

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

**F. No. 6/7/2020-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi -110001**

Dated 16<sup>th</sup> April, 2021

**NOTIFICATION  
FINAL FINDINGS**

**Case No. AD-OI-06/2020**

**Subject: Anti-Dumping investigation concerning imports of “Copper & Copper Alloy Flat Rolled Products” originating in and exported from China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand**

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” or “the AD Rules”) thereof.

**A. BACKGROUND OF THE CASE**

1. The Designated Authority (hereinafter referred to as “Authority”) received an application dated 19<sup>th</sup> February 2020 from M/s Agrawal Metal Works Pvt. Ltd. (hereinafter also referred to as “the applicant”) requesting imposition of anti-dumping duty on imports of “Copper & Copper Alloy Flat Rolled Products” (hereinafter also referred to as “the product under consideration” or “PUC” or “subject goods”) originating in or exported from China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand (hereinafter also referred to as the “subject countries”).
2. The Authority, on the basis of sufficient prima-facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/7/2020-DGTR dated 20<sup>th</sup> April 2020 published in the Gazette of India, initiating the subject investigation in accordance with Section 9A of the Act read with Rule 5 of the AD Rules to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand and to recommend the amount of anti-dumping

duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.

## **B. PROCEDURE**

3. The procedure described hereinbelow has been followed with regard to the investigation:
  - i. The Authority notified the Embassies of the Subject Countries 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.
  - ii. The Authority issued a public notice vide its initiation notification dated 20<sup>th</sup> April 2020, published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject countries.
  - iii. The Authority sent a copy of the initiation notification dated 20<sup>th</sup> April 2020 to the Embassies of subject countries in India, the known producers and exporters from the subject countries, known importers, importer/user Associations, the domestic industry as well as other domestic producers, and other interested parties as mentioned in the application, and requested them to make their views known in writing within the prescribed time limit, in accordance with Rules 6(2) and 6(4) of the Rules.
  - iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Government of the subject countries, through their Embassies in India in accordance with Rule 6(3) of the Rules supra.
  - v. The Embassies of the subject countries in India were also requested to advise the exporters/producers from their respective countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
  - vi. The Authority, upon several requests made by the interested parties, granted extensions of time to the interested parties to file their response as well as submissions. Vide communication dated 1<sup>st</sup> July, 2020, the time limit was extended up to 20<sup>th</sup> July, 2020. Vide communication dated 20<sup>th</sup> July, 2020, the time limit was further extended up to 3<sup>rd</sup> August, 2020.
  - vii. The Authority sent questionnaires to the following known producers/exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

<b>Sl. No.</b>	<b>China PR</b>	<b>Sl. No.</b>	<b>China PR</b>
1.	M/s Bufab Fasteners Trading (Shanghai) Co., Ltd	2.	M/s Jiangsu Sunyuan Aerospace Material
3.	M/s Beijing Cn-Ft Jovi Technology	4.	M/s Lg Electronics Inc
5.	M/s Changzhou Pioneer Electronic Co Ltd	6.	M/s Jiangyin Kangsheng New Material Co.
7.	M/s Ann Power Technology (Shenzhen) Co.	8.	M/s Ls Global Inc.
9.	M/s Alb(Xiamen) Material Co Ltd	10.	M/s Shanghai Tankii Alloy Material Co. Ltd.
11.	M/s Chung Shun Laminates (Macao Commercial Offshore)	12.	M/s Ningbo Xingye Shengtai Group Co., Ltd.
13.	M/s Changzhou Zhongying Science & Techn	14.	M/s. Ningbo Zycalloy Co., Ltd
15.	M/s Civen Metal Material (Shanghai)	16.	M/s Powerway Alloy (Hongkong) International Trading Co., Limited
17.	M/s Changzhou Foreign Trade Corpor	18.	M/s Powerway Alloy (Hongkong) International Trading Co., Limited
19.	M/s Beijing Cn-Ft Jovi Technology and Trading Co Ltd	20.	M/s Qingdao Dongya Manufacturing Corp
21.	M/s China Maxcool Refrigeration Group Limited	22.	M/s Shandong Jinbao Tech-Innov Corporation
23.	M/s Commscope Telecommunications (China) Co	24.	M/s Shandong Jindu Electronic Material Co Ltd
25.	M/s Coveme Engineered Films Zhangjiagang Co., Ltd.	26.	M/s Shanghai Nanya Copper Clad Laminate Co., Ltd
27.	M/s Dongguan Heju Precision Electronic	28.	M/s Shaoxing Maq Import & Export Co. Ltd.
29.	M/s Dongguan Huaji Environmental Protection Technology Ltd.	30.	M/s Shanghai Sunby Solar Technology Co
31.	M/s Dowa Advanced Material (Shanghai) Co Ltd	32.	M/s Shanghai Unique Alloy Co Ltd
33.	M/s Eternal Materials Co., Ltd	34.	M/s Shenzhen Xingshengtong Trade Co Ltd
35.	M/s Foshan Tongbao Imhua Special Metal Co. Ltd.	36.	M/s Shanghai Xinye Metal Material

37.	M/s Falco Electronics Xiamen Co Ltd	38.	M/s Tongling Nonferrous Metals Group Co., Ltd.
39.	M/s Fukurawa Sangyo Shanghai Co. Ltd.	40.	M/s Schneider Electric (Xiamen)
41.	M/s Globelink Overseas (H.K) Limited	42.	M/s Tianjin Yinyin International Co., Ltd
43.	M/s Guangde Longtai Electronic Sci Tech Co Ltd	44.	M/s. Tongling Jinvi Copper Corp.
45.	M/s Goldenmax International Technology	46.	M/s Tbea Shenyang Transformer Group Co Ltd
47.	M/s Hero Sail Laminates Group Ltd.	48.	M/s. Tool Peaks Industries Limited
49.	M/s Kunshan Hbt Wire Cutting Parts Co Ltd	50.	M/s Wuxi Chifeng Metal Products Co. Ltd
51.	M/s Hong Kong Lg-Victory Technology Limited	52.	M/s. Wuxi Sveck Technology Co., Ltd
53.	M/s. Hongkong Anhing Co.Ltd.	54.	M/s. Xi'an Telison New Materials Co
55.	M/s Huzhou Zhonglian Imp.&Exp. Co. Ltd	56.	M/s Yong Metal Co., Limited
57.	M/s Hangzhou Ualloy Material Co Ltd	58.	M/s Zhejiang Huazheng New Material Co. Ltd
59.	M/s Huzhou Xingbeike Alloy Technology co Ltd	60.	M/s Zhejiang Yuanji New Material Technology Co.Ltd
61.	M/s Jiashan Pvb Sliding Bearing Co Ltd	62.	M/s York (Guangzhou) A/C. & Refrigeration Co., Ltd
63.	M/s Jinhua Beiduo Import & Export	64.	M/s Zhejiang Twinsel Electronic Technology Co Ltd
65.	M/s. Isola Laminate Systems (Suzhou) Co., Ltd.	66.	M/s Zhejiang Dongfeng Refrigeration
67.	M/s. Jiangsu Roda Electron Material	68.	M/s Zhejiang Bada Copper Industry
<b>Sl. No.</b>	<b>Korea</b>	<b>Sl. No.</b>	<b>Korea</b>
1.	M/s Gu Corporation	2.	M/s Poongsan Corporation
3.	M/s. Hyundai Corporation.	4.	M/s. Hyundai Corporation
5.	M/s. Jeil Industrial Co. Ltd.	6.	M/s Ls Automotive Technologies Co., Ltd
<b>Sl. No.</b>	<b>Malaysia</b>	<b>Sl. No.</b>	<b>Malaysia</b>

1.	M/s Snc Industrial Laminates Sdn. Bhd.	2.	M/s Furukawa Sangyo Kaisha (Malaysia) Sdn. Bhd,
<b>Sl. No.</b>	<b>Nepal</b>	<b>Sl. No.</b>	<b>Sri Lanka</b>
1.	M/s Hulas Wire Industries Limited	1.	M/s Simmet (Pvt) Ltd.
<b>Sl. No.</b>	<b>Thailand</b>		
1.	M/s. Oriental Copper Co. Ltd.	2.	M/s. Siam Poongsan Metal Co., Ltd.

viii. In response, the following exporters/producers have filed the exporter's questionnaire response:

- a. M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR
- b. M/s. Ningbo Xingye Xintai New Electronic Material Co., Ltd, China PR
- c. M/s. Ningbo Hangzhou Bay New Zone Qiangtai Metal Materials Co, Ltd., China PR
- d. M/s. Hyundai Corporation, Korea RP
- e. M/s. Poongsan Corporation, Korea RP
- f. M/s. Hulas Wire Industries Ltd, Nepal
- g. M/s. Luvata Malaysia Sdn Bhd Malaysia
- h. M/s. Simmet Pvt Ltd, Sri Lanka
- i. M/s. Siam Poongsan Metal Co., Ltd., Thailand

ix. The following interested party has submitted a letter for registration:

- a. M/s. Jeil Industrial Co. Ltd (Korea)

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

Sl. No.	Importer/User	Sl. No.	Importer/User
1.	M/S ABB India Limited	2.	M/S Andritz Hydro Private Limited
3.	M/S Apar Industries Limited	4.	M/S Asiatic Electrical And Switchgear Pvt. Ltd.
5.	M/S Amex Resources	6.	M/S Applied Engineering Services
7.	M/S Ajanta Private Limited	8.	M/S Aisin Automotive Karnataka Private Limited
9.	M/S Advance Cable Technologies Pvt. Ltd,	10.	M/S B. Rameshkumar Metals Private Limited
11.	M/S Bharat Electronics Limited	12.	M/S BPL Limited
13.	M/S BIG Electronics Ltd	14.	M/S Banco Products (India) Limited

15.	M/S B.S. Electronics Private Limited	16.	M/S Connect well Industries Pvt Ltd
17.	M/S Consolidated Coin Company Private Limited	18.	M/S Crompton Greaves Limited
19.	M/S C.M.W Pressings	20.	M/S C & S Electric Limited
21.	M/S Cipsa Tec India Private Limited	22.	M/S Cg Power And Industrial Solutions Limited
23.	M/S D. K. Enterprise	24.	M/S DMC Automotive Private Limited
25.	M/S DMS Electronics Pvt. Ltd.	26.	M/S Dynamic Cables Ltd.
27.	M/S Epoxy House	28.	M/S Essen Deinki
29.	M/S Elin Electronics Limited	30.	M/S Epitome Components Ltd.
31.	M/S Elcon Components Pvt. Ltd.	32.	M/S Fci Oen Connectors Limited
33.	M/S Friction Metal Fibres (India) P.Ltd	34.	M/S Fibre Home
35.	M/S Garg Electronics	36.	M/S Hi-Tech Resistors Pvt Ltd
37.	M/S Hi-Q Electronics Pvt Ltd	38.	M/S Kei Industries Limited
39.	M/S Havells India Ltd	40.	M/S Inductotherm (India) Pvt. Ltd
41.	M/S Indo Schottle Auto Parts Pvt Ltd	42.	M/S Interplex Electronics India Pvt.Ltd.
43.	M/S Jay Auto Components Limited	44.	M/S Jaquar & Company Pvt.Ltd.
45.	M/S Kramski Stamping And Molding India Private Limited	46.	M/S Kddl Limited
47.	M/S Kostal India Pvt. Ltd.	48.	M/S Larsen & Toubro Limited
49.	M/S Laser Power & Infra Private Limited	50.	M/S Lakshmi Metal Exchange
51.	M/S Ls Cable India Private Limited	52.	M/S Lloyd Electric & Engg. Ltd.
53.	M/S Laxmi Remote (India) P.Ltd.	54.	M/S Leel Electricals Limited
55.	M/S Meenakshi Metal Impex	56.	M/S Mittal Appliances Limited
57.	M/S Metalex Steel Strips Pvt.Ltd	58.	M/S Micropack Ltd
59.	M/S Multi Channel Inc	60.	M/S Mindarika Pvt. Ltd.
61.	M/S Motherson Sumi Systems Limited	62.	M/S Molex India Private Limited
63.	M/S Multiline Electronics Pvt Ltd	64.	M/S Minda Silca Engineering Private Limited
65.	M/S Minda Sai Limited	66.	M/S Mss India Pvt Ltd
67.	M/S Minda Corporation Ltd.	68.	S Molex India Private Limited
69.	M/S Modison Metals Ltd.	70.	M/S Multimetals Ltd.

