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

Government of India
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
NOTIFICATION

NEW DELHI, the 9th March 2015

Final Findings

Sub: Anti-Dumping Investigation concerning import of Hot Rolled Flat Products of Stainless Steel 304 series from the People's Republic of China, the Republic of Korea, and Malaysia.

F.N0. 14/30/2013-DGAD:- Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

1. WHEREAS M/s Jindal Stainless Limited, New Delhi, (herein after referred to as the applicant) had filed an application before the Designated Authority (hereinafter referred to as this Authority), in accordance with the Act, and the Rules, alleging dumping of Hot Rolled Flat Products of Stainless Steel of ASTM Grade 304 with all its variants, as per the detailed description hereunder (hereinafter referred to as the subject goods), originating in or exported from the People's Republic of China, the Republic of Korea and Malaysia (herein after also referred to as subject countries) and requested for initiation of an investigation for levy of anti dumping duties on the subject goods.

2. AND WHEREAS, the Authority on the basis of sufficient *prima facie* evidence submitted by the applicant issued a public notice dated 11th March 2014, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject good, originating in or exported from the subject countries, in accordance with the Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

A. Procedure

3. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigation by the Authority.

(i) In terms of sub-Rule 5 of Rule 5, the Authority notified the Embassies of the subject countries in India about the receipt of the application from the domestic industry requesting for initiation of antidumping investigation. The Govt. of Korea was also informed through its Embassy in India about the receipt of the application in accordance with the provisions of Article 2.14 of the Comprehensive Economic Partnership Agreement (CEPA) between India and the Republic of Korea.

(ii) The Embassies of the subject countries in New Delhi were also informed about the initiation of the investigations in accordance with Rule 6(2).

(iii) The Designated Authority sent copies of initiation notifications dated 11th March 2014 to the Embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, and the domestic industry, as per the information available with it. Parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, petition and questionnaire sent to the exporter, were also sent to the Embassies of subject countries along with a list of known exporters/ producers with a request to advise the exporters/producers from the subject countries to respond to the questionnaire within the prescribed time.

(iv) Copy of the non-confidential version of the petition filed by the domestic industry was made available to the known exporters and the Embassies of the subject countries in accordance with Rules 6(3) supra.

(v) Exporters' Questionnaires were sent to the following known exporters from subject countries in accordance with the Rule 6(4) to elicit relevant information.

1. M/s. Taiyuan Iron and Steel (Group) Co., Ltd., China
2. M/s. Lianzhong Stainless Steel Corporation, China
3. M/s. Baosteel Tower, China
4. M/s. Jiuquan Iron and Steel (Group) Co. Ltd,China
5. Zhangjiagang Pohang Stainless Steel Co., Ltd.China
6. POSCO, Korea
7. Bahru Stainless, Malaysia

(vi) The People's Republic of China being a Non Market Economy Country, the Authority informed the known exporters from China PR to furnish necessary information/ evidence, as mentioned in sub-paragraph (3) of paragraph 8 of the Annexure-1 to the Rules to enable the Authority to consider whether market economy treatment should be granted to such cooperating exporters/producers who could demonstrate that they operate under market economy conditions.

(vii) The following producers/exporters exporting the subject goods originating in or exported from the subject countries have filed questionnaire responses:

(i) M/s Lianzhong Stainless Steel Corporation, China
(ii) M/s Bahru Stainless, Malaysia;
(iii) M/s Century Steel Pte. Ltd.; Singapore

(viii) M/s POSCO, Korea; M/s Hyundai, Korea and M/s Hyousung, Korea have filed a combined injury submission opposing the claims of the domestic industry on various grounds.

(ix) Questionnaires were sent to the following known importers and consumers of subject goods in India calling for necessary information in accordance with Rule 6(4):

1. Ratnamani Metals and Tubes Ltd.,Gandhidham,
2. Sangeeta Metal (INDIA), Mumbai
3. Bhandari Foils & Tubes Ltd.,Dewas (M.P)
4. Ramani Steel House,Mumbai
5. Prakash Steelage ltd.,Navi Mumbai Maharashtra
6. Nishant Infinn Pvt. Ltd, Mumbai
7. Rajendra Mechanical Industries Ltd East Mumbai
8. A.C Steel Sgop,Mumbai
9. Phoenix Foils Pvt Ltd,Gujarat

10. Quality Folis(India)Pvt Ltd.,Haryana
11. Domet Trading Pvt Ltd., Maharashtra
12. Remi Edelstahl Tubulars Ltd., Mumbai
13. Process Plant and Machinery Association of India, Mumbai
14. Stainless Steel Exporters Welfare Association, Delhi
15. All India Stainless Steel Industries Association of India Mumbai
16. The Tamil Nadu Stainless Steel Merchants and Manufacturers Association, Chennai.

(x) Following importers/users of the subject goods have filed their responses:

1. Ratnamani Metals and Tubes Limited
2. Bhandari foils and Tubes Limited
3. Hindustan Inox Limited
4. JNB Steel Industries Private Limited
5. Kansara Popatlal Tibhovandas Metals Private Limited
6. Santosh Steel Industries
7. Shalco Industries Private Limited
8. Subhalaxmi Metals and Tubes Pvt. Ltd.
9. SNB Enterprises Pvt. Ltd.
10. Suncity Strips and Tubes Pvt. Ltd.
11. Sunrise Stainless Pvt. Ltd.
12. Varun Foils Ltd.
13. Suncity Sheets Pvt. Ltd.
14. Navgrah Fastners Pvt. Ltd.

(xi) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigations. The petitioner has also provided the import data from IBIS. Both data sources have been examined and used to the extent they were found appropriate;

(xii) The Authority made available non-confidential versions of the evidences presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

(xiii) Optimum cost of production and cost to make and sell the subject goods in India, based on the information furnished by the petitioner on

the basis of Generally Accepted Accounting Principles (GAAP), was worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

(xiv) The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated confidential. *** in this finding represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

(xv) Investigation was carried out for the period starting from April 2012-June 2013(POI). However, the injury investigation covers the period 2009-10, 2010-11, 2011-12 and POI.

(xvi) The Authority held a public hearing on 09.12.2014 to hear the interested parties orally, which was attended to by representatives of interested parties. The interested parties were asked to file written submissions and rejoinders. The written submissions and rejoinders received from interested parties to the extent relevant have been considered in the findings;

(xvii) On the spot verification of the data of the domestic industry as well as of the exporters, to the extent considered necessary, was carried out.

(xviii) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for the findings were disclosed to known interested parties on 25th February 2015 and comments received on the same have been considered in the Final Findings.

(xix) The Authority has taken weighted average exchange rate for the POI (April 2012- June 2013) as Rs54.69/US$.

B. Product under Consideration and Like Article

4. The product under consideration notified in the initiation notification 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, 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; of all lengths up to 10,000 meters in Coils and 10 Meters in Plates."

5. The subject goods are used for manufacture of process equipments, re-rolling, reactor vessels, material handling equipments, railways, pipes and tube, automatic components, rolled and formed sections, architecture, building and construction, industrial fabrications and power sector etc.

6. This product is classified under Chapter 72 of the Customs Tariff Act, 1975 under Customs sub heading 7219 & 7210 of the first schedule. The classifications indicated herein are indicative only and in no way binding on the scope of the present investigation. The product description shall prevail in all circumstances.

7. The applicant has claimed that there is no significant difference between the products manufactured by them and the subject goods imported from the subject countries, which can have any impact on price, usage, quality etc. The applicant also claims that there is no material difference in the production process between the petitioner and exporters from the subject country. Therefore, the imported product under consideration and the goods manufactured by the domestic industry are like articles'' within the meaning of the term as per the Rules.

B.1 Views of the Interested Parties

8. The interested parties, including M/s POSCO, Korea RP; M/s Hyundai Corporation, Korea RP; M/s Hyosung Corporation, Korea RP, M/s Acerinox, Bahru Stainless Malaysia, M/s Century Steel, Singapore, M/s LISCO, China and Importers in India, in their respective submissions regarding the scope of product under consideration and like articles, have *inter alia* argued as follows:

- That in respect of the scope of the product under consideration in this Investigation, the product exported from the Subject Countries and the product manufactured by the domestic industry should be either identical or at least alike in all respects for comparability. In this regard,

where there is no identical or alike domestic product, the Investigation should exclude the relevant product line and also narrow down its scope.

- That as per the product dimensions shown in the recent catalogues of the Petitioner they produce 'Hot Rolled Coil and HRAP/Coil with thickness of minimum 2.8mm' at Hissar, and Hot Rolled Coil with thickness of minimum 2mm and HRAP Coil with thickness of minimum 1.4mm at Odisha plant. The Odisha plant is still under ramp up and incapable of production of such less thickness. Therefore, STS HR 304 with thickness of below 2.0mm should not be included within the scope of product under consideration.

- That due to the inability of the domestic producers to manufacture STS HR 304 with thickness of below 2.0mm and qualified for quality standards and specifications required by the Indian customers, it is inevitable for the downstream user industries to import the same.

- That Annealing and Pickling are the process involved in the Cold Rolling process wherein Hot Rolling does not involve Annealing and Pickling process. Hot Rolling and Cold Rolling are two distinct process and inclusion of Annealed and Pickled products into the PUC lead to overlapping of two distinct processes and products at large. Therefore, the Authority should exclude Annealed and Pickled products from the scope of PUC to remove the apparent grave infirmity in the PUC definition.

- That since PUC includes both prime and non prime products appropriate adjustments should be made in their prices for fair comparison for the purpose of dumping and injury margin calculations.

- That the petitioner claims that they have produced and supplied product of width upto 1270 mm from Hisar plant and also has developed facilities upto 1650 mm in Odisha plant, however, produced upto 1625 mm only at its Odisha plant. Thus, the widths should have been kept upto a level produced by the petitioner while defining the product, which is not more than 1625 mm in any case.

- That the petitioner is generally making 1000mm, 1250mm and 1500mm width of Coils in Mill Edge and if any customer wants 400mm, 405mm, 425mmm, 485mm, 550mm, 585mm, 600mm, 620mm,

650mm, 720mm, 750mm, 780mm etc. [below 1000mm in general] then the petitioner gives him Slit Edge. Thus, the petitioner is not supplying subject goods of Mill Edge below 1000mm width. As against this, the producers in subject countries are providing all widths like 400mm, 405mm, 425mmm, 485mm, 550mm, 585mm, 600mm, 620mm, 650mm, 720mm, 750mm, 780mm in Mill Edge. Thus, the petitioner's process to make that small widths is totally different to Chinese Manufacturers like Huadi, Dingxin, Ruitian, Jisco, Baoshan, Quanxing etc. and the PUC should not be defined in a way to include Mill Edge below 1000mm in the PUC as the same is not produced by the petitioner.

- That the petitioner claimed Coil Length maximum to be at 10,000 meter and included coils of lengths upto 10,000 meters in the PUC. This is illogical. A coil of 1650mm width x 2mm thickness and 10,000 meter should weigh around 262 Tones. However, no company in the world can make coil more than 40 tones. As per market information no material higher than 1000 Meter has ever come to India from any of the subject countries. Thus, inclusion of coils upto 10,000 meter looks dubious and need to be fixed as per the market reality and practices to ensure the realistic aspect of the definition of PUC.

9. Apart from these general arguments regarding the scope of product under consideration and like articles, M/s Posco, Korea, in its submission has further argued:

- That HR Stainless steel Coils and sheets exported from Korea are not like article to the product of the petitioner and therefore, should be excluded from the scope of the investigation. In support of their argument Posco has quoted the Appellate Body's observations in EC-Asbestos on the issue of determination of like articles as follows:

"The report of the Working Party on Border Tax Adjustments outlined an approach for analyzing "likeness" that has been followed and developed since by several panels and the Appellate Body. This approach has, in the main, consisted of employing four general criteria in analyzing "likeness": (i) the properties, nature, and quality of the products; (ii) the end-uses of the products; (iii) consumers' tastes and habits – more comprehensively termed consumers' perceptions and behavior – in respect of the products; and (iv) the tariff classification of the products…."

- That considering the four general criteria set out by the Appellate Body as above, the Authority should investigate the like product in terms of not only tariff classification but, more importantly, also quality, the end-uses, consumers' preferences. It has been argued that there is a great difference between goods produced by domestic industry and goods imported from Korea, in terms of product quality, its end-uses and consumers' preferences of STS HR 304. Although the product concerned is categorized into the same standards, depending on its quality for end-uses and consumers' tastes, the target market is different. With differentiated customer group and market, POSCO and the Petitioner cannot be said to be in competitive relationship. It is submitted that the non-competitive relationship can also be interpreted as one of non-substitutable nature. Due to lack of competitiveness and substitution, the Authority should exclude the STS HR 304 originated in Korea from the Investigation.

- That contrary to the Petitioner's averments, there is significant difference in production process between the POSCO product and that of the Petitioner. As it is well known in the World Stainless Steel market, POSCO employs 'Strip Casting' method in its production process for some special products with thickness below 2.0mm, named 'Postrip', which process enables POSCO to manufacture different specification and size such as thinner coils and plates. This difference is even more glaring in view of the fact that the Petitioner does not produce STS HR 304 with width below 2.0mm.

- That POSCO's 'Strip Casting' reduces overall production process and skips several conventional processes. While the conventional production method, which the Petitioner has employed, first produces "Slabs" and then proceeds with hot rolling them, the Strip Casting method skips the production of "Slabs" and works all processes simultaneously, from continuous casting to hot rolling.

- That this reduction of the process does not mean a mere change in shortening of the production line. The introduction of the Strip Casting enables POSCO to manufacture 'Postrip', which satisfies its customer's more sophisticated needs and also improves the product quality, which is subsequently regarded as a different product in the World Stainless Steel market.

- That the Investigation should consider that POSCO has a significantly different production process globally known as the 'Strip Casting Method' in Steel industry, which enables it to produce STS HR 304 with more sophisticated customer's needs as well as better quality.

B.2 Views of the domestic industry

10. The domestic industry, in its various submissions, has *inter alia* argued

- That the Director General (Safeguards) had earlier recommended safeguard duty on imports of this product vide Notification No. G S R D-22011/06/2012, wherein the Director General (Safeguards) had considered the following scope of the product under consideration after elaborate investigations.

  "Hot Rolled Flat products of Stainless Steel -304 grade (upto a maximum width of 1625 mm) encompassing all austenitic grades having minimum Nickel (Ni) content of 6%, compulsorily containing chromium with or without the presence of other alloying elements like molybdenum, titanium etc.".

- That the Designated Authority had earlier recommended anti dumping duty on imports of this product from European Union, South Africa, Taiwan and USA vide Notification No. 14/12/2010-DGAD, wherein the Designated Authority had considered the following scope of the product under consideration after elaborate investigations.

  "Hot Rolled Flat Products of Stainless Steel of width up to 1250 mm (width tolerance of +20 mm for Mill Edge and +5mm for Trimmed Edge) of ASTM Grade 304 with all its variants including products of equivalent specifications in other standards like UNS, IS, Chinese DIN, JIS, BIS, EN, etc."

- That most of the integrated producers globally produce HR products and CR products produced by rolling the HR products. Globally the producers can produce different types at the same plant/manufacturing facilities and can interchangeably produce different types. Producers first produce 'higher width' coils and then the same can be trimmed/slit (either by them or slitters or re-rollers) to 'small widths' of size required by the 'end consumers". As opposed to coils, producers produce plates of size required by end consumers.

- That there are 3 categories of customers to whom HR steel producers sell their product:

    i. End consumers: consumers of HR Plates, HR Coils, CR plates, sheets, strips. These are the eventual consumers of the product under consideration. These end consumers require specific product type for their end applications and generally buy the product in the desired dimensions.
    ii. Re-rollers and slitters (including service centres): They buy HR Coils from domestic or foreign producers and re-roll under cold conditions into desired coils width (smaller) and thickness. End product is cold rolled coils of narrower width and thinner thickness. There are service centres who are involved in slitting of the HR products. They are capable of slitting both HR and CR coils to desired widths.
    iii. Traders: These are not the consumers of the product under consideration. They buy the product under consideration and sell the same. Their entire objective is trading and making money.

- That the slitters and re-rollers buy the products of wider widths, slit it and sell in the desired smaller widths to the end consumers or re-rollers.

- That the scope of the product under consideration includes coils, sheets and plates. Sheets/plates and coils are merely two different forms of the product. The only difference between sheets and plates is in thickness. If thickness is below 5 mm, it is normally called sheet. If thickness is higher, it is called plate. Sheets/plates and coils have been imported from subject countries and supplied by the domestic industry.

- That the Designated Authority had earlier conducted investigations relating to this product, wherein both coil and plates/sheets were included within the scope of the product under consideration (the scope of the product under consideration in anti dumping case was “Hot Rolled Flat Products of Stainless Steel of width up to 1250 mm (width tolerance of +20 mm for Mill Edge and +5mm for Trimmed Edge) of ASTM Grade 304 with all its variants including products of equivalent specifications in other standards like UNS, IS, Chinese DIN, JIS, BIS, EN, etc.)”. No product is consumed in coil form. Every coil is first cut and then consumed.

