price war between the constituents of the domestic industry during the bidding for various tenders floated by companies like ONGC. the allegations levelled that the Applicants are not able to meet the price offered by foreign manufacturers/exporters do not hold good in as much as it has been a trend wherein Jindal Saw has often reduced price to match the price quoted by MSL or ISMT and vice versa. Furthermore, it is interesting to note that during the Tender Bidding Process more often than not it was found that the Applicants and the Domestic Industry offered prices lower than the most of the foreign producers/exporters which negates the claim of injury. Therefore, it is but obvious that injury is self-inflicted.
- xxxii. There has been no negative impact from the allegedly dumped imports from China. Any difficulties experienced by the Indian industry and any resultant variations in profit margins are due to other factors, including stiff competition from many countries other than China. Further, the Applicants have installed capacity in excess of the demand of the

domestic market and thus it is but natural that there would be accumulation of inventories. A causal link is clearly lacking between imports from China and the situation of the Indian domestic industry.

81. The following submissions with regard to injury and causal link have been made by the opposite interested parties and considered relevant by the Authority:

- i. For most of the years under review the trend in the level of imports from China has declined over 2011-12 to the POI.
- ii. Petitioners own data shows that the landed value of imports has remained remarkably steady during the years under review and is higher in the latest year (POI) than in the year before (2013-14) and in the earlier year (2012-13). It is unclear from the charts provided in petition by the petitioner whether these data relate to all imports or imports from China only or all countries taken together.
- iii. While inventory levels and the number of days in inventory have increased overall, the trends in these indicators are not steady. The Inventory & debtors levels as on the balance sheet date has increased significantly over corresponding period last year. ISMT's net profit margin has significantly increased during POI while inventory has declined during the same period. Accumulation of inventories is on account of the fact that they are manufacturing substandard products which fail to meet requirements.
- iv. Petitioners have installed capacity in excess over demand of domestic industry. Domestic industry's capacity is much more than the demand for the subject goods in India.
- v. Wages have increased in absolute terms between 2011-12 and the POI, negating any claim of injury. Wages expressed in INR per MT during the POI were 42% higher than the base year 2011-12. As per M/s ISMT Ltd.'s Annual Report 2014-15, their losses increased by 29.77% on account of remuneration paid to its key managerial Personnel. This is a major factor of injury to the domestic industry.
- vi. Petitioners have claimed that Indian domestic industry has reduced its prices in 2013-14 and the POI on the other side landed value of imports has increased overall during the POI.

- vii. One of the key factors to be considered when examining whether domestic industry is truly suffering injury due to dumped imports are the analysis of effect on price, volume and profitability caused by the dumped imports, in addition to examination on consequential impact on other injury related factors as are requested by law.
- viii. Imports of the PUC were essentially made in response to the bidding. It is interesting to note that during Tender Bidding Process more often than not, it was found that the Petitioners offered prices lower than the Chinese Companies. Petitioners have stood disqualified several times while tender of ONGC for not being able to meet requirements as prescribed.
- ix. Any difficulties experienced by the Indian industry and any resultant variations in profit margins are due to other factors, including stiff competition from many countries other than China.
- x. In accordance with the elements above, a causal link can't be established between any alleged injury and allegedly dumped imports from China.
- xi. M/s ISMT Ltd. is burdened with steep finance costs. Its financials are significantly stressed due to weak demand, resulting in unutilized capacities.
- xii. Power cost of ISMT has increased by 16% during 2014-15 despite decline in per unit electricity rate by 24%.
- xiii. M/s Maharashtra Seamless Ltd. attributes fall in prices of crude oil, decline in the activities of exploration and production companies in drilling, and slowdown in infrastructure sector to reduction in demand for the subject goods in India.
- xiv. One of the supporters M/s Jindal Saw Ltd. has also pointed to the same factors as MSL above for decline in demand for the subject goods in India.
- xv. Domestic industry is suffering injury due to alleged dumped imports, when the actual reason for injury is decline in demand for the subject

goods. Demand of the subject good has decreased due to decline in drilling and exploration activities.

- xvi. Market share of the domestic industry in demand declined during the injury analysis period to the same extent the other Indian producers share increased.
- xvii. Wages expressed in INR per MT during the POI were 42% higher than the base year 2011-12. As per M/s ISMT Ltd.'s Annual Report 2014-15, their losses increased by 29.77% on account of remuneration paid to its key managerial Personnel. This is a major factor of injury to the domestic industry.
- xviii. Profitability of the domestic industry has been adversely affected as a direct result of decline in demand for the subject goods. The domestic industry should be directed to explain injury due to other factors and segregate the same from the injury analysis.
- xix. The domestic Industry has calculated highest price undercutting and Price underselling in the POI, when the landed value was significantly higher than previous two years. The DA has only disclosed PCN wise price underselling, but has not disclosed PCN wise landed value.
- xx. Injury suffered by the DI is due to other known factors such as fall in prices of crude oil, due to Forex fluctuations and decline in level of exploration is one of the reasons of injury. There are many other intrinsic factors adversely affecting the domestic industry, thereby causing injury to the domestic industry. The annual reports of both petitioners and one of the supporters to demonstrate this aspect. The Domestic industry's own data shows the extent of high interest cost they are burdened with.
- xxi. In post hearing submissions it was submitted by exporters, users, importers and interested parties that Injury analysis in the Preliminary Finding is *prima facie* incorrect.
- xxii. PCN A-1-5 is un-dumped and should be excluded from the import volume. Inclusion of all these have increased the import volume of the dumped articles.
- xxiii. Landed cost of imported bearing tubes is higher than that procured from ISMT. Due to this, dumping cannot be alleged. Import price of Chinese bearing tubes are comparable with bearing tubes of other countries. Bearing producers have a strict vendor selection process and such an overnight change cannot be made, as it requires 2 years.

Since there is no reduction in export price of bearing tubes after imposition of safeguard duty, the DA's findings are factually erroneous.

- xxiv. Market share of the DI has declined during the injury analysis period but at the same time share of other producers have gone up. This shows aggressive nature of inter se price competition between the DI and other Indian producers.
- xxv. There is no explanation on how come there is huge decline in profitability due to slight decline in sale.
- xxvi. Revenue of the DI and Supporters has stayed stable or has improved during the injury analysis period.
- xxvii. The duty is imposed on reference price. So it is providing double protection to the DI because Safeguard duty is already in force for against the subject good regarding the subject country.
- xxviii. Cost of production of DI has increased during the injury analysis period, because the fixed cost has dramatically increased.