71.	M/S O/E/N India Limited	72.	M/S Om Sai Ram Alloys
73.	M/S Press Comp International (P) Ltd	74.	M/S Poona Shims Private Limited
75.	M/S Polycab Wires Private Limited	76.	M/S Polycab India Limited
77.	M/S Pride Impex	78.	M/S Rashtriya Ispat Nigam Limited
79.	M/S Rajendra Metal Industries	80.	M/S Roseleen International
81.	M/S Renata Precision Components Private Limited	82.	M/S Sfo Technologies Private Limited
83.	M/S Salzer Electronics Ltd	84.	M/S Shivalik Bimetal Controls Ltd.
85.	M/S Signum Electrowave	86.	M/S Shogini Technoarts Pvt Ltd
87.	M/S Space Applications Centre	88.	M/S Schneider Electric India Pvt Limited
89.	M/S Sigma Technologies	90.	M/S Shilpi Cable Technologies Limited
91.	M/S Srinisons Wiring Systems Pvt. Ltd.	92.	M/S Sonic Technology (India) Inc
93.	M/S Srujana Enterprises	94.	M/S Sandhar Han Sung Technologies Pvt Ltd
95.	M/S Sterlite Technologies Ltd.	96.	M/S Teksons Pvt. Ltd.
97.	M/S Torrent Power Limited	98.	M/S Terminal Technologies (I)Pvt.Ltd.
99.	M/S Te Connectivity India Pvt Ltd	100.	M/S Triton Valves Limited
101.	M/S Titan Company Limited	102.	M/S Transfix India Pvt. Ltd.
103.	M/S Universal Cables Ltd.	104.	M/S Viney Corporation Pvt. Ltd.
105.	M/S Visu Metsol	106.	M/S Wieland Metals India Private Ltd
107.	M/S Wipro Ge Healthcare Pvt. Ltd.		

- xi. In response, the following importers/users have responded by filing importer's questionnaire response:
- a. M/s. FCI OEN Connectors Ltd
- xii. The following interested party submitted comments:
- a. M/s. AT & S India Pvt Ltd.
- xiii. The following interested party has submitted a letter for registration:
- a. M/s. Terminal Technologies (I) Pvt Ltd

- xiv. The Authority sent notice of initiation to the following other domestic producers, intimating them of the initiation of investigation with a request to provide relevant information to the Authority in the form and manner prescribed.
- a. M/s Bright Metals
  - b. M/s Gupta Metal Sheets Ltd.
  - c. M/s Krishna Engineering Industries
  - d. M/s Mittal Engineering Industries
  - e. M/s Rashtriya Metal Industries
  - f. M/s Sanghi Metal Unit- I (Sanghi Brothers (Indore) Pvt. Ltd.)
  - g. M/s Singhal Sheets and Foils Pvt. Ltd.
- xv. None of the other domestic producers have responded or participated in the present investigation.
- xvi. The Authority also sent initiation notification to the following Associations asking them to inform all their members regarding the initiation of investigation with the request to submit their response/comments, if any:
- i) Indian Non-Ferrous Metal Manufacturers' Association (INFMMA)
  - ii) Bombay Metal Exchange Ltd. (BME)
- xvii. A list of all interested parties was uploaded on DGTR's website along with the request therein to email the NCV of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.
- xviii. The Period of Investigation ("POI") for the purpose of the present anti-dumping investigation is from 1<sup>st</sup> January 2019 to 31<sup>st</sup> December 2019 (12 months). The injury analysis period covers 1<sup>st</sup> April, 2016 – 31<sup>st</sup> March, 2017; 1<sup>st</sup> April, 2017 – 31<sup>st</sup> March, 2018; 1<sup>st</sup> April, 2018- 31<sup>st</sup> March, 2019 and the POI.
- xix. The Authority obtained transaction-wise import data for subject goods for the past three years, and the POI from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and Directorate General of Systems (DGS) and analysed the data after due examination of the transactions.
- xx. The Non-Injurious Price (hereinafter referred to as "NIP") has been determined 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 Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- xxi. Verification of the information provided by the applicant domestic industry by way of table study, to the extent deemed necessary, was carried out. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of these final findings.
- xxii. Desk Verification of the information provided by the producers/ exporters, to the extent deemed necessary, was carried out by the Authority and the same has been relied upon for the purpose of these final findings.
- xxiii. Submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in these final findings.
- xxiv. Comments on the proposed PCN methodology were invited vide initiation notification dated 20th April 2020. Based on the comments/submissions received from various interested parties, Authority notified the final PCNs vide letter dated 1st December 2020.
- xxv. Due to the worldwide outbreak of COVID-19 and consequent restrictions imposed by different countries, including India, the Authority in accordance with Rule 6(6) of the AD Rules and Trade Notice No. 01/2020 dated 10th April 2020, conducted oral hearing through video conferencing on 16th February 2021 to provide an opportunity to the interested parties to present relevant information orally before the Designated Authority. All the parties who attended the oral hearing were advised to file written submissions of the views expressed orally, followed by rejoinders, if any. The arguments made in such written submissions and/or rejoinders received from the interested parties have been considered, to the extent deemed necessary, for the purpose of these final findings.
- xxvi. 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.
- xxvii. A Disclosure Statement containing the essential facts of this investigation was issued to the interested parties on 01.04.2021 and the interested parties were allowed time upto 08.04.2021 to file comments on the same. The comments on Disclosure Statement received from the interested parties have been considered, to the extent found relevant, in this Final Findings Notification.

- xxviii. 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 these final findings on the basis of the facts available.
- xxix. ‘\*\*\*\*’ in these final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxx. The exchange rate for the POI has been taken by the Authority as 1USD = Rs. 71.34.

### **C. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE**

4. At the stage of initiation, the product under consideration was defined as:

*3. The product under consideration is flat rolled products of copper, such as copper sheets, copper plates, copper strips, copper foils and other flattened forms of copper or its alloys. It may be in sheet form or coil form. The product under consideration includes refined copper or copper alloys with Zinc and tin i.e., Copper-Zinc base alloys (Brass) and Copper-Tin base alloys (Phosphor Bronze). All other copper alloys are beyond the scope of PUC.*

*4. Copper flat rolled products are used in power distribution, electrical & electronic switchgears & devices, Automobile Terminal Connector and Automotive Electronics, Sanitary Fittings, Radiators and Heat Exchangers and Key and Locks, Buttons, Zippers etc.*

*5. The subject products are classified under Chapter Heading 74 of the Act. While the prescribed classification of the product is 74091100, 74091900, 74092100, 74092900, 74093100, 74093900, 74094000, 74099000, the product under consideration has also been imported under 74101100, 74101200. The customs classifications are indicative only and are not binding on the scope of the present investigations*

#### **C.1 Submissions of the domestic industry**

5. The following submissions have been made by domestic industry with regard to product under consideration and like article:
- i. The product under consideration(‘PUC) is flat rolled products of copper, such as copper sheets, copper plates, copper strips, copper foils and other flattened forms of copper or its alloys. It may be in sheet form or coil form. It can be made of refined copper or copper alloys [copper-zinc base alloys (brass) and copper-tin base alloys (bronze)]. PUC includes “plates, sheets, foils and strip, not printed not backed, of refined copper or copper alloys”.

- ii. The prescribed unit of measurement for the product under consideration is weight (MT).
- iii. While the prescribed classification of the product is 74091100, 74091900, 74092100, 74092900, 74093100, 74093900, 74094000, 74099000, the product under consideration has also been imported under 74101100, 74101200. The customs classification is however only indicative and is not binding on the scope of the present investigations.
- iv. The applicant has furnished evidence regarding the production and sale of the following products.
  - a) Copper foils/strips/sheet having Minimum thickness 0.03 mm to maximum thickness 10.00mm and having maximum width 450.00mm maximum width in sheet 610mm.
  - b) Brass foils/strips/sheet having Minimum thickness 0.04 mm to Maximum Thickness-6.00mm and Minimum Width-6.00mm to Maximum Width-610mm
  - c) Phosphor Bronze foils/strip/sheets having Min thickness 0.100 mm to Maximum Thickness-3.00mm and Maximum Thickness in sheet- 4.00mm and Minimum Width-6.00mm.
- v. The applicant is also producing pre-plated strips having Tin/Nickel plating and Oxygen free Copper Foils/Strips.
- vi. High end special alloys are having combination of copper-tin-zinc combined either with iron or nickel or magnesium mainly used in auto sector which is not the part of the present investigation. Alloy having copper-tin-zinc combination are only part of this investigation. The import segregation of subject countries is only done for those products which are part of the present investigation.
- vii. The product can be produced either through drawn process or rolled process. Difference in the process does not result in different product. The law and practice is that the difference in production process is immaterial so long as the resultant product are not different. Interested parties have not established that the product produced through different processes are technically and commercially different based on various product criteria.
- viii. Sunwire is not a part of the product under consideration in the present investigation and responding exporter is wrongly exporting the same in HS code applicable for flat rolled products.
- ix. The domestic industry is also using PNG apart from electricity. Thus, the exporters are not so cost efficient in terms of utility cost of subject goods in comparison to the domestic industry.

- x. The goods produced by the applicant are like article to the imported goods as they are comparable in terms of chemical & technical 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.
- xi. There is no known significant difference in the technology employed by the domestic industry and the producers in subject country.

## **C.2 Submissions of the other interested parties**

- 6. The following submissions have been made by other interested parties regarding the PUC:
  - i. Scope of product under consideration is too broad and does not meet the like article criteria encompassing a wide range of products which differ in their chemical composition, characteristics and end use and applications contrary to the intent and purpose of Rule 2 (d) of AD Rules.
  - ii. Following products should be excluded from the scope of the present investigation-
    - a. High value special alloy products should be excluded
    - b. Copper foils having thickness greater than 2.5 mm and copper foils having width greater than 400 mm
    - c. Copper foils and strips beyond 450 mm width should be excluded from the scope of PUC
    - d. Brass strips and foils having thickness greater than 2.5 mm and Brass strips and foils having width greater than 400 mm
    - e. Phosphor Bronze strips having thickness greater than 0.2 mm and Phosphor Bronze strips having width greater than 380 mm
  - iii. There is a difference in the manufacturing cost of CuZn35 and CuZn37, thus the two should not be kept in same PCN.
  - iv. Sunwire is not being dumped and thus should be excluded.
  - v. Tin-plated copper alloy and oxygen free copper has no substitute in India and are not being produced by the domestic manufacturers. They require their own manufacturing processes, applications, process and quality and thus should be excluded from the scope of product under investigation.
  - vi. The subject goods supplied by Chinese suppliers is much superior in terms of temper, grain size and quality consistency, criticality of surface finish for plating.

- vii. Tolerance limits in PUC should be defined for the purpose of product exclusion. Domestic producers are unable to deliver the width tolerance requirement of  $\pm 0.05$ mm. Rather, they offer a tolerance of  $\pm 0.10$ mm on width, which is too high for our specialized operations.
- viii. Chinese producers use Liquefied Natural Gas (LNG) as energy during the production process of the subject goods as compared to fuel which are used by Indian producers.
- ix. There is a difference between drawn copper flat products and flat rolled copper products. M/s Luvata Malaysia Sdn Bhd, produces drawn copper flat products in the form of bar, strips etc. The manufacturing process of the two are entirely different and due to distinct physical properties, they are not commercially interchangeable. Petitioner does not produce drawn copper flat products.
- x. M/s Luvata Malaysia Sdn Bhd exports Photovoltaic Ribbon wire (Sunwire) and Electrical Power Flat Copper Products (EP Products) to India. The Authority should exclude both these products from the scope of PUC.