- That there is no known difference in product produced by the petitioner and exported from the subject countries. Both products have comparable characteristics in terms of parameters such as physical & chemical characteristics, functions & uses, product specifications, pricing, distribution & marketing and tariff classification, etc. Comparison of essential product properties in respect of domestic product and imported product would show that the goods produced by the domestic industry are identical to the imported goods in terms of essential product properties. There are a number of standards – domestic & international and all producers produce goods conforming to these standards. Thus, the consumers find the goods supplied by the domestic industry and foreign producers as identical, if the two conform to same standards.

- That there is no material difference in the production process employed by the foreign producers and that employed by the petitioner. However, every manufacturer fine-tunes its production process as per the necessities and available facilities.

- That the product description is the one that was proposed by the Directorate after filing of initial petition. Nevertheless, while product description may be lengthy or wide, the product scope is not wide and remains the same as was considered by the Designated Authority in the past anti dumping as well as safeguard investigation;

- That the product produced by the petitioner and respondent are targeted towards the same application/end use and the consumers are using the goods interchangeably, thus rendering the products as like article. While determining the like article, the Authority is required to take into account all the products which fall under the description of the product as long as the same are technically and commercially substitutable. POSCO had raised similar issues in the investigation concerning imports of Cold Rolled Flat Products. The Authority had rejected these arguments;

- That the Designated Authority may consider rephrasing the description of the product under consideration as follows, which does not mean changing the scope of the product under consideration and would merely restrict the description and even would better clarify the same:

  "Hot Rolled Flat Product of Stainless Steel of Grade 304 as per ASTM, including all variants and equivalent grades in other standards like EN, DIN, JIS, BIS etc, with widths not exceeding 1650mm, having minimum

nickel content of 6%, compulsorily containing chromium, with or without the addition of other elements like titanium, copper etc., with a minimum thickness of 1.2 mm."

- That the Petitioner has no objection to the description of the product under consideration being modified to as stated above. In any case, the petitioner submits that the scope of the product under consideration in previous case and present case is the same.

- That the new production facility set up in Odisha has developed facilities upto 1650 mm and the petitioner has already supplied material up to 1690 mm width in Cold Rolling. Relevant evidence showing sale of 1690 mm width (CR product) product has been submitted to the Authority.

- That contrary to POSCO's arguments that the petitioner does not produce goods below 2 mm of thickness which is the product produced and exported by it the Petitioner has produced and supplied product with lower thickness. Relevant Evidence has been submitted to the Authority.

- That prime and non prime are merely two different types of the product under consideration. The anti dumping investigation and the safeguard investigation conducted on the product under consideration did not distinguish product on the basis of prime and non prime products. The cost of production of prime and non prime goods is not different.

- That annealing and pickling is a process involved in both Hot Rolled and Cold Rolled Flat products. ASTM and EN standard clearly mentions annealed & pickled (de-scaled) Hot Rolled products.

- That suspension of production in Odisha is a temporary shutdown. A plant constructed with investments to the tune of Rs. 10,000 crores would not be allowed by any prudent business to be shut permanently. Hot Rolled products are still being produced from the Odisha plant. Suspension of production is in cold rolled category.

B.3 Examination of the Authority

11. The Authority has carefully examined the arguments of the interested parties and the domestic industry in respect of the scope of the product under consideration and the like article produced by the domestic industry. During the visit to the production facilities of the petitioner the production process and the product itself has been examined to the extent possible.

12. The petitioner is a major producer of Hot Rolled as well as Cold Rolled Stainless Steel producers in India with two plants, one at Hissar and newly set up Odisha Plant with combined installed Capacity of 15.80 lacs tonnes per Annum. Both the plants first produce hot rolled black plates/coils of desired width and thickness which are then annealed and pickled to give the product necessary softness and surface finish. Hot rolled products are sold either as black plates/coil which are further processed i.e., annealed and pickled by the buyer at its own end, or as No. 1 finished i.e. annealed and pickled product. A portion of the hot rolled plates/coils produced in the plants are further cold rolled, annealed and pickled and skin passed and thereafter sold as cold rolled products which have different end uses. Both the plants have their separate lines for hot and cold rolling. Therefore, it is seen that annealing and pickling is an integral part of both Hot Rolled products and Cold Rolled Products. Hence, arguments of some of the interested parties that the petitioner has wrongfully included annealed pickled products, which are part of cold rolling process, within the scope of the PUC, are devoid of any merit.

13. It was found during the verification visit that Odisha plant of JSL, both Hot Rolling and Cold Rolling lines were in operation. On enquiry it was found that the Cold Rolling unit was shut down from 16th November to 20th December 2014 due to certain pollution control issues with the State Govt. As per the CDR report submitted by the company before the relevant Authorities the plant should have completed its ramp up operation with 90% capacity utilization by September 2013. However, it was submitted that this capacity utilization has not been achieved due to lack of orders because of dumping from various countries while the plant is fully ready for full production. In any case, the plant was producing Hot Rolled products, therefore, the arguments of the interested parties that the domestic industry is unable to supply the material due to closure of Odisha plant is not found to be correct.

14. Examination of the production and capacities of the petitioner reveals that as per the technical literature of Odisha plant this plant has the capacities to produce plates and strips up to 1650mm width. As per ISO standards the Mill edge production has a tolerance of +20mm. The plant had sold HR coils upto 1625mm and 1.2 mm thickness during the POI. The same plant has also produced and sold CR coils upto 1690mm during the same period. It has been submitted that HR coil produced in the same plant is transferred captively for further cold rolling into CR coil. Therefore, the petitioner has argued that though they have not sold HR coils of width above 1625mm during the POI the very fact that CR coils of higher width upto 1690mm has

been produced and sold by the petitioner indicates that they have produced HR of same width and transferred the same captively for cold rolling. It was clarified by the technical team of the petitioner during the verification that though the plant can produce coils of width upto 1650mm and 1.2mm thickness (+ the tolerance limits), their production schedule and actual production depends on the sizes and thickness demanded by the buyers. Therefore, they can always produce HR coils up to these dimensions if there is an order for the same.

15. As far as the arguments of the interested parties that the petitioner is not supplying subject goods of Mill Edge below 1000mm width it was clarified that the production of wider plates/ coils and subsequently slitting them for narrower width as per customer requirement is a more cost effective way of production. In any case the user has to trim the Mill Edge plates/ coils before using the same. Rolling of narrower plates/ coils, in the same line, leads to a lot of wastage of the production facility and energy losses. It was found that the petitioner is supplying Hot Rolled Coils of different widths to the buyers after slitting. Since the Mill Edge plates are ultimately trimmed and slit to required dimensions the arguments of the interested parties that the PUC should not cover Mill Edge products below 1000 mm does not have any merit.

16. The interested parties have argued that non-prime materials should be excluded from the PUC. The Authority notes that that in the production process both prime and non prime materials are produced universally and are sold as such. They are used as substitutable products by users in many areas of usage. The cost of production of prime and non prime goods is not different though the non-prime may be sold at a different price. All the previous investigations conducted, including the safeguard investigation, did not distinguish product on the basis of prime and non prime nature of the products. Therefore, the Authority does not find any merit in the arguments of the interested parties in this regard.

17. As far as the length of coils up to 10000 meters is concerned the matter has been examined and the arguments of the interested parties have been found to be logical. Apparently there is a mistake in the description and therefore, the Authority has removed this criterion from the scope of PUC.

18. The Authority notes that POSCO, in its submission, has argued that their production process and the grades of steel produced is different and therefore, not like article to the subject goods manufactured by the petitioner. POSCO has argued that the jurisprudence developed by certain WTO Panels

indicate employing four general criteria in analyzing "likeness": (i) the properties, nature, and quality of the products; (ii) the end-uses of the products; (iii) consumers' tastes and habits – more comprehensively termed consumers' perceptions and behavior – in respect of the products; and (iv) the tariff classification of the products…." In this connection the Authority notes that Rule 2(d) defines "like article" as 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 an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation. While determining the likeness of an article the Authority looks into the raw material used, production process, end use, and technical and commercial substitutability etc.

19. The Authority notes that POSCO has not put any evidence on record to prove how their product is different from the product manufactured by the domestic industry except the fact that POSCO uses strip casting method for producing narrower and thinner coils. POSCO claims that this method reduces overall production process skipping several conventional processes and produces better quality product. However, POSCO has not substantiated its claims with any production and cost data and questionnaire response. The Authority also notes that POSCO had made similar arguments for exclusion of its products on the grounds of difference in production process and quality in Anti Dumping investigation concerning import of Cold Rolled Coils and the Authority held "……*the Authority could appreciate that BAF only makes it an efficient process to get the quality end- product rather than a different end product demonstratively in terms of quality and technical terms….. Hence, the Authority treats grades 409 and 409 L produced with BAF process as technically and commercially substitutable with the same produced by domestic industry without using BAF technology."* In the instant case also POSCO has not substantiated its claim that its process results in a product which is not technically and commercially substitutable to the product manufacture by the domestic industry. Therefore, the arguments of POSCO have not been accepted.

20. The above examination of various arguments of the interested parties as well as the domestic industry; and the product and import data submitted by the applicant indicates that there is no difference between Hot Rolled Flat Products of Stainless Steel 304 series produced by the Domestic Industry and imported from subject countries. In view of the similarity in manufacturing process and technical and commercial substitutability, the Authority holds that

the subject good is required to be treated as *'like article'* and one product for the purpose of defining the 'product under consideration' in this case.

21. The Authority notes that in a similar finding the Safeguard Authority had restricted the scope of PUC to 1625 mm width on the basis of actual production and supply by the petitioner during their investigation period. The Authority notes that the domestic industry has demonstrated its capability to produce and supply the stainless steel coils beyond 1625mm and thickness upto 1.2mm. In fact HR coils of higher width has been produced and captively transferred for production of CR which has been sold during the POI. Therefore, the Authority confirms the width and thickness limits of the product under consideration as indicated in the initiation notification.

22. The Authority further note that in its Final Finding dated 11th October 2011 for the same product against other countries the Authority allowed width tolerance for trim edge and mill edge materials separately as per ISO standards. Therefore, the Authority considers it appropriate to indicate width tolerance in respect to the subject goods in the present investigation as per the same ISO standard. The width tolerance indicated in ISO standard for Hot Rolled plates/ sheets and strips is + 20mm (for mill edge) and + 5mm (for trim edge).

23. Considering all aspects of the product the Authority proposed confirmation of the description of the product under consideration with incorporation of the tolerance limits as follows:

> "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)."

24. The interested parties have reiterated their respective stands on the product under consideration in their post disclosure submissions. The Authority notes that the issues raised by the interested parties have been

adequately addressed in the previous paragraphs and do not need further elaboration. Therefore, the Authority confirms the product under consideration as above.

C. Domestic Industry and Standing

25. The application has been filed by M/s Jindal Stainless Limited, New Delhi and the applicant is one of the major producers of the subject goods in India. The Authority notes that there are only two other producers of the subject goods in India i.e., M/s Steel Authority of India Limited and M/s Shah Alloys who also manufactures the subject goods in India.

26. Before initiation of the investigation the Authority called for further information from the above known domestic producers in this regard for determination of the standing of the applicant domestic industry. Efforts were also made to ascertain the production of the subject goods by other Indian producers. The Authority also examined the information available in the public domain in respect of capacities and production of other domestic producers of the subject goods in the domestic market. It has been brought to the notice of the Authority that none of the other Indian steel makers, except mentioned herein above, produced Hot Rolled Stainless Steel for commercial sale and therefore, do not qualify to be included as a part of the domestic industry.

27. Taking into account the reported/estimated capacities and production of other known producers of the subject goods the applicant commands a major proportion of the domestic production of the subject goods in the country. None of the interested parties have raised any issue regarding the standing of the applicant. Therefore, the Authority holds that the applicant commands a major proportion of the production of the subject goods in India and for the purpose of this investigation the applicant i.e. M/s Jindal Stainless Limited commands the standing in terms of Rule 5(3) and constitutes the domestic industry in terms of Rule 2(b).

D. De Minimis Limits

28. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources (IBIS), as well as the data furnished by the cooperating exporters from the subject countries, the imports of the subject goods from the subject countries are found to be above the de minimis level.

E. Interested Parties to the investigation

29. The Authority notes that one producer/exporter of the subject goods in China i.e. Lianzhong Stainless Steel Corporation and one producer/exporter from Malaysia i.e. Bahru Stainless have submitted their responses to the exporter's questionnaire. One trader/exporter of the goods manufactured in China located in Singapore i.e. M/s Century Steel Pte. Ltd. has also filled a questionnaire response. None of the producers/exporters from Korea has filled any questionnaire response. However, M/s POSCO, Korea; M/s Hyundai, Korea and M/s Hyousung, Korea have filed a combined injury submission opposing the claims of the domestic industry on various grounds.

30. The following importers/consumers have filed importers questionnaire response/injury submissions:

1. Ratnamani Metals and Tubes Limited
2. Bhandari foils and Tubes Limited
3. Hindustan Inox Limited
4. JNB Steel Industries Private Limited
5. Kansara Popatlal Tibhovandas Metals Private Limited
6. Santosh Steel Industries
7. Shalco Industries Private Limited
8. Subhalaxmi Metals and Tubes Pvt. Ltd.
9. SNB Enterprises Pvt. Ltd.
10. Suncity Strips and Tubes Pvt. Ltd.
11. Sunrise Stainless Pvt. Ltd.
12. Varun Foils Ltd.
13. Suncity Sheets Pvt. Ltd.
14. Navgrah Fastners Pvt Ltd

31. The domestic industry has argued that POSCO Korea had earlier participated and submitted questionnaire response in the investigation concerning Cold Rolled Flat products. However, the company has refrained from submitting questionnaire response this time, stating that they are not dumping the goods. It has been submitted by the domestic industry that existence or otherwise of dumping is a fact, whose existence or otherwise can be determined by the Designated Authority only after analysing the facts. Without providing questionnaire response with relevant data, a party cannot just make statement that they are not dumping. In fact non submission of response implies that there is significant dumping practiced by POSCO.

32. Domestic industry has further argued that while an interested party has a right to participate in the investigations and advance its argument, its first obligation is to provide relevant information prescribed by the Authority. The Authority has prescribed a questionnaire for providing relevant information. This prescription cannot be circumvented, even by presenting arguments. The information demanded by the Authority through the questionnaire is highly pertinent to the investigations and the exporter should have filed questionnaire response.

33. The Authority notes that POSCO Korea and other exporters have made certain arguments in respect of various aspects of the investigation without filing any questionnaire response for determination of dumping, if any, and extent thereof. Therefore, the Authority is not in a position to examine their claims with regard to no dumping from Korea. However, their submission with regard to the other aspects of the investigation have been taken on record and examined along with the arguments made by other interested parties and have been addressed in these findings to the extent they are relevant and backed by verifiable evidence.

F. Miscellaneous issues raised by the interested parties

F.1 Views of the other interested parties

34. The interested parties and the domestic industry have raised several issues with respect to the present investigation, including methodologies of dumping determination and injury claims of the domestic industry. While the issues regarding the dumping and injury determination have been dealt in the appropriate places in this finding, the general issues raised by the parties to the investigation have been examined hereunder. For the sake of brevity the submissions of the parties and issues raised therein have been summarized as follows:

- That the investigation was initiated with 9 months gap between the end of the period of data collection and the initiation. Such a huge gap of 9 months cannot qualify as *"ending close to the date of initiation"* in terms of the WTO mandated investigating practices. The Authority in the present case is in violation of the above requirement set by the WTO. Therefore, the present initiation is bad in law and should be immediately terminated on this ground alone.

- That the Applicant has simply stated that it could not find any price details with respect to the prices in a market economy third country or the constructed normal value in a market economy third country. This is a clear case of non-fulfillment of the mandatory requirements of a complete application. Without any submissions on the price or constructed normal value in a market economy third country, the application is clearly incomplete.

- That the applicant has not been able to adduce a single bit of evidence regarding the prices of the subject good prevailing in a market economy third country; Prices of the subject good from such third country to other countries, including India; Raw material cost for subject goods, which was allegedly taken 'on the basis of the international price of the major raw materials; Adjustments with regard to export price (ocean freight, inland transportation cost, VAT loss, sales commission, bank charges, port handling & charges and marine insurance). Under these circumstances the Authority could not have satisfied itself as to the “accuracy and adequacy” of the evidence presented.

- That if constructed normal value is fully accepted based on the experience of the Applicant, the requirement to provide normal value with evidence will become redundant because whenever there is price undercutting/underselling, the normal value will show the assumed dumping behavior of the exporter even though there may not be any dumping with reference to actual normal value.

- The interested parties in their submissions have argued that the consumption norms of the participating exporter must be considered in the present investigation for determination of normal value.

- That M/s Jindal Stainless Steel is also exporting HR SS Coils and CR SS Coils above 304 series and their prices are comparable with export prices of suppliers from China, Korea and Malaysia. Therefore, there is no ground for Anti dumping duty.

- That the purpose of applicant is to gain monopoly status and damage the domestic industry of finished goods where HR SS coil/ CR SS coil series 304 are used as input.

- That the prices charged by the applicant in domestic market and export market are already higher and for protection of higher prices in domestic market applicant is seeking Anti Dumping Duty.

- That the applicant industry is exporting mainly CR SS Coils of 304 series and difference in price of CR SS Coils and HR Coils is approx. 200 USD per MT and as such the export price in international market will be 200 USD less than CR SS Coil of 304 series. Therefore, the price of HR coils may be ascertained by reverse charge method.

