

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

**F. No. 7/16/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi**

Dated: 29.09.2020

NOTIFICATION

FINAL FINDINGS

Case No- (SSR) 07/2019

Subject: Final Findings in Sunset Review investigation concerning anti-dumping duty on imports of 'Hot Rolled Flat Products of Stainless Steel – 304 grade' originating in or exported from China PR, Malaysia and Korea RP.

Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as 'the Rules' or 'AD Rules') thereof;

A. BACKGROUND OF THE CASE

2. The Designated Authority (hereinafter also referred as the 'Authority') initiated an anti-dumping investigation on imports of "Hot Rolled Flat Products of Stainless Steel – 304 grade" (hereinafter also referred as the 'subject goods' or 'product under consideration' or 'PUC'), originating in or exported from China PR, Malaysia and Korea RP (hereinafter also referred as the 'subject countries') *vide* notification No. 14/30/2013- DGAD dated 11th March 2014. The Authority thereafter notified the Final Findings No. 14/30/2013-DGAD dated 9th March 2015, recommending for imposition of anti-dumping duty on imports of the subject goods from China PR, Malaysia and Korea RP. Definitive anti-dumping duty was imposed by Ministry of Finance *vide* Customs Notification No. 28/2015- Customs (ADD) dated 5th June 2015 for five years.
3. In terms of Section 9A (5) of the Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to

continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. Rule 23(1B) of the Rules provides as follows:

"...any definitive anti-dumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."

5. M/s. Jindal Stainless (Hisar) Limited and M/s. Jindal Stainless Limited (hereinafter referred to as 'Applicants' or 'Domestic Industry' or 'DI') filed a duly substantiated application on behalf of the domestic industry before the Authority, in accordance with the Act and the Rules alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from subject countries and consequent injury to the domestic industry and have requested for review and continuation of the present anti-dumping duties, applicable on the imports of the subject goods, originating in or exported from China PR, Malaysia and Korea RP, for another five years.

6. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the DI and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the Sunset Review Investigation vide Notification No.7/16/2019-DGTR dated 3rd October 2019, published in the Gazette of India, Extraordinary, to review the need for continued imposition of anti-dumping duty in respect of the subject goods, originating in or exported from subject countries and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

7. The scope of the present review covers all aspects of the previous investigation concerning imports of the subject goods, originating in or exported from the subject countries.

B. PROCEDURE

8. The scope of the present review covers all aspects of the Final Finding Notification No. 14/30/2013-DGAD dated 9th March 2015 which had recommended imposition of

ADD on imports of subject goods originating in or exported from China PR, Malaysia and Korea RP.

9. The procedure, as described herein below, has been followed:
- a. The Authority *vide* Notification No. 7/16/2019-DGTR dated 3rd October 2019 published a notice in the Gazette of India, Extraordinary, initiating sunset review anti-dumping investigation against imports of the subject goods from the subject countries.
 - b. The Embassy of the Subject Countries in New Delhi were informed about the initiation of the Sunset Review investigation in accordance with Rule 6(2) along with the copy of the initiation notification and non-confidential version of the application.
 - c. The Authority forwarded copies of the notification to the known producers / exporters in the subject countries (whose names and addresses were made available to the Authority by the Applicants) and provided an opportunity to make their views known in writing within forty days from the date of the letter in accordance with Rule 6(2) and Rule 6(4) of the Rules.
 - d. The Authority forwarded a copy of the public notice to all the known importers and users association of the subject goods in India and advised them to make their views in writing within forty days from the date of issue of the letter.
 - e. The Authority sent questionnaires to elicit relevant information to the following known exporters of subject goods in the subject countries in accordance with Rule 6(4) of the Rules:
 - (i) Taiyuan Iron and Steel (Group) Co. Ltd., China PR
 - (ii) Jiuquan Iron and Steel (Group) Co. Ltd., China PR
 - (iii) Lianzhong Stainless Steel Corporation, China PR
 - (iv) Baosteel Tower, China PR
 - (v) POSCO, Korea RP
 - (vi) Bahru Stainless Sdn. Bhd., Malaysia
 - f. No producer/exporter from subject countries has participated and filed the questionnaire response before the Authority in the present sunset review investigation except M/s. Bahru Stainless Sdn. Bhd., Malaysia who has filed injury submissions only.
 - g. Questionnaires were sent to the following known importers/users/Associations of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules:

- (i) Ratnamani Metals and Tubes Ltd.
- (ii) Sangeeta Metal (INDIA), Mumbai
- (iii) Bhandari Foils & Tubes Ltd.
- (iv) Ramani Steel House
- (v) Prakash Steelage Ltd.
- (vi) Nishant Infinn Pvt. Ltd.
- (vii) Rajendra Mechanical Industries Ltd.
- (viii) A.C Steel Sgop, Mumbai
- (ix) Phoenix Foils Pvt. Ltd.
- (x) Quality Foils (India) Pvt. Ltd.
- (xi) Domet Trading Pvt. Ltd.
- (xii) Remi Edelstahl Tubulars Ltd.
- (xiii) Bharat Heavy Electricals Ltd.
- (xiv) VRV Asia Pacific Pvt. Ltd.
- (xv) Hisar Metal Industries Ltd.
- (xvi) JNB Steel Industries Pvt. Ltd.
- (xvii) Real Strips Ltd.
- (xviii) Unisteel Corporation
- (xix) Shree Venkatesh Wires & Steels Pvt. Ltd.
- (xx) Inox India Ltd.
- (xxi) Apex Tubes Pvt. Ltd.
- (xxii) Steel Space Pvt. Ltd.
- (xxiii) Process Plant and Machinery Association of India
- (xxiv) Stainless Steel Exporters Welfare Association
- (xxv) All India Stainless Steel Industries Association of India
- (xxvi) The Tamil Nadu Stainless Steel Merchants and Manufacturers Association

h. M/s. Suncity Sheets Pvt. Ltd., M/s. Suncity Strips & Tubes Pvt. Ltd., M/s. Ratnamani Metals and Tubes Ltd., M/s. Quality Foils (India) Pvt. Ltd. have filed Importer/User Questionnaire response in the present investigation.

i. 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 all interested parties. Interested parties, who requested inspection and copies of the documents from the public file, were provided with the same. A list of all interested parties was uploaded on DGTR's website along with the request therein to email the NCV of their written submissions to all other interested parties since the public file was not accessible due to ongoing global pandemic.

j. The Authority accepted the confidentiality claims, wherever warranted after due examination and such information has been considered 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 confidential information, which was made available through public file.

- k. Further information was sought from the Applicants and other interested parties to the extent deemed necessary. Verification of the data provided by domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- l. Investigation was carried on for the period April 2018 – March 2019 (12 months) (hereinafter referred to as the ‘period of investigation’ or ‘POI’) with injury analysis covering the period 2015 – 2016, 2016 – 2017, 2017 – 2018 and the POI.
- m. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide details of imports of subject goods for the past three years, the period of investigation, and the post POI period (April 2019 – September 2019), and the said information obtained from DGCI&S has been adopted for the purpose of the present investigation.
- n. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods.
- o. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 11th September, 2020 which was attended by various parties. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- p. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in these final findings.
- q. Wherever an interested party has refused access to or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority has considered such interested parties as non-cooperative and recorded in these final findings on the basis of the facts available.

- r. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 22nd September, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
- s. ‘***’ in these final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- t. The exchange rate for the POI has been taken by the Authority for the subject investigation as 1 US\$ = Rs.70.82.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

10. The product under consideration in the present investigation is “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 304 or 304H or 304L or 304N or 304LN or EN 1.4311, EN 1.4301, EN 1.4307 or X5CRN11810 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 105mm in Plates & Sheets; of all widths up to 1650mm (width tolerance of + 20mm for mill edge and + 5mm for trim edge)”.
11. The subject goods are classifiable under Chapter 72 of the Custom Tariff Act, 1975 under tariff headings 7219 and 7220 of the Customs Tariff Act, 1975.

C.1 Submissions made by the Domestic Industry

12. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. The product description is the same as was decided by the Authority in the original investigation. Further, no significant developments has taken place over the period. Therefore, Petitioners refer to and rely upon the previous investigation with regard to the scope of product under consideration and like article.
 - b. The Authority has determined in the original investigation that the imported material and the goods produced by the domestic industry are like article. The applicants submit that the subject goods produced by the domestic industry should be treated as like

article to subject goods imported from subject countries within the meaning of the AD Rules.

C.2. Submissions made by other interested parties

13. No submission has been made by other interested parties with regard to product under consideration and like article.

C.3. Examination by the Authority

14. This being a sunset review investigation, the scope of the product under consideration (PUC) remains the same as that in the original investigation. The PUC in the original investigation was defined as under:

“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 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 105mm in Plates & Sheets; of all widths up to 1650mm(width tolerance of + 20mm for mill edge and + 5mm for trim edge)”

The subject goods are classifiable under Chapter sub-heading 7219 and 7220 of the Custom Tariff Act, 1975.