### **C.3 Examination by the Authority**

7. The product under consideration is flat rolled products of copper, such as copper sheets, copper plates, copper strips, copper foils and other flattened forms of copper or its alloys. It may be in sheet form or coil form. The product under consideration includes refined copper or copper alloys with Zinc and tin i.e., Copper-Zinc base alloys (Brass) and Copper-Tin base alloys (Phosphor Bronze). All other copper alloys are beyond the scope of PUC.
8. The product under consideration is classified under Chapter 74 of the Customs Tariff Act under tariff items 74091100, 74091900, 74092100, 74092900, 74093100, 74093900, 74094000, 74099000, 74101100 and 74101200. The customs classification is indicative only and not binding on the scope of the product under consideration.
9. Regarding the contention that the scope of product under consideration is too broad, the Authority notes that the product under consideration has been appropriately defined keeping in view the imports from the subject countries and production and supply position of the domestic industry.
10. Regarding the contention that high value special alloy products should be excluded, the Authority notes that the high value special alloy products are already excluded from the scope of the product under consideration and thus not within the purview of the present investigation.
11. Regarding the contention that the domestic industry does not produce copper, brass and phosphor bronze, foil, sheet and strips beyond certain dimensions, the Authority notes as follows:

- i. The domestic industry has provided details about the dimensions produced and sold by them in the form of sales invoices and their capabilities regarding the production of the different types of product.
  - ii. The interested parties seeking exclusion of products beyond certain dimensions have not demonstrated with sufficient evidence that the dimensions for which exclusions are being sought have actually been imported into India and that there is demand for such products and that the domestic industry has shown inability to produce such dimensions.
  - iii. Exclusion of the products of the wider range will give the opportunity to the interested parties to circumvent the duty.
12. Regarding difference in manufacturing process, the Authority notes that difference in the process does not necessarily result in a different product. The interested parties have not established that the product produced through different processes are technically and commercially different product. The interested parties should establish on the basis of various product criteria that the products are technically and commercially different. Despite different manufacturing processes, the end products have similar physical properties, and the end use or application is same.
13. Regarding the difference in the manufacturing cost of CuZn35 and CuZn37, the Authority notes that difference in manufacturing cost of CuZn35 and CuZn37 is less than 2% as per the average London Metal Exchange (LME) price of copper and zinc during the POI and as on the current date.
14. Tin-plated copper alloy and oxygen free copper are produced and sold by the domestic industry and therefore these products cannot be excluded from the scope of the product under consideration.
15. Photovoltaic Ribbon wire (Sunwire) is Copper wire and not copper flat rolled product. Accordingly, Sunwire is not a part of the product under consideration in the present investigation.
16. It is noted that there is no known difference in the subject goods produced by the domestic industry, and product under consideration exported from subject countries. Subject goods produced by the Indian industry and imported from subject countries are comparable in terms of characteristics such as physical 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 subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of Rule 2(d) of AD Rules.

**PCN system adopted for the product cost-price comparison**

17. Comments on the proposed PCN methodology were invited vide initiation notification dated 20<sup>th</sup> April 2020. Based on the comments/submissions received from various interested parties, Authority notified the final PCNs vide letter dated 1<sup>st</sup> December 2020.

1	Condition	Brass = 1 Copper = 2 Phosphor Bronze = 3
2	Form	Foil = 1 Sheet/Plate = 2 Strip = 3
3	Grade	CuZn30-33, CuZn35-37, CuZn10, CuZn40, CuZn5, CuZn15, CuZn20, Copper, CuSn4, CuSn5, CuSn6, CuSn8

**D. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

**D.1 Submissions of the domestic industry**

18. Following are the submissions made by the domestic industry with regard to scope of the domestic industry and standing:
- i. The application has been filed by the M/s Agrawal Metal Works Pvt. Ltd. and supported by the following domestic producers-
    - a) M/s Bright Metals
    - b) M/s Gupta Metal Sheets Ltd.
    - c) M/s Krishna Engineering Industries
    - d) M/s Mittal Engineering Industries
    - e) M/s Rashtriya Metal Industries
    - f) M/s Sanghi Metal Unit- I (Sanghi Brothers (Indore) Pvt. Ltd.)
    - g) M/s Singhal Sheets and Foils Pvt. Ltd.
  - ii. The application has been supported by all known domestic producers in the organised sector. Production details of M/s Gupta Metal Sheets Ltd. and M/s Rashtriya Metal Industries Ltd. was incorporated in assessment of standing of domestic industry.
  - iii. There are some producers which are in the unorganized or fragmented sector. There is no quantified publicly available information on the production by these producers. Their production has been quantified based on petitioner's experience and knowledge about the market.
  - iv. The applicant is neither related to an importer in India nor an exporter from the subject countries and has not imported the product under consideration from the subject countries.

- v. In the absence of any publicly available information, the applicant has estimated gross domestic production based on market intelligence considering production of both organized as well as unorganized sectors. Indian Non-Ferrous Metal Manufacturers' Association (INFMMA), an association representing copper and copper alloy domestic producers in the country, and Bombay Metal Exchange Ltd. (BME), one of the apex body of Non-ferrous Metal trade and Industry in India has provided details of Indian production to the Authority. The best possible evidence has been provided by the applicant and the Authority may verify the same.
- vi. Other supporting domestic producers have not provided relevant information to the applicant and the applicant has no Authority to force them. The prescribed format for supporting companies is only to analyse the performance of such supporting producers. In a situation where supporting domestic producers have not provided information in the prescribed formats, the Authority cannot examine possible injury to such other domestic producers.
- vii. The applicant is the largest producer of the subject goods in the country and accounts for more than 25% of the production of the subject goods in India. The petitioner has not imported the product from subject countries. The applicant holds a major proportion of total domestic production in India and thus constitutes domestic industry.

## **D.2. Submissions of the other interested parties**

19. The following submissions have been made by other interested parties with regard to the scope of the domestic industry and standing:
- i. The petition fails to provide any absolute figure regarding the volume and value of the total production quantity of PUC and the volume produced by the Petitioner.
  - ii. Large number of producers are in unorganized sector for which data hasn't been gathered. The Authority needs to verify total production quantity of the market and the petitioner.
  - iii. applicant has estimated gross domestic production based on market intelligence and not provided any evidence to support the production data of any of the named and unnamed domestic producers.
  - iv. Figures pertaining to total Indian production maintained by the INFMMA, who is neither the applicant, nor had filed the petition was never disclosed in the Petition. The figures provided by the INFMMA have no supporting documents.
  - v. Applicant's production may not be sufficient to constitute a major proportion. The Authority should estimate the total domestic production of the PUC and assess whether the Petitioner's production constitutes a major proportion.

- vi. The application has been supported by all known domestic producers but no data regarding the domestic industry has been provided in the non-confidential version of the petition.
- vii. No support letters attached for (a) M/s Gupta Metal Sheets Limited and (b) M/s Rashtriya Metal Industries Ltd and no information has been disclosed as prescribed in Trade Notice No. 13/2018 dated 27 September 2018.
- viii. In a parallel countervailing duty investigation on imports of Copper tubes and pipes, Bombay Metal Exchange has provided information on economic parameters of domestic industry. Hence, it should furnish all relevant information on domestic industry parameters.

### **D.3 Examination by the Authority**

20. Rule 2(b) of the AD Rules defines domestic industry as under:

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

21. The application has been filed by the M/s Agrawal Metal Works Pvt. Ltd. and supported by the following major domestic producers in the organised sector-
- i. M/s Bright Metals
  - ii. M/s Gupta Metal Sheets Ltd.
  - iii. M/s Krishna Engineering Industries
  - iv. M/s Mittal Engineering Industries
  - v. M/s Rashtriya Metal Industries
  - vi. M/s Sanghi Metal Unit- I (Sanghi Brothers (Indore) Pvt. Ltd.)
  - vii. M/s Singhal Sheets and Foils Pvt. Ltd.
22. Since no concrete information with regard to Indian production is compiled by or available with either the associations, or any agency, which would be accessible as public information; considering various facts and circumstances of the present case, the Authority considered it appropriate to rely on the available information for the purpose of determining the total production in India and standing of the applicant at the stage of initiation.
23. The producers of the product under consideration are both in organised and unorganised sector. None of the domestic producers have opposed the claim made by the applicant.
24. The Authority notes that it is desirable that a supporter of an Application provides the desired information in the format prescribed in Trade notice 13/2018. The information prescribed by

the Authority in Trade notice 13/2018 for supporting domestic producers enables the Authority to ascertain whether supporting domestic producers have also suffered injury, even if such domestic producers are not included as a part of the domestic industry. However, in a situation where supporting domestic producers have not provided relevant information in prescribed format, but have nonetheless expressed support to the application, the Authority notes that such supporters cannot be treated as "opposing" the petition filed by the applicant.

25. The applicant, the largest producer of the subject goods in the country, is neither related to an importer in India nor an exporter from the subject countries and has not imported the product under consideration from the subject countries.
26. The Authority notes that the production of the applicant domestic industry who has provided all relevant information with regard to injury constitutes a major proportion of Indian production at the stage of initiation and even thereafter.

<b>Standing of domestic Industry</b>	<b>2016- 17</b>	<b>2017- 18</b>	<b>2018- 19</b>	<b>POI</b>
M/s Agrawal Metals	***	***	***	***
Other domestic producers	***	***	***	***
Total domestic production	***	***	***	***
Share of domestic industry	***	***	***	***
Share of domestic industry (Range%)	35-45	35-45	35-45	35-45

27. The evidence on record shows that the applicant commands a major proportion in the total domestic production in India. Further, the applicant, alone constitutes 35-45% of the total Indian production. Accordingly, the Authority holds that the applicant constitutes domestic industry within the meaning of Rule 2(b) of the Rules and considers that the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

## **E. CONFIDENTIALITY**

### **E.1 Submissions of the domestic industry**

28. The following submissions have been made by the domestic industry with regard to confidentiality:
  - i. Applicant has disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of AD Rules and as per Trade Notice No. 10/2018 dated 7th September 2018.
  - ii. Indexed information has been provided, wherever possible. The injury analysis is essentially an analysis of trend which can be easily seen through trends of various parameters provided in the application.
  - iii. Interested parties have filed a grossly deficient response in the non-confidential version even after being given an extension to file sufficient and complete information, with the

intent to impede the investigation and not provide the data necessary for an expedited determination. By virtue of Rule 6(8) of the AD Rules, the response filed by interested parties must be rejected and declared as non-cooperative.

- iv. Domestic industry has submitted justification for its claims of confidentiality both with the non-confidential version of the petition and the updated data. Further, the domestic industry has submitted a table showing its compliance with the trade notice.
- v. The applicant is the sole company and disclosure of actual information of highly business-sensitive nature would give a significant competitive advantage to the competitors and consumers and would seriously affect the interest of the applicant. The applicant has claimed only such information as confidential, confidentiality of which is permitted under the law.

## **E.2 Submissions of the other interested parties**

29. The following submissions have been made by the other interested parties with regard to confidentiality:
  - i. Excessive confidentiality is allowed in the petition in violation of Trade Notice No. 10/2018. Being a single company as applicant, a number of parameters have been kept confidential such as volume and value of production of other producers, country wise estimates of normal value, NIP, per unit Cost of Sales of Exports and per unit Export without any good cause. The domestic industry has relied on all questions to Part VI of the Petition but has not provided non-confidential version of format A to L.
  - ii. Domestic industry should not have claimed complete invoice details as confidential. Authority should examine whether these products are produced and sold in commercial quantity.
  - iii. The Respondent has claimed confidentiality to the extent the information is business sensitive and is not amenable to either summarization or indexation.

## **E.3 Examination by the Authority**

30. With regard to confidentiality of information, Rule 7 of the Rules provide as follows:

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

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

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

31. The Authority examined the confidentiality claims of the interested parties and on being satisfied allowed the claim on confidentiality. The Authority considers that any information which is by nature confidential or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, should be treated as such. Such information cannot be disclosed without specific permission of the party submitting it.
32. The Authority has considered the claims of confidentiality made by the applicant and the opposing interested parties and on being satisfied about the same, the Authority has allowed the claims on confidentiality. A list of all interested parties was uploaded on DGTR's website along with the request therein to email the NCV of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.

## **F. MISCELLANEOUS SUBMISSIONS**

### **F.1. Submissions of the domestic industry**

33. The following submissions have been made by domestic industry:
  - i. The domestic producers of the product under consideration belong to both organized and unorganized MSME sector and therefore face significant difficulties in compiling the relevant information and becoming a part of the domestic industry filing the application.
  - ii. The investigation in the present matter was initiated after satisfying the requirements of Rule 5 of Indian Rules and Article 5 of the WTO Agreement with regard to dumping, injury and causal link.
  - iii. The applicant in the present case proposed period of investigation as April 2018 to September 2019 (18 months) and filed duly substantiated application. Due to lockdown, the investigation got initiated after the expiry of 5 months of the POI due to which the Authority has updated the POI from 1st January 2019 to 31st December 2019 (12 months).

