

**MINISTRY OF COMMERCE & INDUSTRY****(Department of Commerce)****(DIRECTORATE GENERAL OF TRADE REMEDIES)****NOTIFICATION**

New Delhi, the 6th April, 2023

**FINAL FINDINGS****(Case No. CVD-SSR-1/2021)****Subject: Sunset review investigation concerning imports of certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from the People's Republic of China.**

**F. No 7/21/2021-DGTR.**—Having regard to the Customs Tariff Act 1975, (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, (hereinafter also referred to as the Rules) thereof.

**A. BACKGROUND OF THE CASE**

1. An Anti-subsidy investigation into imports of subject goods from China PR was initiated vide Notification No. 14/18/2015- DGAD dated 12th April, 2016. Following a detailed investigation, the Designated Authority concluded that the subsidy provided by the Chinese government to the producers of subject goods were countervailable in nature and subject goods were exported from China PR at subsidized prices causing injury to the domestic industry. Thus, the Authority recommended imposition of countervailing duties on imports of subject goods from China PR vide Notification No. 14/18/2015-DGAD dated 04th July, 2017, which was further confirmed by the Ministry of Finance vide Notification No. 01/2017 dated 07th September, 2017.
2. In terms of Section 9 (6) 24 of the Customs Tariff Act, 1975, countervailing duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of countervailing duty is likely to lead to continuation or recurrence of subsidized imports. Further, Rule 24 of the CVD Rules, 1995 provides as follows:  
*“The designated authority shall, from time to time, review the need for continued imposition of the countervailing duty and shall, if it is satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty or additional duty, recommend to the Central Government for its withdrawal.”*
3. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of countervailing duty is likely to lead to continuation or recurrence of injury.
4. And whereas, M/s. Jindal Stainless Limited (hereinafter JSL); and M/s. Jindal Stainless (Hisar) Limited (hereinafter JSHL), (hereinafter referred to as the ‘applicants’ or ‘applicant companies’ or “domestic industry”) jointly filed a duly substantiated application before the Designated Authority, in accordance with the Act and the Rules, requesting initiation of sunset review investigation concerning imports of Stainless-Steel Flat products, originating in or exported from China PR.
5. The applicants sought the continuation of the countervailing duty against imports of subject goods from the subject country. The request was based on the ground that the expiry of the countervailing duty was likely to result in continuation/recurrence of subsidized imports of the subject goods and consequent injury to the domestic industry.
6. And whereas, the Authority on the basis of sufficient evidence submitted by the petitioners, issued a public notice vide Notification No. 7/12/2021-DGTR dated 08<sup>th</sup> October 2021, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the Rules, to determine the existence, degree and effect of the alleged subsidy and to recommend the amount of anti-subsidy/countervailing duty, which, if levied, would be adequate to remove the injury to the domestic industry.
7. The scope of the present review covers all aspects of the Final Findings Notification No. 14/18/2015-DGAD dated 04<sup>th</sup> July 2017.

**B. PROCEDURE**

8. The procedure described herein below has been followed by the Authority with regard to the subject review:
  - i. The Authority, under the above Rules, received a written application from the applicants, as domestic industry contending likelihood of continuation of subsidised imports and injury to the domestic industry on imports of the product under consideration in India.