- That if anti dumping duty is imposed, the product in the Indian market will be more costly and ultimate users will be affected. Anti Dumping duty on the product will seriously impact the domestic user industry and their finished products such as process equipments, re-rolling, reactor vessel, material handling equipments, railways, pipes and tubes, automatic components, rolled and formed sections, architectural and building and construction industry, fabrication and power sector etc.

- That international suppliers of China PR, Korea and Malaysia are not competitors of Jindal Stainless Limited because international suppliers' manufacture HR coils of width up to 900mm whereas applicant industry manufactures HR coils exceeding 1000mm. The technology and manufacturing process used by these countries are also different.

- That the foreign manufacturers have lesser cost of manufacturing due to efficiency in their operation and scale of production. They are also giving better quality product of stainless steel at lesser price and are not dumping the product in India.

- That majority of production is done by Applicant i.e. 90% and rest 10% is done by M/s Salem Steel. Applicant is not supplying goods to those who are not solely purchasing from them and they are also exploiting the small buyers by dictating their terms. If Anti dumping duty is imposed then Applicant will have complete monopoly in the market.

- That applicant already have over valued plant and the same cannot be competitive compared to the foreign manufacturer of such goods and anti dumping is not a remedy.

- That applicant is already at advantage than the foreign suppliers as they get major raw material like iron ore, chrome within the country whereas foreign suppliers has to import these raw materials.

- That applicant domestic industry's funding pattern should be examined to ascertain whether they are solely used for manufacturing purpose or used in their subsidiary as interest free loan, etc.

- That Hot Rolled products produced by JSL have hot rolling marks on both the sides which are not seen on overseas vendor. The pipe manufacturers have to buy extra widths to remove those defects.

- That the applicant is not in a position to manufacture specific width in specific thickness for small quantity. Coils supplied by JSL, a minimum of 3 meters in the front end and rear end will have major quality issues, which increases the wastage.

- That the delivery by JSL is not on time and transportation charges are very expensive because they delivered through Road which costs Rs. 4000 per MT.

- That the non-confidential version of the petition is wholly deficient and not sufficient to provide reasonable summary of information treated confidential inter alia in the petition in complete violation of AD rules pertaining to confidentiality.

- That the domestic industry has claimed unwarranted and highly excessive confidentiality on costing information and meaningful summary has also not been provided.

- That the domestic industry has resorted to constructing the Normal Value for the purpose of determining dumping margin and it would be absolutely unfair if the importers/users are not allowed to comment upon the information relied upon to construct normal value which has a direct bearing on them.

- That the Authority should disclose the complete transaction-wise import data to all interested parties through the public folder.

F.2 Views of the Domestic Industry

35. The domestic industry, in its submissions, has refuted the arguments of the interested parties. The submissions of the domestic industry, in this respect, have been summarized as follows:

- That the petition was filed with most recent period. In any case, no prejudice has been caused by consideration of the present period of investigation. On the contrary, performance of the domestic industry has further deteriorated in the period after the present period of investigation, as is well established by the statement enclosed with the rejoinder submission. It would be seen that the imports have increased significantly after the period of investigation and the losses suffered by the domestic industry have significantly increased in the post period of investigation.

- That China's massive capacity expansion and unfair cost advantages have led to a situation where it is involved in global dumping. There is a plethora of cases against China involving steel. The industry has to, therefore, match prices in order to sustain in the global market. While petitioner does not have a mechanism to restrict other countries from dumping globally, the petitioner has the right and legitimate expectation from its country's Government to provide remedy against dumping in the home land;

- That evidence with regard to the adjustments to the extent possible has been given, such as evidence of ocean freight and VAT. For other adjustments, conservative figures have been considered. The exporter participating in the investigation would certainly be able to provide such information as they are privy of it.

- That as regards the argument that the petitioner has not provided credible information on actual and potential effects of dumped imports the domestic industry has argued that potential word means 'possible' or 'probable' and that it has been substantiated that dumping has caused current decline in performance of the domestic industry in various parameters. This fact itself is a ground for potential further decline in the performance of the domestic industry.

- That the Authority has been consistently examining actual performance of the domestic industry over the injury period. It is only in a situation where actual performance over the injury period does not show injury to the domestic industry that the authority is required to examine potential situation with regard to various economic parameters.

- That confidentiality, where warranted, has been claimed and the Authority after verifying the same has granted the same. Petitioner has

provided index information wherever warranted. No specific instances have been pointed out where the petitioner could have provided actual information and the petitioner has withheld the same. It has been argued by the DI that the importers have filed questionnaire response wherein the details of volume parameters such as imports and inventories have not been disclosed. While import volumes and inventories have been claimed as business sensitive for these importers they consider that even cost of production, selling price and profit/loss is not confidential for the petitioner.

- That there is no legal and factual basis in the arguments of the interested parties for placing the transaction-wise import data collected by the Authority in the public folder. The Authority requires petitioners to provide information with regard to volume and value of imports and source of information. The Authority does not require the petitioners to provide transaction by transaction data. To such an extent, it should be concluded that the transaction by transaction information provided by the petitioner is beyond the requirements prescribed by the authority.

- That as regards rights of interested parties, their right is limited to comment on the claim of the domestic industry with regard to volume, value and price of imports. The interested parties have liberty to defend their interests on the basis of this information. The interested parties cannot demand the information with regard to transaction wise data on this account.

- That the transaction wise data is required by the Designated Authority only to satisfy itself with regard to adequacy and accuracy of information/evidence contained in the petition. However, such requirement is for the Designated Authority and does not generate a right on the interested parties to demand the relevant evidence.

- That the Designated Authority is required to satisfy itself with regard to adequacy and accuracy of information provided by the interested parties; and for this purpose, the Designated Authority seeks elaborate information from the exporters and verifies the same. However, the domestic industry is not provided access to such information.

- That if the argument of the exporter was to be accepted, it implies that the invoice by invoice details of exports and domestic sales made by the exporter must also be made available to the domestic industry in order to allow them to check the correctness of their data.

- That without prejudice, transaction wise details of imports have been made available by the petitioner in the present case. Thus, while legally the petitioner is not required to provide this information, on facts, the petitioner has in fact provided this information and therefore the entire argument is without any basis.

- That the prices from market economy third country to India could not be adopted for the reason that these prices from third countries to India are affected by Chinese dumping and thus inappropriate. Under the circumstances, normal value is required to be determined considering price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

- That price actually paid in India could not have been considered for the reason that the same were below cost of production. Thus, the only option with the Authority was to consider cost of production in India, duly adjusted, to reflect international raw material prices and optimum conversion costs, selling, general & administrative expenses and reasonable profit. The Chinese producers, or importers or any other interested party has made no claim nor advanced any evidence either with regard to price or constructed value in a market economy third country.

- That UN Comtrade data could not be adopted for submission as evidence of Normal Value for reason that the customs classification is not dedicated to product under consideration. Product under consideration is classified under customs sub-heading 7219 and 7220. UN Comtrade gives information for custom classification at 6 digit level. This classification code does not even describe the series of stainless Steel Products. It is likely that UN Comtrade would include products other than product under consideration. Such being the case, customs data of the other countries could not be adopted. Further, import price from third countries into India could not be adopted for the reason that the same are either at dumped prices or are influenced by present dumping.

F.3 Examination by the Authority

36. Various miscellaneous issues raised by the interested parties have been examined and addressed as follows:

- As regards the gap between the period of investigation and the date of initiation is concerned, the Authority notes that there is no legally binding obligation on the Authority to adopt any specific time limit for adoption of the POI though the Authority is fully guided by the best endeavor guidance and tries to adhere to the most recent period for investigation purpose. In the factual matrix of the case the investigation has been initiated with a period of data collection which is applicable for both domestic industry as well as the exporters. The domestic industry has submitted that the injury has intensified after the POI due to higher volume of imports in the post POI period. Therefore, the interests of the other interested parties have not been affected because of the gap between the period of data collection and date of initiation.

- As regards the adequacy and accuracy of information submitted by the petitioner in the application with respect to evidence of normal values and export prices the Authority notes that on the basis of an objective examination of the prime facie evidence submitted by the petitioner the investigation was initiated. The petitioner has explained the circumstances under which direct evidence of the normal values in the countries of exports could not be produced and after an objective examination of the same alternative methods of assessment of normal value has been accepted at the initiation stage. The adjustments to the export prices were effected after examination of information placed before the Authority by the petitioner. Therefore, the Authority holds that the investigation was in no way vitiated because of the fact that the normal values and export prices were assessed at the initiation stage by using alternative methods as no direct evidence of prices prevailing in the subject countries were available.

- As regards the arguments of the interested parties that the petitioner has not established *potential decline* anywhere in the petition and the allegations with regard to injury should be dismissed for inconsistency with Article 3.4 the Authority notes that the domestic industry, in its petition before the Authority, had made out a *prima facie* case of actual decline in certain parameters related to physical and financial performance of the domestic industry due to volume and price effect of the dumped imports. Therefore, at that stage there was no need to seek information on the potential or possible impact of the dumped imports.

- As regards the price behavior of the domestic industry in the export market and domestic market as raised by certain interested parties, the

Authority notes the submission of the domestic industry that their price behavior in the external markets is impacted by overwhelming presence of dumped imports in several market from the subject countries which is borne out of the fact that several trade remedy actions have been taken by many WTO members on steel products. The Authority also notes that the performance of the petitioner on account of its export prices in external market has no bearing in this case as the injury suffered by the petitioner on account of its domestic operation only has been examined separately and injury, if any, on account of exports has not been attributed to the injury suffered in domestic operation of the petitioner. Therefore, the arguments of the interested parties in this regard have not been found to be tenable.

- As regards the arguments of the interested parties to provide them transaction-wise import data considered by the Authority in this investigation, the Authority notes that the Rules do not require the Authority to place the information collected from other sources, other than the information provided by the interested parties on non-confidential basis, in the public folder. The information/data collected by the Authority from other agencies have been analysed in the best possible manner and used in the findings to the extent they are relevant. Therefore, the requests of the interested parties cannot be acceded to.

- As regards the arguments of the interested parties regarding the anti-competitive and monopolistic behavior of the petitioner; quality and delivery issues; and public interest issues, are concerned, the Authority notes that the purpose of the antidumping investigations are aimed at identifying and removing the effects of dumped imports to create a level playing field for the domestic manufacturers against unfair price behavior of foreign producers and not to restrict imports or create a monopolistic situation. The domestic industry has the right under the law to seek such remedial measure. The importers and users are free to import the goods as per their requirement at un-dumped prices.

- As far as the issues raised by the interested parties regarding the confidentiality claims are concerned, the Authority notes that to the extent possible and practicable the confidentiality claims of various parties submitting the information have been examined and confidentiality claims admitted on the basis of nature of information provided by the parties. The Authority notes that import data and

volume statistics, etc. have been placed in the public folder and no confidentiality has been admitted for such information which are not business proprietary information or sensitive for the domestic industry. However, keeping in view that estimation of the normal value for the Chinese exporters has been done on the basis of the operating information of the domestic industry and breakup of various elements of such an estimated value is business sensitive information for the domestic industry, detailed breakup was not provided in the public file. As far as the submissions of the exporters are concerned, the information provided by the exporters, to the extent they are not business sensitive to the party providing the same, have been placed in the public folders. In view of the above the objections of all parties with respect to confidentiality claims of the opposing parties have been disposed off.

G. Methodology and Determination of Dumping Margin

37. The Authority notes that the following producers/exporters of the subject goods from the subject countries have filed questionnaire response:

(i) M/s Bahru Stainless, Malaysia; and
(ii) M/s Lianzhong Stainless Steel Corporation, China; and
(iii) M/s Century Steel Pte. Ltd.; Singapore (Exporter)

38. No questionnaire response has been received from any producer/exporter from Korea RP. Certain interested parties have argued that the consumption norms of the participating exporter must be considered in the present investigation for determination of normal value. In this connection the Authority notes that the Normal values in the countries of export has been determined depending upon the level of participation of the exporters in the investigation and the data submitted by them. To the extent credible information on the consumption norms etc. have been placed before the Authority the same has been used to the extent they are supported by verifiable evidence. Accordingly, the claims of alleged dumping have been examined and the margins of dumping from each of the subject countries have been determined as follows:

G.1 Malaysia

39. As per the import data analysed by the Authority 1584 MTs of the subject goods were imported from Malaysia during the POI. Only one exporter

from Malaysia, i.e., M/s Bahru Stainless Steel, has filed a questionnaire response. The questionnaire response was examined and supplementary information was sought from the exporter and the exporter filed certain supplementary information in response to the same. The response and the data submitted by the exporter have been examined by the Authority.

40. M/s Bahru Stainless has submitted that it is a private limited company incorporated and registered in Malaysia on the 27th March 2008 with over ***% shareholding by M/s ACERINOX, S.A. Spain and M/s Nisshin Steel Co., Ltd. Bahru also has a related company in Malaysia i.e., M/s ACERINOX SC Malaysia SDN BHD ("ACERINOX SC"), which had exported small volumes of the product concerned to India during the POI (**** MT).

41. M/s Bahru Stainless, in its submissions, has also submitted that ACERINOX SC acquired ACERINOX Malaysia SDN BHD ("ACERINOX MALAYSIA") in April 2013. ACERINOX MALAYSIA had also exported small volumes of the product concerned to India during the POI (**** MT). After acquiring Acerinox Malaysia SDN BHD, Acerinox SC Malaysia SDN BHD had stopped exporting the subject product to India from September 2013.

42. It has been further submitted that Acerinox SC; Malaysia SDN BHD and Acerinox Malaysia SDN BHD procured 'Hot-Rolled N1 Coil', which is a finished product from Spain, South Africa and USA and performed simple cutting operation on the aforesaid material to achieve desired lengths. Such cut length products were then supplied to customers in India. Products exported by Acerinox SC Malaysia SDN BHD and Acerinox Malaysia SDN BHD retained their origin as Spain, South Africa and USA, from where Hot-Rolled N1 Coil was procured and are already subject to anti-dumping duty vide Notification No. 104/2011-Customs dated 25th November, 2011. Therefore, these two Companies, i.e., M/s Acerinox SC Malaysia SDN BHD and M/s Acerinox Malaysia SDN, related to Bahru Stainless, have not submitted the details of their exports to India in this investigation.

i) M/s Bahru Stainless, Malaysia

43. M/s Bahru Stainless has filed a detailed questionnaire response and has submitted that their main activity is production of Cold Rolled Stainless Steel flat products. However, they have also exported to India Hot Rolled flat products of stainless steel (N1 products) which are covered within the scope of the product under investigation. But the hot rolled flat products of stainless steel exported by them to India are not of Malaysian 'country of origin'. It has

been submitted that Bahru Stainless procures Black Coils from various suppliers outside Malaysia and performs annealing and pickling activities on such Black Coils. After performing annealing and pickling activities, the coils are cut to required sizes and thereafter supplied to the customers in India. The HS Code for Black Coils procured by Bahru Stainless and the HS Code for N 1 products exported by Bahru Stainless to India is same and there is no change in the tariff heading (at 4 digit level) or subheading (at six digit level). Accordingly, the country of origin of such hot rolled flat products of stainless steel exported by Bahru Stainless to India is not Malaysia but the country from where Black Coils are procured. During the POI, Bahru Stainless sourced Black Coils from several related and unrelated companies, in South Africa; Spain; Japan, Korea, China, Singapore and Hong Kong for supplying the product under consideration to India.

44. Though the manufacturing and export operations of Bahru are significantly different from that of Acerinox SC Malaysia SDN BHD and Acerinox Malaysia SDN BHD as outlined above, it has been argued by Bahru that there is hardly any value addition in the aforementioned processes, and value addition, if any, does not qualify as providing status of origin from Malaysia under the ASEAN-India FTA Rules of Origin notified under Notification No. 189/2009 - Customs (N.T.) dated 31.12. 2009. The ASEAN-India FTA Rules of Origin lay down two requirements which have to be met for achieving origin status from a member FTA country to seek and get exemption from Customs Duty. Firstly, Rule 5(1)(i) requires an entity in a member FTA country, such as Malaysia, to make at least a 35% value addition to the end product as a ratio of its FOB price to be considered as originating in that FTA country. Secondly, Rule 5(1)(ii) requires that a product shall be deemed to be originating from Malaysia if the non-originating materials undergo at least a change in tariff sub-heading (CTSH) level i.e. at six-digit level of the Harmonized System.

45. Further, it has been argued that cutting operation does not qualify Malaysian origin to a product under the ASEAN-India Rules of Origin, as cutting operation is expressly excluded under Rule 7(1)(b) and this is the reason that the Bahru does not provided a Certificate of Origin showing Malaysia as origin to an importer in India for claiming any concessional benefits under ASEAN-India FTA.

46. Bahru has argued that as there is no production of the subject products in Malaysia, the present investigation against Malaysia should be terminated in line with India’s consistent practice and practice in other jurisdictions.

47. Bahru has further argued that Bahru and its related companies are the only exporters of the subject goods from Malaysia that have exported small volumes of the product concerned to India during the POI. Further, there are no other exporters of the subject goods from Malaysia. Bahru initially filed only Appendix-2 of the questionnaire response related to export sales to India. However, subsequently, in response to deficiency letter they submitted other appendices, including domestic sales details.

48. Bahru further argued that total import volume of the subject products from Malaysia during the POI is only 1232.02 MT as compared to 1584 MT projected in the petition. Therefore, the data presented in the petition concerning the import volume of the subject product from Malaysia in the POI is factually incorrect. It has also been argued that imports of the subject products from Malaysia comprise only 0.75% in domestic demand (including captive). Even assuming that this figure is correct, the Malaysian imports comprise less than 1% in demand, which is too insignificant to cause any injury to the domestic industry.