- iv. The Authority can consider POI between six months to eighteen months and the POI can be extended or revised from the POI proposed by the applicant in the application. However, while initiating the investigation, the Authority has updated the POI. It seems that interested party is not aware of the practice of the Authority.
- v. The imposition of the proposed anti-dumping duty will not result in any significant adverse impact on the eventual end product and the imposition will be in the larger public interest. The imposition of anti-dumping duty will increase the cost of the eventual end product by 0.06%-0.49% only.

## **F.2. Submissions of other interested parties**

34. The following submissions have been made by other interested parties:
- i. Applicant made an excuse that they are facing difficulties in compiling the relevant information as producers belong to MSME sector.
  - ii. The initiation does not comply with the requirements of Article 5 of the AD Rules as it is not based on evidence of dumping and injury in the POI. Imports have fallen during the current POI as compared to the proposed POI and the injury parameters have undergone a substantial change.
  - iii. PUC price is dependent on the LME (London Metal Exchange) which is beyond the control of any producer and only fabrication charges should be analysed for the purpose of export price/ price undercutting/ price suppression and dumping margin.
  - iv. Errors in the records needs to be rectified. The import price and volume concerning Nepal in different calculations provided in the submissions of domestic industry are inconsistent. The figures provided in the calculation of injury margin and price undercutting do not match with the import information provided for import analysis and dumping margin calculations in the very submission as far as Nepal is concerned.

## **F.3. Examination by the Authority**

35. The Authority holds that the investigation was initiated after satisfying the requirement of Rule 5 of the Rules and Article 5 of the WTO Agreement.
36. As regards submissions concerning the length of POI or its proximity to date of initiation, the Authority notes that the POI chosen for the case is consistent with the legal position at the time of initiation and the practice being followed by the Authority.
37. It is noted that the application in the instant case was filed on 19<sup>th</sup> February 2020 having period of investigation from April 2018 - September 2019. Due to country wide lockdown, the investigation was initiated on 20<sup>th</sup> April 2020. The Authority initiated the investigation and asked the applicant to furnish an updated information for the period of investigation of Jan 2019 to December 2019.

38. The Authority notes that anti-dumping measures are aimed essentially to ensure fair trade and provide level-playing field to all stakeholders. These measures do not restrict import nor cause an unjustified increase in cost of eventual end products. The purpose of ADD is not to give any kind of undue advantage to the domestic producers or cause any undue hardship to the consumers of the product. A consumer cannot seek, as a matter of right, access to a product at dumped prices, particularly when such dumping is found to have caused injury to an established industry in India. The purpose of ADD is to remove unfair dumping causing injury to the domestic industry. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. The imposition of anti-dumping duties would not affect the availability of the product to the consumers at fair prices.

**G. MARKET ECONOMY TREATMENT (MET), NORMAL VALUE, EXPORT PRICE & DETERMINATION OF DUMPING MARGIN**

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

*(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*

*(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

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

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

### **G.1. Submissions of the domestic industry**

40. The following submissions have been made by the domestic industry:

- i. Article 15(b) of China's Accession Protocol implies that provisions of Clause 15(a)(ii) shall expire 15 years from date of China's Accession. In other words, provisions of this paragraph shall be available for 15 years, i.e., up to December 2016. Should it be contended that provisions of Article 15(a)(ii) have already ceased and, therefore, the same cannot be applied to the present case, yet the provisions of Article 15(a)(i) are still applicable and must be considered for determination of normal value in China PR. The Authority may, therefore, kindly direct the Chinese producers to show that, consistent with the provisions of Article 15(a)(i), market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of the product under consideration, so that the Designated Authority can use Chinese prices or costs for the industry under investigation. The responding exporters must establish that the elements of costs referred to in the context of determination of normal value are appropriately and completely reflected in the records kept by the exporter or producer under investigation.
- ii. China PR should be considered as a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries.
- iii. The applicant has not been able to procure actual or the PCN wise price information from a producer in market economy third country.
- iv. Due to lack of publicly available information on the actual or the PCN wise price of the product under consideration in Korea RP, Malaysia, Nepal, Sri Lanka and Thailand, normal value could not be determined based on selling price in the domestic market.
- v. The major raw material to produce the subject goods is copper, and the price of copper is maintained by London Metal Exchange (LME). Therefore, the applicant has determined the normal value for all the subject countries based on the LME prices during the POI, with adjustments that have been made on account of the processing cost, SGA cost, financial cost and other income(s). The applicant has adopted the consumption norms of the domestic producers.
- vi. The applicant has relied upon transaction wise import data procured from DGCI&S. The export prices being CIF value while the normal values being at ex-factory level, the export prices have been adjusted for ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and VAT (only for China PR).

- vii. The exporters are not entitled to be accorded individual normal value as they have not established that normal value can be determined based on their own data.
- viii. The Authority can only consider the data of the participating producers/exporters for normal value, export price dumping margin determination, if the same is complete in all respects.
- ix. The dumping margin for imports from subject countries is not only above de minimis level, but also substantial.

## **G.2. Submissions of other interested parties**

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

- i. Thailand to be considered as an appropriate surrogate country for China PR for determination of normal value for China PR.
- ii. The estimated deductions while determining the export price are exaggerated and has resulted in reduction of ex-factory export price and overestimation of dumping margin. Non-refundable VAT rate is 0% during April 2019 – December 2019 and therefore 8% VAT adjustment from the export price is unwarranted.
- iii. Average landed value of import from China PR is incorrect. Domestic industry has incorrectly added 3% cess on imports from China PR instead of Social Welfare Surcharge (SWS), which was levied pursuant to Section 110 of the Finance Act 2018 at 10%. In addition, the imports of subject goods from China PR are levied a Basic Customs Duty which needs to be added while calculating the landed value for China PR.
- iv. Determination of export price and dumping margin for the responding producer/exporter from China PR should be based on Exporter's Questionnaire Response.
- v. There is negligible demand in Sri Lanka for PUC and dumping margin calculation is not practical as there are no third country exports as well.
- vi. The participating Sri Lankan company has always sold its product at reasonable market price for its commercial grade product and there is no so-called dumping. Dumping happens only when there is high volume at a considerably lower price. Both these cases are not for the Sri Lanka or our company.
- vii. Different normal value should be constructed for different subject countries as (a) there is a difference in development of all countries, (a) there is a difference in prices of raw

material and (c) there is a difference in labour cost.

- viii. Dumping margin & injury margin in the case of the company may be determined based on the PCNs adopted.

### **G.3. Examination by the Authority**

42. As regards the appropriateness of Thailand as a surrogate country, it is noted that no proper justification has been accorded by any of the interested parties for considering Thailand as a surrogate country for China PR in this particular investigation.
43. With regard to the error made in non-refundable VAT, Social Welfare Surcharge (SWS) etc., the Authority has verified the information and adopted the verified information for the present case.

#### **G.3.1 DETERMINATION OF NORMAL VALUE**

##### **Normal value for China PR**

##### **Market Economy Status for Chinese Producers/ exporters**

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

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

- (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions*

*prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

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

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

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

45. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11<sup>th</sup> December, 2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status. It is noted that since none of the responding producers and the exporters from China PR have submitted supplementary questionnaire response, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the AD Rules.
46. The Authority notes that exporter's questionnaire responses have been submitted by M/s Ningbo Xingye Shengtai Group Co., Ltd, China PR, M/s Ningbo Xingye Xintai New Electronic Material Co., Ltd, China PR and M/s Ningbo Hangzhou Bay New Zone Qiangtai Metal Materials Co, Ltd., China PR.

47. The normal value for producers/exporters from China PR has been determined in terms of Para 7 of Annexure-I on the basis of the cost of production of domestic industry and reasonable profit margin.

#### **Normal value for Korea RP**

#### **Normal Value for cooperating producers/exporters from Korea RP**

##### **M/s Poongsan Corporation, Korea RP**

48. During the POI, Poongsan Corporation, Korea RP, has sold the subject goods in the domestic market to unrelated parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. Poongsan Corporation, Korea RP, has claimed adjustments on account of inland transportation, packing expenses, credit cost and any other deduction and the same have been allowed by the Authority. Accordingly, normal value at ex-factory level for Poongsan Corporation, Korea RP, has been determined and the same is shown in the Dumping Margin Table below.

#### **Normal value for non-cooperating producers/exporters from Korea RP**

49. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the noncooperative producers/exporters in Korea RP, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

#### **Normal value for Malaysia**

#### **Normal Value for cooperating producers/exporters from Malaysia**

##### **M/s Luvata Malaysia Sdn Bhd Malaysia**

50. The Authority notes that Luvata Malaysia Sdn Bhd is a producer and exporter of the subject goods based in Malaysia. Luvata Malaysia Sdn Bhd has claimed normal value on the basis of sales made in the domestic market. It is noted that the company has made sales to unrelated customers in domestic market. The company has exported PUC falling under one PCN. To

determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for such PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. The company has claimed adjustments on account of inland freight, credit cost and insurance. Authority has allowed the same after due verification and normal value at ex-factory level has been determined and the same is shown in the Dumping Margin Table below. As sunwire is not a part of PUC, the same has not been taken into account for dumping margin determination.

#### **Normal value for non-cooperating producers/exporters from Malaysia**

51. The Authority notes that no other producer/exporter from Malaysia has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Malaysia, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

#### **Normal value for Nepal**

#### **Normal Value for cooperating producers/ exporters from Nepal**

##### **M/s. Hulas Wire Industries Limited**

52. The Authority notes that Hulas Wire Industries Limited is a producer and exporter of the subject goods based in Nepal. Hulas Wire Industries Limited has claimed normal value on the basis of sales made in the domestic market. It is noted that the company has made sales to unrelated customers in domestic market. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. In case where comparable PCN were not sold in sold domestic market, the Authority has constructed the normal value for these PCNs on the basis of cost of production, selling general & administrative expenses and adding reasonable profit. The company has claimed adjustments on account of inland freight, credit cost and insurance. Authority has allowed the same after due verification and normal value at ex-factory level has been determined and the same is shown in the Dumping Margin Table below.

### **Normal value for non-cooperating producers/exporters from Nepal**

53. The Authority notes that no other producer/exporter from Nepal has responded to the Authority in the present investigation. For all the noncooperative producers/exporters in Nepal, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **Normal value for Thailand**

#### **Normal Value for cooperating producers/exporters from Thailand**

##### **Siam Poongsan Metal Co., Ltd., Thailand**

54. During the POI, Siam Poongsan Metal Co., Ltd., has sold the subject goods in the domestic market to unrelated parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods for each PCN. Where the profit-making transactions for particular PCN is more than 80%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than 80%, only profitable domestic sales are being taken into consideration for the determination of the normal value. In case where comparable PCNs were not sold in sold domestic market, the Authority has constructed the normal value for these PCNs on the basis of cost of production, selling general and administrative expenses and adding reasonable profit.
55. Siam Poongsan Metal Co., Ltd., Thailand, has claimed adjustment on account of inland transportation, packing expenses, credit cost, any other deduction and the same have been allowed by the Authority. Accordingly, normal value at ex-factory level for Siam Poongsan Metal Co., Ltd., Thailand, has been determined and the same is shown in the Dumping Margin Table below.

### **Normal value for non-cooperating producers/exporters from Thailand**

56. The Authority notes that no other producer/exporter from Thailand has responded to the Authority in the present investigation. For all the noncooperative producers/exporters in Thailand, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **Normal value for Sri Lanka**

57. The Authority notes that exporter's questionnaire response has been submitted by M/s Simmet Pvt Ltd, Sri Lanka. However, the exporter's questionnaire response submitted by M/s Simmet Pvt Ltd is not as per prescribed format. Further, the company has failed to submit the relevant appendices in excel format. The company also failed to provide the supporting documents requested by the Authority. Accordingly, Authority is unable to accept the response filed by Simmet Pvt Ltd and the normal value for Simmet Pvt Ltd and all other non-cooperating producers has been determined on the basis of facts available and the same is shown in the Dumping Margin Table below.