- ii. The Authority notified the Embassy of China in India about the receipt of the review application before initiating the investigation in accordance with Rule 6(5).
- iii. The Authority in terms of Article 13 of WTO Agreement on Subsidies and Countervailing Measures (ASCM) provided opportunity to Government of China (GoC) for pre-initiation consultations that were held with its representatives on 10.09.2021 through Digital Video Conferencing. The comments of representatives of the Government of the subject country were taken on record. Government of China admitted existence of a number of programs/schemes alleged by the applicants. Government of China contended that the alleged programmes/benefits are not countervailable by virtue of being non-specific in nature.
- iv. While Government of China contended that there is lack of evidence or claimed that alleged policies are not countervailable within the meaning of the ASCM as they are internationally recognized and well-accepted in nature, whereby there is no financial contribution, nor do they confer benefit to specific sector of the industry. The Government of China stated that some Chinese law and regulations cited for alleged subsidy programs have either been amended or repealed but the Government of China has not substantiated their claims.
- v. The Authority issued a public notice dated 8<sup>th</sup> October, 2021, published in the Gazette of India, Extraordinary, initiating the sunset review of anti-subsidy investigation concerning imports of the subject goods originating in or exported from the subject country.
- vi. The Authority sent a copy of the initiation notification dated 8<sup>th</sup> October, 2021 to the Chinese Embassy in India, the known producers and exporters from China, known importers/users in India and other interested parties, as per the available information. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time limit.
- vii. The Authority provided a copy of the non-confidential version of the application to the known Chinese producers/exporters and to the Embassy of China in accordance with Rule 7(3) of the Rules supra.
- viii. The Authority sent a questionnaire to the Government of China seeking relevant information in the form and manner prescribed with regard to various schemes/programs where countervailable benefit might have been conferred onto the Chinese producers/exporters of the product under consideration. The Government of China filed no questionnaire response.
- ix. The Authority sent exporter's questionnaire to elicit relevant information to the known producers/exporters in China, in accordance with Rule 7(4) of the Rules. A list of these known producers/exporters in China is enclosed as **Annexure - 1** at the end of this final findings.
- x. No response was received from any Chinese producer/exporter.
- xi. Questionnaires were sent to the known importers/ users/ associations of the subject goods in India calling for necessary information in accordance with the Rules. A list of these known importers/ users/ associations is enclosed as **Annexure - 2** at the end of this final findings.
- xii. After initiation of the present investigation, Ministry of Finance (MoF) rescinded the countervailing duties imposed on the subject goods vide Customs Notification No. 1/2022 dated 1<sup>st</sup> February, 2022. However, one of the interested parties approached the Hon'ble High Court of Gujarat, disputing the rescission. Subsequently, the Hon'ble High Court of Gujarat, in the matter of *M/s Realstrips Ltd. v. Union of India*, vide its order dated 2<sup>nd</sup> September, 2022 quashed the abovementioned customs notification, and directed the Authority to proceed with the sunset review and complete the said investigation.
- xiii. The applicants vide email dated 9<sup>th</sup> September, 2022, requested the DGTR while quoting the above-stated judgement of the Hon'ble High Court of Gujarat, seeking the Authority to resume the investigation.
- xiv. The Central Government approached the Hon'ble Supreme Court vide SLP(C) No. 020020 - / 2022 challenging the Hon'ble High Court of Gujarat's judgment dated 2<sup>nd</sup> September, 2022. The Central Government sought a stay on the operation of the order, however, the same has not been granted to, and the matter is pending adjudication.
- xv. The Ministry of Finance accepted the request for extension of time for completion of the present investigation and extended the same by another six months till 6<sup>th</sup> April, 2023 vide F. No CBIC-190354/63/2022-TO(TRU-I)-CBEC dated 7<sup>th</sup> October, 2022.
- xvi. The Authority, vide communication dated 1<sup>st</sup> December, 2022 granted fresh opportunity to all the interested parties to file questionnaire response/comments by 22<sup>nd</sup> December, 2022.
- xvii. A list of all the interested parties was uploaded on the DGTR's website along with the request therein to

- all to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing COVID19 global pandemic.
- xviii. The Authority, vide communication dated 21st December, 2022, upon request from certain interested parties, extended time to file questionnaire responses/comments, to 29th December, 2022.
- xix. In response to the notification and the request for questionnaire response, following importers or consumers filed questionnaire response and/or submissions:
- a. All India Stainless Steel Association
  - b. Suncity Sheets Pvt Ltd
  - c. Honest Enterprise Limited
  - d. Shah Foils Ltd.
- xx. In response to the notification and the communication, a number of importers/consumers/associations filed submissions. A list of all parties that have participated as interested parties in this investigation is enclosed as **Annexure – 3** at the end of this final findings.
- xxi. Exporters, producers and other interested parties who have not responded to the Authority nor supplied information relevant to this investigation, have been treated as non-cooperative.
- xxii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange transaction-wise details of imports of the subject goods for the past three years and the period of investigation (POI) and post-POI, which was received by the Authority. The Authority has relied upon DGCI&S transaction wise data for the required analysis after due examination of the transactions.
- xxiii. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if countervailing duty lower than the subsidy margin would be sufficient to remove injury to the domestic industry.
- xxiv. The period of investigation (POI) adopted by the Authority for the present investigation is 01st April, 2020 to 30th June, 2021 (15 months) and the injury period will cover the periods April 2017-March 2018, April 2018-March 2019, April 2019- March 2020 and the POI.

