

**To be published in Part-I Section-I of the Gazette of India Extraordinary  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Anti-Dumping & Allied Duties)**

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Dated 04<sup>th</sup> July, 2017

**Notification**

**FINAL FINDING**

**Subject: Countervailing Duty/Anti-subsidy investigation concerning imports of certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from the People's Republic of China.**

No 14/18/2015-DGAD:- Having regard to the Customs Tariff Act 1975, (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, (hereinafter also referred to as the Rules) thereof;

**A. Background of the case**

1. Whereas M/s Jindal Stainless Limited and Jindal Stainless (Hisar) Limited (hereinafter referred to as the applicants or petitioners) filed an application before the Designated Authority (hereinafter referred to as the Authority), on behalf of the domestic industry, for imposition of Anti-subsidy/Countervailing Duty investigation concerning imports of **Flat Rolled Products of Stainless Steel, from People's Republic of China** (hereinafter referred to as the subject country). Vide the above petition, the petitioner alleged subsidization of imports of the product under consideration and consequent injury to the domestic industry and requested for levy of anti-subsidy/countervailing duty on the imports of the subject goods, originating in or exported from the subject country.

2. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the petitioner, issued a public notice vide Notification No. 14/18/2015- DGAD dated 12th April, 2016 published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule(1) of Rule 7 of the Rules, to

determine the existence, degree and effect of the alleged subsidy and to recommend the amount of anti-subsidy/countervailing duty, which, if levied, would be adequate to remove the injury to the domestic industry.

## **B. Procedure**

3. The procedure described below has been followed by the Authority with regard to the subject investigation:

- i. The Authority notified the Embassy of China PR in India about the receipt of the anti-subsidy application before proceeding to initiate the investigation in accordance with Sub-Rule (2) Rule 7 of Rules supra.
- ii. The Authority invited the Govt. of China for consultation with the aim of clarifying the situation and arriving at a mutually agreed solution in accordance with Article 13 of the Agreement. The consultation was held on 10<sup>th</sup> March, 2016 in New Delhi, which was attended by the representatives of the Govt. of China (hereinafter also referred to as "GOC"):
- iii. During the consultations the GOC claimed that the evidence in the petition was incomplete in certain critical respects, the alleged subsidy schemes/programs have already been rescinded and the Designated Authority should not consider the petition for initiating the investigation. GOC made the following submissions post consultation:
  - a. The petition is not properly documented.
  - b. Most of the alleged programs in the petition are mere assertions without supportive evidence.
  - c. In order to make an anti-subsidy complaint, the petitioner has simply copied the contents of findings of other WTO member countries such as USA, EU, Canada, Australia etc., without justifying how such outdated information relevant to other products and situations could be relevant for the present petition.
  - d. Benefits conferred on some other industries cannot be obtained by industries involved in the product under consideration of the present petition.
  - e. The rescinded programs alleged by the petitioner should be rejected.
  - f. Scope of the product under consideration (PUC) is too broad and unclear.
  - g. If the PUC is defined in such broad manner, then the Indian producers of all the like articles should be covered in the scope of domestic industry.
  - h. Given the physical differences and diversity of usages among various product categories within the scope of PUC, the petitioner has to make clear distinction among different categories of products and conduct analysis on competition, price effect, as well as injury and causal link separately.

- i. The petition suffers from utmost confidentiality. Certain critical information concerning import data, costing, etc. are missing in the petition. Lack of transparency may impair the rights of the other interested parties to rebut the allegations of the petitioner.
  - j. Imposition of countervailing measures against the imports of product under consideration from China will impair the competitiveness of the Indian power plant sector, the development of private sector and the welfare of Indian people at large.
- iv. The Authority notes that the Government of China PR did not provide any substantiated evidence in support of their claims made during the pre-initiation consultations.
- v. The Authority considered the petition and the contentions of the GOC and held that it was appropriate to initiate and conduct countervailing duty investigations in order to determine whether the producers/exporters of the product under consideration were benefited from countervailable subsidies and, whether such subsidized imports were causing injury to the domestic industry and if so, whether it is appropriate to recommend imposition of countervailing duty measures (hereinafter referred to as "CVD" or "subsidy duty") on imports of the product under consideration from China PR and if so, to determine the quantum of CVD that should be imposed on the imports of the product under consideration.
- vi. The Authority issued a notification on 12th April, 2016, published in the Gazette of India, extraordinary, initiating anti-subsidy/countervailing duty investigations.
- vii. The Authority sent a copy of the initiation notification dated 12th April, 2016 to the Embassy of China PR in India, known producers/exporters from China PR, known importers/users in India, other Indian producers of subject goods and the domestic industry as per the addresses made available by the petitioner and advised them to make their views known in writing within 40 days of the initiation notification.
- The Embassy of China PR in India was requested to advise the producers/exporters from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to the Embassy of China PR along with the names and addresses of the known producers/exporters from China PR.
- viii. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters from China and to the Embassy of China PR in accordance with Rule 7(3) of the Rules supra.
- ix. The Authority sent a questionnaire to the GOC seeking relevant facts/information with regard to various schemes/programs where countervailable benefit might have been conferred onto the producers/exporters of the product under consideration. The GOC

filed incomplete questionnaire response. The GOC was informed that questionnaire response filed by them was incomplete in most respects. The representative of the GOC was also informed about the incomplete questionnaire response at the time of oral hearing. However, no further information was received from the GOC.

x. The Authority sent exporter's questionnaire to elicit relevant information to the following known producers/exporters in China PR, in accordance with Rule 7(4) of the Rules:

- a) Shen Zhen 1-Touch Business Service Ltd.
- b) Wuxi Joyray International Corp.
- c) Lianzhong Stainless Steel Corporation
- d) Foshan Liteng Economy & Trade Co. Ltd.
- e) Foshan Gangtuo Import & Export Co. Ltd.
- f) Fujian Fuxin Special Steel Co. Ltd.
- g) Ningbo Tierslia Imp.& Exp. Co. Ltd.
- h) Shenzhen Zhaoheng Specialty Steel Co. Ltd
- i) Sichuan Dayang Trading Co., Ltd
- j) Shenzhen Zhongchuang Yu Steel Industry Co. Ltd
- k) Minmetals Steel Co. Ltd
- l) Jieyang City Baowei Stainless Steel Co. Ltd
- m) Foshan Sun Ming Trading Co. Ltd\
- n) Pohang (Zhangjiagang) Stainless Steel Processing Co. Ltd.
- o) Xiamen Great Corporation
- p) Guangdong Foreign Trade Imp. & Exp. Co.
- q) Shanghai Krupp Stainless Co. Ltd.
- r) Wuxi Welgate Technology Co. Ltd.
- s) Jiangsu New Qiuqing Stainless Steel Co. Ltd.
- t) Wenzhou Ruihong International Industry Co. Ltd
- u) Xinjiang Alashankou Minmetals Trade Co., Ltd.
- v) Haimen Senda Decoration Material Co. Ltd.
- w) Wuxi Jiayi International Trading Co., Ltd.
- x) Shenzhen Duntai Trading Co. Ltd
- y) Yuyao Xingda Stainless Steel Co., Ltd.

- z) Zhuhai Xing Zong Trade Co. Ltd.
- aa) Zhenshi Group Eastern Special Steel Co. Ltd
- bb) Zhejiang Huashun Metal Materials Co. Ltd.
- cc) Foshan Bright Glory Stainless Steel Ltd.
- dd) Wuxi Baochang Metal Products Co. Ltd.
- ee) Foshan Chuangshengdian Import And Export Co. Ltd.
- ff) Okaya (Shanghai) Co. Ltd.
- gg) Foshan Real Leader Imp. & Exp. Co., Ltd.
- hh) Guangfeng Steel Corporation
- ii) Ningbo China world Grand Import And Export Co. Ltd.
- jj) Beijing Jingnanfang Decoration Engineering Co. Ltd.
- kk) Foshan Henry Trading Co. Ltd.
- ll) Shandong Huaye Stainless Steel Products Co.
- mm) Xiamen Golden Huanan Imp.& Exp. Co., Ltd.
- nn) Yu Gang Import and Export Trading Co Ltd.
- oo) Shanxi Taigang Stainless Steel Co. Ltd.
- pp) Mianzhu Honda Trading Co. Ltd
- qq) Xiamen Tancheng Import and Export Co. Ltd.
- rr) Foshan Vigor Dragon Imp & Exp Co. Ltd.
- ss) Foshan International Trade Co. Ltd.
- tt) Shanghai Hyss International Trading Co., Ltd.
- uu) Tsingshan Holding Group Shanghai International Trading Co., Ltd.
- vv) Export Co., Ltd.
- ww) Sokal Steel Co., Ltd.
- xx) Gaoming District of Foshan City Octopus Stainless Steel Co., Ltd.
- yy) Foshan Guang Yu Stainless Steel Co. Ltd.
- zz) Zhangjiagang Pohang Stainless Steel Co., Ltd
- aaa) Zhejiang, One of Qualcomm Enterprise Services Ltd.
- bbb) Yongxin Huining Trade Co., Ltd.
- ccc) Lianzhong (Guangzhou) Stainless Steel Co. Ltd.

- ddd) Beijing Gold Trust Metal Products Co., Ltd
- eee) Foshan Bohong Economic & Trade Co. Ltd
- fff) Wenzhou Foreign Trade Industrial Product Co. Ltd.
- ggg) Shanghai Tsingshan Mineral Co. Ltd
- hhh) Sinotrans Shenzhen Logistics Company Limited
- iii) Guangdong Guangxin Suntec Metal Holdings Co. Ltd.
- jjj) Foshan LFC Imp & Exp Co., Ltd.
- kkk) Zhejiang Zhongda Yuantong Industrial Corporation.
- lll) Foshan Yihetai Import & Export Co. Ltd
- mmm) Foshan Native Produce Imp. & Exp.
- nnn) Nanjing Chenguang Group Co. Ltd
- ooo) Richead Co. Ltd.
- ppp) Chengdu Bailiqiao Commerce And Trade Co. Ltd.
- qqq) Zhejiang Kailai Industrial & Trade Co. Ltd.
- rrr) Hunan China Sun Pharmaceutical Machinery Co. Ltd.
- sss) Wuxi City Steel Co., Ltd.
- ttt) Economic and Trade Co., Ltd.
- uuu) Kinford Henan Construction Machinery Co. Ltd
- vvv) China Western Power Industrial Co., Ltd.
- www) Nanhai Shun Tang Imp. & Exp. Co. Ltd Of Foshan
- xxx) Taikoo (Xiamen) Aircraft Engineering Co. Ltd.

xi. In response to the initiation of the subject investigation, following producers/exporters from China responded with exporter questionnaire response. However, questionnaire responses from these producers/exporters were also grossly incomplete/deficient.

- a) Guangdong Jeray Technology Group Co. Ltd
- b) Guang Feng (Zhaoqing) Steel Industry Co. Ltd
- c) Ningbo Tierslia Imp. & Exp. Co. Ltd
- d) Zhejiang Jianheng Industrial Co Ltd
- e) Intexexport /Unisilk Limited Hong Kong
- f) Ningbo Meiyuangfeng Metal Industry and Trade Co. Ltd

- g) Guandong Runxin Industrial Investment Co.Ltd
- h) Xiamin Great Corporation
- i) Foshan Lisheng Stainless Steel Ltd
- j) Anihui Baoheng Advanced Material Technology Co Ltd
- k) Ningbo Yirui Matelware Co. Ltd

xii. Questionnaires were sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with the Rules:

- l) Maruichi Kuma Steel Tube Private Ltd.
- m) Magppie International Ltd
- n) Posco-India Delhi Steel Processing Centre Pvt. Ltd
- o) U- Like Exports
- p) Posco-India Pune Processing Center Pvt. Ltd.,
- q) Aadinath Metal
- r) Sharda Motor Inds Ltd
- s) Jkb International
- t) Minox Metal Pvt. Ltd
- u) Anant Inox
- v) Navnidhi Steel Engineering Co. Pvt. Ltd.
- w) Shiva Utensils Industries Pvt. Ltd.
- x) Automotive Steel Pipe India Private Limited
- y) Rajputana Stainless Ltd
- z) Stainox Alloys Pvt Ltd
- aa) Radha Raman Stainless Steel Pvt. Ltd.
- bb) Posco India Chennai Steel Processing Centre Pvt.
- cc) Janki Metal Strips Private Limited
- dd) Tenneco Automotive India Private Limited
- ee) M M Metal International
- ff) M/S. Reliance Fabrications Pvt. Ltd.
- gg) Mukesh Steel Trading
- hh) IDMC Limited

- ii) Sunrise Stainless Pvt. Ltd.
- jj) Navnidhi Steel Engineering Co. Pvt. Ltd.
- kk) Kone Elevator India Pvt Ltd
- ll) Paharpur Cooling Towers Limited,
- mm) Larsen & Toubro Limited
- nn) Inox India Ltd
- oo) Godrej & Boyce Manufacturing Company Limited
- pp) Renaissance Biochemicals Pvt. Ltd.
- qq) Ratnamani Metals & Tubes Ltd.
- rr) Sulzer India Ltd
- ss) ISGEC Heavy Engineering Ltd.
- tt) Manak Overseas Ltd.,
- uu) Honest Enterprise Ltd
- vv) Suncity Strips & Tubes Private Limited
- ww) Godrej & Boyce Manufacturing Company Limited
- xx) Shah Foils Limited
- yy) Repute Exim
- zz) Punjab Stainless Steel Industries
- aaa) Bharat Heavy Electricals Limited
- bbb) Divya Kitchenware Pvt Ltd.
- ccc) Apex Tubes Private Limited
- ddd) Remi Edelstahl Tubulars Limited

xiii. In response to the notification and the request for questionnaire response, following importers filed questionnaire response and/or submissions

- a) Suncity Sheets Pvt Ltd
- b) Honest Enterprise Limited
- c) SNB Enterprises P Ltd. India
- d) Shah Foils Ltd, India
- e) JNB Steel Industries P Ltd

- xiv. Submissions were also made by Stainless Steel Manufacturers and Suppliers Association (hereinafter also referred as "Consumer Association").
- xv. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;
- xvi. Exporters, producers and other interested parties who have not responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperative.
- xvii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange transactionwise details of imports of subject goods for the past three years as well as the period of investigation, which was received by the Authority. The information so received has been considered for the purpose of this investigation.
- xviii. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if countervailing duty lower than the subsidy margin would be sufficient to remove injury to the Domestic Industry. Separate NIP has been determined for various grades of the product under consideration.
- xix. The period of investigation for the purpose of the present investigation is Jan 2015 to Dec. 2015 (12 months). However, injury analysis covered the periods 2012-13, 2013-14, 2014-15 and POI.
- xx. In accordance with Rule 7(6) of the Anti-subsidy/countervailing Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 12th January, 2017. The parties, who presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xxi. The submissions made by the interested parties during the course of this investigation to the extent found relevant have been considered by the Authority, in this statement/finding.
- xxii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xxiii. The Authority requested the Govt. of China to notify its willingness or otherwise to conduct on-the-spot verification of the responses/evidences submitted by the Government of China and the responding Chinese exporters. However, on the spot verification of the information/data/evidences furnished and claims made by the Govt of China and responding Chinese producers/exporters could not be carried out, as Govt of China neither consented for their verification nor provided the necessary consent to visit

China to conduct on the spot verification. Resultantly, the Authority has considered that the Government of China and the responding exporters/producers have not adequately cooperated with the Authority and therefore the relied upon the best available information on record.

xxiv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xxv. Wherever an interested party has refused access to, or has otherwise not provided necessary information in a timely manner during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.

xxvi.\*\*\* represents information furnished by a party on confidential basis and so considered by the Authority under the Rules.

xxvii. The average exchange rate of 1US\$ = Rs 61.65 prevailing during the POI has been adopted by the Authority in this finding.

### **C. Level of cooperation by Government of China**

4. The Authority notes that adequate opportunities were provided to the Government of China (GOC), through written communications and orally at the time of hearing, to provide relevant information concerning existence, operations & administration of various alleged subsidy schemes, countervailability of the same vis-à-vis the WTO Subsidy Agreement (ASCM) & Indian Rules, and benefits availed by the Chinese producers/exporters under these schemes. The GOC neither provided complete information, nor consented for the request for on the spot verification made by the Authority. The GOC has thus not cooperated with the Authority in the present investigations. Had the GOC cooperated with the Authority by providing complete questionnaire response, relevant information/document/evidences, and allowed on the spot verification of their information/documents/records and that of the respondent Chinese producers/exporters, the Authority would have been in a position to make a determination on the basis of such information/ documents/ evidences. Since GOC has not extended the required cooperation, the Authority was constrained to proceed with best available information in making the proposed determination.

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

#### **D.1. Submissions made by the Domestic Industry**

5. Following are the submissions made by the domestic industry with regard to product under consideration and like article:
- i. The product under consideration in the present petition is "Flat Rolled Products of Stainless Steel" which can be Hot Rolled or Cold Rolled condition in the form of coils, sheets, plates, strips or otherwise. The PUC falls under customs sub-heading nos. 7219 and 7220 of Chapter 72 of the Customs Tariff Act, 1975. The classification is however indicative only and in no way binding on the scope of the present investigations.
  - ii. The subject goods are used for manufacture of white goods, processed equipment, dairy equipment, re-rolling, reactor vessels, material handling equipments, railways, pipes & tubes, automotive components, rail carts, metro coaches, architecture, building and construction, rolled formed sections, industrial fabrication, etc.
  - iii. The product under consideration can be in the form of coils, sheets, plates, strips or otherwise. The only difference in sheets, plates and coils is in thickness or length of the product. Further, one of the differences in different types of the product under consideration is in product specifications, which are achieved by the producers to meet the specific end application.
  - iv. The product under consideration is first produced in hot rolled conditions and thereafter rolled in cold conditions. Various properties in the product are achieved either by targeting right composition of material at the time of melting of the inputs in the furnace, or by subsequent processing in the plant. The producers in China and the domestic industry in India hold sufficient production facilities to achieve different product specifications desired by the consumers. Various types of the product constitute one article for the purpose of present petition.
  - v. The product is primarily sold in terms of net weight expressed in terms of kgs or MT.
  - vi. Petitioners submit that the Authority has appropriately defined the product under consideration in the initiation notification after keeping in view the imports from China and production and supply position of the domestic industry. There is neither a prescription nor a proscription for defining a product under consideration.
  - vii. The WTO has held that there is no legal mandate with regard to what shall be product under consideration. Analysis of past findings of various investigating authorities shall show that there is no legal requirement of (a) internal

homogeneity within the product under consideration, (b) inter-se substitutability of various types of the product under consideration.

- viii. Consider Hot Rolled and cold rolled stainless steel as one article in a subsidy investigation. Significant part of cost in making stainless steel is incurred upto the stage of making hot rolled stainless steel. Thus, if the effects of subsidies have come on the basic investments upto the stage of hot rolled, should hot rolled and cold rolled product be segregated and treated as different product, entire effect of subsidy will get subsumed in making hot rolled product. Most of the stainless steel producers, including petitioners in India and subject exporters in China are producing both hot rolled and cold rolled stainless steel.
- ix. Stainless steel is classified under Chapter 72, wherein it is not separately classified in terms of hot rolled or cold rolled products. The basic criterion for separating Stainless steel from carbon steel is chromium content. Customs Tariff also defines flat rolled products, where again there is no reference to either hot rolled or cold rolled products. Thereafter, the product is categorized in terms of width of the product. Thus the customs classification refers only to stainless steel flat rolled products and separates different types in terms of width and composition of the product. It is the chemistry which is the defining feature in any technical standard and that is decided at the stage of melting itself. Mere fact that PUC falls into different customs classifications does not per se mean that different forms are different articles.

## **D.2. Views of Exporters, Importers, Consumers and other Interested Parties**

6. Following submissions have been made by the exporters/importers/users/other interested parties/ other parties
  - a. The Authority should reconsider the scope of PUC. Present investigation has been initiated with respect to the Product under Consideration, treating the same to be one single homogenous product. However, the Product under Consideration consists of separate and distinct products and does not form one single product.
  - b. The process of manufacture of Hot rolled stainless steel and that of Cold rolled stainless steel are completely different and therefore be considered as two separate and distinct products. Domestic Industry has taken a position that conversion of Hot Rolled products to Cold Rolled products is a mere *"transformation from one form to other form should not be considered as production"*. The above premise of the Domestic Industry is completely erroneous and is contrary to the express findings of the Hon'ble Supreme Court of India. Hon'ble Supreme Court of India has held production of cold rolled products from Hot Rolled Products to be "manufacture" under the Central Excise Act.

- c. Hon'ble Supreme Court of India, in Gujarat Industries and Ors. v. Commissioner of Central Excise-1, Ahmadabad, Civil Appeal Nos. 5784-5788 of 2007, was seized with the issue of whether cold rolling of stainless steel would amount to 'manufacture', as opposed to the argument that no new commercially identifiable product came into existence by cold rolling of hot-rolled products. The Hon'ble Supreme Court was pleased to affirm the reasons and rationale given by the Third Member of the office of the Commissioner of Central Excise, Ahmadabad.
- d. Hot-rolled and Cold-Rolled Stainless steel form two separate and distinct products and doesn't form one homogenous product broadly on the following parameters:
  - i) The Final temperature of the work-piece in hot-rolling is about 900 degrees Celsius. Cold rolling is carried out at an ambient temperature, i.e. below the recrystallization temperature. Hence, the conditions under which the two are manufactured are different.
  - ii) When hot-rolled strips, which are flat-rolled products, are subjected to cold rolling, such cold-worked product would be very hard and would possess greater tensile strength. The two are distinct in nature and resultantly, their end uses too are different.
  - iii) Heat treatment for hardening or tempering may be suited for particular products while cold-rolling or cold-working may be suited for hardening or tempering other kinds of products. Therefore, by merely referring to hardening or tempering by process of heat treatment, one cannot shut out the entire cold-rolling or cold-working processes which bring about hardening or tempering. Accordingly, it is evident that the end uses of the both hot-rolled and cold-rolled steel are different.
  - iv) In hot working, metal working is performed on a metal held at such a temperature that the metal does not work-harden, while in cold working it is a plastic deformation of a metal which results in strain hardening.

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

- 7. The product under consideration in the present investigation is "Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel".
- 8. The scope of the product under consideration was defined as follows in the initiation notification:

#### *G. Product under consideration*

*12. The product under consideration in the present investigation is "Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel". The product under consideration is classified in Chapter 72 under customs subheading no. 7219 and 7220 of Schedule I of the Customs Tariff Act, 1975.*

9. The Authority has considered submissions made by various interested parties with regard to the scope of product under consideration and its appropriateness for the present investigations.
  - i. The product under consideration (PUC) in the present investigation, as defined in the initiation notification, is "Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel".
  - ii. The product under consideration is classified in Chapter 72 under customs subheading no. 7219 and 7220 of Schedule I of the Customs Tariff Act, 1975.
  - iii. The basic production process involved in the production of the product under consideration involves melting the raw materials, scrap (alloy and non-alloy) and ferro-alloys in an electric arc furnace, where powerful electric arcs start to melt the scrap and alloys. The hot rolling process begins at the reheat furnace where the slabs are heated to between 1100 and 1300°C, depending on the stainless steel grade. The hot rolled products are softened (annealed) and descaled (pickled with acids). Cold rolling of the Hot rolled stainless steel takes place in Sendzimer mills (Z-mills), which produce smooth, shiny finished, cold rolled stainless steel by rolling the HR steel. The product is first produced in hot rolled form. It can thereafter be sold in the market, or cold rolled further. The petitioner has claimed that cold rolled products cannot be made directly from scrap or slab and cold rolled steels are formed by rolling of hot rolled coils at specific temperature.
  - iv. The mere fact that the scope of the product under consideration includes hot rolled and cold rolled forms of the product, the same does not imply that the two cannot be considered and included within the scope of product under consideration in the present case. It is noted that Indian Custom Tariff Classification classifies stainless steel under Chapter 72, wherein it is not separately classified in terms of hot rolled or cold rolled products. Customs

classification 7219 is flat-rolled products of stainless steel, of a width of 600 mm or more, whereas 7220 is flat-rolled products of stainless steel, of a width of less than 600 mm. Further, both 7219 and 7220 includes (a) hot and cold rolled products, (b) products in coils and not in coils. It is noted that the mere difference in customs classification of the different product types does not render them unlike articles for the present purposes.

- v. Analysis of cost statements provided by the domestic industry shows that majority cost involved in production of the product under consideration is on raw materials and utilities upto the stage of steel melting. At the stage of raw materials, the cost of different types of the product varies largely on account of composition of the steel, which is the defining feature in technical standards and is decided at the stage of melting itself. Different types of steels are produced having different metallurgical composition, which are achieved by using right mix of raw materials. The expenses involved at rolling stage – whether hot rolled or cold rolled are not so significant. Significant part of cost in making stainless steel is incurred upto the stage of making hot rolled steel. Thus, the effects of subsidies have come on the basic stage of hot rolled steel.
- vi. Different types of the product under consideration essentially differ in terms of shape, size, metallurgical composition, rolling conditions (hot rolled/cold rolled). However, these differences can be achieved through regulating the production process and do not render them distinctly different articles for the present purposes.
- vii. Questionnaire response filed by the responding exporters and information provided by the domestic industry show that the producers tend to produce both hot rolled and cold rolled products and offer them in a wide range of shape, size, and metallurgical composition to suit specific end consumer requirements.
- viii. Product under consideration is used for manufacture of white goods, processed equipment, dairy equipment, re-rolling, reactor vessels, material handling equipments, railways, pipes & tubes, automotive components, rail carts, metro coaches, architecture, building and construction, rolled formed sections, industrial fabrication etc. Producers produce goods conforming to the requirements of the different consumers.

### **Like Article**

10. The WTO Agreement on Subsidies and Countervailing Measures defines like product as:

*“[T]he term “like product” (“produit similaire”) shall be interpreted to mean a product which is identical, i.e. alike; in all respects to the product under*

*consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.”*

11. The Authority notes that the domestic industry is producing the product under consideration for past several years and selling the same in India and international market. After careful consideration of the submissions made by various interested parties, the Authority holds that the subject goods produced by the domestic industry are comparable to the goods imported from China in terms of parameters 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. Goods supplied by the domestic industry and imported from China serve the same general purpose and perform the same function.

12. In view of the above, the authority holds that subject goods produced by the domestic industry are like article to the product under consideration imported from China in terms of the Rules.

## **E. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

### **E.1. Views of domestic industry**

13. Following submissions have been made by the domestic industry in this regard-

- i. The present petition is being filed by Jindal Stainless Limited and Jindal Stainless (Hisar) Limited. The petitioner's production constitutes more than 50% of Indian production. The petitioner, therefore, constitutes domestic industry and satisfies the requirement of standing under the Rules.
- ii. The petitioners have not imported the subject goods during the period of investigation, and further, are not related to any exporter or producer of the subject goods in China or the importers or users of the PUC in India within the meaning of Rule 2(b).
- iii. Production of the Petitioner constitutes a major proportion in Indian production; domestic production of the petitioner account for significantly more than 50 percent of total Indian production of the like product; and the application has been made by or on behalf of the domestic industry. Further, the petitioner company constitutes "domestic industry" within the meaning of the Rules.
- iv. The petitioners have submitted the details with regard to the Indian production with the petition. Petitioners satisfy the standing requirement under the rules, if the standing is required to be determined separately for HR and CR product.

### **E.2. Views of Exporters, Importers, Consumers and other Interested Parties**

14. Following submissions have been made by the exporters/importers/users/other interested parties/ other parties.

- i. In the light of HR and CR cannot be treated as similar product or homogenous product Domestic Industry, lacks standing for each independent product (i.e. hot rolled and cold rolled steel) and has attempted to mislead this Authority by providing data in an amalgamated form for all products, presently included under the Product under Consideration.
- ii. Rule 6(3) manifest that prior to even initiating an investigation, the Authority is obligated to determine the support or opposition to an application for investigation. Failing such a determination, any producer or number of producers may bypass the rigors of Rule 6(3) by simply clubbing the relevant product for investigation with other unconnected and dissimilar products.
- iii. By allowing the Domestic Industry in the present case to club Hot Rolled and Cold Rolled Stainless Steel into one single product description, this Authority would effectively be allowing the Petitioner to act contrary to the Rules itself. The same would not be tenable in law and accordingly the Initiation Notification is liable to be withdrawn and re-issued encompassing the separate and distinct products in two separate investigations.
- iv. Authority may consider the two as separate and distinct products and the Domestic Industry should be called upon to demonstrate issues such as its standing in terms of Rule 6(3) of the Rules.
- v. The Domestic Industry must first demonstrate that their total production of the Hot-rolled and cold rolled steel constitutes more than 50% of the total production of the like article produced by DI expressing either support for or opposition for the petition.
- vi. By providing data for both Hot-Rolled and Cold-Rolled steel in an amalgamated form, the Domestic Industry have failed to establish the requisite standing for each product independently. Accordingly, the present petition is contrary to the principles set in the Act and Rules.

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

15. Rule 2(b) of the Countervailing Duty Rules defines domestic industry as under:-

*"(b) "domestic industry" means the domestic producers as a whole of the like article or domestic producers 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 subsidized article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry".*

16. The petition was filed by M/s Jindal Stainless Limited and Jindal Stainless (Hisar) Limited. The petitioner company is not related (either directly or indirectly) to any producer/exporter in the subject country or importer of product in India. The petitioner has not imported the subject goods from China during period of investigation.
17. With regard to determination of separate standing for HR and CR flat rolled products, the Authority notes that the standing of the petitioners to file petition is required to be seen with reference to the product under consideration and like article. The product under consideration and like article are hot and cold rolled flat products of stainless steel and therefore the standing of the petitioners to file the present petition is required to be seen considering total production of hot and cold rolled flat products of stainless steel. The Authority further notes that production of those producers who are buying hot rolled product either from the foreign or domestic suppliers and producing & selling cold rolled product is not required to be added to determine total Indian production in order to ensure that one volume is not accounted for twice. Those producers who are importing hot rolled product and selling cold rolled product after processing in any case are importer of the product under consideration. Further, production of those producers who are buying hot rolled product from the Indian suppliers and selling cold rolled product in the market is already included in the production of hot rolled product. However, production of those producers who are not producing cold rolled product from hot rolled product is required to be included in determining Indian production and the same has been duly included. It is also noted that if production of hot and cold rolled product is segregated, the petitioners still qualify the standing requirements separately for both HR and CR flat rolled products.
18. As regards determination of support or opposition to the application prior to initiation of investigations, the Authority notes that since production of the petitioners satisfies the requirement of standing laid down under the law and further since the petitioners themselves satisfy the requirement of standing for the purpose of initiation, it is not mandatory for the Authority to seek the status of other domestic producers.
19. The Authority after examining the information on record and submissions made by petitioners and various interested parties has determined that the petitioner companies constitute domestic industry within the meaning of the Rule 2(b) and the petition satisfies the criteria of standing in terms of Rule 6 of the Rules supra.

## **F. CONFIDENTIALITY**

### **F.1. Views of the Domestic industry**

20. The submissions made by the domestic industry with regard to confidentiality

- i. The petitioners have claimed only such information as confidential, confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
- ii. The petitioners have provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.
- iii. Non-confidential version of the questionnaire response by the responding producers/exporters from China is grossly inadequate. The exporters have filed questionnaire response describing the same as “limited exporter response”. The exporters have not provided all such information that they are required to provide to fully participate in the present investigation.
- iv. The questionnaire responses filed by the exporters are inconsistent with the obligations of the exporters under Rule 7 of the Rules. Even information that is publicly available (such as names of the raw material, etc) has not been disclosed in the non-confidential version. The domestic industry requests the Authority to direct the responding exporters to provide such information in NCV or at least reasonable non confidential summarization of the information, so that the domestic industry would be able to defend its interest.
- v. The exporter(s) has/have claimed most of the information as confidential and no proper summarization has been provided by them. Further they have responded to 28 schemes in yes or no format, which is grossly inadequate response.

## **F.2. Submissions made by the Exporters/Importers/ users/ other Interested Parties/ other parties**

21. None of the exporters/importers/users/other interested parties/ other parties have filed any comments in this regard.

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

22. With regard to confidentiality of information, Rule 8 of the Rules, 1995 provides as follows:-

*8. Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 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 authorisation of the party providing such information.*

*(2) The designated authority may require the parties providing information on confidential basis to furnish nonconfidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not possible.*

*(3) Notwithstanding anything contained in subrule (2), if the designated authority, is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it may disregard such information.* Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.

23. The domestic industry and interested parties filed various information on which these parties have claimed confidentiality. Petitioners claimed confidentiality on a number of information/documents contained in the petition. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of a public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.
24. The Authority initiated the present investigation after examining and satisfying prima facie the countervailability of the alleged subsidy programs being provided by the GOC to the producers/exporters of the subject goods in China. Information that is in public domain both with regard to subsidies and injury were disclosed by the petitioners in their public version of the petition and the same were disclosed to the GOC and other interested parties. None of the interested parties have pointed out at any specific instance where the petitioners have claimed confidentiality on an information/document that is in public domain and that should not have been claimed confidential.
25. The interested parties filed questionnaire response and GOC filed certain submissions post consultations. It is however noted that interested parties have also

claimed confidentiality on certain information/document filed by the interested parties.

26. The Authority holds that the information provided by the interested parties on confidential basis meets the sufficiency requirement of the confidentiality claim, and the Authority has accepted the confidentiality claims, wherever warranted. Information being considered confidential has not been disclosed to other interested parties.

## **G. Miscellaneous Issues**

### **G.1. Submissions made by Domestic Industry**

27. Following submissions have been made by the domestic industry:

- i. No questionnaire response has been filed by GOC. Further, at the time of hearing, the Government of China was specifically asked whether the GOC intends to file questionnaire response.
- ii. The responding exporters have filed limited exporter response which is not complete. Section II & III are left unattended.

