

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

**F. No. 6/13/2021-DGTR**

**Government of India**

**Department of Commerce**

**Ministry of Commerce & Industry**

**Directorate General of Trade Remedies**

**4<sup>th</sup> Floor, Jeevan Tara Building,**

Dated: 23<sup>rd</sup> September, 2022

**NOTIFICATION**

**FINAL FINDINGS**

**(CASE No - AD (OI) – 13/2021)**

**Subject: Anti-dumping investigation concerning imports of “Stainless-Steel Seamless Tubes and Pipes” originating in or exported from China PR.**

**F. No. 6/13/2021-DGTR** – Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter 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 referred to as the “Anti-Dumping Rules” or “the Rules”) thereof;

**A. BACKGROUND OF THE CASE**

1. The Designated Authority (hereinafter also referred to as the “Authority”) received a petition from Chandan Steel Limited, Tubacex Prakash India Private Limited and Welspun Specialty Solutions Limited (hereinafter also referred to as the “applicants” or the “domestic industry”) in accordance with the Act and the Anti-Dumping Rules for initiation of an anti-dumping investigation and imposition of anti-dumping duty concerning imports of the Stainless-Steel Seamless Tubes and Pipes (hereinafter also referred to as the “product under consideration” or the “subject goods”) originating in or exported from China PR (hereinafter also referred to as the “subject country”).
2. And whereas, in view of the duly substantiated petition filed and sufficient *prima facie* evidence submitted by the applicants, the Authority, initiated the anti-dumping investigation vide Notification No. 6/13/2021-DGTR dated 10<sup>th</sup> September 2021, published in the Gazette of India, Extraordinary, to determine the existence, degree and effect of any alleged dumping of the subject goods 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 below has been followed by the Authority with regard to the subject investigation:
  - a. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping petition before proceeding to initiate the investigation in accordance with Rule 5(5) of the Anti-Dumping Rules.
  - b. The Authority issued a public notice dated 10<sup>th</sup> September 2021, published in the Gazette of India, Extraordinary, initiating the anti-dumping investigation concerning import of the subject goods from the subject country.
  - c. The Embassy of the subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) of the Rules. The Authority emailed a copy of the initiation notification to the Government of the subject country, through its Embassy in India, known producers and exporters from the subject country, known importers / users and the domestic industry as well as the other interested parties as per the email addresses made available by the applicants and requested them to make their views known in writing within the prescribed time limit.
  - d. The Authority provided a copy of the non-confidential version of the petition to the known producers/exporters and to the Government of the subject country, through its Embassy in India, in accordance with Rule 6(3) of the Anti-Dumping Rules. A copy of the non-confidential version of the petition was circulated to other interested parties, whenever requested.
  - e. The Authority sent exporter's questionnaire to the known producers/exporters to elicit relevant information in accordance with Rule 6(4) of the Rules.
  - f. The Embassy of the subject country in India was requested to advise the exporters/producers from its country 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 the Embassy along with the list of the known producers/ exporters from the subject country.
  - g. In response to the initiation notification of the subject investigation, the following producers/exporters from the subject country have responded by filing the questionnaire response:
    - i. Zhejiang Bangnuo Steel Pipe Co., Ltd. ("Zhejiang Bangnuo")
    - ii. Wenzhou Sparkling International Trade Co., Ltd. ("Wenzhou Sparkling")
    - iii. Zhe Jiang HongQuan Stainless Steel Co., Ltd. ("HongQuan")

- iv. Zhejiang Yin Long Stainless Steel Co., Ltd. (“Yin Long”)
- v. Zhejiang Yinlai Steel Tube Co., Ltd. (“Yin Lai”)
- vi. Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.
- vii. Wenzhou Huachao Tech Co., Ltd. (“Huachao”)
- viii. Wenzhou Sodo Stainless Steel Manufacturing Company Limited (“Wenzhou Sodo”)
- ix. Wenzhou Gissun Stainless Steel Co., Ltd. (“Wenzhou Gissun”)
- x. Leo Ronaldo (UK) Hi-Tech Metals Limited [“Leo Ronaldo (UK)”]
- xi. Zhejiang Yi Jia Wang Steel Tube Co., Ltd. (“Yi Jia wang”)
- xii. Wenzhou New Succeed International Trading Co., Ltd. (“Wenzhou New Succeed”)
- xiii. Zhejiang Jiuli Hi-Tech Metals Co., Ltd. (“Jiuli”)
- xiv. Shengtak New Materials Co., Ltd.
- xv. Sandvik International Trading (Shanghai) Co., Ltd.
- xvi. Sandvik Materials Technology (China) Co., Ltd.
- xvii. Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.
- xviii. Zhejiang Dingshang Stainless Steel Co., Ltd. (“Dingshang”)
- xix. Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd. (“Jinxin”)
- xx. Zhejiang Junda Steel Pipe Manufacturing Co., Ltd (“Junda”)
- xxi. Zhejiang Xintongda Special Steel Manufacturing Co., Ltd. (“Xintongda”)
- xxii. Zhejiang Tsingshan Steel Pipe Co., Ltd.
- xxiii. Huadi Steel Group Co., Ltd.

h. The China Chamber of Commerce for Metals, Minerals & Chemicals Importers & Exporters (CCCMC) has filed only injury and written submission.

- i. The Authority sent questionnaire to the known importers / users of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules.
- j. In response to the initiation of the subject investigation, following importers/users have responded by filing questionnaire response:
  - i. Heavy Metal & Tubes India Private Limited
  - ii. Krystal Global Engineering Limited
  - iii. Maxim Tubes Company Private Limited
  - iv. MBM Tubes Private Limited
  - v. Patels Airflow Limited
  - vi. Ratnadeep Metal and Tubes Limited
  - vii. Shubhlaxmi Metals and Tubes Private Limited
- k. The Authority sent the questionnaire to the following known Associations of the subject goods in India for circulation and calling for the necessary information in accordance with the Rules:
  - i. Associated Chambers of Commerce and Industry of India
  - ii. Confederation of Indian Industry
  - iii. Federation of Indian Chamber of Commerce and Industry
  - iv. Stainless-Steel Pipes and Tubes Manufacturers Association ('SSPTMA')
- l. The Stainless-Steel Pipes and Tubes Manufacturers Association has filed only post-oral hearing submissions. Further, this issue has been further dealt in the post disclosure section.
- m. 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:
  - i. Jindal Saw Limited
  - ii. Lal Baba Seamless Tubes
  - iii. Sandvik Asia Private Limited
- n. Due to the worldwide outbreak of COVID-19 and consequent restrictions on physical movement imposed by different countries, including India, the Authority circulated the non-confidential version of the evidence presented by the domestic industry and the various interested parties to the other interested parties for inspection among them.
- o. The request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of the subject goods for the past three years and also the period of investigation. The Authority has relied upon the DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- p. The non-injurious price (NIP) has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been considered to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.

- q. The period of investigation (POI) for the purpose of present investigation is 1<sup>st</sup> April 2020 – 31<sup>st</sup> March 2021 (12 months). The injury analysis period covers 1<sup>st</sup> April 2017 – 31<sup>st</sup> March 2018, 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019, 1<sup>st</sup> April 2019 – 31<sup>st</sup> March 2020 and the period of investigation.
- r. Considering the fact that the subject goods are being imported under various types, the applicants proposed the Product Control Numbers (PCNs) in order to make a PCN-to-PCN comparison for the injury examination.
- s. The Authority invited the views from the interested parties regarding the PCN methodology proposed by the domestic industry. A discussion for determination of PCN was conducted on 25<sup>th</sup> November 2021. All the interested parties were given time to submit their views in writing.
- t. The Authority finalized the PCNs vide letter dated 16<sup>th</sup> December 2021, pursuant to which the interested parties filed the PCN-wise information.
- u. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in an oral hearing held on 8<sup>th</sup> March, 2022 through video conferencing. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by the rejoinder submissions, if any.
- v. Physical verification of the information provided by the domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information, wherever applicable, has been relied upon for the purpose of the present final findings.
- w. Due to the worldwide outbreak of COVID-19 and consequent restrictions on physical movement imposed by the different countries, including India, the physical inspection through on-the-spot verification of the information submitted by the exporters were not carried out by the Authority. The desk verification of the information provided by the producers/ exporters, to the extent deemed necessary, was carried out by the Authority. Only such verified information, to the extent deemed necessary, has been relied upon for the purpose of this investigation.
- x. The 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, the parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- y. 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 its views on the basis of the facts available.
- z. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation. The Authority will further examine the evidentiary documents submitted by the interested parties

subsequent to this final finding, which will form the basis for conclusions at the time of the final findings.

- aa. \*\*\* in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- bb. The exchange rate adopted by the Authority for the subject investigation is 1 US \$: Rs. **75.22**

### **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

4. In the initiation notice, the product under consideration was defined as follows:

*“3. The product under consideration is stainless-steel seamless tubes and pipes with diameter up to and including 6 inches, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including subject goods imported in the form of defectives, non-prime or secondary grades.*

*4. Stainless-steel seamless tubes and pipes are used for structural purposes and to transfer liquids and gases. The product under consideration is used in application relating to oil and gas; petrochemicals and refineries; atomic energy; power generators including nuclear and thermal power; and aerospace and defence applications.*

*5. The product under consideration can be manufactured using either hot extrusion process or hot piercing process, which is also known as cross roll piercer process. The scope of product under consideration includes product manufactured using both processes.*

*6. The product under consideration is classified under Chapter 73 under tariff headings 7304. The customs classification is only indicative and is not binding on the scope of the present investigation.”*

5. Subsequently, comments were received from interested parties for clarification in the scope of the PUC and forming PCNs. The Authority held consultations with the domestic industry and other interested parties on the scope of the PUC and PCN methodology on 25th November, 2021. All the interested parties were allowed to make oral submissions followed by written submissions. It was clarified during the consultations that the interested parties would be allowed to make requests for product exclusions at later stages of the investigation. In view of the comments by all the interested parties, the definition of PUC was amended vide Corrigendum Notification F. No. 6/13/2021-DGTR dated 13th December, 2021. Paragraph 3 of the initiation notification was substituted by the paragraph below:

*“3. Stainless-Steel Seamless Tubes and Pipes with diameter up to and including 6 NPS, or comparable thereof in other unit of measurement, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including*

*subject goods imported in the form of defectives, non- prime or secondary grades.”*

6. Thereafter, the Authority notified the final PCN methodology vide communication dated 16<sup>th</sup> December, 2021 and circulated to all the interested parties and uploaded the same on the website of the Authority. Interested parties were directed to submit questionnaire responses as per the final PCN methodology by 30th December, 2021. The timeline was extended until 6<sup>th</sup> January, 2022 based on requests from interested parties. Subsequently, the Authority received certain requests for product exclusions, which are examined below.

### **C.1. Submissions by the other interested parties**

7. The following submissions were made by the other interested parties with regard to the product under consideration and like article.
  - a. The scope of the product under consideration should not include hot-rolled and cold-rolled steel products as there is significant value addition of at least 35% from hot-rolled to cold-rolled as per the Domestic Procurement Policy and the end-uses of both products are different and cannot be used interchangeably.
  - b. Tubacex offers hot-rolled and cold-rolled pipes and tubes to different customers as per their usage and requirement.
  - c. Mother tubes and further processed smaller tubes are not like articles as the domestic producers are using mother tubes of 42 mm diameter to produce smaller tubes of less than 42 mm diameter implying that both the products have separate markets. There is 20-35% value addition from mother tubes to smaller tubes.
  - d. Mother tubes are primarily used for the transportation of oil and gas and are built to endure and operate in low-pressure situations while smaller tubes are used in high-pressure situations, like in boilers, reactors, etc.
  - e. Smaller tubes have a lower diameter, higher thickness, and higher tolerance as compared to mother tubes which have a higher diameter and lower wall thickness, which indicates lower heat and pressure resistance. There is a price difference of around 25-30% between mother tubes and smaller tubes.
  - f. The Authority should not club upstream and downstream product to avoid exclusion of producers which import upstream product. Reliance cannot be placed on the anti-dumping investigation on imports of flat rolled products of stainless steel as in that case significant value addition took place upto hot rolling.
  - g. Grade 2328-1 is not manufactured by the domestic industry and should be excluded as it is a specialized grade used in boilers, manufactured by BHEL, for ultra-supercritical thermal plants operated by NTPC. Only the producers approved by NTPC can supply the said product.
  - h. While two of the applicants participated in the technical bid for supply for the grade 2328-1 by BHEL, it was rejected as BHEL found that they did not have the technical capability to supply the said grade. As commercial bid is placed post technical bid, none of the applicants were able to participate in the same.

- i. Grade 2328-1 cannot be compared to other products falling under the same PCN.
- j. Grade 2328-1 is easily identifiable by the Indian Customs since order for the grade is placed by the nomenclature. Since the said grade is only ordered by BHEL. Jiangsu Wujin has exported the same with proper description.
- k. The scope of the product under consideration should be limited to grades manufactured and sold by the domestic industry as per decision of the Hon'ble CESTAT on Oxo Alcohols Industries' Association v. Designated Authority and the findings of Authority in various cases.
- l. Defective, non-prime and secondary grades have not been included as PCN and must be excluded from the scope of the product under consideration since such low-priced products directly impact the export price and landed value of prime and quality checked grades.

## **C.2. Submissions by the domestic industry**

- 8. The submissions of the domestic industry with regard to the product under consideration and like article are as follows:
  - a. The product under consideration consists of both mother tubes/hollows, hot finished pipes and cold finished/drawn pipes and tubes.
  - b. The inclusion of hot-rolled and cold-rolled products is consistent with the past practice of the Authority, in anti-dumping and anti-subsidy investigations concerning imports of flat rolled products and seamless pipes and tubes of carbon steel.
  - c. Processing of the product from one type to another does not constitute captive consumption as has been claimed by the interested parties. Considering mother tubes processed into cold drawn pipes as captive consumption, would result in the double counting of the same product in the total production.
  - d. In a number of cases, the Authority has included both the primary product and the processed product, such as fatty alcohols, glass fibre, solar cells, PTFE and CPVC.
  - e. The reference by interested parties to the investigation concerning aluminium foils is not appropriate, as in that case, Raviraj Foils Limited and Jindal India Limited were importing foil stock, which was not part of a product scope, for producing foil.
  - f. The reliance by interested parties on Morocco – Hot-rolled steel pipes and 2 Methyl (5) Nitro Imidazole is not appropriate as in these cases the subject goods were captively consumed to make downstream products.
  - g. There is no requirement that the product types included in the product scope be homogenous, as held in EC – Farmed Salmon and EC – Fasteners. Thus, both mother pipes and smaller pipes can be included in the product scope.
  - h. Contrary to the claim of the other interested parties, the domestic industry can produce the specialized grades of the product under consideration.
  - i. Grade 2328-1 should not be excluded from the scope of the product under consideration as one of the producers constituting the domestic industry is an approved supplier of the said grade. The applicants are unable to supply the said

grade since the demand for such product is limited and low-priced imports have taken away such market.

- j. Grade 2328-1 is included within the scope of the product under consideration which is evident from the fact that the comments on PCN filed by the exporters constituted of a PCN for such grade.
- k. Since Grade 2328-1 is indistinguishable from other grades, the Customs Authority will not be able to check whether the declared product is actually the same grade, and it may lead to circumvention of anti-dumping duty. The European Commission, in anti-dumping investigation on imports of silico manganese from India, did not exclude low-carbon silico manganese as such exclusion would have led to circumvention of duties.
- l. Regarding the request for exclusion of secondary, non-prime or defective grades, it was emphasized that such grades are invariably generated in production of the subject goods, have same functions and uses, and are interchangeably used with the subject goods produced and sold by the domestic industry.
- m. Exclusion of secondary or non-prime grades would lead to gross circumvention of duty and would be inconsistent with the past practice of the Authority.

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

- 9. The product under consideration is Stainless-Steel Seamless Tubes and Pipes with diameter up to and including 6 NPS, or comparable thereof in other unit of measurement, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including subject goods imported in the form of defectives, non-prime or secondary grades.
- 10. The Authority, on the basis of the submissions and arguments made by the domestic industry and various other interested parties, provided an opportunity to all the interested parties to present their views orally on the PUC and the PCNs in a hearing held on 25<sup>th</sup> November, 2021. All the parties who had attended the oral hearing were provided an opportunity to file their written submissions on the PUC and the PCNs. Subsequently, on examination of the comments received from the various interested parties, the Authority finalized the PCN methodology for the present investigation and issued a clarification on the PUC through an order dated 16<sup>th</sup> December, 2021.
- 11. Also, it was clarified that the scope of the product under consideration does not include square, rectangular or triangular shaped pipes and tubes. All the interested parties were then requested to submit questionnaire responses on the basis of the finalized PCN methodology by 30<sup>th</sup> December, 2021. The finalized PCN methodology shall be applied to assess dumping and material injury being caused to the domestic industry for the products produced during the period of investigation.

12. Stainless-steel seamless tubes and pipes is classified under Chapter 73 under the Tariff Heading 7304. The tariff classification is only indicative and not binding on the scope of the product under consideration.

13. After obtaining views of all the interested parties, the Authority vide letter dated 16<sup>th</sup> December, 2021 notified the following PCN methodology for the purpose of the present investigation:

SN	Characteristics	Code Description	Code Sign
1	Finish/Process	Hot Finished Cold Finished	“H” “C”
2	Grade of Steel used	304, 304L, 304LN, 304H, 304N, 1.4301, 1.4306, 1.4307, 1.4567 or equivalents/variants thereof 316 or variants of 316, such as 316L, 316H, 316Ti, 316N, 316LN, 317L, 1.4401, 1.4404, 1.4435 or equivalents/variants thereof Tp-309S, Tp-309H, Tp-309cb, Tp-310S, Tp-310H, UNS S30815 or equivalents/variants thereof 321, 321 H, 1.4541, 1.4878 or equivalents/ variants thereof 347, 347H, 347HFG, Code case 2328-1 (UNS S30432), Tp-310HCbN (UNS S31042), 1.4550, 1.4961 or equivalents/ variants thereof UNS 31254, UNS N08904, UNS S31050, UNS N08020, UNS N08028, UNS N08800, UNS N08810, UNS N08811, UNS 31803, UNS 32205, UNS 32750, UNS 32760, 1.4501, 1.4410, 1.4547, 1.4462 or equivalents/ variants thereof Tp-410, Tp-410S, Tp-405, Tp-446 or equivalents/ variants thereof Other than above	“1” “2” “3” “4” “5” “6” “7” “8”
3	Outer Diameter	Upto 15.875 mm or equivalent in any other unit Above 15.875 mm - upto 33.40 mm or equivalent in any other unit Above 33.40 mm – and upto 60.30 mm or equivalent in any other unit Above 60.30 mm – and upto 101.60 mm or equivalent in any other unit Above 101.60 mm – upto 141.30 mm or equivalent in any other unit About 141.30 mm – upto 168.30 mm or equivalent in any other unit	“A” “B” “C” “D” “E” “F”

4	Wall Thickness	Upto 1 mm or equivalent in any other unit	“1”
		Above 1 mm – upto 5 mm or equivalent in any other unit	“2”
		Above 5 mm – upto 11 mm or equivalent in any other unit	“3”
		Above 11 mm – upto 16 mm or equivalent in any other unit	“4”
		Above 16 mm – upto 23 mm or equivalent in any other unit	“5”

14. Some of the interested parties have contended that hot-rolled pipes and cold rolled pipes are two different products and cannot be treated as one product under consideration. At the outset, the Authority notes that there is no requirement that the product scope be internally homogenous. The WTO Agreement as well as the domestic law do not define the product under consideration or establish any specific obligation concerning the scope of a product. The law intends to allow wide discretion to investigating authorities to determine the product under consideration. The product scope can include different product types, as long as dumping thereof is causing injury to the domestic industry. Therefore, merely because production of cold-rolled products requires additional processing or value addition, has a different use, or has a higher price, is not sufficient basis to conclude that both hot-rolled and cold-rolled pipes and tubes cannot be included within the scope of the product under consideration.
15. The Authority notes that hot-rolled pipes are intermediate products which are further processed into cold-drawn / cold-reduced pipes. Cold drawn process is further processing of the hot-rolled pipes and tubes. Thus, such a process is an incremental process. In view of the same, exclusion of one type of product under consideration will lead to imports of the other type at unfair prices into India.
16. As per the information on record, the responding exporters from the subject country have supplied both hot rolled and cold rolled pipes and tubes. Thus, exclusion of cold-rolled pipes and tubes from the scope of the product under consideration, is likely to lead to direct imports of cold-drawn pipes and tubes from the subject country, thereby nullifying the very purpose of the entire exercise of imposition of the anti-dumping duty. However, exclusion of hot-rolled products is likely to lead to increase in imports of the hot-rolled product and secondary products for further processing in India and thereafter selling as cold-rolled pipes, rendering the anti-dumping duty futile. Even at present, there are a number of processors or secondary producers in the country, as emphasized by the domestic industry as well as the interested parties. Therefore, exclusion of hot-rolled or cold-rolled pipes would defeat the purpose of any anti-dumping duty, if imposed.
17. The Authority notes that majority cost involved in the production of the subject goods is on raw material and utilities upto the stage of production of mother tubes/pipes. At the

stage of raw material, the cost of different types of products varies on account of composition of steel which is the defining feature in technical / chemical standards.