15. Rule 2 (d) of the Rules relating to the definition of “like article” specifies that "like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.
16. On the basis of information on record, the Authority holds that there is no known difference in product under consideration exported from subject countries and the product produced by the Indian domestic industry. Product under consideration produced by the Indian domestic industry is comparable to the imported subject product in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

17. Thus, the Authority holds that product produced by the domestic industry is like article to the subject product under consideration imported from the subject countries in accordance with the Rules.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1. Submissions made by the Domestic industry

18. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
- a. The application has been filed by Jindal Stainless Limited and Jindal Stainless (Hisar) Limited. The production by the applicants constitutes a major proportion of total Indian production. Further, the applicants have not imported the subject goods nor are they related to any producer in the subject countries or to any importer. Thus, notwithstanding the fact that standing of the applicant is not necessary in sunset review, the Applicants submit that they constitute eligible domestic industry within the meaning of Rule 2(b) and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

D.2. Submissions made by other interested parties

19. No submission has been made by other interested parties with regard to scope of domestic industry & standing.

D.3. Examination by the Authority

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

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

21. The present sunset review application has been filed by M/s. Jindal Stainless Limited and M/s. Jindal Stainless (Hisar) Limited. There are two more producers of the product under consideration in the country, namely, Shah Alloys and Steel Authority of India Ltd.
22. As per evidence available on record, Authority notes that Applicants command a major proportion in the total production of the subject goods in India. Applicants are neither related to an importer in India nor any exporter from the subject countries.

Authority further notes that Applicants have not imported the subject goods during the period of investigation.

23. In view of the above, the Authority considers the Applicants as eligible domestic industry within the meaning of Rule 2(b) and Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions made by the Domestic Industry

24. The following submissions have been made by the domestic industry with regard to confidentiality issues:
 - a. The responses filed by the interested parties are grossly deficient. None of the users have filed the non-confidential version of the response in the prescribed manner and all the responses filed are in complete disregard to the trade notice 10/2018 dated 7th September, 2020. As per the trade notice the users are required to disclose information in certain manner.
 - b. Information provided by the users in their non-confidential version of the response is of no use to the domestic industry. Parties have not even provided adequate reasons for not disclosing such information in the response. Not only the information required to be disclosed as per the trade notice, but information available in public domain also have been claimed as confidential by the parties.
 - c. The Authority in the past in antidumping investigation concerning imports of Nitrocellulose from Brazil, Indonesia and Thailand had directed the exporters to disclose all the information which ought to have been provided in the NCV response. The Authority in the present case should direct the parties to file a response compliant with the trade notice 10/2018.

E.2. Submissions made by other interested parties

25. The following submissions have been made by other interested parties with regard to confidentiality issues:
 - a. Annexure I of Trade Notice No. 10/2018 dated 7th September 2018 provides guidelines for disclosure of information in confidential and non-confidential version. The domestic industry in the present investigation comprises of two producers namely M/s. Jindal Stainless Limited and M/s. Jindal Stainless (Hisar) Limited. Annexure I of the Trade Notice provides a certain standard of disclosure with regard to certain specific parameters of the domestic industry.

- b. The standard provided for the disclosure of the 'Non-Injurious Price' in Trade Notice No. 10/2018 is 'Aggregated actual data must be provided in actual figure range +/- 10%'. The same has not been complied with by the domestic industry.
- c. In contravention to the Trade Notice No. 10/2018, the domestic industry has kept several key economic parameters as confidential in the petition. Without such information, interested parties are not able to fully undertake a meaningful examination of injury parameters of the applicant industry.
- d. In essence, the applicant industry has neither provided a good cause for the purpose of claiming confidentiality on certain parameters, nor made available the proper non-confidential version of the said parameters for a reasonable understanding of the substance of the petition and to appreciate the content of the petition, as required under Rule 7 of the Anti-Dumping Rules and Article 6.5 of the WTO Anti-Dumping Agreement.
- e. The claim of confidentiality by applicant industry is excessive with respect to the following factors:
- Information relating the individual production and sales of both the petitioners (in trends).
 - The information in Format L.
 - Sales realization in Format H.
- f. It is submitted that the Designated Authority must evaluate the claims for confidentiality of information and not designate information as confidential without a proper examination. The decision of the Hon'ble Supreme Court of India in *Sterlite Industries (India) Ltd. v. Designated Authority* 2003 (158) E.L.T. 673 (S.C.) is relevant in this regard. On the issue of treatment of confidential information, the Hon'ble Supreme Court held that confidentiality is not to be granted automatically and should be based on thorough scrutiny.

E.3. Examination by the Authority

26. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

"Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule(2) of rule 12, sub-rule(4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such

by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

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

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

27. Non-confidential version of the information provided by various interested parties were made available to all interested parties through the public file as per Rule 6(7) and Trade Notice No. 10/2018 dated September 7, 2018.
28. With regard to the confidentiality of information, the Authority notes that the information provided on confidential basis was examined with regard to sufficiency of the confidentiality claims in accordance with Rule 7 of the Rules. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential.

F. Miscellaneous Issues

F.1. Submissions made by the Domestic Industry

29. No submission has been made by the domestic industry with regard to miscellaneous issues.

F.2. Submissions made by the other Interested Parties

30. The following submissions have been made by other interested parties with regard to miscellaneous issues:
 - a. The Authority has conducted many trade remedy investigations on different types of ‘Flat Rolled Products of Stainless Steel’ in the past 17 years.
 - b. Jindal Stainless Limited has been the sole or one of the constituents of domestic industry in all of the trade remedy investigations. Thus, it is clear from a bare perusal of the long list of trade remedy measures that the domestic industry has enjoyed sufficient protection in the form of trade remedy measures on the import of different types of ‘Flat Rolled Products of Stainless Steel’, including Grade

304, for a very long time. There is no requirement for further protection to the domestic industry on the imports of 'Flat Rolled Products of Stainless Steel-304 Grade' specifically.

- c. Material injury caused to the domestic industry due to imports of different types of 'Flat Rolled Products of Stainless Steel' has already been remedied during 17 years of trade remedial measures. Moreover, analysis of information provided in the petition makes it clear that the domestic industry is not suffering from any 'continued' material injury. Absence of injury to the domestic industry is also evidenced by the fact that no sunset review was initiated by the Authority or no application was filed by the domestic industry requesting for initiation of sunset review when the anti-dumping duty on import of 'Hot Rolled Flat Products of Stainless Steel of ASTM grade 304' from the EU, Korea, South Africa, Chinese Taipei, USA expired on 24th November 2016. In August 2019, the Designated Authority has rejected the request for initiation of safeguard duty investigation on 'Steel products'.
- d. Section 9A (5) of the Customs Tariff Act, 1975 states that any anti-dumping duty imposed shall 'cease to have effect on the expiry of five years from the date of such imposition'. An exception to the rule has been carved out in the proviso to section 9A(5) allowing the Central Government to extend the duties beyond the five year period, if it is of the opinion that the 'cessation of such duty is likely to lead to continuation or recurrence of dumping and injury'.
- e. It is clear that the legislative intent was to limit the application of duty to a period of five years. The extension of such duty is only an exception and should be exercised with caution. For extension of duty, domestic industry should be put to strict test to satisfy the Authority that there is a likelihood of continuation/recurrence of dumping and injury in the event of revocation of the duties.

F.3. Examination by the Authority

31. As regards the contention that domestic industry enjoyed trade remedial protection for last 17 years, it is noted that trade remedy measure on the subject goods from the subject countries was imposed since 2015 only. The Authority in the present review investigation is examining whether or not the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

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

G.1 Normal Value

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

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

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

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

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

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

G.2 Submissions made by the Domestic industry

33. The following are the submissions made by the domestic industry in respect of normal value:

- a. China PR should be treated as non-market economy and normal value should be determined in terms of para 7 of Annexure I to the Rules. The applicants have determined normal value on the basis of the price actually payable in India, adjusted to include a reasonable profit margin which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits.
- b. Prices prevailing as per the MEPS Stainless Steel Review publication which reports domestic steel pricing data for flat and long product has been considered

for calculating the normal value for Korea. These prices have been considered as the price of the product type most commonly sold.

- c. No information is available with regard to normal value in Malaysia. The normal value has been determined on the basis of estimates of cost of production in Malaysia, duly adjusted to include selling, general & administrative costs of the domestic industry by adding reasonable profits.
- d. For calculation of export price, petitioners have relied upon transaction wise import data procured from DGCI&S and adjustment have been made for, ocean freight, marine insurance, commission, inland freight expenses, port expenses, bank charges and non-refundable VAT (only for China).
- e. The dumping margin for imports from the subject countries continues to be positive. Thus, even though the volume of imports has declined, the same are entering the market at dumped prices.

G.3 Submissions made by other interested parties

34. The following submissions have been made by other interested parties with regards to determination of dumping margin:
 - a. Bahru has not filed the exporter's questionnaire response since Bahru had zero exports of the subject goods to India during the POI. In any case, the Designated Authority, during the original investigation pertaining to the subject goods, had held that manufacture of Stainless Steel 304 Grade by the process followed by Bahru does not qualify it to be a "producer from Malaysia" of the subject goods and individual treatment cannot be granted to Bahru for determination of their dumping margin.

G.4 Examination by the Authority

35. The Authority sent questionnaires to the known exporters from the subject countries, advising them to provide information in the form and manner prescribed. However, none of the producers/exporters from subject countries co-operated in this investigation by filing the prescribed questionnaire response.

Market Economy status for China PR

36. Article 15 of China's Accession Protocol provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

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

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

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

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

37. It is noted that while, the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO Anti-Dumping Agreement read with obligation under 15 (a) (i) of the Accession Protocol require criterion stipulated in para 8 of the Annexure I of the India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status. It is noted that no producer/exporter from China PR has participated in the present sunset review investigation. Accordingly, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules. The normal value and export price for all the producers/ exporters from the China PR have been determined as below.

G. 4.1 Determination of Normal Value from China PR

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

method on “any other reasonable basis”.

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

G.4.2 Determination of Export Price from China PR

40. In the absence of co-operation by any producer from China PR, the Authority has determined the net export price based on transaction-wise DGCI&S import data after making appropriate adjustments on account of ocean freight, insurance, commission, non-refundable VAT, port expenses and inland freight charges to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from China PR has been calculated and is shown in the dumping margin table below.