82. The following additional submissions with regard to injury and causal link have been made by the opposite interested parties subsequent to second hearing

- i. Prices offered by Jindal Saw are lower than ISMT.
- ii. Reference price duty levied is very high. The reference price duty is based on the situation during POI.
- iii. International prices of steel have steeply fallen after 2014, particularly steel billets.
- iv. About 40% value addition is done from billet stage to manufacture the subject goods. Considering the value addition, fair price of the subject goods should not be more than USD 510/MT.
- v. In this situation the DI should not face any injury. Such excessive protection is nothing but a de facto ban on imports of the subject goods.
- vi. Bearing tubes cannot be clubbed in A-1-8 because line pipes and bearing tubes are different goods.
- vii. No injury to the DI. Capacity expansion was not commensurate with the market growth. Expansion has resulted into higher finance cost, depreciation cost and energy cost.
- viii. No data furnished for bearing tubes.
- ix. No increase in import or decline in price of bearing tube from the data available.
- x. Price of raw material decreased hence the export price.

Examination of the Authority

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

84. 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 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Anti-dumping Rules.

G. VOLUME EFFECT OF THE DUMPED IMPORTS ON THE DOMESTIC INDUSTRY

Demand and market share

85. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed, which shows a declining trend along with imports from the subject country and other countries, is given in the table below:

Particulars	Units	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Demand	MT	7,95,915	6,73,141	6,26,818	5,35,264
Indexed	Trend	100	85	79	67
Imports from Subject Country	MT	3,02,452	2,52,802	2,81,931	2,30,850
Indexed	Trend	100	84	93	76

Import from other countries	MT	1,13,544	1,15,823	61,802	45,416
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Market Share in Demand

86. Considering imports from various sources and sales of the domestic industry, market share of subject imports in demand in India was examined. The Authority notes that while the market share of domestic industry has declined during the POI as compared to the base year, the market share of the imports from the subject country has increased during the same period.

Particulars	Units	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Imports from subject country	%	38	38	45	43
Imports from other countries	%	14	17	10	8
Sale of domestic industry	%	39	34	34	34
Sale of other producers	%	9	11	11	14

Import volume and market share

87. The volume of imports of the subject goods from the subject country is as under:-

Particulars		Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Volume	Subject country	MT	3,02,452	2,52,802	2,81,931	2,30,850
	Other countries	MT	1,13,544	1,15,823	61,802	45,416
	Total imports	MT	4,15,996	3,68,626	3,43,733	2,76,266
Market Share in imports	Subject country	%	73	69	82	84
	Other countries	%	27	31	18	16

88. It is observed from the above table that while imports from subject country declined during the POI as compared to the base year, its market share has increased substantially.

Share of imports in relation to production

89. The Authority notes that the imports from subject country have increased in relation to the production of the domestic industry, as is evident from the following table:

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Import from Subject country	MT	3,02,452	2,52,802	2,81,931	2,30,850
Production for DI	MT	4,36,046	3,08,992	2,68,756	2,66,992
Import in relation to Production in DI	%	69.36	81.82	104.90	86.46

90. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table:-

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Capacity	MT	8,15,000	8,15,000	8,15,000	8,15,000
Production	MT	4,36,046	3,08,992	2,68,756	2,66,992
Capacity Utilization	%	53.50	37.91	32.98	32.76

91. It is observed that production and capacity utilization of the domestic industry has declined throughout the injury period and declined significantly during the POI a compared to the base year.

Sales volume

92. Sales volume of the domestic industry is given in the following table:

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Domestic Sales	MT	3,08,692	2,30,365	2,11,924	1,84,182
Trend	Indexed	100	75	69	60
Demand	MT	7,95,915	6,73,141	6,26,818	5,35,264
Trend	Indexed	100	85	79	67
Market share of DI in demand	%	38.78	34.22	33.81	34.41

93. It is observed from the above table that there is a sharp decline in the sales of the domestic industry.

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

94. With regard to the Price effect, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of sales (COS), weighted average Net Sales Realization (NSR) and the weighted average Non-Injurious Price (NIP) of the domestic industry have been compared with the weighted average landed cost of imports of the subject goods from the subject country.

Price Undercutting

95. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty including applicable cess to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the price undercutting from the subject country is positive during the POI. The Authority has determined the landed value of the subject goods at ex-port level and the net sales realization of the domestic industry at ex-factory level as per its established practice.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Imports Volume in MT	MT	3,02,452	2,52,802	2,81,931	2,30,850
Imports Value Assessable Value	Rs. Crs	1,743.66	1,430.34	1,594.93	1,298.41
Assessable Value	Rs./MT	58,227	57,145	57,138	56,807
Custom Duty (%)	%	4.73%	4.05%	4.60%	6.80%
Custom Duty Amount	Rs/MT	2,753	2,314	2,629	3,860
Education Cess	3%	82.59	69.41	78.88	115.81
Landed Value	Rs/MT	61,063	59,528	59,846	60,783
Selling price of DOMESTIC INDUSTRY	Rs/MT	***	***	***	***
Price Undercutting	Rs/MT	***	***	***	***
Price Undercutting	(%)	***	***	***	***
Range		0-10	5-15	0-10	10-20

96. The above table clearly demonstrates that the landed value of imports from China PR is below the selling price of the domestic industry and hence undercutting the prices of the Domestic Industry.

Price Underselling

97. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the product under consideration during the POI, in accordance with Annexure III of the Anti-dumping

Rules. The weighted average NIP and weighted average Landed Value have been worked out and compared. The analysis shows that during the POI the landed value of subject imports were below the non-injurious price of the domestic industry, as can be seen from the table below, demonstrating positive price underselling effect.

Particulars	Unit	A-1-1	A-1-2	A-1-3	A-1-4	A-1-5	A-1-6	A-1-7	A-1-8	Total
Non-injurious Price	US\$/Mt	***	***	***	***	***	***	***	***	***
Landed Value	US\$/Mt	***	***	***	***	***	***	***	***	***
Underselling	US\$/Mt	***	***	***	***	***	***	***	***	***
Underselling	%	***	***	***	***	***	***	***	***	***
Underselling	% Range	15-25	5-15	85-95		0-10	0-10	25-35	10-20	5-15

Price suppression/depression

98. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases which would have otherwise occurred.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec. 2014)
Cost of Sales	Rs./MT	***	***	***	***
Indexed	Trend	100	111	116	130
Selling Price	Rs./MT	***	***	***	***
Indexed	Trend	100	105	99	108
Landed Price Subject Country	Rs./MT	61,063	59,528	59,846	60,783
Indexed	Trend	100.00	97.49	98.01	99.54

99. It may be seen from the table above that while the cost of production of domestic industry has increased from 100 to 130 from 2011-12 to POI, their selling price increased only from 100 to 108 during the same period. Thus the domestic industry's prices were

suppressed on account of dumped imports, as the domestic industry was not able to increase its prices in proportion to increase in its costs.