### **G.2. Submissions made by the Exporters/Importers/ users/ other Interested Parties/ other parties**

28. Following submissions have been made by the exporters/importers/users/other interested parties/ other parties

- i. An anti-dumping duty is in force on the Product under Consideration originating from China and therefore this Authority does not have the jurisdiction to conduct the present investigation and this fact has not even been disclosed by the Domestic Industry in its Petition regarding imposition of anti subsidy duty.
  - a. Anti-Dumping duty investigation concerning imports of cold rolled flat products of stainless steel from China PR, Japan, Korea, European union, South Africa, Taiwan (Chinese Taipei), Thailand and USA, dated 24.11.2009. Sunset Review thereafter was undertaken by this Authority wherein this Authority vide its final findings dated 12.12.2015 had recommended imposition of anti- dumping duties on the Product Under Consideration, originating from China PR.
  - b. Anti-Dumping Investigation concerning import of Hot Rolled Flat Products of Stainless Steel 304 series from the People's Republic of China, the Republic of Korea, and Malaysia, dated 09.03.2015.
- ii. In the above two ADD investigations Authority in order to compute the Normal Value for the exporters of the Product under Consideration had considered China

- PR as a Non-Market Economy and had computed the Normal Value. This goes on to show that advantage, if any, gained by the Chinese manufacturers on account of subsidies alleged to have been given to them has already been countered by imposition of anti-dumping duty.
- iii. In the above two ADD investigations, duty determination was done by this Authority on the basis of Injury Margin by applying the lesser duty rule. Therefore, injury, if any, that was suffered by the Domestic Industry on account of imports from China PR has already been considered and addressed by this Authority whilst imposing anti-dumping duty on imports originating from China PR.
  - iv. A countervailing measure/ anti-subsidy duty cannot be levied where an anti-dumping duty has already been imposed to alleviate any injury caused by purported dumping of the Product under Consideration as per Section 9B of the Customs Tariff Act, 1975. Further, as per decision of the Hon'ble High Court of Rajasthan in the matter of J.K. Industries Ltd. v. Union of India, 2005 (186) ELT 3 (Raj.), it is evident that this Authority is at liberty to recommend imposition of either anti-dumping duty or countervailing/ anti-subsidy duty on the Product Under Consideration. Authority would not be at liberty to impose/levy both anti-dumping duty as well as countervailing/ anti-subsidy duty.
  - v. In Appellate Body Report of the World Trade Organization, in deciding United States- Definitive Anti-Dumping and countervailing duties on certain products from China observed that "Double remedies" are likely to occur in cases where Non Market Economy methodology is used to calculate the margin of Dumping. the concurrent imposition of an anti-dumping duty calculated based on a Non Market Economy methodology and a countervailing duty may result in a subsidy being offset more than once, which the WTO has gone onto observe as impermissible.
  - vi. Since anti-dumping duties have already been imposed, the injury, if any, suffered by the domestic industry on account of subsidies, has already been addressed and remedied, imposition of countervailing duties will amount to double remedy which is not permissible in the international regime as well as under the Indian Law. Hence, the present investigation ought to be terminated.
  - vii. Authority during the oral hearing had suggested that it will not impose duty on the products which are already covered under the ADD notifications and will impose duty on the product not covered by the ADD notifications. Authority cannot for the purpose of imposition of duty be permitted to classify the PUC into two groups i.e. one covered by the earlier notifications and second not covered by the earlier notifications. Hence, Authority cannot impose duty on the entire PUC.
  - viii. Even if the Authority is permitted to classify the products on the basis as mentioned above, will have to consider all the parameters such as standing of

the domestic industry, injury, export analysis only for the product on which duty is sought to be imposed.

- ix. Domestic Industry does not have standing as required in law, solely for the product not covered under the earlier notifications. The domestic industry is put to strict burden of proof thereof and should be called upon by Authority to satisfy the Authority on such parameters, which are sine qua non for imposition of any duty.

### **G.3. Examination of Authority**

29. The Authority has noted the submissions made by the domestic industry and interested parties and these issues have been examined under appropriate headings in this disclosure statement in accordance with the Rules.
30. The Government of China has not filed questionnaire response in the form and manner prescribed by the Authority.
31. The questionnaire responses filed by the exporters have been found incomplete and inadequate. Even after the deficiency letters issued to these exporters, the exporters have not made adequate effort to submit the relevant information and the questionnaire response have remained incomplete. Therefore, they were treated non-cooperative in this investigation.
32. As regards contentions raised by the interested parties with regard to dual remedy, as anti-dumping duty has already been imposed on some types of the product under consideration (i.e. Hot Rolled Stainless Steel 304 series and Cold rolled flat products of Stainless Steel of width of above 600 mm upto 1250 mm of all series), the Authority holds that there is nothing in law to bar conducting both, ADD and CVD investigations on imports of a product from the same sources. Question of dual remedy arises only when the Authority finds evidence of countervailable subsidies causing injury and decides to recommend imposition of countervailing duties. Further, the petitioners have submitted that the Designated Authority while considering recommendations for CVD, the Authority may consider reducing the quantum of anti-dumping duty payable, if any. In the event of Designated Authority making a positive determination and deciding to recommend countervailing duty, it is clarified that the Central Govt shall be appropriately advised to adjust the anti-dumping duty payable, if any.
33. The Authority is yet to conclude the investigation and make an appropriate determination, including quantification of the margins. The Authority has determined subsidy margins and injury margin in the present disclosure statement, which shall be considered to determine the quantum of subsidy duties. If the subsidy duties now determined are higher than the existing quantum of ADD, the domestic industry is

entitled for recommendations for CVD under Indian law. However, the concerns of the interested parties that there should be no dual remedy to the domestic industry is well appreciated and the same shall be adequately dealt with by the Authority in this present investigation.

### Annexure-III

#### **H. DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN**

34. The Petition filed by the domestic industry provided adequate prima facie evidence of existence of countervailable subsidies in the subject country on the subject goods. GOC was invited for consultations, which were held on 10<sup>th</sup> March, 2016. The instant investigation was initiated on the basis of the prima facie evidence. The producers and exporters and the Govt. of PRC were advised to file response to questionnaire and were given adequate opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy program for a making an appropriate determination of existence and quantum of such subsidies, if any.
35. The following producers/exporters from China initially filed questionnaire responses
1. Anihui Baoheng Advanced Material Technology Co Ltd
  2. Foshan Lisheng Stainless Steel Ltd
  3. Guandong Runxin Industrial Investment Co. Ltd
  4. Guang Feng (Zhaoqing) Steel Industry Co. Ltd
  5. Guandong Jeray Technology Group Co. Ltd
  6. Intexport/ Unisilk Ltd. Hong Kong
  7. Ningbo Meiyuangfeng Metal Industry and Trade Co. Ltd
  8. Ningbo Tierslia Imp. & Exp. Co. Ltd
  9. Ningbo Yirui Matelware Co. Ltd
  10. Xiamin Great Corporation
  11. Zhejiang Jianheng Industrial Co Ltd
36. The questionnaire responses of the above-mentioned responding parties were found incomplete and inadequate for a meaningful determination of existence, countervailability, and degree and extent of subsidization. The parties were issued supplementary questions in the form of deficiency letter, seeking additional/complete information. These exporters however did not respond to the supplementary questions even after reminders.
37. While the responding producers/ exporters from China provided some inadequate and incomplete information, the Govt. of PRC did not file any questionnaire response in spite of repeated request.
38. In the absence of complete and verifiable information from the interested parties concerned the Authority is constrained to proceed with the determination with regard to existence, degree and impact of various subsidy programs, on the basis of best facts available, including the information provided by the domestic industry in its petition, WTO notifications, determination earlier made by DGAD, various determinations made by other investigating authorities and information filed by the domestic industry during the course of the investigations.

## **General overview of the alleged Subsidy Programs**

### **Submissions of the Domestic industry**

39. The Govt. of People's Republic of China is providing countervailable subsidy to its producers/exporters of the subject goods and has provided prima facie evidence of existence of such subsidy schemes in terms of legislation and policy documents. Accordingly, the domestic industry identified existence of following countervailable subsidy schemes in China, within the meaning of ASCM and Indian Rules. The producers/exporters of subject goods in China have benefited from such subsidies. These contentions of the petitioners have not been contested by any of the producers/exporters in China and the Government of PRC except for the general arguments as recorded earlier.
40. The programs of the Government of PRC and other Public Bodies in China constitute subsidy because of the following reasons
- a) there is a financial contribution by a government or a public body, where the government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits), government provides goods or services other than general infrastructure, or purchases goods;
  - b) a benefit is thereby conferred on the Chinese stainless steel producers/exporters; and
  - c) The program is specific within the meaning of Indian Rules and ASCM.
41. Relevant Chinese laws and regulations, WTO reports, various Government reports, media reports and independent studies and analysis; findings of other investigating agencies in their ant-subsidy investigations clearly constitute sufficient evidence of existence of countervailable subsidy programs in China. These evidences were made available by the petitioner to all interested parties, including the Govt. of PRC and the known producers and exporters in China. However, while the information provided by the responding producers and exporters are quite incomplete and they have not responded to the supplementary questions from the Authority and the Govt. of PRC has preferred not to participate in the investigation, the petitioner has provided evidence.
42. In the absence of any cooperation from the Govt. of China and the producers and exporters in China, the Authority should examine the evidences produced by the domestic industry. Further, since the GOC has preferred non-cooperation, the Authority should proceed with the principles of best available information.
43. For the Purpose of this investigation, the "Government of People's Republic of China" (GOC or PRC) covers all levels of government, i.e. Federal, Central,

Provincial, Regional or Local Govt. such as Municipal or City or Township Govts. Village or Local legislative, administrative or judicial agencies/bodies; and State-owned enterprises, operating under the direct or indirect control or influence of the GOC who operate as "public bodies" within the meaning of the term as defined in the ASCM.

44. As per the petition the Chinese producers/exporters of the subject goods have received countervailable subsidies under the following programs of various levels of Govts. And they have been classified under 6 broad categories. The various programs classified under these categories are listed below:

**I. Grants ( Program 1-25)**

1. Program No. 1: The State Key Technology Renovation Projects Fund
2. Program No. 2: Famous Brands Program
3. Program No. 3: Direct Government Grants given by Jiangsu Province
4. Program No. 4: Grants for Antidumping Investigations
5. Program No. 5: Superstar Enterprise Grant
6. Program No. 6: Research & Development (R&D) Assistance Grant
7. Program No. 7: Export Assistance Grant
8. Program No. 8: Grants to Baoshan Steel
9. Program No. 9: Grants for Listing Shares
10. Program No. 10: Funds for Outward Expansion of Industries in Guangdong Province
11. Program No. 11: Grants provided through the Provincial Fund for Fiscal and Technological Innovation
12. Program No. 12: Various grants provided to Shandong Province
  - a. Program No. 12 (a): Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers
  - b. Program No. 12 (b): Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology
  - c. Program No. 12 (c): Shandong Province's Environmental Protection Industry Research and Development Funds
  - d. Program No. 12 (d): Shandong Province's Construction Fund for Promotion of Key Industries
13. Program No. 13: Ad hoc subsidies
14. Program No. 14: Grants provided by Hebei Province
15. Program No. 15: Various grants provided to Fuyang City`19
  - a. Grant for Enterprises Paying Over RMB 10 Million in Taxes
  - b. Grants under the Export of Sub-Contract Services Program
  - c. Grants under Excellent New Products/Technology Award
  - d. Investment grants from Fuyang City Government for key industries

- e. Grants for Enterprises Operating Technology and Research and Development Centers
  - f. Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees
  - g. Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)
16. Program No. 16: Grant - Special Funds for Fostering Stable Growth of Foreign Trade
  17. Program No. 17: Pension fund grants
  18. Program No. 18: Provincial Government - Equipment Grant
  19. Program No. 19- Treasury Bonds Loans or Grants
  20. Program No. 20: Interim Measures of Fund Management of Allowance for Zhongshan Enterprises to Attend Domestic and Overseas Fair
  21. Program No. 21: International Market Fund for Export Companies
  22. Program No. 22- Special Fund for Energy Saving Technology Reform
  23. Program No. 23- Small and Medium-sized Enterprise Support Funds
  24. Program No. 24: Subsidies Provided in Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
  25. Program No. 25: State Special Fund for Promoting Key Industries and Innovation Technologies

## **II. Programs/schemes providing benefits in the Form of Export Financing and Export Credit (26-28)**

26. Program No. 26: Export Seller's Credit
27. Program No. 27: Export Buyer's Credit
28. Program No. 28: Other Export Financing from State-Owned Banks

## **III. Programs/schemes providing benefits in the Form of Tax & VAT Incentives(Program 29-57)**

29. Program No. 29: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
30. Program No. 30: Reduced Tax Rate for Productive FIEs Scheduled to operate for a Period not Less than 10 Years (Two Free, Three Half)
31. Program No. 31: Income Tax Reduction for Advanced Technology FIEs
32. Program No. 32: Preferential Tax Policies for FIEs and Foreign Enterprises and Certain Domestically-Owned Companies Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment

33. Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses
34. Program No. 34: Preferential Tax Policies for the Research and Development of FIEs
35. Program No. 35: Preferential tax policies for companies that are recognised as high and new technology companies
36. Program No. 36: VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
37. Program No. 37: Tax concessions for Central and Western Regions
38. Program No. 38: Income tax concessions for the enterprises engaged in comprehensive resource utilization (special raw materials')
39. Program No. 39: Tax credit concerning the purchase of special equipment
40. Program No. 40: Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone
41. Program No. 41: Income Tax exemption for investment in domestic technological renovation
42. Program No. 42: Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
43. Program No. 43: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones- & Coastal Economic Open Areas and in the Economic and Technological Development Zones
44. Program No. 44: Preferential income tax policy for the enterprises in the Northeast region
45. Program No. 45: Tariff and VAT Exemptions for Imported Equipment
46. Program No. 46: Tax Offsets for Research and Development at FIEs
47. Program No. 47: Tax Preference Available to Companies that Operate at a Small Profit
48. Program No. 48: Tax Reductions for Export-Oriented FIEs
49. Program No. 49: Tax Reductions for Technology- or Knowledge-Intensive FIEs
50. Program No. 50: Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions)
51. Program No. 51: VAT deduction on fixed assets in the Central region
52. Program No. 52: Shanghai Municipal Tax Refund for High-tech Achievement Commercialization Projects
53. Program No. 53: Local income tax and reduction program for the productive FIEs

- 54. Program No. 54: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
- 55. Program No. 55: Local Income Tax Exemption and/or Reduction in SEZs in Guangdong and Hainan Island
- 56. Program: No. 56: Industrial Parks promoting growth of Steel Industry
- 57. Program No. 57: Other tax privileges of Ma'anshan

**IV. Programs/schemes providing benefits in the Form of Provision of Goods and Services(Program 58-70)**

- 58. Program No. 58: Provision of Electricity for Less than Adequate & Fair Market Value Remuneration
- 59. Program No. 59: Provision of Water for less than Adequate Remuneration
- 60. Program No. 60: Land Use Rights for SOEs
- 61. Program No. 61: Government Provision for Steel Scrap for Less than Adequate Remuneration
- 62. Program No. 62: Provision for Coking Coal for Less than Adequate Remuneration
- 63. Program No. 63: Hot rolled Steel (HRS) Provided by Government at Less than Fair Market Value
- 64. Program No. 64: Provision of Cold-Rolled for Less Than Adequate Remuneration
- 65. Program No. 65: Raw Materials Provided by the Government at Less than Fair Market Value
- 66. Program No. 66: Reduction in Land Use Fees, Land Rental Rates and Land Purchase Prices
- 67. Program No. 67: Exemptions from Administrative Charges for Companies in Industrial Zones and the Provision of Land-Use Rights for LTAR – Land Use Rights in Certain Industrial and SEZs
- 68. Program No. 68: Export Restrictions on Coke
- 69. Program No. 69: Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction
- 70. Program No. 70: Purchase of Goods by the Government for higher than adequate Remuneration

**V. Programs/schemes providing benefits in the Form of Preferential Loans & Lending(Program 71-75)**

- 71. Program No. 71: Allowance to Pay Loan Interest
- 72. Program No. 72: Policy Loans
- 73. Program No. 73: Preferential Loans for SOEs (State Owned Enterprise)

74. Program No. 74: Credit Loan Guarantee by GOC  
 75. Program No. 75: Preferential export financing from the Export-Import Bank of China

**VI. Programs/schemes providing benefits in the Form of Equity (Program 76-81)**

76. Program No. 76: Debt for equity swaps  
 77. Program No. 77: Debt Forgiveness  
 78. Program No. 78: Deed Tax  
 79. Program No. 79: Dividend exemption between qualified resident enterprises  
 80. Program No. 80: Unpaid dividends  
 81. Program No. 81: Equity infusion

**Examination by the Authority**

45. Govt. of China has not filed any questionnaire response, nor provided any meaningful information with regard to these subsidy programs.
46. Though questionnaire responses were filed by the responding producers and exporters, the same have been found grossly incomplete and inadequate. In any case, in the absence of a questionnaire response from GOC, the Designated Authority is not in a position to examine possible countervailability of these schemes based on the information/documents in possession of the GOC and therefore the questionnaire response filed by the Chinese producers/exporters could not be used to determine either existence, or countervailability or degree of subsidies in these programs and these responding exporters have been treated as non-cooperative in this investigation by the authority. The very limited information filed by these exporters however showed, contrary to the claims of the GOC, existence of some of the subsidy programs identified by the petitioner.

| <b>SN</b> | <b>Program Number</b> | <b>Existing Schemes in China PR based on exporter questionnaire response</b>                                                       |
|-----------|-----------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 1         | Program No. 1         | The State Key Technology Renovation Projects Fund                                                                                  |
| 2         | Program No. 2         | Famous Brands Program                                                                                                              |
| 3         | Program No. 11        | Grants provided through the Provincial Fund for Fiscal and Technological Innovation                                                |
| 4         |                       | f. Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees                                            |
| 5         |                       | g. Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province) |
| 6         | Program No. 16        | Grant - Special Funds for Fostering Stable Growth of                                                                               |

|    |                |                                                                                                                   |
|----|----------------|-------------------------------------------------------------------------------------------------------------------|
|    |                | Foreign Trade                                                                                                     |
| 7  | Program No. 19 | Provincial Government - Equipment Grant                                                                           |
| 8  | Program No. 20 | Interim Measures of Fund Management of Allowance for Zhongsham Enterprises to Attend Domestic and Overseas Fair   |
| 9  | Program No. 28 | Other Export Financing from State-Owned Banks                                                                     |
| 10 | Program No. 29 | Income Tax Refund for Re-investment of FIE Profits by Foreign Investors                                           |
| 11 | Program No. 33 | Tax Policies for the deduction of research and development (R&D) expenses                                         |
| 12 | Program No. 34 | Preferential Tax Policies for the Research and Development of FIEs                                                |
| 13 | Program No. 35 | Preferential tax policies for companies that are recognized as high and new technology companies                  |
| 14 | Program No. 36 | VAT Refunds for FIEs Purchasing Domestically-Produced Equipment                                                   |
| 15 | Program No. 38 | Income tax concessions for the enterprises engaged in comprehensive resource utilization (special raw materials') |
| 16 | Program No. 39 | Tax credit concerning the purchase of special equipment                                                           |
| 17 | Program No. 45 | Tariff and VAT Exemptions for Imported Equipment                                                                  |
| 18 | Program No. 56 | Industrial Parks promoting growth of Steel Industry                                                               |
| 19 | Program No. 58 | Provision of Electricity for Less than Adequate & Fair Market Value Remuneration                                  |
| 20 | Program No. 59 | Provision of Water for less than Adequate Remuneration                                                            |
| 21 | Program No. 60 | Land Use Rights for SOEs                                                                                          |
| 22 | Program No. 63 | Hot rolled Steel (HRS) Provided by Government at Less than Fair Market Value                                      |
| 23 | Program No. 71 | Allowance to Pay Loan Interest                                                                                    |
| 24 | Program No. 72 | Policy Loans                                                                                                      |
| 25 | Program No. 75 | Preferential export financing from the Export-Import Bank of China                                                |
| 26 | Program No. 78 | Deed Tax                                                                                                          |
| 27 | Program No. 79 | Dividend exemption between qualified resident enterprises                                                         |
| 28 | Program No. 81 | Equity infusions                                                                                                  |

### Calculation Methodology –

47. Article 14 of ASCM, provides guidelines and methodology for *calculating the benefit to the recipient conferred pursuant to paragraph 1 of Article 1 and further provides*

*that* any method used by the investigating authority to calculate the benefit to the recipient shall be transparent and adequately explained. Further, any method used by the investigating authority to calculate the benefit to the recipient shall be provided for in that national legislation or implementing regulations of the Member concerned and its application to each particular case shall be transparent and adequately explained. In accordance with the requirement, the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 lays down the methodology of determination of quantum of subsidization. The determination in this investigation is in accordance with these guidelines.

### **Examination of the Subsidy Programs alleged by the Petitioners**

#### **I. Grants**

##### **a. Program No. 1:- The State Key Technology Renovation Projects Fund**

###### **a. Submissions by the petitioners –**

48. The said program was introduced in 1999 by State Economic and Trade Commission, State Planning Commission, Ministry of Finance, Peoples Republic of China to support the technological renovation of key industries, key enterprises and key products by means of increasing the issuance of financial bonds. Large-sized State Owned Enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries and enterprises are eligible to avail the benefits under this program. Further, preference is given to the enterprises, which are located in northeast, central and western regions of China PR to avail the benefits under the said program. Under this program, the selected enterprises are provided treasury-bond based special funds as project investment facility and or loan interest grant, the loans and the grant are provided by the commercial banks for project construction in accordance with the project plan. Ministry of Finance and local finance authorities at various levels are responsible for overseeing the availability and usage of Treasury Bonds based Special Funds and National Debt Special Fund.
49. Under this Program, the eligible enterprises are provided grants for 2/3 years on the interest payable on the loans availed by them for the approved projects. The total grant under this program will not exceed 15% of the total investment of the project.
50. As evidence of existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.
- Notice concerning the Promulgation and Circulation of “Measures for the Administration of National Key Technological Renovation Projects” and

“Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects” (Guo Jing Mao Tou Zi [1999] No 886) (the 1996 Notice);

- Guojingmao Touzi No 122 of 1999; Notice Concerning the Promulgation and Circulation of “Measures for the Supervision and Administration of National Key Technological Renovation Projects (for Trail Implementation)” from the State Economics and Trade Commission (Guo Jing Mao Tou Zi [1999] No 1038);
- Notice of Amendments to the “Measures for the Administration of National Key Technological Renovation Projects” and “Measures for the Administration of Treasury-bond Special Fund for National Key Technological Renovation Projects” (Guo Jing Mao Tou Zi [2000] No 822).
- It has also been submitted that this program has been held countervailable by other investigating authorities.

51. The petitioners have further alleged that major steel producers in China who might have been benefited under this scheme are entities such as Minmetals Steel Co., Ltd; Xinjiang Alashankou Minmetals Trade Co., Ltd; Xiamen Great Corporation; Shanxi Taigang Stainless Steel Co., Ltd; Guangdong Guangxin Suntec Metal Holdings Co. Ltd; Zhejiang Zhongda Yuantong Industrial Corporation; Foshan Native Produce Imp. & Exp. Company Limited of Guangdong; Guangdong Foreign Trade Imp & Exp. Co; Nanjing Chenguang Group Co. Ltd; Sinotrans Shenzhen Logistics Company Limited etc.

**b. Submissions by GOC/other interested parties-**

52. Neither the GOC nor any of the responding exporters have provided any specific comments with regard to the alleged subsidy program. However, Guang Feng (Zhaqqing) Steel Industry Ltd., one of the responding exporters from China, who has submitted a limited questionnaire response, has stated that they had availed benefit out of this program during the POI but they have provided no further information on the scheme and the quantum of benefit received under the same.

**c. Examination by the Authority-**

53. Since the GOC has not provided any information on this alleged program, the Authority has relied upon the information provided by the petitioners and the information available in the response filed by the responding producer/exporter to the extent considered relevant. The information indicates as follows:

54. The nature of the program as detailed above clearly indicates that benefits, in the form of financial support as loans, are being provided alongwith financial grants towards repayment of interest for specified period. The benefit is being provided to certain enterprises or enterprises in specific regions or areas, for making

investments for technological upgradation, creating facilities for upgrading the product range, improving the quality of product, increase in capacity, develop import substitution products, etc.. The program is a major investment program of GOC and is administered and implemented by various public bodies.

55. The assistance provided under the program is clearly in the nature of financial contribution by the public body thus conferring benefit on the recipients of the support. This amounts to financial contribution within the meaning of Rules. The program is also specific as the support is limited to certain large-sized state-owned enterprises and state-holding enterprises among 512 key enterprises and 120 pilot enterprise groups. Further, the program focuses on companies located in specifically designated geographical regions of the old industrial base in north- east, central and west areas and thereby becomes enterprise or region specific within the meaning of Rules.
56. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning imports of Castings for Wind Operated Electricity Generators; (b) US DOC in Non-Oriented Electric Steel, in Carbon and Alloys – Steel Plates, in Certain Biaxial Integral Geogrid Products as well as in Stainless Steel – Sheet and Strips; (c) European Union in Certain Organic Coated steel; and (d) Canada in Certain Galvanized Steel Wire and Certain Stainless Steel Sinks. It is also noted that the existence of this program has been notified to WTO in G/SCM/Q2/CHN/28; and G/SCM/Q2/CHN/42-2011. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
57. The Authority further notes that this program is applicable to the product under consideration and has been availed by certain producers of the subject goods as has been evidenced by the submissions of one of the responding producers in China. In view of the above, the authority holds that the program constitutes countervailable subsidy within the meaning of ASCM & Indian Rules.

**b. Program No. 2:- Famous Brands Program**

**a. Submissions by the petitioners –**

58. Government of China initiated a program known as 'Famous Brands Program' which authorized provincial and local governments to support industry to develop and promote global Chinese brand names and to increase sales of Chinese branded and other Chinese merchandise around the world. This program provides grants, loans, and other incentives to enterprises in China, in an effort to implement this industrial policy. Enterprises involved in steel production availed grants by providing

information concerning their export ratio as well as the extent to which their product meets international quality standards. It has been argued that this clearly confers a benefit and amounts to a countervailable subsidy.

59. As evidence of the existence of the program, the petitioners have provided the following notifications or scheme documents as was reasonably available to them.

- notifications “Order No. 124-Measures for the Administration of Chinese famous –brand products- Dec 2009”; “Measures for the Administration of Chinese famous –brand products- Dec 2006 famous brand to increase exports”.
- Decision Concerning Commending and/ or Awarding to Enterprises of Guangdong Province Whose Products Qualify for the Title of ‘China Worldwide Famous Brand’, ‘China Famous Brand’, or ‘China Well-Known Brand’.
- Notice of Shandong Province concerning the special award Fund Budget in 2008 for the Development of Self Exporting Brand [Lucaiqizhi (2008) No. 75]

60. The petitioners have alleged that some of the major Steel enterprises such as Guangdong Guangxin Suntec Metal Holdings Co., Ltd; Foshan Native Produce Imp. & Exp. Company Limited of Guangdong; Guangdong Foreign Trade Imp. & Exp. Co; Sinotrans Shenzhen Logistics Company Limited; Foshan Yihetai Import & Export Co., Ltd; Yu Gang Import And Export Trading Co Ltd; Zhuhai Xing Zong Trade Co., Ltd. might have benefited from this program.

**b. Submissions by GOC/other interested parties-**

61. Neither GOC nor any of the responding exporters have provided any specific comments with regard to this alleged subsidy program. However, one of the responding producers from China i.e., M/s Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this program. However no further details have been provided by this responding Company with regard to this scheme.

**c. Examination by the Authority-**

62. Since the GOC has not provided any information on this program, the Authority has relied upon the information provided by the petitioners and the information made available in the response filed by the responding producer exporter to the extent relevant. The information shows as follows:

63. The nature of the program as detailed above clearly indicates that the program provides countervailable benefits in the form of grants, loans, and other incentives to enterprises in China, in an effort to implement a specific industrial policy. The industry promoting specific brands or increasing its export of quality Chinese

products can avail the benefits of the program by substantiating its claim with information concerning their export ratio with the extent to which their product quality meets international standards. The program has been introduced by Government of China at National, Provincial, and Local Government levels and administered by these Authorities.

64. This program provides financial support through grants to specific industrial enterprises. The grant constitutes a financial contribution in the form of a direct transfer of funds to an industry based on its export ratio and quality standards. This grant program confers a benefit equal to the amount of the funds provided which is in the nature of financial contribution by the public body conferring benefit on the recipients and hence countervailable under ASCM. The subsidy under this program is enterprise specific as it is limited to a group of enterprises who are involved in export promotion and are eligible for the said benefit if they are selected by the Government of China. Since the benefit is linked to exports, for promoting Chinese brand abroad, it is export specific within the meaning of ASCM and CVD Rules
65. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning imports of Castings for Wind Operated Electricity Generators; (b) European Union in Certain organic steel-2013; (c) US DOC in Non Oriented Electric Steel, in Carbon and Alloys – Steel Plates, in Certain Biaxial Integral Geogrid Products, in Stainless Steel – Sheet and Strips; as well as in Carbon and Certain Steel Alloy Wire Rod- 2015. It is also noted that the existence of this program has been reported in WTO Report G/SCM/Q2/CHN/42; and Trade policy review-WT/TPR/S/300.
66. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above the authority holds that this program constitutes countervailable subsidy. The Authority further notes that this program is applicable to the product under consideration and has been availed by certain producers of the subject goods as has been evidenced by the submissions of one of the responding producers in China. In view of the above, the authority holds that the program constitutes countervailable subsidy within the meaning of ASCM & Indian Rules.

**c. Program No. 3:- Direct Government Grants given by Jiangsu Province**  
**a. Submissions by Domestic Industry-**

67. Jiangsu Provincial Govt. has introduced certain programs to induce R&D activities related to export products by providing a special fund to companies and enterprises located in the Jiangsu province. It has been alleged that this program implemented

by the Provincial Govt. is a region specific program and the program is also enterprise specific as it is limited to large-sized state owned/holding enterprises involved in steel production. It has been alleged that under this program Grants are provided to specific industries or group of industries by the provincial Government for product improvement and such grants constitute a financial contribution in the form of a direct transfer of funds.

68. As evidence of existence of this program the petitioning domestic industry has quoted certain program documents as was reasonably available to them.

- 'Administrative measures on Jiangsu Sci-Tech Public Service Platform, (Sukeji-2006 No. 102, Sucajiao-2006) No. 22, issued by Jiangsu Administration for industry & Commerce, Jiangsu Science & Technology Dept.;
- Money for Metal report on Chinese Government subsidies steel industry-2007; and Choice internal Report 1-2.

69. It has also been alleged that this said program was held countervailable by other authorities too. But the petitioners have not quoted any specific decision or finding of any investigating authority in support of its claim.

70. The petitioners have submitted that the following steel producers located within this province were clearly eligible for this benefit: Zhangjiagang Pohang Stainless Steel Co., Ltd, Wuxi City Steel Co., Ltd. Coral, Pohang (Zhangjiagang) Stainless Steel Processing Co., Ltd, Guangfeng Steel Corporation and Jiangsu New Qiujiing Stainless Steel Co. Ltd.

**b. Submissions by GOC/other interested parties-**

71. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

72. Since the GOC has not provided any information on this program, the Authority has relied upon the information provided by the petitioners. The nature of the program as detailed above clearly indicates that the program provides countervailable benefits in the form of grants to enterprises located in Jiangsu province of China. The region promoting specific industries by providing benefits to them.

73. This program provides financial support through grants to specific industrial enterprises. The grant constitutes a financial contribution in the form of a direct transfer of funds to an industry. This grant program confers a benefit equal to the amount of the funds provided which is in the nature of financial contribution by the public body conferring benefit on the recipients and hence countervailable under

ASCM. The subsidy under this program is region specific as it is limited to a Jiangsu province of China.

74. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) European Union in Certain organic steel-2013; (b) US in Pre Stressed Concrete Steel Wire Strand.

75. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The Authority further notes that this program is applicable to the steel industries located in Jiangsu Province. In view of the above, the authority holds that the program constitutes countervailable subsidy within the meaning of ASCM & Indian Rules.

**d. Program No. 4:- Grants for Antidumping Investigations**

**a. Submissions by Domestic Industry-**

76. GOC provides support to the domestic Chinese Producers who face trade remedy action abroad to partially bear the legal cost of such proceedings under a program called '*Rules for the Implementation of the Support Policy for the Anti-dumping, Anti-subsidy and Safeguard investigation respondent*'. The program has been introduced by GOC through Ministry of Commerce (MOFCOM), Ministry of Finance (MOF), and implemented by the provincial authorities of China PR. Under this program 40% of legal fees for company's participation in these trade remedy legal proceedings were refunded by local authorities. This program constitutes a subsidy as it provides financial contribution in the form of a grant or direct transfer of funds in order to cover legal fees in anti-dumping or countervailing duty or safeguard investigation proceedings and confers a benefit amounting to a subsidy within the meaning of ASCM and Indian Rules. It has been alleged that this program has been held countervailable by other countries.

**b. Submissions by GOC/other interested parties-**

77. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

78. The Authority notes that the petitioning domestic industry has provided evidence of existence of this subsidy program being implemented by the GOC and Provincial Govt. and this claim has not been countered by any interested party. The nature of the program outlined above indicates that the program constitutes a subsidy as it provides financial contribution in the form of a grant or direct transfer of funds in order to cover legal fees in anti-dumping or countervailing duty or safeguard

investigation proceedings. The program confers a benefit amounting to a subsidy within the meaning of ASCM and Indian Rules. The program is also specific to Enterprises subject to such proceedings and those enterprises that are participating in any such proceeding.

79. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of the said program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning imports of castings for Wind Operated Electricity Generators; (b) EU in Certain organic steel - 2013 as well as Coated Fine Paper; (c) by US in Carbon & Certain Alloy Steel Wire Rod, in Carbon and Alloys – Steel Plates; and by other authorities in Carbon and Certain Steel Alloy Wire Rod. It is also noted that the existence of this program has been reported in WTO document G/SCM/Q2/CHN/24 and News Report-government Fund Helps face anti-dumping Charges, 2004. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

80. The Authority notes that Chinese Steel Producers have been facing trade remedy measures across the globe and this program provides a financial contribution in the form of direct cash transfers provided by the GOC and/or provincial/local governments and confers benefits on the recipients. The authority therefore, holds that the program constitutes countervailable subsidy.

**e. Program No. 5:- Superstar Enterprise Grant**

**a. Submissions by Domestic Industry-**

81. GOC has introduced a program named, *“Measures for Assessment and Encouragement of Superstar Enterprises and Excellent Enterprises”*; to support enterprises chosen as “superstar enterprises” from certain cities. Under this program certain local Govts have also notified their schemes for supporting such industries. One such program being *“Notice of Huzhou Government Office Concerning Announcement of Criteria for Superstar Enterprises, Excellent Enterprises and Backbone Enterprises”*.

82. It has been alleged that under this program, selected enterprises will be entitled to receive financial benefits from the local government once they achieve some annual sales targets. It has been submitted that the said program was held countervailable by other authorities.

**b. Submissions by GOC/other interested parties-**

83. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

84. In the absence of cooperation by GOC or the responding producers/exporters in China the information as provided by the petitioners have been relied upon. As per the information available, this program, administered by Local & Municipal authorities, provide various grants to certain enterprises whose export sales value exceeds the specified threshold value during the financial year. Further certain conditions have been specified for being eligible for this grant.

a. The 'output scale' of the enterprise must meet one of the following criteria:

- Business income of the current year not exceeding RMB3.5 billion and sales;
- Revenue within the city exceeding RMB2 billion;
- Sales revenue within the city exceeding RMB2.5 billion;
- Sales revenue within the city exceeding RMB1.5 billion where the increase of sales revenue was more than 30% and the increased paid up tax was more than RMB10 million; or
- Revenue from self-export of current year is more than USD150 million.

(b) The enterprise's accumulated industrial input must have exceeded RMB150 million.

(c) The enterprise must be profitable, and its VAT 'paid up', while its

- Consumption tax;
- Income tax;
- business tax;
- city construction tax; and
- Education supplementary tax must exceed RMB30 million.

(d) The enterprise must not have suffered environmental or unsafe production accidents (or other illegal incidents) in the current year.

(e) If the enterprise is not state-owned, it must have passed the 'Five-Good Enterprises' assessment conducted by its county or district.