Views of the Domestic Industry

49. The domestic industry has contested the claims of the exporter and has argued that M/s Bahru Stainless Sdn Bhd is already attracting ADD if the goods are produced by its sister concern, Columbus Stainless (PTY) Ltd, South Africa. In fact the combination of Columbus Stainless (PTY) Ltd, South Africa (producer) and Acerinox Malaysia Sdn Bhd (parent company) also attracts ADD. It is evident from the annual report of Bahru as well as various independently published reports that black coils are being procured from its sister concern, i.e., Columbus Stainless (PTY) Ltd, South Africa. By admitting that they are merely importing black coils and are simply carrying out Annealing Pickling operation in Malaysia, the exporter is clearly presenting two different positions before two different authorities i.e., (a) before Customs Authority wherein the goods have been declared as originating in Malaysia; and (b) before Designated Authority wherein it has been claimed that the exporter is not a producer, but only an exporter of goods produced in some other country. While the Customs Authorities need to take appropriate action with regard to applicability of anti dumping duty and origin of goods, the current application before the Designated Authority is in respect of exports of goods from Malaysia and is thus clearly maintainable, as the imports statistics shows imports from Malaysia.

50. It has been argued by the domestic industry that Anti dumping duty is imposed on imports into India from a country. The law is not restricted to *'producers'* from such subject country, but is also extended to *'exporters*' from such country. Anti-Dumping Duty is based on the combination of producers and exporters. Even assuming that there is no actual production in Malaysia, even then the exports of subject goods from countries having exports above the level of de minimus would attract anti dumping duties. The issue is well decided by the Designated Authority in the past investigations relating to, such as, DVD-R, CFL, CDR, to name a few.

Examination of the Authority and determination of Normal Value

51. The Authority notes that the responding exporter from Malaysia has claimed that the black coils of HR are imported by them from several manufacturers in several countries, some of them being their related/group concerns and further processed before being exported to India. This has not been contested by the domestic industry also. The only issue being contested is whether the annealing and pickling, and slitting operation being carried out by them in Malaysia qualifies the status of originating goods from Malaysia as per Indo-ASEAN FTA. Bahru has claimed that the annealing and Pickling, and slitting operation carried out by them does not confer the goods originating status as per the FTA as it does not give the value addition prescribed and there is no change in the tariff heading (at 4 digit level) or subheading (at six digit level). Therefore, Bahru claims that the country of origin of such hot rolled flat products of stainless steel exported by Bahru Stainless to India is not Malaysia but the country from where Black Coils are procured, and therefore, the investigation against Malaysia should be dropped.

52. Domestic industry has argued that Bahru has in fact claimed the goods are of Malaysian origin before the customs Authority as the import data received by the Authority from DGCI&S would show the goods as of Malaysian Origin and the importer might have claimed preferential duty under FTA on the basis of such Rules of Origin Certificate issued by the exporter in Malaysia.

53. Bahru has submitted that Bahru does not provide a Certificate of Origin showing Malaysia as origin to an importer in India for claiming any concessional benefits under ASEAN-India FTA. But the fact remains that the import data submitted by DGCI&S shows the goods are of Malaysian origin which means that the importers have cleared the goods as Malaysian origin against certificates of origin issued by the concerned authorities in Malaysia.

54. The Authority also notes that the domestic industry has taken up the alleged mis-declaration of the origin of the goods exported from Malaysia and collection of antidumping duty imposed on goods of South Africa, EU and USA origin with the appropriate Authorities in the Department of Revenue.

55. While whether the goods have been wrongly declared as of Malaysian origin and cleared under Indo-ASEAN FTA preferential duty arrangement is a matter of separate investigation by the concerned agencies/authorities, there is no denying the fact that the goods exported from Malaysia are not of Malaysian origin as per the rules of origin under the FTA.

56. The Arguments of Bahru that since the goods are not of Malaysian origin, the investigation against Malaysia should be dropped is not tenable in view of the fact that the goods are being exported from Malaysia. The black coils have been procured by the responding exporter from several manufacturers in different countries and these coils have undergone further minor processing in Malaysia before exporting to India and other countries. Therefore, the Authority holds that Bahru cannot be treated as a producer of the subject goods and individual treatment cannot be granted to them for determination of their dumping margin.

57. The Authority also notes that apart from the responding exporter M/s Bahru Stainless Steel their related Company M/s ACERINOX SC Malaysia SDN BHD ("ACERINOX SC"), which had exported **** MT during the POI. ACERINOX MALAYSIA had also exported **** MT to India during the POI. As per the submissions of Bahru these two companies have stopped exports to India. None of these parties have submitted any information about their exports. Therefore, all exporters in Malaysia have been treated as non-cooperative and the dumping margin for all exporters from Malaysia has been determined based on the facts available.

58. In view of the position explained above in the absence of any other reasonable method of determination of Normal Value in Malaysia the Authority has constructed the Normal value in Malaysia. For the purpose of construction of Normal Value in Malaysia the international price of major raw materials, to the extent they were available and most efficient conversion cost of the domestic industry has been considered. A reasonable margin of profit has been added to arrive at the weighted average constructed normal value of the subject goods in Malaysia at ex-works level. Accordingly, weighted average ex-works Normal value for the product under consideration in Malaysia has been determined as US$ ****/MT.

Export Price

59. As per the import data 1584 MTs of the subject goods were imported from Malaysia during the POI at an average CIF price of Rs137384/- (US$2512/-) per MT. After adjusting the CIF price for all post sales expenses including inland and ocean freight and insurances and, bank charges and credit costs etc. on the basis of facts available taking into account information available in cooperating exporter's response, the net export price at ex-works level works out as US$**** per MT.

Dumping Margin: Malaysia

60. The ex-works normal value has been compared with the ex-works export price to arrive at the dumping margin as follows:

CIF	Adjustments	EP	CNV	DM	DM %
US$/MT	US$/MT	US$/MT	US$/MT	US$/MT	
2,512.05	****	****	****	****	10-20%

G.2 China PR

61. The Authority notes that as per the import data analysed China has exported 30,589 MTs of the subject goods to India during the POI. However, only one Chinese producing Company i.e., M/s Lianzhong Stainless Steel Corp. ("LISCO") has filed a questionnaire response along with Market Economy Treatment Questionnaire Response. During the POI LISCO has exported **** MT of the subject goods to India out of which **** MTs have been exported through M/s Century Steel Pte. Ltd., Singapore (Century). Century has also filed a separate questionnaire response as an exporter of goods manufactured by LISCO, China.

i) M/s Lianzhong Stainless Steel Corporation, China PR

Examination of Market Economy claims of LISCO

62. The Authority notes that M/s Lianzhong Stainless Steel Corporation, one of the producers and exporters of the subject goods from China PR has submitted its questionnaire responses and market economy questionnaire responses and has rebutted the non-market economy presumption. On the basis of preliminary examination of the questionnaire response and the MET claims of this exporter a letter was issued to them asking for certain additional information/clarification vide letter dated 14th August 2014. The exporter, vide

letters dated 8th September and 18th September 2014, filed certain clarification/additional information.

63. LISCO, has submitted that it is a producer and exporter engaged in the production and exports of the product under consideration solely from China. LISCO has also submitted that in a previous antidumping duty investigation of Cold Rolled Flat Products of Stainless Steel from China PR, Japan, Korea, European Union, South Africa, Taiwan (Chinese Taipei), Thailand and USA (No.14/06/2008-DGAD, dated 24th November 2009), LISCO was granted market economy status by the Authority.

64. As per the questionnaire response LISCO was a wholly foreign-owned enterprise established in December 2001 by its Taiwan parent company, Yieh United Steel Corporation ("YUSCO"). YUSCO owned ***% of LISCO's shares through a holding company incorporated in the British Virgin Islands, and another holding company incorporated in Samoa. YUSCO owned ***% of both the holding Companies. At the inception of establishment of LISCO, the first holding Company was the sole shareholder of LISCO. On July 8, 2002, it transferred its ***% of shares holding at LISCO to the second holding Company. After this transfer of shares, the first holding Co. owned *** % of LISCO and the second holding Co. owned ***% of LISCO, respectively. This transfer of shares between the holding companies did not change LISCO's legal form as a wholly foreign-owned enterprise. Both LISCO and its parent YUSCO are members of "E United Group" in Taiwan. E United Group is not a legal entity but a group of companies with cross-ownership and/or with common control by Mr. I. S. Lin, the chairman of YUSCO. Other than the steel industry, E United Group is also involved in businesses such as education, health care, and real estate development, etc.

65. It was submitted that LISCO was controlled by its board of directors as a wholly foreign-owned company and was free to repatriate capital and profits based on the resolution of its board of directors, as stipulated in LISCO's Articles of Association. LISCO did not have any relationship with any level of the PRC government, including the ministries or offices of any level of the government.

66. Responding to domestic industry's submission that LISCO is in the process of being acquired by a State owned enterprise LISCO had further submitted that LISCO's legal structure as a wholly-owned subsidiary of its Taiwan parent, Yieh United Steel Corporation, has never been changed since the period of investigation of the underlying investigation while it is true that

LISCO this year has been in discussions with several potential business partners (including companies in Taiwan, Korea, Japan, China and several other countries) in acquiring a certain portion of LISCO's shares. But nothing was concrete at that point.

Views of the domestic industry

67. The domestic industry, in its submissions, has argued that China is a non-market economy and has been treated as such by European Union and United States as well this Authority in the past three years. Even China agreed in the accession treaty that WTO Members could use an NME antidumping methodology till December 11, 2016. Domestic industry has further argued:

- That AD Rules have prescribed certain conditions that have to be satisfied in order to establish the claim of market economy treatment. It is to be noted that each and every condition must be fulfilled by an intending exporter in order to claim market economy treatment.

- That except where the responding Chinese exporters confirm to each of these standards, the Designated Authority is required to determine normal value in accordance with Para 7 of Annexure-I to the AD Rules.

- That based on various pronouncements relating to examination of market economy status by India and other investigating authorities, certain jurisprudence has clearly emerged and Market economy status cannot be granted unless the responding exporters satisfy/establish certain conditions, which inter alia include:

    - That there is no major state ownership/control;

    - That the prices of major inputs substantially reflect market values prevailing in the international market;

    - That their books are audited in line with international accounting standards

- That market economy status cannot be granted to a responding exporter in China unless Chinese exporters pass the test in respect of each and every parameter laid down under the rules. It is for the responding Chinese exporters to establish that they are operating under market

economy conditions. Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.

- That there are various news articles that show that Ansteel Group is going to acquire a 60% stake in LISCO. Ansteel Group, a large-sized steel production base in China, is a State-owned enterprise and has the reputation as the “Cradle of the Chinese Steel Industry” and the “Eldest Son of the Republic’s Steel Industry”. It has been argued that with 60% stake being held by a State owned company, it cannot be contended that the government interference would not be there and this proposed change in the legal status of the exporter will have a direct bearing on the case.
- That raw material forms 87% of total cost of production of the product under consideration and therefore it is of utmost importance whether prices of inputs reasonably reflect the market values. The exporter has provided no evidence to establish that prices of inputs consumed by the exporter reasonably reflect the market values. The exporter has in fact admitted that one of the raw material i.e., steel scrap, has been procured from two of its affiliated companies. The Company has purchased raw material from other local domestic supplier as well which are not operating under market economy conditions.
- That LISCO is admittedly governed by the Pricing law of China which is formulated to promote the socialist market economy. Article 6 of the law to provide for framing of own pricing policy. Exception is given under Article 18, which states that “the government shall issue government set or guided prices for few merchandises that are of great importance to development of the national economy steel industry is undeniably merchandise that is of great importance to national economy, and by virtue of the above Article, the prices of steel shall be controlled by the Government of China.
- That the Government of China has issued a “Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China” (Encouraged Industries Catalogue). The said catalogue identifies “Steel and Iron”, “low-alloy steel and micro-alloy steel”, “Stainless steel smelting”, “Hot- and cold-rolling stainless steel sheet” “Processing and treatment of scrap steel” as encouraged industries.
- That the Catalogue of Encouraged Foreign Investment Industries considers “ Manufacturing of nickel-saving stainless steel products”, “ Manufacturing of the equipment of coal-fired power plant and de-

nitrification technology for sintering machine in steel industry" as encouraged industries.

- That the Govt. of China has promulgated the Policies for Development of Iron and Steel industry which has various provisions to facilitate steel industries.

Examination by the Authority and determination of Normal Value (LISCO)

68. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China provide(s) information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

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

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

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

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

69. The Authority notes that LISCO was granted market economy treatment in an earlier investigation in 2009 concerning certain cold rolled steel products. LISCO, in its questionnaire response submissions contended that there has not been any significant change in the status of the Company in terms of management or business structure since then though there are

discussions with several potential business partners (including companies in Taiwan, Korea, Japan, China and several other countries) in acquiring a certain portion of LISCO's shares, nothing was concrete at that point.

70. On spot verification of the information submitted by the Company was carried out on 29-30, January 2015 in China. During the verification the company informed that ****% of the shares of LISCO has been acquired by M/s Ansteel Group Corporation, a State owned Company, in China PR, on 24th December 2014 and accordingly, the name of the Company has been changed to M/s Ansteel Lianzhong Stainless Steel Corporation as a limited liability Sino-foreign joint venture with a registered capital of RMB ****. With this acquisition the shareholding of the Company stands as follows: Public Zone Co. Ltd, registered in British Virgin Islands ****%; Ansteel Group Coprp, China ****%; and Valley Field Ltd, Samoa ****%. It was also noted that with this acquisition there is a change in the composition in the board. The board now consists of seven members with four members representing Ansteel, two representing Public Zone Co. and one member representing Valley Field Ltd. It was mentioned by the Company that Ansteel is a major Carbon steel producer in China and is diversifying into stainless steel business with this acquisition.

71. The Company also informed that they will soon file the required documents with the Authority informing about this development and change in the status as well as the name of the Company and the earlier submissions made by LISCO should be subsumed as the submission on behalf of the new entity i.e., M/s Ansteel Lianzhong Stainless Steel Corporation**.**

72. In the light of the above the production process and cost of production of the subject goods manufactured by the Company during the POI were also examined. Examination of the data submitted by the exporter indicates that it procured most of the major raw materials locally form their affiliated Companies as well as unaffiliated companies. Major portion of the raw materials have been procured from unaffiliated suppliers in China. There is a significant difference between the prices of major raw materials procured from the unaffiliated suppliers in China when compared to the prices at which the goods have been sourced outside China as well as its affiliated suppliers. No information is available on the market economy status of the major raw material suppliers in China and the difference in price of various raw materials procured by the exporter from different sources indicates that the cost and prices of the raw materials in China procured by the exporter for production of the subject goods do not reflect the true market value of the goods. The

Authority notes that Raw materials constitute a very major portion (82%) of the cost of sales as per the information submitted by the Company. Therefore, cost of production of the subject goods produced by this producer/exporter is not reliable and cannot be accepted.

73. In view of the above the normal value for China is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules. Para 7 of Annexure I read as follows:

> *"7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner keeping in view the level of development of the country concerned and the product in question and due account shall be taken of any reliable information made available at the time of selection. Account shall also be taken within time limits, where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments."*

74. As per the above provisions normal value in China is required to be determined based on domestic selling prices in a market economy third country, or the constructed value in a market economy third country, or the export prices from such a third country to any other country, including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted to include reasonable profit margin.

75. In the absence of any reliable price and cost details for the subject goods in any market economy third country the Designated Authority has constructed the normal value in China on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin. Accordingly, the Normal Values for the subject goods exported by all exporters in China has been determined as US$***/MT.

Export Price: M/s. Ansteel LISCO, China through M/s Century Steel Pte Singapore

76. LISCO has reported export of **** MT of the subject goods to India during the POI. The goods have been exported to India through 4 unaffiliated exporters in Hong Kong, Taiwan and Singapore. Out of the total quantity exported during the POI, **** MTs have been exported through M/s Century Steel Pte Ltd., Singapore, who has filed a separate questionnaire response. None of the other exporters of the remaining quantity exported by LISCO to India during the POI has filed any questionnaire response. Therefore, the Authority notes that total value chain of the exports of goods to India is not complete with respect to the goods exported by this producer and it would not be possible to determine the export price of this exporter without completion of the entire value chain. Accordingly, the Authority holds that individual treatment cannot be granted to LISCO for determination of a separate dumping margin for the goods exported by it during the POI.

77. No other producer/exporter from China has filed any questionnaire response. As per the import data imports from China during the POI was 30,589 MT at an average CIF price of Rs138236/- (US$2527.62/-) per MT. The CIF Price has been adjusted for all ex-works expenses such as inland and ocean freight and insurance, bank charges and credit costs etc. and VAT differential of 4% on the basis of facts available taking into account the information available from the cooperative exporter's data. Accordingly, net ex-works export price for all exporters in China works out to US$**** per MT.