18. The product under consideration is manufactured using either hot extrusion process or hot piercing process. In case of hot extrusion, the basic production process includes peeling of round bar and cutting it to the desired length. Thereafter, a deep hole is drilled to remove impurities. The material is then heated at a temperature of 1050 – 1200 degrees centigrade. Such hot billets are then extruded on the hot extrusion press to make mother pipes. Similarly, in case of hot piercing, the round bar is cut to desired length and heated in a rotary at a temperature of 1050 – 1200 degrees centigrade. The hot billet is then pierced to obtain mother pipes. The production process is the same between hot-rolled pipes and cold-rolled pipes upto this stage. Process upto this stage is quite significant in terms of production efforts, plant & equipment and investments.
19. Information provided by the domestic industry shows that hot-rolled products and cold-rolled products can be treated as one product under consideration considering (a) both hot rolled and cold rolled products are produced by the same production technology; (b) manufacturing facilities are the same up to the stage of hot drawing; (c) essential raw material used for manufacture stainless-steel pipes and tubes are the same for both hot-drawn and cold-drawn products. Mere difference in terms of processing or in the end-use or price of the product does not imply that the same cannot be covered under the scope of the product under consideration.
20. The Authority notes that similar arguments on the scope of the product under consideration were made in the anti-dumping investigation on imports of Flat Rolled Products of Stainless Steel from China PR, Korea RP, European Union, Japan, Taiwan, Indonesia, USA, Thailand, South Africa, UAE, Hong Kong, Singapore, Mexico, Vietnam and Malaysia. However, the Authority held that hot-rolled and cold-rolled stainless steel flat products do not form two different products and are required to be considered as one product under consideration.
21. After analysing the submissions made by the domestic industry and the other interested parties, the Authority notes that as per the consistent practice, hot-drawn and cold-drawn pipes and tubes consists of the product under consideration in the present investigation. However, in view of the differences in cost and price of such pipes, the Authority has devised a PCN methodology segregating the two.
22. With regards to the contention that Grade 2328-1 should be excluded from the scope of the product under consideration, the Authority notes that the CESTAT in Oxo Alcohols Industries' Association v. Designated Authority held that any product imported into the country for which like article is not produced by the domestic industry should be excluded from the scope. As per the information on record, Grade 2328-1 is exclusively used by BHEL. One of the domestic producers has shown that it has the capacity to manufacture the said grade and has been approved by BHEL for supplying this grade.

The producer has further submitted that it has not been able to provide the same due to competition with cheap imports. In view of the same, the Authority finds that the like article of the domestic industry has already been approved by the user and thus, exclusion of Grade 2328-1 is not warranted in the present case.

23. Some of the interested parties have contended that defective, non-prime and secondary grades should be excluded from the scope of the product under consideration. The Authority notes that defective, non-prime and secondary grades are merely a different quality of the product under consideration and not different products. The basic manufacturing process, application and uses of the non-prime products remain the same as that of the subject goods manufactured by the domestic industry. Such grades are competing in the same market having the same functions and uses as well as used interchangeably. The cost of manufacturing such grades also remain the same, since they are produced in the same process as prime grades. Further, exclusion of such grades may lead to circumvention of anti-dumping duty. Exclusion of defective, non-prime and secondary grades is not warranted in the present investigation.
24. On the basis of the information on record, the Authority holds that there is no known difference in the subject goods produced by the domestic industry and the ones imported from the subject country. The Authority notes that the subject goods produced by the domestic industry and that imported from the subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the Authority finds that the subject goods produced by the domestic industry are like article to the product under consideration imported from the subject country.

#### **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

##### **D.1. Submissions by the other interested parties**

25. The following submissions have been made by the other interested parties with regard to the domestic industry and standing:
  - a. The domestic industry representing only 6% market share in the total demand cannot be considered representative of the Indian industry.
  - b. Maxim and Heavy Metal are also manufacturing the product under consideration from billets, which has not been acknowledged in the petition
  - c. Suraj Limited has not been considered as a primary or secondary producer and has been designated as a mere importer, despite being a known producer of the subject goods with significant domestic production, as noted by Olaf Report. The Authority must include the other producers within the domestic industry to avoid risk of material distortion as held by the Appellate Body in Russia – Commercial Vehicles and EC – Fasteners.

- d. The Authority must not disregard the producers that perform significant value addition of cold-rolling on hot-rolled mother tubes/pipes as being mere processors, as per its own practice in case of Aluminium foil of 80 microns and below from China PR. Further, such entities have been considered as the producers by the Ministry of Steel.
- e. The applicants have not provided any information regarding production of alleged secondary producers. Such secondary producers or processors producing the subject goods are eligible to be considered as the domestic producers, as per the view taken by the Appellate Body in US – Lamb and the Authority in anti-dumping investigation on imports of Choline Chloride.
- f. Only the Authority can decide which domestic producers fall within the scope of the domestic industry. The Rules do not provide for sou moto elimination by the applicants.
- g. Tubacex has imported the subject goods from other countries and must be excluded from the scope of the domestic industry under Rule 2(b). Rule 2(b) does not provide that the imported product shall be from the subject country only.
- h. In order to check whether the focus of the producer has shifted to importation, the Authority should check imports made by Tubacex in relation to production.
- i. Tubacex had been importing the subject goods from the subject country before the period of investigation and started importing the subject goods from the other countries right before filing the petition, just to avail benefit of the anti-dumping investigation.
- j. The imports by Tubacex have contributed injury to the domestic industry and thus, Tubacex must be excluded from the scope of the domestic industry.
- k. The Authority may check the grades imported by Tubacex. In case, grades domestically not manufactured by Tubacex were imported to build inventories in order to supply during the period of investigation, such product types should be excluded from the scope of the product under consideration.
- l. The Authority must examine the quantity of imports and nature of business of such imports made by Tubacex in the injury period and the post-POI. Thereafter, determine the standing of the domestic industry, as in the case of aluminium foil from China PR.
- m. Tubacex has procured the product under consideration during the period of investigation from traders such as Kobe Steel Ltd, Jay Jagdamba Ltd and Raju Steel Company who are importing from China PR.
- n. The Authority was required to issue a speaking order at the stage of initiation itself explaining why Tubacex has been considered as the domestic industry despite importing the subject goods from the subject country.
- o. Upon exclusion of Tubacex, the domestic industry may not fulfil the standing requirements as per Rule 2(b) and 5(3). Thus, the Authority must terminate the investigation in the absence of appropriate standing.
- p. If Tubacex is included within the scope of the domestic industry, then the members of the respondent association must also be included as the domestic industry, since such members have the same manufacturing process as Tubacex.

- q. Contrary to the submissions of the domestic industry, mere relationship with Sandvik Asia Private Limited with an entity in the country is insufficient grounds for disqualification of its production as part of total Indian production.
- r. There is a need to examine whether Tubacex and Chandan Steel had captively consumed or sold any inventories of the subject goods imported from China PR during the period of investigation, to ensure the applicants have not benefitted from the alleged dumping.
- s. Ratnamani Metals cannot be considered as a supporter as it has not provided a support letter in the format prescribed under the Trade Notice 13/2018 and 14/2018. As a result, the initiation is invalid.
- t. Ratnamani and Jindal, who have regularly participated in anti-dumping investigations, have not participated in the present investigation as they are earning bumper profits and have not suffered injury on account of the subject imports.
- u. If hot-rolled and cold-rolled products are clubbed, then the Authority must separately determine standing of the applicants for both the product types. Clubbing of hot-rolled and cold-rolled products would set wrong precedent by creating preference for vertically integrated companies and would prejudice the rights of the downstream producers to qualify as the domestic industry.

#### **D.2. Submissions by the domestic industry**

26. The following submissions have been made by the applicants with regard to the domestic industry and standing:

- a. The petition has been filed by Chandan Steel Limited, Tubacex Prakash India Private Limited and Welspun Specialty Solutions Limited and has been supported by Ratnamani Metals and Tubes Limited.
- b. The applicants account for 43% of the domestic production in India and along the supporters account for 67% of the domestic production in India. Thus, it constitutes a major proportion in domestic production and constitute the domestic industry under the Rules.
- c. The total production in India is overstated as it includes production of Sandvik Asia Private Limited which is related to an exporter in the subject country, namely, Sandvik Materials Technology (China) Co., Ltd., and such production should be excluded from the total Indian production.
- d. In case the production of Sandvik is excluded, the applicants account for 54% of the total Indian production and along with the supporter account for 85% of the Indian production.
- e. The applicants have not imported the subject goods from the subject country during the period of investigation.
- f. Tubacex imported negligible volume of the subject goods in comparison to the demand in India as well as the total imports in India prior to the period of investigation. As held by CESTAT in *Anwar Jute Mills v. Designated Authority*, imports made by the domestic industry are relevant only in the period of investigation. The focus of the applicant is manufacturing and not importing.

- g. While Tubacex has imported small volumes prior to the period of investigation and is majorly involved in manufacturing from round bars / billets, processors import the product under consideration in the form of hot-finished pipes and perform cold-drawn process on it.
- h. The question of eligibility under Rule 2(b) arises only when the producer has imported the alleged dumped article, and not imports from the non-subject countries, as also held by the Tribunal in Birla Ericsson v Designated Authority. Further, only imports during the period of investigation are relevant.
- i. Contrary to the claims of the other parties, the Authority has noted in the initiation notification itself that the domestic industry has not imported the subject goods from the subject country during the period of investigation.
- j. While Tubacex had purchased the subject goods from the traders identified by the interested parties for urgent requirements, it is not aware of the origin of such goods. As per information available with the domestic industry, the traders had not even imported the subject goods from China PR. While the interested parties have contended that traders imported subject goods from China PR to supply to Tubacex, they have not placed any evidence on record in this respect.
- k. The focus of Tubacex remains on production, and not importation, and it is one of the largest producers in India.
- l. Unlike the members of Indian Stainless Seamless Pipes Manufacturers Association (ISSPMA), Tubacex has a fully integrated plant with hot piercing machines, and produces the subject goods from bars and billets.
- m. Even if Tubacex is treated as ineligible to constitute the domestic industry, the production of the other applicants would nevertheless constitute a major proportion, almost 35% of the eligible production.
- n. In response to the contention of the interested parties, both Tubacex and Chandan have not captively consumed or sold inventories of the subject goods imported from China PR. In any case, Rule 2(b) requires consideration of only whether the product was imported during the period of investigation.
- o. Processors are not producers of the subject goods itself, since they are importing the subject goods in significant quantities and they are only engaged in cold drawing / cold reduction process, converting one form of the product under consideration into the other form of the product under consideration.
- p. The production of processors cannot be included in the total Indian production as the hot finished pipes imported / procured domestically by them are already accounted for in the total demand in India. The same view was taken by the Authority in the anti-dumping investigation on imports of Flat Rolled Products of Stainless Steel.
- q. In accordance with the test applied by the Authority in the anti-dumping investigation concerning imports of SDH equipment, merely processing of the goods from hot rolled to cold rolled cannot be considered as constituting production. The reference to the US – Lamb case is not appropriate as it only explains the definition of the domestic industry having regard to identification of like or directly competitive article.

- r. The mere fact that some of the producers may have performed better does not vitiate the constitution of the domestic industry. The Appellate Body in China – Anti-dumping and Countervailing Duties on Certain Automobiles held that the possibility that weaker performing producers in a given industry would more strongly support or participate in an investigation is simply a reflection of the realities of trade remedial actions.
- s. Suraj Limited was not listed as a domestic producer since despite having a plant, it has only imported the subject goods for re-export. It imported significant quantities, equivalent to almost 7% of total imports, and 100% of its production is processing of pipes. Accordingly, it was listed as an importer.
- t. Even though Sandvik has raised concerns regarding the determination of Indian production, it has not provided the actual production of its related producer in India.
- u. The Association should provide documentary evidence that the production of the subject goods from billets / round bars was started by Maxim Tubes Company Private Limited and Heavy Metal & Tubes (India) Private Limited prior to or during the period of investigation. It should also be established that these companies are not involved in importing the subject goods directly or indirectly.
- v. The capacities of the domestic producers claimed by the interested parties are not accurate. In some cases, such as in the case of Lal Baba, Tubacex and Jindal Saw Limited, the interested parties have referred to capacities including that of other products. In case of Ratnamani, the parties have relied upon outdated information. The total Indian production has been determined based on actual information, discussions with other producers and market estimates.
- w. In case of Chandan Steel, the capacity relied upon is that based on a particular size; however, for the present investigation, it has provided capacity based on its records.
- x. Vide Trade Notice 4/2021 dated 16<sup>th</sup> June 2021, the Authority has allowed supporters to express support after giving information with regard to capacity, production, and sales.
- y. Even if support letters are not considered, the requirements of Rule 5(3) are satisfied.
- z. Since the processors are importing the subject goods, they are participating in the investigation to oppose any duty.

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

27. Rule 2(b) of the Anti-Dumping Rules defines the domestic industry as under:

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

28. The petition was filed by Chandan Steel Limited, Tubacex Prakash India Private Limited and Welspun Specialty Solutions Limited. No imports have been made by the applicants from the subject country during the period of investigation. It is further noted that the applicants are not related to any importer or exporter of the subject goods in the subject country. The petition was supported by Ratnamani Metals and Tubes Limited. Post initiation of investigation, Lal Baba Seamless Tubes has also expressed support vide letter dated 14<sup>th</sup> March 2022.
29. The Authority notes that Tubacex Prakash India Private Limited has imported the subject goods from the subject country prior to the period of investigation. However, no imports have been made during the period of investigation. Since Rule 2(b) refers to the imports of alleged dumped article, only the imports made by the domestic industry from the subject country during the period of investigation are relevant and not imports made prior to or post-period of investigation. Therefore, the exclusion under Rule 2(b) is not attracted.
30. The Authority further notes that in evaluating the eligibility of a producer to constitute the domestic industry, the following factors are considered.
  - i. if the domestic producer is predominantly an importer and not a manufacturer of the product in India, they can be excluded.
  - ii. if the domestic producer has shielded itself from the effects of dumping by resorting to imports or exports to a related party, they should be excluded.
  - iii. if a domestic producer has participated in some way in the dumping practices or has otherwise unduly benefitted from it, they must be excluded.
  - iv. if the inclusion of a domestic producer would distort the injury findings, they must be excluded.
  - v. if a domestic producer does not co-operate with the Authority, such producer can be deemed ineligible.
31. The Authority notes that in the present case, Tubacex is predominantly a manufacturer, and its focus has not shifted from production to importation. Rather, Tubacex has slightly increased its capacity, by about 18%, over the injury period. Further, there is no evidence that Tubacex has shielded itself or benefitted from dumping, as its performance has been adverse even during the period when it was importing the subject goods. Since it is amongst the largest domestic producers, exclusion of Tubacex would lead to distortion of the findings.
32. Some of the interested parties have contended that there is a need to check captive consumption as well as sales of Tubacex Prakash India Private Limited and Chandan Steel Limited for the subject goods imported from the subject country. The Authority notes that none of the applicants captively consume the product under consideration. Since hot-drawn and cold-drawn pipes and tubes consists of the product under

consideration, consumption of hot-drawn pipes cannot be considered as captive consumption of the subject goods.

33. Some of the interested parties have contended that the domestic industry with market share of 6% is not represented of the Indian industry. The Authority notes that according to Rule 2(b) of the Anti-Dumping Rules, the domestic industry includes the domestic producers of the subject goods whose output constitutes major proportion of the domestic production in India. Since the applicants constitute major proportion of the domestic production in India, they can constitute the domestic industry.
34. Some of the interested parties have contended that the secondary producers in India should be included within the scope of the domestic industry. As per the evidence on record, the secondary producers procure the product under consideration and process it to change its form. The input as well as the output of the said producers constitutes the product under consideration. The production by the secondary producers is already accounted for in the total demand in India in either the imports into the country or the domestic sales of the domestic producers. The Authority notes that such producers are mainly involved in importation of the product under consideration and performing cold drawn process on the product under consideration. The focus of the said producers is importation rather than manufacturing. The imports by the secondary producers have been significant and they have contributed to dumping in India. As per the evidence on record, the performance of the secondary producers has been positive while the domestic industry has incurred losses. Thus, the said producers have shielded themselves from and benefitted from dumping in India. Hence, the Authority holds that they are ineligible to constitute the domestic industry. In light of the above, the production by Suraj Limited cannot be considered for determining the total Indian production as the company is a major importer of the subject goods from the subject country. As per the information on record, Suraj Limited has imported substantial quantity of the subject goods from the subject country.
35. With regards to the contention that Ratnamani Metals & Tubes Limited cannot be considered as a supporter since it has not submitted the letter in the prescribed format, the Authority notes that Trade Notices 13/2018 and 14/2018 have been replaced by Trade Notice 4/2021 dated 16<sup>th</sup> June 2021 allowing the supporters to express support after giving information concerning capacity, production and sales. Ratnamani Metals & Tubes Limited has supplied such information. Therefore, the Authority has considered the support expressed by Ratnamani Metals & Tubes Limited in the present investigation.
36. Some of the interested parties have contended that the production of Sandvik Asia Private Limited cannot be excluded from the total Indian production merely due to relationship with an entity in the subject country. The Authority notes that Sandvik Asia Private Limited has a related entity in the subject country, namely, Sandvik Materials Technology (China) Company Limited. As per evidence on record, Sandvik Materials Technology (China) Company Limited has exported to India during the period of

investigation. Further, Sandvik Asia Private Limited has not cooperated with the Authority, even though its related producer in China PR has filed a response. Thus, in accordance with Rule 2 (b) of the Anti-Dumping Rules, the production of Sandvik Asia Private Limited is not considered in the total Indian production.

37. The applicants account for a major proportion of the domestic production.

Producer	Production (MT)	Share in production (%)	Share in production (Range)
Applicants	***	***	50-60%
Chandan Steel Limited	***	***	10-20%
Tubacex Prakash India Private Limited	***	***	25-35%
Welspun Specialty Solution Limited	***	***	5-15%
Supporters	***	***	30-40%
Ratnamani Metals & Tubes Limited	***	***	25-35%
Lal Baba Seamless Tubes	***	***	0-10%
Other producers	***	***	5-15%
Jindal Saw Limited	***	***	5-15%
Total Indian Production	18,263	100%	100%

The production of Lal Baba Seamless Tubes was inadvertently added into the production of other producers in the disclosure statement. The Authority has now corrected the same and added it to the total production of supporters. The total Indian production as well as share in of the petitioners has remained unchanged.

38. Thus, the Authority holds that Chandan Steel Limited, Tubacex Prakash India Private Limited and Welspun Specialty Solutions Limited constitute the domestic industry under Rule 2(b) and the petition satisfies the requirements of Rule 5(3) of the Anti-Dumping Rules.

## **E. CONFIDENTIALITY**

### **E.1. Submissions by the other interested parties**

39. The following submissions have been made by the other interested parties with regard to confidentiality:

- Trade notices are binding on all the interested parties as held by Hon'ble Supreme Court in Steel Authority of India v. Collector of Customs, Bombay and Bombay High Court in Star Chemicals (Bombay) Limited v. Union of India.
- The applicants have claimed excessive confidentiality inconsistent with Trade Notice 10/2018 and failed to disclose (i) actual sales value and sales realization per

- unit (ii) R&D expenses and funds raised (iii) PBIT per unit and total PBIT and (iv) interest / finance cost and depreciation and amortization expenses.
- c. The applicants have not provided any information in costing formats A-L without any reasonable justification or good cause, which is in violation of Trade Notice 1/2013.
- d. The applicants have not provided their financial statements and balance sheet which are in public domain, which is inconsistent with Trade Notice 1/2013.
- e. For funds raised, the applicants have drawn reference to financial statement. However, the applicants are multi-product companies and financial statements cannot reflect information for only product under consideration, denying the interested parties their right of defense.
- f. The applicants have claimed confidentiality regarding the capacity and production of supporting producer, non-supporting and secondary domestic producers or processors, when such producers have themselves not claimed any confidentiality.