I. Economic parameter of the domestic industry Profit/Loss

100. The profitability of the domestic industry is given in the following table;

Particulars	Units	2011-12	2012-13	2013-14	POI (Jan. to Dec., 2014)
Profit/Loss	Rs. Crs	***	***	***	***
Trend	Indexed	100	(2)	(156)	(187)
Profit/Loss	Rs/Mt	***	***	***	***
Trend	Indexed	100	(2)	(227)	(313)
Return on Capital Employed	%	***	***	***	***
Trend	Indexed	100	11	(4)	(18)
Cash Profit	Rs. Crs	***	***	***	***
Trend	Indexed	100	36	(54)	(78)

101. It is seen from the above table that profitability of the domestic industry declined significantly during the POI as compared to the base year.

Cash Flow

102. Authority has examined the trends in cash profits in order to examine the impact of dumping on cash flow situation of the domestic industry. Information regarding cash profit of the domestic industry is given in the following table.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Cash Profit	Rs. Crs	***	***	(***)	(***)
Trend	Indexed	100	36	(54)	(78)

103. It is seen that the cash profits of the domestic industry declined from 2012-13

Inventories

104. Inventories with the domestic industry moved as follows;

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Average Stock	MT	***	***	***	***
Trend	Indexed	100	107	99	107
Stock as no of days of sales	Nos.	***	***	***	***
Trend	Indexed	100	148	156	175

105. It is noted that inventories with the domestic industry increased in the POI as compared to the base year as well as the previous year.

Productivity

106. Authority notes that productivity of the domestic industry, productivity per day as well as per employee has declined significantly during the POI as compared to base year.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Productivity per Day	MT	***	***	***	***
Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Trend	Indexed	100	78	76	72
Productivity per employee	MT	***	***	***	***
Trend	Indexed	100	75	68	70

Employment and Wages

107. It is seen from the table below that the employment level has decreased during the POI marginally as compared to the base year.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Employment	Nos	***	***	***	***
Trend	Indexed	100	97	93	90
Wages (Rs. Crs)	Rs. Crs	***	***	***	***
Trend	Indexed	100	117	134	147

Magnitude of Dumping

108. Magnitude of dumping as an indicator of the extent, to which the dumped imports can cause injury to the domestic industry, shows that the dumping margins determined in respect of the subject country are above de-minimis.

Growth

109. The Authority notes from the table below that growth of the domestic industry in respect of production, domestic sales, profit/loss, ROI, etc have declined during the POI as compared to the growth achieved in the base year.

Particulars	Unit	2011-12	2012-13	2013-14	POI (Jan - Dec 2014)
Production	%	-	-29%	-13%	-1%
Domestic sales volume	%	-	-25%	-8%	-13%
Cost of sales	%	-	11%	5%	12%
Selling Price	%	-	5%	-6%	9%

Profit/Loss per units	%	-	-102%	-11333%	-37%
Return on Capital Employed	%	-	-1.02%	-113.33%	-2.37%

Ability to raise capital investment

110. It is noted that despite significant demand for the subject goods in the Country, the domestic industry has not been able to optimize its production capacity. Further, the applicant is suffering significant financial losses as a result of dumping of the subject goods from the subject countries. In the prevailing situation, it would not be possible for the domestic industry to make further investment for the production and sale of the subject goods.

Factors Affecting Domestic Prices

111. The examination of the import prices from the subject country and other 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 positive price undercutting and underselling effects. Further, the demand for the subject goods, although showing declining trends, still continues to be significant in the Indian market. Therefore, it cannot be the cause for affecting domestic prices. Thus, the principal factor affecting the domestic prices is the landed value of the imports of dumped subject goods from subject countries.

Conclusion on material injury

112. The above injury analysis demonstrates that imports of the subject goods from the subject country are undercutting and underselling the prices of the domestic industry in the market. Further, whereas cost of production kept increasing over the injury period, even though the selling prices also increased, the increase in selling price was not in proportion to the increase in cost of production. The imports were thus suppressing the prices of the domestic industry and preventing the price increase that would have otherwise occurred in the absence of dumped imports. With regard to consequent impact of the dumped imports on the domestic industry, it is found that demand for the product continues to be significant

in the Indian market, but the domestic industry's still falls short of optimum level due to presence of dumped imports. Resultantly, the domestic industry did not appreciate its market share despite increase in capacity and demand, which in turn impacted other performance parameters as well. The domestic industry was faced with significant unutilized capacities in a situation where the demand for the product is quite significant in the market. Profitability of the domestic industry declined. Return on capital employed and cash profits followed the same trend as that of profits. Both return on capital employed and cash profits marked negative growths in POI. Growth in respect of most of the parameters such as production, sales, capacity utilization, profits, cash profits, return on capital employed, market share & inventory etc shows an adverse impact on the domestic industry. In view of the above, the Authority concludes that the domestic industry has suffered material injury on account of the dumped imports of the subject goods from the subject country.

J. CAUSAL LINK AND OTHER FACTORS

113. Having examined the existence of material injury, volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti-Dumping have been examined to see whether any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:-

- i. **Volume and value of imports from countries other than the subject country-** Imports from countries other than China PR are not significant in volumes as either de-minimis or at higher prices. Imports from third countries are not causing any injury to the domestic industry.
- ii. **Contraction of demand or Changes in the pattern of consumption-** The Authority notes that despite declining but significant demand for the subject goods in the country, the domestic industry suffers from unutilized capacity. Moreover, the market has not demonstrated any change in the pattern of consumption as well. Therefore, decline in the demand and change in the pattern of consumption cannot be construed as the cause for injury to the domestic industry.
- iii. **Development in Technology-** None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

- iv. **Trade restrictive practices and competition between supply from various sources-** The Authority notes that the subject goods are not subjected to any trade restrictive practices in India. Moreover, apart from the competition that is obvious in any market economy, no inter se competition or competition between supplies from various domestic and international sources exhibit any such impact that could be construed as injurious to the domestic industry.
- v. **Export performance-** Performance of the domestic industry has been segregated for domestic and export market. Therefore, any possible decline in export performance is not a cause of injury to the domestic industry.

114. From the foregoing, the Authority affirms the finding and concludes that there is no evidence of injury being caused to the domestic industry due to other factors.

K. Factors establishing causal link:-

115. All Parameters enumerated above clearly establish that injury to the domestic industry has not been caused by the other factors. Under such a situation, petitioner submits that the following parameters establish that the injury to the domestic industry has been caused by the dumped imports.

- i. Imports from China are being dumped in the domestic market at prices cheaper than domestic industry.
- ii. Decline in the sales volumes has led to decline in production and consequently capacity utilization;
- iii. Imports from China are undercutting and underselling the domestic prices. Consequently, the domestic industry has been prevented from increasing the prices in proportion to the increase in the cost of production;
- iv. Inability of the domestic industry to increase its prices in proportion to the cost led to significant decline in profitability.
- v. Decline in profits as a result of price undercutting/underselling led to decline in return on investment and cash profits to such an extent that both became negative in the period of investigation. Deterioration in these parameters is therefore due to dumping from China PR.