Dumping Margin: China

78. The ex-works normal values and export prices, so determined at ex-works level, have been compared to determine the dumping margin for all exporters from China as follows:

CIF	Adjustments	EP	CNV	DM	DM %
US$/MT	US$/MT	US$/MT	US$/MT	US$/MT	
2527.62	****	****	****	****	10-20%

G.3 Korea RP

79. None of the exporters from Korea RP has filed any questionnaire response. As per the import data available with the Authority 3813 MTs of the subject goods have been imported from Korea RP during the POI. POSCO, one of the major manufacturers in Korea, in its limited submission before the

Authority has argued that its products are significantly different and therefore, should be excluded from the investigation. However, these arguments have been found to be unsubstantiated.

80. Neither POSCO nor any other producer or exporter from Korea has provided any information of their normal values or export prices. Therefore, the Authority has determined the normal value and export price for all exporters from Korea on the basis of facts available as follows:

Normal Value in Korea RP

81. In the absence of any cooperation from any producer/exporter in Korea RP and any other credible information which could provide the basis for determination of normal value in Korea RP based on actual cost and prices in the domestic market of the exporting country, or exports to third countries, the Authority has constructed the Normal Value in Korea RP. For the purpose of construction of Normal Value in Korea RP the international price of major raw materials, to the extent they were available and most efficient conversion cost of the domestic industry has been considered. A reasonable margin of profit has been added to arrive at the weighted average constructed normal value of the subject goods in Korea RP at ex-works level. Accordingly, weighted average ex-works Normal value for the product under consideration in Korea RP has been determined as US$ ****/MT.

Export Price: Korea RP

82. Export Price for all exporters in Korea RP has been determined on the basis of import prices reflected in transaction wise data for the POI from IBIS. Average CIF price reflected in the import data has been adjusted for inland and ocean freights and insurance, handling and other selling expenses based on facts available to arrive at ex-works export price. Accordingly, ex-works weighted average export price for all exporters in Korea RP has been determined as US$****/MT.

Dumping Margin: Korea RP

83. For the purpose of determination of dumping margin the weighted average ex-works normal value and weighted average net ex-works export prices so determined have been compared at the same level of trade and dumping margin has been determined for all exporters from Korea RP as follows:

CIF	Adjustments	EP	CNV	DM	DM %
US$/MT	US$/MT	US$/MT	US$/MT	US$/MT	
2,656.73	****	****	****	****	5-15 %

84. The Authority notes that the dumping margins so determined for the subject countries are above de minimis and significant.

H. Determination of Injury and Causal Links

85. Rule 11 of Antidumping Rules read with Annexure –II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "…. taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles….". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

86. The Authority notes that the application for imposition of antidumping duty has been filed by M/s Jindal Stainless Limited, who commands a major proportion of total production of the subject goods in India. In terms of Rule 2(b) of the Rules the petitioner has been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of this determination the cost and injury information of the petitioner, constituting the domestic industry as defined in Rule 2(b), has been examined.

H.1 Views of Exporter, importers and other Interested Parties regarding the injury claims of domestic industry

87. The Authority notes that though the Korean exporters have not filed the Response to the Exporters' Questionnaire, they have filed certain injury submissions before the Authority. Other interested parties have also made substantial submissions with regard to the injury and causal link claims of the domestic industry. The submissions of exporters, importers and other interested parties to this investigation, in respect of the injury and causal link claims of the domestic industry, have been summarized as follows:

- That the Korean exporters have not exported the PUC to India at dumped prices, as alleged, or at all and they are only filing the Submissions on

Injury as they convincingly believe that no injury, leave alone material injury, is being caused to the Petitioner;

- That the Petitioner is habitual in approaching the Government of India and seeking protection claiming injury, as and when it expands its production capacity, be it for cold rolled or for hot rolled stainless steel products. This is evident from the various investigations, including the instant Investigation, where the Petitioner has filed petitions in blatant abuse of the Trade Remedy measures to its advantage by filing incorrect data;

- That the petitioner has given false and misleading information regarding its capacity expansion and capacity utilization in past investigations. In the present investigation also the petitioner has shown that it has enhanced its capacity but the petitioner is silent on the issue whether its commercial production has stabilized or not. The petitioner may be asked to provide complete break-up of how installed capacity for the PUC has been worked out in a situation when there is no dedicated plant capacity for the same;

- That the petitioner has exaggerated the increased imports of STS HR 304 and deliberately invented material injury, which is not only factually incorrect but non-existent. On the contrary, the Petitioner has enhanced the capacity by almost 100% in the last one year and is struggling to make the same fully operational due to ramp up problems;
- That the Authority should properly consider reasons for the decline in capacity utilization of the Petitioner and also losses on account of other factors and it will find a causal link between other factors and injury;

- That the petitioner's Hisar plant, which is fully established, is operating at 90% utilization whereas the Odisha plant which started production in 2011 is operating at 15% capacity utilization. The lower capacity utilization at Odisha Plant is due to the fact that Stainless steel production facility at Odisha plant is under ramp up and was yet to stabilize. The alleged losses to the Petitioner are attributable to its unstabilised production and not to the purported increase in imports as admitted by them in its various unaudited reports and press releases.

- That there has been no increase of total import from the base year in relative terms to demand, including captive consumption. Also, under the condition of a steady high increase in demand, comparison of total imports between the preceding year and the POI in both absolute terms and

relative terms should be considered, which comprehensively indicates a decrease in total imports.

- That the increased quantity of 540MT originating in Korea is too minimal to negatively affect the total Indian STS HR 304 market with demand size of 168,510MT measured during the POI;

- That while the total demand has increased by 24,331 MT, the volume of STS HR 304 imported from Korea has increased only by 540MT, which increase cannot be termed as significant.

- That considering the total imports of 3,052MT from Korea and the total demand of 168,510MT in the Indian market during the POI, it is doubtful how 1.8% volume of the total demand could possibly affect the whole Indian market so badly such as to cause 'material injury'.

- That the Investigation should seriously deliberate on nature of increased market share of imported goods from Subject Countries, re-distribution of market share among STS HR 304 imports led by imposition of dumping duty on all imports exported from European Union, South Africa, Taiwan and USA. For this reason, the Authority should not treat the increase in market share of imports from the Subject Countries as either a cause or a sign of injury to domestic industry;

- That as a benefit emanating from CEPA, the Korean exporters are eligible to have preferential duty rate on the products exported to India and vice versa, if their product qualifies to its rules of origin. In this regard, many Korean and Indian producers benefited from CEPA, including POSCO. In other words, POSCO has attained the benefits concerning reduction in customs duty rate and increased its imports volume by 540MT since the effective year 2010;

- That the increased volume in imported STS HR 304 from Korea should be understood as a positive effect of the CEPA and not a cause to injury to Indian domestic industry;

- That the Authority should consider the significant drop of Nickel price, during the period of injury investigation, almost to a half of the early 2011, as a critical factor to lead to a fall of selling price of domestic industry and landed price of imports;

- That the imported STS HR 304 from Korea has not had a serious influence on price undercutting in Indian domestic industry. Further, neither price suppression nor depression resulting from the import of STS HR 304 from Korea is evident;

- That even the sales and production of the Petitioner have been increasing. Consequently, the argument of the Petitioner that domestic industry has suffered in terms of sales and production should be denied for analysis of injury in the Investigation;

- That the Investigation should carefully analyze the core reasons for material injury to domestic industry. Concerning the decline of capacity utilization, the imports from Korea could not be a cause. Rather, mistake in market forecasting to make managerial decision on establishing new production mill is the primary factor for the Petitioner's declining capacity utilization;

- That the estimation of 17.30% loss of market share due to dumping presented by the Petitioner is miscalculated upon wrong condition. The Petition assumes the automatic transfer of absent market share from anti-dumping duty attracting countries without consideration of other factors, which more directly and largely affects customer's purchase decision and subsequently market share;

- That has admitted by the Petitioner in its various financial statements, one of the causes for its increased cost of production is the depreciation of India Rupee to US Dollar;

- That another possible cause for the rise in cost of production is an increase in labour cost. Other possible causes are items of manufacturing overheads such as depreciation and amortisation expenses, and power and fuel.

- That POSCO has not increased its STS HR 304 production capacity during the POI. Although there was an increase of production capacity in POSCO's family corporation, Zhangjiagang Pohang Stainless Steel Co., Ltd. (hereinafter "**ZPSS**") in China, the ZPSS has not been exporting its STS HR 304 products to India during the period of injury investigation. Thus, there is no possibility of threats of injury as a result of imports from Korea;

- That the Petitioner has failed to present prima facie evidence of causal link in the Petition, in the absence of which the only factors that have caused injury are self inflicted attributable to their mismanagement and are of no relevance to imports from Korea.

- That imposition of anti-dumping duty on imports of STS HR 304 will have a detrimental effect on the STS HR consuming industry leaving it with the situation of purchasing the raw material with higher price than the rest of world. Due to higher purchase price, the total manufacturing cost of the STS HR 304 consuming entities in India will inevitably go up.

- That Jindal have Hot Rolling Machine at Hisar with capacity of 750,000 Tonnes Per Annum in which they are making 1000mm and 1250mm width of coils, whereas as in countries like China, factories are making mostly narrow width coils from 400mm to 700mm with a an estimated capacity of about 10,00,000 tonnes per annum rendering effective cost advantages. Under such circumstances cost of production of Jindal cannot be compared with that of Chinese producers;

- That Jindal should be considered as an inefficient producer and injury, if any, is on account of their inefficiency and product mix and not because of any dumping from subject countries;

- That the application on record do not demonstrate any material injury to the domestic industry on account of any alleged dumping from subject countries thus the present investigation is liable to be terminated without any measures;

- Return to be adopted must be reasonable and not hypothetical. Calculation of return by adopting 22% uniformly on both the components of capital employed is totally incorrect;

- That the volume of imports from subject countries has significantly declined during POI as compared to 2010-11 & 2011-12. However, during the same period the volume of sales of domestic industry in domestic market has significantly increased. This clearly shows that there is no adverse effect on the sales volume of the domestic industry in the domestic market because of imports from subject countries;

- That in a situation where imports from subject countries have declined and sales of the petitioner increased in the same period defuse the entire claim of injury by the petitioner. Such inverse relation between imports and sales

by the petitioner alone should be construed as sufficient to terminate the present investigations forthwith;

- That the domestic industry has resorted to huge capacity expansions in 2011-12 and during the POI. It is obvious that such robust capacity expansion could not be commercialized immediately. Further, it also shows that the capacity expansion have been made without adequate consideration excess capacity available with the petitioner and also the market situation. Therefore, it is submitted that this exploding capacity addition is one of the principal causes of injury to the domestic industry.

- That the capacity utilization of the domestic industry has shown declining trend during the POI. However, production shows significant increasing trends. Evidently, the reason for adverse performance in respect of capacity utilization is increase in its plant capacity and nothing else;

- That the sales volume of the domestic industry in domestic market during base year was 46,356 MT which went up to 63,916 MT during the POI. Further, volume of export market of the domestic industry also has significantly increased during the POI. Therefore, there is no injury to the domestic industry due to alleged dumped imports;

- Not disclosing actual level of inventory is suspicious. The sales figures of the Applicant indicate that it is able to sell almost 100% of its production during the period of injury up to the POI. Therefore, claim of rising inventories does not reconcile with rising sales figures

- That the cost of production of petitioner is high in POI because of high wages cost, interest cost, high capacity and investment, low utilization resulting into higher cost and financial losses, as evident in the injury information filed by the domestic industry;

- That if the cost of petitioner is high as compared to exporters, any cognizance of such higher cost of production caused by inefficiencies would tantamount to passing of burden on importers by way of anti-dumping duty mechanism which in turn seriously affect the interest of user industry which is labour intensive. Hence, levy of AD Duty would increase the price of raw materials for many user industries which would result in higher cost of end product to the customer.

- AD Rules requires DGAD to consider the best capacity utilization over the past three years and POI, while arriving at the NIP. Thus, DGAD should take the best capacity utilization during the injury period, that is, 92% and not 59% capacity utilization during the period of investigation, for the purposes of determining NIP.

- The Applicant is actually suffering losses due to its low priced exports rather than imports from subject countries

H.2 Views of the domestic industry

88. The domestic industry, in its submissions, has argued as under:

- That the allegations of the interested parties that the petitioner is a habitual protection seeker are baseless and it suggests that the duties so far have been imposed merely on the basis of application filed by the petitioner, without verifying the facts and without establishing that dumping of the product under consideration has caused injury. Only after detailed analysis of dumping, injury and causal link between dumping and injury is established duties are recommended by the Authority.

- That the Imports of the product under consideration have increased significantly and are undercutting and suppressing the prices of the domestic industry leading to significant losses. Performance of the Domestic Industry has steeply deteriorated in terms of profits, return on investments, cash flow, and has reached negative levels. The domestic industry has suffered significant financial losses, cash losses and suffered negative return on investment. Thus the petitioner is suffering material injury.

- That POSCO has not filed exporter questionnaire response and the claim of no dumping cannot be accepted without verifying data of the company and the argument is liable to be rejected.

- That initiation of safeguard investigation and recommendations of interim duties led to some partial correction in imports coupled with the fact of enhancement of capacities led to some reduction in imports. However, imports have further increased, as soon as safeguard duty was over. Further, if imports of the product under consideration over the entire injury period are considered, it would be seen that the imports have increased in absolute terms.

- That de minimis rule of imports pertains to percentage of imports from respective countries in relation to total imports. The law itself recognizes any country with more than 3% of share in total imports as having the potential to injure the domestic industry. Imports in relation to demand are immaterial to automatically drop a country from investigation. As explained in the petition, significant dumping and injury margin exists from imports of subject goods from Korea. The prices of imports from Korea are much below the level of costs of the domestic industry.

- That the Annual Report of 2012-13 of the petitioner clearly mentions that the ramp up of the Finishing Facility of its Odisha plant is in progress. It is a common knowledge in the stainless steel industries, that finishing is the process which follows cold rolling and it has got nothing to do with Hot Rolling and Annealing and pickling;

- That Petitioner has expanded capacity considering the growth in demand and expecting a fair opportunity in the domestic market to produce and sell goods given the fact of imposition of anti dumping duty on imports from other countries. Capacity is sufficient with the petitioner, thus, imports are in fact not necessary into the Indian market. However, the petitioner has not been able to utilize its capacities in view of dumped increased imports;

- That the decline in selling price in the POI as compared to the previous year is much more than the decline in cost of production of the domestic industry;

- That China was earlier a net importer of Stainless Steel product and has now become a net exporter. China was a significant market for Korean exporters. However, now China has turned into net biggest exporter of Stainless Steel and therefore, the market for Korea has gone. Accordingly these Korean exports are now diverted to India and elsewhere. This fact, coupled with excess capacity in Korea, clearly indicates threat of injury on account of dumping;

- That the Authority is required to determine injury to the domestic industry cumulatively from all dumped sources. Thus, individual examination of price undercutting, suppression or depression as claimed by the exporters is inappropriate, and could even be misleading.

- That the injury margin in case of Korea is also significantly positive. Thus, in any case, it would not be appropriate to selectively impose duty on

dumped imports from China and Malaysia and exempt dumped and injurious imports from Korea. In fact, any such approach would be contrary to the legal provisions concerning imposition of anti dumping duty on non-discriminatory basis. Volume of imports from Korea is not negligible. The same is significant and beyond the legal limits;

- That while arguing that the imposition of antidumping duty shall not be in public interest, none of the interested parties has provided any quantified claim in this regard;

- That there are significant contradictions in the arguments of Korean exporters. On the one hand it has been argued that the exports from Korea were negligible and at the same time it has been argued that imports from Korea have increased due to the benefits of CEPA and preferential customs duty.

- That grant of concession under CPEA cannot become a certificate for dumping. Contrary to the argument of the exporter, with the preferential customs duty, the exporter should have in fact sold the product at prices above normal value. Exporter should not have exported at dumped prices.

- That the issue of devaluation of exchange rate and the impact of the same on domestic industry is well addressed and has been considered entirely irrelevant. The depreciation of Indian rupee on facts should have actually mitigated injury and should not have amplified the same. If US Dollar has improved, the rupee price has increased and the injury margin should have declined. However, on facts, the loss suffered by the domestic industry has increased.

- That while the material cost might be impacted by exchange rate, the same also equally impacts the price of the product. Thus, in any case, there is no selective impact of exchange rate either on raw material or on finished product.

- That the requirements of narrower coils can easily be met by slitting wider coils at an extremely nominal cost and the petitioner has extensive facilities for the same. Petitioner has also supplied narrower widths. Further, it is a known fact that a wider mill can produce a far higher output per unit time thereby resulting in lower fixed cost per MT besides other operating efficiencies. It makes a lot more sense to produce a wider coil

and then slit the same than producing a coil in narrow width. This is the standard route followed by most mills worldwide.

- That the argument that production cost of domestic industry is ten times higher than the production cost of the subject countries is totally baseless.

- That the data would show that return on investment of Hissar plant was reasonable. As far as return on investment of Orissa plant is concerned, the same was initially impacted because of new operations; while the same was subsequently impacted by dumping in India. Thus, if the return on investment earned by the Authority may consider return on investment of the domestic industry in 2006-07 this represents return before dumping of the product in the country. Return on investment earned by the domestic industry during the period when the domestic industry was suffering because of dumping in any case would be inappropriate

- That the increase in production and sales of the domestic industry is a result of enhancement of capacities. However, despite commencement of production at new production facilities and imposition of anti dumping duty earlier, petitioner was unable to increase its sales to the extent of additional market that the petitioner was expecting as a result of imposition of anti dumping duty.