The applicant proposed the period of investigation as 1 April 2020 to 31st March 2021 (12 Months). However, the explanation to amended Rule 22(3) with regard to the period of investigation states as under:

*“For the purposes of these rules, the period of investigation shall, - (i) not be more than six months old as on the date of initiation of investigation.”*

As the case was initiated on 08.10.2021 and the data was more than six months old, therefore, the Authority added one more quarter and decided to consider most recent period i.e., 15 months data for the POI.

- xxv. Verification of the information provided by the domestic industry to the extent deemed necessary was carried out by way of on the spot and desk study. Only such verified information, with necessary rectification, wherever applicable, has been relied upon for the purpose of this final findings.
- xxvi. The Authority held oral hearing on 3<sup>rd</sup> February, 2023 to provide an opportunity to the interested parties to present the information orally in accordance with Rule 7(6). Oral hearing was held in hybrid mode. All the parties that presented their views orally were advised to file their submissions in writing by 14<sup>th</sup> February, 2023. The interested parties were allowed to offer rejoinder to the submissions made by other interested parties latest by 21<sup>st</sup> February, 2023.
- xxvii. The submissions made by the interested parties during the course of this investigation to the extent found relevant have been considered by the Authority, in establishing essential facts under consideration.
- xxviii. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claimed. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xxix. Wherever an interested party has refused access to or has otherwise not provided necessary information in a timely manner during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on

the basis of the facts available.

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

xxxi. The Authority has used following abbreviations in this final findings:

| Abbreviation  | Full description  |
|---|---|
| Applicant/Applicants/ petitioners/ petitioners/ domestic industry | Jindal Stainless Ltd. & Jindal Stainless (Hisar) Ltd.       |
| ASCM  | Agreement on Subsidies & Countervailing Measures            |
| CR  | Cold Rolled   |
| CVD   | Countervailing Duty   |
| DGCI&S  | Directorate General of Commercial Intelligence & Statistics |
| DI  | Domestic industry   |
| FRP   | Flat-rolled Products  |
| GAAP  | Generally Accepted Accounting Principles                    |
| GoC   | Government of China   |
| HR  | Hot Rolled  |
| IFMA  | Industry Furnace Manufacturers Association                  |
| Injury period   | 2017-18, 2018-19, 2019-20 and POI                           |
| ISSDA   | Indian Stainless Steel Development Association              |
| MoF   | Ministry of Finance   |
| MSME  | Micro, small and medium enterprises                         |
| NIP   | Non-Injurious Price   |
| PCN   | Product Control Number                                      |
| POI   | Period of Investigation i.e., April 2020 - June 2021        |
| POI-A   | Annualised figures for POI                                  |
| Pvt. Ltd.   | Private Limited   |
| SLP   | Special Leave Petition                                      |
| WTO   | World Trade Organisation                                    |

### C. LEVEL OF COOPERATION BY GOVERNMENT OF CHINA

9. The Authority notes that adequate opportunity was provided to the Government of China, through written communications and consultations, to provide relevant information concerning existence, operations & administration of various subsidy schemes contended by the applicants, countervailability of the same vis-à-vis the WTO ASCM and Indian Rules, and benefits availed by the Chinese producers/exporters under these schemes. The Government of China has not filed response to the questionnaire, nor has provided any information relevant to various subsidy schemes. The Government of China has thus not cooperated with the Authority in the present investigation. Had the Government of China cooperated with the Authority by providing questionnaire response, along with relevant information/document/evidences, the Authority would have been in a position to make a determination on the basis of such information/ documents/ evidences. As Government of China has not extended the required cooperation, the Authority was constrained to proceed with the available information in making the findings.