## **E.2. Submissions by the domestic industry**

- 40. The following submissions have been made by the domestic industry with regard to confidentiality:
  - a. The exporters have claimed excessive confidentiality and not adhered to the Trade Notice 10/2018 by claiming channel of distribution, corporate structure, related parties engaged in activities relating to the product under consideration, manufacturing process, raw material, publicly available information and information of producers of the product under consideration, confidential.
  - b. Some of the producers have claimed the whole responses to questions as confidential instead of redacting only confidential parts. The applicants are unable to defend their interest in such a case.
  - c. Zhejiang HongQuan Stainless Steel Company Limited has made contrary submissions in the response. At one place it has claimed the name of the related party confidential while at another place has claimed that it does not have related parties.
  - d. There is a need to check whether any related entity is involved in activities related to the product under consideration.
  - e. Disclosure of actual selling price, cost and profit would allow customers to know the level of profits earned by the domestic industry and the average selling price, and may lead to demands for price adjustments from customers. Other domestic producers would also be able to redraw their pricing strategy based on these average prices.
  - f. Chandan Steel Limited and Welspun Specialty Solutions Limited account for a major share of the production of the domestic industry, and disclosure of actual cost and pricing information would result in the information of the two larger producers being disclosed, to a great extent, inter-se.

- g. The domestic industry has disclosed that R&D expenses and funds raised were not identifiable separately for the product under consideration, and reference may be made to the financial statements.
- h. Since R&D expenses and funds raised are not injury parameters, the rights of the interested parties cannot be prejudiced by non-disclosure thereof.
- i. While the interested parties have claimed that the domestic industry was required to give financial statements under Trade Notice 1/2013, they have not provided such statements themselves.
- j. Since the information contained in Section VI relates to business proprietary information, the same cannot be disclosed to the interested parties.
- k. Contrary to the assertions of the interested parties, the domestic industry has justified the confidentiality claimed by it.
- l. Since the supporters have provided the information on a confidential basis, the same cannot be disclosed.

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

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

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

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

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

42. The Authority considers that any information which is by nature confidential (for example, the disclosure of which would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a

person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by the parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.

43. 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. The Authority made available to all the interested parties the non-confidential version of the evidence submitted by the various interested parties for inspection as per Rule 6(7) of the Anti-Dumping Rules.
44. With regards the contention that the domestic industry has failed to disclose the information on production of other producers, it is noted that such information is the proprietary information of other producers and thus, cannot be disclosed.
45. With regards the R&D expenses and funds raised, the Authority notes that these parameters do not impact the injury to the domestic industry. Since these are not directly impacting the injury parameters, no prejudice has been caused to the interest of any interested party.
46. With regards to the disclosure of actual sales value, sales realization per unit, PBIT per unit and total PBIT per unit, the Authority notes that the domestic industry has stated that the disclosure of the said information would be of significant disadvantage to the domestic industry. It is also noted that the data prior to 2019-20 constitutes of only two producers and disclosure of actual information will lead to disclosure of information of the two applicants.

## **F. MISCELLANEOUS ISSUES**

### **F.1. Submissions by the other interested parties**

47. The submissions made by the other interested parties with regards to other issues are as follows:
  - a. The petition did not contain sufficient basis to necessitate initiation.
  - b. The domestic industry must provide entire import data inclusive of imports for re-exports which have been excluded in the import segregation, as per the segregation methodology.
  - c. For price effect, the Authority is requested to examine segregation methodology adopted by the domestic industry along with conversion factor used for conversion of different units of quantity into single measurement for a meaningful analysis of imports.
  - d. Sandvik is not aware whether the import data received on 8<sup>th</sup> March 2022 is the data as provided by the applicants or collected from the DGCI&S by the Authority.

- e. Sandvik has not received authorization from the Authority to obtain DGCI&S data as per Trade Notice 7/2018 and in absence of such authorization, it is unable to provide any meaningful comments regarding accuracy of imports data provided by the applicants.
- f. Fixed form of duty would negatively impact downstream users who import the subject goods and offer unfair protection to the domestic industry in light of the demand-supply gap in the country.
- g. The Authority should recommend a fixed quota or a trigger price of form of duty to avoid overburden on the users due to higher prices, as in the case of pre-sensitized positive offset aluminium plates from Bulgaria, China PR, Malaysia, Singapore and South Korea, or the case of Acetone from Korea RP, Saudi Arabia and Taiwan.
- h. The Authority is not the appropriate forum to raise concerns regarding mis-declared goods.
- i. If the Authority holds that subject goods are being mis declared in India, it will be applicable to all exporters and importers without an explicit investigation against them.

#### **F.2. Submissions by the domestic industry**

- 48. The submissions made by the domestic industry with regards to other issues are as follows:
  - a. The total volume of imports into India must be determined after exclusion of imports made for re-exports as done by the Authority in anti-dumping investigation on imports of caustic soda.
  - b. The domestic industry has provided sorted import data as provided in Trade Notice 7/2018.
  - c. The argument that fixed form of duty would be injurious to users has been made by exporters of the subject goods, and not users.
  - d. The request for trigger price form of duty should not be accepted since the prices of steel and steel products have increased significantly in recent period, and such trigger price would render the duty futile.
  - e. Cold drawn / cold finished products exported from the subject country are being mis-declared as semi-finished / hot-rolled products in India, as evident from the Report issued by the Anti-Fraud Office of the European Commission.
  - f. As regards the claim that mis-declaration of goods cannot be raised before the Authority, it was submitted that the issue is relevant for determination of volume and price of imports, demand in the country, and appropriate PCN.

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

- 49. The Authority notes that the present investigation was initiated based on a duly substantiated petition filed by the domestic industry. The investigation was initiated after *prima facie* satisfaction regarding existence of dumping, injury and causal link. The

petition contained all information relevant for the purpose of initiation of the investigation. Subsequent to initiation, further information has been sought from the applicants to the extent deemed necessary and the same has been provided by the applicants.

50. With regards to the contention that the Authority is not the appropriate forum to raise concerns regarding mis-declaration of goods, it is noted that the concerns of the applicants relate primarily to the correct identification of hot-rolled and cold-rolled pipes and tubes. In the present case, the Authority has referred to and considered the data of the responding producers for determination of the PCN-wise prices, including export price and landed price. The information provided by the exporters was duly verified by the Authority during the course of the investigation. The Authority has considered such verified information submitted by the cooperating producers / exporters for the purpose of determination of margins, and not the data as declared to the customs authorities.
51. As regards the form of duty, the Authority shall determine the same only after inviting comments to the disclosure statement from all interested parties, and after having concluded the existence of dumping, injury and causal link, and the need for imposition of anti-dumping duty.
52. With regards to the contention that there is a need to check the segregation methodology and conversion factor adopted by the domestic industry, the Authority notes that physical verification of data has been conducted in the present investigation. The Authority has considered only the verified data including segregation methodology and conversion factors for the purpose of the present final findings.

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

### **G.1. Submissions by other interested parties**

53. The following submissions have been made by the other interested parties with regard to the normal value, export price and dumping margin:
  - a. China PR should not be treated as a non-market economy since Article 15 of the Accession Protocol has expired on 11<sup>th</sup> December 2016, as understood by US and EU at the time of China's accession to WTO. As such, the practice of determining 'surrogate country' for normal value determination should not be used. Reference can be made to the recent Appellate Body report in EC-Fasteners (China).
  - b. India is bound by the principle of "pacta sunt servanda" as a member of WTO and must recognize China's full market economy status from 11<sup>th</sup> December 2016. It cannot invoke domestic law as a justification for failure to perform.
  - c. Statement issued by White House and Explanatory Memorandum attached to EU Council decision reveal that US and European Union also shared the understanding that China PR can be treated as a non-market economy only till 11<sup>th</sup> December 2016.

- d. The cost and prices provided by the producers must be used to determine normal value and not analogue country data.
- e. Korea RP is not an appropriate third country as the volume of imports from Korea RP is very low and it is not possible to determine PCN wise export price from the import description.
- f. The Authority should determine individual margin for Sandvik based on the questionnaire response, which will show that it is not dumping.
- g. Sandvik operated under market economy conditions as the business decisions regarding prices, costs and inputs etc. are in response to demand-supply situation in the market and without any interference of the State. Sandvik is subject to bankruptcy and property laws and the exchange rate is determined market
- h. Contrary to the submissions of the domestic industry, Sandvik is a manufacturer of the subject goods and has provided details of manufacturing activity to the Authority. Procession of mother tubes into cold rolled pipes and tubes constitute manufacturing as the final product is not the same as mother tubes and cannot be used for the same purpose.
- i. The Authority should not sample producers / exporters at such belated stage as sampling should have been done before filing of questionnaire response, as is also practice of US and EU.
- j. Even if the Authority undertakes sampling, Jiangsu Wujin should be sampled as it majorly supplies special grades of products for use in projects of Government of India.

## **G.2. Submissions by the domestic industry**

- 54. The following submissions have been made by the domestic industry with regard to the normal value, export price and dumping margin:
  - a. China PR should be treated as a non-market economy in accordance with Article 15(a)(i) of China's Accession Protocol and the normal value should be determined in terms of Annexure I, Rule 7 of the AD Rules.
  - b. Since the provisions of Article 15(a)(i) of China's Accession Protocol continue to remain in force, the producers in China PR are required to show that market economy conditions prevail.
  - c. The Appellate Body in EC – Fasteners did not deal with specifically whether the entire provisions of Article 15(a) or only the provisions of Article 15(a)(ii) shall lapse on the expiry of 15 years.
  - d. In all recent investigations, the Authority has considered China PR to be a non-market economy.
  - e. Contrary to the claims of the interested parties, European Union and USA continue to disregard domestic sales and cost of China PR. While China had approached the WTO Dispute Settlement Body regarding the same, but later suspended it.
  - f. Since no exporter, barring one, has filed for a market economy status, they should be treated as operating in a non-market economy. The normal value should be determined based on the imports of Korea RP into India as Korea RP has the second

highest imports to India after the subject country. As held by the Tribunal in Kuitun Jinjiang Chemical Industry Company Vs. Designated Authority, only the volume of the exports and whether the surrogate country is dumping during the period of investigation is relevant.

- g. Sandvik Materials Technology (China) Co., Ltd., cannot be granted market economy treatment as the foreign exchange rate in China PR is regulated by the Government and electricity has been provided by the State Grid Company Limited at subsidized price.
- h. While the exporter has claimed that the monthly foreign exchange conversion rates are set by the Sandvik Group, the local rate for yearly statements is as per the Chinese Central Bank. The Government undervalues its currency to ensure that the Chinese goods remain competitive in the international market.
- i. The Authority has held that the electricity in China PR is provided at subsidized rates in a number of investigations including that on imports of Welded Stainless-Steel Pipes and Tubes, Saccharin and Atrazine Technical.
- j. Sampling of producers is necessary since a number of producers have participated, of which some constitute a very small share of imports, and the Authority has limited time to conclude the investigation. Sampling must be done based on volume of exports.
- k. Individual duties cannot be awarded to Sandvik as it is a processor and not a producer. It procures the subject goods from its related party in India and Sweden and performs only cold drawn process on it. Since both the related parties have failed to participate in the present investigation, individual duties cannot be granted.
- l. Sandvik has failed to establish that it has procured the subject goods from its related parties in at arm's length basis. In case such inputs are not at arm's length basis, the cost of production of the exporter is understated especially due to the fact that the major cost of production happens at the stage of hot finishing.
- m. There is a need to check the inputs used by the exporters to produce the product under consideration. In case the exporters merely undertake processing by procuring mother hollows, no individual duties can be granted to them.
- n. Korea RP cannot be rejected as surrogate country merely because of PCN-wise information is not available. The Authority can rely on the information available from DGCI&S data.

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

55. 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:*

*4. 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;*

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

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

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

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

56. It is noted that while the provision contained in Article 15 (a)(ii) of China's Accession Protocol have expired on 11<sup>th</sup> December 2016, the provision under Article 2.2.1.1 of the

Anti-Dumping Agreement read with obligation under Article 15(a)(i) of the Accession Protocol require the criterion stipulated in para 8 of the Annexure I of the Rules to be satisfied through information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that except Sandvik Material Technology (China) Company Limited, no other producers/ exporters from China PR has submitted information substantiating that they are operating under market economy conditions, the normal value is required to be determined as per provisions of para 7 of Annexure I of the Rules.

57. With regards to the contention of sampling, the Authority notes that it has not resorted to sampling in the present investigation and hence, these concerns are not required to be addressed.
58. The Authority has examined the market economy treatment claim made by Sandvik Materials Technology (China) Co., Ltd. The exporter has stated that it is a 100% subsidiary of a Swedish Company and procures raw material from related entities situated in Sweden and India. The Authority notes that the producer has not established that the procurement of raw material from the related parties was at an arm's length price. It is further noted that the exporter has failed to establish that the cost of utilities, including electricity and water, consumed is reflective of a fair market price. As per the evidence on record, the company has purchased electricity from State Grid Jiangsu Electric Power Company Limited which is a part of the Chinese Government owned State Grid Company Limited. The price at which the said entity supplies to the producer is not reflective of market prices. In such a case, the Authority concludes not to grant market economy status to Sandvik Materials Technology (China) Co., Ltd.

### **Determination of Normal Value**

#### **Examination of normal value for China PR**

59. The Authority notes that barring Sandvik Materials Technology (China) Co., Ltd. none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, the normal value has been determined in accordance with para 7 of Annexure I of the Rules which reads as under:

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

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

60. The applicants have claimed that Korea RP should be considered as market economy third country and accordingly, have claimed normal value on the basis of price of exports from Korea RP to India. The applicants have determined normal value on the basis of CIF price of exports from Korea RP to India. Such price has been adjusted for ocean freight, marine insurance, port expenses, commission, bank charges and inland freight. Since apart from China PR, imports from Korea RP account for significant imports in India and there is no evidence of dumping from Korea RP, the Authority examined whether the price of such imports can be used for the determination of normal value. However, it is noted that the Authority has adopted PCN in the present investigation. The descriptions of the import transactions, as reported in the Indian customs data, from Korea RP do not permit the identification of the PCNs in all cases. Since it is necessary to undertake PCN-wise comparison in the present investigation, the import data from Korea RP cannot be considered. Therefore, in the absence of accurate identification of PCN-wise information, the normal value cannot be determined based on the imports from Korea RP to the other countries, including India.
61. In view of the above, the normal value for the product under consideration imported from China PR into India is determined “on other reasonable basis” on the basis of price payable in India. The normal value for all the producers in China PR has been determined based on cost of production as optimized for the domestic industry after reasonable additions for the selling, general & administrative expenses and the reasonable profit margin and the same is given in the dumping margin table below.

### **Determination of Export Price**

62. The followings producers / exporters have filed responses to the exporters' questionnaire:

#### **I. Bangnuo Group**

- a. Zhejiang Bangnuo Steel Pipe Co., Ltd. (“Zhejiang Bangnuo”)
- b. Wenzhou Sparkling International Trade Co., Ltd. (“Wenzhou Sparkling”)

#### **II. Zhejiang Group**

- a. Zhejiang HongQuan Stainless Steel Co., Ltd. (“HongQuan”)
- b. Zhejiang YinLong Stainless Steel Co., Ltd. (“YinLong”)
- c. Zhejinag Yinlai Steel Tube Co., Ltd. (“YinLai”)

### **III. Huatian Group**

- a. Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.
- b. Wenzhou Huachao Tech Co., Ltd. (“Huachao”)

### **IV. SODO Group**

- a. Wenzhou Sodo Stainless Steel Manufacturing Company Limited (“Wenzhou Sodo”)
- b. Wenzhou Gissun Stainless Steel Co., Ltd. (“Wenzhou Gissun”)
- c. Leo Ronaldo (UK) Hi-Tech Metals Limited [“Leo Ronaldo (UK)”]

### **V. Yi Jia Wang Group**

- a. Zhejiang Yi Jia Wang Steel Tube Co., Ltd. (“Yi Jia wang”)
- b. Wenzhou New Succeed International Trading Co., Ltd. (“Wenzhou New Succeed”)

### **VI. Zhejiang Jiuli Hi-Tech**

- a. Zhejiang Jiuli Hi-Tech Metals Co., Ltd. (“Jiuli”)

### **VII. Shengtak**

- a. Shengtak New Materials Co., Ltd.

### **VIII. Sandvik**

- a. Sandvik International Trading (Shanghai) Co., Ltd.
- b. Sandvik Materials Technology (China) Co., Ltd.

  

- i. Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.
- ii. Zhejiang Tsingshan Steel Pipe Co., Ltd.
- iii. Huadi Steel Group Co., Ltd.
- iv. Zhejiang Dingshang Stainless Steel Co., Ltd. (“Dingshang”)
- v. Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd. (“Jinxin”)
- vi. Zhejiang Junda Steel Pipe Manufacturing Co., Ltd (“Junda”)
- vii. Zhejiang Xintongda Special Steel Manufacturing Co., Ltd. (“Xintongda”)

### **Determination of export price**

#### **I. Bangnuo Group**

**Export price for Zhejiang Bangnuo Steel Pipe Co., Ltd.**

63. Zhejiang Bangnuo Steel Pipe Co., Ltd., is a limited liability company. During the period of investigation, Zhejiang Bangnuo Steel Pipe Co., Ltd., has exported \*\*\* MT of the product under consideration to India through unrelated trader, Wenzhou Sparkling International Trade Co., Ltd.
64. Zhejiang Bangnuo Steel Pipe Co., Ltd., has claimed the adjustments on account of ocean freight, marine insurance, inland freight and port expenses. In its post disclosure statement, the company stated that it is understood that the Authority has assessed a very high constructed normal value and non-injurious price, resulting in high rate of dumping margin and injury margin for them and urged the Authority to re-examine the calculation of dumping and injury margin. Accordingly, the Authority re-examined the calculation of margins and found out that the margins needed correction. The re-worked dumping margin is shown in the dumping margin table below.

## **II. Hongquan Group**

### **Export price for Zhe Jiang HongQuan Stainless Steel Co., Ltd.**

65. Zhe Jiang HongQuan Stainless Steel Co., Ltd., is a limited liability company. During the period of investigation, Zhe Jiang HongQuan Stainless Steel Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.
66. Zhe Jiang HongQuan Stainless Steel Co., Ltd., has claimed the adjustments on account of inland freight, port charges, marine insurance, ocean freight and bank charges. Accordingly, the net export price at ex-factory level for Zhe Jiang HongQuan Stainless Steel Co., Ltd., has been determined and same is shown in dumping margin table below.

### **Export price for Zhejiang Yinlong Stainless Steel Co., Ltd.**

67. Zhejiang Yinlong Stainless Steel Co., Ltd is a limited liability company. During the period of investigation, Zhejiang Yinlong Stainless Steel Co., Ltd has exported \*\*\* MT of the product under consideration directly to India.
68. Zhejiang Yinlong Stainless Steel Co., Ltd has claimed the adjustments on account of ocean freight, marine insurance, inland freight, port expenses and bank charged. Accordingly, the net export price at ex-factory level for Zhejiang Yinlong Stainless Steel Co., Ltd. has been determined and same is shown in dumping margin table below.

### **Export price for Zhejiang Yinlai Steel Tube Co., Ltd.**

69. Zhejiang Yinlai Steel Tube Co., Ltd. is a limited liability company. During the period of investigation, Zhejiang Yinlai Steel Tube Co., Ltd. has exported \*\*\* MT of the product under consideration directly to India. It is noted that though the exports by this company

are not representative but since the company is a part of Hongquan Group, therefore Authority has proceeded with the group treatment for the said producer/exporter.