### **G.3.2. DETERMINATION OF EXPORT PRICE**

#### **Export price for China PR**

#### **Export Price for cooperating producers/exporters from China PR**

Export price for M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR and M/s Ningbo Xingye Xintai New Electronic Material Co., Ltd

58. The following companies have filed the Exporters Questionnaire response:
- a. M/s Ningbo Xingye Shengtai Group Co., Ltd., who is a producer of the product under consideration in China PR and has also exported to India;
  - b. M/s Ningbo Xingye Xintai New Electronic Material Co., Ltd. who is a producer of the product under consideration in China PR and involved in domestic sales of PUC but has not exported to India during POI; and
  - c. M/s Ningbo HangZhou Bay Qiangtai Metal Material Co., Ltd. (trader) who is involved in sale of the product under consideration in domestic market.
59. The Authority notes that M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR produced and exported the PUC to unrelated customers in India during the POI. The Authority has determined the ex-factory export price for M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR based on their export price after taking into consideration its claims of port and other related expenses, inland transportation, insurance, ocean freight, non-refundable VAT and bank charges.

#### **Export Price for Non-cooperating producers/exporters from China PR**

60. For the non-cooperating exporters from China PR, the Authority has computed the export price for based on DGCI&S transaction-wise data. Price adjustments have been made on

account of ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and non-refundable VAT.

### **Export price for Korea RP**

#### **Export Price for cooperating producers/exporters from Korea RP**

##### **Export Price for M/s Poongsan Corporation, Korea RP and M/s Hyundai Corporation, Korea RP**

61. Poongsan Corporation, who is a producer and exporter of the subject goods in Korea RP, has filed questionnaire response. During the POI, Poongsan Corporation, exported the subject goods to India directly and through an unrelated trader namely Hyundai Corporation, Korea RP. Poongsan Corporation and Hyundai Corporation have provided all the relevant information in requisite format. Poongsan Corporation has claimed adjustment on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost, bank charges, packing expenses, other deduction and duty drawback. The Authority has not accepted the adjustment of duty drawback due to non-submission of relevant documentary evidence. Accordingly, the net export price at ex-factory level for Poongsan Corporation, has been determined and the same is shown in the Dumping Margin Table below.

#### **Export Price for Non-cooperating producers/exporters from Korea RP**

62. For the non-cooperating exporters from Korea RP, the Authority has computed the export price on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **Export price for Malaysia**

#### **Export Price for cooperating producers/exporters from Malaysia**

##### **Export price for Luvata Malaysia Sdn Bhd**

63. Luvata Malaysia Sdn Bhd Malaysia has exported the product under consideration directly to India during the period of investigation. Adjustments have been claimed on account of ocean freight, Inland freight, insurance, credit cost and port related expenses by the producer in its response to the questionnaire in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for Luvata Malaysia Sdn Bhd has been determined, which is indicated in the Dumping Margin Table below. As sunwire is not a part of PUC, the same has not been taken into account for dumping margin determination.

#### **Export Price for Non-cooperating producers/exporters from Malaysia**

64. For the non-cooperating exporters from Malaysia, the Authority has computed the export price for all the subject countries based on DGCI&S transaction-wise data. Price adjustments have been made on account of ocean freight, marine insurance, commission, inland freight expenses, port expenses and bank charges.

### **Export price for Nepal**

#### **Export Price for cooperating producers/exporters from Nepal**

##### **Export price for Hulas Wire Industries Limited**

65. Nepal Hulas Wire Industries Limited has exported the product under consideration directly to India during the period of investigation. Adjustments have been claimed on account of Inland freight, insurance, port and other related expenses, by the exporter in its response to the questionnaire in order to arrive at the net export price at ex-factory level. These adjustments have been accepted by the Authority. Accordingly, the net export price at ex-factory level for Hulas Wire Industries Limited. has been determined, which is indicated in the Dumping Margin Table below.

#### **Export Price for Non-cooperating producers/Exporters from Nepal**

66. For the non-cooperating exporters from Nepal, the Authority has computed the export price on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **Export price for Thailand**

#### **Export Price for cooperating producers/exporters from Thailand**

##### **Export price for Siam Poongsan Metal Co., Ltd**

67. During the POI, Siam Poongsan Metal Co., Ltd., exported the subject goods to India directly to unrelated parties in India. Siam Poongsan Metal Co., Ltd., has provided all the relevant information in requisite format. Siam Poongsan Metal Co., Ltd., has claimed adjustments on account of ocean freight, insurance, inland transportation, custom cost, bank charges, LC fee, credit cost, packing cost and other deduction. Accordingly, the net export price at ex-factory level for Siam Poongsan Metal Co., Ltd., has been determined and the same is shown in the Dumping Margin Table below

#### **Export Price for Non-cooperating producers/exporters from Thailand**

68. For the non-cooperating exporters from Thailand, the Authority has computed the export

price on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **Export price for Sri Lanka**

69. As stated above, the Authority is unable to accept the response filed by M/s. Simmet Pvt Ltd, Sri Lanka. Accordingly, the export price for all producers/exporters from Sri Lanka has computed on the basis of best available information and the same is shown in the Dumping Margin Table below.

### **G.3.3 DUMPING MARGIN**

70. Based on the normal value and export price determined as above, the dumping margin for the producers/exporters from the subject countries has been determined by the Authority and the same is mentioned in the table below.

<b>Subject Countries</b>	<b>Normal Value (US\$/MT)</b>	<b>Export Price (US\$/MT)</b>	<b>Dumping Margin (US\$/MT)</b>	<b>Dumping Margin (%)</b>	<b>Dumping Margin Range (%)</b>
<b>China PR</b>					
1. M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR	***	***	***	***	0-10
2. M/s. Ningbo Xingye Xintai New Electronic Material Co., Ltd, China PR					
All Others	***	***	***	***	10-20
<b>Korea</b>	***	***	***	***	
M/s. Poongsan Corporation	***	***	***	***	0-10
All Others	***	***	***	***	10-20
<b>Malaysia</b>	***	***	***	***	
M/s. Luvata Malaysia Sdn Bhd Malaysia	***	***	***	***	20-30
All Others	***	***	***	***	30-40
<b>Nepal</b>	***	***	***	***	
M/s. Hulas Wire Industries Ltd	***	***	***	***	5-15
All Others	***	***	***	***	5-15

<b>Thailand</b>	***	***	***	***	
M/s. Siam Poongsan Metal Co., Ltd., Thailand	***	***	***	***	10-20
All Others	***	***	***	***	20-30
<b>Sri Lanka</b>	***	***	***	***	
Any	***	***	***	***	20-30

71. It is noted that the dumping margins for the subject countries are above *de minimis* limits prescribed under the rules, and are significantly positive.

## H. INURY ASSESSMENT AND CAUSAL LINK

### H.1 Submissions of the domestic industry

72. The submissions made by domestic industry with regard to injury and causal link are summarized as follows:

- i. Copper flat rolled products are widely sold and purchased on daily basis in the London Metal Exchange (LME). Contracts between producers and consumers are typically referenced to the globally accepted price. Further there are negotiations about fabrication costs and number of factors that are considered during the negotiation of a metal contract that will lead to fabrication costs. Price in non-ferrous metals market is negotiated based on (1) a base reference price (i.e. LME price) and (2) a fabrication cost.
- ii. The Authority is requested to cumulatively assess the effect of such imports as (a) the margin of dumping for the subject goods from each of the subject countries is more than *de minimis*; (b) the volume of imports from the subject countries is more than three percent and (c) exports from subject countries compete inter se and with the like article offered by the domestic industry in the Indian market.
- iii. The Demand for the subject goods has declined over the injury period due to economic slowdown in the major sectors (such as automobile).
- iv. Some consumers have shifted to high value special alloy products which are not produced in India.
- v. Imports from subject countries in absolute terms and in relation to production and consumption have increased from the base year to 2017-18 and thereafter declined till the POI. This is due to (a) decline in demand, and (b) higher imports in the past leading to some of the domestic producers turning to import & sales, suspending production in view of dumping in the Country. The level of imports is higher in the POI than the base year.
- vi. The applicant has undertaken price undercutting on PCN basis. While weighted average price undercutting for the product from subject countries is positive, the price undercutting

for majority of the imports is quite significant showing that the prices of dumped imports have had an adverse impact on the domestic industry.

- vii. The cost of sales increased throughout the injury period, but the selling price increased from the base year till 2018-19 and declined thereafter in the POI. The increase in selling price was less than the increase in cost of sales in the POI. The dumped imports are causing price suppression leading to significant decline in profits of the domestic industry.
- viii. Production, capacity utilization and sales of the domestic industry declined from the base year in the year 2017-18, increased thereafter in 2018-19 and again declined in the POI.
- ix. Market share of the domestic industry declined in the POI whereby the domestic industry made efforts to cater to the demand that was being catered by imports.
- x. The profits, PBIT and cash profit of the domestic industry increased from the base year till 2017-18 and declined drastically in the POI. The domestic industry has not been able to even sell at prices which will provide reasonable margin.
- xi. Due to imports and despite domestic industry selling at low prices, the inventories with the domestic industry increased over the injury period and doubled over the injury period.
- xii. Productivity of the domestic industry has shown a fluctuating trend. It declined from the base year in the year 2017-18, thereafter increased in 2018-19 and declined in the POI.
- xiii. Employment has increased throughout the injury period. Wages have shown improvement from the base year till 2018-19 and thereafter declined in the POI. Employment and wages are not solely dependent on the performance of the subject goods as the domestic industry is governed by labour laws and statutory provisions.
- xiv. Growth of the Domestic Industry in terms of production, capacity utilization and domestic sales volume have shown fluctuating trends and decline in the POI. However, growth in terms of the price parameters is negative. Growth of the domestic industry is much lower than what should have been in the absence of dumped imports.
- xv. Low priced imports are a serious threat to the financial viability of the operations of the domestic industry. Domestic industry continued its operations despite adverse profitability in the POI. The current situation cannot be sustained for a long period.
- xvi. Imports of product from European Union (EU) are above de-minimis level, but they are at higher prices. Imports from other countries are negligible.
- xvii. Contraction in demand has not contributed to adverse price effect suffered by the domestic industry.
- xviii. The pattern of consumption has seen some consumers moving to high value special alloy products, mainly used in auto sector whereby the use of copper and copper alloy flat rolled products is nominal. The adverse price effect is not due to this factor.
- xix. There is no trade restrictive practice, which could have contributed to the injury.
- xx. Technology for production of the product concerned has not undergone any change.
- xxi. The performance of the domestic industry and injury thereto has been examined with respect to the domestic sales operations to the extent possible.
- xxii. Claimed injury to the domestic industry is on account of product under consideration only.

- xxiii. In WTO ADA provision it is mentioned that “The demonstration of “a causal” relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities”. The only legal requirement is that dumping should be “one of the causes” of injury to the DI.
- xxiv. DI has suffered material injury due to the dumping from the subject countries.
- xxv. Domestic industry is also using PNG apart from electricity. Thus, the exporters are not so cost efficient in terms of utility cost of subject goods.
- xxvi. The financial reports are not just dependent on the performance of the PUC. The sale of NPUC and exports of PUC has increased till 2018-19 with a slight decline in the POI due to non-availability of the domestic market.
- xxvii. The NIP is determined in consonance with Annexure-III and the decision of the CESTAT for which the best utilisation of the raw materials and the best utilisation of production capacity by the DI over the injury period is considered by the Authority

## **H.2 Submissions of other interested parties**

73. The following submissions have been made by other interested parties with regard to injury and causal link:
- i. Decline in demand has caused injury to the domestic industry.
  - ii. Imports from China PR have declined significantly by almost 30% during the POI as compared to the base year. The import price from China PR has increased from 2016-17 to the POI and are amongst the highest within the subject countries and increased during the injury period despite customs duty applicable on imports of China PR.
  - iii. Chinese producers use Liquefied Natural Gas (LNG) as energy for the production process as compared to fuel which are used by Indian producers and producers based in other subject countries making Chinese producers cost efficient.
  - iv. Chinese imports are not competing and not causing any injury to the domestic industry as Chinese producers/exporters have moved into middle and high-end subject goods to meet Indian demand as the customers in India have been shifted to high end copper alloy flat rolled products which are not produced in India.
  - v. The Authority should not recommend imposition of duty on the imports from China.
  - vi. Domestic industry has registered sharp increase in export sales from 2016-17 to the POI.
  - vii. There is no injury being caused to the Petitioner as (a) there is no significant increase in dumped imports; (b) import prices have increased; (c) demand has decreased; and (d) market share of imported products has decreased.
  - viii. The GOI has extended the Emergency Credit Line Scheme to non-ferrous metal industry and sanctioned a loan amount of 3 lakh crores to Covid hit MSMEs. Injury suffered by the domestic industry due to other factors will be remedied by several support measures announced by government for MSME sector pursuant to Covid-19 pandemic.