### D. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

#### I. Views of the Domestic Industry

10. The submissions made by the applicants with regard to the product under consideration and like article and considered relevant by the Authority are as follows:
- i. The scope of the product under consideration defined in the initiation is the same as the one attracting duty.
  - ii. The product under consideration can be hot rolled or cold rolled. It can be in the form of coils, sheets, plates, strips or otherwise. All forms of the product are within the scope of the product under consideration.
  - iii. Since the present investigation is a sunset review investigation, the scope of the product under consideration would remain the same as considered in the original investigation.
  - iv. There is no difference in subject goods produced by the domestic industry and the subject goods exported from the subject country.
  - v. The goods produced by the domestic industry are like article to the goods being exported by the producers in the subject country as observed by the Authority in the original investigation as well.
  - vi. The domestic industry is producing wide range of products. The products by the domestic industry are also used in the nuclear energy department.
  - vii. There is no niche product manufactured by China. China is exporting the most basic grades which the entire Indian industry can produce. Thus, there is no demand supply gap, and there is no necessity of imports from China. Yet, China has always maintained a high share in the domestic market.
  - viii. None of the producers/exporters from China PR have participated in the investigation. Therefore, there is no need to conduct a PCN-wise analysis.
  - ix. Due to non-cooperation of the producers/exporters from China PR, the import data lacks all information relevant to identification of PCNs. The Authority does not have the quality and quantity of information and evidence as required for precisely identifying PCNs and determination of injury margin.
  - x. In the recent anti-dumping investigation of Luxury Vinyl Tiles from China, Taiwan and Viet Nam, the Authority held that PCN wise dumping margin determination is not necessary when foreign producers have not cooperated in the investigation.
  - xi. There is no justification for the contention that the product imported from China is because of quality considerations.
  - xii. The applicants supply all those products which are being imported from China. The volume of these products sold by the applicants is also significant.
  - xiii. The products being supplied by China are largely in the 200 series product.
  - xiv. Out of the 200 series product products, grades J3 and 201 constitutes 59% and 37% volumes respectively thus showing that imports from China are largely of these products.
  - xv. Imports from China during 2019-20 were only 3.21% of the Indian demand. If imports from China were due to quality considerations, the volume of imports would not have been so low in the past.
  - xvi. Imports from China are largely driven by price difference caused by CVD removal and not because of any other factor.
  - xvii. Chinese product is priced much lower than the price at which the applicants have sold.

## II. Views of other Interested Parties

11. The other interested parties have made no submissions with regard to the product under consideration and like article.

## III. Examination of the Authority

12. The present investigation is a sunset review investigation concerning countervailing duties earlier imposed on imports of “Hot Rolled and Cold Rolled flat products of stainless steel” originating in or exported from China PR. The product under investigation as defined in the original investigation is as follows:

*Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 105 mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel.”*

*The mere fact that the scope of the product under consideration includes hot rolled and cold rolled forms of the product, the same does not imply that the two cannot be considered and included within the scope of product under consideration in the present case. It is noted that Indian Custom Tariff Classification classifies stainless*

*steel under Chapter 72, wherein it is not separately classified in terms of hot rolled or cold rolled products. Customs classification 7219 is flat-rolled products of stainless steel, of a width of 600 mm or more, whereas 7220 is flat-rolled products of stainless steel, of a width of less than 600 mm. Further, both 7219 and 7220 includes (a) hot and cold rolled products, (b) products in coils and not in coils. It is noted that the mere difference in customs classification of the different product types does not render them unlike articles for the present purposes.*

*Analysis of cost statements provided by the domestic industry shows that majority cost involved in production of the product under consideration is on raw materials and utilities upto the stage of steel melting. At the stage of raw materials, the cost of different types of the product varies largely on account of composition of the steel, which is the defining feature in technical standards and is decided at the stage of melting itself. Different types of steels are produced having different metallurgical composition, which are achieved by using right mix of raw materials. The expenses involved at rolling stage – whether hot rolled or cold rolled are not so significant. Significant part of cost in making stainless steel is incurred upto the stage of making hot rolled steel. Thus, the effects of subsidies have come on the basic stage of hot rolled steel.*

*Different types of the product under consideration essentially differ in terms of shape, size, metallurgical composition, rolling conditions (hot rolled/cold rolled). However, these differences can be achieved through regulating the production process and do not render them distinctly different articles for the present purposes.*