- vi. Market share of the imports increased significantly. As a direct consequence of dumping, the market share of the domestic industry declined.
- vii. Growth of the domestic industry became negative and the Domestic Industry is at the verge of closure due to intensive dumping. Material injury to the domestic industry has been caused by the dumped imports.

116. Thus, from the foregoing facts and analysis, the Authority notes for the purpose of the present findings that the domestic industry suffered material injury due to dumped imports of the subject goods, originating in or exported from the subject country.

L. MAGNITUDE OF INJURY AND INJURY MARGIN

117. The Authority notes that the PCN wise non-injurious price for the domestic industry has been determined as per the principles laid down under the Annexure III to the Anti-dumping Rules. The non-injurious price so determined has been compared with the PCN wise landed value of imports of Jiangsu Chengde Steel Tube Share Co., Ltd., China PR & Yangzhou Chengde Steel Tube Co., Ltd., for determining the weighted average injury margin as below:

Particulars	Unit	A-1-5	A-1-6	Total
NIP	US\$/MT	***	***	***
Landed Value	US\$/MT	***	***	***
Injury Margin	US\$/MT	***	***	***
Particulars	Unit	A-1-5	A-1-6	Total
Injury Margin	%	***	***	***
Injury Margin	% Range	(Negative)	5-15	5-15

118. In respect of all other exporters from China PR, who are treated to be non-cooperative, the Authority determined the injury margin as below:

Particulars	Unit	A-1-1	A-1-2	A-1-3	A-1-4	A-1-5	A-1-6	A-1-7	A-1-8	Total
NIP	US\$/MT	***	***	***	***	***	***	***	***	***
Landed	US\$/MT	***	***	***	-	***	***	***	***	***

Value										
Injury Margin	US\$/MT	***	***	***	-	***	***	***	***	***
Injury Margin	%	***	***	***	-	***	***	***	***	***
Injury Margin	% Range	15-25	5-15	85-95	NA	0-10	0-10	25-35	10-20	5-15

M. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

Submissions by Domestic Industry

119. Submissions by domestic industry

- a. The product under consideration in the present investigation is “Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD”.
- b. The product under consideration includes boiler pipes or line pipes used in hydrocarbon industry and casing and tubing of a kind used in drilling for oil and gas exploration. Following products have been excluded by the Authority from the scope of product under consideration at the initiation stage:
 - i. Seamless alloy-steel pipes, tubes and hollow profiles of specifications of ASTM A213/ASME SA 213 and ASTM A335/ ASME SA 335 or equivalent BIS/DIN/BS/EN or any other equivalent specifications.
 - ii. Non - API and Premium Joints / Premium Connections / Premium Threaded Tubes & Pipes.
 - iii. All 13 Chromium (13CR) Grade Tubes and Pipes, and
 - iv. Drill Collars.
- c. Secondary, defective, rusted and used pipes, ASTM A335 Gr. and P-9, cannot be excluded from the import volume as they fall under the scope of PUC.
- d. Exclusion of High pressure gas cylinder is inappropriate. The Domestic Industry will be forced to file a fresh application in regard of this product once it starts commercial production.
- e. M/s Maharashtra Seamless Ltd. and M/s ISMT Ltd. account for a major proportion of the total domestic production of the subject goods and fulfil the requirement of Rule 2 (b).
- f. Information such as gross volume of exports to India, gross volume of sales in domestic market, production, sales, and average price for exports to India have not been claimed confidential. Whereas excessive confidentiality is claimed by the exporters/importers. Information available on public domain has been treated as confidential.

- g. Imposition of Anti-dumping duty is not going to impact the downstream industry negatively in contrary it will provide them a level playing field.
- h. The interest parties have no locus to demand any document in a particular form.
- i. Patented goods are in no way different than the non patented goods. Patents good is commercially and technically interchangeable.
- j. Petitioners have not made any application before Safeguard Authority seeking extension of present safeguard duty.
- k. Mertex and other Chinese exports have been supplying goods to ONGC in dumped prices year after year so that domestic suppliers go out of the list of suppliers for ONGC.
- l. MSL has qualified for all the items of the tender specified by Mertex in its response. In fact Mertex failed to qualify for supplying substantial quantity of order due to impact of Customs duty and the same was taken by MSL.
- m. China has surplus capacity because countries like USA, EU Canada etc have already imposed duty on China.
- n. Import data taken from DGCI&S is indeed confidential information and the same is not available publically.
- o. Duty should be imposed retrospectively. Earlier such request was made by the domestic industry and the same finds place in initiation notification. The opposite parties have made any argument against the same.
- p. Anti-dumping duties should be imposed during the interregnum period. The same held valid in **Nitco Tiles Ltd. V/s Designated Authority {2006(193) ELT 17(Tri.-Del.)** Ministry of Law and Justice also has the same stand in this regard. However, the Hon'ble Supreme Court in the matter of **Commissioner of Customs, Bangalore vs. G M Exports and Ors;** held the contrary **and was of opinion that** other signatory countries have taken the same view that no duty can be collected during the gap period. With due respect to the Hon'ble Supreme Court, the Apex Court held that without considering the fact that the time period of 5 years in India is counted from the date of imposition of provisional duties.
- q. China should be treated as non-market economy.
- r. Dumping margin is calculated for product as a whole not for a particular product. Just because PCN A-1-5 is negative that cannot be excluded on that basis. Different PCNs are merely different types of one product. Standing of the petitioners and injury analysis has been carried out for the product under consideration as a whole. The injury analysis has not been carried out for individual product types. The same was affirmed by the WTO Appellate Body in the matter of **European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen** from India.
- s. Imports have been made under Chapter 98, wherein customs duty payable is nil. A number of exporters have supplied the material under Chapter 98. The sole exporter who has been given individual dumping margin and injury margin has also supplied the material under Chapter 98, accordingly the landed price of import is required to be determined without adding customs duty. Similar view was taken by the Hon'ble Supreme Court In the matter of certain catalysts.
- t. Supreme Court where the held that in case product under consideration is classifiable under different customs classifications and customs duties are different under different customs classifications, the Designated Authority shall determine injury margin after considering prevailing customs duties. If customs duty prevailing in Chapter 98 is considered, all the injury margins shall be positive.