- ix. The annual volume of Sri Lanka's exports to India is below the de-minimis threshold of 3%. In 2017, when there wasn't an exporter from Sri Lanka, the data indicates 305 MT imports which is based on incorrect information and cannot be accepted. The company has commenced its operations only in April 2017. Further, Sri Lanka exports to India are of commercial grade and not even ETP grade or high-end copper alloy product.
- x. This average price taken for Copper Sheet, Copper Alloy Sheet and Brass Sheet is incorrect.
- xi. There is no volume injury as the volume of subject goods in absolute terms and in relation to demand and Indian production have declined in POI
- xii. Demand has declined and the fall in production quantity of the domestic industry is much less as compared to the fall in demand.
- xiii. The price difference between two different qualities is clear; (1) Products made of prime metals & (2) Products made out of scrap (recycling process). This is required to be considered for levy of any duty on rolled product at least produced out of scrap through recycling process (which saves the nature and energy). Every end product is different and does not need the raw material made out of prime metal. Like few items of hardware or components where chemistry is not important and in that case a petitioner can't force to consume their products as raw material. Application of every end product is different, and industries are free to use products made out of recycling process to the extent of the benefit of the price to the end user.
- xiv. There is a different usage depending upon the end user requirement, so comparing just the price is not a correct method to adopt for imposition of any additional duty demanded by any third parties who wish to have monopoly in the country.
- xv. There is improvement in economic parameters of domestic industry as market share, export sales and employment. Productivity has declined due to poor strategic decisions made by the domestic industry as they did not anticipate the evolution of the demand and took the wrong decision to increase its production quantity and number of employees.
- xvi. Injury, if any, is due to fall in demand leading to negative impact on both cash profits and ROCE, which is still positive in POI.
- xvii. There is absence of causal link between dumping and injury. Injury is due to other factors such as decline in demand and shift to high value products. Reliance is placed on WTO AB finding in DS 184 US- Certain hot rolled steel products from Japan regarding non-attribution standards to that of Article 3.5 of WTO ADD rules.
- xviii. The market has become buyers' market as the supply of the subject goods exceeds the demand and the producer of the subject goods caters to the interest of the buyer whereby a buyer is able to extract the lowest/best price of the subject goods which creates price pressure on the domestic industry which affects its profitability.
- xix. Price pressure on the domestic industry created by buyers, fall in demand and 30-40% of Indian unorganized sector which is giving tough competition to organized sectors in terms of price.

- xx. Poor strategic decisions led to increase in production leading to increase in inventory and decline in profitability. Increase in depreciation of the capital assets attributed to the decline in profits, cash profits, ROCE.
- xxi. As per subsection (iii) para (4) of Rules, the Authority should scrutinize the expenses claimed and shall not consider Increase/Decrease in Work in progress, Research & Development expenses, export related expenses and advertisement for Non-Injurious price calculation as considered by domestic industry in Format L.
- xxii. The petitioner himself a businessman and a competitor in business and these kinds of half-truth in petition makes him liable for adverse suit.
- xxiii. Ex-factory level deduction is away from real cost of exporting and highly exaggerated.
- xxiv. Not established which product and which grade is considered for calculation of IM.
- xxv. It is the end user who decided from where he has to get the goods and on what price. Also, until covid-19, the Indian economy's annual avg. GDP growth rate was approx. 7% and demand reduction can only be temporary.

### **H.3 Examination of the Authority**

- 74. The Authority has taken note of various submissions made by the domestic Industry and other interested parties and analysed the same considering the facts available on record and the prevailing legal position. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties.
- 75. It is noted that Rule 11 read with Annexure II dealing with injury specifies that the Authority shall record a finding whether dumped imports of such article into India cause or threaten material injury to any established industry in India or materially retards the establishment of any industry in India. Further, it specifies that the Authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out under the rules.

#### **H.3.1 Cumulative Assessment**

- 76. Article 3.3 of WTO agreement and Para (iii) of Annexure II of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, in case it determines that:
  - i. Margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of imports

from each country is three percent (or more) of the import of like article or where the import of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article; and

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

77. The Authority notes that:

- i. The subject goods supplied from various subject countries and by the domestic industry are like articles.
- ii. The subject goods are being dumped into India from subject countries. The margin of dumping from each of the subject countries is more than the de minimis limits prescribed under the Rules.
- iii. The volume of imports from each of the subject countries is individually more than 3% of total volume of imports.
- iv. Prices at which the goods are being exported from the subject countries indicate a clear inter se competition between the imports from these sources in the Indian market.
- v. The competition between the dumped imported articles and the like articles offered by the domestic industry in the Indian market exists.
- vi. Cumulative assessment of the effect of imports is appropriate as the exports from the subject countries not only directly compete inter se but also with the like articles offered by the domestic industry in the Indian market.

78. Rule II of the Rules read with Annexure II provides *that an injury determination shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. 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. should be considered in accordance with Annexure II of the Rules.*

79. In view of the above, the Authority considers that it is appropriate to assess injury to the domestic industry cumulatively from imports of the subject goods from the subject countries.

80. The Authority notes that the imports from Sri Lanka have been verified from import data procured from both DGCI&S & DG systems whereby it is found that the imports are 6.68% of the total imports i.e., above *de minimis limits*.

### H.3.2 Volume effect of the dumped imports on the domestic industry

#### a. Assessment of demand/apparent consumption

81. For the purpose of the present investigation, the Authority has taken into consideration the demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources.

Demand in India	Unit	2016-17	2017-18	2018-19	POI
Sales of domestic industry	MT	***	***	***	***
Sales of Other Indian Producers	MT	***	***	***	***
Total Indian Producers	MT	***	***	***	***
Imports from Subject Countries	MT	7,494	8,233	7,650	7,040
China PR	MT	2,532	2,606	2,071	1,810
Korea RP	MT	367	709	945	541
Nepal	MT	1,552	1,285	1,399	1,305
Sri Lanka	MT	305	604	511	675
Thailand	MT	2,085	2,655	2,187	2,265
Malaysia	MT	654	374	538	444
Imports from Other Countries	MT	4,762	4,834	2,457	3,058
Total Demand	MT	***	***	***	***
Demand (Indexed)		100	98	90	85

82. It is noted that the demand for the product under consideration has shown a declining trend throughout the injury period including the POI.

#### i. Import volumes from subject country

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
Import Volume					
Subject Countries	MT	7,494	8,233	7,650	7,040
China PR	MT	2,532	2,606	2,071	1,810

Korea RP	MT	367	709	945	541
Nepal	MT	1,552	1,285	1,399	1,305
Sri Lanka	MT	305	604	511	675
Thailand	MT	2,085	2,655	2,187	2,265
Malaysia	MT	654	374	538	444
Other Countries	MT	4,762	4,834	2,457	3,058
Total Imports	MT	12,256	13,067	10,107	10,099

84. The Authority notes that the volume of imports from subject countries has shown a declining trend throughout the injury investigation period including the POI.

**ii. Subject Countries Imports in relative terms**

85. It is seen that the imports from subject countries in relation to production and demand increased till 2018-19 and have thereafter declined during the POI.

Import in relation to	Unit	2016-17	2017-18	2018-19	POI
Total Imports	%	61.15	63.01	75.69	69.72
Total Demand	%	***	***	***	***
Total Indian Production	%	***	***	***	***
Total Indian Production	Indexed	100	115	108	104

**H.3.3 Price effect of the dumped imports**

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

**a. Price Undercutting**

87. For the purpose of price undercutting analysis, the net selling price of the domestic industry has been compared with the landed value of imports from the subject countries. Accordingly, the undercutting effects of the dumped imports from the subject countries work out as follows:

Countries	Landed Price Rs/Mt	POI NSR Rs/Mt	Undercutting Rs/Mt	Undercutting %	Range
China PR	4,81,795.70	***	***	***	0-10
Korea RP	4,39,506.59	***	***	***	10-20
Malaysia	3,99,664.43	***	***	***	20-30
Nepal	4,08,060.76	***	***	***	15-25
Sri Lanka	4,43,156.84	***	***	***	10-20
Thailand	4,81,293.08	***	***	***	0-10
Subject Countries	4,40,078.88	***	***	***	10-20

88. From the aforesaid table, it can be seen that the imports from subject countries are at prices below the selling price of the domestic industry. Price undercutting during the POI is positive for each of the subject country.

**b. Price suppression and depression**

89. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, have been compared as below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of sales	₹/Mt	***	***	***	***
Trend	Indexed	100	117	126	127
Selling price	₹/Mt	***	***	***	***
Trend	Indexed	100	117	123	119
Landed price	₹/Mt	3,62,664	4,25,126	4,66,112	4,40,079
Trend	Indexed	100	117	129	121

90. The following can be seen:

- a. Imports from subject countries were at prices lower than the cost of sales of the domestic industry throughout the injury investigation period including POI.
- b. A comparison of the cost of production and selling price shows that the selling price declined in the POI, whereas cost of production has increased in the POI.

91. It is thus seen that the imports are depressing and suppressing the prices of the domestic industry in the market.

**H.3.4. Economic parameters of the domestic industry**

92. Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed herein below.

93. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties in their submissions.

**a. Production, capacity, sales and capacity utilization**

94. Capacity, production, sales and capacity utilization of the domestic industry over the injury period is given in the following table:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Installed Capacity	MT	***	***	***	***
Indexed		100	100	100	100
Production Quantity with job work	MT	***	***	***	***
Indexed		100	94	105	95
Production Quantity without job work	MT	***	***	***	***
Indexed		100	89	100	90
Job work production	MT	***	***	***	***
Indexed		100	109	119	109
Capacity Utilisation	%	***	***	***	***
Indexed		100	93	104	93
Domestic Sales	MT	***	***	***	***
Indexed		100	90	95	83
Export Sales	MT	***	***	***	***
Indexed		100	81	131	125

95. The following is observed from the above table:

- a. The production, domestic sales, capacity utilization and export sales of the domestic industry first declined in 2017-18, then improved in 2018-19 and thereafter declined in POI.
- b. The capacity of the domestic industry has been stagnant throughout the injury period.
- c. The fall in production and domestic sales during POI is commensurate with the fall in demand for the product under consideration.

**b. Market share**

96. Market share of the domestic industry and of imports is shown in table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Market Share in Demand					
Sales of domestic industry	%	***	***	***	***
Range	%	30-40	30-40	30-40	30-40
Sales of Other Indian Producers	%	***	***	***	***
Range	%	40-50	40-50	40-50	40-50
Total Indian Producers	%	***	***	***	***
Range	%	75-85	75-85	75-85	75-85
Subject Countries	%	12.28	13.73	13.86	13.52
Other Countries	%	7.80	8.06	4.45	5.87
Total Demand	%	100.00	100.00	100.00	100.00

97. It is noted that:

- a. Market share of the domestic industry and Indian producers as a whole improved till 2018-19 with a slight decline during the POI.
- b. Market share of imports from subject countries improved till 2018-19 with a slight decline during the POI.

**c. Profit/Loss, Cash Flow, Return on Capital Employed**

98. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:

Particulars	UOM	2016-17	2017-18	2018-19	POI
Selling price	₹/Mt	***	***	***	***
Trend	Indexed	100	117	123	119

Cost	₹/Mt	***	***	***	***
Trend	Indexed	100	117	126	127
Profit/ loss	₹/Mt	***	***	***	***
Trend	Indexed	100	108	76	(19)
Profit/ loss	₹ Lacs	***	***	***	***
Trend	Indexed	100	97	73	(16)
Cash profit	₹ Lacs	***	***	***	***
Trend	Indexed	100	100	83	10
ROCE	%	***	***	***	***
Trend	Indexed	100	89	73	16

99. It is noted that:

- a. The domestic industry suffered losses during the POI.
- b. The cash profits and ROCE declined significantly during the POI as compared to preceding years.

**d. Inventories**

100. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Average stocks	MT	***	***	***	***
	<i>Trend</i>	100	127	151	172
Opening Stock	MT	***	***	***	***
Closing stock	MT	***	***	***	***

101. It is seen that the inventories with the domestic industry have increased significantly over the injury period. The domestic industry is suffering from accumulation of inventories.