### **III. Huatian Group**

#### **Export price for Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.**

70. Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd. is a limited liability company. During the period of investigation, Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd. has exported \*\*\* MT of the product under consideration to India through unrelated trader, Wenzhou Huachao Tech Co., Ltd. However, \*\*\* MT Wenzhou Huachao Tech Co., Ltd. sold to India directly purchased from another producer/exporter/trader who has not participated.
71. Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd. has claimed the adjustments on account of ocean freight, marine insurance, inland freight and port expenses. In its post disclosure statement, the company stated that it is understood that the Authority has assessed a very high constructed normal value and non-injurious price, resulting in high rate of dumping margin and injury margin for them and urged the Authority to re-examine the calculation of dumping and injury margin. Accordingly, the Authority re-examined the calculation of margins and found out that the margins needed correction. The re-worked out dumping margin is shown in the dumping margin table below.

### **IV. SODO Group**

#### **Export price for Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd.**

72. Wenzhou Sodo Stainless Steel Manufacturing Company Limited is a limited liability company. During the period of investigation, Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd., has exported \*\*\* MT of the product under consideration to India through unrelated trader, Wenzhou Gissun Stainless Steel Co., Ltd., and \*\*\* MT through unrelated trader, Leo Ronaldo (UK) Hi-Tech Metals Limited. However, \*\*\* MT Leo Ronaldo (UK) Hi-Tech Metals sold to India directly purchased from Wenzhou Gissun Stainless Steel Co., Ltd., which is produced by another producer/exporter who has not participated.
73. Wenzhou Sodo Stainless Steel Manufacturing Company Limited has claimed the adjustments on account of inland freight, port charges, ocean freight, bank charges and marine insurance. Accordingly, the net export price at ex-factory level for Wenzhou Sodo Stainless Steel Manufacturing Company Limited has been determined and same is shown in dumping margin table below.

74. Further, Wenzhou Sodo Stainless Steel Manufacturing Company Limited has claimed in their EQR Part-1 that the name of exporter Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd. (hereinafter referred to as “WENZHOU SODO” or “the company”) was changed to Zhejiang Sodo Stainless Steel Manufacturing Co., Ltd with effect from 15th November, 2020. In this regard they have submitted Business License, Change registration form and Organization Chart. The same issues, along with the same documents, were reiterated vide their email dated 08.09.2022, requesting the Authority to mention the new name in the duty table as well as other relevant places of the Final Findings since the exporter has fully cooperated with the Authority. The Authority has examined the issue and noted that for change of name there is a set procedure laid down in Trade Notice No. 12/2018 dated 17.09.2018. The Authority, therefore, urges WENZHOU SODO to apply under Trade Notice No. 12/2018 dated 17.09.2018.

#### **V. Yi Jia Wang Group**

##### **Export price for Zhejiang Yi Jia Wang Steel Tube Co., Ltd. and Wenzhou New Succeed International Trading Co., Ltd.**

75. Zhejiang Yi Jia Wang Steel Tube Co., Ltd., is a limited liability company. During the period of investigation, Zhejiang Yi Jia Wang Steel Tube Co., Ltd., has exported \*\*\* MT of the product under consideration to India through Wenzhou New Succeed International Trading Co., Ltd.

76. Zhejiang Yi Jia Wang Steel Tube Co., Ltd., has claimed the adjustments on account of ocean freight, marine insurance, inland freight, port expenses and bank charged. Accordingly, the net export price at ex-factory level for Zhejiang Yi Jia Wang Steel Tube Co., Ltd., has been determined and same is shown in dumping margin table below.

#### **VI. Zhejiang Jiuli Hi-Tech**

##### **Export price for Zhejiang Jiuli Hi-Tech Metals Co., Ltd.**

77. Zhejiang Jiuli Hi-Tech Metals Co., Ltd., is a limited liability company. During the period of investigation, Zhejiang Jiuli Hi-Tech Metals Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.

78. Zhejiang Jiuli Hi-Tech Metals Co., Ltd., has claimed the adjustments on account of Ocean freight, marine insurance, inland freight, port expenses and bank charges. Accordingly, the net export price at ex-factory level for Zhejiang Jiuli Hi-Tech Metals Co., Ltd., has been determined and same is shown in dumping margin table below.

#### **VII. Shengtak**

##### **Export price for Shengtak New Materials Co., Ltd.**

79. Shengtak New Materials Co., Ltd., is a limited liability company. During the period of investigation, Shengtak New Materials Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.
80. Further, on analysis of response/desk verification of documents filed by the exporter, the Authority noted that the quantity of exports reported by the exporter significantly differed from the DG Systems data. In this regard, the Authority issued a letter dated 22nd August, 2022, providing an opportunity to the exporter to clarify the same. The producer/exporter had replied on 25th August, 2022. On examining the additional data provided by Shengtak New Materials Co., Ltd., it is observed that the exports declared by the producer/exporter for the period of investigation are not correlating with the DG Systems data available with the Authority. On request of the exporter, the Authority had provided DG Systems data to the exporter vide email data 05-09-2022. In response, the exporter submitted documentary evidence and clarified the quantity mismatch. Whereas the Authority has taken note of the clarification regarding mismatch, the Authority has also noted that in some of the import entries in the DG systems data, the word “Hot” is clearly mentioned in the description, while in appendix-3A, all entries are claimed as Cold Finished. Therefore, the Authority decides to reject the response filed by the company and has not determined the individual margins for the company.

## **VIII. *Sandvik***

### **Export price for Sandvik Materials Technology (China) Co., Ltd.**

81. Sandvik Materials Technology (China) Co., Ltd is a limited liability company. During the period of investigation, Sandvik Materials Technology (China) Co., Ltd has directly exported \*\*\* MT of the product under consideration to India.
82. Further, on 23.03.2022, the Authority had sent a letter for desk verification to analyse the response/documents filed by the exporter. The Authority noted that the quantity of exports reported by the exporter significantly differs from the DG Systems data. In this regard, the Authority issued a letter dated 17th August, 2022, providing an opportunity to the exporter to clarify the difference. However, Sandvik Materials Technology (China) Co., Ltd., did not submit any information clarifying the same. Further, after issuance of the disclosure statement, the said exporter had replied vide e-mail dated 30-08-2022 without any relevant documents. On request of the exporter, the Authority had provided DG Systems data vide email data 05-09-2022. In response, the exporter did not submit documentary evidence for clarifying the quantity mismatch. Thereafter, as per the Hon'ble High Court of Delhi order (W.P.(C) 12894/2022 & CM Nos. 39167-69/2022) dated 06-09-2022, the exporter had submitted documentary evidence to the Authority vide email dated 09-09-2022. On examining the data submitted by Sandvik Materials Technology (China) Co., Ltd., it is noted that DG Systems data is not correlating with the export transactions.

83. Further, the response filed by Sandvik Materials Technology (China) Co., Ltd., shows that the company imports product under consideration from its related entities and undertakes cold-drawn process on the same. The finished product is then sold in the home market as well as exported to India. The producers of the hot-rolled products have not participated in the present investigation. Since Sandvik Materials Technology (China) Co., Ltd., cannot be considered as a producer of product under consideration and the producers of intermediate product (hot-rolled product) have not participated in the present investigation, individual duties cannot be granted to Sandvik Materials Technology (China) Co., Ltd. Because of the above-mentioned reasons, the Authority decides to reject the response filed by the company and has not determined the individual margins for the company.

**i. Export price for Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.**

84. Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd., is a joint stock company. During the period of investigation, Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.

85. Further, on analysis of the response/desk verification documents filed by the exporter, the Authority noted that the quantity of exports reported by the exporter significantly differs from the DG Systems data. In this regard, the Authority issued a letter dated 26<sup>th</sup> July, 2022, providing an opportunity to the exporter to clarify the same. The producer/exporter had replied on 3<sup>rd</sup> August, 2022. On examining the additional data provided by Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd., it was observed that the exports declared by the producer/exporter for the period of investigation were not correlating with the DG Systems data available with the Authority. Therefore, the Authority had proposed to reject the response filed by the company. On request of the exporter, the Authority had provided DG Systems data to the exporter vide email data 05-09-2022. On examining the data and documents submitted by Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd. vide email dated 06-09-2022, it is noted that DG Systems data is correlating with the export transactions and quantity exported by Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd. Hence, the submissions of the exporter have been accepted and the Authority has determined the individual margins for the company.

86. Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd., has claimed the adjustments on account of Ocean freight, marine insurance, inland freight, port expenses and bank charges. Accordingly, the net export price at ex-factory level for Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd., has been determined and same is shown in dumping margin table below.

**ii. Export price for Zhejiang Tsingshan Steel Pipe Co., Ltd.**

87. Zhejiang Tsingshan Steel Pipe Co., Ltd. has directly exported \*\*\* MT of the product under consideration to India.

88. On analysis of the response filed by the exporter, the Authority noted that the type of finish, that is, hot-finished or cold-finished is not mentioned in the export documents provided by the company along with the response. The Authority issued a letter dated 17th August, 2022, seeking clarification from the exporter regarding the finish/process for the product under consideration exported to India. The exporter made submissions vide letter dated 22nd August, 2022. The exporter stated that no finish is conducted on the product exported to India. However, the Authority noted that the PUC was either hot-finished or cold-finished. The PUC was manufactured either using cold-finished process or hot-finished process. In the absence of requisite information, the Authority had earlier determined that the response filed by the exporter cannot be accepted. However, in response to the disclosure statement dated 29th August, 2022, the exporter vide letter dated 2nd September, 2022 submitted that the exporter understood the word "Finish" as a noun, in its nominal meanings: "the condition of the surface of a material" or "the last covering of varnish, polish, or paint, that is put onto something" (in Dictionary of Cambridge) and submitted "no finish" in response to the above question in letter dated 17th August, 2022. The exporter vide letter dated 2nd September, 2022 submitted exports documents related to all the exports made during POI, which show cold-finished PUC. The exporter also submitted another response dated 6th September, 2022 wherein, Custom Declaration certificates issued by Custom Authorities of China for the all the exports to India of PUC were cold finished.

89. On analysis of the responses filed by the exporter, it was noticed that the Cold Rolled/Finished was mentioned on all the exports documents furnished by the exporter. Custom Declaration certificates issued by Custom Authorities of China also show Cold Rolled PUC was exported to India. Hence, the submissions of the exporter are accepted and the Authority has determined the individual margins for the company.

90. Zhejiang Tsingshan Steel Pipe Co., Ltd., has claimed the adjustments on account of, inland freight, port expenses and credit cost. Accordingly, the net export price at ex-factory level for Zhejiang Tsingshan Steel Pipe Co., Ltd. has been determined and same is shown in dumping margin table below.

**iii. Export price for Huadi Steel Group Co., Ltd.**

91. Huadi Steel Group Co., Ltd is a limited liability company. During the period of investigation, Huadi Steel Group Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.

92. Huadi Steel Group Co., Ltd has claimed the adjustments on account of Ocean freight, marine insurance, inland freight, port expenses and bank charges. Post disclosure statement, the Authority rechecked the constructed normal value data and found out that the dumping and injury margins of the exporter needed correction. Accordingly, the corrected dumping margin has been shown in dumping margin table below.

**iv. Export price for Zhejiang Dingshang Stainless Steel Co., Ltd.**

93. Zhejiang Dingshang Stainless Steel Co., Ltd., is a limited liability company. During the period of investigation, Zhejiang Dingshang Stainless Steel Co., Ltd., has directly exported \*\*\* MT of the product under consideration to India.
94. On analysis of the response filed by the exporter, it was noted that the quantity reported in the response did not match the Indian customs data. On request of the exporter, the Authority had provided DG Systems data to the exporter vide email data 05-09-2022. On examining the data and documents submitted by the exporter vide email dated 06-09-2022, it is noted that DG Systems data is correlating with the export transactions and quantity exported by the exporter.
95. It was further noted that while the description of product type mentioned in the response was cold drawn, the bill of entries stated hot rolled products. Accordingly, the Authority issued a letter to the producer dated 17<sup>th</sup> August, 2022 providing an opportunity to clarify the same. The exporter replied vide letters dated 19<sup>th</sup> August, 2022 and 20<sup>th</sup> August, 2022. Considering the reply filed by the exporter and the information on record, it is noted that the producer does not have hot-rolling facility and purchases hot-rolled products to undertake cold-drawn process. The finished product is then exported to India. Since Zhejiang Dingshang Stainless Steel Co., Ltd. only undertakes cold-rolling / cold drawn process, it cannot be considered as a producer of the product under consideration and individual duties cannot be granted.

**v. Export price for Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd.**

96. Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd is a limited liability company. During the period of investigation, Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd has directly exported \*\*\* MT of the product under consideration to India.
97. On analysis of the response filed by the exporter, it was noted that the quantity reported in the response did not match the Indian customs data. On request of the exporter the Authority had provided DG System data to the exporter vide email data 05-09-2022. On examining the data and documents submitted by the exporter vide email dated 06-09-2022, it is noted that DG Systems data is correlating with the export transactions and quantity exported by the exporter.
98. It was further, noted that while the description of product type mentioned in the response was cold drawn, the bill of entries stated hot rolled products. Accordingly, the Authority issued a letter to the producer dated 17<sup>th</sup> August, 2022 providing an opportunity to clarify the same. The exporter replied vide letters dated 19<sup>th</sup> August, 2022 and 20<sup>th</sup> August, 2022. Considering the reply filed by the exporter and the information on record, it is noted that the producer does not have hot-rolling facility and purchases hot-rolled products to

undertake cold-drawn process. The finished product is then exported to India. Since Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd. only undertakes cold-rolling /cold drawn process, it cannot be considered as a producer of the product under consideration and individual duties cannot be granted.

**vi. Export price for Zhejiang Junda Steel Pipe Manufacturing Co., Ltd.**

99. Zhejiang Junda Steel Pipe Manufacturing Co., Ltd is a limited liability company. During the period of investigation, Zhejiang Junda Steel Pipe Manufacturing Co., Ltd has directly exported \*\*\* MT of the product under consideration to India.
100. On analysis of the response filed by the exporter, it was noted that the quantity reported in the response did not match the Indian customs data. On request of the exporter the Authority had provided to the exporter the DG Systems data vide email data 05-09-2022. On examining the data and documents submitted by the exporter vide email dated 06-09-2022, it is noted that DG Systems data is correlating with the export transactions and quantity, exported by the exporter.
101. It was further noted that while the description of product type mentioned in the response was cold drawn, the bill of entries stated hot rolled products. Accordingly, the Authority issued a letter to the producer dated 17<sup>th</sup> August, 2022 providing an opportunity to clarify the same. The exporter replied vide letters dated 19<sup>th</sup> August, 2022 and 20<sup>th</sup> August, 2022. Considering the reply filed by the exporter and the information on record, it is noted that the producer does not have hot-rolling facility and purchases hot-rolled products to undertake cold-drawn process. The finished product is then exported to India. Since Zhejiang Junda Steel Manufacturing Co., Ltd only undertakes cold-rolling /cold drawn process, it cannot be considered as a producer of the product under consideration and individual duties cannot be granted.

**vii. Export price for Zhejiang Xintongda Special Steel Manufacturing Co., Ltd.**

102. Zhejiang Xintongda Special Steel Manufacturing Co., Ltd., is a limited liability company. During the period of investigation, Zhejiang Xintongda Special Steel Manufacturing Co., Ltd has directly exported \*\*\* MT of the product under consideration to India.
103. On analysis of the response filed by the exporter, it was noted that the quantity reported in the response did not match the Indian customs data. On request of the exporter the Authority had provided to the exporter the DG System data vide email data 05-09-2022. On examining the data and documents submitted by the exporter vide email dated 06-09-2022, it is noted that DG Systems data is correlating with the export transactions and quantity exported by the exporter.

104. It was further noted that while the description of product type mentioned in the response was cold drawn, the bill of entries stated hot rolled products. Accordingly, the Authority issued a letter to the producer dated 17<sup>th</sup> August, 2022 providing an opportunity to clarify the same. The exporter replied vide letters dated 19<sup>th</sup> August, 2022 and 20<sup>th</sup> August, 2022. Considering the reply filed by the exporter and the information on record, it is noted that the producer does not have hot-rolling facility and purchases hot-rolled products to undertake cold-drawn process. The finished product is then exported to India. Since Zhejiang Xintongda Special Steel Manufacturing Co., Ltd. only undertakes cold-rolling / cold drawn process, it cannot be considered as a producer of the product under consideration and individual duties cannot be granted.

**viii. Export price for all non-cooperative producers / exporters**

105. The export price for all other producers and exporters, that have not participated in the present investigation, has been determined as per facts available. The same has been mentioned in the dumping margin table.

**Dumping Margin**

106. The normal value, export price and dumping margin determined in the present investigation are as follows: -

SN	Name of Producer	Normal Value	Export Price	Dumping Margin	Dumping Margin	Dumping Margin
		(USD/MT)	(USD/MT)	(USD/MT)	(%)	(Range)
1	Zhejiang Bangnuo Steel Pipe Co., Ltd.	***	***	***	***	0-10
2	Zhejiang HongQuan Stainless Steel Co., Ltd. and Zhejiang Yinlong Stainless Steel Co., Ltd. and Zhejiang Yinlai Steel Tube Co., Ltd.	***	***	***	***	30-40
3	Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd.	***	***	***	***	40-50
4	Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.	***	***	***	***	20-30

5	Zhejiang Yi Jia Wang Steel Tube Co., Ltd.	***	***	***	***	60-70
6	Zhejiang Jiuli Hi-Tech Metals Co., Ltd.	***	***	(***)	(Negative)	(Negative)
7	Huadi Steel Group Co., Ltd.	***	***	(***)	(Negative)	(Negative)
8	Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.	***	***	(***)	(Negative)	(Negative)
9	Zhejiang Tsingshan Steel Pipe Co., Ltd.	***	***	(***)	(Negative)	(Negative)
10	Non-cooperative / residual exporters	***	***	***	***	80-90

## **H. EXAMINATION OF INJURY AND CAUSAL LINK**

### **H.1. Submissions by the other interested parties**

107. The following submissions have been made by the other interested parties with regard to injury and causal link:

- Claim of material retardation by Welspun Specialty Solutions Limited is unsustainable, since industry for the subject goods already exists in India and a new producer facing start-up difficulties cannot claim material retardation which is consistent as per the WTO Panel in Morocco – Hot-rolled Steel from Turkey. Indian industry as a whole is not a nascent industry whose establishment is materially retarded as Indian producers account for more than one third of total Indian demand and all producers, except Welspun, are well established.
- Welspun has not set up new facility but has revamped its existing plant.
- The claim of material retardation by Welspun Specialty Solutions Limited cannot be sustained as the Authority in the initiation notification noted *prima facie* evidence of material injury and not material retardation.
- Welspun Specialty must be excluded from the injury analysis since they have not claimed any material injury, but only material retardation. The economic parameters of the domestic industry in the first two years showed improvement but declined due to addition of Welspun.
- The applicants should not be allowed to change their claim of material retardation to material injury post oral hearing.
- The applicants have exaggerated the increase in the volume of the subject imports to deliberately invent injury to the domestic industry. The claim for injury is contrary to the published information.

- g. Imports from China PR have not caused injury to the domestic industry as volume of the subject imports has declined in absolute and relative terms over the injury period in line with decline in demand while the sales of the domestic industry, supporters and other producers has increased. Even post period of investigation, the subject imports are lower than that in the base year.
- h. Decline in imports in 2019 and in the period of investigation should be analysed in light of Quality Control Order effective from December 2020 and Domestic Procurement Policy effective from May 2019.
- i. The imports are fulfilling the demand-supply gap in the country as the domestic industry has installed capacity of only 25,303 MT as against demand of 63,247 MT. The domestic industry is export oriented and has backward integration, using the product under consideration to produce different variants from mother pipes.
- j. Exclusion of imports for re-exports is not appropriate as it is a consistent practice of the Authority to examine overall import volumes, including duty-free imports and imports under advance license while assessing the volume effect. Reliance cannot be placed on the findings of the EU Anti-fraud Office since only limited producers participated in that investigation, the investigation pertained to different period and was based on data that is not available with the Authority or any other party.
- k. Even if imports for the purpose of re-exports are to be excluded, it would be difficult to obtain data on imports of the product under consideration as the product is either transshipped directly or processed further before exporting. In the event any other data is considered, the same should be shared with all interested parties. If there is substantial rise in imports for the purpose of re-exports, there should be a corresponding rise in export trend.
- l. Segregation of import data for re-exports is not possible even by DG Systems data as it has no indicators which would help identify the actual value addition post imports.
- m. Even if the claim of the petitioners is accepted that imports surged in 2018-19 for transshipment to Europe, the imports from China PR in period of investigation have declined by 20% when compared to base year while the imports price has increased by 17%.
- n. The trend of prices of the subject country and the domestic industry as well as the cost of sales of the domestic industry have increased during period of investigation commensurately, when compared to the base year, and thus, there is no price injury or price suppression or depression.
- o. Price undercutting does not form the basis of injury determination and must not be seen in isolation, but in light of overall performance of the domestic industry. Fixing selling price is a business decision which depends on the cost of production and if the cost of production is inflated due to misallocation of expenses, losses or deficiencies, it can lead to higher selling price.
- p. The import price and the domestic selling price have increased throughout the injury period. Further, price undercutting has declined during the period of

investigation when compared to 2018-19 and 2019-20, while it has remained in same range when compared to 2017-18.