85. The Authority notes that this program provides financial support to enterprises exceeding certain annual sales volumes, which is in the nature of financial contribution by the public body conferring benefit on the recipients of the support and therefore, constitute a subsidy.

86. Benefits under this program are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion of the total annual sales.

87. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning Wind Operated Electricity Generators; (b) US in Circular welded Carbon Quality Steel Pipe; and (c) by Canadian authorities in Certain Steel Piling Pipe as well as Certain Aluminum Extrusions. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above the authority holds that the program constitutes countervailable subsidy within ASCM and Indian Rules.

**f. Program No. 6:- Research & Development (R&D) Assistance Grant**

**a. Submissions by Domestic Industry-**

88. Some of the Provincial Governments maintain certain programs to encourage and support the enterprises to develop new technologies to promote energy savings, enhance product quality, improve export structure and encourage setting up of new technical industries. These programs are limited to enterprises that undertake science and tech research and are selected by local authorities. Under this Program, the eligible enterprises are provided grants in the form of direct cash transfers. It has been submitted that the said programs have been countervailable by other authorities.

89. In support of these claims the domestic industry has submitted the following program/scheme documents:

- “Implementation Measure to Support the Acquisition of Foreign Science & Technology Type Enterprises and the Employment of Foreign Science & Technology Development Team”, issued by the Shenyang Economic & Technological Development Area administration;
- Notice of the Office of People’s Government of Wuxing District on Publishing and Issuing the “Management Measures on Three Types of Science and Technology Expenses of Wuxing District”;
- Circular of the office of the People’s Government of Wuxing District Concerning Printing & Distributing the Administrative Measures of the use of

Science & Technology Three type of funds of Wuxing District”; “Wuxi Municipal Bureau on S&T”; Article 9, 34, 35,37 Law of PRC on S&T, 2007.

90. The petitioners have alleged that the following steel enterprises in Zhejiang and Hubei provinces are eligible for this grant and might have benefited from this program: Ningbo Tierslia Imp.& Exp. Co., Ltd; Yuyao Xingda Stainless Steel Co., Ltd; Zhenshi Group Eastern Special Steel Co., Ltd; Ningbo Chinaworld Grand Import And Export Co., Ltd; Zhejiang Zhongda Yuantong Industrial Corporation; Zhejiang Kailai Industrial & Trade Co., Ltd; Wenzhou Ruihong International Industry Co., Ltd; Zhejiang, One Of Qualcomm Enterprise Services Ltd..

**b. Submissions by GOC and other interested parties-**

91. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

92. In the absence of cooperation by GOC or the responding producers/exporters in China the information as provided by the petitioners have been relied upon. As per the information available, this program, administered by Local & Municipal authorities, provide various grants to certain enterprises that setting up of new technical industries. These programs are limited to enterprises that undertake science and tech research and are selected by local authorities. Under this Program, the eligible enterprises are provided grants in the form of direct cash transfers. Ministry of Science & Technology (MOST) and the Local & Municipal government such as Beijing Municipal Science and Technology Commission and Government of Wuxing district and Science and Technology Bureau of Wuxing District ('STB') have been supporting these programs. The programs support (a) research projects, which is to address scientific and technological problems; (b) research projects or technology innovation projects; or (c) research projects aimed at innovation in science and technology in the agricultural sector as well as some high and new technology industries.

93. These programs seek to provide financial assistance in the form of direct cash transfers, thereby conferring benefit on the enterprises that have availed the benefits under these programs. The subsidies under this program are specific as the support is limited to certain enterprises selected by the local authorities.

94. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning Wind Operated Electricity Generators; (b) Canadian authorities in Stainless Steel Sinks

investigation and Certain Galvanized Steel Wire originating in or exported from China PR; (c) Australian Authority held the program countervailable in the matter of CVD investigation of Deep Drawn Stainless Steel Sinks from china PR. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not fall under countervailable subsidy. In view of the above, the authority holds that the above program constitutes a countervailable subsidy.

**g. Program No. 7:- Export Assistance Grant**

**a. Submissions by Domestic Industry-**

95. *Vide Notification No 270 of 2001, Ministry of Finance, and Ministry of Foreign Trade and Economic Department Foreign Trade* have introduced a scheme for providing export assistance in the form of grants to support SMEs for entering global markets. Under the program grant is provided to the SMEs; for holding or participating in overseas exhibitions, accreditation fees for quality management system, environment management system or for the product promotion in the international market, exploring a new market, holding training seminars and symposiums, and overseas bidding. Under this program, the eligible enterprises are provided grants constituting a financial contribution in the form of direct transfer of funds. It has been argued that the subsidy under this program is specific as the support is limited to only a segment of the industry and directly linked to export activity thereby subsidizing the exports. The said program was held countervailable by other authorities

**b. Submissions by GOC and other interested parties-**

96. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

97. In the absence of cooperation by GOC or the responding producers/exporters in China the information as provided by the petitioners have been relied upon. As per the information available, this program provides a financial contribution in the form of grants by the GOC through the MOF, MOFT, and local authorities, thereby conferring benefits on the recipients. Benefits under this program are linked to export activities and are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.

98. Under this program financial support in the form of grants is provided to eligible enterprises in SME sector for exploring opportunities in global markets by

1. holding or participating in overseas exhibitions,

2. accreditation fees for quality management system, environment management system or for the product,
3. promotion in the international market,
4. exploring a new market,
5. holding training seminars and symposiums, and
6. Overseas bidding.

99. The Authority notes that this program has been earlier examined by various other investigating authorities in the past and existence and countervailability of this program was established (a) by the US authorities in Circular Welded Carbon-Quality Steel Pipe from China, in Carbon and Alloys – Steel Plates, in Certain Biaxial Integral Geogrid Products as well as in Stainless Steel – Sheet and Strips and (b) by the Canadian authorities in Certain Metal Bar Grating of Carbon, Alloy or Stainless Steel investigations. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not fall under the category of countervailable subsidy. The authority therefore, holds that the program constitutes a countervailable subsidy.

#### **h. Program No. 8:- Grants to Baoshan Steel**

##### **a. Submissions by Domestic Industry-**

100. Government of Peoples Republic of China has provided certain financial support to Shanghai Baosteel Group Corporation, having units located in various provinces, in the form of grants, loans, and loan guarantees, as well as by way of provision of goods and services by the government. It has been submitted that the program is countervailable as the benefit is limited to certain specific enterprises and the said program has been held countervailable by other authorities.

101. It has been submitted that the benefits provided under this program constitute subsidy as they entail providing financial contribution in the form of a grant or direct transfer of funds e made in connection to the production, manufacture or export of goods of the recipient enterprise. The scheme is therefore held countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

##### **b. Submissions by GOC and other interested parties-**

102. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

103. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. It is noted that in 2013 ‘State–Owned Assets Supervision and Administration Commission’ of the State Council of China has formulated a scheme named “Special financial funds to industries for Adjusting Structure, promoting transformation and supporting industrial development”. The program is aimed at providing various funds in the form of grants, loans, and loan guarantees, as well as goods and services, to the steel industry in general and State-owned enterprises in particular for stabilizing the industry. These assistances are in the nature of financial contribution by the public body conferring benefit on the recipients of the support.
104. As per the information supplied by the domestic industry, Shanghai Baoshan steel Group Corporation, one of the largest steel industries in China, has availed substantial benefits under this program. This has not been refuted by either Government of China or by the concerned producer/exporter in spite of providing ample opportunities.
105. The program provides a financial contribution in the form of Grants, loans, and loan guarantees as well as goods and services provided by the GOC conferring benefits on the recipients. Benefits under this program are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.
106. The Authority notes that this program has been earlier examined by other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Non-Oriented Steel investigation against China. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above the Authority holds this scheme as countervailable subsidy program.
107. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanghai Baosteel Group Corporation for the year 2015. The evidence with regard to the amount of grants availed by the company and the margin computed by the petitioners has been placed by the Authority in the public file for inspection of the interested parties.
108. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin

based on the best fact available. The Authority has quantified the subsidy margin as 0.55%.

**i. Program No. 9:- Grants for Listing Shares**

**a. Submission by the Domestic Industry-**

109. Program is administered by GOC PR and the local government to provide financial support to SMEs that intends to go public through grants, loans, loan guarantees and goods and services. SMEs, private enterprises and joint stock enterprises are eligible for this program to the extent that they are trading shares on stock exchanges which are selected by the authorities. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The domestic industry has quoted the *“Order of the national Development and Reform Commission, and order No. 35: Policies for Development for Iron & Steel Industry, dated July 8, 2005”*; and *“Administrative Measures for the initial public offering & listing of stocks”* and several web researched information in support of its claim.

110. The eligible steel enterprises in Foshan Lisheng Stainless Steel Co., Ltd is one of the small and medium enterprise in China PR.

**b. Submissions by GOC/other interested parties-**

111. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

112. In the absence of any information provided either by GOC or the responding exporters on this program, the Authority has relied upon the information provided by the petitioners. The nature of the program as detailed above clearly indicates that the program provides countervailable benefits in the form of grants. This program provides financial support through grants to specific industrial enterprises. The grant constitutes a financial contribution in the form of a direct transfer of funds to an industry which list the shares. This grant program confers a benefit equal to the amount of the funds provided which is in the nature of financial contribution by the public body conferring benefit on the recipients and hence countervailable under ASCM. The subsidy under this program is enterprise specific.

113. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established US in Non-oriented Steel CVD investigation.

114. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that there are a large number of steel producers of SMEs in China who could have benefited from this program. The program is limited to SMEs, private enterprises and joint stock enterprises and therefore specific and providing financial contribution to the beneficiary.

115. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. Since the program has been found to be countervailable by other Authorities also in the same sector, the authority therefore, holds that the aforesaid program constitutes countervailable subsidy.

**j. Program No. 10:- Funds for Outward Expansion of Industries in Guangdong Province**

**a. Submissions by Domestic Industry-**

116. Program is administered by the Municipal Corporation of Guangdong to support regional industries in international market exploration. Under this program enterprises are provided grants, loans and loan guarantees for exploring international markets, exhibitions, promotions, legal and export credit expenses, research, training, IPR applications, etc. The enterprises located in Guangdong province that work for outward expansion of the industry are eligible for such support. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. As per the domestic industry's petition the program is administered through the policy document titled: "Implementing Measures of Guangdong Province on supporting the development of Export oriented private enterprise, 2003". Further, the petitioners have quoted some web research in support of its claim such as Guangdong Supports Private Enterprises Outward, TDC Trade, and March, 1, 2004. The said program is stated to have been held countervailable by other authorities.

117. The petitioners have named the following steel enterprises in Guangdong province who are eligible for benefits under this program and might have benefited from this program: Foshan Guang Yu Stainless Steel Co., Ltd., Foshan Bright Glory Stainless Steel Ltd., Foshan Gangtuo Import & Export Co. Ltd., Foshan International Trade Co. Ltd., Foshan Native Produce Import & Export Company Limited Of Guangdong, Foshan Real Leader Import & Export Co., Ltd., Guangdong Guangxin Suntec Metal Holdings Co. Ltd., Lianzhong Stainless Steel Corporation,

Shenzhen Zhaoheng Specialty Steel Co. Ltd and Shen Zhen 1-Touch Business Service Ltd.

**b. Submissions by GOC and other interested parties-**

118. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

119. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with its. It appears that this program, implemented by the Municipal Corporation of Guangdong, provided grants, loans and loan guarantees for exploring international markets, exhibitions, promotions, legal and export credit expenses, research, training, IPR applications, etc. The program is an export market linked program and is limited to enterprises located in Guangdong province. The steel producers located in this province were eligible for this benefit. Therefore, this amounts to subsidy within the meaning of Rules and is specific.

120. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the US authorities in Carbon and Certain Alloy Steel Wire Rod, US- lightweight Thermal Paper. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The authority therefore, holds that the program constitutes countervailable subsidy.

**k. Program No. 11:- Grants provided through the Provincial Fund for Fiscal and Technological Innovation**

**a. Submissions by Domestic Industry-**

121. Administered by Provincial Government of Guangdong under their program: "*Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund*". The existence of this program has been reported in WTO–G/SCM/N/267/CAN. Under this program grants are provided to enterprises located in the Guangdong for promoting technological and fiscal innovation. It has been argued that program is countervailable as being specific to certain enterprises based on the eligibility criterion and the said program has been held countervailable by other authorities.

122. The petitioners have submitted that the eligible enterprises, such as Foshan Guang Yu Stainless Steel Co., Ltd., Foshan Bright Glory Stainless Steel Ltd., Foshan Gangtuo Import & Export Co. Ltd., Foshan International Trade Co. Ltd., Foshan Native Produce Import & Export Company Limited Of Guangdong, Foshan Real Leader Import & Export Co., Ltd., Guangdong Guangxin Suntec Metal Holdings Co. Ltd., Lianzhong Stainless Steel Corporation, Shenzhen Zhaoheng Specialty Steel Co. Ltd and Shen Zhen 1-Touch Business Service Ltd., might have availed out of the scheme.

**b. Submissions by GOC and other interested parties-**

123. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Anhui Baoheng Advanced Material Technology Co, Ltd., in its submissions, has accepted that they have availed benefit out of this program during the POI.

**c. Examination by the Authority-**

124. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The authority noted that the program is administered by a provincial or a local government and provides a financial benefit or contribution, which has the effect of subsidizing the goods produced by the enterprises participating in the program. The way the program is framed or implemented, is limited to certain qualifying enterprises located within the geographical jurisdiction of the authority of the Guangdong Province government and therefore, is specific within the meaning of the term. Govt. of PRC has not provided any information. M/s Anhui Baoheng Advanced Material Technology Co, Ltd., which is located in this province, has admitted that they have availed the benefit out of this program.

125. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the US authorities in “Carbon & Certain Alloy Steel investigation”. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program constitutes countervailable subsidy.

126. Anhui Baoheng Advanced Material Technology Co Ltd., one of the responding exporters from China who has submitted questionnaire response and has stated that they availed this benefit and has provided information with regard to the amount of subsidy received by the company during the POI. While the company

has not provided any other relevant information with regard to operation of the scheme and benefit under the scheme, the Authority has considered them as non-cooperative and accordingly not granted individual subsidy margin.

**I. Program No. 12:- Various grants provided to Shandong Province**

127. ProgramNo 12 consists of following sub programs-

- i. Program 12(a):- Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers
- ii. Program 12(b):- Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology
- iii. Program 12(c):- Shandong Province's Environmental Protection Industry Research and Development Funds
- iv. Program 12(d):- Shandong Province's Construction Fund for Promotion of Key Industries

**a. Submission of the Domestic Industry-**

128. Shandong Province provides several subsidies to the industries located in that province which are countervailable:

- *“Opinions of the People’s Government of Shandong Province on Strengthening Enterprise Technology Renovation and Implementing New, Special and Excellent Industrial Development Projects, Lu Zheng Fa (2008) No. 82, August 19, 2008”;*
- *“Opinions of the People’s Government of Shandong Province on Implementing Guo Fa (2012) No. 44”;* *Shandong Province Enterprise Key Technology Renovation Project Guidance Project, January 12, 2012”;*
- *“Document and Further Strengthening Enterprise Technology Renovation Work, Lu Zheng Fa (2013) No. 2, January 4, 2013”;*
- *“Provisional Measures Shandong Special Fund for Energy Saving technology under the Circular of the Shandong Finance Department and Shandong Economic and Trade Commission”;*
- *Decree of State Council of China P No. 38 (SASAC)-2003; Notice of Revitalization plan for Shandong Province (Lu Zheng Fa (2009) No.45*

129. It has also been submitted that the existence of this program has been reported in WTO Report –G/SCM/Q2/CHN/42-2011, G/SCM/Q2/CHN/51-2014, and Economic overview of Shandong Province.

130. These programs are administered by Ministry of Finance, Ministry of Science and Technology, Department & Municipal Corporation of Shandong. It has been submitted that these programs have been countervailed by the US authorities in “Citric Acid & Certain Citrate Salts and Carbon and certain alloy steel wire rod from China PR”

131. The petitioners have submitted that the eligible enterprises which are located in Shandong province i.e., Jingang Group, Laiwu Steel, Rizhao Steel, and Qingdao Steel, Shandong Huaye Stainless Steel Products Co, might have availed benefit out of the scheme.

**b. Submissions by GOC and other interested parties-**

132. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority**

**Program 12(a):- Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers**

133. This program the Shandong Finance Department and the Shandong Economic and Trade Commission provide support to the establishment of technical centers by key enterprises by providing funds for the purchase of equipment, training, technical cooperation and communication. It has been alleged that the scheme is limited to certain enterprises and has been held countervailable by other authorities. •Financial support in the form of grants, loans, loan guarantees and goods and services provided by the GOC.

**Program 12(b):- Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology**

134. This program, administered by Shandong Finance Department and Shandong Economic and Trade Commission, pursuant to the Provisional Measures Shandong Special Fund for Energy Saving technology, encourages reductions in energy consumption and to accelerate the industrialization of key energy-saving technologies in Shandong Province. It has been alleged that this scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and this program has been held countervailable by other authorities. Financial support is in the form of grants or awards.

**Program 12(c):- Shandong Province's Environmental Protection Industry Research and Development Funds**

135. Program is administered by MoF, MoST and Municipal Corporation of Shandong. The purpose of the program is to promote pollution-preventing technologies and environmental product development, and to strengthen the innovation capability and market competitiveness of the environmental protection industry in Shandong Province. It has been argued that this scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and the said program is also held countervailable by other authorities. Financial support is in the form of direct transfer of funds.

**Program 12(d):- Shandong Province's Construction Fund for Promotion of Key Industries**

136. Program is administered by MoF, MoST and Municipal Corporation of Shandong. Under this program, Shandong authorities provide construction funds to promote key industries, including steel industry. It has been argued that Shandong Government has been looking to large industrial enterprises such as steel producers to boost overall growth in the province. Financial support is in the form of direct transfer of funds. As per the information available, there are several steel industries in Shandong province.

137. The above mentioned program nos 12(a),(b),(c) & (d) constitute countervailable subsidy as they provide financial contribution in the form of a grant or direct transfer of funds which is made in connection with the production, manufacture or export of all goods of the recipient enterprise particularly located in Shandong province of China PR..

138. Authority notes that the program number 12(a), (b), (c) & (d) have been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the US authority in Citric Acid & Certain Citrate Salts and Carbon and certain alloy steel wire rod from China PR. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the programs 12(a), (b), (c) & (d) constitute countervailable subsidy.

**m. Program No. 13:- Ad hoc subsidies**

**a. Submissions by Domestic Industry-**

139. There are certain ad-hoc subsidy programs administered by GOC through its central, provincial and municipal branches to advance the steel industries such SOEs and private companies by providing subsidies in the form of grants, tax exemptions and tax reductions. It has been argued that these ad hoc programs are

countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. These programs are allegedly held countervailable by other authorities, in EU Certain Organic coated steel products

140. The eligible steel enterprises are Xinjiang Alashankou Minmetals Trade Co., Ltd., Xiamen Great Corporation; Xinjiang Alashankou Minmetals Trade Co., Ltd, Shanxi Taigang Stainless Steel Co., Ltd, Guangdong Guangxin Suntec Metal Holdings Co.,Ltd, Zhejiang Zhongda Yuantong Industrial Corporation might have availed out of the scheme. The communication by US & EU to WTO dated 12<sup>th</sup> April, 2017, shows that steel producing industries in China PR are receiving various ad hoc benefits, some backed up by legal notifications whereas some are de facto grants.

**b. Submissions by GOC and other interested parties-**

141. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

142. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The authority noted that the program is administered both at national and provincial or a local government and provides a financial benefit or contribution, which has the effect of subsidizing the goods produced by the enterprises participating in the program. The various ad hoc programs appearing in the annual reports of the Steel industries and the communication of US and EU to WTO dated 12<sup>th</sup> April, 2017, are the biggest evidence proving the existence of the ad hoc schemes.

143. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU in Certain Organic Coated Steel Products. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In fact China is yet to clarify the situation to WTO. In view of the above, the Authority holds that the program constitutes countervailable subsidy.

144. However, the authority noted that the petitioners have not provided any specific information or evidence, barring the schemes and benefits already quantified hereinabove, about the existence of any other additional program conferring countervailable subsidy. The programs such as grants, tax exemptions and tax reductions programs have already been covered under other schemes.

Therefore, the Authority does not find it appropriate to quantify this scheme separately as it will amount to double counting of the benefit.

**n. Program No. 14:- Grants provided by Hebei Province**

145. Program No 14 consists of following sub programs-

**a) Program 14(a)- Grants under the Science and Technology program of Hebei Province**

**b) Program 14(b)- Government of Shijiazhuang City Export Award**

**a. Submissions of the Domestic Industry-**

146. *“Introduction to Hebei’s Industries China Science and Technology News Letter”* and various web research such as, *“Shijiazhuang Hi Tech Industrial Development Zone, High-tech Zone Administration Concerning the Hebei Science and Technology Organisation”*, the Petitioners have submitted that the Government of Hebei Province provides the above subsidies to the industry, including steel industry, in that province in the form of grants.

147. Under the program 14(a), Hebei provincial government provides grants to enterprises who involves in Science and Technology for production or manufacturing goods for exports, on submission of an application by the enterprises with regard to its exports or potential exports. It has been argued that this program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and the said program was held countervailable by other authorities.

148. Under the program 14 (b), it has been alleged that the local government in Shijiazhuang City provides export award to the companies, which are located in the capital of Hebei province. Producers of steel industries are located in the said province or the city. The programs are countervailable as the benefit is limited to certain enterprises based on the eligibility criterion

149. The eligible steel enterprises are Hebei Metals and Minerals Corporation and Hebei Longsheng Metals & Minerals Corporation are located in Hebei and might have availed out of the scheme.

150. It has been submitted that the schemes have been held countervailable by EU authorities in Certain Organic Coated Steel Products and by Canadian authorities in Galvanized Steel Wire.

**b. Submissions by GOC/other interested parties-**

151. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

152. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that both the programs administered by Hebei province and provides financial benefits and grants to certain enterprises, which are located in Hebei, which are involved in science and technology for production and manufacturing goods for exports. Hence the programs are export, enterprise and region specific. Therefore, these programs constitute subsidies and also specific within the meaning of the Rules.

153. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; (b) US DOC in Non-Oriented Electric Steel; (c) European Union in Certain Organic Coated steel; and (d) Canada in Certain Galvanized Steel Wire and Certain Stainless Steel Sinks. It is also noted that the existence of this program has been notified by China to WTO in G/SCM/Q2/CHN/28; and G/SCM/Q2/CHN/42-2011. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.

**o. Program No. 15:- Various grants provided to Fuyang City and Hangzhou City Governments**

**a. Submissions by Domestic Industry-**

154. Program No 15 consists of following sub programs-

- (a) Program No. 15 (a)- Grant for Enterprises Paying Over RMB 10 Million in Taxes
- (b) Program No. 15(b)- Grants under the Export of Sub-Contract Services Program
- (c) Program No. 15(c)- Grants under Excellent New Products/Technology Award
- (d) Program No. 15(d)- Investment grants from Fuyang City Government for key industries
- (e) Program No. 15(e)- Grants for Enterprises Operating Technology and Research and Development Centers
- (f) Program No. 15(f)- Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees

(g) Program No. 15(g)- Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)

155. “Choice Internal Report I-2-2014 (Chinese Regional and Local Funding Bodies for Scientific and Technical Research”, and “Zhejianggarian Structure Carbon Steel Industry- 11th Five Year plan”, shows that the Fuyang City and Hangzhou City Governments implement the following programs, which provide countervailable subsidies to the industries located within its jurisdiction.

156. Yuyao Xingda Stainless Steel Co. Ltd., Zhenshi Group Eastern Special Steel Co. Ltd, Zhejiang Zhongda Yuantong Industrial Corporation., Ningbo Tierslia Import & Export Co. Ltd. and Zhejiang Huaye Stainless Steel Co. Ltd, located in Fuyang and Xiamen Great Corporation, Xiamen Golden Huanan Imp. & Exp. Co., Ltd. Fujian Fuxin Special Steel Co., Ltd., located in Hangzhou city might be benefited from the said benefit.

**b. Submissions by GOC/other interested parties-**

157. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Anhui Baoheng Advanced Material Technology Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the program no 15 (f) during the POI but no further information was provided by them.

**c. Examination by the Authority**

**Program No. 15(a) -Grant for Enterprises Paying Over RMB 10 Million in Taxes**

158. The program is administered by GOC through city governments of Fuyang and Hangzhou. Under this program, Fuyang district in Hangzhou city in Zhejiang province provides financial benefit to the companies whose tax payments exceed RMB 10 Million during the financial year. The program is specific as the support is limited to enterprises in the said cities whose tax payments exceed RMB 10 million. Thus, the Authority, holds that the program constitutes countervailable subsidy.

**Program 15(b) - Grants under the Export of Sub-Contract Services Program**

159. The said program is administered by GOC through city governments of Fuyang and Hangzhou. Under this program, companies which have provided export subcontract services are provided financial assistance by the government of Fuyang City. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion located within the city limits engaged in export activities. The said program was held countervailable by other authorities.

### **Program 15(c)- Grants under Excellent New Products/Technology Award**

160. This program, administered by GOC through city governments of Funyang and Hangzhou, provides grants, loans and loan guarantees to the steel industries in China PR as a part of Government Grants under the Excellent New Products/Technology Award. Enterprises are required to provide data regarding exports sales to the Hangzhou City Government to be eligible for the said benefit in form of direct transfer of fund. The program is specific as the support is limited to enterprises that have applied to Hangzhou city government and are located in its region, contingent on demonstrated export performance. Therefore, the program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

### **Program 15(d)- Investment grants from Fuyang City Government for key industries**

161. This program, administered by GOC through city governments of Funyang and Hangzhou, provides grants to designated exporters, as a member of a "key industry", for investment in new plants. The program is specific as the support is limited to enterprises recognized as "key industry" within the city limits. The benefits are limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

### **Program 15(e)- Grants for Enterprises Operating Technology and Research & Development Centres**

162. This program, administered by GOC through city governments of Funyang and Hangzhou provides financial assistance to the enterprises operating Technology and Research & Development Centers. This amounts to subsidy within the meaning of ASCM and is specific as the support is limited to enterprises operating technology and research and development centres within the concerned province. Countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by the US authorities.

### **Program 15(f) Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees**

163. The said program, administered by GOC through city governments of Funyang and Hangzhou, reimburses export credit insurance fees to the exporters. The form of reimbursement of export credit insurance fees provided by the government is in the nature of financial contribution by the public body conferring

benefit on the recipients of the support. This amounts to subsidy within the meaning of ASCM and Indian Rules.

164. The program is linked to export performance and hence specific and has been held countervailable by other authorities. Neither GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy program. However, Anhui Baoheng Advanced Material Technology Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned program but no further information was provided by them. The authority therefore, holds that the program constitutes countervailable subsidy.

**Program 15(g) - Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)**

165. The program is administered by GOC through city governments of Fuyang and Hangzhou these governments have provided grants to certain companies as a one-time bonus payment as recognition of successful listing on the Shenzhen Stock Exchange through Initial Public Offering (IPO). The grant is contingent upon the separate approval of the government authority and is limited to certain enterprises based on the eligibility criterion. The programs confer a financial benefit and have been held countervailable by other authorities such as US authorities in Certain Steel Wheels investigation.

166. The above mentioned programs are provided under following orders/notifications:

- “Order of the National Development and Reform Commission and the Ministry of Commerce No. 22;
- Circular of the State Council on Promulgating the Catalogue of Investment Projects Subject to the Approval of the Government (2014 Version) Guo Fa (2014) No. 53”;
- “Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)”;
- “Catalogue for the Guidance of Foreign Investment Industries 2004”;
- “Catalogue for the Guidance of Foreign Investment Industries (Amended in 2015)”;
- “12th five year plan- China”.

167. The existence of this program has been reported in Web Research- Choice Internal Report I-2-2014 (Chinese Regional and Local Funding Bodies for Scientific and Technical Research, and Zhejianggarian Structure Carbon Steel Industry- 11th Five Year plan.

168. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; (b) US DOC in Non-Oriented Electric Steel; Certain Steel Wheels investigation (c) European Union in Certain Organic Coated steel; and (d) Canada in Certain Galvanized Steel Wire and Certain Stainless Steel Sinks. It is also noted that the existence of this program has been notified by China to WTO in G/SCM/Q2/CHN/28; and G/SCM/Q2/CHN/42-2011. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the programs 15(a), (b), (c), (d), (e), (f) & (g) constitute countervailable subsidy. Therefore, the Authority holds the program as a countervailable subsidy.

169. Anhui Baoheng Advanced Material Technology Co Ltd., one of the responding exporters from China who has submitted questionnaire response and has stated that they availed this benefit and has provided information with regard to the amount of subsidy received by the company during the POI. While the company has not provided any other relevant information with regard to operation of the scheme and benefit under the scheme, the Authority has considered them as non-cooperative and accordingly not granted individual subsidy margin.

p. **Program No. 16:- Grant - Special Funds for Fostering Stable Growth of Foreign Trade**

a. **Submissions by Domestic Industry-**

170. Ministry of Finance, Bureau of Foreign Trade and Economic Cooperation have a program which provides special funds to the manufactures/exporters in the form of marketing assistance during recession period for stable growth of foreign trade. During financial and economic crises in the world market, exporters exporting goods over the total quantity of goods as specified by the authority were given special incentives as per the Foreign Trade Policy of China -2011. The program is linked to export eligibility is contingent on export performance and recessive market conditions as determined by the authorities concerned. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program has been held countervailable by other authorities.

b. **Submissions by GOC and other interested parties-**

171. GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy program. However, Anhui Baoheng

Advanced Material Technology Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned program during the POI but no further information was provided by them.

**c. Examination by the Authority-**

172. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The authority noted that the program is administered by central government and provides a financial benefit or contribution, which has the effect of subsidizing the goods produced by the enterprises. Govt. of PRC has not provided any information. Petitioners have submitted that the said program, administered by GOC through Ministry of Finance, Municipal Bureau of Foreign Trade and Economic Cooperation and the Bureau of Finance providing Special funds were provided to the manufacturers/exporters for providing marketing assistance during recession period for stale growth of foreign trade. Exporters, exporting over the total quantity of goods as specified by the authority in the said financial and economic crises in the world market. One of the responding exporters, Anhui Baoheng Advanced Material Technology Co Ltd has accepted that they have availed benefit out of the scheme during the POI.
173. Program is specific as the support is limited to exporters exporting above a predetermined level and contingent to recessive market condition determination by the authority. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the Canadian authorities in investigations relating to stainless steel sink. The GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.
174. Anhui Baoheng Advanced Material Technology Co Ltd., one of the responding exporters from China who has submitted questionnaire response and has stated that they availed this benefit and has provided information with regard to the amount of subsidy received by the company during the POI. While the company has not provided any other relevant information with regard to operation of the scheme and benefit under the scheme, the Authority has considered them as non-cooperative and accordingly not granted individual subsidy margin.

**q. Program No. 17:- Pension fund grants**

**a. Submissions by Domestic Industry-**

175. *Beijing Machinery Industry Management Bureau (BMIMB), 1997* shows that the Govt. of China had introduced a Pension program under which the employees of a government agency which was converted into an SOE, retiring before such conversion are considered retired Govt. employees and remains eligible for government pensions paid by the Beijing Finance Bureau. Accordingly, such Companies receive annual pension grants.

176. It has been argued that the said program has been held countervailable by US authorities in “High Pressure Steel Cylinders, and by Canadian authorities in Certain Concrete reinforcing bars.

**b. Submissions by GOC/other interested parties-**

177. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

178. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The authority noted that the program is administered by central government and provides a financial benefit or contribution, which has the effect of subsidizing the goods produced by the enterprises. Govt. of PRC has not provided any information. Petitioners have submitted that the said program, administered by GOC through Ministry of Finance, Municipal Bureau of Foreign Trade and Economic Cooperation and the Bureau of Finance providing Special funds were provided to the manufacturers/exporters for providing marketing assistance during recession period for stale growth of foreign trade. Exporters, exporting over the total quantity of goods as specified by the authority in the said financial and economic crises in the world market.

179. Program is specific as the support is limited to exporters exporting above a predetermined level and contingent to recessive market condition determination by the authority.

180. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by the (a) US authorities in “High Pressure Steel Cylinders, and (b) by Canadian authorities in Certain Concrete reinforcing bars. The GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.

181. The Authority notes that this grant is towards the pension liability inherited by the SOEs from the former state agencies at the time of conversion of the enterprises. No information has been provided by any interested party as to whether the program has been continued and was applicable during the POI. The GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.

**r. Program No. 18:- Provincial Government - Equipment Grant**

**a. Submissions made by Domestic Industry-**

182. “*Steel and Iron Industry Development Policy*”, “*Order No. 25 of the National Reform and Development Commission, July 2005*” provides that the provincial and local governments in China provide financial assistance to the enterprises to install and use latest equipment’s. It has been argued that the program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and has been held countervailable by other authorities

**b. Submissions made by GOC and other interested parties-**

183. Neither GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy program. Zhejiang Jianheng Industrial Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned program but no further information has been provided by them.

**c. Examination by the Authority-**

184. In the absence of cooperation by GOC or the responding producers/exporters in China the information as provided by the petitioners have been relied upon. As per the information available, this program, administered by provincial and local governments in China, provide financial assistance to the enterprises to install and use latest equipment’s. The Authority notes that the program provides a financial support in the form of grants to companies for installing and using the latest equipment for export, which is in the nature of financial contribution by the public body conferring benefit on the recipients of the support, which amounts to be a specific subsidy within the meaning of ASCM and Indian Rules.

185. Program is specific as the support is limited to exporters exporting above a predetermined level and contingent to the enterprise which install equipments. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by Canadian authorities in Certain Galvanized Steel

Wire and Certain Concrete reinforcing bars. The GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.

**s. Program No. 19:- Treasury Bonds Loans or Grants**

**a. Submissions by Domestic Industry-**

186. Based on the notification, “Notice regarding Corporate Income Tax (CIT) policies related to the deduction for loan loss provisions: Cai Shui (2015) No. 9” and Quoting certain Web Research and News Digests which have reported that China Allows Local government to issue \$ 160 Billion of bonds for providing subsidies to its Steel Industry, the petitioners have submitted that the GOC maintains certain programs under which GOC provides discounted loans to selected enterprises through treasury bonds. It has been argued that the program confers a financial benefit on the recipients the countervailability of this program has been established by US authorities in Non Oriented Electrical Steel.

**b. Submissions by GOC and other interested parties-**

187. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

188. The Authority notes that the program provides a financial support in the form of grants to companies in the form of treasury bonds, which is in the nature of financial contribution by the public body conferring benefit on the recipients of the support, which amounts to be a specific subsidy within the meaning of ASCM and Indian Rules.

189. Program is specific as the support is limited to exporters exporting above a predetermined level and contingent to the enterprise. Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US in Non Oriented Electrical Steel. The GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the Authority holds that the program as countervailable subsidy.