- That the normated cost of Odisha also shows injury and the performance of Hissar plant on standalone basis has also deteriorated. This clearly establishes that the claimed deterioration in performance of the domestic industry is not because of commercialization of production at Odisha plant.

- That expansion of capacity has led to increase in sales and production. Further petitioner has increased its sales at the cost of prices. This has led to increase in sales. With imposition of anti dumping duty on other sources, the petitioner had expected to gain the market earlier occupied by the countries earlier resorting to dumping. However, market vacated by one set of dumped sources, with imposition of anti dumping duty, has been largely occupied by other set of dumped sources. This is a clear situation of dumping shifting from one source to other source and domestic industry continuing to suffer injury.

- That increase in wages cannot be seen in isolation. Expansion of capacity has led to increase in wages. It would be seen that increase in wage is far lower than the decline in profits.

- That the causal link is established by followings:

  (i) There is significant difference between the prices offered by the Domestic Industry and Foreign Producers. Thus, inability of the domestic industry to raise the prices whenever costs are rising is a result of dumping of the product in the Country.

  (ii) Even when the domestic industry has been offering sub-optimal prices and lowering its prices, it is losing sales opportunity. Thus, present sales volumes of the domestic industry are a direct consequence of dumped imports from the subject countries.

  (iii) Price undercutting resulted in sub-optimal prices. As a direct consequence, the profits of the Domestic Industry declined to negative levels.

  (iv) Reduction in profits directly resulted in deterioration in return on capital employed and cash flow. Thus, deterioration in profits, return on capital employed and cash flow is directly due to dumped imports.

  (v) Price undercutting has led to deterioration in performance of the domestic industry in respect of profits, return on investment and cash flows.

- That the injury suffered by the DI cannot be attributed to manufacturing overheads like depreciation and amortisation expenses and power and fuel. This can be clearly established by separate examination of the two plants. Performance of Hissar plant clearly establishes that the deterioration in performance is because of dumping and not because of increase in manufacturing overhead because of commercialization of production in the new plant.

H.3 Examination of the issues by the Authority

89. The Authority notes the arguments of the other interested parties and various issues raised therein with regard to the claims of injury and causal link and the counter arguments domestic industry on the issues raised by the interested parties. While the issues pertaining to the examination of various injury and causal link parameters have been examined in the relevant paragraphs in this finding hereunder, some of the general issues raised have been addressed here as follows:

90. As regards the protection seeking behavior of the petitioner raised by the interested parties is concerned the Authority notes that as long as there is existence of unfair trade practice by the exporters from different countries at

different points of time and the domestic industry suffers because of such dumped imports, the domestic industry has the right to seek remedial measure within the framework of the WTO Agreements and domestic laws. Such remedial measures are put in place after a detailed and objective evaluation of various information placed before the concerned authorities. In the instant case also the Authority has examined the various claims and counter claims objectively within the framework of the Rules. Therefore, the arguments of the interested parties in this respect are not tenable.

91. As regards the argument that imports from certain countries are too low to have any significant impact on the domestic industry is concerned, the Authority notes that the volume of imports from all the subject countries are above de minimis levels specified in the Rules and the Agreement and the margin of dumping from each such country is also significant. Therefore, a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product. Accordingly, the injury to the domestic industry has been assessed cumulatively and therefore, the arguments of the Korean exporters in this regard are not accepted.

92. As regards the performance of the domestic industry in terms of capacity addition and capacity utilization, stabilization of the new plant and its impact on its cost and prices, and other economic parameters are concerned, the Authority notes that these issues have been addressed to the extent they are found relevant and supported by substantial evidence under relevant headings hereunder.

H.4 Examination of Injury and Causal Link:

93. Annexure-II of the AD Rules provides 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 articles; and (b) the consequent impact of these imports on domestic producers of such articles. 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.

Cumulative Assessment of Injury

94. Annexure II (iii) of the Anti Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that: -

a) the margin of dumping established in relation to the imports from each country/ territory is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;

b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

95. In the present case, the margins of dumping from each of the subject countries have been found to be more than the de minimis limits prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete with the like goods offered by the domestic industry in the Indian market. Therefore, the Authority considers it appropriate to cumulatively assess the effects of imports.

96. For the examination of the impact of the dumped imports on the domestic industry in India, all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments have been considered in accordance with Annexure II of the Rules . All economic parameters affecting the Domestic Industry as indicated above have been examined as under: -

A) Volume Effects of Dumped Imports: Import volumes and market shares

a) Import volumes and share of subject countries:

97. 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 and IBIS data submitted by the domestic industry. While the DGCI&S data for the period from 2009-10 to 2011-12 shows marginally higher import volumes compared to IBIS data, it showed significantly lower import volumes in the POI. Therefore, the data from DG, Systems for the POI was also called for corroboration. The DG Systems data shows a higher volume compared to DGCI&S and closer to IBIS. Therefore, the IBIS data, being more consistent, has been adopted for the injury analysis. The import volumes of the subject goods and share of the dumped imports during the injury investigation period as per IBIS data are as follows:

Sn	Particulars	UOM	2009-10	2010-11	2011-12	POI	POI Annualised
1	**Imports Volume**						
(i)	**Subject Countries**	**MT**	**8,490**	**31,797**	**38,744**	**35,985**	**28,788**
	Trend		100	375	456	424	339
a	China	MT	5,117	26,293	34,905	30,589	24,471
b	Malaysia	MT	860	1,300	1,345	1,584	1,267
c	Korea RP	MT	2,512	4,204	2,494	3,813	3,050
(ii)	ADD Attracting countries	MT	22,779	10,012	6,585	6,309	5,047
	Trend		100	44	29	28	22
(iii)	Other Countries	MT	1,065	1,182	2,551	1,832	1,466
	Total	**MT**	**32,334**	**42,991**	**47,881**	**44,126**	**35,301**
	Trend		100	133	148	136	109
2	**Share in Import**						
(i)	Subject Countries	%	26.26	73.96	80.92	81.55	81.55
	Trend		100	282	308	311	311
a	China	%	15.83	61.16	72.90	69.32	69.32
b	Malaysia	%	2.66	3.02	2.81	3.59	3.59
c	Korea RP	%	7.77	9.78	5.21	8.64	8.64
(ii)	ADD Attracting countries	%	70.45	23.29	13.75	14.30	14.30
	Trend		100	33	20	20	20
(iii)	Other Countries	%	3.29	2.75	5.33	4.15	4.15
	Trend		100	83	162	126	126
	Total	%	100	100	100	100	100

98. The data indicates that total imports substantially increased by about 50% till 2011-12 compared to the base year of 2009-10. However, the imports from the subject countries increased by about 350% during the same period. But the total imports as well as imports from the subject countries declined marginally during POI. The Authority notes that China specific Safeguard duty was imposed on 4th January 2013 due to surge in imports from that country and the duty was in force on this product for a substantial part of the POI, i.e. till 22nd July 2013. This safeguard duty seems to have arrested the surge in imports during the POI leading to decline in imports during this period.

99. The imports from China alone constituted around 70% of the total imports during the POI and the previous year. The quarterly import data for the POI given below indicates that while there were substantial imports from China during the first two quarters of the POI, the imports started tapered off beginning the third quarter and volumes dropped substantially in last two quarters when the China specific safeguard duty was in force.

Particulars	Volume in MT				
	POI Q1	POI Q2	POI Q3	POI Q4	POI Q5
Subject Countries	11,980	10,942	7,829	3,674	1,560
China	11,066	9,134	6,936	2,232	1,221

100. Since the import data of the POI is partly affected by the Safeguard duty the Authority has also looked at the post safeguard duty scenario to examine the trend in imports after the duties ceased to exist after July 2013. The DGCI&S import data of 5 quarters after the POI has been examined to analyse the trend of imports after cessation of safeguard duty. The trend in imports is as follows:

Sn	Particulars	UOM	POI April'12-June'13	POI Annualised	Post POI July'13-Sept'14	Post POI Annualised
1	Imports Volume					
(i)	Subject Countries	MT	35,985	28,788	46,518	37,215
a	China	MT	30,589	24,471	43,895	35,116
b	Malaysia	MT	1,584	1,267	1,183	946
c	Korea RP	MT	3,813	3,050	1,440	1,152
(ii)	ADD Attracting countries	MT	6,309	5,047	11,400	9,120
(iii)	Other Countries	MT	1,832	1,466	1,920	1,536
	Total	MT	44,126	35,301	59,839	47,871

101. The above data indicates that there has been significant increase in the imports after the cessation of safeguard duties. Annualized increase in imports from the subject countries is about 29 basis points higher as compared to the POI.

b) **Actual and potential effect on production and capacity utilization:**

102. The volume of domestic production and actual and potential effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry.

103. The domestic industry's installed melting capacity is combined for both hot rolled and cold rolled products and stands at 16.00 lacs MT which includes both Hissar and Odisha plants. After hot rolling, a part of the product is transferred captively for cold rolling. Therefore, overall melting capacity of the petitioner is not dedicated and therefore, not relevant for this injury investigation. However, for the purpose of examining the performance of the domestic industry with respect to the product under consideration the capacity has been derived in terms of its melting capacity apportioned to the product under consideration on the basis of number of heats used for the product under consideration.

104. The Authority also notes the arguments of the interested parties that the petitioner Company added the Odisha unit in 2011-12 and was in ramp up process during the POI. Therefore, the capacity utilization and other parameters during the POI would not be actual reflection of the injury suffered by the petitioner. Keeping this in view for the purpose of examination of the capacity and capacity utilization only that portion of the capacity of Odisha unit that was available for production during the ramp up operation as per the project report of the Company has been considered. Accordingly, the capacity, production and sales of the petitioner domestic industry during the injury investigation period have been examined as follows:

Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**	**POI Annualized**
Capacity of DI (PUC)	MT	1,08,869	1,16,654	2,11,359	4,75,014	3,80,011
Indexed		100	107	194	436	349
Production of DI	MT	1,00,265	98,448	1,29,900	3,00,577	2,40,462
Indexed		100	98	130	300	240
Capacity Utilization of DI	%	92%	84%	61%	63%	63%
Indexed		100	92	67	69	69

Particulars	UOM	2009-10	2010-11	2011-12	POI	POI Annualized
Domestic Sales of DI	MT	46,356	37,655	43,121	79,895	63,916
Indexed		100	81	93	172	138
Captive Consumption of DI	MT	56,713	53,846	60,555	1,69,362	1,35,489
Indexed		100	95	107	299	239
Sales of other domestic producers	MT	8,777	5,645	5,450	4,125	3,300
Total Demand excluding captive	MT	87,467	86,291	96,452	1,28,146	1,02,517
Indexed		100	99	110	147	117
Total Demand including captive	MT	1,44,179	1,40,137	1,57,006	2,97,508	2,38,006
Indexed		100	97	109	206	165

105. The new plant in Odisha was added in 2011-12 and started production that year with addition of about 1 lakh tone capacity. The capacity has been further ramped up in the POI taking the total capacity to about 250% compared to the base year. However, the production has increased only by about 140% during the same period. Therefore, the capacity utilization has declined to 63% from 92% in the base year when only Hissar plant was in operation. Since a major capacity addition has taken place during the injury period and not fully ramped up capacity and capacity utilization are not relevant as significant injury parameters in this case.

106. As far as the demand is concerned, there is a healthy growth of commercial demand as well as captive demand for cold rolling. During the POI (on annualized basis) the domestic sales of the DI has increased by about 38% compared to the base year. However, this increase is apparently because of the protection available under China specific safeguard duty in force during a major part of the POI as well as production augmentation from the new unit in Odisha. However, when analysed with reference to the capacity available and ability of the industry to produce and supply, the domestic sales appears to be low compared to its potential.

c) Actual and potential effect on market share:

107. Effects of the dumped imports on the domestic sales and market shares have been examined as follows:

Market Share in domestic demand-(Without Captive consumption)					
Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**
Subject countries	%	9.71	36.85	40.17	28.08
Indexed		100.00	379.64	413.85	289.32
Countries attracting ADD	%	26.04	11.60	6.83	4.92
Indexed		100.00	44.55	26.22	18.90
Other Countries	%	1.22	1.37	2.65	1.43
Indexed		100.00	112.50	217.34	117.45
Domestic Industry	%	53.00	43.64	44.71	62.35
Indexed		100.00	82.34	84.36	117.64
Other Indian Producers	%	10.03	6.54	5.65	3.22
Indexed		100.00	65.20	56.31	32.08
** POI: April'12 – Jun '13*					

108. The data indicates that while the demand of the subject goods in the domestic market has increased by about 17% in the POI compared to the base year, the market share of the dumped imports from the subject countries in domestic demand has increased from about 10% in the base year to about 28% in the POI in spite of the fact that China specific safeguard duty was in force for a part period of the POI. The market share of the countries attracting antidumping duty dropped from 26% in the base year to about 5% in the POI. The share of the domestic industry in the total demand declined by about 8% upto 2011-12 and thereafter improved by about 9% over the base year apparently as an impact of the safeguard duty and antidumping duty on the subject goods from certain countries. The other Indian producers have lost significant market share in the injury period. It therefore, appears that the market share vacated by the countries attracting duty has been cornered by the dumped imports from the subject countries and this has prevented the domestic industry to improve its sales volume in the domestic market to the extent they have capacities to produce and sell.

109. The trends of imports have also been examined in relative terms with reference to consumption and production as is shown in the table below:

Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**	**POI Annualized**
Imports- Subject countries	MT	8,490	31,797	38,744	35,985	28,788
Imports in relation to consumption	MT	10%	37%	40%	28%	28%
Imports in relation to production	MT	8%	31%	29%	12%	12%

110. The above data indicates that imports from subject countries as a percentage of consumption and production have increased from 10% to 28% and 8 % to 12% respectively from the base year to POI indicating that dumped imports from the subject countries have shown significant increase in relation to production and consumption in India.

B) Price Effect of the Dumped imports on the Domestic Industry

111. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

i) Trend of import prices

112. Weighted average CIF import price of the subject goods from the subject countries has been analysed based on the IBIS import data as under:

	CIF Imports Prices	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**
(i)	Subject Countries	Rs/MT	1,08,002	1,40,100	1,46,866	1,38,946
	Trend		100	130	136	129
a	China	Rs/MT	1,11,881	1,40,190	1,45,905	1,38,236
	Trend		100	125	130	124
b	Malaysia	Rs/MT	1,03,709	1,39,247	1,55,128	1,37,384
	Trend		100	134	150	132
c	Korea RP	Rs/MT	1,01,568	1,39,798	1,55,870	1,45,297
	Trend		100	138	153	143
(ii)	ADD Attracting countries	Rs/MT	98,425	1,35,673	1,48,418	1,66,418
	Trend		100	138	151	169
(iii)	Other Countries	Rs/MT	97,055	1,15,718	1,43,539	1,27,042
	Trend		100	119	148	131
	Total	Rs/MT	1,00,895	1,38,399	1,46,902	1,42,380
	Trend		100	137	146	141

113. The above data indicates that the CIF import price of the subject goods from the subject countries as well as countries attracting duty increased by about 30% to 53% upto 2011-12 and thereafter there has been a significant decline in the prices from the subject countries in the POI whereas the price from the countries attracting duty increased by about 18 basis points during

the POI compared to the previous year. The decline in weighted average CIF price during the POI is in spite of the China Specific Safeguard duty being in force.

ii) Price undercutting effects

114. In determining the net sales realization of the domestic industry, the rebates, discounts and commissions offered by the domestic industry and the central excise duty paid have been rebated. Since the dumped imports from the subject countries are simultaneously injuring the domestic industry the cumulated price undercutting effect of dumped imports from all sources have been examined as follows:

Total Subject Countries	UOM	2009-10	2010-11	2011-12	POI
Weighted average Landed price of imports	Rs./MT	1,14,699	1,48,788	1,55,974	1,47,517
Indexed		100	130	136	129
Net Selling Price	Rs./MT	****	****	****	****
Indexed		100	127	130	122
Price Undercutting	Rs./MT	****	****	****	****
Indexed		100	83	15	9
Price Undercutting (%)	%	****	****	****	****
Range		5-10	0-5	0-5	0-5

115. The above data indicates that the landed prices of the dumped imports have increased over the injury investigation period till 2011-12 and then declined. However, the landed prices have been significantly below the selling prices of the domestic industry throughout the injury investigation period. Weighted average price undercutting has been significant both in absolute and in percentage term. The Authority notes that the price undercutting during 2011-12 and POI has significantly declined compared to the base year apparently because the domestic industry was responding to the dumped prices with lower selling prices in the domestic market to retain its market. Therefore, the price undercutting needs to be seen alongwith the price suppression effects of the dumped imports.