- q. The prices of the subject imports have not affected the profitability of the domestic industry since the PBIT has moved in line with price undercutting, remaining high when undercutting was high and declining with the decline in undercutting.
- r. Economic parameters of the domestic industry showed recovery when volume of the subject imports was at an all-time high in 2017-18 and 2018-19 while its interest costs, depreciation, losses, capacity utilization etc. increased when the imports declined and after introduction of Welspun.
- s. In the absence of the actual data on captive consumption, the production figures provided by the domestic industry cannot be examined.
- t. Collective injury analysis for mother tubes and smaller tubes would not be an objective examination in view of the significant value addition and based on the positive evidence in absence of data regarding captive consumption of mother tubes by the domestic industry, which is contrary to the view taken by the WTO in US – Hot-Rolled Steel and Morocco – Hot-rolled Steel (Turkey). The Authority must conduct separate investigations for mother tubes and smaller tubes similar to Penicillin-G Potassium from China PR and Mexico and 6-APA from China PR as well as multiple investigation related to Certain Rubber Chemicals.
- u. Separate analysis is required for captive consumption as mere PCN-wise analysis is insufficient for an objective injury determination in terms of volume effect, price effect, and other injury parameters due to lack of separation of examination of mother tubes. Non-inclusion of captive consumption in production figures implies that the actual production of the domestic industry is much higher. Since installed capacity includes capacities for both products, the capacity utilization is bound to be understated.
- v. Increase in captive consumption may be the cause of decline in domestic sales as well as the demand-supply gap. The Authority must undertake injury analysis twice – once excluding captive consumption and once inclusive of said captive consumption, as per the practice of Authority in cases such as Certain Phosphorous based chemical compounds from China PR & EU and 2 Methyl (5) Nitro Imidazole from China.
- w. Captive consumption by Ratnamani has increased significantly over the period. If the parameters of the domestic industry showed the same trend, it implies that a significant part of the product under consideration is being captively consumed and is not competing with imports.
- x. The demand is inaccurate as it does not include the product under consideration of diameter 42 mm and above used to produce cold-rolled pipes of 42 mm and below.
- y. The demand in the period of investigation has been affected by the aftershocks of pandemic and is likely to increase.
- z. Capacity and production of the domestic industry has increased over the injury period, while the capacity utilization has declined since the applicants have

increased capacities without stabilizing existing capacities, which could be a cause of injury.

- aa. The domestic industry has inflated its capacity since based on market inputs, the actual capacity of the domestic industry is only 18,000 MT to 20,000 MT as opposed to claimed 24,861 MT.
- bb. Despite addition of capacity by Welspun Specialty Solutions in 2019-20, the capacity utilisation has increased from 38% in 2019-20 to 40% in period of investigation.
- cc. Net fixed assets, working capital and capital employed of the domestic industry have increased over the injury at rate higher than increase in installed capacity.
- dd. It appears that Ratnamani is operating at a capacity utilization of 93% whereas the domestic industry is merely working at 40% of its capacity.
- ee. Both domestic and export sales of the domestic industry have increased substantially over the injury period. Sales have increased despite decline in demand, showing that non-tariff barriers have been effective in reducing imports.
- ff. Despite demand-supply gap, the domestic industry is focusing more on exports.
- gg. Due to decline in exports in the period of investigation, the total profitability of the domestic industry has declined.
- hh. Market share of the subject imports has declined during the period of investigation, while that of the domestic industry, supporters and other producers has increased.
- ii. The applicants hold merely 1.5% of inventories which cannot be attributed to dumping of the subject goods.
- jj. Number of employees of the domestic industry has increased in the period of investigation as compared to the base year.
- kk. Welspun has earned profits in 2020-21 with gross margin of 37%, having admitted that it is focusing only on stainless steel pipes and tubes segment.
- ll. All applicants have earned significant profits in the last two financial years as per financial statements filed before the Ministry of Corporate Affairs. Even Tubacex, which operates in single segment of production of seamless stainless-steel tubes and pipes, has recorded profits in last two years.
- mm. While the domestic industry has claimed that it has suffered losses even after excluding interest cost, depreciation and amortization expenses, no such data has been presented on record to allow the interested parties to comment.
- nn. The subject imports have not impacted the profitability and return of the domestic industry, as it has been suffering losses from the beginning, due to other factors.
- oo. Since the domestic industry has not claimed threat of material injury, there is no legal requirement to analyze post period of investigation data. There is no injury to the domestic industry post period of investigation as the volume of imports in absolute and relative terms have declined, the import price has increased and the domestic industry was able to increase production and sales even though the demand declined.
- pp. When the imports were on all-time high, the economic parameters of the domestic industry improved. The imports as well as economic parameters of the domestic

industry declined in 2019-20 and the period of investigation. Hence, there is no causal link.

- qq. The applicants have failed to address other factors which could be causing injury to the domestic industry such as slow market growth, internal problems, Covid-19, etc. In accordance with Article 3.5, Appellate Body in US – Hot Rolled Steel, and Panel in US – Norwegian Salmon, the Authority must conduct a non-attribution analysis.
- rr. The Authority must segregate the data for Tubacex and Chandan Steel on one hand and Welspun on other to ensure injury is not account of high depreciation and interest costs of the new entrant. It is the practice of the Authority to consider the data of a new entrant on monthly or quarterly basis, as in the case of Styrene Butadiene Rubber from EU, Korea RP and Thailand and non-woven fabric.
- ss. Injury could be on account of depreciation and interest costs on account of two new pillagers installed by Tubacex and in existing machinery and investment of more than 27 crores in 2019-20. This corresponds with high interest and loan costs reported by the domestic industry in the year 2019-20 leading to decline in profits.
- tt. Welspun was a sick company and commenced production of the product under consideration since it was suffering losses in alloy steel sector, while the product under consideration was witnessing profits.
- uu. Welspun has not stabilized its operations and the company is suffering owing to start-up operations which have impacted capacity utilization, as per their own admission in the annual report.
- vv. The Board of Directors of Welspun have acknowledged that as a new business, they require new customer approvals, new product development and approval from process licensors, which has impacted their performance.
- ww. Injury to the domestic industry in the domestic market of government procurement is only on account of stiff inter-se competition.
- xx. The domestic industry has maintained idle capacity resulting in self-inflicted injury. Further, even at fully capacity, the domestic industry is not able to cater to the demand in India and can only supply a marginal portion of the demand.
- yy. Covid-19 has impacted the performance of the domestic industry as admitted by the applicants.
- zz. Contrary to the submissions by the domestic industry, the Authority may check whether the orders lost are on account of inability of the domestic industry to supply special grades of subject goods.
- aaa. Non-injurious price for the domestic industry should be determined pursuant to adjustments in the start-up cost of Welspun.
- bbb. The Authority must ensure proper allocation of assets and liabilities and their impact on depreciation, return on capital employed and non-injurious price. If funds raised cannot be allocated to the product under consideration, it is questionable how interest cost can be allocated.
- ccc. The Authority must examine the impact of captive consumption of mother tubes while determining the non-injurious price of the domestic industry.

- ddd. While determining the non-injurious price for the domestic industry, the Authority should make adjustments for all production-related inefficiencies to produce the primary stainless steel. The Authority may adopt the LME prices of stainless-steel billets/ ingots as published during the period of investigation if the same is lower than the actual foundry cost of the domestic industry to ensure that losses incurred in the foundry segment are not taken into consideration.
- eee. The domestic industry is engaged in the production of multiple products at single/ multiple locations which increases the possibility of cost distortions.
- fff. As stated in the annual report of Welspun, it has switched its production from alloy steel to subject goods in 2019 as it was incurring substantial losses in alloy steel business. The company started production of the subject goods seeing profitability and health of market conditions and thus, injury can be only on account of internal inefficiencies and earlier loss-making business.
- ggg. The profitability of the domestic industry may be impacted due to increase in interest cost, depreciation and amortization expenses as well as decline in demand due to economic slowdown and COVID-19.
- hhh. Since the petitioners are engaged in the production of multiple products, the possibility of cost distortion is high. The Authority is requested to verify the basis of allocation of assets and current liabilities and its result on depreciation, return on capital employed and non-injurious price.
- iii. Since Welspun has started production in 2019-20, it is not possible to reach economies of scale and the injury may be due to the start-up cost and internal inefficiencies.

## **H.2. Submissions by the domestic industry**

108. The following submissions have been made by the domestic industry with regard to the Injury and causal link are as follows:

- a. The domestic industry has suffered injury throughout the injury period.
- b. Mother tubes are semi-finished product and cannot be considered as raw material for the subject goods. Collective injury analysis is appropriate as these are only types of the subject goods, and not derivatives. Reference was made to the anti-dumping investigation concerning glass fibres.
- c. Since Welspun recently set up capacities and started commercial production, its establishment has been materially retarded.
- d. In the anti-dumping investigation concerning Styrene Butadiene Rubber, which was upheld by the Tribunal and Supreme Court, the Authority had examined material injury to one of the producers and material retardation to one of the producers.
- e. Even if Welspun has revamped its manufacturing facilities, it has made a significant investment in the same. It is a new producer, since it was not producing the subject goods earlier.
- f. The reference by interested parties to Morocco – Hot-rolled Steel from Turkey is not appropriate as that case only explains when a producer would be considered

as establishing industry. The Panel has not made any observations to the effect that if an industry for the product under consideration already exists, the new producer cannot claim material retardation to the establishment of the domestic industry. For the same reasons, reference to findings of the Authority in the case of Non-Woven Fabric is not appropriate.

- g. Contrary to the claim of the interested parties, in the anti-dumping investigation concerning imports of Fluoroelastomers, the Authority had noted that different units of the domestic industry can suffer material injury and material retardation simultaneously. Similar view was taken by the Authority in veneered engineered wooden flooring.
- h. While on one hand the interested parties have claimed that material retardation to Welspun cannot be examined, on the other hand, they have requested segregation of data of Welspun from that of Chandan and Tubacex, implying a self-contradictory approach.
- i. As is evident from the petition itself, Welspun has primarily claimed material injury and has claimed material retardation only as an additional claim.
- j. Contrary to the submissions by the other interested parties, injury to the domestic industry has to be evaluated for the domestic industry as a whole and not for individual companies as held by the Appellate Body in United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan. Thus, it cannot be claimed that on one hand, there can be no material retardation to Welspun as it is part of an established industry and at the other hand, the injury to the domestic industry is due to underutilized capacities of Welspun.
- k. The domestic industry has provided evidence for verification of all the information supplied by it, including capacities and volume or price of imports.
- l. In order to ascertain whether the imports have increased, the correct volume of imports needs to be ascertained after excluding imports for re-export.
- m. Imports made for re-exports should be excluded from the total imports into India as they were not meant for consumption in India.
- n. Since the domestic industry does not have access data relating to exports, it cannot comment upon whether the exports to European Union show an increase in such data due to the imports made due to re-exports.
- o. Lack of segregation of data relating to imports for re-exports cannot be grounds for not undertaking the analysis. The Authority should undertake the analysis based on facts available.
- p. The Authority may kindly call DG Systems data in order to link imports and exports of the product under consideration and exclude these from total imports meant for consumption in India.
- q. Since the report of the European Union Anti-Fraud Office pertains to a period overlapping with the injury period, it cannot be considered as outdated. No documentary evidence has been provided by interested parties to refute the report.
- r. While the domestic industry has provided evidence of imports made for re-exports to the European Union, the interested parties have provided no evidence to refute the claims made by the domestic industry.

- s. Imports made under advance licenses are usually included as subject goods are imported as raw material for the production of downstream goods. In the present case, the subject goods have been imported for re-export under advance licenses, and therefore, such imports should be excluded. While imports under advance licenses compete with the product of the domestic industry and are meant for consumption in India, imports for re-export do not compete, and are meant for consumption in another country. Downstream goods produced using the subject goods imported under advance license can be labelled as originating in India legitimately, while imports for re-exporters have been illegitimately made and incorrectly labelled as originating in India.
- t. There is no requirement that imports must increase in order to invoke an anti-dumping measure.
- u. The volume of imports in absolute and relative terms has remained high over the injury period.
- v. The Quality Control Order did not abate imports as even now imports are being made, despite there being no approved raw material supplier.
- w. Since DPIIT only requires registration of a party, and not of a product, and importers can register under it, it does not prevent imports.
- x. Despite the alleged non-tariff barriers introduced by the Government, the imports have continued to increase.
- y. The Domestic Procurement Policy does not impede imports as only 20% of the demand in the country is subject to this policy. Further, processors of the subject goods importing from China are able to participate in the tenders under this policy.
- z. The policies introduced by the government have been made redundant due to mis-declaration of imports as the importers are able to show value addition by showing imports of hot rolled product and thus, participate in tenders under the public procurement policy.
- aa. The subject imports accounted for 89% of imports into India during the period of investigation.
- bb. Even though the domestic industry has been selling at losses throughout the injury period, price undercutting has remained positive and significant.
- cc. Contrary to the claim of the interested parties, the decline in price undercutting shows that the domestic industry was forced to reduce its prices in order to match the import prices, resulting in a decline in profitability.
- dd. The subject imports have suppressed the prices of the domestic industry as it was unable to increase its selling price commensurate to increase in cost of sales.
- ee. The price of imports remained below the selling price of the domestic industry throughout the injury period, and is lower than its cost of sales.
- ff. Contrary to the claim of the interested parties, the domestic producers have sufficient capacity to cater to the entire demand in India.
- gg. In response to the claim that net fixed assets, working capital and capital employed have increased at a higher rate than capacity, it was submitted that the

reference to trends of figures and not actual data makes such comparison meaningless.

- hh. Welspun has not been able to find a viable market, leading to low-capacity utilization.
- ii. The domestic industry was unable to increase its production commensurate to increase in capacities despite ample demand in the Indian market. The sales, capacity utilisation of the domestic industry has remained low throughout the injury period, and the domestic industry has been forced to undertake exports to dispose of its production.
- jj. The sales of the domestic industry have increased due to increase in capacities. However, such sales are loss making and much less than production. Even then, while having the capacity to capture a market of 40%, the market share of the domestic industry is only 6%.
- kk. Only a very insignificant quantity of the sales of the domestic industry have been made to the PSUs. While the domestic industry has performed better in these sales, it has suffered huge losses in sales to the private sector.
- ll. Although the Indian industry has the capacity to meet the entire demand, subject imports constitute two-thirds of the share in demand. The domestic industry caters to only 6% market share.
- mm. Even after selling at losses and undertaking exports, the inventories of the domestic industry have increased over the injury period and are equivalent to 10% of the production.
- nn. The domestic industry has suffered injury throughout the injury period as the cheap import prices prevented it from charging a remunerative price.
- oo. The domestic industry has been forced to sell at losses during the injury period. It is unable to meet its interest obligation as it has incurred losses before accounting for interest.
- pp. The domestic industry has incurred cash losses throughout the injury period and has recorded negative return on investment during the injury period.
- qq. The domestic industry is suffering intensified injury post period of investigation as the volume of the subject imports increased, market share of the domestic industry declined, and its inventories has increased.
- rr. The domestic industry has suffered losses, cash losses and recorded a negative return on investment post the period of investigation.
- ss. The domestic industry has not claimed injury on account of number of employees.
- tt. Contrary to the claims that the domestic industry has increased capacities without stabilizing capacities, the capacity of the domestic industry has increased due to capacity addition by Welspun. Therefore, the existing producers did not keep expanding capacities, without stabilizing their existing capacities.
- uu. Increase in capacities of the domestic industry cannot be grounds for denying protection. While the interested parties have blamed the capacity addition by one producer, they have not explained the losses suffered by the other domestic producers since a long time.

- vv. The decline in capacity utilization cannot be attributed to increase in capacities as there was sufficient demand in the country to utilize capacities.
- ww. The low-capacity utilization is not on account of stabilization issues of new plant, as even Tubacex and Chandan Steel, which have old plants, are suffering from low-capacity utilization.
- xx. At present, Welspun is not a sick company. It was classified as a sick company prior to commencing production of the subject goods, and therefore, the same is not relevant to the present investigation.
- yy. Contrary to claim of the interested parties, very few products require approvals, and the domestic industry is catering to all customers, including those where no approval is required.
- zz. The losses incurred by Welspun in alloy steel sector have not been attributed to the subject goods.
- aaa. Had the losses of Welspun been due to teething issues, they would have reduced post period of investigation, as happened in the case of non-woven fabric relied upon by the other parties.
- bbb. Contrary to the submissions of the other interested parties, there is no legal prescription that as soon as foreign producers' resort to dumping the domestic industry should approach the Authority. The domestic industry has approached various departments of the Government in the past.
- ccc. Under the Anti-Dumping Agreement, there is a requirement to examine whether there is "a" causal link between dumping and injury. Thus, merely because other factors may also be causing injury to the domestic industry, does not mean that there is absence of causal link between dumping and injury.
- ddd. Contrary to the submissions by the other interested parties, the losses to the domestic industry are not due to increase in depreciation and interest cost as the EBIDTA of the domestic industry has also declined.
- eee. The injury is not on account of Covid-19, as the domestic industry did not face any significant plant shutdowns and there was ample demand in the market to utilize the capacities.
- fff. Contrary to the assertion of the interested parties, the domestic industry has not suffered injury due to slow market growth as there is sufficient demand for the domestic industry to utilize its full capacities.
- ggg. The domestic industry has provided segregated performance of domestic and export operations, and therefore, any injury is not on account of exports.
- hhh. The injury to the domestic industry has not been caused due to any known factor but only due to the subject imports.
- iii. In response to the contention that LME prices be considered for determination of non-injurious price, it was submitted that Annexure – III allows determination of non-injurious price based on actual records maintained only. Further, any captive input is required to be valued at cost plus return or market price, as per the records of the company.
- jjj. In response to the contention that return for non-injurious price cannot be determined when funds raised have not been identified, it was submitted that as

per Annexure – III, return is allowed on capital employed, which has already been provided by the domestic industry.

kkk. As against the arguments of the interested parties, no start-up cost is included in the cost of production, in accordance with the Generally Accepted Accounting Principles, including that in Ind AS 16.

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

109. The Authority has taken note of the arguments and counter-arguments of the interested parties with regard to injury to the domestic industry. The injury analysis of the Authority hereinunder addresses the various submissions made by the interested parties.

110. The domestic industry has claimed that the subject imports have materially retarded the establishment of Welspun Specialty Solutions Limited. The Authority notes that while Welspun may be in the process of being established, it constitutes a very small share of the total Indian production. The share of Welspun during the period of investigation was less than 10% of the total Indian production. The remaining domestic producers have been in operation since a long time and therefore, the industry is considered to be an established industry.

111. With regards to the contention that the claim of material injury to Welspun was made by the applicants post oral hearing, the Authority notes that in the petition, the applicants have claimed material retardation to Welspun as well as material injury to the domestic industry as a whole. The data pertaining to Welspun had been included by the applicants in their claims for material injury. The claims of material injury to the domestic industry including Welspun is not a new claim made post oral hearing. Further, the Authority initiated the investigation based on a *prima facie* evidence of material injury suffered by the domestic industry, including Welspun.

112. Some of the interested parties have contended that the Authority must conduct separate examination for hot-rolled and cold-rolled products. The Authority notes that in the investigations where different product types are included within the scope of the product under consideration, the Authority undertakes separate / PCN wise analysis in order to evaluate price undercutting, dumping margin and injury margin. The same has been conducted in the present investigation.

113. With regards to the contention that there is a need to examine captive consumption by the domestic industry, the Authority notes that none of the applicants captively consume the subject goods. The scope of the product under consideration consists of both mother tubes / hot-rolled products and cold-drawn pipes and tubes. Mother tubes / hot-rolled products are intermediate product and further processing of mother tubes into cold-drawn pipes and tubes cannot be considered as captive consumption.