190. However, the Authority notes that the petitioners have not established how this program is different from Program No. 72 which also provides similar benefits to enterprises. Both the program appears to be providing similar benefit. Therefore,

in absence of any information showing that the program is not concurrent with some other program, the Authority has not examined this program further.

t. **Program No. 20: Interim Measures of Fund Management of Allowance for Zhongsham Enterprises to Attend Domestic and Overseas Fair**

a. **Submissions by Domestic Industry-**

191. Zhongsham *Municipal People's Government Document: Zhougfuban 2009) No. 48*, provides that under a program administered by the Municipal Economic and Trade Bureau and Foreign Economic and Trade Bureau, of Zhongsham financial support is provided to local enterprises for developing domestic and international markets. Under this program certain grants are provided to local enterprises of Guangdong province. It has been submitted that this program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and has been held as countervailable by the Canadian authorities in stainless steel sinks as well as in Steel Pilling pipe cases.

b. **Submissions by GOC and other interested parties-**

192. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Anhui Baoheng Advanced Material Technology Co, Ltd has accepted that they have availed benefit out of this program.

c. **Examination by the Authority-**

193. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The authority noted that this program administered by the Municipal Economic and Trade Bureau and Foreign Economic and Trade Bureau provides a financial benefit or contribution, in the form of Grants, which is in the nature of financial contribution by a public body conferring benefit on the recipients of the support. The program, is limited to certain enterprises located within the geographical jurisdiction of the authority granting the benefit therefore, is specific within the meaning of the term.

194. Govt. of PRC has not provided any information regarding the program. However, M/s Anhui Baoheng Advanced Material Technology Co, Ltd., which is located in this province, and has filed a questionnaire response, has admitted that they have availed the benefit out of this program without providing any further details.

195. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Canadian authorities in stainless steel sinks as well as in Steel Pilling pipe. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In the view of the above the authority holds that the program constitutes a countervailable subsidy.

196. Anhui Baoheng Advanced Material Technology Co Ltd., one of the responding exporters from China who has submitted questionnaire response and has stated that they availed this benefit and has provided information with regard to the amount of subsidy received by the company during the POI. While the company has not provided any other relevant information with regard to operation of the scheme and benefit under the scheme, the Authority has considered them as non-cooperative and accordingly not granted individual subsidy margin.

**u. Program No. 21:- International Market Fund for Export Companies**

**a. Submissions by Domestic Industry-**

197. 'Measure Cai Qi [2010] No. 87', *Measures Jiang CaiWai (2010) No-.92*, and *"Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises*, provides that under a program administered by MOFCOM through city governments and various authorities, up to 50% of the expenses paid by the enterprises for developing international markets and various other allied activities are reimbursed. Under this program assistance is provided to companies that have export business in China for developing international markets, including overseas exhibitions, certification of enterprise management systems, various product certifications, foreign patent applications, promotional activities in international markets, electronic business, foreign advertisement and trademark registration, international investigation, bids (negotiations) abroad, enterprise training, foreign technology and brand acquisition, etc. financial contribution is provided, in form of direct transfer of funds by GOC to the companies that have export business in China.

**b. Submissions by GOC and other interested parties-**

198. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority**

199. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information

contained in the petition and best information available with it. The authority noted that under this program, administered by Ministry of Finance and Ministry of Commerce, Government of Jiangmen City (Guangdong province) certain benefits in the form of financial assistance is provided to the exporting units for developing markets. The program is specific to export oriented enterprises and is contingent on export performance and therefore, the program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

200. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by Canada in Certain Galvanized Steel Wire; Steel Pilling Pipe; Certain Silicon Metal; and Certain Stainless Steel Sinks. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. Therefore, the authority holds that the programme constitutes countervailable subsidy.

201. However, the authority noted that the petitioners have not provided any specific information or evidence with regard to any new benefit being provided under Program 21, barring the schemes and benefits already quantified hereinabove, about the existence of any other additional program conferring countervailable subsidy or the program is not concurrent with some other program. The above mentioned grant programs have already been covered under other schemes. Therefore, the Authority does not find it necessary to examine this scheme separately.

**v. Program No. 22:- Special Fund for Energy Saving Technology Reform**

**a. Submissions by Domestic Industry-**

202. Program is administered by GOC, National Energy Administration (“NEA”) vide notification Interim Administrative Measures on Purchase of Domestic Equipment by... “Administration of Energy Savings Technology Reform Awards Fiscal, Funds, Cai Jian 2007 No. 371”. Under this program, funds are provided to enterprises manufacturing or involved in R&D of energy saving products and technology and using such energy saving products and technologies. The program is specific to renewable energy sector. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

**b. Submissions by GOC and other interested parties-**

203. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

204. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that this alleged program provides assistance in the form of grants to organization/ enterprises which are adopting high energy efficiency technologies or products and services, and renewable energy, thereby conferring a financial benefit.
205. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Non-Oriented steel investigation. It is also noted that the existence of this program has been reported in WTO document- G/SCM/Q2/CHN/42. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
206. The financial contribution in form of grants, loans, and loan guarantees as well as goods and services is provided by the government to the enterprises for use of energy efficient technologies or renewable energy. The benefits under the program is governed by eligibility criteria, but availed by limited number of enterprises or to certain type of business enterprises and therefore, the program is specific and countervailable within the ASCM. In the view of the above the Authority holds that the program constitutes countervailable subsidy.

**w. Program No. 23:- Small and Medium-sized Enterprise Support Funds**

**a. Submissions by Domestic Industry-**

207. *Circulars of the Ministry of Foreign Trade and Economic Cooperation and the Ministry of Finance - Detailed Rules for the Implementation of the Measures for Administration of International Market Developing Funds of Small-and Medium-sized Enterprise- WaiJing Mao Ji Cai Fa [2001] No. 270*, provides that the Ministry of Foreign and Economic Co-operation, Ministry of Finance administers a program with the support of Chinese Banks to provide support to SMEs for innovation, expansion and revitalization. Under this program, SMEs are eligible for support in the form of grants, loans, and loan guarantees as well as goods and services for their expansion and innovation programs. It has been submitted that the program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion and the program has been held countervailable by other authorities.

**b. Submissions by GOC and other interested parties-**

208. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

209. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that under this program administered by Ministry of Foreign and Economic Co-operation, Ministry of Finance and Chinese Banks long-term loans and business funds and credit guaranties are provided to SMEs to support for innovation, overseas expansion and business revitalization.

210. Authority notes that this program has been earlier examined by by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; and (b) by Canadian authorities in Galvanized Steel wire investigations. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

211. In view of the above the Authority holds that there is financial support in form of grants, loans, and loan guarantees under this program to SMEs and micro enterprises which amounts to a specific subsidy within the meaning of ASCM and Indian Rules and therefore, countervailable.

**x. Program No. 24:- Subsidies Provided in Tianjin Binhai New Area (TBNA) and the Tianjin Economic and Technological Development Area (TETDA)**

**a. Submissions by Domestic Industry-**

212. *“Circular of the Ministry of Finance and the State Administration of Taxation concerning the Related Preferential Policies of Enterprise Income Tax for Supporting the Development and Openness of Binhai New Area of Tianjin; CaiShui [2006] No. 130”*, provides that the GOC maintains a program to support the steel industry located in TBNA and TETDA. Under this program these industries receive various subsidies, pay reduced taxes and also get tradable land use rights. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

213. It has been submitted that enterprise located in Tianjin region, viz, Tianjin Tisco, TPCO Stainless steel Co. Ltd., and Tianjin Huazhou Metal Product Co. Ltd. might have availed benefit out of the scheme.

**b. Submissions by GOC and other interested parties-**

214. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

215. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that under this program administered by Government of China, enterprises located in a designated geographic region receive subsidies under the Science and Technology Fund Program such as reduced income taxes under the Accelerated Depreciation Program, land-use rights within the TBNA during the POI and prior to the POI.

216. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by US authorities in High pressure steel cylinders from China PR as well as in Certain Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe from China PR. It is also noted that the existence of this program has been reported in Web Research- Binhai New Area Investment Promotion Authorities & Incentives. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

217. In view of the above the Authority notes that the Steel enterprise located in designated Geographical region i.e. TBNA and TETDA received financial contribution in form of reduced taxes, beneficial trading in land use rights and other subsidies, from public body conferring benefit on the recipients of the support which amounts to specific subsidy within the meaning of Rules and therefore, countervailable.

**y. Program No. 25:- State Special Fund for Promoting Key Industries and Innovation Technologies**

**a. Submissions by Domestic Industry-**

218. Quoting certain notifications of Shanghai Municipal People's Government- *"Approving and Transmitting the Procedures of Shanghai Municipality on the Administration of the Special Funds for Major Projects of Independent Innovation and New and Hi-tech Industry Development, Formulated by the Municipal Development and Reform Commission and the Municipal Finance Bureau, No. 38 [2009] of Hu fu"*, the Petitioners have submitted that National Development and

Reform Commission (NDRC) and the Ministry of Industry and Information Technology (MIIT) administer a program which provides a one-time grant to enterprises located in Shanghai Municipal People's Government's area for developing production facilities for enhancing export performance. It has been argued that this program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

219. Shanghai Kurup Stainless steel Co. Ltd, Tsingshan Holding Group, Shanghai International Trading Co. Ltd, Okaya (Shanghai) Co, Ltd, Shanghai Hyss International Trading Co Ltd. Located in Shanghai Municipality are might have availed benefit out of the scheme.

**b. Submissions by GOC and other interested parties-**

220. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority-**

221. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that under this program administered by NDRC, Government of China, provides special funds for promoting key industries and innovation technologies.

222. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Certain Steel Wheels and Carbon and Alloy Steel Wire Rod from China PR. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

223. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority noted that under this National Development and Reform Commission (NDRC) and the Ministry of Industry and Information Technology (MIIT) administered program one time financial grant is provided to the Companies located within the jurisdiction of Shanghai Municipal People's Government and the benefits are conferred contingent to export performance. Therefore, the program is a specific and hence countervailable.

**Calculation Methodology for alleged subsidies and the computation of subsidies in the form of Grants under Program No. 1 to 25**

224. Rule 12 of Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, provides for detailed Calculation methodologies for determination of countervailable subsidies. The Rules provide as under:

*(1) For the purposes of these rules, the amount of countervailable subsidies, shall be calculated in terms of the benefit conferred on the recipient which is found to exist during the investigation period for subsidization*

*(2)....*

*(3) The amount of the countervailable subsidies shall be determined per unit of the subsidised product exported to India and while establishing this amount the following elements may be deducted from the total subsidy:*

*(a) any application fee, or other costs necessarily incurred in order to qualify for, or to obtain, the subsidy;*

*(b) export taxes, duties or other charges levied on the export of the product to India specifically intended to offset the subsidy and in cases where an interested party claims a deduction, he must prove that the claim is justified.*

*(4) Where the subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount of countervailable subsidy shall be determined by allocating the value of the total subsidy, as appropriate, over the level of production, sales or exports of the products concerned during the investigation period for subsidization.*

*(5) Where the subsidy can be linked to the acquisition or future acquisition of fixed assets, the amount of the countervailable subsidy shall be calculated by spreading the subsidy across a period which reflects the normal depreciation of such assets in the industry concerned and the amount so calculated which is attributable to the investigation period, including that which derives from fixed assets acquired before this period, shall be allocated as described in sub rule (4) and, where the assets are non-depreciating, the subsidy shall be valued as an interest free loan, and be treated in accordance with clause (b) of sub rule 2 (b) above.*

*(6) Where a subsidy cannot be linked to the acquisition of fixed assets, the amount of the benefit received during the investigation period shall in principle be attributed to this period, and allocated as described in sub rule (4), unless special circumstances justify its attribution over a different period.*

*(7) The designated authority while calculating the amount of subsidy in countervailing duty investigation shall take into account, inter alia, the guidelines laid down in Annexure IV to these rules.*

225. As per these provisions quantification of subsidy availed by the recipients in respect of subsidies found to be countervailable is required to be done on the basis of information of subsidies received by or accrued to the recipients and quantum of production and export data etc. However, the Authority notes that neither the Govt. of China PR has not provided any information on the details of the enterprises who have availed these benefits nor any information on actual amount of benefits given to such enterprises. The producers and exporters in the said country have also not provided any information which can provide any means of arriving at the actual subsidy availed under any specific program or a group of programs even after repeated deficiency letters issued by the Authority. In the absence of complete non-cooperation by the GOC and the responding producers and exporters concerned, the Authority could not be able to carry out a detailed computation of the quantum of subsidy and subsidy margins with regard to any specific producer or exporter and has relied upon the best facts available with it for the computations.

226. It is further noted that out of above 25 grant programs, information with regard to the quantum of the benefit availed out of several programs were found to be not sufficient and some of the programs were found to be providing concurrent benefits under programs of Central and Provincial Governments. Authority notes that a number of programs which confer similar benefits/assistance for developing international markets by different provinces, have been alleged, which appear to run concurrently. Therefore, all such similar schemes have been clubbed without cumulating the subsidy margins.

227. In respect of the above examined grants at program no 1 to 25, except 8 and 12, petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Steel Co. Ltd. for the year 2015. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The same has been considered by the Authority for grants from Program no. 1 to 25 as 0.55%.

#### **I. Export Financing and Export Credit**

#### **Programs/schemes providing benefits in the Form of Export Financing and Export Credit (Program No 26- 28)-**

228. Government of China, with the help of Provincial and local governments and the State controlled Banks, provide significant export financing and export credit subsidies to Chinese companies. It has been submitted that GOC has listed a catalogue containing Chinese High-Technology Products for Export and established a policy framework to invigorate trade in such products by providing preferential export finance to the products listed on that catalogue. This program named as 'Focused Fostering and Development of International Brands' stresses on promotion of listed enterprises' and brands', "foreign trade" and "exports" and provides for "policy support" for the enterprises and brands and steel is one of those priority listed products. It has been alleged that the producers and exporters of these products have benefited out of such schemes.
229. Export-Import Bank of China ("China ExIm Bank"), a bank solely owned by the Chinese government and under the direct leadership of the State Council, provides low cost export credit, including, the seller's credits and buyer's credits for exports. These programs support the export of Chinese products, including new- and high-tech products. China Exim Bank reveals very little information about the rates that are charged under these programs. But various other reports/public documents indicate that the terms of this financing are highly concessional and subsidized.
230. Other state-owned banks are also reported to have provided significant export financing to Chinese companies at concessional rates. The China Development Bank also appears to extend its own export credits which are significantly higher than the export credits reported by China Exim Bank. Bank of China also provides significant export credits, particularly to high-technology enterprises.
231. The information provided by the petitioners and other interested parties have been examined as follows:

**Program No. 26: Export Seller's Credit**

**Submissions by Domestic Industry:**

232. The export seller's credit provided by the State-owned banks and financial institutions are loans provided to Chinese domestic companies for exports of certain specified products and such loans at concessional rates of interests constitute a financial contribution. Further, the benefit is contingent upon export performance. Therefore, the program confers a benefit on the recipients which is a subsidy and being an export linked subsidy, it is specific. It has been argued that this program has been countervailed by many investigating authorities.

**Submissions by GOC and other interested parties-**

233. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

### **Examination by the Authority-**

234. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied upon the information contained in the petition and best information available with it.
235. The Authority noted that as per the information available with the Authority, Import and Exim Banks of China PR & other Chinese Banks provide loans in the form of seller's credits to Chinese's domestic companies for export of certain specified products. Bank of China provides supplier's credit as a medium-and-long-term financing facility to the exporters and as per its stated objective the purpose is to promote export of capital goods and services. The financing costs of such credit are much lower than that of average commercial loans, because the objectives are to implement national policies rather than to make profits on the premium rates and such interest rate are always lower than the market average. The banks, however, do not publicly disclose the rates for export credits. The Govt. of China PR has also not provided any information on this.
236. As per the Circular "JinChuYinJi Fa [1999] No. 210 on supporting the export of high new technologic products", of Import and export Bank of China, the bank also provides export credit insurance to the enterprises in China PR at favorable rate of insurance fee. Various reports such as The Export-Import Bank of China website excerpts Bank of China, Export Suppliers Credit, New & High Tech Export Supplier's Credit, Equipment Export Supplier's Credit, Export Financing Activities by the Chinese Government etc. provide sufficient evidence in support of the aforesaid program.
237. The above programs of GOC provide a financial contribution in the form of preferential loans and discounted insurance fees through EXIM Bank and other Government controlled Banks. The program is specific as the benefits are contingent upon exports and limited to certain types of business enterprises.
238. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by US in Steel wheels, Certain Stainless Steel Sinks, High Pressure steel cylinders, Carbon Steel Alloy, Seamless pipes, Grain Oriented Electrical Steel, Certain Biaxial Integral Geogrid Products as well as in Stainless Steel Sheet and Strips (b) EU in Certain organic coated steel, coated fine paper from China PR. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The Authority therefore, holds that the program constitutes countervailable subsidy.

## **Program No. 27: Export Buyer's Credit**

### **a. Submissions by Domestic Industry:**

239. Apart from the sellers credit the Exim Bank of China and Govt. controlled Banks in China also provide buyer's credits to the foreign buyers at concessional rates of interest to encourage procurement of goods and services from Chinese Companies. Support from exporter' home country, Export Buyer's credit, also called 'Officially-Supported ExportCredit", is a credit provided by the exporter's country for export goods of domestic financialinstitutions through the preferential policies In order to support the export of homebred capitalgoods and to strengthen the competitiveness of its home products. As the policy executorsprovide insurance, guarantee or direct preferential loans for the export credit.

### **b. Submissions by GOC and other interested parties-**

240. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

### **c. Examination by the Authority-**

241. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

242. The Authority notes that as per *Circular of Import and export Bank of China on supporting the export of high new technologic products JinChuYinJi Fa [1999] No. 210*, Exim Banks of China PR, and other State-owned Banks provide buyer's credits to purchasers of Chinese goods at concessional rates of interest for large infrastructure projects abroad that are tied to the procurement of goods from China. The terms of this financing are reported highly concessional. These buyer's credits are loans to foreign buyers to promote the export of Chinese products, technology, and services.

243. These concessional credits confer benefit equal to the difference between the amount the recipient pays on the loan and the amount the recipient would pay on a comparable commercial loan in the market. These benefits are contingent upon exports and confer export financing benefit to the exporter of the goods as it enhances the competitiveness of the goods.

244. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by US in Steel wheels, Certain Stainless Steel Sinks, High Pressure steel cylinders, Carbon Steel Alloy, Seamless pipes, Grain Oriented Electrical Steel, Certain Biaxial Integral Geogrid Products as well as in

Stainless Steel Sheet and Strips (b) EU in Certain organic coated steel, coated fine paper from China PR. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above, the authority holds that the program constitutes countervailable subsidy within the meaning of ASCM & Indian Rules.

**z. Program No. 28: Other Export Financing from State-Owned Banks**

**a. Submissions by Domestic Industry:**

245. Government of China PR & Government Banks, provide various export financing schemes that are specific because they are contingent on export performance. It is provided to purchasers of Chinese exports for the procurement of goods from China. The revenue conferred by government loans constitutes financial contribution by mode of direct transfer of funds from a government-owned financial institution and it is non-recurring in nature. The export financing confers a benefit equal to the difference between the amount the recipient pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. According to Bank of China, however, the financing costs of export supplier's credit "are much lower than that of average commercial loans," and "the premium rates (or the rates of guarantee) and the loan interest rate are always lower than the market average.

**b. Submissions by GOC or other interested parties-**

246. Neither the GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. Guandong Runxin Industrial Investment Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned scheme but no further information was provided by them.

**c. Examination by the Authority-**

247. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

248. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US Findings on Certain Seamless Carbon and Alloy Steel Pipe from China PR. Therefore, the authority holds that the programme constitutes countervailable subsidy.

### **Calculation Methodology for alleged subsidies and the computation of subsidies in the form of export credit under Program No. 26, 27& 28**

249. According to the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, in case of subsidized loans the difference between the interest on a comparable commercial loan and the interest actually paid, where the actual interest paid is lower, and for goods and services the difference between the adequate remuneration and the amount actually paid by the firm would be the subsidy amount, where amount actually paid to the government is lower. However, neither the Govt. of PRC, nor the producers and exporters in China have provided any information to enable the Authority to quantify the subsidies.
250. Accordingly, the difference between the commercial rates of interest prevailing during the POI and the credit rates generally available to the exporters has to be used as the bench mark to compute the subsidy margins for program no. 26, 27 and 28. The Authority notes since no corroborative evidence have been placed before the Authority regarding the quantum of benefit received under the aforementioned programs, the Authority did not quantify subsidy margin.

### **Programs in the Form of Tax & VAT Incentives**

251. The petitioners have submitted that negative action by any Government, such as refraining itself from collection of revenue which is otherwise due, are countervailable subsidies as per the ASCM. Revenue forgone can be in the forms of indirect tax raised on products and direct taxes raised on income. Only rebate on indirect taxes and import duties upon exportation are specifically excluded from the scope of countervailable subsidy under ASCM. The petitioners have submitted that Govt. of PRC maintains a number of tax incentive/rebate/remission schemes by which the tax revenue, which is otherwise due, are rebated or foregone to promote specific sectors/industries/regions and such schemes amount to countervailable subsidies.
252. Govt. of GOC and its agencies administer a series of Tax programs, which provide tax exemption/reduction/remission to certain categories of enterprises based on their location or nature of the enterprises or technological innovation. Therefore, similar programs have been examined together.
253. The tax and VAT incentives, in the form of revenue forgone, allegedly maintained by the Govt. of PRC, on goods and services produced in the country and/or exported, have been examined as follows:

**aa. Program No. 29: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors**

**a. Submissions by Domestic Industry: -**

254. The Govt. of PRC maintains a program, administered by State Administration of Taxation (SAT), under which any foreign investor of an enterprise which reinvests its share of profit, obtained from the business enterprise directly back into that enterprise to increase its registered capital, or uses the profit as capital investment to establish other enterprises with foreign investment to operate for a period of no less than 5 years, is eligible for a refund of 40 per cent of the income tax which is already paid on the business income. It has also been submitted this benefit is also available to reinvestments by foreign investors for the establishment or expansion of export-oriented enterprises or advanced technology enterprises.

255. The petitioners has claimed that a number steel producers in China, such as, Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd. Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd., are foreign invested and eligible for such benefits.

**b. Submissions by GOC or other interested parties: -**

256. The GOC nor any of the responding exporters provided any specific comments with regard to the alleged subsidy scheme. However, M/s Guangdong Runxin Industrial Investment Co Ltd., which has submitted limited questionnaire response, has stated that they had availed benefit out of the above mentioned scheme but no further information has been provided by them.

**c. Examination by the Authority-**

257. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

258. The Authority notes that under the program, administered by Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM) through various orders/circulars listed below an enterprise with foreign investment which reinvests its share of profit obtained from the enterprise directly back into that enterprise to increase its registered capital, or uses the profit as capital investment to establish other enterprises with foreign investment to operate for a period of no less than 5 years is eligible for 40 per cent of the income tax which is already paid on the business incomes:

- *“Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies”, “CaiShui (2009) No. 69”.*
- *“Catalogue-Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies-2015;*
- *Article 80 of “Implementing Rules of the Foreign Investment Enterprise and Foreign Enterprise Income Tax Law (the FIE Tax Regulations)”.*
- *“Circular of the State Administration of Taxation on Some Issues Concerning Tax Re-imbursement for Re-investment Made by Foreign Investors of Enterprise with Foreign Investment (GuoShui Fa [1993] No 9)”.*
- *Article 10 of the “Foreign Invested Enterprise and Foreign Enterprise Income Tax law 1991” (the FIE Income Tax Law);*

259. This program confers financial benefits to the enterprises, which are FIE’s or Chinese–Foreign equity joint ventures, or Chinese–Foreign cooperative joint ventures or wholly foreign owned enterprises. Article 8 of the FIE’s Income Tax Law, provides the eligibility criteria.

260. The benefit to the foreign invested enterprises is in the form of tax savings/refunds to those FIEs and to that extent a benefit is conferred by a public body. This amounts to a specific subsidy within the ASCM meaning of Rules as the benefit is specific and limited to certain enterprises in the nature of FIEs. Other domestic invested enterprises in China are not eligible for the subsidy. Further, only production-oriented FIEs are eligible for the subsidy. Thus the above mentioned program in enterprise specific.

261. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by US in various matters such as Carbon and Certain Alloy Steel Wire Rod, Sodium Nitrate, Certain oil country tubular goods, Certain seamless casing, Certain Thermoelectric coolers and warmers from China PR, etc. The scheme has been notified in the WTO notification- G/SCM/N/235/CAN-2012. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

262. In the view of the above the Authority notes that the benefit/ financial contribution in form of income tax rebate/refund/reduction under this program is limited to certain types of the enterprises and therefore, the program is specific within the meaning of the Rules. The Authority therefore holds that the program constitutes countervailable subsidy.

bb. **Program No. 30: Tax exemption or Reduced Tax Rate for Productive FIEs Scheduled to operate for a Period not Less than 10 Years (Two Free, Three Half); and**

cc. **Program No. 31: Income Tax Reduction for Advanced Technology FIEs**

a. **Submissions by Domestic Industry: -**

263. The above schemes are administered by MOF, MOFCOM, SAT and its local tax bureaus. From the year an FIE makes profits, it enjoys full income tax exemption for first two years and 50% exemption in the next three years. To be eligible, the enterprise must be an FIE which is product oriented, with an anticipated operation of at least 10 years and that has had a financial year in which it made a profit. Govt. of China and its agencies administer a series of Tax programs, which provide tax exemption/reduction/remission to certain categories of enterprises which are FIEs.

264. The programs listed above provide tax benefits as per the income tax law of China PR. Under the Program No 30 as above the Foreign Invested Enterprises in China enjoy full income tax exemption for first two years and 50% exemption in the next three years. Under Program No. 31, tax reduction up to 50% is allowed for foreign investments in advance technology sectors. These programs are governed by the following Govt. notifications.

- *“Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies”, “CaiShui (2009) No. 69”.*
- *“Catalogue-Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies-2015;*
- *Article 80 of “Implementing Rules of the Foreign Investment Enterprise and Foreign Enterprise Income Tax Law (the FIE Tax Regulations)”.*
- *“Circular of the State Administration of Taxation on Some Issues Concerning Tax Re-imbursment for Re-Investment Made by Foreign Investors of Enterprise with Foreign Investment (GuoShui Fa [1993] No 9)”.*
- *Article 10 of the “Foreign Invested Enterprise and Foreign Enterprise Income Tax law 1991” (the FIE Income Tax Law),*

265. The petitioners claimed that there are a number of steel producers in China, which are significantly foreign invested and are eligible to avail the benefit under these scheme. They are Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd. Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd.

**b. Submissions by GOC or other interested parties:**

266. Under the Program No. 30 and 31, GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme.

**c. Examination by the Authority-**

267. The Authority notes that the alleged Programs named above are governed by several laws and regulations of PRC and provide certain tax benefits to the enterprises under different categories.

268. **Under Program 30**, popularly known as 'two free, three half' program, entitles foreign invested enterprises ('FIEs') to pay no corporate income tax for the first two years, and to pay only 12.5 % rather than 25% for the next three years. The program seems to have a transition period until the end of 2012. However, no information has been provided by GOC whether the program has actually been phased out.

269. **Under Program 31**, governed under Article 75(8) of the Rules for the implementation of the Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, allows FIEs in advanced technology sector to enjoy a 50% reduction of enterprise income tax for three more years if they remain in advanced technology sector after the period of reduction and exemption of enterprise income tax applicable for FIEs. As evidence of existence of the said program, the petitioners have quoted the following documents of PRC:-

- Article 8 of the FIE Income Tax Law, Decree [1991] No. 85 of the State Council [30 June 1991], Order [1991] No. 45 of the President of the People's Republic of China [9 April-91], State Council Circular Guo Fa No. 37 of 2000
- Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007; Enterprise Income Tax Law 2008.
- Article 75(8) of the *Rules for the Implementation of the Income Tax Law of the People's Republic of China*, CaiShui (2015) No. 37,
- *Catalogue –Circular of the Ministry of Finance and the State Administration of Taxation on enterprise income tax preferential policies 2015, Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Preferential Policies-Cai Shui [2009] No. 69*
- WTO notification- G/SCM/N/235/CAN-2012

270. The above programs seek to provide financial support in the form of exemption/reduction in tax benefits, as discussed above, for the Foreign Invested enterprises re-investing their profits in the same or other businesses. This has the effect of conferring a benefit on the recipients and affects the cost and prices thereby

amounts to a subsidy within the ASCM and the benefit is specific as it is limited to certain enterprises.

271. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by (a) US Authority in various matters such as Carbon and Certain Alloy Steel Wire Rod, Sodium Nitrate, Certain oil country tubular goods, Certain seamless casing, Certain Thermoelectric coolers and warmers from China PR and (b) Canada in Stainless Steel Sinks. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

272. As benefits under these programs are limited to certain types of business enterprises with similar benefit, these programs amount to specific subsidies within the meaning ASCM and Indian Rules and therefore, authority holds that the Program No. 30 & 31 constitute countervailable subsidy.

**dd. Program No. 32: Preferential Tax Policies for FIEs and Foreign Enterprises and Certain Domestically-Owned Companies, which have Establishments or Places in China and are engaged in Production or Business Operations Purchasing Domestically Produced Equipment. And;**

**ee. Program No. 44: Preferential income tax policy for the enterprises in the Northeast region**

**a. Submissions by Domestic Industry:**

273. With regard to program 32, the GOC maintains several programs under which FIEs sourcing domestic equipment in China for projects, consistent with the industrial policies of the GOC, are eligible for a tax credit up to 40 % of the purchase of domestic equipment. This tax credit may apply to the incremental increase in tax liability from the previous year. The program is implemented under the following Notifications:

1. *Notice regarding the adjustment of import-level tax policies related to key technological equipment and machinery (Caiguanshui [2014] No. 2),*
2. *Circular of the Ministry of Finance and the State Administration of Taxation of the People's Republic of China on Distribution of Interim Measures Concerning the Reduction and Exemption of Enterprise Income Tax for Investment in Domestic Equipment for Technological Renovation (CAISHUZI (1999) (209)),*
3. *Circular of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Credits for Purchases of Domestic Equipment by Foreign Invested Enterprises and Foreign Enterprises (CAISHUI (2000) No. 49),*

4. *Provisional measures on enterprise income tax credit for investment in domestically produced equipment for technology renovation projects of 1 July 1999,*
5. *Notice of the State Administration of Taxation on Stopping the Implementation of the Enterprise Income Tax Deduction and Exemption Policy of the Investments of an Enterprise in Purchasing Home-made Equipment,*
6. *No. 52 [2008] of the State Administration of Taxation, effective 1 January 2008, Circular of the State Administration of Taxation on Printing and Issuing the Measures on Tax Credit to Enterprise Income Tax for Purchase of Domestically Produced Equipment by Enterprises with Foreign Investment and Foreign Enterprises, GuoShui Fa [2000]*
7. *No. 90, issued on 18 May 2000, Notice of the State Administration of Taxation on the issues concerning Enterprises Income Tax Payment of High and New Technology Enterprises (GuoShui Han [2008]*
8. *No. 985), Article 28 of the PRC Law on Enterprise Income Tax (No. 63 promulgated on 16 March 2007) along with the Administrative Measures for the Determination of High and New Technology Enterprises,*
9. *Circular of the State Council on adjustment of tax policies of imported equipment (Guo Fa(1997) No. 37*

274. The petitioners have claimed that following foreign invested steel enterprises might have availed the benefit under this scheme, Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd. Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd.

275. With regard to program 44, the petitioners claimed that GOC maintains preferential tax programs for accelerated depreciation and amortization of expenses linked to the purchase of fixed assets up to 40% for enterprises located in Northeast Region and steel enterprises located in Northeastern China i.e. Liaoning, Jilin and Heilongjiang are eligible for such benefits. The program is implemented under the following Notifications:

- *Preferential Policies Regarding Enterprise Income Tax for Revitalization of Companies of the Old Industrial Base in the Northeast Becomes Effective, Caishui No. 153 [2004] (20 September 2004);*
- *Notice of the Ministry of Finance and the State Administration of taxation on the Assets Depreciation and the Implementation Calibre of Amortization Policy in the Northeast Old Industrial Base (Caishui, No 17, 2 February 2005);*

- Opinions of the General Office of the State Council on Implementing the Promotion of Further Opening-up of the Old Industrial Bases in Northeast China, Guo Ban Fa [2005] No. 36;
- Opinions of the State Council on Further Implementing the Strategy of Revitalizing the Old Industrial Bases Including Northeast China, Guo Fa [2009] No. 33;
- Notice of the State Administration of taxation about scope of application of the enterprise income tax preferential policies for revitalizing the old industrial base in northeast china, effective date- 01-04-2011;
- Notice of the ministry of finance and the State Administration of taxation on exempting the tax arrears of the enterprise in the old industrial bases of northeast china, No. 167 (2006) of MOF; Request from the United States to China pursuant to Article 25.10 of the Agreement"

**b. Submissions by GOC/other interested parties-**

276. Neither the GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. In spite of providing adequate opportunity to the Government of China, GOC has not submitted questionnaire response or provided any submissions with regard to above programs.

**c. Examination by the Authority**

277. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

278. Under the program no. 32, the GOC offers preferential income tax policies to domestic Foreign Invested enterprise if these enterprises upgrade their manufacturing operations with Chinese-made equipment. The notification explains that domestic enterprises that upgrade technology, consistent with the GOC industrial policies, may deduct 40 percent of the cost of equipment from their next year's income tax obligation. In those circumstances, where the income tax due is less than 40 percent of the cost of the machinery, the remainder of the cost may be deducted in subsequent years, for a period up to five years.

279. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; and (b) US DOC, in Stainless Steel - Sheets and strips, and (c) Canada, in its countervailing investigation against China PR in Certain Stainless Steel Sinks. It is also noted that the existence of this program has been notified under various

WTO notifications since 2006 -2016. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

280. In view of the above the Authority notes that the program confers a financial benefit and is specific since the tax saving is contingent on the use of domestic over imported goods. Specifically, the tax credit is available to FIEs and foreign-owned enterprises whose projects are classified in either the Encouraged or Restricted B categories of the Catalogue of Industrial Guidance for Foreign Investment. The credit can be taken for domestically produced equipment so long as the equipment is not listed in the Catalogue of Non-Duty-Exemptible Articles for Importation. Further, the program provides a financial contribution in form income tax reduction. The program confers benefit and limited to certain enterprises, and therefore, is specific within the meaning of ASCM and Rules. The authority therefore holds that the program constitutes countervailable subsidy.
281. Under the program no. 44, The Authority notes that as per the following notifications of Government of China PR, the enterprises which are located in Northern region are eligible for accelerated depreciation and amortization of expenses upto 40% for purchase of fixed assets. 40%: The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU, Organic coated steel, Solar Glass products and steel glass and (b) US in Non Oriented Steel and Certain Carbon & Steel Alloy from China PR and Stainless Steel - Sheets and strips. It is also noted that the existence of this program has been notified under WTO notification G/SCM/Q2/CHN/42. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
282. The authority notes that the programs provides benefit to enterprises in the NorthEastern region of the country in the form of tax savings making it a specific subsidy and therefore, countervailable. The authority therefore, holds that the program constitutes countervailable subsidy.
283. The petitioners have claimed subsidy margin based on the details provided in the annual report of theShanxi Taigang Stainless Steel Co. Ltd.for the year 2015. The evidence with regard to the amount of tax exemptionavailed by the company and the margin computed by the petitioners has been placed by the Authority in the public file for inspection of the interested parties.
284. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese

producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has quantified the subsidy margin as 1.41%.

ff. **Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses;**

gg. **Program No. 34: Preferential Tax Policies for the Research and Development of FIEs&**

hh. **Program No. 46: Tax Offsets for Research and Development at FIEs**

285. The Govt. of GOC and its agencies administer a series of Tax programs, which provide tax exemption/reduction/remission to certain categories of enterprises based on their location or nature of the enterprises or technological innovation. It is noted that the **Programs No. 33, 34 & 46**, as listed above provide similar tax benefits as per the income tax law of China PR. Therefore, all those programs have been examined together.