116. The interested parties have argued that price undercutting of certain countries are negative and therefore, do not cause injury to the domestic industry. Therefore, the Authority has also looked at the price undercutting of the dumped imports from each of the subject countries separately as follows:

China					
Particulars	UOM	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	1,18,820	1,48,884	1,54,953	1,46,808
Indexed		100	125	130	124
Net Selling Price	Rs./MT	****	****	****	****
Indexed		100	127	130	122
Price Undercutting	Rs./MT	****	****	****	****
Indexed		100	241	94	60
Price Undercutting (%)	%	****	****	****	****
Range		0-5	0-5	0-5	0-5
Malaysia					
Particulars	UOM	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	1,10,141	1,47,882	1,64,748	1,45,904
Indexed		100	134	150	132
Net Selling Price	Rs./MT	****	****	****	****
Indexed		100	127	130	122
Price Undercutting	Rs./MT	****	****	(****)	****
Indexed		100	57	-72	20
Price Undercutting (%)	%	****	****	(****)	****
Range		5-10	0-5	0-(-5)	0-5

Korea					POI	
Particulars	UOM	2009-10	2010-11	2011-12	Total Imports	Imports with concessional duty
Landed price of imports	Rs./MT	1,07,867	1,48,467	1,65,537	1,53,874	1,47,962
Indexed		100	138	153	143	137
Net Selling Price	Rs./MT	****	****	****	****	****
Indexed		100	127	130	122	122
Price Undercutting	Rs./MT	****	****	(****)	(****)	****
Indexed		100	42	(66)	(44)	1
Price Undercutting (%)	%	****	****	(****)	(****)	****
Range		10-15	0-5	0-(-5)	0-(-5)	0-5

117. The desegregated data as above indicates that the price undercutting of the imports from Korea is marginally negative during the previous year and the POI. It is also noted that with concessional duty under CEPA the dumped imports are marginally undercutting the prices of the domestic industry during the POI. However, the Authority notes that the price undercutting analysis may not provide a clear understanding of the price effect on the domestic industry unless the price suppression/depression effects are also examined in

a situation where the domestic industry is forced to suppress its prices to increase its sales and market share because of the new capacity created.

iii) Price underselling effects

118. For the purpose of price underselling determination the weighted average landed prices of imports from subject countries have been compared with the Non-injurious selling price of the domestic industry determined for the POI.

Particulars	UOM	China	Malaysia	Korea RP	
				Total Imports	Imports with concessional duty
Non-Injurious Price	Rs/MT	****	****	****	****
Landed Price	Rs/MT	1,46,808	1,45,904	1,53,874	1,47,962
Price Underselling	Rs/MT	****	****	****	****
Price Underselling	%	****	****	****	****
Price Underselling (Range)		10-20	10-20	5-15	5-15

119. The above data shows that the imports from the subject countries are entering the Indian market at significantly below the non-injurious price of the domestic market indicating significant price underselling effect on the domestic prices.

iv) Price suppression and depression effects of the dumped imports:

120. To examine the price suppression effect of the dumped imports on the domestic prices the trend of net sale realization of the domestic industry has been compared with the cost of production of the domestic industry and the landed price of the dumped imports as follows:

Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**
Cost of production	Rs./MT	****	****	****	****
Indexed		100	137	142	143
Selling Price	Rs./MT	****	****	****	****
Indexed		100	127	130	122
Landed price of imports Subject countries	Rs./MT	1,14,699	1,48,788	1,55,974	1,47,517
Trend		100	130	136	129

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121. The data indicates that the cost of production of the domestic industry has increased significantly in 2010-11 due to increase in the factor costs, such as prices of major raw materials i.e., stainless steel scrap and nickel which is also corroborated by significant jump in import prices that year. Thereafter the increase in cost is moderate. However, the domestic selling price of the domestic industry has not increased in the same proportion as that of the costs of production of the domestic industry. In fact the selling prices declined significantly in the POI compared to the previous year while the cost marginally increased during the same period. The decline in the selling price of the domestic industry in the POI corroborates with the decline in landed prices of dumped imports from the subject countries. This indicates that the dumped imports are preventing the domestic industry to realize remunerative prices thereby significantly suppressing prices of the domestic industry.

H.5 Examination of other injury factors

122. After examining some of the injury factors i.e. actual and potential decline in sales and market share; actual and potential increase in volume of imports etc. in the previous section, the Authority has examined the other mandatory injury parameters as follows:

a) Profits/Loss and Return on investments

123. On the basis of the detailed examination of the cost of production and other associated costs as well as selling prices carried out by the Authority, profits earned by the domestic industry from the sales of the subject goods in the domestic market has been worked out as follows: -

Particulars	UOM	2009-10	2010-11	2011-12	POI	POI Annualized
Cost of production	Rs./MT	****	****	****	****	****
Indexed		100	137	142	143	143
Selling price	Rs./MT	****	****	****	****	****
Indexed		100	127	130	122	122
Profit/loss	Rs./MT	****	(****)	(****)	(****)	(****)
Indexed		100	-141	-206	-437	-437
Cash Profit	Rs.Lacs	****	(****)	(****)	(****)	(****)
Indexed		100	-52	-103	-347	-347
PBIT	Rs.Lacs	****	(****)	(****)	(****)	(****)
Indexed		100	-62	-103	-248	-248
ROCE	%	****	(****)	(****)	(****)	(****)
Indexed		100	-69	-70	-113	-113

124. The above data shows that the cost of production increased significantly in 2010-11 by about 37% and thereafter has increased only marginally during the rest of the injury investigation period. The selling price also increased in 2010-11 by about 27% but was not enough to recover the full cost leading to losses. Even after imposition of Antidumping duty on EU, USA, South Africa and Taiwan in 2011-12 the losses have increased as the dumped imports from the subject countries have started entering the Indian market. The losses have increased in the POI due to significant fall in the selling prices because of drop in import prices form the subject countries. From positive profit margin per unit in the base year, profitability of the domestic industry has declined continuously over the injury investigation period and resulted in net loss on the domestic sales in the POI. The return on the domestic investments of the domestic industry has declined significantly during the POI as compared to the base year and during the POI the domestic industry had a significantly negative return from the subject goods.

125. The interested parties have argued that the loss to the company could be due to the ramp up operation of the Odisha plant, which is yet to stabilize with full production and therefore, the injury should be examined with respect to the Hissar Plant of the petitioner which was operating at over 90% capacity. The Authority notes that the injury is determined for the domestic industry as a whole. Therefore, a disaggregated analysis with respect to individual units is not required.

b) Employment and Wages

126. Number of employees and wages paid indicates that employment has increased because of the increase in capacity and production due to operationalisation of the new plant in Odisha.

Particulars	UOM	2009-10	2010-11	2011-12	POI	POI Annualized
Cost of production	Rs./MT	****	****	****	****	****
Indexed		100	137	142	143	143
Selling price	Rs./MT	****	****	****	****	****
Indexed		100	127	130	122	122
Profit/loss	Rs./MT	****	(****)	(****)	(****)	(****)
Indexed		100	-141	-206	-437	-437
Cash Profit	Rs.Lacs	****	(****)	(****)	(****)	(****)
Indexed		100	-52	-103	-347	-347
PBIT	Rs.Lacs	****	(****)	(****)	(****)	(****)
Indexed		100	-62	-103	-248	-248
ROCE	%	****	(****)	(****)	(****)	(****)
Indexed		100	-69	-70	-113	-113

127. While the production and domestic sales of the product under consideration has increased by about 140% and 38% respectively in POI compared to the base year, the employment and wages have increased by about 50% and 80% respectively. Therefore, increase in employment and wages are in tandem with the production and sales.

c) Inventories

128. Inventory holding of the domestic industry in terms of average stock shows an increase of 170 basis points compared to the base year and 90 basis points compared to the previous year. The inventory as a percentage of sales also shows a significant increase of about 96 basis points compared to the base year and indicating inventory built up in the POI.

Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**	**POI Annualised**
Opening Stock	MT	****	****	****	****	****
Closing Stock	MT	****	****	****	****	****
Average Stock	MT	****	****	****	****	****
Indexed		100	53	180	270	270
Average stock as percentage of domestic sales	%	11	7	21	17	21
Trend		100	65	194	157	196

d) Cash Profit

129. Cash profits of the domestic industry over the injury period have been as under: -

Particulars	Unit	2009-10	2010-11	2011-12	POI-Annualized
Profit Before Tax	Rs Lacs	****	(****)	(****)	(****)
Indexed		100	(115)	(191)	(603)
Interest	Rs Lacs	****	****	****	****
Indexed		100	24	43	340
Depreciation	Rs Lacs	****	****	****	****
Indexed		100	99	108	265
PBDIT	Rs Lacs	****	(****)	(****)	(****)
Indexed		100	(30)	(60)	(141)
PBDIT	Rs/MT	****	(****)	(****)	(****)
Indexed		100	(37)	(65)	(103)
Cash Profit	Rs Lacs	****	(****)	(****)	(****)
Indexed		100	-52	-103	-347

130. The data above indicates that the interests and depreciation of the petitioner has increased significantly during the POI as the Odisha unit was capitalized in March 2012. Therefore, there is a significant increase in the cash loss in the POI. However, the trend of interests, depreciation and cash profits of the previous years' which were not affected by the capitalization of Odisha plant clearly shows significant cash loss in domestic operations largely due to low prices in the domestic market.

e) Productivity

131. The productivity of the domestic industry has been examined with reference to production per day and per employee as follows:

Particulars	**UOM**	**2009-10**	**2010-11**	**2011-12**	**POI**
Productivity per day	MT/days	132	108	123	183
Trend		100	81	93	138
Productivity per employee	MT/No.	251	249	189	231
Trend		100	99	75	92

132. The data shows that daily productivity of the domestic industry has improved. However, per employee productivity has declined compared to the base year while it shows improvement from the previous year. It is noted that Odisha plant has came into operation during the last two years of the injury investigation period and therefore, per employee productivity would not correctly reflect the performance of the industry as a whole.

f) Growth

133. Performance of the domestic industry shows that capacity, production, and sales of the domestic industry show positive growth in view of commencement of production at new plant in Odisha since 2011-12 and the efforts made by the domestic industry to sell in the domestic market as well as export markets at the cost of financial losses. Parameters such as profit, cash flow, and return on investments shows negative growth.

Growth in %	**2009-10**	**2010-11**	**2011-12**	**POI**
Production in MT		-1.81%	31.95%	85.11%
Capacity Utilization-PUC in %		-7.70%	-22.93%	1.82%
Domestic Sales in MT		-18.77	14.52	48.23
Profit Rs/MT		-241%	-46%	-113%
Cash Profit Rs Lacs		-152%	-100%	-236%
Return on Capital Employed in %		-17.77%	-0.03%	-4.54%

g) Ability to raise fresh Investment

134. The Authority notes that there is a healthy growth in domestic demand for the subject goods and the domestic industry has made fresh capital investments for expansion during the investigation period apparently keeping in view healthy growth in demand for the product in the domestic market as well as export market.

h) Magnitude of Dumping

135. The dumping margins of the dumped imports determined for the subject countries are above de minimis level.

i) Factors affecting prices

136. Examination of trends in the volume of dumped imports and prices of the dumped imports from the subject countries, and the domestic prices indicate that the dumped imports through volume and price effects have affected the prices of the domestic industry through price suppression and depression effects in the domestic market.

H.6 Overall assessment

137. The above analysis of the factors indicate that the domestic industry has added capacity and increased production as well as sales compared to the base year and previous years. There has been an increase in the market share of the domestic industry during the POI as a result of the imposition of China specific safeguard duty during this period. However, in spite of improvement in certain physical parameters such as volume and production and sales, the domestic industry suffered injury on account of decline in net sales realization during the POI resulting in decline in profitability and return on investments as well as cash profits.

138. Volumes of dumped import from the subject countries increased significantly during the injury investigation period with a significant drop in the POI due to the China specific safeguard duty in place. However, the post POI import data indicates surge in imports after cessation of the China specific safeguard duty. Therefore, there is a clear indication that the trends in import volumes prior to the POI is likely to continue or intensify.

139. The prices of the dumped imports which increased upto 2011-12 show a significant drop in the POI suppressing the prices of the domestic industry in the domestic market. Price suppression during the injury investigation period has resulted in significant financial losses to the domestic industry. The injury suffered by the domestic industry is material and significant.

I. Causal link and other factors

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

i) Volume and prices of imports from other sources

141. Import data examined shows that the subject goods are also being imported from other countries not under this investigation. The Authority notes that the anti dumping duties are currently in force against import of subject goods from European Union, South Africa, Taiwan and USA. The volume of imports from these countries as well as their share in imports has substantially declined after imposition of anti dumping duties. The volume of imports from the subject countries accounts for over 81% of total imports during the POI. Imports from other countries individually are insignificant and taken together accounts for about 4% of total imports. Therefore, the imports from other countries do not significantly affect the domestic industry.

ii) Contraction in demand and / or change in pattern of consumption

142. None of the interested parties have raised any argument regarding contraction in demand or any change in pattern of consumption leading to injury to the domestic industry. Examination of demand and pattern of consumption for the subject goods in the domestic market shows a growth of about 17% over the injury period and domestic demand with captive consumption shows an increase of about 65%. Therefore, possible contraction in demand cannot be attributed to the injury to the domestic industry.

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

143. The goods are freely importable and the import data shows that significant volume of subject goods are being imported to the country. There is no other major player in the Indian domestic market and therefore internal competition, apart from that is expected in a healthy market economy situation, could not have been a cause of injury to the domestic industry.

iv) Development in technology: -

144. Production of hot rolled stainless steel plates and strips through electrical arc furnace route is an established method of production of stainless steel. The Authority notes that JSL has put up a new plant in Odisha with state of the art technology for the production of subject goods. Some of the interested parties have argued that certain specific manufacturing process adopted by them give them certain cost advantage. But these arguments/claims have not been substantiated with any evidence. Further, verification of production process of the participating producers in the subject countries does not demonstrate any substantial technological advantage to them or any new technological developments. Therefore, the Authority notes that development of technology could not be a cause of injury to the domestic industry.

v) Export performance of the domestic industry: -

145. The interested parties have argued that the petitioner itself exports the Product under consideration at a price lower than that charged at Indian Domestic Market and that could be a cause of injury to the domestic industry. It is noted that the petitioner has provided separate information for their domestic and export performance. The export performance of the petitioner domestic industry has been examined as follows:

	Unit	2009-10	2010-11	2011-12	POI	POI Annualized
Export Sale	MT	2,709	5,476	9,806	51,075	40,860
Trend		100	202	362	1,885	1,508
Export Price	Rs.MT	****	****	****	****	****
Trend		100	120	121	113	113

146. The Authority notes that the export sale of the domestic industry has increased, however the prices have declined in the POI. As noted in this

finding elsewhere, the domestic industry has argued that they are not able to realize profits in export market due to global dumping by many countries including the countries under investigation in this case. In any case, for the purpose of injury analysis, only the domestic sales and parameters concerning the domestic operations of the petitioner have been considered and injury, if any, caused due to the export performance of the domestic industry, has not been attributed to the dumped imports.

vi) Productivity of the Domestic Industry

147. Productivity of the domestic industry has improved in terms of total output. Therefore, this cannot be attributed to the injury to the domestic industry.

J. Other factors and arguments of the interested parties

148. The interested parties have argued that the injury suffered by the domestic industry is due to its new plant in Odisha which is under ramp up operation and such injury should not be attributed to the dumped imports from the subject countries. This issue has been examined in detail and the Authority notes that even after normating the additional cost on account of lower capacity available during the ramp up operation of the Odisha plant, the petitioner is found to be suffering material injury. Stand alone analysis of Hissar plant's performance also indicates existence of material injury on account of significant price suppression. Therefore, the arguments of the interested parties that the injury is entirely due to Odisha plant are not found to be correct.

149. The interested parties have also argued that the production and sales of the domestic industry has increased significantly therefore, the petitioner does not suffer any material injury. The Authority notes that while the petitioner enhanced its capacity significantly in anticipation of higher demands leading to increase in production and sales, the industry is unable to recover full cost due to presence of dumped imports.

150. With regard to the contention of the interested parties that enhancement of capacity leading to high cost of production overheads is the cause of injury to the domestic industry, the Authority notes that performance of both the plants of the petitioners has been examined on standalone basis. Hissar Plant which operates at about 90% capacity also suffers loss. Odisha plant, after normation, to eliminate the effect of ramp up operation also shows

losses because the prices are suppressed. Therefore, the contention of the interested parties is not correct.

151. With regard to the contention of the Korea Exporters that the export prices from Korea does not have price undercutting or suppression/depression effects the Authority notes that the injury to the domestic industry is required to be carried out on cumulative basis taking into account all dumped imports. However, on standalone basis also the prices of the subject goods exported from Korea is much below the cost of production and the non injurious price of the domestic industry leading to significant price underselling and price suppression as well as positive injury margin.

152. The above non-attribution analysis shows that no other known factors, other than the dumped imports, appear to have affected the domestic industry.

J.1 Factors establishing causal link

153. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject counties. Therefore, the causal link between dumped imports and the injury caused to the domestic industry is established on the following grounds:

a. The volume of dumped import from the subject countries has increased significantly over the injury investigation period with decline in POI as a result of imposition of China specific safeguard duty. The imports have shown further increase in post POI after the cessation of China specific safeguard duty. Import price has remained below the level of cost and has resulted in significant price suppression. Increase in import from subject countries have taken away the market share vacated by the countries attracting ADD.

b. The landed price declined significantly in the POI resulting in significant decline in the selling price of the domestic industry leading to intensified losses.

c. Increase in import volumes and reduction in the selling prices by the domestic industry adversely affected the profits, cash flow and return on investments of the petitioner domestic industry.

154. Therefore, the Authority concludes that the domestic industry suffers material injury and the injury has been caused by the volume and price effects of dumped imports from the subject countries.