114. Some of the interested parties have contended injury analysis should be done based on segregated data of Tubacex Prakash India Private Limited and Chandan Steel Limited. The Authority notes that injury examination is conducted for the domestic industry as a whole and not separately for each constituent of the domestic industry. Since Welspun Specialty Solutions Limited is considered a part of the domestic industry, the Authority cannot conduct injury analysis by segregating the data for the said company.

115. With regards to the post period of investigation data submitted by the applicants, the Authority notes that since the present investigation is a fresh investigation wherein the applicants have not claimed threat of material injury, the Authority has examined only the data for the injury period. Since the Authority has determined material injury to the domestic industry based on data for the period of investigation, analysis of post period of investigation data is not necessary in the present case.

116. Some of the interested parties have submitted that the order lost must be examined for the grades which the domestic industry is unable to produce. The Authority notes that the evidence provided by the domestic industry relates to the subject goods commonly produced by the applicants.

#### **H.3.1. Assessment of demand / apparent consumption**

117. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

<b>Particulars</b>	<b>Unit</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>POI</b>
Sales of the domestic industry	MT	1,705	2,283	2,642	3,900
Sales of other producers	MT	9,978	10,802	12,082	11,865
Subject country imports	MT	49,949	76,733	60,538	42,135
Other imports	MT	10,469	13,249	8,732	4,462
Demand	MT	72,102	1,03,067	83,994	62,362

118. The Authority notes that the demand for the subject goods has increased in 2018-19 as compared to 2017-18, however, it has declined in 2019-20 and then increased in the period of investigation. However, this may be on account of imports made for re-export to European Union during the earlier years.

119. Some of the interested parties have contended that the demand is understated since it does not consist of demand for 42 mm mother tubes. The Authority notes that the scope of the product under consideration includes 42 mm mother tubes. The demand in India

consists of such mother tubes imported from the subject country, other sources as well as domestic sales of such mother tubes by the domestic producers.

### **H.3.2. Volume effect of the dumped imports**

120. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to the production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. The import volumes of the subject goods from the subject country and share of the dumped import during the injury investigation period are as follows:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject imports	MT	49,949	76,733	60,538	42,135
Other imports	MT	10,469	13,249	8,732	4,462
Total	MT	60,418	89,982	69,269	46,596
Subject imports in relation to					
Domestic production	%	355	494	354	231
Consumption	%	69	74	72	68
Total Imports	%	83	85	87	90

121. The Authority notes that:

- a. The volume of the subject imports had increased in 2018-19 as compared to 2017-18. The volume of the subject imports declined in 2019-20 and the period of investigation as compared to the previous year. The applicants have emphasized that the imports were higher during the earlier years since the product under consideration was being imported for re-exporting to European Union, so as to evade the anti-dumping duties levied by the European Commission. In this regard, the applicants have relied on a report by the European Anti-Fraud Office. The applicants have further claimed that the volume of the subject imports declined during the period of investigation due to the impact of Covid-19 and the capacity expansion by the domestic industry.
- b. The imports in relation to the domestic production and consumption has followed the same trend. The imports in relation to production and consumption increased in 2018-19 but declined thereafter.
- c. The share of the subject imports in total imports has increased over the injury period.

122. With regard to the contention that the domestic industry has received protection from the Government of India in the form of non-trade barriers, the Authority notes that the non-trade barriers, if any, imposed by the Government of India are not the subject of the present investigation. The Authority has examined dumping, injury and causal link in the

present investigation. The Authority notes that the volume of imports has remained significant, while the domestic producers hold a smaller share of the market.

123. Some of the interested parties have contended that the subject imports are fulfilling the demand-supply gap in India. The Authority notes that the demand-supply gap is not a justification for dumping in India. Even if there is a demand-supply gap in the country, it is necessary that the product is available at fair prices. In any case, the Authority notes that although the production of the domestic industry is less than the demand in India, the capacities in India are enough to cater to the entire demand in India.

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

124. In terms of Annexure II (ii) of the Rules, with regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

#### **a) Price undercutting**

125. Price undercutting has been assessed by comparing the landed price of imports with the domestic selling price in India of the subject goods. In this regard, a comparison has been made between the landed value of the product and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

Particulars	Unit	POI
Net sales realization	Rs./MT	***
Landed price of imports	Rs./MT	2,54,303
Price undercutting	Rs./MT	***
Price undercutting	%	***
Price undercutting	Range	20-30

126. The Authority notes that the subject imports are undercutting the prices of the domestic industry and the price undercutting is positive and significant.
127. Some of the interested parties have contended that price undercutting has not impacted the profitability of the domestic industry as the PBIT have moved in line with the price undercutting. The Authority notes that the landed price of imports has remained below the cost of sales of the domestic industry.

#### **b) Price suppression/depression**

128. 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, were compared as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	116	135	117
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	116	125	119
Landed price	Rs./MT	2,30,620	2,84,306	2,60,981	2,54,303
Trend	Indexed	100	123	113	110

129. Over the injury period, the domestic industry has been able to increase its prices in line with the increase in cost. However, the Authority notes that the landed price of the subject imports is below the selling price as well as the cost of sales of the domestic industry. The domestic industry is unable to increase its prices to the level of cost of sales and has sold at losses.

#### **A.1.1. Economic parameters of the domestic industry**

130. Annexure II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on the domestic producers of such products. With regard to consequent impact of dumped imports on the 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, utilizing actual and potential decline in sales, profits, output, market share, productivity, return on capital employed 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 hereinbelow.

##### **a) Production, capacity, capacity utilization and sales volumes**

131. Capacity, production, sales, and capacity utilization of the domestic industry over the injury period were as below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	13,880	14,080	22,800	25,300
Production	MT	7,245	7,437	7,951	9,919
Capacity utilization	%	52	53	35	39

Domestic sales	MT	1,705	2,283	2,642	3,900
Export sales	MT	5,505	4,962	5,332	5,867

132. The Authority notes that:

- a. The capacity and production of the domestic industry have increased over the injury period.
- b. The capacity utilization of the domestic industry increased slightly in 2018-19 but declined in 2019-20. The capacity utilization increased in the period of investigation as compared to the previous year. However, the capacity utilization in the period of investigation is much below that in the base year. The domestic industry has submitted that the capacity utilization is low due to lack of market share resulting from dumping in India.
- c. The capacity of the domestic industry increased marginally in 2018-19, as Tubacex de-bottlenecked its capacity by about 3%. Thereafter, during 2019-20, Welspun set up its plant. Since such plant was established during the year, the full effect of the commercialization of capacities was visible in the period of investigation. Further, during the period of investigation, Tubacex again de-bottlenecked its capacity by 15%.
- d. The domestic sales of the domestic industry have increased over the injury period. The export sales are more than the domestic sales of the domestic industry. The applicants have emphasized that the domestic industry has been forced to rely upon exports for disposing of its production.

133. Some of the interested parties have contended that Ratnamani is operating at higher capacity utilization. The Authority notes that as per the information on record the capacity utilization of Ratnamani is comparable to that of the domestic industry.

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Production	MT	***	***	***	***
Trend	Indexed	100	122	117	96
Capacity utilization	%	***	***	***	***
Trend	Indexed	100	124	120	98

134. In any case, the injury analysis has been conducted by the Authority with respect to the domestic industry. The performance of other domestic producers, not forming part of the domestic industry, cannot be relied upon for injury analysis.

135. Some of the interested parties have claimed that the capacity reported by the domestic industry is inflated. The Authority notes that the injury analysis including capacity claimed by the domestic industry has been verified by the Authority.

**b) Market share**

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

Particulars	Unit	2017-18	2018-19	2019-20	POI
Subject imports	%	69.28	74.45	72.07	67.56
Other imports	%	14.52	12.85	10.40	7.15
Domestic industry	%	2.37	2.22	3.15	6.25
Other producers	%	13.84	10.48	14.38	19.03
Total	%	100%	100%	100%	100%

137. The Authority notes that the market share of the domestic industry has increased over the injury period. However, the subject imports hold majority of market share in India while the domestic industry holds only 6% share. Further, despite there being no demand-supply gap in the country, the share of Indian producers is only about 25%.

138. The market share of the domestic industry has increased primarily due to an increase in capacity. The domestic industry increased its capacity, by 11,420 MT, which allowed it to increase its sales, thereby increasing the market share. However, in order to achieve this increase, the domestic industry was forced to supply the goods at losses.

**c) Inventories**

139. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2017-18	2018-19	2019-20	POI
Opening inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average inventory	MT	634	748	865	961

140. The Authority notes that the inventories of the domestic industry have increased over the injury period and the domestic industry suffers from accumulated inventories.

**d) Profitability, cash profits and return on capital employed**

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

Particulars	Unit	2017-18	2018-19	2019-20	POI
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	116	135	117
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	116	125	119
Profit/(loss)	Rs./MT	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(118)	(202)	(101)

Profit/(loss)	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(65)	(449)	(442)
Cash profits	Rs./MT	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(14)	(478)	(411)
Return on capital employed	%	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(18)	(108)	(82)

142. The Authority notes that

- a. The selling price of the domestic industry is less than the cost of sales throughout the injury period.
- b. The domestic industry has suffered losses throughout the injury period. The losses of the domestic industry increased in 2018-19 and 2019-20. During the period of investigation, the losses of the domestic industry have declined as compared to the previous year.
- c. The domestic industry has suffered cash losses throughout the injury period.
- d. The domestic industry is not earning any return on its capital employed. The return on capital employed throughout the injury period is negative.

143. Some of the interested parties have contended that all the applicants are earning profits in the last two financial years. The Authority notes that the reliance placed by the other interested parties on the annual reports of the applicants is incorrect as it pertains to the performance of the company as a whole. The analysis of the effect of the dumped imports is required to be undertaken in relation to the domestic production of the like article where separate data permits such examination. Since separate data for the performance of the domestic industry in terms of the subject goods is available on record, and has been verified by the Authority, injury analysis has been conducted based on such data. Thus, reliance on the annual reports of the applicants or performance of the applicants as a whole is not relevant.

144. Some of the interested parties have contended that the domestic industry has suffered injury due to capacity expansion. The Authority notes that the performance of the domestic industry has declined without taking into consideration the interest and depreciation cost. The EBIDTA (earnings before interest, depreciation, taxes and amortization) of the domestic industry, which is not impacted by the increased depreciation or the finance cost, has been adversely impacted. Therefore, the injury suffered cannot be attributed to the capacity expansion.

Particulars	Units	2017-18	2018-19	2019-20	2020-21
EBIDTA	Rs. Lacs	(***)	***	(***)	(***)

**e) Employment, wages and productivity**

145. The Authority has examined the information relating to employment, wages and productivity, as given below.

Particulars	Unit	2017-18	2018-19	2019-20	POI
No of employees	Nos	352	375	605	560
Productivity per day	MT/Day	20	21	22	28
Productivity per employee	MT/Nos	21	20	13	18
Wages	Rs. Lacs	943	1,268	2,435	2,551

146. The Authority notes that the productivity, wages and number of employees of the domestic industry have increased over the injury period.

**f) Factors affecting price**

147. The landed price of the subject imports is below the cost of sales and selling price of the domestic industry. The domestic industry has been forced to sell at unremunerative prices much below its cost of sales due to the presence of dumped imports in India. The imports command the majority share in the market, while the share of the domestic industry and other domestic producers is low. Further, even the volume of imports from other countries accounts for only a small share in the market, and that too, at higher prices. This shows that the dumped imports are impacting the prices of the domestic industry.

**g) Magnitude of dumping**

148. The Authority notes that the subject goods are being dumped in India and the dumping margin is positive and significant. Due to the dumping of the subject imports in India, the domestic industry is unable to increase its selling price and has been forced to sell below its cost of sales. Thus, the domestic industry has incurred significant losses, cash losses and recorded a negative return on capital employed. The domestic industry has been adversely affected by the dumped imports from the subject country.

**h) Growth**

Particulars	Unit	2017-18	2018-19	2019-20	POI
Capacity	%	-	1	61	9
Production	%	-	3	7	25
Domestic sales	%	-	34	16	48
Profit/(loss) per unit	%	-	(18)	(72)	50
Cash profit	%	-	86	(3,247)	14
Return on capital employed	%	-	8	(9)	(3)

149. The Authority notes that the capacity, production and domestic sales of the domestic industry has shown a positive growth throughout the injury period. The losses per unit of

the domestic industry have increased in 2018-19 and 2019-20 but have reduced in the period of investigation. The cash losses decreased in 2018-19 but increased in 2019-20. Thereafter, the cash losses reduced in the period of investigation as compared to 2019-20. The return on capital employed improved in 2018-19 but declined in 2019-20 as compared to that in 2019-20. Thereafter, the return on capital employed declined again in the period of investigation.

**i) Ability to raise capital investment**

150. The Authority notes that the domestic industry has constantly incurred losses and recorded negative return on capital employed. This shows that the dumped imports have impacted the ability of the domestic industry to raise capital investment for the product under consideration.

**H.3.4.Overall assessment of injury**

151. The examination of the imports of the product under consideration and performance of the domestic industry shows that:

- i. The volume of imports has declined in the period of investigation. Such decline is attributable to imports made for re-export during earlier years, COVID-19 pandemic in India and expansion of capacities by the domestic industry.
- ii. The imports are undercutting the prices of the domestic industry.
- iii. The subject imports are priced below the cost of sales of the domestic industry.
- iv. The domestic industry is unable to sell its products at remunerative prices. The selling price of the domestic industry has remained below its cost of sales.
- v. The production, sales and capacity of the domestic industry has increased. The domestic industry is operating at less than optimum capacity utilisation.
- vi. The subject imports hold majority of market share in India while the market share of the domestic industry is only 6%.
- vii. The inventories of the domestic industry have increased over the injury period.
- viii. The domestic industry has incurred losses throughout the injury period.
- ix. The domestic industry has incurred cash losses throughout the injury period and has recorded a negative return on capital employed.
- x. The profitability parameters have shown negative growth.
- xi. The imports have impacted the ability of the domestic industry to raise capital investments for the product under consideration.
- xii. The dumping margin is positive and significant.
- xiii. The imports are affecting the prices of the domestic industry.

152. In view of the foregoing, the Authority concludes that the domestic industry has suffered material injury.

**H.3.5.Non-attribution analysis and causal link**

153. Having examined the existence of injury, volume and price effects of dumped imports on the prices of the domestic industry, the Authority has examined whether injury to the domestic industry can be attributed to any factor, other than the dumped imports, as listed under the Rules.

**a) Volume and value of imports from third countries**

154. The Authority notes that the volume of imports from each of the other countries is insignificant. Further, the price of imports from other countries is higher, on an average basis. Therefore, it cannot be said that imports from other countries are causing injury.

**b) Contraction in demand**

155. The Authority notes that the demand for the subject goods in the country declined in the period of investigation due to the impact Covid-19 Pandemic. However, such decline is temporary in nature. Thus, the domestic industry has not suffered any injury on this account.

**c) Developments in technology**

156. The Authority notes that the investigation has not shown that there was any significant change in technology which could have caused injury to the domestic industry.

**d) Conditions of competition and trade restrictive practices**

157. The Authority notes that the investigation has not shown any change in the conditions of competition or trade restrictive practices. are responsible for the claimed injury to the domestic industry.

**e) Pattern of consumption**

158. It is noted that there is no change in the pattern consumption of the subject goods. which could have caused injury to the domestic industry.

**f) Export performance of the domestic industry**

159. The Authority notes the injury information relates only to the performance of the domestic industry in terms of its domestic market. Thus, the injury suffered cannot be attributed to the export performance of the domestic industry.

**g) Performance of other products**

160. The Authority has only considered data relating to the performance of the subject goods. Therefore, performance of other products produced and sold are not a possible cause of the injury to the domestic industry.

**h) Productivity**

161. The Authority notes that the productivity of the domestic industry has increased over the injury period. Therefore, the domestic industry has not suffered injury on this account.

**i) COVID-19**

162. Some of the interested parties have claimed that the injury to the domestic industry is due to COVID-19 pandemic. The Authority notes that the demand and the subject imports had declined during the period of investigation due to the COVID-19 pandemic. However, even then, there was sufficient demand in the market, for the producers to fully utilize their capacities. Nevertheless, the imports constitute more than 65% of the market. The Authority also notes that the constituents of the domestic industry did not suffer any significant shutdown due to the pandemic. Thus, it cannot be said that the injury to the domestic industry is on account of COVID-19 pandemic. In any case, the domestic industry has suffered injury even in the period prior to COVID-19. Hence, the injury to the domestic industry is not only on account of COVID-19 pandemic.

#### **H.3.6. Conclusions on causal link**

163. While other known factors listed under the Rules have not caused injury to the domestic industry, the Authority notes that the following parameters show that injury to the domestic industry is caused by the dumped imports.

- i. There is significant dumping of the subject goods in India. Dumping margin for the subject country is positive and significant.
- ii. The subject imports are priced below the selling price and cost of sales of the domestic industry.
- iii. The domestic industry is unable to sell the subject goods at price above its cost of sales.
- iv. The subject imports are undercutting the prices of the domestic industry.
- v. The domestic industry is operating at low-capacity utilisation.
- vi. The domestic industry is dependent upon exports for disposing of its production.
- vii. The inventories of the domestic industry have increased over the injury period.
- viii. The domestic industry has incurred losses throughout the injury period.
- ix. The domestic industry has incurred cash losses throughout the injury period
- x. The domestic industry has recorded a negative return on capital employed throughout the injury period.
- xi. The EBIDTA of the domestic industry (which does not take into account the depreciation or interest cost) is also negative during the period of investigation and preceding year.

164. The Authority, thus, concludes that there exists a causal link between the dumping of the subject goods and injury to the domestic industry.

#### **I. MAGNITUDE OF INJURY MARGIN**

165. The Authority has determined the Non-Injurious Price for the domestic industry on the basis of the principles laid down in the Rules read with Annexure III, as amended. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed

price from the subject country for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials, the utilities and the production capacity by the domestic industry over the injury period have been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on the average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and is being followed.

166. The landed price for the cooperative exporters has been determined on the basis of the data furnished by the exporters. For all the non-cooperative producers/exporters from the subject country, the Authority has determined the landed price based on facts available.
167. As regards the contention that LME price of raw material be considered, the Authority notes that in accordance with the provisions of Annexure – III, only the data as per the records maintained by the domestic industry may be considered. Therefore, the actual raw material price of the domestic industry has been considered for the determination of non-injurious price.
168. The Authority has verified the data of the domestic industry to ensure that no start-up costs are included as part of cost of production for the determination of non-injurious price.
169. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below: -

SN	Name of producers	Non- injurious price	Landed price	Injury margin	Injury margin	Injury margin
		(US\$/MT)	(US\$/MT)	(US\$/MT)	(%)	(Range)
1	Zhejiang Bangnuo Steel Pipe Co., Ltd.	***	***	***	***	0-10%
2	Zhejiang HongQuan Stainless Steel Co., Ltd. and Zhejiang Yinlong Stainless Steel Co., Ltd. and Zhejiang Yinlai Steel Tube Co., Ltd.	***	***	***	***	20-30
3	Wenzhou Sodo Stainless Steel	***	***	***	***	30-40

SN	Name of producers	Non-injurious price	Landed price	Injury margin	Injury margin	Injury margin
		(US\$/MT)	(US\$/MT)	(US\$/MT)	(%)	(Range)
	Manufacturing Co., Ltd.					
4	Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.	***	***	***	***	10-20
5	Zhejiang Yi Jia Wang Steel Tube Co., Ltd.	***	***	***	***	50-60
6	Zhejiang Jiuli Hi-Tech Metals Co., Ltd.	***	***	(***)	(Negative)	(Negative)
7	Huadi Steel Group Co., Ltd.	***	***	(***)	(Negative)	(Negative)
8	Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.	***	***	(***)	(Negative)	(Negative)
9	Zhejiang Tsingshan Steel Pipe Co., Ltd.	***	***	(***)	(Negative)	(Negative)
10	Non-cooperative / residual exporters	***	***	***	***	70-80

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

### **J.1. Submissions by the other interested parties**

170. The submissions made by the other interested parties with regard to the Indian industry's interest are as follows:

- The domestic producers have received sufficient protection from the Government in the form of non-trade barriers. The domestic industry has exclusive control over government procurement under the Domestic Procurement Policy of Ministry of Steel. Government contracts account for 30-35% of the total Indian demand. Public Procurement Order issued by the Ministry of Finance requires producers from China PR to register with DPIIT. Since none of the Chinese producers have registered, government contracts would only be available to the domestic producers. Quality Control Order requiring raw material providers to be licensed by BIS have already led to the decline in imports by more than 35% during the period of investigation compared to 2019-20.