G.4.3 Determination of Normal Value from Korea RP

41. None of the producers/exporters from Korea RP have participated in the present review investigation. Accordingly, the normal value has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

G.4.4 Determination of Export Price from Korea RP

42. In the absence of co-operation by any producer from Korea RP, the Authority has determined the net export price based on transaction-wise DGCI&S import data after making appropriate adjustments on account of ocean freight, insurance, commission, port expenses and inland freight charges to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from Korea RP has been calculated and is shown in the dumping margin table below.

G.4.5 Determination of Normal Value from Malaysia

43. None of the producers/exporters from Malaysia has filed the questionnaire response in the form and manner prescribed. Bahru Stainless Sdn. Bhd., Malaysia has filed injury submissions only. Accordingly, the normal value has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

G.4.6 Determination of Export Price from Malaysia

44. In the absence of co-operation by any producer from Malaysia, the Authority has determined the net export price based on transaction-wise DGCI&S import data after

making appropriate adjustments on account of ocean freight, insurance, commission, port expenses and inland freight charges to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from Malaysia has been calculated and is shown in the dumping margin table below.

G.5 Dumping Margin

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

Dumping Margin Table

S. No.	Country	Producer	Normal Value (US\$/MT)	Export price (US\$/MT)	Dumping Margin (US\$/MT)	Dumping Margin %	DM Range %
1.	China PR	Any	***	***	***	***	20-30
2.	Korea RP	Any	***	***	***	***	10-20
3.	Malaysia	Any	***	***	***	***	0-10

H. ASSESSMENT OF INJURY, CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

46. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
47. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

48. The Authority notes that the application for imposition of antidumping duty has been filed by M/s. Jindal Stainless (Hisar) Limited and M/s. Jindal Stainless Limited. In terms of Rule 2(b) of the Rules, the Applicants have been treated as the domestic industry for the purpose of this investigation. Therefore, the cost and injury information of the Applicants, constituting the domestic industry as defined in Rule 2(b), have been examined.

H.1 Submissions made by the Domestic Industry

49. The following submissions have been made by the domestic industry with regard to injury and causal link:
- a. Imports from subject countries have declined. However, these imports continue to be made at dumped prices. Imports from other countries have increased significantly at dumped and subsidised prices. Subject imports are undercutting the prices of the domestic industry and are in fact even below the cost of sales of the domestic industry. Imports are thus likely to have significant suppressing and depressing effect on the domestic prices in the event of cessation of ADD. Production, sales and capacity utilisation of the domestic industry have increased over the injury period. However, performance of the domestic industry in terms of profits, cash profits, profit before interest & tax and return on investments have declined in the POI. The domestic industry thus once again is suffering injury. While this is largely because of shifting of dumping to other countries, it clearly establishes fragile situation of the domestic industry and likelihood of injury in the event of cessation of ADD.
 - b. Imports have remained significant at dumped and injurious prices. Imports have further increased in the POI.
 - c. Imports, without ADD, are undercutting the prices of the domestic industry.
 - d. Performance of the Domestic Industry first improved and then deteriorated in terms of profits, return on investments, cash flow, and has reached negative levels once again in view of dumped and subsidized imports from other sources. Thus, the domestic industry is in a vulnerable position.
 - e. The causal link has already been established in the original investigation. In the present review investigation, the Authority as per Article 11.3 of the WTO Agreement has to only examine whether revocation of anti-dumping duty would lead to continuance or recurrence of dumping and injury. Thus, there is no requirement for the Authority to examine or establish causal link between dumping and injury.

- f. Imports of product under consideration from other countries have increased significantly, and a separate anti-dumping and anti-subsidy investigation is being conducted by the Authority on such imports.
- g. The demand of the product under consideration has not declined. Hence, contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.
- h. The pattern of consumption with regard to the product under consideration has not undergone any change.
- i. There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- j. Technology for production of the product has not undergone any change nor there are any likely changes in coming future. Developments in technology are, therefore, not a factor of injury.
- k. The applicants have made exports of the subject goods to the extent possible. However, information relating to domestic sales only has been taken into consideration for assessment of injury.

H.2 Submissions made by other interested parties

50. The following submissions have been made by other interested parties with regard to injury and causal link:
 - a. As per Rule 11 and Annexure II of the AD Rules, the determination of injury to the domestic industry involves positive evidence and objective examination of the dumped imports and consequent impact of these imports on the domestic producers of such products. However, in the present investigation, the Petitioners have not been able to show that there is any dumping and consequent injury to the domestic industry.
 - b. The Petitioners have not been able to provide any positive evidence to show that there is material injury or likelihood of injury in this case caused due to alleged dumped imports of the subject goods.
 - c. The Authority must determine the following:
 - Significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India.

- Effect of dumped imports on prices of product under consideration in the domestic market and price suppression and depression.
 - Evaluation of decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity.
 - Actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.
- d. It is submitted that the price undercutting is negative for the subject countries as per the Domestic Industry's own admission. As regards price suppression/depression, the Domestic Industry has itself stated in the petition that any price suppression/depression to the Domestic Industry is on account of the imports from other sources.
 - e. There is no examination of injury margin or price underselling in the application. Therefore, it cannot be said that the imports of the subject goods are at injurious prices.
 - f. The landed value of the subject goods from subject countries is above the landed value of the subject goods from other countries and the selling price of the Domestic Industry. Therefore, the exporters from the subject countries are matching the prevailing prices in India which is being set by the Domestic Industry and the exporters from non-subject countries.
 - g. The Domestic Industry submitted that the imports are entering at prices that are having significant suppressing effect on domestic prices. This submission is contrary to the admission of the Domestic Industry in their petition wherein they have admitted that there is no price/suppression depression on account of the imports from subject countries. Further, this submission is also contrary to the facts on record as the selling price of the Domestic Industry is below the landed value of imports from the subject countries which indicates that the Domestic Industry in fact is suppressing the prices of imports from the subject countries.
 - h. The Domestic Industry has submitted that the imports are happening at cheap prices on account of the FTA signed by India with subject countries. It is submitted that the said submission of the Domestic Industry makes it abundantly clear that injury, if any, to the Domestic Industry is on account of factors other than the dumping of subject goods.
 - i. Any injury faced by the Domestic Industry is on account of the factors other than the alleged dumped imports. In fact, the petition of the Domestic Industry itself admits at different junctures that the injury caused to the Domestic Industry is on account of the high volume of imports from non-subject countries at low prices.

- j. While the imports from the subject countries have declined significantly during the entire injury investigation period, imports of the subject goods from non-subject countries increased significantly. Further, the import prices from non-subject countries as well as the selling price of the Domestic Industry are lower as compared to the prices from subject countries.
- k. Imports of subject goods from Malaysia do not get benefit of preferential customs duty at the time of importation into India. If customs duty has been collected on imports of subject goods from Malaysia, the Authority is requested to include 7.5% customs duty while calculating landed value of imports from Malaysia for determination of price undercutting and price underselling.
- l. Imports from Malaysia are less than 3% and cannot be cumulated with the imports from Korea RP and China PR. The Authority must conduct the injury assessment pertaining to alleged dumped imports from Korea RP and China PR separately from the assessment of injury due to alleged dumped imports from Malaysia.
- m. The imports from Malaysia accounted for 0.05%, 0.07%, 0.18% and 0.35% of the total imports into India in the years 2015-16, 2016-17, 2017-18 and 2018-19, respectively.
- n. Overall, imports from subject countries declined in absolute volumes from 26,062 MT in 2015-16 to merely 2,387 MT during the POI, a decline to about a tenth of the original volumes.
- o. Even in relative terms, imports from subject countries declined in relation to total Indian production and total Indian consumption, from 100 indexed points in 2015-16 to merely 7 indexed points and 9 indexed points in the POI, respectively.
- p. It is critical to note that imports from Malaysia have always been low, throughout the POI and injury period. Even in the Original investigation, imports from Malaysia were at a very low level.
- q. It is evident that Malaysia has always been a marginal (almost de minimis) exporter to India in the last 10 years or so. Thus, there can be no claim that imports from Malaysia are causing injury to the domestic industry.
- r. Imports are not undercutting the prices in the POI and the price undercutting is negative.
- s. Domestic industry's assessment of price parameters is quite perfunctory and lacks an in-depth understanding of the price movement in the global and domestic markets, specifically with respect to the prices from the subject countries.

- t. It is submitted that the price undercutting from all three subject countries i.e. China PR, Korea RP and Malaysia is in the range of 0-(10), meaning that prices from subject sources were higher and did not undercut domestic prices. However, in order to twist the parameter in favour of the domestic industry, the domestic industry suggested the exclusion of certain transactions and derived price undercutting based on remaining transactions.
- u. With respect to transactions from Malaysia, the Petitioners have simply excluded all transactions pertaining to Hot-Rolled Flat Products Plate 304. Such an absolute exclusion of a category of products, for the sole reason that the pricing of the products is high shows that the domestic industry is attempting to make out a case for price undercutting where none exists.
- v. It is submitted that in assessing the price undercutting of the domestic prices by the prices of the subject goods from the subject countries, the Authority must compare the import prices after addition of anti-dumping duties. This is because the customers would compare the final prices payable by them while deciding their supplier and therefore, price undercutting should be seen at the level of import prices after addition of anti-dumping duties. This has also been the Authority's approach in several cases where price undercutting was considered after addition of ADD to the import prices, for the purposes of such assessment.
- w. It is submitted that once ADD is added to the landed value from Malaysia, it becomes evident that the price levels of the subject goods from Malaysia are significantly higher than the price levels of comparable subject goods from all other sources, and even comparable /higher than the NIP of the Petitioners
- x. The landed prices from Malaysia have increased over the period of injury and in the POI and are at their highest level during the POI.
- y. The price undercutting from Malaysia (presumably, without ADD) is negative, i.e, the landed price from Malaysia was higher than the NSR of the Domestic Industry.
- z. The landed price from subject countries as a whole has increased over the period of injury and in the POI and are at their highest level during the POI.
- aa. The price undercutting from subject countries as a whole (presumably, without ADD) is negative, i.e., the landed prices from the subject countries as a whole remained higher than the NSR of the Domestic Industry.
- bb. The domestic industry's net selling price has consistently increased over the period of injury and in the POI.