- u. The domestic industry has suffered material injury as a result of dumping. It has impacted the demand, market share, production and production capacity of the domestic industry. All the other economic parameters show injury.
- v. The present NIP law itself is against the fundamental right of domestic industry to seek protection against unfair dumped imports. The determination of non injurious price is grossly inappropriate and is leading to unduly low protection to the domestic industry. The Authority should consider actual raw material and utilities consumption. It would be inappropriate to ignore actual production and adopt any other production basis for determination of non injurious price.
- w. The form of duty should serve the purpose for which anti-dumping duty is imposed and the duty should be imposed in a manner where it does not become futile. The provisional duty in the present case was imposed on the basis of benchmark duty and same should be adopted while imposing final duty.
- x. The Anti dumping legislation has been created in consonance and in conformity with the WTO Agreement on Anti Dumping, which explicitly permit authorities to impose anti dumping duties in the form and manner requested.
- y. Information has been provided showing clearly the pattern of raw material prices have increased (Coking coal up by 300%, Iron Ore by 100%. Steel prices up by 30-35%) and in future is likely to be high.
- z. Thus, it is not a case where cost of production has declined after the POI, rather , the raw material cost have increased substantially in the most recent period, which is demonstrated by the raw material suppliers from the china pr itself, who are quoting billets prices, at much higher then what was in the Period of investigation.
- aa. Duty should be imposed in terms of Dollars to avoid erosion of the quantum of protection does not take place on account of changes in the exchange rate.
- bb. Product under consideration continues to be exported to India below its normal value resulting in dumping from the subject country.
- cc. Both dumping margin and injury margin in the current period of investigation are significant and positive from the subject country.

Submissions made by Exporters, Importers, Users and other Interested Parties

- a. Anti-dumping duty should not be levied on the product as it is not indigenously manufactured by any of the local manufacturers.
- b. Bulk of imports is for the variant (Diameter less than 12”) that differs from company's requirement (Diameter 12.75”).
- c. The two petitioners, Maharashtra Seamless Ltd and ISMT Ltd. are not in a position to meet the corporation’s requirement domestically.
- d. Imposition of duty would be against public interest.
- e. There was an error in rejection of information submitted by Mertex UK Ltd in the Exporter’s Questionnaire Response and the information should not be rejected on the ground such as Mertex UK has also filed EQ response and claimed to have exported subject goods. Export transactions cover both PUC as well as non-PUC. Concerned parties still did not furnish bifurcated details in terms of MT. Authority does not allow individual export price and margins to Pagong Group, PRC and Mertex UK.
- f. It is not justified that data submitted be rejected on this ground. Amended import data from PUC submitted by DI at a later stage to DGAD contained several

entries for secondary and defectives which should have been excluded from the import data of PUC.

- g. A list of such products which had been included by applicants in import data was also enclosed by exporters along with Written Statement filed. Authority ought to reject the application on this ground.
- h. DI is trying to mislead and create prejudice. Applicants ought to furnish correct data. Information submitted along with EQ must be accepted by Authority to be used to calculate individual dumping margin.
- i. "Imports of secondary, defective and rusted pipes cannot be excluded while examining the relied upon import data". This statement by authority is surprising and dismal.
- j. Authority should have clarified its stand regarding correctness of import data and methodology. Only higher priced products were excluded from import data qualifying them as non-PUC. No reasoning was provided by DI at submitting revised import data and excluding certain entries from import data.
- k. ISMT's API certificate has been cancelled and it cannot participate in tenders invited by ONGC.
- l. Learned Authority has failed to consider that Applicants have submitted bids at lower prices than exporters including Mertex in tenders invited by ONGC.
- m. Name of the interested parties must be mentioned in paragraph xiv on page 6 of the disclosure statement and the corresponding paragraph in the final findings.
- n. There is a prohibition on imposing countervailing and anti dumping duty to compensate for the same situation of export subsidization. It would be wrong to say there is a prohibition to impose countervailing duty and anti dumping duty at the same time, as observed in the disclosure.
- o. Reference price duty would be inappropriate in this case as according to Rule 13 and Rule 18 of the AD Rules, anti-dumping duty cannot exceed the margin of dumping as determined by the Designated Authority according to Section 9A of the Act and Rule 17 of the AD Rules.
- p. India follows lesser duty rule and anti-dumping duty is collected in excess of what is warranted. The amount of anti-dumping duty collected cannot exceed the margin of dumping calculated for an exporter, as the margin of dumping acts a ceiling for the total amount of anti-dumping duty that could be collected. Supported by United States- Measures Relating to zeroing and Sunset review WT/DS332/AB/R
- q. Reference price duty is not appropriate and has not been adopted by the Authority in last five years for number of reasons such as prices can be manipulated so that landed value falls above the reference price because of the same reason as a policy the Govt. does not impose reference price because they do not earn revenue from the same, raw material price increase, landed value goes above reference price but dumping still continues, if raw material prices decrease the landed value goes below reference price but reference price duty will still be applicable even if there is no dumping. Reference price duty is appropriate only in those cases where the raw material prices are stable.
- r. Designated Authority has failed to provide any analysis on why reference price duty was adequate in this case and to ensure that the amount of anti-dumping levied does not exceed the maximum ceiling.
- s. The Designated Authority should provide a maximum ceiling beyond which antidumping duty could not be collected in a reference price mechanism.

- t. Safeguard duty must be adjusted in the reference price to avoid excessive protection to the domestic industry. The Respondents submit that reference price duty is appropriate only in those cases where the raw material prices are stable or raw material prices do not fluctuate in a volatile manner. Fluctuation in prices of the raw material also impacts the prices of the subject goods. Even when such goods may not be dumped, they may still be subject to anti-dumping duty. Exporters might still dump the subject goods, but may keep their prices above the reference price to avoid anti-dumping duty.
- u. Reference price on the subject goods as per the preliminary findings and provisional customs notification is very high. The reference price is based on the situation during the POI.
- v. The domestic industry has been offered two to three times of protection by putting the reference price from USD 510/MT onwards to above USD 1600/MT. Such excessive protection is nothing but a de facto ban on imports of the subject goods.
- w. The DGAD had treated import data as confidential in the investigation of USB Flash drivers and the final finding was challenged in the appeal and the Delhi High court quashed the final finding.
- x. Such high reference price is hurting the Respondents. Secondary, defective, rusted and used pipes cannot be considered as part of the product scope. The authority should give reasons why these should not be excluded from the scope of product under consideration.
- y. The domestic industry has misconstrued and manipulated the Respondents' argument to state that DGCI&S does not make available bill of entry-wise import data.
- z. The DI has misrepresented before the Designated Authority that DGCI&S data is a confidential data, whereas such statement is not correct factually as well as legally. Failure to provide such information will be violation of natural justice and The Hon'ble Supreme Court has clearly observed in UOI vs. Meghmani Organics Ltd and Ors. that data available with DGCI&S is available to the public and also under the RTI Act.
- aa. Further, to claim the DGCI&S data the Supreme Court has held in the above case that has DGCI&S claimed confidentiality to provide the data to the DGAD, if yes where is the communication regarding this. If there is a communication why that is not put to the public file for the interested parties.
- bb. The DGCI&S has no right to claim import data, raw and refined import data, and methodology to make refine such import data as confidential.
- cc. It is clear that DGCI&S is an uninterested party in an anti-dumping investigation. The information can be obtained through RTI as well. So there is no reason why DGCI&S will claim confidentiality and not provide the data to DGAD. It is illogical that DI's petition is based on DGCI&S data and the same is confidential for the interested parties.
- dd. DI has claimed excessive confidentiality in providing Performa IV-B, process of manufacturing goods, raw material and packaging material consumption, format B, CI & CII, D, E, ROCE, purchase policy, sale policy, quality control of the procedures and source of the exchange rate for the period of investigation.
- ee. Mathematically not possible that after adding safeguard duty, injury margin is positive, as 20% safeguard duty was in force between 13 August 2014 to 12 August 2015 (both days inclusive), while injury margin for the POI is only in the range of 5-15% for the POI. This means that safeguard duty was more than adequate to address the injury to the domestic industry.