**a. Submissions by Domestic Industry:**

286. GOC maintains preferential tax policies for research and development. Specifically, when research and development expenses increases by more than ten percent from the previous year, the producing companies are allowed to offset such expenses by 50 percent from the taxable income of that year. As per Article 30.1 of Enterprise Income Tax law of PRC, enterprises may deduct "expenses for the research and development of new technologies, new products and new techniques" from the calculation of taxable income.

287. It has been shown that steel producers such as Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd. Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd. might have availed the benefit out of these programs.

**b. Submissions by GOC/ other interested parties –**

288. Neither the GOC nor any of the responding exporters has provided any specific comments with regard to the alleged programs. Guang Feng (Zhaqing) Steel Industry Ltd, Zhejiang Jianheng Industrial Co Ltd and Runxin Industrial Investment Co. Ltd. are the responding exporters from China who have submitted in their limited questionnaire response that they had availed benefit out of the above mentioned programs but no further information was provided by them.

**c. Examination by the Authority:**

289. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.
290. The Authority notes that Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM) and Science and Technology Bureau administer a series of programs which extends certain tax benefits to domestic as well as foreign invested enterprises in China to encourage investment in R&D activities.
291. As per Article 30.1 of Enterprise Income Tax law of PRC, enterprises may deduct "expenses for the research and development of new technologies, new products and new techniques" from the calculation of taxable income. On approval of the said project, enterprises are eligible for 50% reduction of those expenses from the taxable income for the purpose of computation of corporate income tax. Further, under Article 95 of the Enterprise Income Tax Law Implementation Regulation (Decree 512 of the State Council, 2007) eligible research expenditures "not forming an intangible asset," an additional 50% deduction from taxable income may be taken on top of the actual accrual amount. If these expenditures form the value of certain intangible assets, they may be amortized based on 150% of the intangible assets costs.
292. These programs are stated to be implemented under the
- Notices of MOF and SAT on policy concerning Free Tax- Super deduction of R&D expenses- Circular 70, 2013, Article 3 of Notice of SAT;
  - Article 3 of Notice of SAT on issuing the Administrative measures for the pretax deduction of Enterprise research and development (R&D) expenses, 2008;
  - Corporate Income Tax Law of the PRC (Article 30.1) and
  - Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree No 512 of the State Council of the PRC) and the Guide to Key Fields (Notification.6, 2007).
  - Guo Shui Han (2001) No. 405
  - SAT Circular Guo Shui Fa No. 173 of 1999
293. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; and (b) by EU, in countervailing case against China PR Certain organic coated steel. It is also noted that the existence of this program has been notified by

China to WTO in various notifications since 2006-2016 under documents No.s G/SCM/N/220/CHN, G/SCM/N/253/CHN, G/SCM/N/284/CHN, G/SCM/Q2/CHN/49-OCT-2013- WTO-Supplement notification of 29 July 2016. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. Thus the programs have been held countervailable.

294. The preferential tax benefits confer a financial contribution on the recipient and therefore, amounts to a subsidy. The program is also limited in scope and is availed by limited number of enterprises and therefore, is specific subsidies. Accordingly, the Authority holds that the programs constitute countervailable subsidies.

295. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015.

296. The benefit under the program is not limited to product under consideration alone. Benefit under the program is available on total profits of the company, once the company is able to claim that it is entitled to benefit under the program. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has computed the subsidy margin for this scheme as 0.28%.

- ii. **Program No. 35: Preferential tax policies for companies that are recognised as high and new technology companies;**
- jj. **Program No. 37: Tax concessions for Central and Western Regions;**
- kk. **Program No. 40: Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone;**
- ll. **Program No. 41: Income Tax exemption for investment in domestic technological renovation;**
- mm. **Program No. 42: Income Tax Reductions under Article 28 of the Enterprise Income Tax Law;**
- nn. **Program No. 43: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones- & Coastal Economic Open Areas and in the Economic and Technological Development Zones;**
- oo. **Program No. 47: Tax Preference Available to Companies that Operate at a Small Profit;**
- pp. **Program No. 48: Tax Reductions for Export-Oriented FIEs;**
- qq. **Program No. 49: Tax Reductions for Technology- or Knowledge-Intensive FIEs;**
- rr. **Program No. 54: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai&**
- ss. **Program No. 56: Industrial Parks promoting growth of Steel Industry**

297. The Govt. of China and its agencies administer a series of Tax programs, which provide tax exemption/reduction/remission to certain categories of enterprises based on their location or nature of the enterprises or technological innovation providing concurrent benefit. Therefore, all these programs have been examined together as follows:

a. **Submissions by domestic industry:**

298. Under the **Programs No. 35, 41 and 42**, as above the GOC provides certain tax incentives to the business enterprises engaged in production of high and new technology products. In terms of Article 28 of the Enterprise Income Tax Law of China PR, an enterprise has to submit an application for issuance of High and New Tech Enterprise Certificate and that certificate entitles the enterprise to claim reduction of 15% income tax. This program is specific as it is limited to high and new technology. Steel sector comes under high and new technology product as per catalogue issued by GOC as per catalogue issued by GOC. Petitioner claimed Shanxi Taigang Stainless Steel Co., Ltd; Kinford Henan Construction Machinery Co., Ltd; Yongxin Huining Trade Co., Ltd. Hunan China Sun Pharmaceutical Machinery Co., Ltd, Zhangjiagang Pohang Stainless Steel Co., Ltd, Wuxi City Steel Co., Ltd. Coral, Pohang (Zhangjiagang) Stainless Steel Processing Co., Ltd, Guangfeng Steel Corporation and Jiangsu New Qiuqing Stainless Steel Co., Ltd. are the eligible enterprises under program no. 35 or 41 and might have availed the benefit out of the above program. Further, Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, (Zhejiang Huaye Stainless Steel Co., Ltd) and Zhangjiagang Pohang Stainless Steel Co. are the eligible enterprises under program no. 42 and might have availed the benefit out of the above program.

299. **Under Program No. 37** the enterprises which are located in the Central and Western Regions of China PR are provided tax incentives/exemption and are required to pay 15% enterprise income tax in place of 25%, under the Enterprise Income Tax Law of China PR. The program is specific as it is limited to certain enterprises, which are located in Central and Western region. It has been submitted that steel producers located in this region, are eligible for the tax exemption and there are a number of steel producers located in this region. Petitioner claimed Shanxi Taigang Stainless Steel Co., Ltd; Kinford Henan Construction Machinery Co., Ltd; Yongxin Huining Trade Co., Ltd. Hunan China Sun Pharmaceutical Machinery Co., Ltd, Zhangjiagang Pohang Stainless Steel Co., Ltd, Wuxi City Steel Co., Ltd. Coral, Pohang (Zhangjiagang) Stainless Steel Processing Co., Ltd, Guangfeng Steel Corporation and Jiangsu New Qiuqing Stainless Steel Co., Ltd. are the eligible enterprises under program no. 37 and might have availed the benefit out of the above program.

300. **Under Program No. 40**, the FIEs who are located in the Tianjin Port Free Trade Zone are provided tax incentives/exemption and are required to pay 15% enterprise income tax in place of 25%, under the Enterprise Income Tax Law of China PR. The program is specific as it is limited to certain enterprises. It has been submitted that steel producers located in this region, are eligible for the tax exemption and there are a number of steel producers located in this region. Petitioner claimed Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd., Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd. are the eligible enterprises under program no. 40 and might have availed the benefit out of the above program.
301. **Under Program No. 43**, government of China PR uses special tax rates to encourage FIEs to locate in designated coastal economic development zones, special economic zones, and economic and technical development zones. The FIEs are eligible for tax incentives/exemption and are required to pay 15% enterprise income tax in place of 25%, under the Enterprise Income Tax Law of China PR. The program is specific as it is limited to certain enterprises, which are located in these zones. It has been submitted that steel producers located in this region, are eligible for the tax exemption and there are a number of steel producers located in this region. Petitioner claimed Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, (Zhejiang Huaye Stainless Steel Co., Ltd) and Zhangjiagang Pohang Stainless Steel Co. are the eligible enterprises under program no. 43 and might have availed the benefit out of the above program.
302. **Under the Program No. 47**, the enterprises who is making small profits are encouraged by government of China and provides tax benefits as per their financial records as per the notifications and circulars this program was established in the law of the People's Republic of China on Enterprise Income Tax (2007) and came into effect on January 1, 2008., are eligible for the tax exemptions.
303. **Under the Program No. 48**, export-oriented enterprises in special economic and other specially designated zones are eligible to enjoy tax exemptions and reductions in accordance with State Council regulation and are required to pay 15% enterprise income tax in place of 25%, under the Enterprise Income Tax Law of China PR. The program is specific as it is limited to certain enterprises, which are located in the designated zones. It has been submitted that steel producers located in this region, are eligible for the tax exemption and there are a number of steel producers located in this region. Petitioner claimed Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd., Okaya (Shanghai) Co.,

Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd. are the eligible enterprises under program no. 48 and might have availed the benefit out of the above program.

304. **Under Program No. 49**, FIEs, that qualify as technology-intensive or knowledge-intensive enterprises and have major products listed in the Catalogue of High and New Technology Products of China, are eligible to pay 15% enterprise income tax in place of 25%, under the Enterprise Income Tax Law of China PR. The program is specific as it is limited to FIEs and there are number of foreign invested enterprises in China, which could have benefited from this scheme. Petitioner claimed Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd., Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd. are the eligible enterprises under program no. 49 and might have availed the benefit out of the above program.

305. **Under Program No. 54**, the FIEs located in SEZ of specified regions are allowed reduced rates of taxes. Petitioner claimed Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd., Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., are the eligible enterprises under program no. 54 and might have availed the benefit out of the above program.

306. **Under Program No 56**, the enterprises are offered tax exemptions/reductions to enterprises, which are located in industrial parks located in Tianjin Industrial Park, and Yangtze International Metallurgical Industrial Park. The eligible enterprises which are located in industrial parks such as Tianjin Industrial Park, Yangtze International Metallurgical Industrial Park.

**b. Submissions by GOC/other interested parties-**

307. Neither the Govt of PRC, nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme.

308. Zhejiang Jianheng Industrial Co Ltd, and Guangdong Runxin Industrial Investment Co Ltd are the two responding exporters from China who have stated that they had availed benefit under the Program No. 35, but no further information was provided by them.

**c. Examination by the Authority:-**

309. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information

contained in the petition and best information available with it. The Authority notes that the enterprise tax laws of China, administered by various State agencies such as Government of China PR, State Council, Ministry of Finance (MOF), Ministry of Commerce (MOC) and State Administrative Tax (SAT) under the following laws and regulations provide certain tax benefits to the enterprises under different categories:

- Article 28.2 of the Enterprise Income Tax Law, enterprises that are qualified as high-new-technology enterprises ("HNTEs") are entitled to a reduced tax rate of 15 percent instead of 25 percent.
- Article 28 of the "*Corporate Income Tax of China PR*", Advance and New Technology Enterprises which are eligible for key support from the State shall be reduced up to 15%, income tax. Existence of the said program is as per "Corporate income tax Decree No. 63-2007".
- Order 63- Enterprise income tax -2007 and "Corporate Income Tax Decree No. 63-2007". Indeed, manufacturers in "key" sectors, including steel production, are eligible for benefits;
- "*Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology*",
- "*Ministry of Finance, and State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises, GuoKeFaHuo (2008) No. 172, certain products are to be supported through this income tax reduction.*"
- *Administrative Measures for the Determination of High and New Technology Enterprises, and the Notice of the State Administration of Taxation on the issues concerning Enterprises Income Tax Payment of High and New Technology Enterprises (GuoShui Han [2008] No. 985),*
- *Circular GuoShui Fa No. 135 of 2003 and Circular Caishui (2014) No.59 & 65,*
- *Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology, Ministry of Finance, and*
- *State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises, GuoKeFaHuo (2008) No. 172, Circular 115-Oct 2009,*
- *SAT Circular GuoShui Fa No. 139 of 1995/135 of 2003.*
- "Circular of the State Council concerning Several Policies on Carrying out the Development of China's Vast Western Regions" (*Issued by MOF, General Tax Bureau and General Custom Office*)-2011;
- *12th Five year plan for Western Region-2012;*
- *State Administration of Taxation-2015,*

- *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (the Tax Law; Decree [1991] No. 85 of the State Council [30 June 1991];*
- *Order [1991] No. 45 of the President of the People's Republic of China [9 April-91];*
- Notification of the State Council on carrying out the transitional preferential policies concerning Enterprise Income Tax (Guo Fa 2007 No. 39)
- Notice of the State Administration of Taxation on Issues regarding pre tax deduction from enterprise Income Tax on interests expenditure for enterprise borrowing money from natural person. (Letter No. 777, 2009)
- Article 73 of the Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises
- Catalogue of High and New Technology Products of China promulgated by the Ministry of Science and Technology ("MOST")
- State Council Circular Guo Fa No. 37 of 2000
- *Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007;*
- *Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises (July 1, 1991) ("Decree 85");*
- *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax No. 39 [2007] of the State Council; Enterprise income tax law, 2008;*
- *Article 7 of the FIE Tax Law; Article 71 of Decree 85.*
- Decree [1991] No. 85 of the State Council [30 June 1991]
- Order [1991] No. 45 of the President of the People's Republic of China [9 April-91]
- State Council Circular Guo Fa No. 37 of 2000
- Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007
- Notice on Wuxi municipal people's government approving outline of industrial development planning-2006;
- Provisions of the State Council Concerning the Encouragement of Investment in Developing Hainan Island.
- It is noted that the existence of this scheme has been reported in China Syndrome-2006

310. Under these regulations enterprises with 'Advanced and New-Tech enterprises Certificates' and those located in specified regions or zones are eligible for reduction of the normal tax rate of 25% to the preferential rate of 15%.

311. As per the “Notice on Favourable Tax Policies for Western Region Development” this preferential tax treatment is available for the encouraged type of enterprises in the Western Region (enterprises with major business accounting for 70 % or more of total income as described in the Catalogue of industry, product & technologies encouraged by the State).
312. As per Article 7 of Order 45 “Law of PRC on Income tax of enterprises, with FIEs and foreign investment and preferential policies for investment in Tianjin new coastal area” FIEs who are located in the Tianjin Port Free Trade Zone, are permitted to pay a reduced income tax at a rate of 15 percent.
313. As per Article 7 of the FIE Tax Law and Article 71 of Decree 85, “productive” FIEs located in the designated economic zones pay enterprise income tax at a reduced rate of either 15 or 24 percent, depending on the zone. As per Para 1 (2) of Article 73 of the Income Tax Law of the People’s, FIEs that were established in the Coastal Economic Open Zones, in the old urban districts of the cities where the Special Economic Zones are located, are eligible for reduced cooperate income tax rate of 15%. The foreign investors who reinvest the profit made from the enterprises established in Hainan special economic zones into the infrastructure construction projects of, or agricultural development enterprises in, the Hainan special economic zones may be refunded the entire portion of the enterprise income tax that has been paid on' the reinvested amount.
314. As per the notifications and circulars issued under *People's Republic of China's Enterprise Income Tax Law (2007)* and *announcement No. 17 [2015] of the State Administration of Taxation: Announcement on Issues concerning the Implementation of the Expansion of the Scope of Small Low-Profit Enterprises subject to Half-Reduced Enterprise Income Tax*; and *Announcement of the Guangdong Provincial Office of the State Administration of Taxation on Relevant Issues concerning Implementing the Preferential Income Tax Policies for Small Low-Profit Enterprises, Announcement No. 6 [2014]* of the Guangdong, there are provisions to reduce the burden on enterprises making small profits, in order to maintain job opportunities.
315. Under this program, where an enterprise, whose income tax is collected through checking accounts, is eligible for enjoying the preferences of small profit enterprises, if its taxable income in the previous year is 100,000 Yuan or less. The taxable income in such cases is computed at the reduced rate of 50% of its income and the enterprise income shall be computed and prepaid at the rate of 20%.
316. Further, Export-oriented enterprises in special economic and other specially designated zones are eligible for preferential tax rates. Under *Article 57 of the Enterprise Income Tax Law of the People's Republic of China 2008*, enterprises, which have been approved and established prior to the promulgation of this law and which enjoyed preferential treatment in accordance with the tax laws and

administrative regulations in force at that time are allowed for a gradual transition to tax rates provided in the 2008 law within a five year period commencing from the effective date of that Law. However, for enterprises that have yet to enjoy preferential treatment due to their failure to make any profits, the preferential treatment period shall commence from the year this Law becomes effective.

317. State-encouraged high and new technology enterprises established within special zones developed in accordance with the law for the promotion of foreign economic cooperation and technological exchanges and such other zones, as administered by the State Council for the implementation of the above-mentioned special policies, may continue to enjoy transitional preferential tax treatment with the specific measures to be formulated by the State Council. Other enterprises under the encouraged category as already determined by the State may enjoy tax exemptions and reductions in accordance with the regulations of the State Council.

318. Article 73 of the Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises authorizes reduced income tax rate of 15 percent for "productive" FIEs located in coastal economic zones, special economic zones, or economic and technical development zones if they undertake, among other things, technology. The authority notes that FIEs that qualify as technology-intensive or knowledge-intensive and have major products listed in the Catalogue of High and New Technology Products of China are eligible for the said program.

319. As per *State Council Circular Guo Fa No. 37 of 2000; Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007*, Foreign invested productive enterprises established in Pudong area (Shanghai) and other foreign-invested enterprises are subject to income tax at the reduced rate of fifteen per cent.

320. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; (b) EU in Coated Fine Paper and Certain organic steel products and (c) by US in Non Oriented Steel, Certain Steel Wheels, Geogrids, Stainless steel strips (d) by Canada, in Semi-annual Report of Canada G/SCM/N/267/CAN. It is also noted that the existence of this program has been notified by China to WTO in various notifications since 2006-2016 and are available in the WTO documents WT/TPR/S/300, G/SCM/Q2/CHN/29, G/SCM/Q2/CHN/49-OCT-2013- WTO-Supplement notification 29 July 2016. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

321. Examination of all these programs indicates that all these programs appear to provide similar tax benefits to certain types of enterprises based on location or sector specific engagements. The programs seek to provide financial support in the form of exemption/reduction in taxes to enterprises located in designated industrial parks, which is in the nature of financial contribution by the public body conferring benefit on the recipients and therefore, constitutes a subsidy. The very nature and extent of the program indicates that these programs are limited to certain enterprises by way of location specific or sector specific categorisation and therefore, specific. Accordingly, the Authority holds the aforementioned program no 35, 37, 41, 42, 43, 47, 49, 54 and 56 as countervailable subsidies.

322. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has computed the subsidy margins 0.17%.

**Program No. 36: VAT Refunds for FIEs Purchasing Domestically - Produced Equipment and**

**Program No. 51: VAT deduction on fixed assets in the Central region**

**a. Submissions by domestic industry:**

323. As per Article 3, 4 and 27 of Interim Regulations of the People's Republic of China on Value-Added Tax, FIEs and foreign enterprises purchasing domestic are eligible for VAT refund on purchase of such domestic equipment. It has been submitted that this program is a specific as it is limited to foreign invested enterprises and Steel producers such as Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd., Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd., who are foreign invested, are eligible for such benefit.

324. Under Program 51, VAT exemptions and/or deductions for purchases and leases of fixed assets and transportation expenses for fixed assets is available to enterprises participating in one of eight specified high- and new-technology industries, which are located in one of the 26 municipalities of 6 identified provinces in the central region.

325. It has been argued that the program is specific as it is limited to certain enterprises which are located in central region and steel producers such as Bengbu Xinguan Yuan Trading Co., Ltd, Shanxi Taigang Stainless Steel Co., Ltd. Henan

Jinhui International Trade Co., Ltd, Ji'an Qingyuan District Feng man Trading Co. Ltd., Kinford Henan Construction Machinery Co., Ltd might have benefitted from the said program.

**b. Submissions by GOC/other interested parties-**

326. GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. Guangdong Runxin Industrial Investment Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned scheme but no further information was provided by them.

**c. Examination by the Authority-**

327. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

328. As far as **Program No 36** is concerned the Authority notes that as per Article 27 of the "Interim Regulations of the People's Republic of China on Value-Added Tax" value-added tax is collected from FIEs in accordance with resolutions of the Standing Committee of the National People's Congress. Further, as per "Article 3, of the circular benefit is limited to FIEs and foreign enterprises". As per Article 4 of the circular the exemption is available to those enterprises who are falling under "encouraged " or certain "restricted" categories or the "Directive Category of Foreign funded Industries' and on equipment purchased from domestic markets for investment projects listed in the "Catalogue of Major Industries, Products and Technologies Encouraged for Development in China'.

329. The program is governed by:

- Circular of State Administrating of Taxation Concerning Transmitting the interim Measures for Administration of Tax Refund to Enterprises with FIEs.
- Guo Shi Fa No 171, 199, 20.09. (1999) No. 171, September 20.1999;
- Article 3,4 and 28 of "Interim Regulations of the People's Republic of China on Value-Added Tax"(Decree (1993) No .134 of State Council; and Notice of the Ministry of Finance and the State Administration of Taxation on stopping the implementation of the Policy of Refunding Tax to Foreign-funded Enterprises for the purchase of Home-made Equipment, No 176 [2008] of the Ministry of Finance.

330. The program provides a financial contribution in the form of revenue forgone to specified industries in the form of VAT reduction on the purchase of domestically produced equipment over the imported one and therefore, a specific subsidy.

331. As far as **Program No. 51** is concerned, the Authority notes that industries located in 26 cities of the old industrial bases of the central region, which make investments in certain fixed assets can deduct the amount of VAT paid on the fixed assets from its total VAT payable.

332. The program is governed by the following notifications:

- *SAT-Measures for Pre-Tax Deductions from China PR-GuoShui Fa (2000)-Order –No-84;*
- *Interim Measures for expanding the scope of offset for VAT in central region No. 75 (2007);*
- *Notice of the Ministry of Finance and the SAT on several issues concerning the National implementation of VAT tax reforms no. 170 (2008) of the ministry of Finance;*
- *Notice regarding issues related to the simplification and unification of Value-Added Tax (VAT) collection rates (SAT Announcement [2014] No. 36)*
- *Circular of Ministry of Finance and the State Administration of Taxation relating to printing and Distributing the Interi Measures for Expanding the Scope of Offset for Value added tax in Central Region Cai Shui(2007) No.75*

333. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by EU, in various countervailing cases against China PR such as Coated fine paper and Organic coated steel; and (b) by US Authority in Carbon & Certain Alloy Steel Wire Rod, Non Oriented Steel and Grain Oriented Electrical Steel. It is also noted that the existence of this program has been notified under various WTO notifications since 2006 -2016. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

334. In the view of the above, the Authority notes that these two programs provide financial support in the form of VAT exemptions and/or deductions for purchases and leases of fixed assets and transportation expenses for fixed assets to enterprises in certain sectors or regions and therefore, confers a benefit on the recipients in the form of revenue foregone. Being limited to specific or limited number of enterprises the programs are specific and therefore, countervailable.

335. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has computed the subsidy margin for this scheme as 0.20%.

tt. **Program No. 38: Income tax concessions for the enterprises engaged in comprehensive resource utilization (special raw materials')**

a. **Submissions by domestic industry:**

336. As per Article 28 & 33 of the PRC Law on “*Enterprise Income Tax*”, and Article 99 of “*Regulations on Implementation of the PRC Law on Enterprise Income Tax by the State Council;*” government of China allows companies using any of the materials listed in the ‘Catalogue of Income tax Concessions for Enterprises engaged in Comprehensive Resource utilization’, as its major raw material and which manufacture products listed in the same Catalogue in a way that meets relevant national and industrial standards, are eligible to claim their total income at the reduced rate of 90%. In other words, 10 % of income can be deducted when the companies calculate the income tax under the said program.

337. The petitioners argue that the program is specific as it is limited to certain enterprises and steel producers such as Foshan Guang Yu Stainless Steel Co., Ltd., Foshan Bright Glory Stainless Steel Ltd., Foshan Gangtuo Import & Export Co. Ltd., Foshan International Trade Co. Ltd., Foshan Native Produce Import & Export Company Limited Of Guangdong, Foshan Real Leader Import & ExportCo., Ltd., Guangdong Guangxin Suntec Metal Holdings Co. Ltd., Lianzhong Stainless Steel Corporation, Shenzhen Zhaoheng Specialty Steel Co. Ltd and Shen Zhen 1-Touch Business Service Ltd are some of the companies, which might have availed the benefit out of the scheme..

b. **Submissions by GOC/other interested parties-**

338. GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. Guangdong Runxin Industrial Investment Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above scheme but no further information was provided by them.

c. **Examination by the Authority:**

339. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

340. The Authority notes that the alleged program, administered by the Government of China PR, Ministry of Finance (MOF), Ministry of Commerce (MOC) and State Administrative Tax (SAT) allows the eligible Companies using special raw materials and operating under comprehensive resource management program are eligible to reduce their total income by 10% for computation of the income tax.

341. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU, Organic coated steel. It is also noted that the existence of this program has been notified under various WTO notifications since 2006 -2016. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
342. In view of the above, the Authority notes the said program provides financial contribution in form income tax reduction to certain enterprises and therefore, is specific within the meaning of ASCM and Rules. The Authority therefore, holds that the program constitutes countervailable subsidy.

**uu. Program No. 39: Tax credit concerning the purchase of special equipment**

**Submissions by DI:**

343. As per Article 34 of the “*PRC Law on Enterprise Income Tax*”, Article 100 of “*Regulations on Implementation of the PRC Law on Enterprise Income Tax by the State Council*” the firms, which purchase cost of special equipment used for environmental protection, energy and water saving and production safety the enterprises are eligible for reduction of 10% offset from the total income.

**Submissions by GOC/other interested parties-**

344. GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. However, Guang Feng (Zhaqqing) Steel Industry Ltd. and Guangdong Runxin Industrial Investment Co Ltd are the two of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned scheme but no further information was provided by them.

**Examination by the Authority-**

345. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.
346. The Authority notes that Government of China PR, maintains a program, under Article 100 of Regulations on Implementation of the PRC Law on Enterprise Income Tax, which allows the enterprises to offset 10 % of the purchase cost of special equipment used for environmental protection, energy and water saving and production safety, against the corporate income tax payable in the year of purchase. The remaining part of the 10 % of the amount invested can be carried forward to the succeeding 5 years.

347. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU, Organic coated steel. It is also noted that the existence of this program has been notified under various WTO notifications. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
348. The Authority notes the said program provides financial contribution in form income tax reduction and confers benefit and limited to certain enterprises, and therefore, is specific within the meaning of ASCM and Rules. The Authority therefore, holds that the program constitutes countervailable subsidy.
349. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has computed the subsidy margin for this scheme as 0.25%.

**vv. Program No. 45: Tariff and VAT Exemptions for Imported Equipment**

**a. Submissions by domestic industry:**

350. Under Circular of the State Council on Adjusting Tax Policies on Imported Equipment (GUOFA No. 37) (Circular No. 37, in order to reduce the investment cost of importing technologies or equipment's, and to attract foreign investment and to encourage domestic investment, GOC allows VAT and Tariff Exemptions on certain Imported Equipment for such projects.
351. Steel producers such as Lianzhong Stainless Steel Corporation, Zhangjiagang Stainless Steel Processing Co., Ltd, Zhejiang Huaye Stainless Steel Co., Ltd and Zhangjiagang Pohang Stainless Steel Co. Ltd. Okaya (Shanghai) Co., Ltd., Taikoo (Xiamen) Aircraft Engineering Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wuxi Baochang Metal Products Co., Ltd. might have availed the benefits under the scheme.

**b. Submissions by GOC /other interested parties-**

352. GOC nor any of the responding exporters has provided any specific comments with regard to the alleged subsidy scheme. Guangdong Runxin Industrial Investment Co Ltd one of the responding exporters from China who has submitted questionnaire response stated that they had availed benefit out of the above mentioned scheme but no further information was provided by them.

**c. Examination by the Authority-**

353. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

354. The Authority notes that the Government of China PR maintains a program under which an FIE listed as encouraged category is exempted from tariff and VAT on importation of certain equipment's for self-use within the total investment of the project, excluding those equipment listed in the "Catalogue for the imported products not subject to tax exemption in foreign invested projects". The imported equipment must be for the enterprises own use and the total value of the purchase must not exceed the investment 'cap'; or the enterprise must falls in Catalogue of Industry, Product and Technology Key Supported by the State at Present (2004).

355. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators and (b) US Authority in Carbon & Certain Alloy Steel Wire Rod, Non Oriented Steel and Grain Oriented Electrical Steel. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

356. The Authority notes that laws governing these programs mandate a financial contribution by the GOC, in the form of revenue foregone and confers a benefit on the recipient. The program is limited to certain types of enterprises and therefore, specific in nature and therefore, countervailable. The Authority therefore, holds that the program constitutes countervailable subsidy..

ww. **Program No. 50: Various local tax discounts and tax privileges to develop central and western regions (Shandong Province, Chongqing City, Guangxi Region Zhuang);**

xx. **Program No. 52: Shanghai Municipal Tax Refund for High-Tech Commercialization Projects;**

yy. **Program No. 53: Local Income tax and reduction program for the productive FIEs;**

zz. **Program No. 55: Local Income Tax Exemption and/or Reduction in SEZs in Guangdong and Hainan Island &**

aaa. **Program No. 57: Other tax privileges of Ma'anshan**

357. It has been alleged by the domestic industry that several local tax incentives, are provided by the local Governments in several provinces in China to encourage the industry within their local jurisdictions keeping in view regional development. Since most of these programs provide similar benefits all such programs have been clubbed together for examination hereunder:

**a. Submissions by domestic industry:**

358. Number of tax discounts and incentives are provided in several Provinces in China such as Shandong, Chongqing Municipality, Guangxi Region Zhuang, Central and Western Regions by the local bodies/governments. It has been alleged that the genesis of these programs are found in State Council Notice 39-2007, Income Taxes based on Geographical Location (Zhejiang and Shandong Provinces), Income Tax Law of the PRC for Enterprises with Foreign Investment and Foreign Enterprises, Article 7, adopted on 9 April 1991, No. 45.

359. Similarly, Shanghai Municipal Government refunds certain taxes and provides special funds to support enterprises investing in what it considers high and new technology achievement transfer projects under the “Notice of Shanghai Municipal People’s Government about Printing and Distributing the Revised Provisions of Shanghai Municipality on promoting the transformation of New-and High Tech Achievements -2004”

360. Further, it has been submitted that the provincial authorities sanction exemption or reduction in local income tax for FIEs under Article 9 of “Income tax law of China PR for enterprises with Foreign Investment and foreign enterprises 1991 and Income tax law of China PR, 2008. As per Article 9 of Income tax law, the exemption from or reduction of local income tax for any enterprise with foreign investment which operates in an industry or undertakes a project encouraged by the state shall, in accordance with actual situation, be at the discretion of the people’s government of the relevant provinces, autonomous region, or municipality directly under the Central Government, the provincial governments have the authority to exempt FIEs from normal rate of on FIEs was 25% (with a further local income tax of 3%.) FIEs are eligible for tax exemptions by the administering local authorities.

361. It has been submitted that the enterprises located in Ma’anshan and Wuhan enjoys enjoy miscellaneous tax privileges, which are limited to the enterprises established in certain designated regions or municipalities in Ma'anshan and Wuhan.

362. Further, a large number of steel producers located in these regions are eligible for such benefits and might have availed them. These enterprises are:Shanghai Krupp Stainless Co., Ltd., Tsingshan Holding Group Shanghai International Trading Co. Ltd, Okaya (Shanghai) Co., Ltd. Shanghai Hyss International Trading Co. Ltd. Ningbo Tierslia Imp.& Exp. Co., Ltd., Yuyao Xingda Stainless Steel Co., Ltd.,

Zhenshi Group Eastern Special Steel Co., Ltd, Zhejiang Zhongda Yuantong Industrial Corporation., Ningbo Chinaworld Grand Import And Export Co., Ltd., Wenzhou Foreign Trade Industrial Product Co., Ltd., Wenzhou Ruihong International Industry Co., Ltd, Zhejiang Kailai Industrial & Trade Co., Ltd. Lianzhong Stainless Steel Corporation, Zhejiang Huashun Metal Materials Co., Ltd; Gaoming District Of Foshan City Octopus Stainless Steel Co., Ltd Maanshan Iron & Steel Company Ltd. and Wuhan Iron & Steel Co..

**b. Submissions by GOC/other interested parties-**

363. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme.

**c. Examination by the Authority-**

364. The program outline as above indicates that the local authorities have the administrative flexibility of waving the local income tax chargeable @ 3% over and above 25% Income tax applicable to the enterprises under the Income Tax Laws of China. The Authority notes that the tax incentives alleged above are flowing from the same set of Notifications and administrative instructions as examined against other income tax incentives discussed earlier. Description of some of the alleged local programs appears to have same incentive structures and coverage. Therefore, in the absence of cooperation of the GOC, the Authority has relied upon the submissions of the domestic industry and the evidence submitted it. These alleged incentives appear to be over and above the incentives covered in the central and provincial programs discussed earlier and not subsumed in those main programs.

365. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; (b) US DOC in Certain Seamless Pipes, Non Oriented Steel as well as in Carbon & Certain Alloy Steel Wire Rod investigations, and in Certain Biaxial Integral Geogrid Products; (c) European Union in Certain Organic Coated steel; Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The incentives under these programs are specific to enterprises located in specified areas and therefore, confer as specific subsidy on the recipients and therefore, countervailable. Accordingly, the Authority holds these programs are countervailable subsidies.

366. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. Since

GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters.