- b. The domestic industry does not meet the quality parameters of the user industry and users are forced to rely on imports for certain specialized grades. Imposition of duty would impact end-users, which would be against the public interest.
- c. The domestic industry engages in unfair trade practice as it refuses to supply to secondary producers and deliberately charges 15% higher price when compared to the end-users. The domestic industry does not respond to supply orders and there are inordinate delays in supply of mother tubes.
- d. The anti-dumping duties are not a protection to the domestic industry or a means of making India self-reliant, rather it is a means of price correction and cannot be used to increase the share of applicants in the Indian market. In the present case the domestic industry is itself engaged in price distortion in the market to restrict the competition from the downstream users.
- e. The Authority has not examined public interest in terms of adverse impact on the downstream industry, which will lead to increase in cost of the users by 50-60%. Imposition of anti-dumping duty will adversely impact MSME sector which will face difficulty due to unavailability as well as high price of product in India.
- f. The Authority should recommend a fixed quota or a trigger price of form of duty to avoid the overburden on the users due to higher prices, as in the case of presensitized positive offset aluminium plates from Bulgaria, China PR, Malaysia, Singapore and South Korea, or the case of Acetone from Korea RP, Saudi Arabia and Taiwan.
- g. The covid-19 has adversely impacted the Indian economy and imposition of duties, to support an inefficient the domestic industry, would lead to uneconomical costs creating a burden on the market.
- h. Imposing anti-dumping duties on the mother tubes would cause hardship to downstream users who produce pipes and tubes using mother tubes and thus, are in direct competition with the pipes and tubes produced by the domestic industry.
- i. Increase in captive consumption of the domestic industry may be the cause of the demand-supply gap.
- j. Contrary to the submissions of the applicants, in case imposition of anti-dumping duty would have been in the interest of the producers, more domestic producers would have supported the application.
- k. Contrary to the submissions of the applicants, the domestic industry does not have the capacity to become Aatma Nirbhar. The Aatma Nirbhar policy must be seen from the prospective of entire constituents of the producers in India which includes the processors.
- l. The Authority is not the right forum to raise issues regarding the basic customs duty. Domestic producers already have an advantage compared to imports as they are not subject to the basic customs duty.
- m. Imposition of anti-dumping duty is not in public interest as the current market conditions of subject goods and downstream industry is fragile due to COVID-19. Imposition of anti-dumping duty will make the cost of subject goods uneconomical for the users.

- n. The domestic industry is not able to meet the quality parameters of the user industry due to which users are forced to import specialized grades in India. Anti-dumping duty might be beneficial to a few producers but will impact a large number of end-users.
- o. The domestic industry refuses to supply to the secondary producers. Evidence of not receiving any reply from the domestic industry has been provided. The domestic industry charges 15% higher prices from the secondary manufacturers as compared to the price charged from end-users. The domestic industry itself engages in price distortion in the downstream market.

## **J.2. Submissions by the domestic industry**

- 171. The submissions made by the domestic industry with regard to the Indian industry's interest are as follows:
  - a. The effect of anti-dumping measures on public interest must be studied from the perspective of interests of different set of parties – (a) the domestic producers, (b) the domestic consumers, (c) the upstream and downstream industries, (d) the general public and (e) purpose/ objective of imposition of anti-dumping duty.
  - b. Regarding the contention that the imposition of anti-dumping duty would cause hardships to the processors, it was submitted that any imposition of duty would not selectively impact the prices of mother tubes, but also of cold finished goods. Therefore, the imposition of duty on cold finished goods would enable the processors to charge a higher price for their finished goods, thereby negating any adverse effect of duty on mother tubes.
  - c. The users and processors cannot claim that they would face hardships if fair prices are restored in the market.
  - d. Imposition of anti-dumping duty will help India becoming Aatma Nirbhar in the production of the product under consideration as the installed capacities of the subject goods are more than the demand in India.
  - e. Since the domestic industry is using mother tubes to produce cold finished pipes, such usage cannot be considered to create a demand-supply gap for the subject goods, as claimed by the interested parties.
  - f. Existence of a demand-supply gap cannot be grounds for non-imposition of duties, as held in Nocil Limited v Government of India and DSM Idemitsu Ltd. v Designated Authority. In any case, the imposition of duties does not restrict imports, but only ensures a level playing field.
  - g. The present idle capacities of the domestic industry could have catered to a market share of 26%.
  - h. The Government of India is trying to promote domestic production of the subject goods by introducing measures like BIS and public procurement policy. Imposition of anti-dumping duty will bring fair market conditions and help in achieving the goal of the Government.
  - i. The domestic industry has invested significantly in the production of the subject goods, however, due to unfair trade practice, the domestic industry is unable to earn

a reasonable return on investment. Imposition of anti-dumping duty will protect the domestic industry from shut down of operations.

- j. In case the dumping is not controlled, India will become a processor of the subject goods, instead of producer. While the domestic industry has made losses, the performance of the processors has improved in terms of revenue and profits.
- k. Imposition of the duty will provide a level playing field to all the participants in the market, as the foreign producers are resorting to dumping even though they enjoy concessional duties under the APTA Agreement.
- l. The domestic industry has made significant investments which will lead to generation of employment in the country. In case dumping is not controlled, the domestic industry would be forced to shut down, which would lead to unemployment.
- m. The demand for oil and gas industry is projected to grow in India which would lead to growth in the production of the subject goods in India. In case of non-imposition of anti-dumping duty, the growth in demand of downstream industry would be taken over by the imports from the subject country.
- n. The Chinese producers acknowledge that their costs and prices are affected by the government intervention which is evident from the fact that barring one, none of the parties have filed for a market economy treatment. This allows them to export at cheaper prices.
- o. The arguments with regard to quality of the goods supplied by the domestic industry have not been raised by the users, but by the exporters of the subject goods.
- p. The goods produced by the domestic industry meet the requirements of the Steel and Steel Products (Quality Control) Order, 2020 dated 22nd December 2020 under the Bureau of Indian Standards Act, 2016.
- q. Since Covid-19 impacted the users as well as the domestic industry, it is necessary that fair competition exists in order to revive the economy.
- r. Contrary to the contention of the interested parties, the domestic industry, and particularly Chandan Steel, has supplied significant volumes to processors.
- s. Contrary to claim of interested parties, the domestic industry always strives to ensure timely delivery. Customer feedback reports received by the domestic industry also show that the domestic industry ensures timely delivery.
- t. The product under consideration accounts for a mere 1.1% of total global steel production and the segment consists of only a few producers. Continuous injury to such producers will force them to shut down their operations which will make India a net importer of subject goods.

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

172. The Authority recognizes that the imposition of the anti-dumping duties might affect the price levels of the product in India. However, the fair competition in the Indian market will not be reduced by the imposition of the anti-dumping measures. On the contrary, the imposition of the anti-dumping measures would remove the unfair advantages gained by the dumping practices, prevent the decline in the performance of the domestic industry

and help maintain the availability of a wider choice to the consumers of the subject goods. The purpose of the anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country. The imposition of the anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping measures would not restrict the imports from the subject country in any way and, therefore, would not affect the availability of the product under consideration to the consumers.

173. The Authority considered whether imposition of anti-dumping shall have any adverse impact on the interest of the public. In order to determine such impact, the Authority weighed the impact of the imposition of duties on the availability of the goods in the Indian market, the impact on the users of the product as well as the domestic industry and the impact on the general public at large. This determination is based on the submissions and evidence submitted over the course of the present investigation.
174. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including any possible effects of anti-dumping duty on their operations. The information provided by the domestic industry and the users with regard to public interest have been examined hereinbelow.
175. As noted hereinabove, the imposition of anti-dumping duty does not restrict the availability of imported goods, but only ensures the establishment of a level-playing field. In any case, the Authority notes that there are sufficient capacities with the domestic producers to cater to the demand in the country. Therefore, there is ample availability of the product domestically. Furthermore, there are a number of domestic producers in the country, ensuring sufficient inter-se competition.
176. With regard to the contention that the Authority has not analysed public interest in terms of adverse impact on the downstream industry, the Authority notes that the public interest has been analysed with respect to the interests of all the interested parties including the importers, users, domestic producers as well as the general public. The downstream industry is majorly engaged in importing mother tubes and processing it further to produce cold-rolled tubes and pipes. Since the product under consideration includes both cold rolled products as well as the hot-rolled products / mother tubes, the imposition of anti-dumping duty will equally impact the prices of the raw material as well as finished products. Thus, imposition of anti-dumping duty will not cause any adverse impact on the interest of the downstream industry. Further, the final users of the products have not filed any representation regarding any adverse impact on their interest.

177. As noted in the relevant part of this final findings, protection provided to the domestic industry in form of non-tariff barriers, if any, by the Government of India is not the subject matter of the present investigation. As per the information on record, even after imposition of the non-tariff barriers, the producers in the subject country are dumping in India, which has caused injury to the domestic industry. In such circumstances, the imposition of anti-dumping duty will curb the unfair practice of the exporters and provide level playing field to the Indian industry as well as the exporters from the subject country.
178. The Authority notes that the submissions on quality of the subject goods provided by the domestic industry have been made by the exporters and not the end-users or consumers. All the suppliers of stainless-steel seamless pipes and tubes are obligated to conform to the Indian Standards issued by the Ministry of Steel vide Steel and Steel Products (Quality Control) Order, 2020 under the Bureau of Indian Standards Act, 2016. As per the evidence on record, the domestic industry is maintaining the quality of products as per the Standards issued by the Ministry of Steel.
179. The information provided by the domestic industry further shows that it has supplied goods to processors as well, and that it has received positive feedback from consumers, including with regard to timely delivery of products.
180. Some of the interested parties have contended that Covid-19 pandemic has impacted the downstream industry and imposition of anti-dumping duty will create hardships for the said industry. The Authority notes that Covid-19 pandemic has impacted the downstream industry, the domestic industry as well as the producers and exporters of the product under consideration. Imposition of the anti-dumping duty will create fair competition in the Indian market.
181. With regard to the contention that imposition of anti-dumping duty on imports of mother tubes will increase the cost of production of the processors, the Authority notes that the scope of the product under consideration consists of both mother tubes as well as the cold-drawn tubes. Imposition of duty on the product under consideration will equally impact the importers of mother tubes and cold-drawn tubes, thus, negating any adverse impact on the sales of the processors.
182. Some of the interested parties have contended that if the imposition of anti-dumping duty was in interest of the producers, more producers would have supported the application. The Authority notes that there are seven primary producers of subject goods in India. One of the primary producers is related to an entity in the subject country which has exported to India and is a subject of the present investigation. The application was filed by three domestic producers and was supported by two other producers. In such a situation, majority of producers have supported the application.
183. As per the evidence on record, due to dumping of the subject imports in India, the domestic industry is suffering losses, cash losses and has recorded a negative return on

capital employed. The domestic industry is unable to compete with the subject imports due to intensive dumping in India throughout the injury period. Thus, there is a need for imposition of anti-dumping duty which will lead to redressal of injury to the domestic industry. However, the performance of the importers of the product under consideration has improved. The domestic industry has provided information with regard to the performance of processors as below.

Companies	Particulars	2016-17	2017-18	2018-19	2019-20	2020-21
Heavy Metal and Tubes (India) Private Limited	Profit	94	116	114	111	7
	Revenue	5,641	10,089	18,863	17,742	12,136
MBM Tube Private Limited*	Profit	46	47	37	3,780	3,780
	Revenue	1,799	2,466	3,593	173	173
Krystal Global Engineering Limited	Profit	92	262	629	454	94
	Revenue	6,508	7,555	11,342	8,051	6,894
Shalco Industries Private Limited	Profit	221	280	376	333	340
	Revenue	7,435	5,888	11,286	11,968	9,123
Shublaxmi Metals and Tubes Private Limited	Profit	64	109	259	586	576
	Revenue	7,585	9,024	13,056	13,568	10,474
Venus Pipes & Tubes Private Limited	Profit	29	301	426	604	3,095
	Revenue	2,739	6,825	13,792	17,781	30,933
Maxim Tubes Company Private Limited	Profit	601	613	945	712	952
	Revenue	29,541	30,591	38,064	32,156	35,807
Ratandep Metal and Tubes Limited	Profit	402	359	595	809	556
	Revenue	8,958	9,898	14,632	17,029	13,796
Patels Airflow Limited	Profit	64	219	319	240	223
	Revenue	1,789	3,480	5,247	4,538	4,014
Total	Profit	1,613	2,306	3,699	7,628	9,624
	Revenue	71,993	85,815	1,29,876	1,23,006	1,23,349

\* Since the financial statements of MBM Tube Private Limited were not available for 2020-21, the figures for 2020-21 have been considered to be equal to that for 2019-20

184. As regards the claim that domestic industry refuses to supply to secondary producers, the Authority notes that the evidence placed on record by the secondary producer does not pertain to the domestic industry but another producer of subject goods, who is not before the Authority. Further, the evidence pertains to only one secondary producer and one domestic producer, and thus, cannot be considered reflective of the overall situation. None of the other secondary producers have placed any evidence on record regarding the refusal of the domestic industry to supply mother tubes. In any case, since the product under consideration covers the products produced by the secondary producers, they cannot be adversely impacted by imposition of anti-dumping duty.

## **K. POST-DISCLOSURE COMMENTS**

### **K.1. Submissions made by the other interested parties**

185. The following post disclosure submissions have been made by the other interested parties: -

- a. While the Authority has examined captive consumption for hot-drawn and cold-drawn pipes and tubes, there is a distinction in mother tubes (42 mm dia and above) and smaller tubes (42 mm dia or below). Both hot-drawn and cold-drawn processes involve manufacturing through round bars / billets. Mother tubes are captively used to manufacture smaller tubes. The Authority may undertake separate injury analysis including and excluding captive consumption.
- b. Since Welspun is a new producer, the Authority may examine injury to Welspun in the form of material retardation.
- c. Imports by Tubacex are substantial and more than 50% of sales by the domestic industry in 2019-20. In the anti-dumping investigation on imports of Aluminium Foil from China PR, the Authority held that the applicant cannot constitute domestic industry if the volume of imports by the company increased after the period of investigation.
- d. The Anti-Dumping Rules and Anti-Dumping Agreement do not entitle the Authority to define domestic industry based on cooperation by Indian producers. Indian producers such as Ratnamani, Jindal Saw and Lal Baba Seamless Tubes, should be included within the scope of the domestic industry.
- e. While the Authority noted that complete information has not been provided by Tsingshan regarding finish of product, the producer had already reported in the response that it is a manufacturer of cold finished stainless steel seamless tubes and pipes. The same is also evident from its website, export documents and communications with customers.
- f. Tsingshan misunderstood the clarification sought by the Authority, in that it understood that the Authority requires identification of whether the product is polished or painted, and not whether hot finished or cold finished.
- g. The Authority has not provided the underlying raw data and the basis of arriving at the conclusion that export data submitted by Sandvik does not match the DG Systems data.
- h. The amount paid by Sandvik China to the Indian entity has been disclosed in the response. Since it is not related to the exports made to India, it is not included in the direct expenses in Appendix 3A. The products exported by Sandvik are precision products with specialized applications and thus, command a higher price in the Indian market.
- i. In case, DG Systems data is the only authentic source, there is no need of exporters to participate and the Authority should use DG Systems data for determination of margins, as done in the case of alloy road wheels.

- j. The difference between the export data reported by exporters and DG systems data is likely due to difference in time of reporting of data.
- k. The breakdown of DG System data may be disclosed in order for the exporters to provide clarification of differences.
- l. The Authority has rejected some responses based on the fact that these exporters are not producers. However, these are in fact manufacturers of the subject goods.
- m. The dumping margin and injury margin are very high as they are based on inflated normal value and non-injurious price. Imposition of such high duties will make exports to India unviable and will increase the demand-supply gap in India.
- n. The Authority should adopt actual profit earned by the domestic industry during the period when dumping was not alleged and not 22% return on capital employed.
- o. All the subject goods exported by Shengtak to India are cold finished which is evident from the inspection certificate and Chinese Customs Declaration Form. Since the price of cold-processed goods are higher and is compared to cold-processed product, the producer had no reason to incorrectly report a hot-processed product as cold-processed.
- p. Since manufacturing from hot-rolled billets is one of the key processes involving huge value addition, and hot-rolled billets do not form part of the product scope, it cannot be said that Dingshang, Jinxin, Junda and Xingtongda are not producers of the subject goods. The starting point of other Chinese producers and the domestic industry is also the same.
- q. Dinshang and Xingtongda had reconciled the Indian customs data and the data submitted by them and explained that the difference was on account of the fact that Indian customs data does not capture imports based on product dimensions, leading to inclusion of NPUC.
- r. The Authority is requested to determine dumping margin and injury margin as well as recommend duty at PCN levels.
- s. While the Authority has noted that there is a difference in volume of goods exported to India in EQR and import data filed by Jinxin and Junda, the same was not intimated to the producers and they were not allowed an opportunity to explain the same. Further, authorization to procure Indian customs data was also not provided to the producers.
- t. The actual domestic demand is higher than the demand assessed by the Authority as it does not include the demand for mother pipes captively consumed by the domestic industry.
- u. The audit reports of Maxim and sample purchase invoices of Heavy Metal, showing that they produce the goods using billets, have already been provided. Both the companies were not asked to provide any other evidence.
- v. Reliance should not be placed on EU Anti-Fraud Office report as the data used in this report is not available to the Authority and the other interested parties, the investigation period considered in the report is different from the period of investigation, only some producers participated in the investigation and Maxim has already expanded its production process and has become backward integrated.

- w. The domestic industry has claimed that the injury is due to subsidization in the form of government support in China PR.
- x. The captive consumption of Ratnamani has increased. If the captive consumption for domestic industry has also increased, it means that there is change in pattern of trade.
- y. While the Authority has noted that domestic industry did not go through any significant shutdowns during the pandemic, the operations of Tubacex were affected by the shutdown of its plants and manufacturing units.
- z. Jiangsu Wujin has supplied 94% exports to BHEL against global tenders issued by the importer. Treatment of Jiangsu Wujin as non-cooperative based on the data available only with the Authority is in violation of principles of natural justice and Rule 16. Even after repeated requests by the producer, the Authority has not provided transactions from the DG Systems data.
- aa. Jiangsu Wujin has made exports to India prior to the period of investigation which might have arrived at the Indian port at a later date. Further, the DG Systems data may also include imports of NPUC.
- bb. The Authority did not raise any issues regarding the mismatch of data submitted by Jiangsu Wujin and DG System data at the time of desk verification and verified more than 85% of export transactions reported by the exporter.
- cc. Since DG Systems is not an interested party, confidentiality on such data cannot be claimed under Rule 7 of the Anti-Dumping Rules.
- dd. As per the practice of the Authority, injury to Welspun should be analysed considering quarterly or monthly performance of the new entrant.
- ee. Jiangsu Wujin requested for segregated injury data of the domestic producers but has not received a reply in this regard.
- ff. Instead of sharing actual figures for demand, domestic sales, export sales, capacity utilization, capacity, adjusted capacity and production, only indexed figures have been provided, even though such information was disclosed by the domestic industry.
- gg. The Authority has claimed even the trends of profits, cash profits, return on capital employed and EBIDTA confidential.
- hh. The Authority has provided no basis of arriving at the conclusion that earlier the product under consideration was being imported into India for re-exports to other countries.
- ii. Conclusions that the capacity in India is enough to cater to entire demand and there is no-demand-supply gap in India, but the share of Indian producers is only 25% of demand is contrary to each other.
- jj. Sandvik has clarified in a meeting dated 18<sup>th</sup> August 2022 that the difference between DG Systems data and data submitted by the exporter can be correlated on sharing of DG System data.
- kk. There is no need for participation of the producer of intermediate product and no adverse inference can be drawn upon such non-participation. The Authority did not send exporters questionnaire to the Indian entity as it is a domestic producer and not a foreign producer.