- cc. When there is no price undercutting in the present case, even without inclusion of ADD element in landed prices, then the prices of the subject imports are clearly significantly higher than the prices of the domestic. In such a case, there can be no question of imports from the subject countries exerting price pressure or causing price suppression or depression as is being argued in the present case. Thus, the imports are not entering India at suppressive or depressive prices.
- dd. Price underselling is not a parameter for assessing price effect of subject imports. The Hon'ble Gujarat High Court in Nirma v. Union of India has clarified this position.
- ee. The constructed NIP appears to be excessively inflated in order to derive an injury margin, regardless of the actual situation faced by the Petitioners.
- ff. For the purpose of injury margin / price underselling, the Authority considers the landed price with addition of ADD and compare the price so derived against the constructed NIP of the domestic industry.
- gg. The domestic industry has not increased their installed capacity for production of the subject goods.
- hh. The Petitioners' production of the subject goods has increased from 100 indexed points in 2015-16 to 124 indexed points in POI.
- ii. The Petitioners have improved their capacity utilization throughout the period of injury, from 100 indexed points in 2015-16 to 126 indexed points in POI.
- jj. The Petitioners have increased domestic sales of PUC commensurate to increased production of PUC over the period of injury.
- kk. The Petitioners' domestic sales have increased from 100 indexed points in 2015-16 to 125 indexed points in POI, following parallel with improvement in production of PUC.
- ll. The productivity of the Petitioners has shown improvement, from 100 indexed points per day to 127 indexed points per day over the period of injury. The increase in productivity per day indicates better production which must be seen in context of improved sales and lower inventories.
- mm. The inventory held by the petitioners has significantly declined, from 100 index points to 68 indexed points.
- nn. The inventory as no. of days of production and sales have moved in tandem to decline from 100 indexed points to almost half, 54 indexed points.

- oo. Since non-injurious price is to be computed at ex-factory level, post manufacturing expenses such as stockyard expense, advertisement and publicity, selling expenses, freight and forwarding expenses, provision for doubtful debts/advances, Bad Debts etc. shall not be considered while assessing non-injurious price.
- pp. It must be verified whether Research and Development expenses of Jindal Stainless Ltd. are related to PUC or not.
- qq. There are flaws in the data/information submitted by the domestic industry in its petition. PBIT per unit of domestic sales is negative i.e. (206) indexed points during POI, whereas, total PBIT of domestic sales is positive which is 27 indexed points during the same period. PBIT as % of capital employed is also positive during the same period. It is submitted that how it is possible that when overall profitability of the domestic industry with respect to domestic sales is positive but per unit profitability of domestic sales is negative. It is submitted that there are flaws in the data of the domestic industry and it needs to be checked thoroughly by the Authority.
- rr. The Petitioners have noted a very high volume of imports from non-subject sources, without any express price comparison of such imports against the prices of either the domestic producers or subject imports. However, we note that the very high volumes of imports from non-subject sources – specifically Indonesia and Taiwan- appears to be causing injury to the Petitioners, if any
- ss. The volume of imports from Indonesia and Taiwan is significantly greater than the volume of imports from the subject countries. In fact, imports from Indonesia and Taiwan account for almost 90% of the non-subject imports.
- tt. While the imports from the subject countries show an overall declining trend, the imports from Indonesia and Taiwan have surged in the last two years to occupy a significantly larger share of total imports into India, together accounting for 85% of the imports into India.
- uu. Along with significant volumes of imports from Indonesia and Taiwan- the prices at which such imports are entering the Indian market is also significantly low, and comparatively much lower than prices from Malaysia.
- vv. There is a parallel investigation ongoing, qua the flat products of stainless steel from China PR, Taiwan, Indonesia, USA, Thailand, South Africa, Mexico, UAE, Singapore, Hong Kong, Vietnam and Malaysia. The Authority must assess the injury in that investigation, prior to proceeding in the present investigation to ensure that there is no situation of double remedies or that the subject countries are not unduly penalized for injury caused by non-subject countries.

- ww. The Petitioners' profitability and impact thereon is easily explained when viewed in the context of the imports from Indonesia and Taiwan.
- xx. The surge in imports from Indonesia and Taiwan coincides with the turn-around in the situation of the Domestic Industry- from booming profits to staggering losses in the years 2017-18 and 2018-19 (POI). Prior to this, there were relatively low import volumes from Taiwan and NIL import volumes from Indonesia.
- yy. The volume of imports from the subject countries and their prices on the one hand compared with the Petitioners' cost of sales, selling price and profitability on the other hand depict no trend or correlation. Rather, it projects a confusing picture wherein the Petitioners' prices are being slashed when the subject imports' prices are increasing.
- zz. The surging imports from Indonesia and Taiwan at low prices started entering India in 2017-18, coinciding absolutely with the decline in profitability parameters of the Petitioners. Concurrently, the volume and pricing of the subject goods from the subject countries can also be seen- the volumes are insignificant, and the prices are at comparable levels. With respect to Malaysia, the prices from Malaysia are significantly higher than prices from Indonesia and Taiwan during 2017-18 and POI.

H.3 Examination by the Authority

51. Article 3.1 of the WTO Agreement and Annexure-II of the Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
52. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "... taking into account all relevant facts, including the volume of dumped imports, their

effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

53. As regards the consequent impact of dumped imports on the domestic industry, Para (iv) of Annexure II of the Rules states as under:

"(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments."

54. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between the dumping and injury, if any. The Authority has taken note of the submissions made by domestic industry and other interested parties and has examined the injury to the domestic industry in accordance with the Rules.

55. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the domestic industry and other interested parties.

I. ASSESSMENT OF DEMAND

56. For this purpose, demand or apparent consumption of the product in India is taken as the sum of domestic sales of the Indian producers and imports from all sources. Share of imports from the subject countries in demand/consumption in India is as under:

Particulars	UOM	2015-16	2016-17	2017-18	POI
<u>Imports Volume</u>					

Particulars	UOM	2015-16	2016-17	2017-18	POI
China PR	MT	24,256	7,152	6,558	564
Trend	Indexed	100	29	27	2
Korea RP	MT	1,782	942	1,852	1,633
Trend	Indexed	100	53	104	92
Malaysia	MT	24	21	85	191
Trend	Indexed	100	90	362	811
Total imports from subject countries	MT	26,062	8,115	8,495	2,387
Trend	Indexed	100	31	33	9
Other countries	MT	18,264	21,457	38,287	52,893
Trend	Indexed	100	117	210	290
Total imports	MT	44,326	29,573	46,782	55,280
Trend	Indexed	100	67	106	125
DI domestic sales	MT	***	***	***	***
Trend	Indexed	100	98	106	125
Other Indian producers	MT	***	***	***	***
Trend	Indexed	100	102	104	101
Total demand	MT	152,001	135,234	160,745	187,337
Trend	Indexed	100	89	106	123
Market share					
Share of domestic industry	%	***	***	***	***
Trend	Indexed	100	110	100	101
Share of China PR	%	15.96%	5.28%	4.08%	0.30%
Trend	Indexed	100	33	26	2
Share of Korea RP	%	1.17%	0.70%	1.15%	0.87%
Trend	Indexed	100	59	98	74
Share of imports of Malaysia	%	0.02%	0.02%	0.05%	0.10%
Trend	Indexed	100	101	342	658
Share of imports of subject countries	%	17.15%	6.00%	5.28%	1.27%
Trend	Indexed	100	35	31	7
Share of imports of other countries	%	12%	16%	24%	28%
Trend	Indexed	100	132	198	235
Share of other Indian producers	%	***	***	***	***
Trend	Indexed	100	115	98	82

57. It is noted that:

- a) Imports from China PR have reduced from 24,256 MT in 2015-16 to 564 MT during POI.
- b) Imports from Korea RP have reduced marginally from 1,782 MT in 2015-16 to 1,633 MT during POI.
- c) Imports from Malaysia throughout the POI and injury period have been extremely low as compared to other subject countries.
- d) Overall, imports from subject countries declined in absolute volumes from 26,062 MT in 2015-16 to 2,387 MT during the POI.
- e) Market share of imports from China PR, Korea RP and Malaysia during POI is 0.30%, 0.87% and 0.10% respectively.
- f) Market share of imports from other countries has increased from 12% in 2015-16 to 28% during POI.
- g) Demand has increased in POI as compared to the earlier years.