**367. Calculation Methodology for alleged subsidies and the computation of subsidies for Tax benefits for program Nos 29 to 57.**

368. In accordance with the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, in case of a tax rebate or exemption, the difference between the amount payable under the normal tax rate and the amount actually paid is the subsidy amount. Following are relevant in this regard-

- in the tax exemption programs the benefit is quantified as the amount of tax payable at applicable rate;
- in the tax reduction programs the is quantified as the amount of tax payable at applicable rate, minus the tax actually paid;
- in the accelerated depreciation programs the benefit is quantified as the amount of tax payable under normal depreciation schedule, minus the amount of tax actually paid

369. The Authority notes that the alleged programs discussed under program No 29 to 57 covered various types of tax incentives though having concurrent benefits. The extent of exemption/reduction or rebates vary from enterprise to enterprise depending upon the nature of the enterprise, their location, use of capital goods and raw materials and other conditions as specified in various notifications as discussed above. In the absence of any information from the GOC and the producers in China, giving the details of the tax incentives availed by the steel producers in China under various programs discussed above, the Authority is constrained to quantify the subsidy margins of these schemes based on the facts available with it.

| SN. | Program No.         | Tax & VAT Incentives                                                                                                                                                                                                                                                                                     | Subsidy Margin (%) |
|-----|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1.  | Program No. 32 & 44 | 32. Preferential Tax Policies for FIEs and Foreign Enterprises and Certain Domestically-Owned Companies Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment's<br><br>44. Preferential income tax policy for the | 1.41%              |

|    |                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |       |
|----|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
|    |                                                                  | enterprises in the Northeast region                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |       |
| 2. | Program No.<br>33, 34 & 46                                       | 33. Tax Policies for the deduction of research and development (R&D) expenses<br><br>34. Preferential Tax Policies for the Research and Development of FIEs<br><br>46. Tax Offsets for Research and Development at FIEs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 0.28% |
| 3. | Program No.<br>35, 37, 40, 41,<br>42, 43, 47, 48,<br>49, 54 & 56 | 35. Preferential tax policies for companies that are recognized as high and new technology companies<br><br>37. Tax concessions for Central and Western Regions<br><br>40. Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone<br><br>41. Income Tax exemption for investment in domestic technological renovation<br><br>42. Income Tax Reductions under Article 28 of the Enterprise Income Tax Law<br><br>43. Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones- & Coastal Development Zones Economic Open Areas and in the Economic and Technological<br><br>47. Tax Preference Available to Companies that Operate at a Small Profit<br><br>48. Tax Reductions for Export-Oriented FIEs<br><br>49. Tax Reductions for Technology- or Knowledge-Intensive FIEs | 0.17% |

|    |                    |                                                                                   |              |
|----|--------------------|-----------------------------------------------------------------------------------|--------------|
|    |                    | 54. Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai |              |
|    |                    | 56. Industrial Parks promoting growth of Steel Industry                           |              |
| 4. | Program No. 36& 51 | 36. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment               | 0.20%        |
|    |                    | 51. VAT deduction on fixed assets in the Central region                           |              |
| 5. | Program No. 39     | Tax credit concerning the purchase of special equipment                           | 0.25%        |
|    |                    | <b>Total</b>                                                                      | <b>2.30%</b> |

### **Programs in the Form of Provision of Goods and Services**

#### **bbb. Program No. 58: Provision of Electricity for Less than Adequate & Fair Market Value Remuneration**

##### **a. Submissions by Domestic Industry:**

370. The program is administered by GOC and NDRC where certain industries, which are classified as encouraged industries, are provided preferential electricity rates based on location/region. The program is allegedly region specific and limited to certain enterprises which are located in these specified regions.

##### **b. Submissions by GOC/ other interested parties:**

371. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Guangdong Runxin Industrial Investment Co Ltd has admitted that they have availed benefit out of this program.

##### **c. Examination by the Authority-**

372. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

373. As per the information available, National Development Reforms Commission (NDRC), a public body in China, sets the prices of electricity applicable in various provinces in China. Local price bureaus in the Provinces merely act as an executive

arm of the decision taken at central level by the NDRC. NDRC issues Notices setting tariff for each of the provinces. These notices are formally transposed into local notices adopted by the local price bureaus and implemented at local level. Differential electricity rates applicable for certain sectors and/or at provincial and local level are set in accordance with certain factors including, notably the pursuit of the industrial policy goals set by the central and local governments in their 5-year plans and in the sectoral plans.

374. The said program is governed under

- *Gua Fa 2004 No.20, Catalogue –Order No. 35 of the NDRC– Policies for development of Iron and Steel Industry -2005;*
- *Decision No. 40 (2005)-NDRC; Electricity Law- 1995,*
- *The Circular of State Council concerning several policies on Carrying out the Development of China’s vast Western regions*

375. The Authority notes that this program has been earlier examined by the Designated Authority and some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; (b) by EU in organic coated steel, Solar panels, (c) US authorities in Carbon and Certain Alloy Steel Wire Rod, Non – Oriented electric steel. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

376. Publicly available information of some of the producers of stainless steel indicate that there is a significant difference between the normal power tariff and actual tariff paid by the said producers and the difference amounts to subsidy provided by the State. The program provides financial support in the form of provision of electricity at subsidized rates, to enterprises, which are located in favoured regions or for the enterprises classified as encouraged industries. The benefits under this program are limited to certain types of business enterprises and therefore, the program is specific within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy.

377. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The subsidy margin thus quantified is 2.74%.

ccc. **Program No. 59: Provision of Water for less than Adequate Remuneration**

**a. Submissions by Domestic Industry-**

378. The Program administered by Ministry of Water Resources, Ministry of Environment and local governments, companies located within concerned municipal jurisdictions are eligible for preferential water rates for export oriented and technologically advanced FIEs. As the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

**b. Submissions by GOC/other interested parties-**

379. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Guangdong Runxin Industrial Investment Co Ltd has admitted that they have availed benefit out of this program.

**c. Examination by the Authority-**

380. In the absence of cooperation and information from the Chinese Govt. as well as the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

381. The Authority notes that as per the program, under Water laws in China 2002, has been administered by NDRC through the Ministry of Water Resources, Ministry of Environment and local governments. NDRC sets the basic price of water. The municipal price administrative authorities set the price for each municipality and the Companies located within their jurisdictions are eligible for the preferential water rates. The r export-oriented and technologically advanced FIEs, are exempted from the said fee.

382. The Authority notes that this program has been earlier examined by some other investigating Authorities and existence and countervailability of this program has been established (a) by EU authorities in Certain Organic Coated Steel. It is also noted that the existence of this program has been reported in Web Research- Preferential treatment for FIEs in Jiangsu Qidong Lusio Development Zone. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer any countervailable subsidy.

ddd. **Program No. 60: Land Use Rights for SOEs;**

eee. **Program No. 66: Reduction in Land Use Fees, Land Rental Rates and Land Purchase Prices; &**

fff. **Program No. 67: Exemptions from Administrative Charges for Companies in Industrial Zones and the Provision of Land-Use Rights for LTAR – Land Use Rights in Certain Industrial and SEZs**

**a. Submissions by Domestic Industry-**

383. The GOC maintains the aforesaid programs at National, Provincial, and Local Government levels under which enterprises are provided land use rights at rates lower than the market rates depending on the industry and its favourability to the national industrial policy and plans. Certain enterprises, which are located in the regions, are benefited from the said program. The State-owned enterprises, FIEs and units located in different SEZs and other zones avail benefits under this concessional land use policies.

384. Apart from concessional land-use rights, certain administrative expenses are also exempted to specified sectors and industries. It has been submitted that these programs provide land to the specified industries at less than adequate remuneration and confer a benefit to the recipient industries. Therefore, these are countervailable subsidies as the benefit is limited to certain enterprises based on the eligibility criterion.

**b. Submissions by GOC/other interested parties-**

385. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this program.

**c. Examination by the Authority:-**

386. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

387. The Authority notes that in accordance with the Land Administration Law of the PRC, land in urban districts are owned by the State, land in rural areas and suburban areas, except otherwise provided for by the State, shall be collectively owned by the local bodies. As per Article 137 of Real Right Law of the Peoples China, "land use rights in China are assigned through bidding, auction and competition. However, as per Land Administration Law of PRC, 2004 land is provided to certain industries at concessional rates. High and new technologically advanced enterprise and certain other categories of industries also receive exemption from administrative charges and provision of land use rights for less than adequate remuneration.

388. The program provides financial support in the form of reduced land use fees, rental rates, and purchase prices for the land provided by the government to certain specified types of industries. The program is limited to certain types of business

enterprises and confers benefits on the recipients, Therefore, program is a specific subsidy within the meaning of Rules,

389. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) EU authorities in Certain Coated Organic Steel (b) US in Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China; (c) Canada in Certain Stainless Steel Sinks. It is also noted that the existence of this program has been notified by China to WTO in G/SCM/Q2/CHM/42. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The Authority therefore, holds that the aforesaid programmes constitute a countervailable subsidy.

390. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of sufficient corroborative information, the Authority did not compute subsidy margin.

- ggg. **Program No. 61: Government Provision for Steel Scrap for Less than Adequate Remuneration;**
- hhh. **Program No. 63: Hot Rolled Steel (HRS) provided by Government at Less than Fair Market Value,**
- iii. **Program No. 64: Cold Rolled Steel (CRS) provided by Government at Less than Fair Market Value; &**
- jjj. **Program No. 65: Raw Materials Provided by the Government at Less than Fair Market Value**

**a. Submissions by Domestic Industry-**

391. With regard to program no. 61, Quoting 'Global Steel Industry & Raw Materials; "How Chinese subsidies changed the world"; "Strategic Insights from WSD"; 'China Syndrome'; 'Chinese Govt. Subsidies the petitioners have submitted that GOC, through its various policies controls the price of steel scrap which makes the steel scrap available to producers of stainless steel at less than adequate remuneration.

392. With regard to program no. 63 and 64, the major Producers of Stainless Steel producers in China, such as Minmetal Development Company Ltd, Shanxi Taigang Stainless Steel Co. Ltd, Shenzhen Zhongchuang Yu Steel Industry Co Ltd, Jieyang City Baowei Stainless Steel Co Ltd etc. are SOEs, majority owned and controlled by GOC. These producers supply both HR and CR Stainless Steel plates and sheets to other smaller units for re-rolling and slitting and sale in the market. The pricing of the HR and CR stainless steel is therefore, controlled mainly by the bigger producers in the State sector and the supply of the HR and CR plates and sheets to the other

producers for further process amounts to supply of these goods at less than adequate remunerations

393. With regard to program no. 65, Govt of China controls the production and supply of certain rare earth materials through SOEs and major producers thereby artificially keeping the prices of these materials low for the domestic producers of stainless steel. It has been alleged that the GOC maintains several export restraints on all such materials such as Ferro-chrome, Nickel, Molybdenum, etc. which are used in Stainless steel production. As per the petition these amount to making these goods available to the domestic producers at less than adequate remuneration amounting to subsidy. China National Material and Technical Control Bureau controls the prices of these rare earth materials. It has been alleged that US Authorities have countervailed this program in their investigation against import of stainless steel sheets and strips from China.

**b. Submissions by GOC/other interested parties-**

394. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program. However, Guangdong Runxin Industrial Investment Co Ltd has admitted that they have availed benefit out of program no 63.

**c. Examination by the Authority:-**

395. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and the best information available with it.

396. Under program 61, Stainless steel scrap is the major raw material for production of stainless steel. It has been submitted by the domestic industry that supply, trading and pricing policy of scrap is largely controlled by the Government of China, through several policy interventions, including high export duty on scrap, which keeps the price of the major raw material artificially low in the domestic market. It is also noted that the large State Owned Steel enterprises such as Min Metal significantly controls trading and pricing of scrap in China.

397. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU authorities in Certain Organic Coated Steel. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

398. Under program 63 and 64, Authority notes that the GOC policies for the development of Iron and Steel Industry encourages the steel companies to act in certain ways, sets conditions on investments and makes investment subject to

approval by the authorities, influence competition for resources and even provide for sanctions for non-complying companies. Further, 12<sup>th</sup> five-year plan of China for the Steel Industry influences the business decisions of the steel companies and have impact on cost structure and prices. *Also the Constitution of the Communist Party of China prescribes the primary role of the public ownership, e.g. preamble of the Constitution of CCP reads: "the Party must uphold and improve the basic economic system, with public ownership playing a dominant role.*

399. In line with these policies the SOEs play a dominant and crucial role in production and distribution of Stainless steel products in China which is evidenced by presence of large SOEs in this sector.

400. Neither the Govt. of GOC, nor the producers concerned have provided any information regarding the degree and extent of control of the GOC on these SOEs and whether these SOEs are public bodies within the meaning of the term as per ASCM. The domestic industry has argued that these SOEs are largely Govt, controlled and function as per the guiding principles of the State Policy highlighted above. Therefore, they are considered as public bodies discharging the functions of the Govt. Therefore, the provision of the goods at LTAR by these SOEs constitutes subsidy. In the absence of any specific information from GOC and other interested parties the Authority holds these SOEs as public bodies, and supply of goods by them to further processors at less than adequate remuneration amounts to a subsidy as per ASCM. Since the program is limited to a specific sector and availed by limited number of enterprises the subsidy is specific and therefore, countervailable.

401. The Authority notes that under program 65, there is a significant control of the GOC on production distribution and pricing of certain rare earth material such as nickel, chromium, molybdenum, which goes into production of stainless steel. These programs have been recently held countervailable by US Authorities. Accordingly, the Authority holds this program countervailable on facts available basis.

402. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The subsidy margin thus quantified in the above mentioned program no. 61, 63, 64 and 65 is 13.04%.

kkk. **Program No. 62: Provision for Coal and Coking Coal at Less than Adequate Remuneration;**

- III. **Program No. 68:Export restriction on coking coal; and**  
mmm. **Program No. 69: Shanghai Municipal Subsidy to coal fired plants for Emission reduction.**

**a. Submissions by Domestic Industry-**

403. With regard to the program no 62, the Govt. of China completely controls the ownership, mining and distribution of coal. Coal is therefore, supplied to steel producers and coking coal manufacturers at a price lesser than adequate price. Coking coal is one of the raw materials used in the manufacture of hot rolled steel. In China PR, GOC and other government body is the majority owner of an enterprise and thereby controls the enterprises in providing coking coal at LTAR. Coal is an essential input in the production of steel. Almost 70% of the steel produced today relies directly on metallurgical coal, also referred to as coking coal.
404. With regard to the program no 68, GOC restricts export of coke which is in turn used for domestic consumption for manufacturing processes. Prices of coke the raw material for the power supply for the manufacturing of the product under consideration are distorted due to the imposition of an export tax on coke and the dual pricing policy with the objective and the effect of subsidizing the producers of the product concerned. The export coke and tariff on coke to downstream users is anything more than mere by-product of the government action which is intended to promote controlling the aggregate supply, adjustment of structure, preservation of natural and energy resources and the protection of the environment.
405. With regard to the program no 69, the program is administered by Shanghai Municipal Government. Under this program coal fired power plants located in Shanghai's municipal jurisdiction are provided subsidy to install high-efficiency desulfurization facilities. The program is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.
406. Steel producers are the key industries in China PR are eligible for the said benefit and thereby specific.

**b. Submissions by GOC/other interested parties-**

407. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**c. Examination by the Authority:**

408. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

409. **The program No 62**, Authority notes Coking Coal for Less than Adequate Remuneration are administered and provide a discounted price of coking coal by government authorities in China for manufacturing and consumption of steel industries are eligible for the said benefit and thereby specific. Enterprises/producers constitute a financial contribution in the form of a direct transfer of funds for provision of goods at less than adequate remuneration. The provision of coking coal to steel producers by the Chinese government at a discounted rate, or for free, is a financial contribution because the government is providing a good or service for less than adequate remuneration.
410. **The program No 68**, Authority notes GOC restricts export of coke which is in turn is used for domestic consumption for manufacturing – of products including stainless steel by imposing tariff quota, export tax, etc. The export restriction on coke and tariff on coke is more than intended to promote controlling the aggregate supply, adjustment of structure, preservation of natural and energy resources and the protection of the environment. Export restraints on coke results in provision of coke goods to steel producers of downstream goods in GOC. The provision of coke to the producers of stainless steel at cheaper price tantamount to direct transfer of funds and therefore countervailed by other investigation authorities .
411. **The program No 69**, Authority notes that the program is administered by Shanghai Municipal Government. The Enterprises in Shanghai are eligible for the subsidy available to coal fired power plants for installing high efficiency desulfurization facilities. In view of the above the authority notes that the program provides financial support by government in form of subsidy for installation of high-efficiency desulfurization facilities, to coal-fired plants located in jurisdiction of Shanghai Municipal Corporation.
412. The existence of the program is available in
- Notice of the General office of Shanghai Municipal Peoples Government on transmitting the procedure of shanghai municipality on the administration of *Special funds for Energy Conservation and emission Reduction SMPG GO G (2008) NO. 18; SMPG GOG (2009) No. 17;*
  - *Notice of the General office of Shanghai Municipal Peoples Government on transmitting the procedure of shanghai municipality on Subsidies & Incentives to eliminate & renew Old & Used Vehicles.*
413. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU authorities in Non Oriented electrical Steel. It is also noted that the existence of this program has been reported in Web Research- WEC- Energy for Mega Cities- Shanghai Municipal Case Study. Further, the GOC

has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

414. Thus Authority holds that program no 62, 68 and 69 are financial contribution by the public body conferring benefit on the recipients of the support. This amounts to subsidy within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy.

nnn. However, the petitioner claimed that that coal or coking coal is used by manufacturers of the PUC in order to generate power thus not leading to independent utility element being used in the process. Authority notes that the Program no. 58 (electricity subsidy) has been already considered for the present investigation and the petitioners have not established how the benefit out of this program is not incorporated in the subsidy margin quantified in Program No. 58 which also provides similar benefits to enterprises. Program 62, 68 and 69 seems to be absorbed in the subsidy being provided by the government under Program 58.

ooo. **Program No. 70: Purchase of Goods by the Government for higher than adequate Remuneration**

**Submissions by Domestic Industry:**

415. The program is administered by Government of China PR through SOE. Under this program government purchased goods from SOEs at more than fair market value. The program is countervailable as the benefit is limited to steel producers including stainless steel producers in China PR.

**Submissions by GOC/other interested parties-**

416. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged program.

**Examination by the Authority-**

417. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that the program is administered by GOC PR through SOE. Enterprises who are steel producers are eligible for the said benefits under this program are selected by authority upon its discretion.

418. It is noted that the existence of this program has been reported in WTO Challenges China's export restraints on Raw Material Inputs.

419. In view of the above the authority notes that this program sought to provide financial support in the form of purchases at more than fair market value by the

government, which is in the nature of financial contribution by the public body conferring benefit on the recipients of the support. This subsidy under this program is specific as the support is limited to SOEs in the steel sector with a wide discretion of the authority, which by its very nature makes it specific. The authority therefore, holds that the program constitutes countervailable subsidy.

420. In the absence of any information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined. The Authority notes that though the program was included for investigation on the basis of prima facie evidences submitted by the petitioning domestic industry but no further corroborative evidence has been placed before the Authority with regard to the quantum of subsidy under the scheme.

421. **Calculation Methodology for alleged subsidies and the computation of subsidies being provided in the form of Goods & Services for program 58-70**

422. Article 14 of ASCM states that-

*“(d) the provision of goods or services or purchase of goods by a government shall not be considered as conferring a benefit unless the provision is made for less than adequate remuneration, or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).”*

423. Rule 12 of Custom Tariff Rule, 1995 states that-

*“(d) the provision of goods or services or purchase of goods by a government shall not be considered to confer a benefit, unless the provision is made for less than adequate remuneration or the purchase is made for more than adequate remuneration; Whereas, the adequacy of remuneration shall be determined in relation to prevailing market conditions for the product or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).”*

424. According to the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, in case of subsidized provision of goods and services by the government, the difference between the amount paid by the firm and the adequate remuneration in relation to the prevailing market conditions will be the subsidy amount, if the price paid to the government is less than this amount. In case of restrictions on exports of a key raw material the government is not providing direct subsidy but reducing the

prices in the economy as a whole by reducing the overall demand. Therefore, the price paid by the firm for the raw material would be compared with international benchmark prices or prices in a similar economy of a third country. And the difference between these two prices would be the subsidy amount, where the amount paid by the firm is less.

425. Authority notes following subsidy margin is based on the less than adequate remuneration or the goods purchased by Govt. on more than high remuneration, on the basis of best available information. Thus the subsidy margins quantified under program 58 to 70 are as follows-

| SN | Program No.                | Provision of Goods and Services                                                                                                                                                                                                                                                                                     | Subsidy Margin (%)             |
|----|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 1. | Program No. 58             | Provision of Electricity for Less than Adequate & Fair Market Value Remuneration                                                                                                                                                                                                                                    | 2.74%                          |
| 2. | Program No. 61, 63, 64, 65 | 61. Government Provision for Steel Scrap for Less than Adequate Remuneration<br>63. Hot rolled Steel (HRS) Provided by Government at Less than Fair Market Value<br>64. Provision of Cold-Rolled for Less Than Adequate Remuneration<br>65. Raw Materials Provided by the Government at Less than Fair Market Value | 13.04%                         |
| 3. | Program No. 62, 68 & 69    | 62. Provision for Coking Coal for Less than Adequate Remuneration<br>68. Export Restrictions on Coke<br>69. Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction                                                                                                                           | Concurrent with Program No. 58 |
|    | <b>Total</b>               |                                                                                                                                                                                                                                                                                                                     | <b>15.78%</b>                  |

### **Programs in the Form of Preferential Loans & Lending**

ppp. **Program No. 71: Allowance to Pay Loan Interest**

qqq. **Program No. 72: Policy Loans**

rrr. **Program No. 73: Preferential Loans for SOEs (State Owned Enterprise)**

#### **a. Submissions by Domestic Industry-**

426. **Program No. 71:** The said program is administered by Zhongshan Municipal government SMEs are provided with a financial contribution in the form of an allowance to reduce interest payments to commercial banks. The scheme is specific to SMEs located in the Zhongshan city. The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

427. **Program No. 72:** The said program administered by GOC the steel producers are provided with subsidized loans at low interest rates through state-owned commercial banks and government banks. The program is limited to industrial sectors classified as encouraged as per Order No. 40 of State Council on Promulgating and Implementing the Temporary provisions on Promoting Industrial Structure Adjustment (Decision No 40). The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

428. **Program No. 73:** The petitioners have submitted that under the said program administered by GOC through state owned commercial banks SOEs are provided subsidized preferential loans. The program is specific as the loans are offered only to SOEs. The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

429. It has been argued that State owned steel enterprises such as Xinjiang Alashankou Minmetals Trade Co., Ltd., Xiamen Great Corporation, Xinjiang Alashankou Minmetals Trade Co., Ltd, Shanxi Taigang Stainless Steel Co.,Ltd, Guangdong Guangxin Suntec Metal Holdings Co.,Ltd, Zhejiang Zhongda Yuantong Industrial Corporation are eligible for benefits under this program.

**b. Submissions by GOC/other interested parties-**

430. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this Program No. 71 and 72.

**c. Examination by the Authority-**

431. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

432. Under Program No 71, the Authority notes that the program is administered by Economic and Trade Office of the Huangpu government, Zhongshan Municipal Government. The scheme provides financial assistance to small and medium sized enterprises in form of allowance to pay reduce interest payments to commercial bank. Small-and medium-sized producers/enterprises are eligible for the said funds for setting up global export. The program is implemented as per *Law of China PR on promotion of SMEs and general office of State Council Circular Guo Ban Fa No. of 1999.*

433. The Authority notes that the existence and countervailability of this scheme has been established by Canadian authorities in Certain Stainless Steel Sinks

Originating in or Exported from China PR and by Australian authorities in Deep drawn stainless steel sinks from China PR.

434. Under Program No 72, the Authority notes that under this program the steel producers benefit from low (subsidized) interest rates from state-owned commercial banks and government banks in accordance with the GOC policy to support and develop the expansion of the Chinese steel industry under the five-year plans. Order No 40 identifies steel sector as encouraged sector and provides policy loan facility for this sector as per Article 16 for the development of “key technology” and supporting “key steel projects” through various methods to encourage steel producers.
435. The program is implemented through the State owned banks. These banks are controlled by the government and exercise government authority in a manner that their actions can be attributed to the State. GOC involvement in Chinese financial market is the role played by the People’s Bank of China in setting the specific limits on the way interest rates are set and fluctuate as per rules set out in the PBOC's Circular on the Issues about the Adjusting Interest Rates on Deposits and Loans-Yinfa (2004) No 251 ("Circular 251").
436. As per Order No. 35 - Policies for the development of Iron and Steel Industry, in particular Articles 24 and 25 which limit the provision of loans only to those companies which comply with the national development policies for the Iron and steel industry, do not distinguish between state-owned and privately-owned commercial banks.
437. These programs are governed by the following notifications:
- *Decision No. 40 of the State Council on Promulgating and Implementing the ‘Temporary Provisions on Promoting Industrial Structure Adjustment’ (‘Decision No. 40’);*
  - *Article 34 and Article 38 of the Commercial Banking Law; Articles 16, 24 and 25 of Order No. 35 - Policies for the development of Iron and Steel Industry;*
  - *The Ministry of Industry and Information Technology’s 2012 Industry Transfer Guidance Catalog supports key and advantaged industries, such as the steel industry, through preferential lending; Directory Catalogue on Readjustment of Industrial Structure (‘Directory Catalogue’)- 2005 & 2011;*
  - *Guidelines for the Eleventh Five-Year Plan for National Economic and Social Development (2006- 2010) (‘11th Five-year Plan’); YinFa [2003] No. 50; Yinfa (2004) No 251; A blueprint for implementing the adjustment and revitalisation program for the steel industry [2009] provides for "increasing the financial support for key backbone enterprises".*

438. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by EU authorities in certain organic coated steel products as well as in Coated fine paper and (b) US authorities in Melamine as well as in Steel Wheel. It is also noted that the existence of this program has been notified by China to WTO in WT/TPR/S/230, WT/TPR/S/264 and the scheme has been reported in the Guandong Development Plan and Web research: China's banking sector- ripe for the next stage (2006). Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
439. The program provides financial support to industries classified as encouraged industries, in the form of subsidized loans provided by GOC through state owned commercial banks and government banks, which is in the nature of financial contribution by the public body conferring benefit on the recipients. The benefit is limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.
440. Under Program No 73, the Authority has notes that in China PR major banks have the power to support development of state-owned enterprises and those banks also prefer to allocate their loans to state-owned enterprises in form preferential loans through state-owned commercial or policy banks, as Chinese financial sector is dominated by state owned banks which exclusively lend to state owned enterprises.
441. The Authority further notes that the existence and countervailability of this scheme has been established by US authorities in High Pressure Steel Cylinders; in Carbon and Certain Alloy Steel Wire Rod; in Non-oriented electrical steel; in Certain Steel Wheels; in Carbon and Alloys – Steel Plates, in Certain Biaxial Integral Geogrid Products, in Stainless Steel – Sheet and Strips and in Melamine. It is also noted that the existence of this program has been reported in Web research- The role of state-owned enterprises in the Chinese economy, Fan Gang and Nicholas C. Hope.
442. The program seeks to provide financial support to specific enterprises in the form of subsidized preferential loans provided by GOC through State owned banks. This amounts to financial contribution to the enterprises by a public body conferring benefit on the recipients of the support. The authority therefore, holds that the program no 71, 72 and 73 constitute countervailable subsidy.
443. The amount of countervailable subsidy is calculated in terms of the benefit conferred on the recipients, which is found to exist during the period of investigation. The benefit conferred on the recipient is considered to be the difference between the amount that the company pays on the loan availed from banks and the amount that

the company would pay for a comparable commercial loan obtainable on the market. Since the loans provided by Chinese banks reflect substantial government intervention in the banking sector and do not reflect rates that would be found in a functioning market.

444. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. The evidence with regard to the amount of benefit availed by the company and the margin computed by the petitioners has been placed by the Authority in the public file for inspection of the interested parties.

445. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. In the absence of cooperation from the GOC and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The subsidy margin thus quantified in the above mentioned program no. 71, 72 and 73 is 0.32%.

**sss. Program No. 74: Credit Loan Guarantee by GOC**

**a. Submissions by Domestic Industry-**

446. The annual reports of some of the major SOEs in the steel sector such as Minmetal's Development Co. Ltd indicates significant Loan Guarantee provided by the Government to such enterprises. The effect of the Govt guarantee is to reduce the interest burden on the companies and therefore, confers a financial benefit on the companies. It has been argued that the program is specific to large sized SOEs and therefore, countervailable.

447. It has been submitted that steel enterprises in State sector such as Minmetals Steel Co., Ltd, Xinjiang Alashankou Minmetals Trade Co., Ltd., Xiamen Great Corporation, Shanxi Taigang Stainless Steel Co., Ltd., Guangdong Guangxin Suntec Metal Holdings Co., Ltd., Zhejiang Zhongda Yuantong Industrial Corporation., Foshan Native Produce Imp.& Exp. Company Limited Of Guangdong, Guangdong Foreign Trade Imp. & Exp. Co., Nanjing Chenguang Group Co., Ltd., Sinotrans Shenzhen Logistics Company Limited. Have benefited from such program.

**b. Submissions by GOC/other interested parties-**

448. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme.

**c. Examination by the Authority:**

449. In the absence of cooperation and information from the Chinese Govt and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.

450. The Authority notes that as per the annual report of Minmetals, which has been submitted by the petitioners, a substantial amount of loans to the Company has been guaranteed by the Govt. The said program is specific as the support is limited to large sized state-owned enterprises and state-holding enterprises involved in steel production and therefore, countervailable.

451. The loan guarantee benefit is a countervailable subsidy if there is difference between the amount that the firm receiving the guarantee pays on the loan guaranteed by the government and the amount that the firm would pay for the comparable commercial loan in the absence of the government guarantee. The benefit is computed as the difference in these two amounts adjusted for any difference in fees.

452. The GOC as well as the responding exporter failed to provide any such information, although repeatedly requested to do so. Accordingly in view of this lack of cooperation and the totality of facts available, the Authority relied upon the calculation done by the petitioners.

453. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Minmetal Co. Ltd. for the year 2015. The evidence with regard to the amount of benefit availed by the company and the margin computed by the petitioners has been placed by the Authority in the public file for inspection of the interested parties.

d. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. The Authority notes since no corroborative evidence have been placed before the Authority regarding the quantum of benefit received under the aforementioned programs, the Authority did not quantify subsidy margin

**ttt. Program No. 75- Preferential export financing from the Export-Import Bank of China**

**a. Submissions by Domestic Industry:**

454. China's Central Bank and State Banks provide preferential loans for export production of certain electromechanical products and high-tech products. It has been argued that scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

**b. Submissions by GOC/other interested parties-**

455. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this scheme.

**c. Examination by the Authority**

456. In the absence of cooperation and information from the Chinese Govt. and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it.

457. The Authority notes that this is a provincial scheme of Fujian Govt. specially dedicated for Iron and Steel Industry under Fujian Province Iron and Steel Industry and Non-Ferrous Metals Industry Adjustment and Revitalization Implementation Plan which encourages the production of “cold rolled silicon steel sheets” and calls on local authorities to “utilize financial products and services, including the export credit loan, export credit insurance, and etc., to support iron and steel enterprises and non-ferrous metals enterprises to explore the world market.”.

458. Under this program State-owned Commercial banks and Export-Import Bank of China support development of steel as a key industry. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined. The Authority notes that though the program was included for investigation on the basis of prima facie evidences submitted by the petitioning domestic industry no further corroborative evidence has been placed before the Authority with regard to the quantum of subsidy under the scheme. Therefore, the Authority has not quantified CVD margin for this program.

**Calculation Methodology for the benefits being provided in the form of Loans & Lending's**

459. ASCM clearly specifies that “a loan by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount the firm would pay on a comparable commercial loan which the firm could actually obtain on the market. In this case the benefit shall be the difference between these two amounts; a loan guarantee by a government shall not be considered as conferring a benefit, unless there is a difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government and the amount that the firm would pay on a comparable commercial loan absent the government guarantee. In this case the benefit shall be the difference between these two amounts adjusted for any differences in fees;”

460. the subsidy margins quantified are as follows:-

| SN | Program No.            | Preferential Loans & Lending                                                                                       | Subsidy Margin (%) |
|----|------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------|
| 1. | Program No.71, 72 & 73 | 71. Allowance to Pay Loan Interest<br>72. Policy Loans<br>73. Preferential Loans for SOEs (State Owned Enterprise) | 0.32%              |

### **Programs in the Form of Equity**

#### **uuu. Program No. 76:- Debt for equity swaps**

##### **a. Submissions by Domestic Industry-**

461. The SOEs are granted benefit in the form of disguised grant, whereby non-performing loans of SOEs are waived or converted to equities through debt equity swaps. The State-owned banks lend money at below-market rates to State owned steel producers and if the borrower is unable to pay back even these subsidized loans, the bank converts the debt into equity. It has been argued that this debt equity swap amounts to write off of loans and confers a financial benefit and therefore, countervailable. A number of SOE steel producers are alleged to have benefited from this program: Minmetals Steel Co., Ltd, Guangdong Guangxin Suntec Metal Holdings Co., Ltd., Shanxi Taigang Stainless Steel Co., Ltd., Xiamen Great Corporation, Xinjiang Alashankou Minmetals Trade Co., Ltd. are identified and might be benefited from this program.

##### **b. Submissions by GOC/interested parties:**

462. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme.

##### **c. Examination by the Authority:**

463. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined.

464. The Authority notes that under the administrative *Measures for Administration of the Registration of Debt-for-Equity Swaps of Companies*, the State owned banks are authorized to convert the preferential loans SOEs to equities if the borrower is unable to repay preferential loans.

465. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by (a) US DOC in Carbon and Alloys – Steel Plates, and in Stainless Steel – Sheet and Strips& (b) EU Authorities in Certain organic coated steel, from China PR. It is also noted that the existence of this program has been reported in several web based information on China’s program of Debt-Equity Swaps and Government Subsidization of Chinese Steel Industry. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

466. Debt –equity swap program provides a financial contribution in the form of disguised grant, where non-performing loan gets converted to equity thereby extinguishing a liability of the Company and confers benefits on the recipients. Benefits under this program are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy.

vvv. **Program No. 77:- Debt Forgiveness**

a. **Submissions by Domestic Industry-**

467. The State intervention the state owned banks and asset management companies have forgiven billions of dollars in bad debts owed by Chinese steel producers thereby wiping out the liabilities of these companies. It has been argued that the debt forgiveness confers a benefit on the borrowing companies and amounts to a countervailable subsidy as the benefit is limited to certain enterprises.

b. **Submissions by GOC/other interested parties-**

468. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme.

c. **Examination by the Authority**

469. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined.

470. The Authority notes that China has notified WTO its policy on “automatic roll-over of unpaid principal and interest, and forgiveness of non-performing loans, below market interest rates” and China’s “strategic restructuring and technical transformation of key enterprises in the areas of iron and steel, automotive, products manufacturing sectors in Northeast China in a bid to establish production bases of advanced industries”.

471. Under these policy directives contained in Order of the National Development and Reform Commission No. 35: Policies for Development of Iron and Steel Industry (July 8, 2005), the State owned banks and asset management companies have been forgiven billions of dollars in bad debts owed by Chinese steel producers.
472. There have been reports in Comments on China's Steel Industry Adjustment Policy (2015 Revision) and Updated Study of Alleged Unfair Trade Advantages Conferred on China Steel Producers available in public domain.
473. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Certain Seamless Carbon and Alloy Steel Standard, Line, and Stainless Steel - Sheets and strips and Pressure Pipe. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. The program confers a financial contribution in the form of debt forgiveness and the benefit is available to a limited number of enterprises and therefore, specific within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy.

**www. Program No. 78:- Deed Tax**

**a. Submissions by Domestic Industry-**

474. The Municipal government exempts certain enterprises from the payment of Deed tax that is payable by the transferee upon the transfer of landed property. Enterprises that have had land transferred to them from former SOEs by the virtue of restructuring or merger are eligible for benefits under this scheme. The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

**b. Submissions by GOC/other interested parties-**

475. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this scheme.