- ll. Since market economy treatment for Sandvik has been denied, there is no requirement for the producer of the intermediate product to participate. The Authority will not consider the cost of production of the Chinese exporter for determination of dumping margin.
- mm. Sandvik may be given requisite information to be procured from the Indian entity and time to convince the Indian entity to furnish such information.
- nn. Since the Authority has not provided the complete unfiltered DG Systems data to Sandvik, the exporter has correlated the export transactions to the extent possible. Some transactions could not be correlated as DG Systems data is bill of entry wise which may club more than one invoice as a bill of entry. The Authority may provide invoice wise / bill of entry wise import data.
- oo. Other reasons for DG Systems data not correlating may be that some imports may have been made in SEZ or non-EDI locations, supplier names may not have been correctly captured and there could be a time lag of 5-6 weeks for transactions to reflect as imports into India.
- pp. Sandvik has provided names of Indian customers and independent enquiries may be made with them to verify import data submitted by the exporter.
- qq. Sandvik has claimed higher imports than reported in DG Systems data, hence, no information has been suppressed by the exporter.
- rr. While the Authority has concluded that Suraj Limited has imported substantial quantity of the subject goods, there is no actual evidence on record. The Authority has not shared or disclosed the source of such information.
- ss. No information was placed on record by the Authority regarding support by Ratnamani after initiation. The data submitted by the company is claimed confidential by the domestic industry, even though Ratnamani has itself not asked for such confidentiality.
- tt. While the Authority has concluded that Lal Baba has supported the application, but such support letter was never circulated to the interested parties, hence, Lal Baba should not be treated as a domestic producer.
- uu. While the present investigation was initiated considering the production of Sandvik Asia Private Limited, its production was later excluded from the total Indian production merely because it did not participate. The petitioners knew the relationship of the exporter with the Indian entity beforehand.
- vv. Evidence has been submitted regarding production capacity of various Indian producers which suggested huge unreported production. The Authority has not disclosed the methodology of determining the total domestic production in India.
- ww. The production of non-supporting producers is inaccurate as despite having twice the capacity of the petitioners, such producers are producing less than 33% of total Indian production. The Authority should independently verify the total production of product under consideration in India.
- xx. The Authority did not conduct desk-verification for Sandvik which is illegal and arbitrary.
- yy. Injury to the domestic industry is due to focus on exports and decline in exports during the period of investigation.

## **K.2. Submissions made by the domestic industry**

186. The following post disclosure submissions have been made by the domestic industry: -

- a. The actual figures for capacity, capacity utilization, production, sales and total demand as well as trends for profits/losses, cash profits and return on investment may be disclosed.
- b. Since the normal value is based on cost of production in India, the same may be disclosed with the domestic industry.
- c. Zhejiang Jiuli Hi-Tech Metals Co., Ltd. filed separate Appendix – I for its different branches, however, this is not as per the practice of the Authority as different branches do not have the locus standi to participate individually. A cumulative Appendix – I has to be submitted.
- d. Zhejiang Jiuli Hi-Tech Metals Co., Ltd. has filed misleading information as it has submitted that it receives orders over WhatsApp, but WhatsApp is banned in China PR. Since this information is false, it leads to a doubt regarding the credibility of other information provided.
- e. Zhejiang Dingshang Stainless Steel Co., Ltd.; Zhejiang Jinxin Stainless Steel Manufacture Co., Ltd.; Zhejiang Junda Steel Pipe Manufacturing Co., Ltd.; and Zhejiang Xintongda Special Steel Manufacturing Co., Ltd., have submitted unreliable data as the volume of exports as well as type of goods exported do not correspond to the Indian customs data. Thus, the responses filed by these entities should be rejected.
- f. The Authority may specify the difference between the data provided by the exporters and the Indian customs data.
- g. While the capacities of the domestic industry increased, the price of the subject imports declined. Although there is no demand-supply gap in India, but considering the underutilized capacities of the domestic producers, there is no justification of decline in landed price in a situation that there is a demand-supply gap in India.
- h. The volume parameters of the domestic industry have improved at the expense of the profitability of the domestic industry. While the volume of sales has increased, the per unit losses have also increased over the injury period.
- i. The capacity utilization of the domestic industry is low throughout the injury period as it is unable to capture market due to dumped imports.
- j. The domestic industry has undertaken substantial exports in order to reach economies of scale. In case, the domestic industry would have depended totally on domestic sales, the losses would have been much higher.
- k. Normation of captive raw material is not as per Annexure III of the Anti-Dumping Rules and actual value must be considered.
- l. Net fixed assets considered for determination of non-injurious price should be as per the books of accounts of Tubacex Prakash India Private Limited which takes into account the actual amount paid by the company.
- m. Non-operating incomes should not be considered by the Authority for determination of non-injurious price.

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

187. The Authority has examined the post disclosure submissions made by the domestic industry and the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and the domestic industry and considered relevant by the Authority are examined below.
188. Pursuant to the issuance of disclosure statement, SSPTMA along with Heavy Metal and Maxim Tubes filed a writ petition before the Hon'ble High Court of Gujarat on the grounds that, inter-alia, their submissions and documents submitted before the Authority, particularly their rejoinder submissions dated 22nd March, 2022 have not been referred to and considered in the disclosure statement. The Hon'ble High Court of Gujarat while disposing the writ petition no. 17982/2022 in its order dated 09<sup>th</sup> September, 2022 took note of the submissions made by Ld. ASG that all the submissions and documents filed by the petitioners will be considered by the Authority before issuing the final findings. Further, the Hon'ble High Court of Gujarat also granted liberty to the petitioners to resubmit the documents.
189. With respect to the argument of SSPTMA along with Maxim Tubes Company Private Limited (“Maxim”) and Heavy Metal & Tubes India Private Limited in the writ petition no. 17982/2022 before the Hon'ble High Court of Gujarat that their rejoinder submissions dated 22nd March, 2022 had not been considered, the Authority notes that the rejoinder submissions were already considered by the Authority while issuing the disclosure statement. However, as directed by the Court these have again been considered before issuing these final findings.
190. The Authority notes that in the said writ petition, these two companies have claimed that they provided audit reports as well as sample purchase invoices as exhibits to the rejoinder submissions so that it could be verified that they are producing the PUC from its raw materials and are backward integrated. In this regard, the Authority takes note of the evidence submitted by Maxim Tubes and Heavy Metal in their rejoinder submission, comments to the disclosure statement and further submissions vide email dated 13th September, 2022. As per the documents submitted, the Authority concludes that these companies produce the PUC from billets/round bars during the investigation period. However, as these companies have also imported the PUC during the POI, both the companies have not been considered as part of the domestic industry.
191. The Authority also notes the arguments of the other member companies of SSPTMA who have filed questionnaire responses and their claim to be the domestic manufacturer of the PUC. In this respect, these companies have submitted additional documents vide email dated 13th September, 2022. In its analysis, the Authority notes that these companies are

secondary manufacturers of the PUC wherein either they procure mother pipes/ tubes domestically or import the same. While they do undertake significant value addition and have also submitted certificates/ other authentic documents concerning the POI, it is also a fact that these companies have imported the PUC during the POI and thus, have not been considered as part of the domestic industry.

192. With regard to the contentions that the DG Systems data has not been provided, the Authority notes that the Authority has provided the specific transactions of the exporters from the DG Systems data post issuance of the disclosure statement.
193. Some of the interested parties have contended that DG Systems data cannot be considered the only authentic source. The Authority notes that in a case where the data filed by the exporters is drastically different from that reported in the Indian customs data, the Authority is more inclined to rely on the Indian customs data, as this data is from a known reliable source.
194. With regard to the contention that the submission of the other interested parties regarding mother tubes and smaller tubes are not like article has not been examined, the Authority notes that said contention raised by the other interested parties has already been examined in the relevant section of this final findings.
195. Some of the interested parties have contended that there is a difference between mother tubes and smaller tubes and separate injury analysis is required including and excluding captive consumption. The Authority notes that mother tubes are hot-rolled products which may be sold directly to the end-users or processed further to manufacture cold-rolled products or smaller tubes. Since both hot-rolled and cold-rolled products fall within the scope of the product under consideration, use of hot-rolled product to manufacture cold-rolled product cannot be considered as captive consumption.
196. Some of the interested parties have contended that the normal value and non-injurious price have been inflated. The DI on the other side contended that NIP has been determined on the lower side. The Authority notes that the normal value and non-injurious price have been determined as per the consistent practice of the Authority and the facts available. The non-injurious price has been determined based on the principles laid down in Annexure – III of the Anti-Dumping Rules. Further, the Authority has constructed normal value based on the cost of production in India as no information was available with the Authority regarding determination of normal value under any other method. Neither the domestic industry nor any other interested parties have provided any information with regards to an appropriate market economy third country or the price in such country which could have become the basis of determination of normal value.
197. With regard to the contention of the amount paid by Sandvik China to its related Indian entity, the Authority notes that the Authority had raised a query regarding the purpose of payment of such amount. The exporter has submitted that the said amount is not related

to direct exports to India and the customers directly approach the exporter for orders. The purpose of payment of such amount is not clear. The exporter has failed to provide an explanation on the nature and reason of such expense even after the Authority issued a query regarding the same. In such a situation, the Authority concludes that the response filed by the exporter cannot be accepted.

198. With regards to the contention that Sandvik has clarified all the issues raised by the Authority, the Authority notes that during the meeting dated 18th August 2022, the exporter was advised to file a detailed written reply to the issues raised by the Authority within the stipulated time. The Authority had granted three days for making such submissions. However, no written reply was received from the exporter regarding the same before issuance of the disclosure statement. Sandvik has filed a written reply regarding the said issues on 30th August 2022, that is, post issuance of the disclosure statement. Further, the exporter has not furnished any evidence along with the reply and accordingly, the Authority does not accept the same.
199. With regard to the submissions that there is no need for the related producer of Sandvik situated in India to participate in the present investigation, the Authority notes that the exporter is required to prove procurement of raw material at arm's length prices from the related entity. In the present investigation, Sandvik Materials Technology (China) Co., Ltd., has not established the same. The role of the Indian entity becomes starker as it has provided the major raw material to the exporter.
200. Sandvik has submitted that the DG Systems data is not correlating with the export transactions as only filtered data has been provided to the exporter. The Authority notes that all the producers/exporters were provided the same set of DG Systems data pertaining to their own export transactions. While most of the other exporters from the subject country were able to reconcile such transactions and provide legitimate reasons for mismatch, Sandvik was unable to do so. The Authority has accepted the response of the exporters which have reconciled their export data with the DG Systems data. However, the Authority concludes that since there is major deviation between the DG Systems data and the export data filed by the exporter and the exporter is unable to provide reasons for such mismatch, the response by such producer cannot be accepted.
201. As regard the contention that there is no evidence that Suraj Limited has imported substantial quantities, the Authority notes that as per the DG Systems data Suraj Limited has imported the subject goods from the subject country during the period of investigation. Suraj Limited is a major importer in India and the focus of the company is importation and not production.
202. With regard to the contention that the Authority did not place any information on record regarding support by Ratnamani, it is noted that the support letter filed by Ratnamani was circulated to all the interested parties along with the petition filed by the domestic industry. The data in the support letter is business proprietary information of one of the

domestic producers in India and thus, it cannot be shared with the other interested parties. The Authority has therefore, accepted the confidentiality claims on such data.

203. As regards the support letter of Lal Baba is concerned, the Authority notes that the same was filed by the producer itself on confidential basis. Since the Authority has informed all the other interested parties regarding the support expressed by the domestic producers and the figures in the support letter are confidential in nature, no prejudice has been caused to the interest of any interested party.

204. Some of the interested parties have contended that while the investigation was initiated considering the production of Sandvik Asia Private Limited, the Authority notes that the petitioners had determined standing based on the total Indian production including the production by Sandvik Asia Private Limited at the time of filing the petition. The Authority had *prima facie* concluded that the petitioners account for major proportion of Indian production and thus, eligible to constitute domestic industry at the time of initiation. However, during the course of the investigation and taking into account the submissions made by various entities, it is noted that Sandvik Asia Private Limited was related to a Chinese exporter which had exported major quantities to India. Thus, in light of the past practice of the Authority, the production of Sandvik Asia Private Limited was excluded from determining the total domestic production of the domestic industry.

205. As regards the contention that evidence has been placed on record regarding the production capacity of Indian producers and the Indian production has been determined incorrectly, the Authority notes that the other interested parties have provided the capacities of the Indian producers and not the actual production. Further, it is noted that the capacity provided for some of the Indian producers is the combined capacity for various products and not just the product under consideration. Thus, such information cannot be relied upon. In order to determine standing of the domestic industry, the Authority has to determine the share of the petitioners in the total production in India. The Authority has determined the production of Indian producers barring Jindal Saw Limited based on the information submitted by them. Since no other interested parties has provided any information regarding the production of Jindal Saw Limited, the Authority has relied upon the information on record.

206. Some of the interested parties have contended that Rules do not allow to disregard the production of a domestic producer for determining the total Indian production due to its relationship to an exporter. The Authority notes that standing under Rule 5 is required to be determined with reference to production of domestic industry, which has been defined under Rule 2(b) as discretion to exclude those producers which are related to the exporters or importers of dumped articles or are themselves importers. Accordingly, the production of Sandvik Asia Private Limited has not been considered for determining the standing of domestic industry due to its affiliation with an exporter in subject country which is engaged in exports to India.

207. With regards to the submission that the Authority has not conducted desk verification for Sandvik, the Authority notes that desk-verification was duly conducted in the present investigation. The Authority had issued a letter on 23rd March, 2022 regarding the documents and information to be furnished by the exporter in order to verify the data submitted. The desk verification was carried out thereafter too.

208. As noted in the relevant section of the final findings, the injury to the domestic industry is not due to export performance as the Authority has only analyzed the performance of the domestic industry in terms of domestic sales.

209. With regard to the submissions that trends for profitability of the domestic industry and actual figures for demand, domestic sales, export sales, capacity utilization, capacity, adjusted capacity and production should be shared, the Authority notes that the same have been shared in this final finding.

210. Some of the interested parties have contended that the injury to Welspun should be examined in the form of material retardation. The Authority notes that the domestic industry requested to examine injury to Welspun in form of material retardation. However, the Authority concludes that since the industry for the product under consideration is already established in India, material retardation cannot be claimed in respect of Welspun. Thus, the contentions raised by the other interested parties post disclosure that the injury to Welspun should be examined in the form of material retardation cannot be accepted.

211. As regards the claim of the other interested parties that Ratnamani, Jindal Saw and Lal Baba Seamless Tubes should be included as part of the domestic industry, the Authority notes that it is required to examine whether the applicant domestic industry before it accounts for a major proportion of the total production so as to constitute domestic industry under Rule 2(b). It cannot compel any party, including other domestic producers, to participate in the investigation.

212. Some of the interested parties have contended that Tubacex should not be considered within the scope of the domestic industry as it has imported the subject goods. The Authority notes the issue has been examined in the relevant part of this final findings. With regards to the issue that the Authority excluded the domestic producer from the scope of the domestic industry in the anti-dumping investigation on imports of Aluminium Foil from China PR, as the imports increased post the period of investigation, the Authority notes that the facts of the said investigation were different from the present investigation. The domestic producer was excluded from the scope of the domestic industry as it had made imports during the period of investigation and had not provided any justification for the same. However, in the present investigation, no imports have been made by Tubacex during the period of investigation and hence, Tubacex has been included within the scope of the domestic industry.

213. With regard to the contention that reliance should not be placed on the EU Anti-Fraud Office report, the Authority notes that data placed in the report has not been relied upon. The Authority has noted that according to the report, the subject goods imported from the subject country have been re-exported to the European Union in the previous years.

214. As regards the demand-supply gap in India, the Authority notes that as per the information on record the capacities of the domestic industry are enough to cater to the entire demand in India. The demand-supply gap has to be looked at with respect to the capacities installed in India and not the production of the Indian producers. Even though the petitioners account for 50-60% of the production in India, the capacity of all the manufacturers together is much more.

215. Some of the interested parties have contended that the domestic industry has claimed injury based on subsidization of the subject goods in China PR. The Authority notes that the domestic industry has filed an application for imposition of anti-dumping duty against dumped imports in India. The Authority has analyzed dumping, injury and causal link. The conclusion arrived at by the Authority do not pertain to subsidization of the subject goods, if any, in China PR.

216. As regards the claim that the domestic demand is higher as it does not include the demand for mother pipes captively consumed by the domestic industry, the Authority notes that since the product under consideration includes both mother pipes and cold-rolled products, consumption of mother pipes to manufacture cold-rolled product cannot be treated as captive consumption. Since the demand includes the cold-rolled product sold by the domestic industry as well as imported into the country, mother pipes sold in the domestic market by the domestic industry and those imported from the subject country, the demand has been correctly assessed. Inclusion of mother pipes used by the domestic industry to manufacture cold-rolled product in demand will lead to double counting of the same product.

217. With regards to the submission that the injury to the domestic industry is due to shutdown of Tubacex due to COVID, the Authority notes that the plant of the petitioner was shut down for only 13 days during the period of investigation. Such a short period of shut down cannot be considered for causing injury to the domestic industry.

218. Some of the interested parties have contended that 22% return on capital employed is not appropriate. The Authority notes that the return on capital employed allowed to the domestic industry is as per the consistent practice of the Authority.

219. With regards to the contention that anti-dumping duty should be recommended at PCN levels, the Authority notes that the PCNs have been devised in the present investigation for the purpose of fair comparison of export price and normal value. However, no evidence has been placed on record regarding the need for determination of anti-dumping duty at PCN levels. Hence, the Authority concludes that the anti-dumping duty is

recommended based on the lesser duty rule and weighted average of margins determined for the cooperating and non-cooperating producers.

## **L. CONCLUSION & RECOMMENDATIONS**

220. Having regard to the contentions raised, information provided, submissions made and the facts available before the Authority as recorded above, the Authority concludes that:

- i. The applicant constitutes domestic industry under Rule 2(b) of the Rules and the application satisfies the requirements under the rules.
- ii. There is dumping of the subject goods from the subject country. The dumping margin is positive and significant.
- iii. The imports are undercutting the price of the domestic industry in the period of investigation. Price undercutting is significant.
- iv. The subject imports are priced below the cost of sales and the selling price of the domestic industry, causing price depression and suppression.
- v. The domestic industry is unable to sell its products at remunerative prices. The selling price of the domestic industry has remained below its cost of sales.
- vi. Though the production, capacity utilisation, sales of the domestic industry have increased during the POI, yet the domestic industry is operating at less than the optimum capacity utilisation.
- vii. The domestic industry has suffered cash losses throughout the injury period.
- viii. The domestic industry is not earning any return on its capital employed. The return on capital employed throughout the injury period is negative.
- ix. The imports have impacted the ability of the domestic industry to raise capital investments for the product under consideration.

221. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, Embassy of the subject country, exporters, importers and the other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of anti-dumping duty is required to offset dumping and the consequent injury. Therefore, the Authority considers it necessary to recommend imposition of the definitive antidumping duty on the imports of the subject goods from the subject country in the form and manner described hereunder for a period of 5 years.

222. In terms of the provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends imposition of the 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. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of the subject

goods described at Column 3 of the Duty Table, originating in or exported from China PR.

Duty Table

SN	Heading/ Subheading	Description of goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang Bangnuo Steel Pipe Co., Ltd.	114	MT	USD
2	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang HongQuan Stainless Steel Co., Ltd. and Zhejiang Yinlong Stainless Steel Co., Ltd. and Zhejiang Yinlai Steel Tube Co., Ltd.	886	MT	USD
3	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd.	1,492	MT	USD
4	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.	1,005	MT	USD
5	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang Yi Jia Wang Steel Tube Co., Ltd.	3,191	MT	USD
6	7304	Stainless- Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang Jiuli Hi-Tech Metals Co., Ltd.	Nil	MT	USD

7	7304	Stainless-Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Huadi Steel Group Co., Ltd.	Nil	MT	USD
8	7304	Stainless-Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.	Nil	MT	USD
9	7304	Stainless-Steel Seamless Tubes and Pipes**	China PR	Any country including China PR	Zhejiang Tsingshan Steel Pipe Co., Ltd.	Nil	MT	USD
10	7304	Stainless-Steel Seamless Tubes and Pipes**	Any country including China PR	Any country including China PR	Non-cooperative / residual exporters	3,801	MT	USD

\*\* Stainless-Steel Seamless Tubes and Pipes with diameter up to and including 6 NPS, or comparable thereof in other unit of measurement, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including subject goods imported in the form of defectives, non-prime or secondary grades."

223. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

#### **M. FURTHER PROCEDURE**

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



(Anant Swarup)  
Designated Authority