II. VOLUME EFFECT OF DUMPED IMPORTS

i. Import Volumes and Share of Subject Countries

58. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The Authority has examined the volume of imports of the subject goods from the subject countries and other countries based on the transaction-wise import data provided by DGCI&S. The import volumes of the subject goods and share of the dumped imports during the injury investigation period are as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI
<u>Imports Volume</u>					
China PR	MT	24,256	7,152	6,558	564
Trend	Indexed	100	29	27	2
Korea RP	MT	1,782	942	1,852	1,633
Trend	Indexed	100	53	104	92
Malaysia	MT	24	21	85	191
Trend	Indexed	100	90	362	811
Total imports from subject countries	MT	26,062	8,115	8,495	2,387
Trend	Indexed	100	31	33	9
Imports from other countries	MT	18,264	21,457	38,287	52,893
Trend	Indexed	100	117	210	290
Total imports	MT	44,326	29,573	46,782	55,280

Trend	Indexed	100	67	106	125
Imports from China PR in relation to total imports	%	54.72%	24.18%	14.02%	1.02%
Trend	Indexed	100	44	26	2
Imports from Korea RP in relation to total imports	%	4.02%	3.19%	3.96%	2.95%
Trend	Indexed	100	79	98	73
Imports from Malaysia in relation to total imports	%	0.05%	0.07%	0.18%	0.35%
Trend	Indexed	100	134	343	650
Subject countries import in relation to total imports	%	58.80%	27.44%	18.16%	4.32%
Trend	Indexed	100	47	31	7
Imports from China PR in relation to total Indian Production (HR 304)	%	16.73%	4.30%	3.79%	0.32%
Trend	Indexed	100	26	23	2
Imports from Korea RP in relation to total Indian Production (HR 304)	%	1.23%	0.57%	1.07%	0.92%
Trend	Indexed	100	46	87	75
Imports from Malaysia in relation to total Indian Production (HR 304)	%	0.02%	0.01%	0.05%	0.11%
Trend	Indexed	100	78	303	660
Subject countries import in relation to total Indian Production (HR 304)	%	17.97%	4.88%	4.90%	1.34%
Trend	Indexed	100	27	27	7
Demand	MT	152,001	135,234	160,745	187,337
Trend	Indexed	100	89	106	123
Share of imports from China PR in relation to Indian consumption/demand	%	15.96%	5.29%	4.08%	0.30%
Trend	Indexed	100	33	26	2
Share of imports from Korea RP in relation to	%	1.17%	0.70%	1.15%	0.87%

Indian consumption/demand					
Trend	Indexed	100	59	98	74
Share of imports of Malaysia in relation to Indian consumption/demand	%	0.02%	0.02%	0.05%	0.10%
Trend	Indexed	100	101	342	658
Share of imports of subject countries in relation to Indian consumption/demand	%	17.15%	6.00%	5.28%	1.27%
Trend	Indexed	100	35	31	7

59. It is noted that:

- a) Imports of subject goods from China PR have reduced in relation to production and consumption in India during the injury period and POI. During POI, share of imports from China PR in relation to total imports is 1.02%. Imports from China PR in relation to total Indian production and consumption has significantly declined from 100 indexed points in 2015-16 to 2 indexed points during POI.
- b) Imports of subject goods from Korea RP have reduced in relation to production and consumption in India during the injury period and POI. During POI, share of imports from Korea RP in relation to total imports is 2.95%. Imports from Korea RP in relation to total Indian production has declined from 100 indexed points in 2015-16 to 75 indexed points during POI. Similarly, imports from Korea RP in relation to total consumption has declined from 100 indexed points in 2015-16 to 74 indexed points during POI.
- c) Imports of subject goods from Malaysia have increased in relation to production and consumption in India during the injury period and POI. During POI, share of imports from Malaysia in relation to total imports is 0.35%. Imports from Malaysia in relation to total Indian production has increased from 100 indexed points in 2015-16 to 660 indexed points during POI. However, imports from Malaysia have always been minimal in absolute terms.

III. PRICE EFFECT OF THE DUMPED IMPORTS

60. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price underselling, price suppression and price depression, if any.

i. Price Undercutting

61. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In this regard, a comparison has been made between the landed value of the product from the subject countries and the average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at ex-factory level.

Particulars	UOM	China PR	Korea RP	Malaysia
Import volume	MT	564	1,633	191
Landed value	Rs./MT	158,393	151,664	158,747
Domestic selling price	Rs./MT	***	***	***
Price Undercutting	Rs./MT	(***)	***	(***)
Price Undercutting	%	(***)	***	(***)
Price Undercutting	Range	(10)-0	0-10	(10)-0

62. It is noted that:
- Imports of the subject goods from Korea RP are undercutting the domestic selling price of the like article in India.
 - Imports from China PR and Malaysia are not undercutting the domestic selling prices in the POI.

ii. Price Underselling

63. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries. For this purpose, the NIP determined in terms of Annexure III of the Rules has been compared with the landed price of imports as obtained from the DGCI&S import data. Comparison of the NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	UOM	China PR	Korea RP	Malaysia
Import volume	MT	564	1,633	191
Landed value	Rs./MT	158,393	151,664	158,747
NIP	Rs./MT	***	***	***
Injury margin	Rs./MT	***	***	***
Injury margin	%	***	***	***
Injury margin	Range	0-10	10-20	0-10

64. It is noted that the landed price of imports from the subject countries is below the non-injurious price of the domestic industry. The Authority notes that the domestic industry has suffered price underselling during POI due to dumped imports of the subject goods from the subject countries.

iii. Price Suppression and Depression

65. In order to determine whether the dumped imports are depressing the domestic prices or whether the effect of such imports is to suppress prices to a significant degree and prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices and landed value over the injury period. The position is shown as per the table below:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Cost to make and sell	Rs./MT	***	***	***	***
Trend	Indexed	100	98	112	123
Domestic Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	102	110	118
Landed Value	Rs./MT	1,41,610	1,27,131	1,41,033	153,820
Trend	Indexed	100	90	100	109

66. Authority notes that cost of production for the domestic industry has increased from 100 indexed points in 2015-16 to 123 indexed points during POI, whereas, domestic selling price has increased from 100 indexed points in 2015-16 to 118 indexed points during POI.

H.4 Impact on Economic Parameters of the Domestic Industry

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

a) Capacity, Production, Capacity Utilization and Sales

68. The performance of the domestic industry with regard to production, domestic sales, capacity & capacity utilization is as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Capacity	MT	***	***	***	***
Trend	Indexed	100	100	100	100
Production (Total)	MT	***	***	***	***
Trend	Indexed	100	112	128	126
Production (PUC)	MT	***	***	***	***
Trend	Indexed	100	115	121	124
Production (NPUC)	MT	***	***	***	***
Trend	Indexed	100	112	129	127
Capacity utilization	%	***	***	***	***
Trend	Indexed	100	112	128	126
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	98	106	125

69. From the above table, the following can be seen:

- Capacity throughout the injury investigation period and the period of investigation has remained constant.
- Production, capacity utilisation and domestic sales have increased over the injury period in view of increase in demand.

b) Profits, Return on Capital Employed and Cash Profit

70. The cost of sales, selling price, profit/ loss, cash profits and return on investment of the domestic industry has been analysed as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Profit/(Loss)	Rs./MT	***	***	(***)	(***)
Trend	Indexed	100	308	-29	-206
Profit/(Loss)	Rs. Lacs	***	***	(***)	(***)
Trend	Indexed	100	301	-30	-256
PBIT	Rs. Lacs	***	***	***	***
Trend	Indexed	100	147	60	27
Cash profit	Rs. Lacs	***	***	***	(***)
Trend	Indexed	100	172	37	-53
ROI	%	***	***	***	***
Trend	Indexed	100	173	88	36

71. It is seen that profits, return on investment and cash profits first increased during 2016-17 after levy of anti-dumping duty, but thereafter declined in 2017-18 and POI.

c) Market Share in Demand

72. The effect of the dumped imports on the market share in demand of the domestic industry has been examined as below:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Share of domestic industry	%	***	***	***	***
Trend	Indexed	100	110	100	101
Share of China PR	%	15.96%	5.28%	4.08%	0.30%
Trend	Indexed	100	33	26	2
Share of Korea RP	%	1.17%	0.70%	1.15%	0.87%
Trend	Indexed	100	59	98	74
Share of imports of Malaysia	%	0.02%	0.02%	0.05%	0.10%
Trend	Indexed	100	101	342	658
Share of imports of subject countries	%	17.15%	6.00%	5.28%	1.27%
Trend	Indexed	100	35	31	7
Imports from other countries	%	12%	16%	24%	28%
Trend	Indexed	100	132	198	235

73. The Authority notes that the market share of the domestic industry increased significantly during the year 2016-17 but has declined thereafter during 2017-18 and marginally improved in POI. However, share of imports from non-subject countries have increased significantly from 100 indexed points in 2015-16 to 235 indexed points during POI.

d) Employment, Wages and Productivity

74. The position with regard to employment, wages and productivity is as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Employee	Nos	***	***	***	***
Trend	Indexed	100	104	97	98
Wages	Rs./MT	***	***	***	***
Trend	Indexed	100	94	117	97
Productivity/Employee	MT/Employee	***	***	***	***
Trend	Indexed	100	111	124	127
Productivity per day	MT/Day	***	***	***	***
Trend	Indexed	100	112	128	126

75. The Authority notes that employment and wages of the domestic industry has slightly declined in POI, whereas, productivity per employee has increased from 100 indexed points in 2015-16 to 127 indexed points during the POI.

e) Inventory

76. The data relating to inventory of the subject goods is shown in the following table:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Opening stock	MT	***	***	***	***
Trend	Indexed	100	139	155	57
Closing stock	MT	***	***	***	***
Trend	Indexed	100	112	41	76
Average stock	MT	***	***	***	***
Trend	Indexed	100	123	89	68

77. The Authority notes that level of inventories with the domestic industry has increased during 2016-17 and then decreased during 2017-18 and POI.

f) Magnitude of Dumping

78. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing or likely to cause injury to the domestic industry. It is noted that imports from the subject countries are entering into India at dumped prices and the margin of dumping are positive and above *de minimis* limits.

g) Ability to raise capital investment

79. The Authority notes that the profits of the domestic industry have declined as the volume of imports from other countries have increased. The domestic industry has earned a low return on its capital employed.

h) Growth

80. The data relating to growth of the domestic industry is shown in the following table:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Production (HR 304)	%		15%	4%	3%
Domestic sales	%		-2%	8%	18%
Domestic profit-Per MT	%		208%	-109%	-617%
Domestic profit-Per Lacs	%		201%	-110%	-742%
Cash profit	%		72%	-78%	-243%
PBIT	%		47%	-59%	-55%
ROI	%		7%	-9%	-5%

81. The Authority notes that volume parameters of the domestic industry like production and domestic sales have improved. However, price parameters of the domestic industry like profitability, return on investment have deteriorated during POI.

i) Factors Affecting Domestic Prices

82. The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market shows that the landed value of imported material from china PR and Malaysia are above the selling price of the domestic industry and landed value of imports from Korea RP is below the selling price. The landed value from the subject countries is below the non-injurious price of the domestic industry causing price underselling in the Indian market.