- ff. Authority may kindly clarify what is NA which is written against dumping margin of PCN A-1-4. Price underselling of the same PCN is blank. If there's no import of this PCN it should be excluded from the PUC.
- gg. Granting of 22% ROCE in arriving at the non-injurious price for the domestic industry is illegal as the norm is to consider historical rate of return in light of Indian spinner Association Vs Designated Authority 2004 (170) ELT 144 (Tri.-Del)
- hh. Disagree with injury and causal link examination in Annexure 3 of the examination. The Designated Authority has neither recorded the contentions of the Respondents in full nor appreciated the contentions in Annexure 3 of the disclosure statement
 - ii. No duty should be imposed on YCS PCN A-1-5. Designated Authority has determined negative dumping margin and injury margin for YCS' exports under PCN A-1-5 and PCN A-1-6 to India. Overall dumping margin and injury margin for YCS are negative.
 - jj. The weighted average dumping margin in the range of 20-30% for PCN A-1-6 for JCS and YCS together and for non-cooperative exporters from China PR, it is in the range of 15-25% for PCN A-1-6, which is lower than weighted average dumping margin for JCS and YCS. This seems to be an error.
 - kk. The Designated Authority erred in calculating weighted average injury margin in the range of 5-15% for PCN A-1-6 for JCS and YCS together and for non-cooperative exporters from China PR, it is calculated in the range of 0-10% for PCN A-1-6, which is lower than weighted average injury margin for JCS and YCS.
- ll. No observation on bearing steel tube has been made by the Authority, which is wholly unjustified. Neither the domestic industry nor the supporter can manufacture GCR15 grade and its equivalent grades of bearing steel tubes.
- mm. The Authority has determined dumping margin on the facts available but not on the information provided by the exporters. For the purpose of determining dumping margins, only the information regarding the normal value and export price maintained by the responding exporter can constitute necessary information.
- nn. The Authority has discretion to use the information of unrelated entities to determine dumping margin.
- oo. Valin, MPM, Hengyang and Xigang have already provided its channel of sales to the Authority.
- pp. It has already been clarified to the Authority that they should consider the information provided by the exporters.
- qq. Authority may consider that exports made by the traders are miniscule portion of the total exports of Valin, MPM, Hengyang and Xigang
- rr. All the transactions reported in the questionnaire response is of PUC only.
- ss. Exporters had provided complete information of PUC alone in Questionnaire Response which was unfairly treated by DA by not pointing out specific entries.
- tt. Exporter's Response had been rejected by DA on the basis of the import data filed by the DI and the same has been claimed confidential, which is unlawful. Disclosure statement does not clarify classified information into PUC & Non-PUC and its classification into various PCN.
- uu. Secondary, defective, rusted pipes are reflected in import data provided in the petition. The domestic industry should provide raw data/information from DGCI&S and the same should be analyzed properly.

- vv. The domestic industry should provide import data and its raw form and should explain how it has segregated it into PUC and Non PUC and raw data. How can raw import data sourced from DGCI&S are treated as confidential. This implies manipulation.
- ww. High Pressure Gas Cylinder has been excluded by the Designated Authority in the Disclosure statement. But the import data used for determining dumping injury margin, examination of injury, includes imports of high pressure gas cylinder.
- xx. The exporter questionnaire was rejected on the ground that it included both PUC and non PUC, so the petition ought to be rejected on the same ground.
- yy. Domestic Industry has provided misleading information about the installed capacities. MSL and ISMT have enhanced their installed capacities beyond domestic demand and this has led to deterioration in DI's performance.
- zz. The non-confidential version of the petition does not allow for a reasonable understanding of the allegations therein. The information is not properly indexed. The other parties could not exercise their right to defend.
- aaa. DI abusively withheld and manipulated information related to allegation of injury and has not furnished any information with regard to utilities consumption statement as per the format the period of investigation and past three years, Depreciation, Details of misc. income earned during the year, details of WIP before and after the investigation period indicating breakup of material costs and overhead., return profit. Petitioner should provide summary of documents and indexed data in non-confidential version of petition.
- bbb. The DI is required to give proper justification for expecting 22% of ROC. Non injurious price by DA is highly inflated and is not based on real situation. DA should adopt actual profit earned by DI during period when there was no allegation of dumping as a basis for calculating reasonable return.
- ccc. The calculation of return by adopting 22% uniformity on both the components of capital employed is totally incorrect and needs to be reviewed.
- ddd. CESTAT has the opinion that it is mandatory for the Designated Authority to look into the inflated ROCE raised by the producer/exporter of the anti dumping case and give its reasoned finding as to whether 22% is reasonable as per Annexure III to the ADD Rules. Hyosung Corporation vs. Designated Authority
- eee. EU considers that injury investigation should in principle cover a period of 3-4 years prior to investigation period. Profit margin to be considered for arriving at reasonable return should be based on analysis of profit when there was no dumping and uniform application of 22% margin based on hypothetical considerations is totally illogical and is unreasonable. EFMA v Council (1999) ECR II-3291
- fff. Individual determination of export price and dumping margin has not been determined for the exporter.
- ggg. It did not claim MET treatment. The Authority as per practice should have determined individual dumping margin. But the same was not done because one of the Agent Baotou International did not file response.
- hhh. Several clarities was given to the Authority regarding Baotou International and was conveyed to the Authority that it is only an Agent of the exporter not any