13. There is no submission made by any interested party for any modification to the scope of the product under consideration. The present investigation is a sunset review investigation of CVD measures earlier recommended by the Authority and invoked by the Central Government. Therefore, the scope of the product under consideration in the present investigation is same as the scope of the product subject to CVD measures. The scope of the product under consideration in the present investigation therefore is “Hot Rolled and Cold Rolled flat products of stainless steel” originating in or exported from China PR.
14. The subject goods are classified under Chapter 72 of Customs Tariff Act, 1975 under the subheading 7219 and 7220. The customs classification is indicative only and is in no way binding on the scope of the present investigation.
15. The applicants had claimed that the subject goods are being imported in the form of various grades, widths, thickness and finishes. The petitioners had suggested Product Control Numbers (PCNs) for the subject goods. The Authority had invited comments on the PCN methodology. However, none of the interested parties filed comments on the PCN methodology. Further, the applicants *vide* its written submissions requested to drop PCN wise analysis and no comments were received from any of the other interested parties thereto. In view of the above, the Authority has not considered PCNs for the purpose of injury analysis.
16. The Authority notes from the information on record that the product produced by the domestic industry is “like article” to the goods imported from China. The goods produced by the domestic industry and imported from China are comparable in terms of technical specifications, functions & usages, product specifications, pricing, distribution and marketing, and tariff classification of the goods. The two are technically and commercially interchangeable. Accordingly, the Authority holds that the subject goods produced by the applicants are ‘like article’ to the subject goods being imported from the subject country.

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

### **I. Views of domestic industry**

17. The submissions made by the applicants during the course of the investigation with regard to the scope of domestic industry & standing are as follows:
  - i. The application was filed by Jindal Stainless Limited and Jindal Stainless (Hisar) Limited and supported by 11 other producers.
  - ii. Post the initiation of the investigation, 63 producers sent communications expressing their support to the application and continued imposition of duties.
  - iii. 19 producers from the MSME sector and one producer from the organized sector have provided relevant injury information and requested for extension of duties. These 19+1 producers must be considered as a part of the domestic industry.
  - iv. The production by the two petitioners’ companies accounts for a major proportion of the total Indian production.
  - v. The two petitioners’ companies have not imported the subject goods during the period of investigation. The petitioners’ companies are not related to any producer/exporter of the subject goods in China.

- vi. The production of the PUC in India can be divided into two categories – organized and unorganized sector.
- vii. The unorganized sector can further be categorized into two – those producers who produce hot rolled slab through induction furnace route and those producers who process it into hot rolled products (flat).
- viii. The hot rolled flat is used in making a number of products such as utensils. These producers largely produce 200 series products. Further, they do not have the facility for making coils and are largely confined to making plates.
- ix. The market for this product in India is in excess of 10 Lakhs MT.
- x. The producers in the MSME sector, who are producing through induction furnace process are worse affected with the suspension and withdrawal of CVD.
- xi. A number of induction furnace producers have responded and provided all the relevant injury information with regard to their operations. Since these producers have provided the relevant information after initiation and before the deadline prescribed by the authority, these producers should be considered as part of the domestic industry.
- xii. The investigation was initiated on 08.10.2021, however, the Authority did not continue the investigation after the Ministry of Finance withdrew the duty.
- xiii. Post the resumption of the investigation, when the Authority granted an opportunity to all interested parties, the same should be considered as an opportunity to other domestic producers as well.
- xiv. The opportunity to respond to initiation is not limited to opposing interested parties. The same extends to the supporting interested parties as well, which includes other domestic producers.
- xv. The induction furnace producers constitute supporting interested parties and should therefore be considered as part of the domestic industry.
- xvi. In the alternative, the Authority should at least consider their information separately and examine injury suffered by such other domestic producers.
- xvii. Shah Alloys has provided injury information in the prescribed format. Since the company has provided all relevant information, the Authority must consider the same.
- xviii. M/s Realstrips Ltd., Hisar Metal Industries Ltd, Quality Foils (India) Pvt. Ltd. And Veer Metal Industries Pvt. Ltd. are producers (re-rollers) of cold rolled flat products and being an interested party to this investigation, have submitted injury information and is an interested party to the present review investigation.
- xix. The petition is supported by a large number of induction furnace producers even though they have not provided injury information in the prescribed format.
- xx. The present petition has been supported by two producing companies as applicants, one other domestic producer in the organized sector, 19 producers in unorganized sector (induction furnace) who have provided their injury information, 4 producers in induction furnace sector who have provided their production and sales data, 34 producers in induction furnace who have supported but without providing production and sales data, 60 re-rollers from who have provided their data with regard to production and sales, a number of re-rollers who have merely supported but not provided their production and sales data.
- xxi. The request for extension of CVD should be deemed to be filed/supported by a large number of producers of the product in the country. The petition is supported by a large number of producers in MSME sector whether engaged in hot rolled patta or re-rolling the same into plates. Their collective production constitutes a major gross Indian production.
- xxii. The Authority had reopened the investigation on 1st December, 2022 and had given opportunity to all the interested parties to submit relevant information by 29th December, 2022. The users, importers have filed responses within this extended deadline. It cannot be argued that domestic producers were not entitled to provide relevant information and/or make submissions within the extended period.