Other Known Factors & Causal Link

83. The Authority has noted other factors listed under the Rules, which could have contributed to injury to the domestic industry for examination of causal link between dumping and material injury to the domestic industry.

a) Volume and price of imports from third countries

Particulars	UOM	2015-16	2016-17	2017-18	POI
<u>Imports Volume</u>					
China PR	MT	24,256	7,152	6,558	564
Korea RP	MT	1,782	942	1,852	1,633
Malaysia	MT	24	21	85	191
Subject Countries	MT	26,062	8,115	8,495	2,387
Other Countries	MT	18,264	21,457	38,287	52,893
Total	MT	44,326	29,573	46,782	55,280
<u>Imports Value</u>					
China PR	Rs./MT	130,354	115,942	126,838	147,342
Korea RP	Rs./MT	157,940	144,171	153,817	151,057
Malaysia	Rs./MT	128,748	122,889	150,337	158,747
Subject Countries	Rs./MT	132,238	119,238	132,955	150,795
Other Countries	Rs./MT	124,980	115,729	135,673	147,965

84. The Authority notes that volume of imports of subject goods has reduced from subject countries during the injury investigation period, which may be due to anti-dumping measures in force. The volume of imports coming into India from other countries (particularly from Taiwan and Indonesia) has witnessed increased.

b) Export Performance

85. The Authority notes that Applicants have made exports of the subject goods, however, the injury information examined hereinabove relates only to the performance of the domestic industry in terms of its domestic market. Thus, injury suffered cannot be attributed to the export performance of the domestic industry.

b) Technology

86. The Authority notes that the technology for producing the PUC has not undergone any significant development. Possible development in technology is not a factor to cause injury to the domestic industry.

c) Trade restrictive practices of and competition between the foreign and domestic producers

87. The Authority notes that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

d) Changes in pattern of consumption

88. The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.

e) Performance of the domestic industry with respect to other products

89. Performance of other products being produced and sold by the Applicants is not a possible cause of injury to the domestic industry as the information on performance furnished by the Applicants relating to product under consideration only.

I. MAGNITUDE OF INJURY AND INJURY MARGIN

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

Injury Margin Table

S.No.	Country	Producer	NIP- US\$/ MT	Landed Value US\$/ MT	Injury Margin US\$/ MT	Injury Margin %	Injury Margin Range- %
1.	China PR	Any	***	2237	***	***	0-10
2.	Korea RP	Any	***	2142	***	***	10-20
3.	Malaysia	Any	***	2242	***	***	0-10

I.1 Conclusions on Injury:

91. Considering various parameters relating to material injury, the Authority notes that:
- a. There has been a decrease in the volume of dumped imports from subject countries during period of investigation.
 - b. Imports from other countries have increased significantly.
 - c. Dumping margin from the subject countries is positive.
 - d. Imports continued to be made at dumped prices despite duties being in force.
 - d. Subject imports are causing price underselling effect on the prices of the domestic industry.
 - e. Performance of the Domestic Industry in terms of profits, return on investments, cash flow has deteriorated in 2017-18 and the POI.

J. CONCLUSION ON LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

J.1 Submissions made by the domestic industry

92. The following submissions have been made by domestic industry with regard to likelihood of continuation or recurrence of dumping and injury:
- a. There is a clear likelihood of the continued dumping being further intensified by exporters from China PR leading to a situation of further intensified injury to the domestic industry, if the existing duty is withdrawn.

- b. Though the volume of subject imports has declined post imposition of anti-dumping duty but the prices at which imports are coming are dumped and injurious prices. Thus, cessation of duties is likely to lead to intensified dumping and consequent injury to the domestic industry. The dumping margin is positive and the domestic industry is currently suffering injury.
- c. The imports of the subject goods declined over the injury period, however, post POI imports have shown increase with further decline in the import price.

Particulars	UOM	2015-16	2016-17	2017-18	POI	Post POI (H1 Annualised)
Imports volume	MT	26,062	8,115	8,495	2,387	10,384
Imports Price	Rs/MT	132,235	119,236	132,961	150,817	139,503

It may be seen that imports have increased by 31% in the post POI period since the POI and import prices have declined by 9% for the same period. Such increase in imports, coupled with decline in import prices goes on to establish that in the event of cessation of the present anti-dumping duty, the imports will further increase significantly causing further injury to the domestic industry.

- d. The global market scenario for the product under consideration witnessed significant change in 2010 when suddenly the supply of the product under consideration far exceeded the demand. The demand supply gap has since then increased globally. This shift has been triggered by China which has become a net exporter from being a net importer by establishing mammoth capacities far exceeding the demand. China is the largest exporter and producer of subject goods. Further, China, with its belt and road initiatives and going out policies, is expanding its reach through other countries. China and Korea, both have surplus capacities. Freely disposable capacities have been determined by deducting apparent consumption from the existing capacities of Slab in these countries as per the information published in CRU International "Stainless Steel Flat Products Market Outlook February 2020 Statistical Review".
- e. It is relevant to note that the basic production process involved in the production of the product under consideration involves melting the inputs such as scrap/ore and ferro-alloys. The output of steel making furnace is a slab. Slab is a semi-finished steel product with a rectangular cross section and is used as a starting material in the production process of stainless steel hot-rolled flat products, i.e. hot-rolled sheets and strips. The hot rolling process begins at the reheat furnace where the slabs are heated to 1100- 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 cold rolling mills by rolling the HR steel. Cold rolled products cannot be made directly from scrap or slab.

- f. In view of significant surplus capacities available with producers in subject countries, it is likely that in the event of cessation of present duty imports will increase manifold.
- g. The producers in the subject countries are massively export oriented units. Export of HR Coil and HR Plate from the subject countries is shown in the table below:

Period	China PR	Malaysia	Korea RP
2014	16,78,561	21,679	7,66,934
2015	15,11,377	20,611	7,63,471
2016	18,31,883	30,633	7,80,221
2017	18,64,440	35,212	7,61,271
2018	16,25,769	38,177	8,30,894
2019	12,38,362	48,885	8,33,309
2020	12,22,010	38,436	7,51,932

Unit: KT

- h. It may be seen that Malaysia has been exporting HR products (coils and plates). The major producer in Malaysia, Acerinox and Bahru Stainless, have related parties in other countries who export goods to various countries. The volume of exports from the subject countries is substantial.
- i. The level of trade distortion in stainless steel globally can be gauged from the number of trade remedial measures imposed or ongoing. A number of countries have imposed trade defence measures on China, Korea and Malaysia (the subject countries). Various measures imposed on the subject countries restrict the market available to them. India being a favourable market, the producers are likely to intensify exports at dumped prices in the event of cessation of anti-dumping duties. Thus, surplus capacities coupled with the fact of restricted market for the producers with excess capacity indicates that the exports to India will increase as India is an attractive destination with significant demand.
- j. The product has a long history of continued and renewed dumping in the Country. Imposition of antidumping duties have led to decline in imports from subject countries, however imports have intensified significantly from other countries at significantly low price. Globally, producers are faced with significant surpluses and have resorted to dumping the product. The producers are waiting for an opportunity to divert exports to price attractive destinations. As stated earlier, the investigation initiated on stainless steel flat products

excludes the present subject goods. Thus, in the event of duties getting imposed on stainless steel flat products and at the same time withdrawal of the present duties from the subject goods will imply that intensified dumping shifting back to the subject countries.

- k. India is the second largest producer & consumer of stainless steel. Further, India was also the only market where stainless-steel consumption was growing at a CAGR of 9-10% per annum. The World Steel Association (worldsteel) in its Short Range Outlook (SRO), stated that demand for stainless steel is expected to decline in the coming future, all over the world. Demand of steel is also expected to come down in China and Korea. With the current global pandemic, the consumption of stainless steel and subject goods have declined not just in India but globally. This is making the Indian market lucrative for exporters struggling with excess capacities.
- l. Decline in imports post imposition of duty and positive dumping margin in such imports implies likelihood of dumping in the event of withdrawal of duty and in itself justifies extension of anti-dumping duty. The US policy on conducting sunset review investigations has been referred in this regard. Consistent approach followed by investigating authorities around the world is that in case of decline in imports or low imports, there is a need to investigate whether there is likelihood of recurrence of dumping and injury, in the event of cessation of duties. This proposition is supported by the findings and decisions of the investigating authorities in other jurisdictions including India in the past.
- m. Landed value of imports are at a price much lower than the selling price and cost of sales of the Domestic Industry. Imports are entering at prices that are having a significant suppressing effect on domestic prices and would likely increase demand for further imports. It is likely that the producers in subject countries shall further aggressively target and take over the entire Indian demand in a nearly foreseeable future.