**c. Examination by the Authority-**

476. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined.
477. The Authority notes that as per Notice regarding Deed Tax (DT) policies for further supporting the *reorganization and restructuring of enterprises and public*

*institutions (Caishui [2015] No. 37)* the GOC and Municipal governments exempt the transferees from Deed tax on Transfer of landed property while

- a. Acquisition of land use right from the State
- b. Transfer of land use right including transfer by sale, by exchange, or gift,
- c. Purchase and sale of real property situated on lands.

478. The deed tax rate ranges from 3% to 6% and exemption from this tax provides a significant financial contribution by the Govt. to the recipients.

479. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Certain Seamless Carbon and Alloy Steel Standard, Line, and Pipe from China PR, and Carbon and Alloys – Steel Plates, and in Stainless Steel – Sheet and Strips. It is also noted that the existence of this scheme has been reported in Web Research-China’s Current Tax System-Deed-Tax and Web Research-China Tax profile-2012. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

480. The financial support, in the form of forgone revenue due from deed tax, provided by the government, is in the nature of financial contribution by the public body conferring benefit on the recipients of the support. The program confers benefits on the recipients and is limited to certain types of business enterprises and therefore, is specific within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy

xxx. **Program No. 79:- Dividend exemption between qualified resident enterprises**

a. **Submissions by Domestic Industry-**

481. The program is administered by GOC to support Chinese resident enterprises. Under the scheme, Chinese resident enterprises, that are shareholders in other Chinese resident enterprises, are given tax and equity benefits. The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

482. The eligible steel enterprises from China PR are Minmetals Steel Co., Ltd; Beijing Municipality; Xinjiang Alashankou Minmetals Trade Co., Ltd; Xiamen Great Corporation; Shanxi Taigang Stainless Steel Co., Ltd; Guangdong Guangxin Suntec Metal Holdings Co. Ltd; Zhejiang Zhongda Yuantong Industrial Corporation; Foshan Native Produce Imp.& Exp. Company Limited Of Guangdong; Guangdong Foreign Trade Imp. & Exp. Co; Nanjing Chenguang Group Co. Ltd; Sinotrans Shenzhen Logistics Company Limited; are identified and might be benefited from this program

**b. Submissions by GOC and other interested parties-**

483. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this scheme.

**c. Examination by the Authority**

484. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined.

485. The Authority notes that the said program is administered by GOC. As per Article 26(2) dividends, bonuses and other equity investment proceeds distributed between qualified resident enterprises; (3) dividends, bonuses and other equity investment proceeds which a non-resident enterprise with organizations or establishments within China receives from a resident enterprise and which have actual connection with such organizations or establishments; and as per Article 83 Regulations on the Implementation of Enterprise Income Tax Law; Decree no. 512 of the State Council, "Qualified dividends, profit distributions and other returns on equity investments derived from a resident enterprises from another resident enterprise as mentioned in tem 2 of Article 26 of CIT Law refers to the investment return derived from its direct investment in another resident enterprise. Dividends, profits, distributions another returns on equity investments as referred to in items 2 and 3 of Article 26 of CIT Law shall now include the return on investment in publicly issued and trade shares of a resident enterprises that are held for less than 12 consecutive months."

486. The Authority notes that the said program is in existence as per

- Article 26 Enterprise Income Tax Law,
- Article 83 Regulations on the Implementation of Enterprise Income Tax Law,
- Decree no. 512 of the State Council.

487. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU authorities in coated fine paper as well as in Organic coated steel. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

488. In view of above the financial contribution is in the form of tax reduction on certain dividends, bonuses and other equity benefits provided by GOC, which is in the nature of financial contribution by the public body conferring benefit on the

recipients of the support. This amounts to subsidy within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy

yyy. **Program No. 80:- Unpaid dividends**

**a. Submissions by Domestic Industry-**

489. The program is administered by GOC, China's State-Owned Assets Supervision and Administration Commission(SASAC). Under the scheme, the GOC does not collect dividends on shares owned by it in private enterprises. It is specific to entities holding shares in SOEs. The scheme is countervailable as the benefit is limited to certain enterprises based on the eligibility criterion.

490. The eligible steel enterprises from China PR are Minmetals Steel Co., Ltd; Beijing Municipality; Xinjiang Alashankou Minmetals Trade Co., Ltd; Xiamen Great Corporation; Shanxi Taigang Stainless Steel Co., Ltd; Guangdong Guangxin Suntec Metal Holdings Co. Ltd; Zhejiang Zhongda Yuantong Industrial Corporation; Foshan Native Produce Imp.& Exp. Company Limited Of Guangdong; Guangdong Foreign Trade Imp. & Exp. Co; Nanjing Chenguang Group Co. Ltd; Sinotrans Shenzhen Logistics Company Limited; are identified and might be benefited from this program.

**b. Submissions by GOC/other interested parties-**

491. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme.

**c. Examination by the Authority**

492. In the absence of any positive information from GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined. The Authority notes that the said program is administered by GOC and China's State-Owned Assets Supervision and Administration Commission(SASAC). As per the nature of the program GOC does not collect dividends that are normally paid to private investors on their shares. These disguised grants were provided by the government through the entity directly holding the shares in the SOE steel producers, in principle China's State-Owned Assets Supervision and Administration Commission(SASAC). SASAC, authorized by the State Council, appoints and removes the top executives of the supervised enterprises, and evaluates their performances through legal procedures. The full amount of unpaid dividends can be considered to confer a benefit to the recipient SOE steel producers within the meaning of Rules as this is inconsistent with the usual investment practice of private investors that require dividend distributions normally attached to their shares. For SOEs partially owned by private investors, the amount of the benefits equals the amount of unpaid dividends distributed to them on a pro rata basis.

493. The Authority notes that the said benefit is in existence as per Ministry of Finance, State Administration of Taxation (SAT) and China Securities Regulatory Commission jointly published CaiShui [2014] No. 79 (Circular 79)
494. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by (a) the Designated Authority in the matter of countervailing duty investigations concerning imports of castings for Wind Operated Electricity Generators and (b) EU authorities in Certain Organic Coated Steel. It is also noted that the existence of this scheme has been reported in Web Research – Taxation and Investment in China 2014. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.
495. In view of the above Authority notes that the financial contribution in the form of revenue foregone provided by the GOC. The program confers benefits on the recipients. Benefits under this program are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.
496. The authority therefore, holds that the program constitutes countervailable subsidy.
497. The petitioners have claimed subsidy margin based on the details provided in the annual report of the Minmetal Co. Ltd. for the year 2015. The evidence with regard to the amount of benefit availed by the company and the margin computed by the petitioners has been placed by the Authority in the public file for inspection of the interested parties.
498. Since GOC has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the GOC and the responding exporters. The Authority notes since no corroborative evidence have been placed before the Authority regarding the quantum of benefit received under the aforementioned programs, the Authority did not quantify subsidy margin

**zzz. Program No. 81:- Equity infusions**

**a. Submissions by Domestic Industry-**

499. Program is administered by GOC PR. Benefit is being provided to the certain enterprises in the form of equity infusions where the China International Capital Corporation Limited (CICC) and manages of the 120 share issuance. As claimed by the domestic industry, China International Capital Corporation Limited (CICC) is 51 % state-owned and it is ultimately controlled by China's State-Owned Assets Supervision and Administration Commission(SASAC). The scheme is

countervailable as the benefit is limited to certain enterprises based on the eligibility criterion. The said program was held countervailable by other authorities.

**b. Submissions by GOC/other interested parties-**

500. Neither GOC nor any of the responding exporters have provided any specific comments with regard to the alleged scheme. However, Guangdong Runxin Industrial Investment Co Ltd has accepted that they have availed benefit out of this scheme.

**c. Examination by the Authority**

501. In the absence of any positive information from the GOC and the producers/exporters from China, the information provided by the petitioning domestic industry has been examined. The Authority notes that the said program is administered by GOC, SASAC and CICC. As per CICC 51 % state-owned and controlled by State-owned Assets Supervision and Administration Commission of the State Council (SASAC), also acted as the GOC entity controlling the SOEs. SASAC performs the responsibilities of the State as an investor and manages the state-owned assets under its supervision. SASAC, authorized by the State Council, appoints and removes the top executives of the supervised enterprises, and evaluates their performances through legal procedures. It is also responsible for urging the supervised enterprises to carry out the guiding principles and policies, has responsibility for the fundamental management of the state-owned assets of enterprises and directs and supervises the management work of local state owned assets according to the law. SASAC is also responsible for remuneration and assessment of the SOEs' managers; furthermore, it appoints and decides on the rewards and punishments to the SOE managers. The careers of SOE managers depend on SASAC. These circumstances show that he SASAC clearly is vested with Governmental authority. The composition of the Boards of SOEs also demonstrates the high level of control by the GOC of the SOEs. Many of the members of boards of directors and boards of supervisors hold or held in the past government and/or party functions and that their selection is strongly influenced by governmental authorities such as SASAC or Communist Party of China (CCP). Therefore, these transactions were carried out by the GOC through public bodies within the meaning of Rules and the relevant WTO jurisprudence.

502. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning imports of castings for Wind Operated Electricity Generators (b) by EU authorities Certain Organic Coated Steel and and (c) US DOC in Stainless Steel - Sheets and strips. It is also noted that the existence of this scheme has been reported in CICC web page and Web Research-Money for

Metal Report. Further, the GOC has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.

503. In view of the above the Authority notes that the financial benefit of Equity infusions constitute a direct transfer of funds within the meaning of Rules. These financial contributions were provided by the government through public bodies involved in these transactions, including China International Capital Corporation (CICC) and SASAC. The program confers benefits on the recipients as they are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules. The authority therefore, holds that the program constitutes countervailable subsidy.

504. The Authority notes since no corroborative evidence have been placed before the Authority regarding the quantum of benefit received under the aforementioned programs, the Authority did not quantify subsidy margin.

#### **Total Subsidy Margin Quantified by the Authority**

505. Subsidy Margin with regard to the above 81 countervailed subsidy programs is quantified by the Authority as follows-

| <b>SL. No.</b> | <b>Sub-head wise Subsidy Programs</b> | <b>Subsidy Margin</b> |
|----------------|---------------------------------------|-----------------------|
| 1.             | Grants                                | 0.55%                 |
| 2.             | Export financing                      | 0.00%                 |
| 3.             | Tax & VAT Incentives                  | 2.30%                 |
| 4.             | Provision of Goods & Services         | 15.78%                |
| 5.             | Preferential Loans & Lending          | 0.32%                 |
| 6.             | Equity                                | 0.00%                 |
|                | <b>Total</b>                          | <b>18.95%</b>         |

**I. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

**Submissions made by the Domestic Industry**

506. Following are the submissions made by the domestic industry in this regard:

- i. The demand of the product in the Country shows a positive movement throughout the injury period. Petitioners along with other Indian producers can meet the demand of the subject goods in India but not been able to do so due to the presence of subsidized imports from China PR.
- ii. Imports have increased significantly in absolute terms showing an increase of 190% over the injury period.
- iii. Share of subject imports in total imports have increased significantly. Majority of imports into India are from China PR.
- iv. Imports have also increased significantly in relation to production and consumption in India
- v. Price undercutting is positive.
- vi. Import prices have been significantly below the selling prices of the domestic industry.
- vii. The consumers buy the imported product only when it finds that the same are cheaper than the domestically produced goods signifying price undercutting caused by the subject imports.
- viii. Subsidized imports have had significant suppressing effect on the prices of the domestic industry in the market.
- ix. Overall, cost of sales and selling price has both shown increase over the injury period Cost of Sales per Unit has remained on higher side throughout the injury period as compared to Selling Price per Unit resulting in losses across the injury period.
- x. Domestic industry has enhanced capacity in view of increasing demand in India. Indian industry has sufficient capacity to meet current and potential demand in the Country and imports are not necessary in the domestic market.
- xi. The production and sales of the domestic industry has increased throughout the injury period.
- xii. Comparison of changes in demand, subject imports with production and domestic sales of the domestic industry shows that whereas the domestic industry was able to increase its production and domestic sales in tandem with the increase in

demand, in the proposed POI, the increase in imports is far disproportionate to the increase in production and domestic sales.

- xiii. The domestic industry was earning profits in 2011-12 but started suffering financial losses thereafter.
- xiv. Selling price of the domestic industry had to be kept below the level of cost of sales after 2011-12 resulting into financial losses to the domestic industry.
- xv. Imposition of anti-dumping measures on other countries and on some products from China along with improvement in capacity utilization helped the domestic industry in terms of containing losses in the POI to some extent. The cash profits have been negative across entire injury period. ROI has declined in period of investigation. Also ROI earned by petitioner(s) is much lower than the benchmark return of 22%
- xvi. The domestic industry is suffering financial losses in its exports of the product under consideration because of subsidization by the Chinese producers in the global market. Further, the losses in exports are in fact higher than the losses suffered in the domestic market, which establishes that the exports are not a choice but a compulsion.
- xvii. Market share of the subject imports has increased significantly in the POI. With imposition of anti-dumping duties market share of the other countries have declined.
- xviii. Market share of the domestic industry has increased in view of the enhancement of capacities, increase in demand and efforts made by the domestic industry even at the cost of prices. Market share of the domestic industry increased upto 2013-14 and has declined thereafter despite unutilized capacities. Further, market share of Indian industry as a whole has declined in the POI. The increase in demand and the market vacated by dumped sources have been taken over by the subject imports.
- xix. Employment level has remained in the same region and wages paid have increased in view of the increase in production. It can be seen that the increase in employee cost per unit is very minimal across the entire injury period.
- xx. Productivity has increased in view of increase in demand. Despite improvement in productivity, the domestic industry is suffering financial losses.
- xxi. Inventories with the Domestic Industry have shown significant increase throughout the injury period with a significant increase in the POI despite rise in the level of demand.
- xxii. Given the state of affairs of the domestic industry where petitioner(s) continues to suffer losses because of subsidized imports from subject country, substantial fresh

investments cannot even be imagined. The domestic industry had recently enhanced capacities, which are remaining idle. The subsidized imports have caused injury to the domestic industry to such an extent that the domestic industry undertook restructuring measures.

- xxiii. China recorded a rapid capacity growth, resulting in excess production and huge surpluses. China became a net exporter from a situation of a net importer of stainless steel products. This increase in exports and decline in imports is in view of massive capacity additions in China, far disproportionate to the domestic demand. There is almost 200 times increase in exports. Even global exports by China have seen mammoth increase, from 245,369 MT in 2005 to 3,103,231 mt in 2014, registering almost 126 times increase in imports.
- xxiv. Chinese producers have capacities far in excess of the domestic demand. Demand of product concerned in China continues to remain weak further threatening increase in imports into Indian domestic market.
- xxv. Chinese producers is currently operating at 69% capacity utilization which itself is a low level of capacity utilization. In a product already suffering huge demand supply gap, the Chinese producers are expanding capacities which can solely mean that they are aiming at capturing the global market. Expansion of capacities is only going to increase subsidized injurious imports to India if the countervailing duty is not imposed.
- xxvi. Landed value of imports are at a price which is lower than the selling price as well as cost of production of the Domestic Industry.
- xxvii. Indian market is a price attractive country. It is likely that the subject country exporters shall further aggressively target and take over the entire Indian demand in a nearly foreseeable future.
- xxviii. The levels of inventories have increased significantly in the POI with significant increase in imports during the same period. Thus it is seen that the domestic industry was restricted from selling its product to a significant extent by imports.
- xxix. Imports of the product from other countries are either attracting anti-dumping duties or are insignificant in volume or are at higher prices.
- xxx. There is sufficient demand for the product in India. Possible decline in demand has not caused injury to the domestic industry.
- xxxi. The technology adopted by domestic industry is comparable to the technology being adopted by producers of subject country. There is no significant difference in the manufacturing process.
- xxxii. The pattern of consumption with regard to the product under consideration has not undergone any change.

- xxxiii. There is no trade restrictive practice which could have contributed to the injury to the domestic industry.
- xxxiv. Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.
- xxxv. The domestic industry has made exports in the injury period. Possible decline in exports volume could not have caused claimed injury to the Domestic Industry.
- xxxvi. Claimed injury to the domestic industry is on account of the product under consideration and not other products being produced and sold by the domestic industry.
- xxxvii. Market share of the imports from the subject country increased significantly. As a direct consequence, market share of the domestic industry declined.

**Submissions made by the exporters, importers and Other Interested Parties/ other parties**

507. Following are the submissions made by exporters, importers and other interested parties/ other parties:
- i. An anti-dumping duty is in force on the PUC (i) cold rolled flat; and (ii) Hot Rolled Flat Products originating from China and therefore the Authority does not have the jurisdiction to conduct the present investigation. The same has not even been disclosed by the Domestic Industry in its Petition.
  - ii. Since in these cases China was treated as Non Market Economy, the advantage, if any, gained by the Chinese manufacturers on account of subsidies alleged to have been given to them has already been countered by imposition of anti-dumping duty.
  - iii. In both anti-dumping cases the duty has been recommended by this the Authority on the basis of injury margin on imports originating from China PR.
  - iv. Data submitted by the Petitioner fails to demonstrate any injury caused to the DI and/or any causal link between subsidies purportedly received and such purported injury to the domestic industry.
  - v. There is a huge gap in the demand for the Subject Goods in India vis a vis the ability of the Petitioner to supply the same. Thus in order to cater the consumer demand in India for the subject goods imports are inevitable.
  - vi. Petitioner in order to mislead this Hon'ble Authority has compared the production growth from previous year and has attempted to establish lesser growth as compared to 2012-13. Growth in the production by 58% demonstrates the lack of injury to the domestic industry.

- vii. Even after addition of Odissa Plant, the domestic industry is utilizing 70% capacity within the period of two years even after increase in capacity by 77% illustrating substantial growth.
- viii. Sale of petitioner increase in tandem to demand shows healthy growth.
- ix. There is substantial increase in domestic sales and some decline in export sales of the Petitioner.
- x. The petitioner in the safeguard investigation is same with the present investigation. Also the injury period is overlapping. The DG safeguards attributed higher fixed cost, abnormal high depreciation and finance charges as the main cause of injury and not the imports.
- xi. Any loss being claimed is solely attributable to the Petitioner only.
- xii. Abnormal increase in Salary and Wages is unprecedented and such an increase in salary overheads may be also one of the reasons of losses to the Petitioner.
- xiii. Levels of employment are improving continuously, which demonstrate that no injury is being caused to the Petitioner.
- xiv. Productivity per employee and productivity per day/MT demonstrates a substantive improvement in the Period of Investigation.
- xv. Commencing operations in new plant, having higher fixed cost, abnormally high depreciation and finance charges from 2011-12 onwards as compared to the huge investment are the main reason for the sudden decrease in the return in capital employed but from 2014-15 onwards, the position is improving.
- xvi. Average CIF import value of Hot rolled coil (all series) (200, 300, and 400) has shown an increasing trend during the period of investigation as compared to base year 2011-12.

### **Examination by the Authority**

508. In consideration of the various submissions made by the interested parties and the domestic industry in this regard, the Authority has examined injury to the domestic industry on account of subsidized imports from the subject country.

509. Rule 13 of the Countervailing Duty Rules, 1995 deals with the principles governing the determination of injury.

#### ***13. Determination of injury.-***

*(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India*

*causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.*

*(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the casual link between the subsidized import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.*

*(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if –*

*(i) there is a concentration of subsidized imports into an isolated market, and*

*(ii) the subsidized imports are causing injury to the producers of almost all of the production within such market.*

510. Further, the Rules lists relevant economic parameters that are required to be evaluated in order to determine consequent impact of subsidized imports onto the domestic industry.

511. The Authority has considered submissions made by various interested parties and relevant legal provisions. The Authority has examined injury to the domestic industry having regard to these legal provisions. The examination here in below ipso facto deals with the submissions made by the domestic industry and interested parties concerning injury to the domestic industry.

512. With regard to contention raised by the interested parties, the safeguard investigations do not have any overlapping injury period. Thus injury analysis done in the safeguard investigations is not relevant to the present investigations

#### **A. Volume Effect of subsidized imports and Impact on domestic Industry**

##### **i. Assessment of Demand**

513. For the purpose of the present investigation, Authority has defined demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. It is noted that the product under consideration is being imported into India both in cold and hot rolled conditions.

514. Further, the product under consideration is being produced by the companies such as petitioners who are producing both hot and cold rolled product. Some producers of cold rolled product buy hot rolled either from the domestic market or imports. Therefore, production and sales of these producers has not been counted to determine consumption of the product under consideration in India in order to avoid double accounting of one production. The demand so assessed is as follows

| Demand                 | Unit | 2012-13   | 2013-14   | 2014-15   | POI       |
|------------------------|------|-----------|-----------|-----------|-----------|
| Subject Country-China  | MT   | 87,408    | 1,06,030  | 2,30,629  | 2,57,063  |
| Other Countries        | MT   | 2,12,135  | 1,94,838  | 2,24,422  | 2,27,928  |
| DI domestic Sales      | MT   | 6,61,722  | 7,63,052  | 8,16,266  | 8,82,939  |
| Other Indian Producers | MT   | 7,38,000  | 7,13,000  | 7,51,000  | 7,51,000  |
| Total Demand           | MT   | 16,99,265 | 17,76,920 | 20,22,318 | 21,18,930 |
| Indexed Demand         |      | 100       | 105       | 119       | 125       |

*POI\*- Jan.' 2015- Dec.' 2015*

515. It is seen that demand for the subject goods has shown consistent increase over the injury period.

**ii. Imports in absolute terms**

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

The import volumes for the injury period are as under:

| Particulars      | UOM | 2012-13  | 2013-14  | 2014-15  | POI      |
|------------------|-----|----------|----------|----------|----------|
| Imports Volume   |     |          |          |          |          |
| China            | MT  | 87,408   | 1,06,030 | 2,30,629 | 2,57,063 |
| Other Countries  | MT  | 2,12,135 | 1,94,838 | 2,24,422 | 2,27,928 |
| Total            | MT  | 2,99,544 | 3,00,868 | 4,55,051 | 4,84,991 |
| Share in Imports |     |          |          |          |          |
| China            | %   | 29.18    | 35.24    | 50.68    | 53.00    |
| Other Countries  | %   | 70.82    | 64.76    | 49.32    | 47.00    |
| Total            | %   | 100.00   | 100.00   | 100.00   | 100.00   |

*POI\*- Jan.' 2015- Dec.' 2015*

517. The Authority notes that:

- i. The imports from subject countries have increased significantly over the injury period.
- ii. The share of imports of the product under consideration from China in the total imports has increased over the injury period.

**iii. Import in relation to production and consumption-**

518. The Authority considered whether the imports of the product have shown an increase in relation to production or consumption in India. Table below shows factual position.

| Parameter                                   | Unit | 2012-13 | 2013-14 | 2014-15 | POI*  |
|---------------------------------------------|------|---------|---------|---------|-------|
| Imports in relation to consumption in India | %    | 5.14    | 5.97    | 11.40   | 12.13 |
| Imports in relation to production           | %    | 5.27    | 6.13    | 12.71   | 13.49 |

519. It is seen that the imports from subject country have increased significantly in relation to the production and consumption of the product in India.

**iv. Market Share-**

| Market Share               | Unit | 2012-13 | 2013-14 | 2014-15 | POI*   |
|----------------------------|------|---------|---------|---------|--------|
| Subject Country            | %    | 5.14    | 5.97    | 11.40   | 12.13  |
| Other Countries            | %    | 12.48   | 10.96   | 11.10   | 10.76  |
| DI domestic Sales          | %    | 38.94   | 42.94   | 40.36   | 41.67  |
| Other Indian Producers     | %    | 43.43   | 40.13   | 37.14   | 35.44  |
| Indian Industry as a whole | %    | 82.37   | 83.07   | 77.50   | 77.11  |
| Total                      | %    | 100.00  | 100.00  | 100.00  | 100.00 |

*POI\*- Jan.' 2015- Dec.' 2015*

520. It is seen that the market share of subject country have increased significantly throughout the injury period.

**B. Price effect of subject imports and impact on domestic industry**

521. With regard to the effect of subsidized imports on prices, the Authority has considered whether there has been a significant price undercutting by the subsidized imports as compared with the price of the like product in India, or whether the effect of such subsidized imports is otherwise to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree. For the purpose of this analysis, the weighted average cost of production (COP), weighted average Net Sales Realization (NSR) of the domestic industry have been compared with the landed cost of imports from the subject country.

**i. Price Undercutting**

522. Price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry for the investigation period. The net sales realization has been arrived after deducting outward freight and taxes. Landed value of imports has been calculated by adding handling charge and applicable basic customs duty including applicable cess to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry. Further, in view of significant difference in the cost and price of the product

sold to different customers, the price undercutting has been determined by considering comparable product types.

| Particulars           | Unit    | HR    | CR    | POI*  |
|-----------------------|---------|-------|-------|-------|
| Landed Price          | Rs/MT   | ***   | ***   | ***   |
| Net Sales Realization | Rs/MT   | ***   | ***   | ***   |
| Price undercutting    | Rs/MT   | ***   | ***   | ***   |
| Price undercutting    | %       | ***   | ***   | ***   |
| Price undercutting    | % Range | 10-20 | 20-30 | 19-20 |

*POI\*- Jan.' 2015- Dec.' 2015*

523. It is seen that the price undercutting is significant. Imports of the product under consideration are undercutting the prices of domestic industry in the market.

#### ii. **Price Underselling**

524. The price underselling is an important indicator of assessment of injury. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. The price underselling is higher than the price undercutting and is significant.

| Particulars         | Unit    | HR    | CR    | POI*  |
|---------------------|---------|-------|-------|-------|
| Landed Price        | Rs/MT   | ***   | ***   | ***   |
| Non-Injurious Price | Rs/MT   | ***   | ***   | ***   |
| Price Underselling  | Rs/MT   | ***   | ***   | ***   |
| Price Underselling  | %       | ***   | ***   | ***   |
| Price Underselling  | % Range | 10-20 | 20-30 | 20-30 |

*POI\*- Jan.' 2015- Dec.' 2015*

#### **C. Economic Parameters relating to the Domestic Industry**

525. The Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the subsidized imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices

having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

i. Production, Capacity, Capacity Utilization and Sales

526. Position of the domestic industry over the injury period with regard to Production, Capacity, Capacity Utilization and Sales was as follows:

| Particulars          | UOM | 2012-13   | 2013-14   | 2014-15   | POI*      |
|----------------------|-----|-----------|-----------|-----------|-----------|
| Capacity             | MT  | 1,257,040 | 1,512,000 | 1,600,000 | 1,600,000 |
| Production           | MT  | 920,259   | 1,015,308 | 1,063,423 | 1,154,305 |
| Capacity Utilisation | %   | 73.21%    | 67.15%    | 66.46%    | 72.14%    |
| Sales Volume         |     |           |           |           |           |
| Domestic Sales       | MT  | 661,722   | 763,052   | 816,266   | 882,939   |
| Export Sales         | MT  | 241,081   | 251,768   | 232,314   | 222,322   |
| Total Sales          | MT  | 902,802   | 1,014,820 | 1,048,581 | 1,105,261 |
| Demand               | MT  | 1,699,265 | 1,776,920 | 2,022,318 | 2,118,930 |
| Chinese Imports      | MT  | 87,408    | 106,030   | 230,629   | 257,063   |

POI\*- Jan.' 2015- Dec.' 2015

527. Authority notes that-

- a) Domestic industry enhanced capacity over the injury period in view of increasing demand in India. The domestic industry has set up a new manufacturing facility having 8,00,000 MT melting capacity in Odissa.
- b) The production and sales of the domestic industry has increased throughout the injury period. However, increase in production was lower than what could have been achieved by the domestic industry in the absence of subsidized imports.
- c) Capacity utilization of the domestic industry declined from the base year till the year 2014-15 and increased in POI because of inability of the domestic industry to increase production in line with increase in capacity and despite increase in demand.
- d) Comparison of changes in demand, subject imports with production and domestic sales of the domestic industry shows that whereas the domestic industry was able to increase its production and domestic sales, the increase in imports is far disproportionate to the increase in production and domestic sales by the domestic industry. Further, anti-dumping duties were earlier levied on imports of some types of the product, which should have enabled the domestic industry to increase its sales and consequently production and capacity utilization. However, subsidized imports have prevented the domestic industry from raising its production and

domestic sales. Further, the domestic industry is undertaking significant exports of the product in order to increase plant utilization. However, profitability in exports is far more adverse than the profitability in domestic, which has been attributed by the domestic industry to low prices kept primarily by the Chinese producers in the global market, owing to subsidization practices and subsidies received by them.

ii. Profitability, return on investment and cash profits

528. Position of the domestic industry over the injury period with regard to profitability, ROI and cash profit are as follows:

| Particulars                | UOM        | 2012-13 | 2013-14 | 2014-15 | POI  |
|----------------------------|------------|---------|---------|---------|------|
| Profit/ Loss – Domestic    |            |         |         |         |      |
| Cost of Sales              | Rs/MT      | ***     | ***     | ***     | ***  |
| Indexed                    |            | 100     | 105     | 108     | 102  |
| Selling Price              | Rs/MT      | ***     | ***     | ***     | ***  |
| Indexed                    |            | 100     | 102     | 108     | 103  |
| Profit/ Loss               | Rs/MT      | ***     | ***     | ***     | ***  |
| Indexed                    |            | -100    | -151    | -108    | -93  |
| Profit/ Loss               | Rs. Crores | ***     | ***     | ***     | ***  |
| Indexed                    |            | -100    | -174    | -134    | -124 |
| Cash Profit                | Rs.Crores  | ***     | ***     | ***     | ***  |
| Indexed                    |            | -100    | -2,288  | -1,377  | -358 |
| Cash Profit                | Rs/MT      | ***     | ***     | ***     | ***  |
| Indexed                    |            | -100    | -1,986  | -1,117  | -269 |
| PBIT                       | Rs.Crores  | ***     | ***     | ***     | ***  |
| Indexed                    |            | 100     | 108     | 500     | 412  |
| Return on Capital Employed | %          | ***     | ***     | ***     | ***  |
| Indexed                    |            | 100     | 121     | 422     | 330  |

529. From the above information, the Authority notes that:

- (a) Selling price of the domestic industry is below the level of cost of sales resulting into financial losses to the domestic industry in the POI.
- (b) The domestic industry suffered financial losses throughout the injury period. Even though the extent of losses has reduced after 2014-15, the domestic industry continues to suffer significant financial losses.

- (c) The information provided by the domestic industry for the year 2011-12 shows that the domestic industry was in profits in 2011-12 and has started suffering financial losses since 2012-13.
- (d) The domestic industry has suffered dumping of a number of product types over the present injury period. Anti-dumping duties were earlier recommended or existing antidumping duty extended over this period on the following product types over the current period. The domestic industry was thus suffering injury during the present injury period. Despite imposition of these measures domestic industry has not been able to recover back to normal performance and subsidized imports continue to cause injury to the domestic industry.
- (e) Cash profit shows the same trend as that of profitability. The domestic industry continues to suffer significant cash losses during the investigation period

Return on investment has shown a declining trend, and has remained much below the benchmark return of 22%.

iii. Market share

530. Position of the domestic industry over the injury period with regard to market share in demand are as follows:

| Particulars                 | UOM | 2012-13 | 2013-14 | 2014-15 | POI*   |
|-----------------------------|-----|---------|---------|---------|--------|
| Market Share                |     |         |         |         |        |
| China                       | %   | 5.14    | 5.97    | 11.40   | 12.13  |
| Other Countries             | %   | 12.48   | 10.96   | 11.10   | 10.76  |
| DI domestic Sales           | %   | 38.94   | 42.94   | 40.36   | 41.67  |
| Other Indian Producers      | %   | 43.43   | 40.13   | 37.14   | 35.44  |
| Indian producers as a whole | %   | 82.37   | 83.07   | 77.50   | 77.11  |
| Total                       | %   | 100.00  | 100.00  | 100.00  | 100.00 |

*POI\*- Jan.' 2015- Dec.' 2015*

531. It is seen that market share of the subject imports has increased significantly over the period. With imposition of anti-dumping duties on some forms of the product, market share of China and other countries should have declined. While the market share of other countries has declined to some extent and the absolute volume of imports declined, the market share of China has increased despite antidumping earlier imposed. Market share of Domestic Industry increased significantly in 2013-14, declined in 2014-15 and then increased marginally in POI in view of significant increase in imports from China in 2014-15.

532. The increase in demand and the market vacated by dumped sources have been taken over by the subject imports.

iv. Employment, Wages and Productivity

533. Position of the domestic industry over the injury period with regard to employment and wages are as follows. Employment has increased over the injury period because of increase in production. Increase in Salary and Wages per Unit is not significant. Productivity has increased both in terms of production per employee and production per day.

| Particulars               | UOM       | 2012-13 | 2013-14 | 2014-15 | POI* |
|---------------------------|-----------|---------|---------|---------|------|
| Salary and Wages          | Rs.Crores | ***     | ***     | ***     | ***  |
| Indexed                   |           | 100     | 97      | 106     | 111  |
| Salary and Wages          | Rs/MT     | ***     | ***     | ***     | ***  |
| Indexed                   |           | 100     | 88      | 92      | 88   |
| Employment                | No.       | ***     | ***     | ***     | ***  |
| Indexed                   |           | 100     | 108     | 111     | 121  |
| Productivity              |           | ***     | ***     | ***     | ***  |
| Productivity Per Employee | MT/No     | ***     | ***     | ***     | ***  |
| Indexed                   |           | 100     | 102     | 104     | 104  |
| Productivity Per Day      | MT/Day    | ***     | ***     | ***     | ***  |
| Indexed                   |           | 100     | 110     | 116     | 125  |

POI\*- Jan.' 2015- Dec.' 2015

v. Inventories

534. Position of the domestic industry over the injury period with regard to Inventories shows significant increase over the injury period. The increase in inventory is despite imposition of anti-dumping measures earlier and increase in demand.

| Inventories | UOM | 2012-13 | 2013-14 | 2014-15 | POI |
|-------------|-----|---------|---------|---------|-----|
| Opening     | MT  | ***     | ***     | ***     | *** |
| Indexed     |     | 100     | 115     | 134     | 105 |
| Closing     | MT  | ***     | ***     | ***     | *** |
| Indexed     |     | 100     | 116     | 96      | 110 |
| Average     | MT  | ***     | ***     | ***     | *** |
| Indexed     |     | 100     | 116     | 114     | 108 |

POI\*- Jan.' 2015- Dec.' 2015

vi. Ability to raise capital investment

535. The Petitioner has submitted that given the state of affairs of the domestic industry where performance is still sub optimal because of low priced imports, substantial fresh investments cannot even be imagined. The domestic industry is already holding significant capacities. Further, the domestic industry had recently enhanced capacities, which are remaining unutilized. The low priced imports have forced the domestic industry to undertake financial restructuring.

vii. Conclusion on material injury

536. The performance of the domestic industry shows that the domestic industry has suffered material injury , as summarized below:

- a) Subsidized imports from the subject country have increased in absolute terms, in relation to production and consumption in India.
- b) Subsidized imports are significantly undercutting the prices of the domestic industry.
- c) Imports are preventing the domestic industry from raising its prices even to the extent of cost of production, leading to financial losses, leave aside reasonable profits to the domestic industry.
- d) The domestic industry has continued to suffer financial losses and negative cash profits. .While the losses in the past were due to presence of subsidized imports, even after imposition of antidumping duty, the domestic industry is suffering financial losses due to low priced subsidized imports.
- e) Even when performance of the domestic industry improved in respect of production and domestic sales, the capacity utilization and market share declined and inventories have increased. The domestic industry has been prevented from increasing its production and sales to the extent it could have been in the absence of low priced subsidized imports.
- f) Market share of the domestic industry once again declined after showing improvement in 2013-14. The market share of domestic producers as a whole has declined over the injury period.
- g) The Authority has concluded on material injury to the domestic industry after receipt of comments from the interested parties.