K. Magnitude of Injury and injury margin

155. Having regard to the lesser duty rule followed by the Authority margin of injuries with respect to the importation of the subject goods from the subject countries have also been determined. For determination of injury margin the Authority has determined the Non-Injurious Price (NIP) for the domestic industry as per the procedures laid down in Annexure III of the Anti Dumping Rules. The interested parties have argued that for the purpose of determination of NIP the Authority should not grant a return higher than what is achieved by the DI during injury. The Authority notes that as per consistent practice the procedures laid down by Annexure III of the Anti Dumping Rules have been followed while determining Non Injurious Price.

156. The non-injurious price for the domestic industry determined by the Authority has been compared with the landed value of the exports from the subject countries for determination of injury margins of the subject goods exported from the subject countries to India. The weighted average landed price of the exporters from the subject countries and their injury margins have been worked out as follows:

Country	Producer/Exporter	NIP	Landed Value	Injury Margin	IM	IM Ranges
		Rs/MT	Rs/MT	Rs/MT	%	%
China	All Exporters	****	****	****	****	5-15
Malaysia	All Exporters	****	****	****	****	5-15
Korea	All exporters	****	****	****	****	0-10

L. Post Disclosure Submissions of all interested parties:

157. The Authority issued a disclosure statement on 25th February 2015 disclosing essential facts of the case and inviting the comments of all interested parties. The comments of the interested parties have been examined as follows:

L.1 Submissiosn on behalf of M/s Bahru, Malaysia

158. Lakhmi Kumaran and Sridharan, on behalf of Bahru, Malaysia in their post disclosure submissions have reiterated their stand in their previous submissions on various issues in this investigation. The Authority notes that

all those issues have already been addressed in the findings and therefore, not being repeated again for the sake of brevity. However, few additional issues raised by the exporter have been addressed hereunder as follows:

159. In its submissions the above exporter has argued that the Authority has resorted to in cherry-picking data in this investigation and the Authority appears to be unsure as to which data source to rely upon to continue this investigation against Malaysia as it has examined DGCI&S Data, IBIS data as well as DG Systems data in the disclosure statement. It has been further argued that neither the Designated Authority nor Applicant has clarified the basis of arriving at the import volume of 1584 MT from Malaysia during the POI. It has been argued that total import volume of the subject goods from Malaysia is only 1232.02 MT as compared to 1584 MT claimed in the application and the Applicant has inflated Malaysian import volume by including scrap in the import volume as well as those imports, which are already subject to anti-dumping duty. The import volume from Malaysia is much lower and below the *de-minimis* level of 3%. In this regard the Authority notes that it was clearly indicated in the disclosure that IBIS import data has been used for this investigation after comparing the same with DGCI&S data. DG Systems data has also been examined to validate the data used. Therefore, there is no confusion about the data source used as has been alleged. As far as the import volume from Malaysia is concerned, it was clearly brought out in the disclosure statement that the questionnaire response of Bahru clearly states that Bahru and its related companies alone had exported about 1360 MTs during the POI which is above 3% of total import volumes taking into account this volume form Malaysia, notwithstanding the facts that there could be other exporters from Malaysia. It is also noted that Bahru and its related Companies were exporting the subject goods prior to POI and ceased to export some time during the POI. Therefore, there could be exports from Malaysia by these exporters prior to the POI which could have landed in India during the POI leading to reporting of marginally higher import volume during POI due to the time lag in export from Malaysia and import into India. Therefore, the Authority holds that the import data relied upon in this finding and volume determination in respect of Malaysia are correct and the volume imported from Malaysia is above *de minimis*.

160. The exporter has again reiterated its argument that the Authority should have provided the transaction wise import data relied upon in the investigation to all interested parties and therefore, the present investigation is in violation of the principles of natural justice. In this connection the Authority

notes that transaction wise import data obtained by the Designated Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) is confidential in nature and does not belong to the category of information/evidence provided by an interested party. Therefore, the request for providing transaction wise import data obtained by the Designated Authority from DGCI&S for the purpose of the anti dumping investigation is inadmissible under the Anti Dumping Rules. Notwithstanding this it may be noted that the disclosure statement clearly mentions that IBIS import data has been used in the determinations and the transaction wise import data from IBIS submitted by the domestic industry has already been placed in the public folder by the domestic industry. The public folder has been accessed by this Law firm on several occasions on behalf of all their clients and they already have access to the import data used in this investigation. Therefore, the arguments of the exporter in this regard are not tenable.

161. Bahru has further reiterated its stand on the country of origin of the subject goods and argued that it does not provide any certificate of origin showing Malaysia as origin of the subject goods to any importer in India. In fact, a certificate of origin is only required when a preferential customs duty benefit is to be claimed under a free trade agreement, such as the India-ASEAN FTA. Bahru has already clarified that its exports do not qualify for such benefit under the India-ASEAN FTA. Therefore, the Designated Authority's conclusion that importers in India are clearing subject goods showing Malaysian origin against certificates issued by Malaysian authorities is incorrect. In this regard the Authority notes that this issue has been dealt in the disclosure at length. It was also indicated that while whether the goods have been wrongly declared as of Malaysian origin and cleared under Indo-ASEAN FTA preferential duty arrangement is a matter of separate investigation by the concerned agencies/authorities, there is no denying the fact that the goods exported from Malaysia are not of Malaysian origin as per the rules of origin under the FTA. The Authority has not arrived at any conclusion on the issue of mis-declaration of the goods as alleged by the domestic industry as it is a matter of separate investigation by another Authority. Therefore, the arguments of the exporter in this regard are not tenable.

162. Bahru has further argued that they have been wrongly treated as non-cooperative though they have filed complete questionnaire response. In this regard the exporter has referred to Article 2.5 of ADA and Section 9A (c) of the Customs Tariff Act, 1975. The Authority notes that as per their own submission Bahru is not the manufacturer of the product and the manufacturers have not filed any questionnaire response. As per the policy of

the Designated Authority individual treatment cannot be given unless both the producer and exporter are before the Authority. Therefore, the questionnaire response of Bahru has not been accepted for grant of individual treatment.

163. Bahru has further argued that if the Designated Authority still constructs normal value, parameters considered to construct normal value should be disclosed as there is no basis to keep these parameters confidential. Therefore, the Authority should disclose the international price of major raw materials and the reasonable margin of profit considered by it in constructing the normal value. In this regard the Authority notes that around 70% of the raw material cost is accounted for by Nickel and Stainless Steel Scraps. The international price of Nickel has been taken as the import price to the respective countries as reported in the World Trade Atlas for the period of investigation. The international price of SS Scrap has been taken from the Metal Bulletin (International Magazine) for the respective countries for the purpose of construction of Normal Values. A profit margin of 5% has been considered on cost of production minus interest cost to arrive at the Constructed Normal Values.

164. Bahru has argued the Designated Authority is incorrect in including these products types, which are not in commercial competition in the domestic market. Merely because Applicant is capable of producing these product types is not sufficient. In Magnet Users Association v. Designated Authority [(2003) 157 ELT 150 (Tri-Del)], the Hon'ble Tribunal has made it clear that in an anti-dumping investigation, grades of subject goods, which are not produced by the domestic industry have to be excluded from the product scope. In this regard it was clearly brought out in the disclosure that the domestic industry has in fact produced and sold Cold Rolled coils of higher width which is rolled out of the hot rolled coils thereby demonstrating that they have produced HR coils. Therefore, the arguments of Bahru in this regard are devoid of any merit.

165. With respect to injury and causal link determination the exporter has reiterated most of its arguments made earlier and the issues have already been addressed in the respective sections in the findings. The exporter has argued that the Authority should not have relied upon the Post POI data in the injury analysis. In this regard the Authority notes that the disclosure statement itself indicated that the POI import volumes were affected by the China specific Safeguard duty for over 6 month period during the POI and therefore, it was necessary to examine the trends thereafter to see whether the imports

have increased substantially after cessation of the duty. Therefore, the objections of the exporter in this regard are not tenable.

L.2 Submissions on behalf of M/s Century Steel, Singapore

166. Lakhmi Kumaran and Sridharan, on behalf of Century Steel, Singapore, in their post disclosure submissions, have argued that despite the full participation, the Authority has incorrectly and illegally denied separate margin of dumping and margin of injury to the chain of producer (LISCO) and exporter (Century). In this regard the Authority notes that as per the consistent practice of the Authority all the exporters exporting the subject goods manufactured by a producer in the subject country are required to file the questionnaire response for grant of individual margin. Since only one out of the four exporters of the subject goods manufactured by LISCO was before the Authority individual margins could not be granted to the responding producer-exporter combination.

167. Apart from this individual treatment issue Century has also raised identical issues which have already been addressed with regards to the submissions made on behalf of M/s Bahru, Malaysia as above. Therefore, they are not being repeated again for the sake of brevity.

L.3 Submissions on behalf of the Importers

168. In their submissions on behalf of the importers represented by them M/s Lakshmi Kumaran and Sridharan have repeated most of the arguments as already addressed with regards to the submissions of Bahru, Malaysia and they are not being repeated for the sake of brevity.

169. Apart from these issues Importers have argued that it is clear from the price undercutting table provided in the Disclosure Statement that there is no price undercutting from Korea RP during POI. However, just to ensure that Korea is not excluded from the purview of anti-dumping duty, it seems the Authority has reduced the landed value of imports for Korea by considering concessional rate of duty in terms of CEPA. It has been argued that concessional rate of duties are a result of policy of the Central Government to promote bilateral trade between India and Korea. Had it not for the commitment of Central Government, there would not be any concessional rate of duty. Thus, the concessional rate of duties cannot be held to be a reason for dumping of subject goods and its effect should be excluded while determining the landed value of imports of subject goods from Korea RP. In view of the same, the Authority should terminate the investigation against

imports from Korea RP. In this regard the Authority notes that price undercutting is not the only parameter for determination of injury and causal link. The Authority has already noted that the dumped imports from the subject countries have significantly suppressed/depressed the prices in the domestic market and therefore, price undercutting is not the appropriate indicator for determination of injury and causal links. In any case the injury and causal link has been examined cumulatively for all imports from the subject countries and lack of price undercutting from one country cannot be a reason to drop the investigation against that country as long as overall assessment of injury and causal link factors indicate existence of injury and causal link. Therefore, the arguments of the party in this regard have not been accepted.

170. In addition to the above M/s Athena Law Associates, in its submissions on behalf of the importers represented by them, while reiterating its submissions previously made before the Designated Authority have also raised the issue of providing the interested parties access to the transaction-wise import data used by the Authority. The Authority notes that IBIS data used by the Authority has already been provided to the interested parties in the petition itself and therefore, the interests of the interested parties have not been compromised in any manner. DGCI&S data collected by the Authority has only been used for comparison purpose and the Rules do not require the Authority to share this data, obtained confidentially from DGCI&S, to other interested parties.

L.4 Submissions on behalf of LISCO, China

171. LISCO, in its post disclosure submissions, has argued that the unit prices of most of the raw materials appear to have unit prices without significant variations, except for nickel-bearing pig iron. Therefore, the Authority should not have reached the conclusion that there was significant difference between the prices of major raw materials and should change its findings on this issue in the Final Findings. LISCO has further argued that they had exported 60.6% of their total exports of the subject goods to India through Century Steel Pte Ltd., Singapore and Century has also filed the questionnaire response. Therefore, the Authority should determine the export price based on the data pertaining to the above completed chain. In this regard the Authority notes that as per the information submitted by LISCO in its questionnaire response the unit price of major raw materials sourced from related and unrelated parties shows significant difference. Therefore, the conclusion reached by the Authority is in order.

172. As far as determination of export price is concerned, the Authority notes that as per the consistent practice of the Authority all the exporters exporting the subject goods manufactured by a producer in the subject country are required to file the questionnaire response for grant of individual margin. Since only one out of the four exporters of the subject goods manufactured by LISCO was before the Authority individual margins could not be granted to the responding producer-exporter combination.

L.5 Submissions on behalf of the Domestic Industry

173. The domestic industry, in its post disclosure submissions, has reiterated its stand on most of the issues. Other submissions made by the domestic industry have been addressed hereunder as follows:

174. The domestic industry has argued that the product under consideration should not have any restrictions in the form of length of coils or plates and as regards restrictions on width of the product the same should not be left unconditional. The domestic industry has argued that the consumers who require product of width upto 1650mm should not be allowed to import the product above 1650 mm, slit the same and substitute for their requirement of the product below 1650 mm. Any unregulated exemption from payment of ADD for widths above 1650 mm would lead to continued injury to the domestic industry. Therefore exemption should be given only to those consumers who in fact require material in wider width and who cannot use any material with width below 1650 under Section 25 of the Custom Act, 1962. As regards the length of the products is concerned, the anomaly in the initial description of the product under consideration has already been discussed in the relevant section and the anomaly has been removed. As far as the removal of restriction on the width and allowing end-use based exemption for is concerned, the Authority notes that such arguments cannot be accepted at this stage of the investigation as it involves significant change in the scope of the product under consideration.

175. The domestic industry has further submitted that since the product under consideration is produced and sold by various names, the Designated Authority may kindly specify in duty table that the product under consideration should attract duty regardless of alternate names used by the importers. Further, the domestic industry has submitted that since the product under consideration does not have dedicated customs code, the authority may kindly specify in duty table that the customs classification is indicative only.

The Authority has taken note of this and the issue has been appropriately addressed in the finding.

176. The domestic industry has further submitted that the determination of NIP is inappropriate leading to unduly low protection to the domestic industry. The raw materials utilization should not necessarily be considered at the best achieved levels. Actual raw material and utilities consumption must be considered. The investment at Odisha should form the benchmark for determination of NIP. Further, if the Authority considers some production level as "reasonable, appropriate or necessary" for NIP determination, there is no basis for adopting some other production volume for determining weighted average NIP. The Authority notes that NIP has been determined as per the procedure laid down in Annexure III of the Anti Dumping Rules and no change in approach is required.

177. The domestic industry has further submitted that the Injury Margin should be calculated based on difference between NIP and lowest transaction price in the import data pertaining to that particular country. The practice of the Authority is to consider lowest import price in case of non-cooperating exporters. Thus, in a situation where all the exporters are non-cooperating or have selectively cooperated to such an extent that the Authority has denied individual dumping margin and injury margin, the treatment cannot be different. The Authority notes that since all the exporters from a particular country have been declared non-cooperative the NIP is compared with the weighted average landed value of all import transactions for determination of injury margin and therefore, the injury margin has been calculated appropriately.

178. The domestic industry has submitted that Anti dumping duty should be imposed only as fixed quantum in US Dollars. The Authority notes that considering the nature of the product and the fact that antidumping duties in all previous cases in steel products have been imposed in terms of fixed duties, it would be appropriate to recommend same form of duty in this case also.

M. Conclusions

179. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, as recorded in this finding, the authority concludes that:

i) The subject goods have entered the Indian market from the subject countries at prices less than their normal values in the domestic market of the exporting countries;

ii) The dumping margins of the subject goods imported from the subject countries are substantial and above *de minimis*;

iii) The domestic industry has suffered material injury and the injury has been caused to the domestic industry, both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject countries.

N. Indian industry's interest & other issues

180. The interested parties have argued that the antidumping duties would adversely affect the downstream industry using HR flat products and impact the prices of the finished goods. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. 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 subject goods to the downstream industry and the consumers.

O. Recommendations

181. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on various aspects of dumping, injury and causal links. Having initiated and conducted the investigation into dumping, injury and causal links between dumping and injury to the domestic industry, in terms of the Rules laid down, and having established positive dumping margin against the subject countries, and having concluded that the domestic industry suffers material injury due to such dumped imports, the Authority is of the opinion that imposition of definitive measure is required to prevent injury being caused to the domestic industry.

182. Therefore, Authority considers it necessary and recommends imposition of definitive anti-dumping duty on imports of subject goods, from the subject countries, in the form and manner described hereunder.

183. Having regard to the lesser duty rules the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty equal to the amount indicated in Col 9 of the duty table annexed herewith is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.

Duty Table

Sl.No	Sub Heading or Tariff Item	Description of Goods	Specification	Countries of origin	Countries of Export	Producer	Exporter	Duty Amount	Unit of Measure	Currency
1	2	3	4	5	6	7	8	9	10	11
1	7219 & 7210	Hot Rolled austenitic stainless steel flat products	ASTM Grade 304 (width Upto 1650mm and Thickness above 1.2 mm)	China PR	China PR	Any	Any	309	MT	US$
2	-Do-	-Do-	-Do-	China PR	Any, other than the subject countries	Any	Any	309	MT	US$
3	-Do-	-Do-	-Do-	Any, other than the subject countries	China	Any	Any	309	MT	US$
4	-Do-	-Do-	-Do-	Malaysia	Malaysia	Any	Any	316	MT	US$
5	-Do-	-Do-	-Do-	Malaysia	Any, other than the subject countries	Any	Any	316	MT	US$
6	-Do-	-Do-	-Do-	Any, other than the subject countries	Malaysia	Any	Any	316	MT	US$
7	-Do-	-Do-	-Do-	Korea RP	Korea RP	Any	Any	180	MT	US$
8	-Do-	-Do-	-Do-	Korea RP	Any, other than the subject countries	Any	Any	180	MT	US$
9	-Do-	-Do-	-Do-	Any, other than the subject countries	Korea RP	Any	Any	180	MT	US$

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

185. The Authority may review the need for continuation, modification or termination of the definitive measure as recommended herein from time to time as per the relevant provisions of the Act and public notices issued in this respect from time to time. No request for such a review shall be entertained by the Authority unless the same is filed by an interested party as per the time limit stipulated for this purpose.

J. K. Dadoo
Designated Authority