J.2 Submissions made by other interested parties

- 93. The following submissions have been made by other interested parties with regard to likelihood of continuation or recurrence of dumping and injury:
 - a. The domestic industry has relied on the capacities in Taiwan for computation of freely disposable capacities in the subject countries. The said approach adopted by the Domestic Industry is not permissible in law and is contrary to the other investigation being carried out by the Authority in past, as well as the ongoing AD investigation filed by the Domestic Industry itself against imports of flat products of stainless steel (F. No. 6/12/2019-DGTR) wherein China and Taiwan have been taken as separate subject countries.

- b. Para vii(b) of Annexure II requires a further analysis of availability of other export markets to absorb any additional exports. However, there is no such examination in the application of the Domestic Industry. It is submitted that the Authority has time and again stated that merely presence of freely disposable capacities in the subject countries is not sufficient but the Domestic Industry is required to establish that the said freely disposable capacity shall be diverted into India in the event the duties are revoked and there is no other exports market that may absorb any additional exports. Therefore, the Domestic Industry fails to satisfy this condition as well
- c. The Domestic Industry has relied upon the data of steel as a whole to indicate freely disposable capacities in the subject countries. It is submitted that such a broad data of steel in general cannot be accepted for reaching any conclusion with respect to the Product under Consideration.
- d. However, the whole analysis of the Domestic Industry concerning the likelihood analysis pertains to the data of steel in general and not the Product under Consideration. The respondents submit that the said data of steel in general cannot be relied upon to come to any conclusion with respect to the specific Product under Consideration in the present case.
- e. The Domestic Industry has provided the inventories of steel in general in Korea RP. While there is no analysis at all with respect to inventories in other two subject countries i.e., China PR and Malaysia, the information relating to Korea RP also cannot be accepted.
- f. The Authority would appreciate that unlike India, the anti-dumping duties in USA are prospective in nature which means that an exporter whose dumping margin is positive and on whose goods anti-dumping duties have been imposed can still claim refund of duties in next annual review of the case if the dumping margin during the period of such review was negative or less than the dumping margin originally determined for the said exporter. On the contrary, the anti-dumping duty investigation in India are retrospective in nature. Therefore, practice in USA cannot be relied upon for reaching to any conclusion with respect to the likelihood of dumping or injury as India follows distinctly different procedure for determination and collection of anti-dumping duties.
- g. The capacities in Malaysia have significantly declined in the recent years and remains quite low, particularly in comparison with other countries. The Authority must note the declining trend of capacities in Malaysia, its consistently low exports to India and its significantly high prices, and the holistic reading of these elements establishes that Malaysia does not have “excess capacity”.
- h. The Petitioners have cited the World Steel Association Short Range Outlook (Annexure 4.3 of Petition at page 138) to claim that there is an expectation of

decreasing demand for stainless steel, all over the world. However, it is submitted that the cited report explicitly states that “steel demand growth is expected to improve in 2020, dependent on a reduction in trade tensions”. As such, even by the Petitioners’ own data, it appears that the claim is unfounded and meritless. It is important to note that the report is quiet about the demand in Malaysia. As such, it appears that the Malaysian production and capacity is insufficient for factoring in global outlooks, and therefore is insufficient to cause any meaningful impact on the Petitioners.

- i. The Petitioners have provided a list of current measures imposed against stainless steel flat products. In this regard, it is noted that the entire list pertains to measures in force against almost any country and is not specific to the subject countries. In any case, the entire list mentions only one investigation against Malaysia, i.e., conducted by Vietnam. The measure was set to expire on 6 October 2019.
- j. The Petitioner’s claim regarding the alleged “shifting” of sources of dumping is based entirely on the duties imposed by the Authority in India. In this regard, we submit that imposition of duties does not reflect any “shifting of dumping from one source to another”. Rather, the existence of so many past duties shows that the product is a sensitive one and has been subject to investigation and duties, specific to those instances.
- k. With respect to Malaysia, the Petitioners cannot claim that either there has been high volume of imports or that the imports have affected the pricing of the Petitioners. The Malaysian imports have been historically low and must be recognised so.
- l. The Petitioner’s claim regarding India’s price attractiveness is based entirely on data treated as confidential. We submit that the selling price and the cost of sales of the Petitioners merits examination.
- m. The Petitioners have claimed that due to unforeseen circumstances arising out of the India-ASEAN FTA, there has been increase in imports from Malaysia. It is submitted that such a claim cannot be raised in view of the historically low volume of imports from Malaysia, even after the signing of the Indian-ASEAN FTA.
- n. It is not appropriate to consider that Malaysia which accounted for 3.59% of total imports even in the original POI and currently holds 0.35% share of total imports is causing injury to the Domestic Industry.

J.3 Examination by the Authority

94. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation or recurrence of dumping and injury in the event of cessation of the duty. The Authority has considered various information, as made available by the domestic industry and other interested parties in order to evaluate the likelihood of continuation or recurrence of dumping and injury.

95. The present investigation is a sunset review of anti-dumping duties earlier imposed on the imports of subject goods from subject countries. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires a consideration of whether the duty imposed is serving the intended purpose of eliminating injurious dumping. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia, factors which may be taken into consideration viz.:

- a) A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation;
- b) Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports;
- c) 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
- d) Inventories of the article being investigated.

96. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows:

(i) **Post POI imports of PUC**

97. For examining the Post-POI period imports into India, the Authority has obtained import data from DGCI&S and from that it is observed that imports during Post-POI have increased from subject countries when compared to POI. Post POI import data is as under:

Particulars	UOM	2015-16	2016-17	2017-18	POI	Post POI (April-September 2019)
--------------------	------------	----------------	----------------	----------------	------------	--

China PR	MT	24,256	7,152	6,558	564	1,326
Korea RP	MT	1,782	942	1,852	1,633	3,803
Malaysia	MT	24	21	85	191	63
Total imports from subject countries	MT	26,062	8,115	8,495	2,387	5,192

98. It is noted that despite imposition of anti-dumping duties on imports of subject goods from subject countries, imports from China PR and Korea RP are coming in significant quantities.

(ii) **Surplus capacity with the exporters**

99. The domestic industry has provided freely disposable capacities of the subject goods in China PR and Korea RP which have been determined after deducting consumption from the existing capacities information provided in CRU International "Stainless Steel Flat Products Market Outlook February 2020 Statistical Review". Based on the evidence available on record, the Authority notes that freely disposable capacities of subject goods available in China PR and Korea RP can be utilised for exports to India.

(iii) **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**

100. The Authority notes that volume of imports of subject goods has reduced from subject countries during the injury investigation period and the POI. However, the import volume has witnessed significant jump in the post POI. The domestic prices have been suppressed due to such imports.

(iv) **Inventories**

101. With regard to inventories, Domestic Industry has provided evidence with regard to inventories in Korea RP. The Authority notes that inventories available in Korea RP can be utilized to increase their exports to India.

102. In view of the above, the Authority notes the following:

- i. Imports from China PR have reduced from 24,256 MT in 2015-16 to 564 MT during POI. Imports from Korea RP have reduced marginally from 1,782 MT in 2015-16 to 1,633 MT during POI. Imports from Malaysia throughout the POI and injury period have been low including post POI period.

- ii. Imports from subject countries declined in absolute volume and in relation to total production and demand in India during injury investigation period and the POI. However, imports from China PR and Korea RP have increased during the post POI period.
- iii. Imports from subject countries are still coming at dumped prices.
- iv. Imports of the subject goods from Korea RP are undercutting the domestic selling price of the like article in India.
- v. Imports from China PR and Malaysia are not undercutting the domestic prices in the POI.
- vi. Volume parameters of the domestic industry like production and domestic sales have improved. However, price parameters of the domestic industry like profitability, return on investment have deteriorated during POI.

POST DISCLOSURE COMMENTS

K.1. Submissions by the Domestic Industry

103. The submissions made by the domestic industry are as follows:
- a) M/s Bahru Stainless SDN. BHD., Malaysia is not an interested party in the present investigation under Rule 2(c) of the AD Rules as it is not an exporter, producer or trader of subject goods. CESTAT in M/s. Merino Panel Products Ltd. v. Designated Authority has held that a party cannot simply represent before the Designated Authority without establishing its status in an investigation.
 - b) If the company claims that it has not exported the product to India, the company ceases to be an interested party. If the company claims to be an interested party as a foreign producer, then, the company was obliged to file questionnaire response, irrespective of whether the company has exported the product to India. The company was required to show their third countries exports.
 - c) Prices from Malaysia have declined post POI. Imports, even at low volume, continue to be made at dumped and injurious price. Thus, in the event of cessation of duty, imports are likely to intensify at dumped and injurious price causing injury to the domestic industry.
 - d) Considering the slab capacity, the producers in China PR and Korea RP have significant surplus capacity. The basic production process involved in the production of the product under consideration involves melting the inputs such as scrap/ore and ferro-alloys. The output of steel making furnace is a slab which is an appropriate benchmark to examine excess capacity.
 - e) A number of countries in the world have surplus capacity for stainless steel product and that is the reason various trade remedial measures are in force or ongoing against many countries. Thus, various countries have blocked their market for dumped imports.
 - f) Significant exports are being made by China PR and Korea RP at price much below the price prevailing in India, thus making India a more price attractive country to export. The producers will look for market where they can attain better prices. Thus, cessation of anti-dumping duty is likely to lead to influx of dumped imports from these countries.