- importer or exporter, but the Authority did not ask for any clarification after issuance of preliminary findings.
- iii. The full transaction chain has been submitted and is on record. There was minimal import of the PUC during the Period of investigation and it did not export non PUC to India. It is implied by the act of the Authority that the entire transaction chain is on record.
 - jjj. The scope of PUC was changed in the preliminary finding without intimating the exporter, which is unlawful and inadequate. The segregation of PUC and NON PUC was on the basis of earlier defined scope of PUC.
 - kkk. It is still not clear to Baotou that if there was any error at their part regarding the scope of PUC as defined in original initiation or as defined in preliminary finding. If there was any error no opportunity was provided to correct that.
 - lll. Baotou has exported only for a month and for that individual export price is to be adjusted and the same can be done without spot verification.
 - mmm. There's no transparency in determining export price and normal value. Similarly for injury margin.
 - nnn. Unified minimum prices for each PCN are incredibly higher than market price. No explanation on how they calculated it.
 - ooo. Authority may provide clarification on if there's some discrepancy on the data provided by the Exporter.
 - ppp. It is inappropriate for the Authority to apply the duty retrospectively. Also the Authority cannot publish the final finding in this month specially without completing the entire investigation. The Authority should complete the investigation with respect to Baotou also.
 - qqq. Individual export price has not been determined for Baotou because it has not segregated the export in PUC and non PUC, but Baotou has several times clarified to the Authority that it has not exported non PUC to India.
 - rrr. The cooperating UK trader might have exported non PUC and may not have filtered it but Baotou's should not be punished for the same.
 - sss. Injury and causal link analysis is done correctly in the disclosure statement due to the reasons that It is not clear whether imports of high pressure gas cylinders have been excluded from the import volume, Imports of secondary pipes, defective, rusted, used pipes and stock lots have not been excluded from the import volume, PCN A-1-5 have not been excluded from import volume, It is not clear how demand in India has been determined, as production and sales of the supporter M/s Jindal Saw Ltd. and other Indian producers is not provided in the disclosure statement.
 - ttt. In the disclosure statement it was mentioned that imports from the subject country and other countries have reduced in the petition and preliminary finding but demand has increased significantly. This calculation is erroneous and needs to be recalculated.
 - uuu. Indian Rules are made in consonance of WTO agreement. As per rule undumped imports should be excluded from import volume.
 - vvv. Actual reason of injury is decline in demand, decrease in crude oil exploration, excess capacities, and export deterioration. Inter se competition in industry, high interest cost,
 - www. Injury to the domestic industry is solely due to the above factors.
 - xxx. Landed value of the subject goods has been increasing since 2012-13. Similarly, the selling price of the domestic industry has also increased in the same period. The subject goods are not preventing the domestic industry from increasing their prices.

yyy. Only one Petitioner ISMT is suffering losses. The other Petitioner MSL and the supporter M/s Jindal Saw Limited have been profitable during the injury analysis period.

zzz. It is to be noted that ISMT and Jindal Saw Limited were petitioners in the safeguard investigation, where the DG Safeguards found no serious injury to both the companies from alleged increase in imports of the subject goods. However, in this case, petitioners have switched positions, and MSL has been made petitioner instead of Jindal Saw Limited to show a manipulative picture of material injury. If economic parameters of Jindal Saw Limited are also taken into account, it would be found that these three producers are not suffering any injury at all from imports of the subject goods.

Examination of the Authority

120. The authority notes that most of the submissions are repetitive in nature and were already addressed earlier in the disclosure statement. The findings above ipso facto deals with these arguments of the interested parties. Further, the authority has examined submissions of interested parties herein below,

- a. It has been contended by interested parties that high priced transactions have been excluded from the import data. It is, however, noted that only those import transactions which do constitute PUC have been included in the disclosure statement and the present findings. Merely because some import transactions are at a low price because the same has been described as seconds or defectives, the same does not imply that these import transactions should be excluded from the scope of PUC. The scope of PUC in the present case is Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel and seconds/defectives pipes clearly constitutes Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel. In fact, it is noted from the questionnaire responses of the exporters or importers that it has not been claimed/demonstrated that these imports were meant for applications other than applications specified for the PUC. On the contrary, the petitioners contended that imports of seconds/defectives have been made for similar application for which goods seamless pipes and tubes is bought by a consumer. It is also noted that the authority has included seconds/defectives/downgraded product within the scope of PUC in several investigations.
- b. As regards the contention that the domestic industry has quoted a price lower than foreign suppliers in some tenders, the authority notes that the domestic industry contended that 93% of procurement by Oil India Limited and 99 % procurement by ONGC were met from imports and this contention of domestic industry has not been refuted by the exporters. Further, in a situation where there are a large number of tenders floated by consumers over a period of time, it is quite possible that the domestic producers may have quoted a price lower than imports in some cases. It is quite natural that the domestic industry might have quoted a price considering past history of low prices by Chinese producers.

- c. Some interested parties have contended that reference price system is not appropriate in the present case and same is violative of Rules & WTO decisions. Further, it has been contended that the reference price is not appropriate for a variety of factual reasons. The domestic industry has requested imposition of anti-dumping duty in the form of reference price. The authority notes that the reference price system is well established and accepted form of duty as far as the legality of the same is concerned. The Hon'ble CESTAT has also upheld reference price system in a number of decisions including phenol, polyol etc. As far as the contention of appropriateness of reference price system in those situations where raw material prices are not stable is concerned, the authority notes that reference price has been imposed in past also such as AD cases pertaining to phenol, polyol etc wherein the raw material prices are not stable. As regards the possibility of increase or reduction in raw material costs after the investigation period, the authority notes that the issue is well settled in past several cases. If the cost of production does increase or decline after the POI, the same is a subject matter of review under Rule 23. However, possible increase/reduction in raw material costs in the post POI period cannot be considered relevant to decide the form of duty. It is also noted that domestic industry has provided significant evidence showing that the raw material prices prevailing at present are in fact higher than the raw material prices that had prevailed during the POI and relevant evidence is suggestive of future increase in raw material costs. Despite this increase in cost of production, the domestic industry has requested imposition of anti-dumping duty on the basis of reference price system, contending intensified dumping and absorption of safeguard duty by the Chinese producers. It is also noted that that information on record shows steep decline in prices over the injury period and particularly after imposition of safeguard duty. The authority also notes that the arguments with regard to inappropriateness of reference price system do not hold any merit.
- d. Some interested parties have contended that DGCI&S transaction wise data should not have been claimed confidential. It is, however, noted that DGCI&S transaction wise data has been made available by the petitioners for placing in the public file. The petitioners made available both the segregated data for PUC alone the data for product considered as well as product not under consideration. Further, the petitioners had provided soft copy in excel file and the same was also made available through public file. In fact, one of the interested parties has even provided a sorted list of seconds and defectives from the soft copy made available by the DA. However, the authority has placed DGCI&S transaction wise data in public file and the same was made available to the interested party through the public file.
- e. As regards granting 22% ROCE, the authority notes that it has been consistent practice of the authority to grant 22% return on capital employed. It is noted in

this regard that this 22% return is not on actual cost of production and the same is on normated cost of production determined by the authority. This 22% ROCE thus constituted much lower percentage in terms of actual cost of production of the domestic industry. In fact, the domestic industry has contended consideration of higher ROI in several cases. The authority has however been following consistent policy of allowing 22% ROCE for the purpose of determination of NIP. Moreover, it has not been established how this ROI is not appropriate and is unduly high.