**e. Productivity**

102. Performance of the domestic industry with regard to productivity was as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Productivity per day	MT/day	***	***	***	***
	<i>Trend</i>	100	89	100	90

Productivity per employee	MT/employee	***	***	***	***
Trend		100	78	86	77

103. It is seen that the Productivity per day and Productivity per employee of the domestic industry has declined in 2017-18, increased in 2018-19 and declined in the POI.

**f. Employment and Wages**

104. Performance of the domestic industry with regard to employment, productivity and wages over the injury period was as follows

Particulars	Unit	2016-17	2017-18	2018-19	POI
No. of employee	No.	***	***	***	***
Trend		100	115	117	117
Wages		***	***	***	***
Trend		100	115	131	95

105. It is seen that the number of employees has increased throughout the injury period. Wages increased during injury period but declined during period of investigation.

**g. Growth**

Particulars	Unit	2016-17	2017-18	2018-19	POI
Production without job work (MT)	%		-11	13	-11
Domestic Sales without job work (MT)	%		-10	6	-12
Cost of sales (₹/MT)	%		17	8	1
Selling price (₹/MT)	%		17	6	-4
Profit/loss (₹/MT)	%		8	-29	-124
ROCE (%)	%		-12	-20	-75

106. The production, domestic sales and capacity utilization of the domestic industry improved till 2018-19 and thereafter declined in POI. The fall in production and domestic sales during POI is commensurate with the fall in demand for the product under consideration. The domestic industry suffered losses during the POI. The cash profits and ROCE declined significantly during the POI as compared to preceding years.

**h. Ability to raise capital investments**

107. The Authority notes that profitability of the domestic industry has deteriorated and this deterioration is bound to have an impact on the ability of the petitioning domestic industry to raise capital investments.

**i. Magnitude of Dumping Margin**

108. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

**j. Factors affecting prices**

109. The examination of the import prices from subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market would show that the landed value of imported material from subject countries are the benchmark for the selling price of domestic market. In fact, the domestic industry is matching the price of imports, and has not increased its prices in proportion to the increase in costs. This shows that the imports are affecting the prices of the domestic industry.

**H.3.5. Overall conclusion on injury**

110. The examination of the imports of the subject product and performance of domestic industry shows that:

- a. The demand for the product under consideration has shown a declining trend throughout the period of investigation including the POI.
- b. The volume of imports from subject countries has shown a declining trend throughout the injury investigation period including the POI.
- c. Price undercutting during the POI is positive for each of the subject country.
- d. The production, domestic sales and capacity utilization of the domestic industry improved till 2018-19 and thereafter declined in POI. The fall in production and domestic sales during POI is commensurate with the fall in demand for the product under consideration.
- e. The domestic industry suffered losses during the POI.
- f. The cash profits and ROCE declined significantly during the POI as compared to preceding years.

**H.3.6 Non-attribution analysis**

111. As per the Rules, the Authority, inter alia, is required to examine any known factors other

than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports.

#### **Other known factors and causal link**

112. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry.

##### **a. Volume and price of imports from third countries**

113. Imports of product from European Union (EU) being at higher prices are not causing injury to the domestic industry.

##### **b. Contraction in demand**

114. The Authority notes that the demand for the subject goods has declined throughout the injury investigation period including the POI. However, the impact of fall in demand is not so significant so as to break the causal link between the dumped imports and the material injury being suffered by the domestic industry on profitability parameters.

##### **c. Changes in the pattern of consumption**

115. Some consumers of copper and copper alloy flat rolled products have moved to high value special alloy products. Such high value products are mainly used in Auto sector.

##### **d. Trade restrictive practices of and competition between the foreign and domestic producers**

116. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. No evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

##### **e. Developments in technology**

117. None of the interested parties have furnished any evidence to demonstrate significant changes

in the technology that could have caused injury to the domestic industry. Both flat rolled product and drawn product is used in India. Further, difference in the process does not result in different product. It is merely a case of producing the same product through different processes. It is well understood under the law and practice that the difference in production process is immaterial so long as the resultant product are not different. The interested parties have not established that the product produced through different processes are technically and commercially different product. The interested parties should establish on the basis of various product criteria that the products are technically and commercially different.

**f. Export performance**

118. The Authority has considered the data for domestic operations only for its injury analysis.

**g. Performance of other products being produced and sold by the domestic industry**

119. The Authority notes that the performance of other products being produced and sold by the domestic industry does not appear to be a possible cause of injury to the domestic industry as the Authority has considered the data of PUC only for injury analysis.

**H.3.7 Factors establishing causal link**

120. The Authority notes as follows:

- a) The dumping margin for all the subject countries is above de-minimis limits.
- b) The demand for the product under consideration has shown a declining trend throughout the injury period including the POI. However, the impact of fall in demand is not so significant so as to break the causal link between the dumped imports and the material injury being suffered by the domestic industry on profitability parameters.
- c) The volume of imports from subject countries has shown a declining trend throughout the injury investigation period including the POI.
- d) Price undercutting during the POI is positive for each of the subject country.
- e) The production, domestic sales and capacity utilization of the domestic industry improved till 2018-19 and thereafter declined in POI. The fall in production and domestic sales during POI is commensurate with the fall in demand for the product under consideration.
- f) The domestic industry suffered losses during the POI.
- g) The cash profits and ROCE declined significantly during the POI as compared to preceding years.

**I. MAGNITUDE OF INJURY MARGIN**

121. The Authority has determined Non-Injurious Price (NIP) for the domestic industry on the

basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, a reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit.

122. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.

123. Based on the landed price and non-injurious price determined as above, the injury margins for producers/exporters have been determined and the same is provided in the table below:

Subject Countries	Landed Value (US\$/MT)	Non Injurious Price (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin (%)	Injury Margin Range
<b>China PR</b>					
1. M/s. Ningbo Xingye Shengtai Group Co., Ltd, China PR	***	***	***	***	
2. M/s. Ningbo Xingye Xintai New Electronic Material Co., Ltd, China PR					0-10
All Others	***	***	***	***	5-15
<b>Korea RP</b>	***	***	***	***	
M/s. Poongsan Corporation	***	***	***	***	Negative
All Others	***	***	***	***	5-15
<b>Malaysia</b>	***	***	***	***	
M/s. Luvata Malaysia Sdn Bhd Malaysia	***	***	***	***	5-15
All Others	***	***	***	***	10-20
<b>Nepal</b>	***	***	***	***	
M/s. Hulas Wire Industries Ltd	***	***	***	***	5-15
All Others	***	***	***	***	5-15

<b>Thailand</b>	***	***	***	***	
M/s. Siam Poongsan Metal Co., Ltd., Thailand	***	***	***	***	0-10
All Others	***	***	***	***	5-15
<b>Sri Lanka</b>	***	***	***	***	
Any	***	***	***	***	5-15

## **J. POST-DISCLOSURE COMMENTS**

124. The disclosure statement was issue by the Authority on 01.04.2021 disclosing essential facts of the case and inviting comments thereon from all the interested parties. The post-disclosure submissions have been received from the interested parties. Majority of the issues raised are reiterations and have already been raised earlier and also addressed appropriately. Additional submissions to the extent deemed relevant have been examined as under.

### **J.1 Submissions of the domestic industry**

125. The following submissions have been made by domestic industry:

- i. The observations of the Authority with regard to product under consideration and like article is correct.
- ii. Observations of the Authority with regard to domestic industry and standing is correct. It is correct to rely on the available information for the purpose of determining the total production in India and standing of the applicant.
- iii. The imposition of the measures would not restrict imports from the subject countries in any way and would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.
- iv. Imposition of the proposed anti-dumping duty will not result in any significant adverse impact on the eventual end product and the imposition will be in the larger public interest.
- v. There are no additional submissions with regard to the observations of the Designated Authority in respect of injury and causal link. The Authority has already found that the imports are undercutting the prices of the domestic industry to a significant degree.
- vi. Duty may kindly be imposed on ad-valorem basis expressed as % of CIF price because of (a) changes in LME on frequent basis and (b) the subject goods having various PCNs. If ADD is kept on the basis of fixed quantum, the same would mean under protection to high priced product types and over protection to low priced product types.

### **J.2 Submissions of other interested parties**

126. The following submissions have been made by other interested parties

- i. The Authority cannot initiate an investigation on the basis of particular data and thereafter, ask the domestic industry to furnish updated information.
- ii. Authority should calculate normal value for producers/exporters as per the information provided in the questionnaire response.
- iii. We agree with the Net Export Price calculated by the Authority for Hulas, however, there seems some error in the calculation of normal value for 3 out of 4 PCNs.
- iv. Authority is required to follow lesser-duty rule as per Rule 17(1)(b) of the AD Rules. The Authority had determined in the disclosure statement that injury margin is lower than dumping margin, hence anti-dumping duty cannot exceed injury margin. In any case, should the Authority make any changes to injury margin or dumping margin determination henceforth, it should issue a revised disclosure statement and provide opportunity to interested parties to comment.
- v. In accordance with Rule 14(e) of the AD Rules Authority should terminate the investigation if injury is negligible. If injury margin is very low vis-à-vis producer/exporter then investigation should be terminated against such producer/exporter.
- vi. Non-disclosure of evidence relating to production capability of domestic industry and discrepancy in claims of the domestic industry needs to be addressed by Authority. The interested parties had no access to any evidence relating to production and sale of the product types claimed by the domestic industry.
- vii. The Authority as per its consistent practice should not include those products within the scope of PUC which are not manufactured by the domestic industry. Domestic industry has itself mentioned on its website that they don't produce subject goods beyond particular thickness, width etc. Evidence in this regard is already placed on record. Additionally, Domestic industry have themselves admitted that they only have capability to produce the subject goods upto a particular width and thickness.
- viii. The Authority has placed heavy reliance on domestic industry's claim that there is no publicly available information on Indian production. It has been argued by interested parties that in a parallel countervailing duty investigation by the Authority on imports of Copper tubes and pipes from Malaysia, Thailand and Vietnam, Bombay Metal Exchange has provided information on domestic industry production. This is

notwithstanding that the domestic industry in the said case was also MSME and non-ferrous metal sector. Authority should call upon Bombay Metal Exchange in the instant investigation to plug the gaps in information on domestic industry.

- ix. The situation of the petitioner is not representative of the overall situation of the domestic industry and petitioner should not be treated as domestic industry under Rule 2 (b) of the AD Rules. The supporters of the present case registered steady growth in production over the years and the trend of production by supporters individually shows a trend completely contrary to the situation of the petitioner.
- x. Non-compliance with disclosure requirements as per Trade Notice No. 13/2018 by the supporter producers has prevented the Authority from assessing whether injury has been suffered by the domestic industry as a whole and has also prevented Authority from taking into consideration the reasons why the supporters did not become co-petitioner. The Authority should re-assess the claim of the domestic industry regarding material injury in absence of information from the supporters.
- xi. Essential facts disclose no volume effect due to imports from China PR. Volume of imports from China registered a 30% decline between 2017-18 and POI.
- xii. There is no price effect due to imports from China PR as price of PUC imported therefrom has increased during injury investigation period. Import prices of PUC from China PR rose from INR 3,54,944/MT in 2016-17 to INR 4,67,354/MT in POI. The overall import price of PUC from subject countries also rose in the same period. The Authority should note that while PUC from other subject countries enjoyed NIL customs duty, Chinese imports faced customs duty and hence landed value of PUC from China PR is higher compared to subject countries.
- xiii. Subject goods supplied by Chinese suppliers are much superior in terms of temper, grain size and quality consistency, criticality of surface finish for plating etc. as compared to the domestic industry's product.
- xiv. Tolerance limits in PUC should be defined for the purpose of product exclusion. Domestic producers are having issues in meeting user's specification requirement with regard to dimensional tolerance.
- xv. Imports of PUC from China PR are not competing with domestic industry because Chinese producers/exporters have moved into middle and high-end subject goods to cater to Indian demand for high value special alloy products. The domestic industry has itself admitted that it does not produce such high value products. Accordingly, Authority

should conclude that PUC imports from China PR are not competing with domestic industry.