- g) Insignificant import volume cannot be a reason for not extending the anti-dumping duty in a sunset review investigation and the same was confirmed by the CESTAT in the matter of AIA Engineering vs Union of India.
- h) Non extension of present duty will also dilute the impact of parallel investigation which considers the imports of stainless-steel flat products from even the present subject countries and such investigation specifically excludes HR 304 from the product scope.
- i) Present duties need to be extended and modification in the quantum is not warranted in the present circumstances for another period of five years.
- j) Applicants request disclosure of communication sent to other parties, submissions received from other parties, Normal value determined on the basis of cost of domestic industry and Non injurious price in order to come to a meaningful conclusion.
- k) In the present situation of world pandemic, which has led to declining demand all over the world, various countries will be desperate to export in whichever way possible. Further, there have been several DRI cases on Bahru which shows that exporter has a history of engaging into malpractices and evade duties also.
- l) India is the second largest consumer of stainless-steel flat products which includes a significant part of hot rolled stainless steel flat products of 304 series. Demand for the subject goods has also declined due to the ongoing pandemic. Even assuming that the growth in demand in India has also gone down, considering the significant level of demand in India, it is likely that the Indian market will attract exports from these subject countries which have huge surplus and are highly export oriented.

K.2. Submissions by other interested parties

104. The submissions made by other interested parties are as follows:

- a) The Authority has not considered the following submissions:
 - Submissions relating to the data relied by the Domestic Industry not pertaining to Product under Consideration.
 - Incorrect assessment of freely disposable capacities in the subject countries by the Domestic Industry as the data relating to such factor included Taiwan as subject country.
 - Absence of any analysis pertaining to availability of other export markets to absorb any additional exports in terms of para vii(b) of Annexure II.
 - Submission regarding absence of price suppression/depression.
 - Submission regarding any injury to the Domestic Industry on account of other factors.
- b) The Designated Authority failed to appreciate that the applicants have not followed the direction with respect to confidentiality issued by the Authority vide Trade Notice No. 10/2018.
- c) The disclosure statement mentions that the Authority has analysed the import data of post-POI period (Apr – Sep 2019) for likelihood analysis. It is submitted that post-POI data itself has been taken for a period arbitrarily chosen to achieve pre-determined outcome. It is further submitted that no such

- data has been provided to the interested parties. In terms of Rule 7, any document that has been relied upon by the Authority is required to be provided to the interested parties in a non-confidential version. It is submitted that as per Rule 7, unless a non-confidential version of such document is provided to the interested parties, the Authority cannot rely upon such documents in its decision-making process.
- d) While the Authority has carried out the volume analysis of the imports from the subject countries in post-POI period, there is no price analysis for the same. It is submitted that any conclusion drawn on the basis of the post-POI data has to be on the basis of both volume and price analysis. Further, increased volume in post-POI period does not assume any significance in the absence of a corresponding price analysis.
- e) The examination of the Authority with respect to likelihood analysis is contrary to the legal requirements as well as the facts of the case for the following reasons:
- It is submitted that para (vii) of Annexure II requires an examination relating to rate of increase of dumped imports into India indicating the likelihood of substantially increased importation. However, no such examination has been carried out by the Authority in the disclosure statement.
 - The Authority has relied upon the data of steel as a whole to indicate surplus capacities with the exporters and inventories of the Product under Consideration in the subject countries. It is submitted that such a broad data of steel in general cannot be accepted for reaching any conclusion with respect to the Product under Consideration. It is a matter of record that the Product under Consideration in the present case is a subset of overall steel production. In such a scenario, the Authority could not have relied upon the data of steel in general to advance arguments concerning the subject goods. In this regard, the Respondent relies on paras 7.111 and 7.112 of WTO panel report on *India- Certain Measures on Imports of Iron and Steel (DS518)*.
- f) The Authority in Section IV has provided the methodology for determining Non-Injurious Price, which will be used for determining injury margin. In this context, it is submitted that from a plain reading of the Section IV, it is observed that the Authority has simply mentioned the principles outlined in Annexure III to the Rules. However, there is no information in Section IV of the disclosure statement as to how actually the Authority has computed raw material cost, cost of utility, capacity utilization for normation of the cost.
- g) It is submitted that Malaysia's imports are insignificant during the injury investigation period and POI. In fact, imports from Malaysia have reduced even further in the post-POI period. Even if import trends from Malaysia are assessed from the period 2009-10, it is evident that imports from Malaysia

have always been negligible into India. Thus, injury suffered by the domestic industry, if any, is not at all attributable to the imports from Malaysia.

- h) Authority has ignored submissions with regard to determination of non-injurious price. Authority needs to clarify whether post manufacturing expenses such as stock yard expense, advertisement and publicity, selling expenses, freight and forwarding expenses, provision for doubtful debts/advances, bad debts etc. have been considered while assessing non-injurious price or not.

K.3. Examination by the Authority

105. Post- disclosure submissions have been received from the interested parties. The Authority has examined the post-disclosure submissions made by the interested parties including reiterations which have already been examined suitably and addressed adequately in the relevant paras of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.
106. With regard to the non-cognizance of some of the comments and submissions made by interested parties, it is noted that the Authority has as a matter of consistent practice and in terms of the legal requirement duly taken cognizance of all the submissions which it considered relevant for its analysis and decision making in the investigation.
107. The Authority has examined the post POI import data to assess likely behaviour of the exporting countries in so far as their exports to India are concerned.
108. With regard the requests that non-confidential versions of communications sent by the Authority and copy of the non-confidential version of replies filed by interested parties be made available, it is noted that all non-confidential versions of the submissions were made available in the public file before the nation-wide lockdown due to COVID-19. Thereafter, all non-confidential versions of communication which, as per DGTR's practice would have been put in the public file, have been shared through email with interested parties.
109. With regard the submissions concerning low volume of imports from subject countries, it is noted that the imports from subject countries have reduced after the imposition of anti-dumping duty. However, the imports still continue to come into India at dumped and injurious prices. It is also noted that imports from non-subject countries have increased significantly during the injury investigation period and a parallel anti-dumping investigation on stainless steel flat rolled products is being conducted against the non-subject countries. In such a scenario there is a likelihood that dumped imports from subject countries will increase if the existing anti-dumping duty is revoked.

110. With regard the submission that Bahru should not be considered as interested party under Rule 2 (c) of the Rules, it is noted that Bahru has made no exports of subject goods to India during POI. However, Bahru has made exports of subject goods to India in the past. The Authority further notes that filing of questionnaire response is not the criterion to become an interested party under Rule 2 (c) of the Rules. Thus, for the purposes of present review investigation, Authority has considered Bahru as an interested party and taken cognizance of the submissions made by Bahru.
111. With regard the submissions of interested parties concerning methodology adopted for non-injurious price (NIP) calculations, it may be noted that detailed guidelines for computation of NIP are laid down under Annexure III of the Rules and the same have been adopted while determining NIP in the present review investigation.

L. INDIAN INDUSTRY'S INTEREST

112. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the product to the consumers.
113. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

M. CONCLUSION

114. Having regard to the contentions raised, information provided and submissions made and facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- a. There is continued dumping of the subject goods from subject countries and the imports are likely to enter the Indian market at dumped prices in the event of revocation of duties.

- b. The domestic industry's performance in terms of volume parameters like production, sales etc. has improved but price parameters of the domestic industry like profitability, return on investment have deteriorated during POI.
- c. The information on record shows likelihood of continuation of dumping and injury to the domestic industry in case the anti-dumping duty in force is allowed to cease at this stage.
- d. There is sufficient evidence to indicate that the cessation of anti-dumping duty at this stage will lead to continuation of dumping and injury to the domestic industry.

N. RECOMMENDATIONS

115. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers/users and other interested parties to provide information on the aspects of dumping, injury, causal link and likelihood of continuation or recurrence of dumping and injury.
116. Having concluded that there is likelihood of continuation/recurrence of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the view that continuation of duty is required on the imports of PUC from the subject countries.
117. In terms of provision contained in Rule 4(d) & Rule 17(i) (b) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at column 3 of the duty table below, originating in or exported from subject countries.

DUTY TABLE

S No	Headin g/Sub Headin g	Description of Goods	Country of Origin	Country of Export	Producer	Duty Amount	Currency	Unit
1	2	3	4	5	6	7	8	9
1	7219, 7220	Hot Rolled Flat Products of Stainless Steel -304 series***	China PR	Any country including China PR	Any	160	US\$	MT

2	-do-	Hot Rolled Flat Products of Stainless Steel -304 series***	Any country other than China PR, Korea RP and Malaysia	China PR	Any	160	US\$	MT
3	-do-	Hot Rolled Flat Products of Stainless Steel 304 series***	Korea RP	Any country including Korea RP	Any	255	US\$	MT
4	-do-	Hot Rolled Flat Products of Stainless Steel 304 series***	Any country other than China PR, Korea RP and Malaysia	Korea RP	Any	255	US\$	MT
5	-do-	Hot Rolled Flat Products of Stainless Steel 304 series***	Malaysia	Any country including Malaysia	Any	155	US\$	MT
6	-do-	Hot Rolled Flat Products of Stainless Steel 304 series***	Any country other than China PR, Korea RP and Malaysia	Malaysia	Any	155	US\$	MT

Note - Customs classification is only indicative and the determination of anti-dumping duty shall be made as per the description of the PUC. The PUC mentioned above should be subject to anti-dumping duty even when it is imported under any other HS code.

***Note- Hot Rolled Flat Products of Stainless Steel 304 series means “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 304 or 304H or 304L or 304N or 304LN or EN 1.4311, EN 1.4301, EN1.4307 or X5CRN11810 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 105mm in Plates & Sheets; of all widths up to 1650mm (width tolerance of + 20mm for mill edge and + 5mm for trim edge)".

O. FURTHER PROCEDURE

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



(B.B. Swain)

Special Secretary and Designated Authority