- f. Some interested parties have contended that the domestic industry claimed excessive confidentiality. It is clarified that the domestic industry has provided all this information and the same has been adequately and appropriately considered in the present findings. Since these information constitute business sensitive confidential information of the domestic industry, confidentiality of which is protected under Rule 7, the authority cannot disclose this information to the interested parties. It is noted that the return allowed by the authority is only*** of the cost of production before interest and 22 % of the capital employed.
- g. As regards practice adopted by EU, the authority considers that the same is in any case incomparable to the Indian practice. It is noted that EC determines injury margin after considering actual cost of production, whereas authority follows elaborate NIP law laid down under the law. The practice applied by EU therefore in any case is not relevant for determination of recent profit earned by the authority. In any case, the ROI allowed by the authority on the actual cost of production comes to only***.
- h. As regards retrospective imposition of anti-dumping duty, the authority has considered it appropriate not to recommend imposition of anti-dumping duties on retrospective basis. As regards duty for the interregnum period, the authority notes that the issue is for the Central Government to decide. As regards counting of definitive duty for five years from the date of imposition of definitive duty, the issue is relevant to the Central Government.

N. CONCLUSIONS

121. After examining the issues raised and submissions made view expressed in oral hearing, by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:
- i. The product under consideration has been exported to India from the subject country below its normal value, resulting in dumping.
 - ii. The domestic industry has suffered material injury due to dumping of the product under consideration from the subject country.

- iii. The material injury has been caused by the dumped imports from the subject country.

O. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

122. The Authority notes that 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. It is recognized that the imposition of anti-dumping duties might affect the price levels of the downstream products and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. Imposition of 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.

RECOMMENDATIONS

123. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted the investigation into dumping, injury and causal links in terms of the provisions laid down under the Anti-dumping Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive duty is required to offset dumping and injury. Therefore, Authority recommends imposition of definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder,
124. Having regard to the lesser duty rule, the Authority recommends imposition definitive anti-dumping duty (equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from the subject country, from the date of notification to be issued in this regard, from date of imposition of provisional duty by the Central Government as the difference between the landed value of the subject goods and the amount indicated in Col 9 of the duty table appended below, after deducting/adjusting safeguard duty payable if any,.

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

SN	Sub heading	Description	Country of origin	Country of export	Producer	Exporter	PCN	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1	7304	Seamless tubes, pipes & hollow profiles of iron, alloy or non alloy Steel (other than cast iron and Stainless steel), Whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD*	China PR	China PR	Jiangsu Chengde Steel Tube Share Co., Ltd., China PR	Chengde Steel Tube Share Co., Ltd., China PR	A-1-1	1194.60	MT	USD
							A-1-2	1075.28	MT	USD
							A-1-3	1383.44	MT	USD
							A-1-4	1178.73	MT	USD
							A-1-5	961.33	MT	USD
							A-1-6	1193.77	MT	USD
							A-1-7	1462.00	MT	USD
							A-1-8	1610.67	MT	USD
2	-do-	-do-	China PR	China PR	Yangzhou Chengde Steel Tube Co., Ltd.	Yangzhou Chengde Steel Tube Co., Ltd.	A-1-1	1194.60	MT	USD
							A-1-2	1075.28	MT	USD
							A-1-3	1383.44	MT	USD
							A-1-4	1178.73	MT	USD
							A-1-5	961.33	MT	USD
							A-1-6	1193.77	MT	USD
							A-1-7	1462.00	MT	USD
							A-1-8	1610.67	MT	USD
3	-do-	-do-	China PR	China PR	Any other combination other than SI No. 1 & 2		A-1-1	1194.60	MT	USD
							A-1-2	1075.28	MT	USD
							A-1-3	1383.44	MT	USD
							A-1-4	1178.73	MT	USD
							A-1-5	961.33	MT	USD
							A-1-6	1193.77	MT	USD
							A-1-7	1462.00	MT	USD
							A-1-8	1610.67	MT	USD
4	-do-	-do-	Any country other than China PR	China PR	Any	Any	A-1-1	1194.60	MT	USD
							A-1-2	1075.28	MT	USD
							A-1-3	1383.44	MT	USD
							A-1-4	1178.73	MT	USD
							A-1-5	961.33	MT	USD
							A-1-6	1193.77	MT	USD
							A-1-7	1462.00	MT	USD
							A-1-8	1610.67	MT	USD
5	-do-	-do-	China PR	Any country other than			A-1-1	1194.60	MT	USD
							A-1-2	1075.28	MT	USD
							A-1-3	1383.44	MT	USD
							A-1-4	1178.73	MT	USD

				China PR			A-1-5	961.33	MT	USD
							A-1-6	1193.77	MT	USD
							A-1-7	1462.00	MT	USD
							A-1-8	1610.67	MT	USD

* The description of goods does not include the imports of the following:

- i. Seamless Pipes & Tubes made of cast iron and stainless steel.
- ii. Seamless alloy-steel pipes, tubes and hollow profiles of specifications of ASTM A213/ASME SA 213 and ASTM A335/ ASME SA 335 or equivalent BIS/DIN/BS/EN or any other equivalent specifications.
- iii. Non - API and Premium Joints / Premium Connections / Premium Threaded Tubes & Pipes as prescribed under customs notification no. 12/12012 dated 17th March 2012 at serial number 356.
- iv. All 13 Chromium (13CR) Grade Tubes and Pipes.
- v. Drill Collars.
- vi. High pressure seamless steel pipe/tube used for manufacturing gas cylinders by producers approved by the Chief Controller of Explosives, Petroleum and Explosives Safety Organisation, Government of India.

**

PCN	Description of PUC
A-1-1	Seamless Tubing, of a kind used in drilling for oil or gas, Carbon/Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-2	Seamless Casing, of a kind used in drilling for oil or gas, Carbon/Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-3	Seamless Mother Hollows, Coupling stock, blanks/ Pup Joints, Carbon/ Non Alloy/ Alloy , hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD
A-1-4	Seamless Drill Pipes, of a kind used in drilling for oil or gas, Carbon/Non Alloy, hot finished of an external diameter not exceeding 355.6 mm or 14" OD
A-1-5	Seamless Tubes, Pipes and hollow profiles including Line pipes of Carbon/Non alloy steel, hot finished of an external diameter not exceeding 355.6 mm or 14" OD
A-1-6	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes of Carbon/Non alloy steel, cold drawn or cold rolled or cold reduced of an external diameter not exceeding 355.6 mm or 14" OD

PCN	Description of PUC
A-1-7	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes and Bearing tubes of Alloy steel, hot finished, of an external diameter not exceeding 355.6 mm or 14" OD
A-1-8	Seamless Tubes, Pipes and hollow profiles of circular cross section including Line pipes and Bearing tubes of Alloy steel, cold drawn or cold rolled or cold reduced, of an external diameter not exceeding 355.6 mm or 14" OD

125. Subject to the above, the Authority confirms the Preliminary Findings dated 31st March, 2016.

126. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act

(Dr. Inder Jit Singh)
Additional Secretary & Designated Authority