- xvi. Requirement for cumulative assessment is that the imported goods inter-se compete with each other. No evidence whatsoever has been given by the Authority to prove the existence of inter-se competition between imports from various countries.
- xvii. Job work production of domestic industry has increased and decline in production is driven by significant decline of production without job work (in-house production of domestic industry). This points to structural inefficiencies inherent in domestic industry which can lead to decline in its performance and increase in cost of sales.
- xviii. There is no causal link between injury to domestic industry and imports from China PR. The Authority should inquire into specific reasons for increase in cost of sales of domestic industry during injury investigation period before concluding any price suppression by Chinese imports.
- xix. The Authority should not conclude price suppression based on experience of a single domestic producer. Information should be collected from supporter producers before making assessment on claims of price suppression.
- xx. The Authority has itself noted that market share of domestic industry and Indian producers as a whole improved till 2018-19 and market share of imports from subject countries declined during POI. Capacity utilization of domestic industry has also remained stable and fall in production and sales is commensurate with the fall in demand of the product under consideration.
- xxi. Though the petitioner has claimed losses, the same cannot be linked to any price effects created by imports from subject countries.
- xxii. Domestic industry is suffering due to contraction in demand. The Authority should confirm in the final findings that decline in performance of the domestic industry is due to decline in demand during the injury investigation period. Fall in production quantity of the domestic industry is much less as compared to the fall in demand during the same period.
- xxiii. The adverse effects as claimed by the petitioner on both volume and value parameters are directly linked to the fall in demand.
- xxiv. The Authority should also take into account other factors, such as depreciation of

domestic industry, in its non-attribution analysis. Depreciation increased from 100 indexed points in 2016-17 to 112 indexed points in 2018-19.

- xxv. Injury, if any, is attributable to poor strategic decisions made by the domestic industry. Indeed, the applicant took the decision to increase its production from 100 indexed points in 2016-17 to 105 indexed points in 2018-19 while the demand for the subject goods was decreasing.
- xxvi. Authority has not analysed whether there is an injury / causal link to the domestic industry due to imports from Sri Lanka. DGTR has not considered the fact that the imports from Sri Lanka have also declined during the given period.
- xxvii. M/s Simmet (Pvt) Ltd has failed to submit the exporter's questionnaire response according to the instructions provided, because being a relatively small company unable to bear the cost of consultation, the company itself completed the questionnaire response and misunderstood the instructions. Therefore, the Authority is requested to consider the facts submitted by the Sri Lankan industry and re-consider the amended version of the questionnaire response of M/s Simmet (Pvt) Ltd.
- xxviii. The Authority should provide dumping margin working i.e. (i) detailed cost computation by DGTR & (ii) Detailed working of normal value and export price. The workings cannot be considered as confidential as information is of interested parties themselves.

### **J.3 Examination of Authority**

127. The Authority notes that most of the submissions by parties are repetitive in nature and were already addressed earlier in the disclosure statement. The findings above ipso facto deal with these arguments of the parties. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere:
- i. With regard to the submission that the domestic industry cannot submit updated data, Authority notes that the Application by the domestic industry was filed considering April 2018 to September 2019 (18 Months) as the Period of Investigation. Due to change in period of investigation made by the Authority in the initiation notification, the domestic industry filed updated information. There is no revision of data by the domestic industry but merely submission of information for the updated POI.
  - ii. With regard to the submission that normal value and export price should be determined based on information provided in the questionnaire response, it is noted that the basis for determination of normal value and export price for each country has already been

provided in the findings with proper reasons.

- iii. With regard to the submission that there are some errors in the calculation of normal value for producer/exporter, the Authority notes that it has already provided methodology followed for determination of normal value for each subject country in the findings. The confidential version of calculation for normal value and export price was also provided to all the participating producers/exporters. The Authority has calculated the normal value, export price and dumping margin for all the participating producers/exporters in terms of the relevant provisions under the Customs Tariff Act and AD Rules and also the consistent practice of the Authority.
- iv. With regard to the submission that the Authority should follow lesser duty rule, the Authority notes that the anti-dumping duty recommended in the duty table in the final findings is based on lesser duty rule only.
- v. With regard to the claim that the product under consideration beyond dimensions specified in its website be excluded, it is noted that the domestic industry has furnished documentary evidence in the form of sales invoices which establish that the domestic industry has the capability to manufacture PUC beyond the dimensions indicated in their website. The interested parties seeking exclusion of products beyond certain dimensions, on the other hand, have not demonstrated with sufficient evidence that there is demand for product of such dimensions for which exclusions are being sought and that the domestic industry has shown inability to produce such dimensions. It is further noted that exclusion of the products of the wider range will give the opportunity to the interested parties to circumvent the duty.
- vi. With regard to the claim that injury information of the supporters too should be analysed for assessment of injury, the Authority notes that the information prescribed in Trade notice 13/2018 for supporting domestic producers enables the Authority to ascertain whether supporting domestic producers have also suffered injury, even if they are not included as a part of the domestic industry. However, in a situation where supporting domestic producers have not provided relevant information in prescribed format, but have nonetheless expressed support to the application, the Authority notes that such supporters cannot be treated as "opposing" the petition filed by the applicant. The domestic industry in the present investigation comprises of single producer, Agrawal Metal Works Pvt. Ltd, and therefore the Authority has relied on the information provided by applicant domestic industry, Agrawal Metal Works Pvt. Ltd, for determination of material injury.
- vii. With regard to the contention that information from Bombay Metal Exchange on domestic production be taken for examining standing of domestic industry, as in an

ongoing countervailing duty investigation on imports of Copper tubes and pipes from Malaysia, Thailand and Vietnam, it is noted that each investigation is unique and different involving separate set of facts and circumstances and practice adopted in one investigation cannot necessarily be replicated in the other.

- viii. With regard to the claim that volume of imports from subject countries have declined and that the price of imports from subject countries have increased, the Authority notes that mere decline in volume of imports and increase in import price are not conclusive in regard to absence of material injury. The assessment of material injury should be based on objective analysis of all economic parameters of the domestic industry. The Authority notes that on the basis of objective analysis of relevant economic parameters it has already determined in the findings above that the domestic industry is suffering from material injury.
- ix. With regard to the submission that the Authority has not provided evidence for cumulative assessment of imports from subject countries, it is noted that Annexure II (iii) of AD Rules provides for possibility for cumulative assessment of subject imports when imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation. The Authority notes that interested parties have not provided evidence to establish that the conditions prescribed under Annexure II (iii) of AD Rules have not been fulfilled in the present investigation.
- x. With regard to the claim that the domestic industry is suffering because of inherent structural deficiencies, decline in demand and increase in depreciation, the Authority notes that the Authority is required to assess causal link between dumped imports and injury to the domestic industry. The examination of causal link between imports and material injury to the domestic industry shows that dumped imports have significantly contributed to the decline in performance of the domestic industry.
- xi. With regard to the claim concerning questionnaire response filed by Simmet (Pvt) Ltd., the Authority notes that exporter's questionnaire response submitted by M/s Simmet Pvt Ltd is not as per prescribed format. Further, the company has failed to submit the relevant appendices in excel format. The company also failed to provide the supporting documents requested by the Authority. Therefore, in absence of complete and verifiable information, the Authority is constrained to determine normal value and export price based on the facts available.
- xii. With regard to the submission concerning confidential dumping margin workings, it is noted that the Authority has provided confidential calculation for normal value, export price and dumping margin to interested parties in accordance with the AD Rules and its consistent practice.

#### **K. INDIAN INDUSTRY'S INTEREST**

128. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping 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.
129. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, 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 measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **L. IMPACT ON END USERS**

130. Three users namely (i) FCI OEN Connectors Ltd (ii) AT & S India Pvt Ltd & (iii) Terminal Technologies (I) Pvt Ltd have responded to the initiation of this investigation. FCI OEN Connectors has filed user questionnaire response but has not made any specific comment regarding likely adverse impact of anti-dumping duty on the user industry. AT&S India Pvt. Ltd. has made specific claim regarding likely adverse impact of anti-dumping duty on user industry but has not filed questionnaire response in the prescribed format and has also not provided quantification of adverse impact. Terminal Technologies (I) Pvt. Ltd. has merely filed a letter registering itself as an interested party and there is no further submission on likely impact of anti-dumping duty on user industry.
131. Thus, it is noted that the participating users have either not stated anything about the likely adverse impact or have not quantified the likely adverse impact on account of imposition of anti-dumping measure. The domestic industry has claimed that the imposition of Anti-dumping duty on this product will increase the cost of the eventual end product by 0.06-0.49% only. No interested party has rebutted this claim of the domestic industry.

#### **M. CONCLUSION**

132. Having regard to the contentions raised, submissions made, information provided and facts available before the Authority as recorded above and on the basis of the above analysis of dumping and consequent injury to the domestic industry, the Authority concludes that:

- a. The product under consideration has been exported at dumped prices from the subject countries.
- b. The domestic industry has suffered financial losses and witnessed decline in cash profit and ROCE in the POI besides facing decline in production, sales and capacity utilization. The domestic industry has thus suffered material injury.
- c. There is causal link between dumping of the product under consideration and injury to the domestic industry.

**N. RECOMMENDATIONS**

133. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of dumping, injury and the causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the 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 anti-dumping duty is necessary to offset dumping and injury.
134. In view of above, the Authority, in terms of provisions contained in Rule 17(1) (b) read with Rule 4(d) of the Rules, recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. The Authority accordingly recommends imposition of anti-dumping duty equal to the amount indicated in Column 7 of the table below on all imports of goods described in Column 3 of the duty table originating in or exported from China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand for a period of five years, from the date of notification to be issued in this regard by the Central Government.
135. The landed value of imports for this purpose shall be assessable value as determined by the Customs under Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

**DUTY TABLE**

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	7409, 7410	Flat rolled products of copper and copper alloy*	China PR	Any Country including China PR	Ningbo Xingye Shengtai Group Co., Ltd.	42	MT	USD

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2.	7409, 7410	Flat rolled products of copper and copper alloy*	China PR	Any Country including China PR	Ningbo Xingye Xintai New Electronic Material Co., Ltd.	42	MT	USD
3.	7409, 7410	Flat rolled products of copper and copper alloy*	China PR	Any Country Including China PR	Any producer other than at serial number 1 & 2	618	MT	USD
4.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	China PR	Any	618	MT	USD
5.	7409, 7410	Flat rolled products of copper and copper alloy*	Korea RP	Any Country including Korea RP	Poongsan Corporation	NIL	MT	USD
6.	7409, 7410	Flat rolled products of copper and copper alloy*	Korea RP	Any Country including Korea RP	Any producer other than at serial number 5	651	MT	USD
7.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	Korea RP	Any	651	MT	USD
8.	7409, 7410	Flat rolled products of copper and copper alloy*	Malaysia	Any Country including Malaysia	Luvata Malaysia Sdn Bhd	828	MT	USD
9.	7409, 7410	Flat rolled products of	Malaysia	Any Country including	Any producer other than at serial number 8	1077	MT	USD

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		copper and copper alloy*		Malaysia				
10.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	Malaysia	Any	1077	MT	USD
11.	7409, 7410	Flat rolled products of copper and copper alloy*	Nepal	Any Country including Nepal	Hulas Wire Industries Ltd	429	MT	USD
12.	7409, 7410	Flat rolled products of copper and copper alloy*	Nepal	Any Country including Nepal	Any producer other than at serial number 11	478	MT	USD
13.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	Nepal	Any	478	MT	USD
14.	7409, 7410	Flat rolled products of copper and copper alloy*	Thailand	Any Country including Thailand	Siam Poongsan Metal Co., Ltd.	144	MT	USD
15.	7409, 7410	Flat rolled products of copper and copper alloy*	Thailand	Any Country including Thailand	Any producer other than at serial number 14	440	MT	USD
16.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	Thailand	Any	440	MT	USD
17.	7409, 7410	Flat rolled products of	Sri Lanka	Any Country	Any	720	MT	USD

S. No.	Heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		copper and copper alloy*		including Sri Lanka				
18.	7409, 7410	Flat rolled products of copper and copper alloy*	Any Country other than China PR, Korea RP, Malaysia, Nepal, Sri Lanka and Thailand	Sri Lanka	Any	720	MT	USD

\* Flat rolled products of copper including refined copper or copper alloys with Zinc and tin i.e., Copper-Zinc base alloys (Brass) and Copper-Tin base alloys (Phosphor Bronze). However, scope of product under consideration excludes any other copper alloys and Photovoltaic Ribbon wire (Sunwire).

**O. FURTHER PROCEDURE**

136. An appeal against the order 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.

  
(Anant Swarup)

**Joint Secretary & Designated Authority**