**Magnitude of Injury and Injury Margin**

537. The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country. The injury margin thus proposed to be determined is as under:-

| PCN                   | VOLUME | UNIT LV | UNIT LV | UNIT NIP | UNIT NIP | UNIT IM | UNIT IM | IM  |
|-----------------------|--------|---------|---------|----------|----------|---------|---------|-----|
| PCN/<br>GRADES        | MT     | USD     | RS      | USD      | RS       | USD     | RS      | %   |
| HR                    | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| J1/201/202/<br>JSLAUS | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 301                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 304                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 309                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 310                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 316                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 321                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 409                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 410                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 420                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| Duplex                | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| HR as as<br>whole     | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| CR                    | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| J1/201/202/<br>JSLAUS | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 301                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |
| 304                   | ***    | ***     | ***     | ***      | ***      | ***     | ***     | *** |

|                         |     |     |     |     |     |     |     |        |
|-------------------------|-----|-----|-----|-----|-----|-----|-----|--------|
| 309                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 316                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 321                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 409                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 410                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 420                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 430                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| 441                     | *** | *** | *** | *** | *** | *** | *** | ***    |
| CR as a whole           | *** | *** | *** | *** | *** | *** | *** | ***    |
| Total Identified Grades | *** | *** | *** | *** | *** | *** | *** | 18.95% |

#### **A. Threat of Material Injury**

538. The domestic industry claimed that, in addition to material injury, the subsidized imports are causing threat of material injury. The Authority therefore examined whether the subsidized imports are causing threat of material injury to the domestic industry. Paragraph 3 of Annexure I to the Rules provides as under in this regard.

*“A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as:*

- (i) nature of the subsidy or subsidies in question and the trade effects likely to arise there from;*
- (ii) a significant rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importation;*
- (iii) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidised exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;*

*(iv) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and,*

*(v) inventories of the article being investigated.”*

539. The examined whether the subsidized imports are causing threat of material injury to the domestic industry considering the above parameters. It is noted that this is a non-exhaustive list.

**a) Nature of subsidy and its effects**

540. Benefits received by the respondents through programs run by "Public Body" conferred a countervailable subsidy to the producer/ exporter of the subject goods.

It is noted that the GOC has preferred not to file questionnaire response. Nor GOC has provided any other relevant information either at the time of consultation or any time thereafter during the course of the present investigations. Even when a number of exporters from China responded to the notice of initiation and filed questionnaire response, the questionnaire response filed by these Chinese producers/exporters are also sketchy and grossly deficient to permit determination of subsidy margins based on questionnaire response. While the petitioners has quantified the subsidy margins at the stage of initiation of approx 20%. In their post hearing written submissions, the petitioners quantified subsidy margins in the region of 184.04%, which were largely based on the determinations made by other investigating authorities globally (in USA and Europe). The petitioners revised their subsidy margins on the basis of actual quantification of subsidy margins for the producers of the product under consideration and quantified the same as 35.71%. It is also noted that a number of authorities have determined subsidy margins in a number of steel products ranging 70%- 200%. The Authority has however determined margin of subsidy as 18.95%. The margin of subsidies determined by the Authority is therefore quite significant. The effect of such subsidy is that the producers in China are able to and would continue to produce goods at significantly low cost, giving them an unfair competitive advantage. This subsidisation has resulted into significant exports by China to India. The wide array of subsidies available to the steel industry in China is specifically designed to increase domestic production and exports. There is no evidence suggesting that the level of subsidization – either in terms of quantum or number of schemes/ programs is likely to reduce in the nearly foreseeable future.

**b) Significant increase in imports**

541. The imports of the product under consideration have increased significantly from the subject country. The increase in imports from China is far more than the increase in the demand for the product in the Country.

| Particulars                | Unit    | 2012-13   | 2013-14   | 2014-15   | POI       |
|----------------------------|---------|-----------|-----------|-----------|-----------|
| Demand                     |         |           |           |           |           |
| Subject Country-China      | MT      | 87,408    | 1,06,030  | 2,30,629  | 2,57,063  |
| Other Countries            | MT      | 2,12,135  | 1,94,838  | 2,24,422  | 2,27,928  |
| DI domestic Sales          | MT      | 6,61,722  | 7,63,052  | 8,16,266  | 8,82,939  |
| Other Indian Producers     | MT      | 7,38,000  | 7,13,000  | 7,51,000  | 7,51,000  |
| Indian Industry as a whole | MT      | 13,99,722 | 14,76,052 | 15,67,266 | 16,33,939 |
| Total Demand               | MT      | 16,99,265 | 17,76,920 | 20,22,318 | 21,18,930 |
| Trend                      |         |           |           |           |           |
| Subject Country-China      | Indexed | 100       | 121       | 264       | 294       |
| Other Countries            | Indexed | 100       | 92        | 106       | 107       |
| DI domestic Sales          | Indexed | 100       | 115       | 123       | 133       |
| Other Indian Producers     | Indexed | 100       | 97        | 102       | 102       |
| Indian Industry as a whole | Indexed | 100       | 105       | 112       | 117       |
| Total Demand               | Indexed | 100       | 105       | 119       | 125       |

**c) China which was a net importer has now become self-sufficient and has surplus capacity.**

542. China recorded a rapid capacity growth at a rate which is far higher as compared to the growth in domestic demand, resulting in excess production and huge surpluses. This rapid growth in fresh capacities additions in the China has led to a situation where China has become a net exporter from a situation of a net importer of stainless steel products. The table below shows imports and export of the product under consideration into/from China from/to world for a decade based on secondary source data (WTA).

Import into and export from China [Global]

| Year | Volume    |          | Trend   |         |
|------|-----------|----------|---------|---------|
|      | Imports   | Exports  | Imports | Exports |
| 2005 | 28,96,753 | 2,45,369 | 100     | 100     |
| 2006 | 21,08,479 | 6,28,529 | 52      | 256     |
| 2007 | 13,43,248 | 9,33,802 | 15      | 381     |

|      |          |           |    |      |
|------|----------|-----------|----|------|
| 2008 | 9,39,794 | 6,82,975  | 25 | 278  |
| 2009 | 9,57,714 | 4,63,166  | 13 | 189  |
| 2010 | 8,45,854 | 10,79,834 | 37 | 440  |
| 2011 | 7,15,809 | 16,70,731 | 16 | 681  |
| 2012 | 6,08,255 | 15,23,087 | 12 | 621  |
| 2013 | 5,75,716 | 20,62,896 | 27 | 841  |
| 2014 | 6,08,764 | 31,03,231 | 17 | 1265 |
| 2015 | 5,22,608 | 27,10,037 | 18 | 1104 |

Source – WTA data

#### Import into and export from China [India]

| Year | Volume   |          | Trend   |         |
|------|----------|----------|---------|---------|
|      | Imports  | Exports  | Imports | Exports |
| 2005 | 2,37,098 | 1,093    | 100     | 100     |
| 2006 | 1,55,097 | 3,386    | 65      | 310     |
| 2007 | 71,908   | 6,404    | 30      | 586     |
| 2008 | 924      | 14,174   | 0       | 1297    |
| 2009 | 8,716    | 14,950   | 4       | 1368    |
| 2010 | 1,398    | 67,104   | 1       | 6140    |
| 2011 | 674      | 1,12,277 | 0       | 10273   |
| 2012 | 565      | 98,006   | 0       | 8967    |
| 2013 | 950      | 1,11,337 | 0       | 10187   |
| 2014 | 958      | 2,27,733 | 0       | 20837   |
| 2015 | 1,472    | 2,65,899 | 1       | 24327   |

Source – WTA data

#### Exports of product under consideration from China to India and World

| Volume | Volume (MT) |           | Trend (indexed) |       |
|--------|-------------|-----------|-----------------|-------|
|        | India       | World     | India           | World |
| 2005   | 1,093       | 2,45,369  | 100             | 100   |
| 2006   | 3,386       | 6,28,529  | 310             | 256   |
| 2007   | 6,404       | 9,33,802  | 586             | 381   |
| 2008   | 14,174      | 6,82,975  | 1,297           | 278   |
| 2009   | 14,950      | 4,63,166  | 1,368           | 189   |
| 2010   | 67,104      | 10,79,834 | 6,140           | 440   |
| 2011   | 1,12,277    | 16,70,731 | 10,273          | 681   |
| 2012   | 98,006      | 15,23,087 | 8,967           | 621   |
| 2013   | 1,11,337    | 20,62,896 | 10,187          | 841   |

|      |          |           |        |       |
|------|----------|-----------|--------|-------|
| 2014 | 2,27,733 | 31,03,231 | 20,837 | 1,265 |
| 2015 | 2,65,899 | 27,10,037 | 24327  | 1104  |

Source – WTA data

543. It is seen that there is a drastic change in the import-export situation in China in respect of entire world as well as India. While there is a drastic decline in imports into China, there is a drastic increase in exports from China. This increase in exports and decline in imports is in view of massive capacity additions in China, far disproportionate to the domestic demand. Exports from China to India which were around 1100 MT in 2005 have reached to the level of 265,899 MT in 2014. There is almost 240 times increase in exports. Even global exports by China have seen mammoth increase, from 245,369 MT in 2005 to 27,10,037 MT in 2015, registering almost 11 times increase in imports.

**d) Increasingly excessive capacities with Chinese producers leading to rising exports**

544. China has become a net exporter of stainless steel products from a situation of net importer of these products. Chinese manufactures are aggressively targeting exports of Stainless Steel. Growth in Capacity with Chinese producers can be seen from the table below:

| Year | China |
|------|-------|
| 2009 | 11993 |
| 2010 | 13793 |
| 2011 | 15868 |
| 2012 | 17673 |
| 2013 | 23385 |
| 2014 | 26600 |
| 2015 | 31220 |
| 2016 | 33320 |
| 2017 | 33320 |
| 2018 | 33320 |
| 2019 | 33320 |

545. As per the recent report by Heinz H Pariser provided by the petitioners, dated 20<sup>th</sup> January, 2014, China is continuously increasing its Stainless steel capacity. Stainless steel exports are expected to expand proportionally, targeting export markets. There is significant surplus production in China. Further, the gap between production and consumption is increasing significantly since 2009.

546. Chinese producers now have capacities far in excess of the domestic demand. Furthermore the demand of product concerned in China continues to remain weak further threatening increase in imports into Indian domestic market.

**e) Further expansion of capacities**

547. Published reports show that despite growing pressure from an oversupplied market, it is expected that China's stainless steel capacity will rise further. According to Stainless Steel Flat Products Market Outlook by CRU, Chinese stainless slab capacity is expected to grow by 17% year-on-year this year, acceleration from 14% last year. China is forecast to add 4.6m tones of slab capacity which will primarily be concentrated in Fujian, Shandong and Guangxi province. Majority of new capacity will stem from expansions of existing plants rather than new projects.

**f) Underutilization of production capacities by the Chinese producers**

548. Chinese producers are currently operating at 69% capacity utilization which itself is a low level of capacity utilization. In a product already suffering huge excess capacities, the Chinese producers are expanding capacities further which can only mean that they are not only aiming at capturing the global market, but also the plant utilizations are likely to decline.

**g) Imposition of trade measures against various major players**

549. The exports of product under consideration from China to third countries are also at dumped and/or subsidized prices. Trade measures have been imposed by a number of countries on various types of product under consideration. Details of various investigations against subject countries are as follows:

| Country imposing duties | Countries attracting duties                        | Year of imposition                                               |
|-------------------------|----------------------------------------------------|------------------------------------------------------------------|
| Vietnam                 | Malaysia, China, Indonesia and Taiwan              | Provisional Duty- January 2014<br>Definitive Duty-September 2014 |
| Taiwan                  | China and Korea                                    | Provisional Duty- August 2013<br>Definitive Duty-January 2014    |
| Brazil                  | Germany, China, Korea, Finland, Taiwan and Vietnam | October 2013                                                     |
| EC                      | China and Taiwan                                   | December 2015                                                    |
| USA                     | China                                              | February 2017                                                    |

550. Resultantly, the producers in these countries have lost some market and therefore they have targeted other markets such as India.

**h) Significantly low priced imports and price attractiveness of the Indian market**

551. Landed value of imports are at a price which is lower than the selling price as well as cost of production of the Domestic Industry. The imports are undercutting the domestic prices. The Chinese producers find Indian market quite attractive in terms of prices. It is likely that the Chinese exporters shall further aggressively target and take over the further Indian demand in a nearly foreseeable future.

**Conclusion on threat of injury**

552. The information on record shows that the subsidized imports are threatening material injury to the domestic industry, as is summarized below,

- a. The rate of increase of subsidized imports is significant, indicating the likelihood of substantially increased importation of subject goods;
- b. The present difference in the prices of imported product and domestic product is quite significant and the same is likely to increase demand for imports;
- c. *Sufficient freely disposable capacity exists in China indicating the likelihood of substantially increased subsidized imports in India*
- d. There is imminent further substantial increase in capacity in China indicating the likelihood of substantially increased subsidized imports in India Whereas China was earlier a significant importer of SS products, China is now a major exporter of the product in global market.
- e. Imports from China are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and is likely to increase demand for further imports,
- f. The capacity utilization of the Chinese producers at present is quite low thus showing threat of further increase.
- g. Various trade defense measures against Chinese exports shows threat of further increase in imports.
- h. The subsidy margins are quite significant.

**Causal Link**

553. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

- a. **Volume and prices of imports from third countries-** During POI, imports of the subject goods from countries other than the subject country are either attracting anti-dumping duty or are insignificant in volume or are at higher prices.
- b. **Changes in the pattern of consumption-** There is no contraction in the demand during injury period. Demand for the product has increased over the injury period.

- c. **Changes in the patterns of consumption-** The pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have contributed to the injury to the domestic industry.
- d. **Trade restrictive practices of and competition between the foreign and domestic producers-** There is no known trade restrictive practice which could have contributed to the injury to the domestic industry.
- e. **Developments in technology-** None of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry. The domestic industry has recently set up a new plant having significant capacities.
- f. **Export performance of the domestic industry-** The domestic industry has made significant exports during the injury period. However, the injury information provided to the Authority has been provided separately for domestic and exports, to the extent the same could be segregated. Possible decline in exports volume or profits could not have caused claimed injury to the Domestic Industry.
- g. **Performance of other products being produced and sold by the domestic industry-** Claimed injury to the domestic industry is on account of product under consideration. The petitioner has provided information which pertains only to the product under consideration.

### **Post Disclosure Comments-**

#### **Submissions made by the Domestic Industry**

554. Following are the submissions made by the domestic industry,

- PUC in the present investigation is "Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel".
- Hot rolling is a metal work in which the metal is heated above the recrystallization temperature to deform it in the operation. It uses large pieces of metal. Cold rolling is rolling steel below its recrystallization temperature with degree of reduction being usually above 5%. Thus it is done on sheet or strips which are either hot rolled or cold rolled. Thus every cold rolled is a hot rolled product.
- Authority has specified thickness of 10.5mm in case of HR and 6.75 mm in case of CR products as the upper limit. The petitioner has never produced and sold products having higher thickness as there was no requirement or demand for the

same in the country. It is not even imported from other countries. The restriction of thickness is superficial and should not be kept in order to avoid any kind of abuse to the recommendations and possible evasion of ADD. In a situation where there is no import and no requirement of these products in India, it is redundant to keep these barriers. There is a possibility of importing higher thickness product and rolling the product to lower thickness. Also, possible future product cannot become a basis for specifying the scope of PUC. The petitioners request the authority to at least specify that the product width restrictions have been imposed in view of absence of imports of those types and production by the domestic industry.

- Separate standing is not required to be determined either for HR or CR products or for different series or width within the PUC. The fact that there are producers who produce only one or more forms of the PUC and does not produce all the forms of PUC does not imply that the authority shall determine separate standing and undertake injury analysis for different forms of PUC. The like article to the PUC is flat rolled products of stainless steel and accordingly standing and scope of domestic industry is require to be determined with reference to like article. The mere fact that some activity has been recognized as production under excise law does not imply that the activity shall be recognized as production even for ADD/CVD purposes. If the product undergoes a change from one PUC to another, the same should not be recognized as production for the present purpose.
- The GOC did not provide substantiated evidence in support of their claims made during the pre-initiation consultation as well as during the investigation. In the present case, neither GOC has sufficiently responded with regard to the subsidy programs prevalent in China nor have the responding exporters cooperated by providing sufficient information about the schemes and benefits received by them.
- However, very little information filed by the exporters show, on contrary to GOC's claim, existence of some of the subsidy programs identified by the petitioners. Even though some of the exporter companies have admitted receiving the benefits, none of them have filed sufficient response to the schemes. For some of the schemes, even if the exporter has conceded that they have availed the benefits out of the mentioned schemes, the Authority has not quantified the subsidy margins for the same.
- Custom classification is only indicative and PUC must attract duty regardless of the custom classification. The authority may specify in the duty table that the custom classification is indicative only. Anything not mentioned in duty table is

likely to get ignored while issuing notification by MoF. Therefore, a mention in duty table is of utmost importance.

- CVD may be imposed on the basis of percentage as CVD margin has been determined. Fixed quantum of duty is not appropriate when the product under consideration involves a large number of product types having significantly different prices.

### **Views of Exporters, Importers, Consumers and other Interested Parties**

555. Following are the submissions made by exporters, importers and other interested parties/ other parties,

- Rule 6(3) of the Anti-subsidy rules mandates the authority to determine the support and opposition before initiating any investigation. Petitioners have masked their standing for both the products by providing common data for both CR and HR. No data has been made available to the respondent which suggests the appropriateness of initiation.
- Authority has erred in and has acted contrary to Gujarat Industries & Ors. v. Commissioner of Central Excise-I by treating both CR and HR stainless steel as a single product. Authority has given same production process as the base for treating both of them as same product which is contrary to the mentioned SC Judgment
- The PUC falls under custom sub-heads 7219 and 7220 of Chapter 72 which may not be binding on the authority, it is indicative that such clubbing would render the purpose of classification otiose. Therefore, the Authority may withdraw initiation notification and disclosure statement both and reissue the same treating both HR and CR Stainless steel as two distinct product.
- Flat rolled products of SS of a width not more than 600 mm are a separate product having a separate HS Code “7200”. Petitioners have not considered production figure of induction based flats manufacturer for CR Pattas/Patti. Hence, this investigation does not fulfill the 50% market share by petitioner.
- Stainless Steel Cold Rolled Flat Products below 600 mm of width may be excluded from the scope of investigation as Petitioners are not in production of less than 600 mm CR product as they don't have the facility. Such product is sold on demand after slitting higher width size coil which is commercially not suitable because higher width coil is comparatively expensive. Thus petitioners are not a major producer in this segment. 90% Pata industry is in profit and suffering no injury from imports
- Maximum imports are 201 series and less than 600 mm width. Various producers in China produce goods below width 600 mm as investment is far less. There are more than 300-400 producers of CR Patta who purchase HR Flat and convert it to CR at a width less than 600mm. The producers are mainly small players

based in different cities and their estimated production is 80000-90000 MT per month.

- Petitioner have not placed before the authority any data to demonstrate their production of CRSS with a width more than 1500mm and/or HR SS with a width of more than 1650mm. Authority may request the petitioners to place such data before it. Assuming that the DI is not producing the said products they must be excluded from the scope of PUC.
- The authority may reissue the disclosure statement after taking into consideration the production data of CR Steel (patta/sheet producers) of less than 600mm, CR SS with a width more than 1500mm and HRSS of 1650 mm as well.
- Domestic Industry vide its Petition sought an investigation into “Flat Rolled products of stainless steel”. However, the Authority by way of the Initiation Notification and the Disclosure Statement has defined the PUC as “Flat rolled products of SS, whether HR or CR of all grades/series; whether or not in plates, sheets, or in coil form or in any shape of any width of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and upto 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel
- Petitioner did not seek an investigation in all grades/series of the product and by including any shape, the Authority has not taken into consideration the fact that some of the shapes have either been not produced or produced in small quantities compared total production; same is the case with addition of words “of any width”. No exclusion was sought by the petitioners.
- Products not produced in India must not be included in the investigation and thus Authority must exclude CR Flat product of 1500mm and up width in all thickness, HR Flat product of 1650mm and up width in all thickness, CR Flat product of thickness 0.50mm and below in all width should be removed.
- There has been huge surge in the imports of SS pipes and tubes from China. Pipes and tubes are coming at extremely low prices, causing undercutting and because of this there is price suppression and price depression in the domestic pipe industry. Cheap imports have been made possible because of huge amount of subsidies being offered by Chinese government. It a request to impose a CVD on both SS flat products as well as SS pipes and tubes.
- Government is imposing CVD on our raw material, now traders importing SS tubes and pipes from China at very low prices, lower than the price of raw material itself. It is lead to our industry face a very difficult time. Therefore, it is a request from Authority to not take such a step. Also, it doesn't make sense to impose CVD on the raw material and keep the finished product out of this. Therefore, we request to kindly impose a CVD on finish product also i.e. SS tubes and pipes to save the industry.

- Petitioners account for only 20% of the total production of Flat Rolled Products in India and there are more than 20 producers apart from the petitioners.
- There are 300-400 producers in India who are buying hot rolled flat steel and converting it to cold rolled at a width less than 600mm (sheet/patta). The producers are mainly small players based in different cities, their estimated production is 80000-90000 MT per month.
- Petitioners are not included the production data of these manufacturers. Brochure of petitioners does not show the production of CRC of width less than 600mm. If it is claimed otherwise, it must be proved by providing the production and sales data for last five years.
- ADD investigation in CRC 200 series having width below 600mm from China PR, UAE and USA was terminated as the Petitioners had withdrawn the said petition only because they are not the basic manufacturer of the said product.
- As per Supreme Court, slitting does not account to as manufacturing. JSL is not producing the HRC/CRC of 0-600mm width material. HS Code is also different. The sales of petitioners are only by the way of slitting. Therefore, petitioner has no standing to become DI.
- The Authority is requested to verify the Petitioner's production facility for manufacturing stainless steel products of less than 600mm
- 90% of the patta industry is in profit and not suffering any injury from said dumping
- The submissions made by the domestic industry with regard to confidentiality is cost audit report of Petitioners, which is confidential information, be heavily relied upon by DGAD.
- Disclosure statement is not in accordance with the Rule 18 of Custom Tariff Rules, 1995 as it does not apprise the parties of the essential facts which form the basis of decision.
- Disclosure statement is to provide respondent with the basis of Authority's decision so that interested parties are provided with an opportunity to defend their interests prior to a final finding being arrived at. In the event of ambiguous unclear reasons the respondent will be deprived of the said opportunity and failure to comply with the said rule will lead to statutory non-compliance by the authority.
- Section 9(B) of the Customs and Tariff Act prohibits imposition of both CVD and ADD to compensate for the same situation of dumping of export subsidization. ADDs have already been imposed on the said PUC. Therefore, the initiation of present investigation is bad in law and liable to be quashed.
- The Authority while considering the said submission has observed that Central government may adjust the ADD payable in the event the DA recommends a CVD. By not providing a exact reasoning behind the decision, the Authority has

denied the respondents an opportunity, leave alone an effective opportunity to respond to the issue at hand.

- Most of the units are very small working with a very small amount of capital due to this price rise in last six to nine months and uneven supply, their production have been affected.
- Most the items manufacture in our region are used in the ruler market and the consumers are of very low income group and with this heavy price rise, these groups of consumers will be affected.
- Due to uneven supply and price rise the mediators takes undue advantage of the gap between demand and supply exploiting the small manufacturers.
- Due to fluctuation in rates and the gap in demand and supply of raw material, small manufacturer who have created a good export and domestic market after many years of efforts gets affected.
- Stainless steel is a raw material which has substituted most of the rural items which were previously made from wood or plastic saving the forest and nature, now if rates of stainless steel go up, manufacturer will be forced to close their units as these products could not absorb very high rates.
- Already there is tension due to GST, now if countervailing duty is imposed, these manufacturers will not be able to survive due to heavy price rise and lots of burden, if the monopoly is given to single company who has major share in Indian market.
- Stainless Steel Flat Product which are not produced in India should not be included in the investigation and CR Flat product of 1500 mm and up Width in all thickness, HR Flat of 1500 mm and up, CR Stainless Steel of less than 600 mm and CR product of 0.50 mm and below should be excluded from this investigation.

**All India Stainless steel industries association made the following comments,**

- There are more than 5000 members, majority of which is Micro and SMEs sector. 60% of the total consumption of 2 million tonnes is consumed by our industry. Industry may be estimated to be more than 17,500 crores, more than 10 lakhs worker are employed in the production of stainless steel utensils and cutlery. Exports exceed Rs. 2000 crores.
- The demand has significantly increased by 25%, however, the Indian supplies did not increase accordingly. There is a gap of 500,000 MT in demand and supply which is filled by imported products from China and other countries. Jindal failed to fill the gap because of inadequacy of supply, range of goods and lack of quality.

- Import from china has increased but it has caused no injury. Jindal cannot claim the injury as their own sales have went up. The imports were necessary to fulfill the need to downstream SME and MSME production sector.
- There has always been a 40%gap in demand and supply and by choking the sources of supply of vital raw materials to the SMEs and MSMEs, Jindal wishes to monopolise the existing domestic demand.
- Capacity utilization of Jindal is very good i.e. 72.14% and under capacity utilization can be due to many other factors like insufficient working capital, break down in plant and machinery, etc. The claims by petitioner are false and misleading.
- Owing to their already monopolistic situation in the market, Jindal has been increasing the prices.
- Lack of supplies from Jindal routinely holds up SMEs and MSMEs production.
- Jindal has been focusing on troubling the SMEs by consecutive anti-dumping investigations (already a duty on CRC 600mm-1250mm) and BIS litigation, had they put this attention to their business, they would have been able to win the trust of downstream producers.
- Due to short supply inputs, the SMEs and MSMEs are facing a steady decline in production capacity utilization (as low as 40%). Many units are being forced to close down.
- Industry doesn't have the power to transfer increased costs to buyers. Import under advance authorization scheme is not an option for SMEs and MSMEs. This is resulting to losing of export customers and will ultimately lead to unemployment of lakhs of workers.
- We are representing a large portion of consumption of stainless steel and we are already under reeling pressure of rising prices by Jindal.
- Petitioners have given total production for 2015 to be 1118 thousand MT (approx), however, a report issued by the International Stainless Steel Forum reveals that production for 2015 is 3060 MT. The standing of the petitioner be revisited and if found in non-compliance with Rule 6(3), present investigation is liable to be quashed.

### **Examination of the Authority**

556. The authority notes that most of the submissions are repetitive in nature and these are already examined and addressed at appropriate places in these findings.

Further the authority has examined submissions of the interested parties herein below,

557. With regard to the submission concerning restriction on width, authority notes that the ongoing anti-circumvention investigation concerning imports of cold rolled flat product of stainless steel originating in or exported from China PR, Korea and others, itself recognizes the feasibility to circumvent the imports of the product evading anti dumping duty already in place.

- With regard to exclusion of Patta/Patti sector, the Authority notes that the PUC for the present investigation is Flat Rolled products of Stainless Steel and Patta is also a Flat product coming under Chapter 72. Patta Patti does not have a separate HS classification and it is covered under the same head of 7220.
- The Authority also notes that Patta/patti machine is a cold rolling machine and since the raw material is a hot rolled stainless steel flat product, the final outcome is only a cold rolled stainless steel flat product falling under 7220. Therefore, Authority further notes that Patta/Patti or CR SS below 600 mm is within the scope of the PUC of the present investigation.
- The authority notes that the PUC in the initiation notification was as follows :  
*“Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series: whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5 mm in case of hot rolled coils, 3mm to 10.5 mm in case of hot rolled plates and sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel.”*
- Authority has considered PUC in the present investigation as *“Flat rolled products of stainless steel”*. Thus both HR and CR stainless Steel flat rolled products are coming within the purview of this investigation and the same are like article to the subject goods.

558. As regards the standing, Authority notes that production of the petitioners satisfies the requirement of standing laid down under the law. Since the petitioners themselves satisfy the requirement of standing for the purpose of initiation, it is not mandatory for the Authority to seek the status of other domestic producers. The Authority after examining the information on record and submissions made by petitioners and various interested parties has determined that the petitioner companies constitute domestic industry within the meaning of the Rule 2(b) and the petition satisfies the criteria of standing in terms of CVD Rules.

559. Authority has well followed Rule 18 of Custom Tariff Rules, 1995 and issued the disclosure of essential facts in the present matter. All the submissions made by the

interested parties are taken into consideration and they were given sufficient time to present facts before the Authority.

560. Some interested parties have contended that the domestic industry has claimed excessive confidentiality. It is clarified that the domestic industry has provided all the information and the same has been adequately and appropriately considered and addressed in the present findings as per Rule 7 of CVD Rules. Since some of the information constitutes business sensitive confidential information of the domestic industry, the authority is not bound to disclose such information to the other interested parties.

561. With regard to the contentions raised by the interested parties about Section 9(B) of the Customs and Tariff Act prohibits imposition of both CVD and ADD to compensate for the same situation of dumping of export subsidization. The Authority notes that the POI of both the ADD investigations and present CVD investigation are different and therefore it is not a case of providing dual remedy. However, keeping in view the facts and circumstances of the present case and the overall interest of consumers of the product under consideration, the Authority has recommended to the Central Government to impose the CVD after adjusting the Anti-dumping duty, if any, payable on the imports of articles covered under this investigation. The Authority holds that this measure will address the contention of users of the product under consideration.

562. With regard to the concern raised by the interested parties about the huge surge in the imports of SS pipes and tubes from China, Authority notes that the present investigation cannot be extended to the downstream products. However, if the industry producing SS pipes and tubes are facing injury, may approach the concerned Authority.

563. As regards, the comments on the injury by the interested parties, it is noted that these issues have already been addressed at appropriate places in this findings.

### **Conclusion on Injury and Causation**

564. While the known other factors listed above do not appear to have caused the injury determined, the following parameters show that injury to the domestic industry is caused by the subsidized imports.

- i. There is significant difference between the prices offered by the domestic industry and Foreign Producers. Resultantly, domestic industry lost significant sales volumes. Thus, despite sufficient demand in India and capacities with the domestic industry, the domestic industry lost sales opportunities, which is a direct consequence of subsidized imports from the subject country;

- ii. Imported product is undercutting the prices of the domestic industry. Resultantly, the domestic industry has been prevented from charging fair prices.
- iii. Significant financial and cash losses and below par return on capital employed are directly a result of subsidized imports;
- iv. Market share of the imports from the subject country increased significantly. As a direct consequence, market share of the domestic industry declined.

565. The Authority notes that there is sufficient causal link between subsidies being provided by the subject country benefitting the product under consideration and injuring the domestic industry.

#### **J. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

566. The Authority notes that the purpose of imposition of countervailing duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidization so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of countervailing duty would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.

567. It is recognized that the imposition of countervailing duty might affect the cost of the subject goods. However, fair competition in the Indian market will not be reduced by the imposition of the countervailing measures, particularly if the levy of the countervailing duty is restricted to an amount necessary to redress the injury caused to the domestic industry by the imports of subsidized subject goods. On the contrary, imposition of countervailing measures would remove the unfair advantages gained by subsidization, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

#### **K. RECOMMENDATION**

568. The Authority notes that the investigation was initiated and notified to all interested parties including the Government of China PR and adequate opportunity was given to provide positive information on the aspect of subsidization, injury and causal links. Having initiated and conducted the investigation into subsidization, injury and causal links in terms of the Rules laid down and having established positive subsidy margin as well as material injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of definitive

countervailing duty is required to offset subsidization and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive countervailing duty on the imports of the subject goods from China PR in the form and manner described hereunder.

569. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive countervailing duty equal to the lesser of margin of subsidy and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic industry. Since, some forms of the product under consideration are already attracting anti-dumping duty, therefore, accordingly, an amount equivalent to the difference between the quantum of countervailing duty mentioned in Col No.8 below and antidumping duty payable, if any, is recommended to be imposed on all imports of the subject goods originating in or exported from China.

#### Duty Table

| <b>Sl.No</b> | <b>Heading / Subheading</b> | <b>Description of goods</b>                           | <b>Country of origin</b> | <b>Country of export</b> | <b>Producer</b> | <b>Exporter</b> | <b>Duty amount as % of landed Value</b> |
|--------------|-----------------------------|-------------------------------------------------------|--------------------------|--------------------------|-----------------|-----------------|-----------------------------------------|
| <b>(1)</b>   | <b>(2)</b>                  | <b>(3)</b>                                            | <b>(4)</b>               | <b>(5)</b>               | <b>(6)</b>      | <b>(7)</b>      | <b>(8)</b>                              |
| 1.           | 7219 ,7220                  | Flat-rolled products of stainless steel- (note below) | China PR                 | China PR                 | Any             | Any             | 18.95%                                  |
| 2.           | -do                         | -do-                                                  | China PR                 | Any Country              | Any             | Any             | 18.95%                                  |
| 3.           | -do                         | -do-                                                  | Any Country              | China PR                 | Any             | Any             | 18.95%                                  |

Note –i) Flat Rolled Products of Stainless Steel for the purpose of the present notification implies "*Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 10.5mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel*".

ii) The Anti-Dumping Duty is already in place on –

- a) *Hot Rolled austenitic stainless steel flat products; whether or not plates, sheets or coils (hot rolled Annealed and pickled or Black) of rectangular shape; of grade either ASTM 304 or 304H or 304L or 304N or 304LN or EN 1.4311, EN 1.4301, EN1.4307 or X5CRNI1810 or X04Cr19Ni9, or equivalents thereof in any other standards such as UNS, DIN, JIS, BIS, EN, etc.; whether or not with number one or Black finish; whether or not of quality prime or non-prime; whether or not of edge condition with mill edge or trim edge; of thickness in the range of 1.2mm to 10.5mm in Coils and 3mm to 10.5mm in Plates and Sheets; of all widths up to 1650 mm (width tolerance of +20mm for mill edge and +5mm for trim edge). Custom Notification NO. 28/2015-Customs dated 05.06.2015.*
- b) *Cold Rolled Flat Products of Stainless Steel of width of 600 mm up to 1250 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4 mm (width tolerance of +30 mm for Mill Edged and +4 mm for Trimmed Edged), excluding the following:*
  - (i) *the subject goods of width beyond 1250 mm (plus tolerances); (ii) Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;*
  - (ii) *Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan) Custom Notification NO. 16/2015-Customs dated 11.12.2015.*

570. 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.

571. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

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