## **II. Views of other Interested Parties**

18. The other interested parties have made the following submissions with respect to the scope of the domestic industry and standing:
  - i. The applicants have submitted letters from various entities extending their support to the present petition. However, Trade Notice No. 13/2018 states that all the supporting companies are required to file their data with the petition at the “pre-initiation stage”.

- ii. The data filed on behalf of the supporters do not show any fragility. The data filed by the MSMEs must not be relied upon before deeper examination.
- iii. It must be examined if the data of only poor performing MSMEs have been taken as this would show negative results.
- iv. The request for inclusion of certain supporting producers as a part of the domestic industry must not be entertained. Apart from Jindal Stainless Steelway Ltd., the remaining are associations, who cannot constitute the domestic industry.
- v. Jindal Stainless Steelway Ltd. has not submitted its data regarding injury parameters, production, etc., hence it cannot be allowed to participate in the present investigation.
- vi. None of the entities supporting the petition have submitted their data regarding injury parameters, production, etc. and hence they cannot be allowed to participate in the present investigation.
- vii. Major domestic producers like SAIL have not come forward to participate in the present review. The Authority may ascertain the economic performance of SAIL and ascertain the reasons for their non-participation.

### III. Examination of the Authority

19. Rule 2(b) of the Countervailing Duty Rules defines domestic industry as under: -  
*"(b) "domestic industry" means the domestic producers as a whole of the like article or domestic producers whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged subsidized article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry".*
20. The application was filed by M/s Jindal Stainless Ltd. and M/s Jindal Stainless (Hisar) Ltd. The applicants are not related (either directly or indirectly) to any producer/exporter in the subject country or importer of the product in India. The applicants have not imported the subject goods from China during the period of investigation.
21. Following associations in the stainless-steel sector have communicated their support to the application filed:
  - a. Indian Stainless Steel Development Association
  - b. Jagadhri Stainless Steel Re-Rollers Association
  - c. The Rajasthan Stainless Steel Re-Rollers Association
  - d. Wazirpur Industrial Estate Welfare Society
  - e. Stainless Steel Re Rolling Association
  - f. Delhi Stainless Steel Trade Association
  - g. Stainless Steel Rollers Association
  - h. All India Stainless Steel Cold Rollers Association
  - i. Stainless Steel Induction Furnace association (SIFA) Gujarat
  - j. Kala Amb Stainless Steel Furnace Association
22. M/s. Shah Alloys filed its injury information within the time limits extended by the Authority, and requested for extension of duties.
23. Following domestic producers, claiming themselves to be MSME producers through induction furnace route have submitted their injury information and requested for extension of duties.
  - a. Amba Industrial Corporation
  - b. Ambica Alloys
  - c. Avdesh Steel Works Pvt. Ltd.
  - d. Bajrang Steel Centre
  - e. Chandan Pani Pvt. Ltd.
  - f. Hi Ganesh Steel
  - g. Jaiswal Metals Pvt. Ltd.
  - h. Janki Metal Strips Pvt. Ltd.
  - i. Maruti Inox (India) Pvt. Ltd.



- j. MI Alloys Pvt. Ltd.
  - k. N-Steel
  - l. Savitri Alloys
  - m. Shivpriya Ispat (India) Pvt. Ltd.
  - n. Shree Yug Ispat
  - o. Shree Shyam Sundar Alloys Pvt. Ltd.
  - p. SNB Metal & Alloys
  - q. Vasco Ispat Pvt Limited
  - r. Vashisht Alloys
  - s. Western Stainless Steel LLP
24. It is seen that the production of the product under consideration in India comprises of producers in the organised and unorganised sector. Further, in the unorganised MSME segment production is categorized into two categories – producers that produce hot-rolled flat products from stainless steel scrap stage through induction furnace route; and those that process or re-roll it into cold rolled product (flat). The participating induction furnace producers are MSME producers and have alleged to have been worst affected with the suspension and thereafter withdrawal of CVD. Re-rollers are sourcing hot rolled stainless steel and converting it into cold rolled flat stainless steel. The producers who are sourcing their input (Hot Rolled flat products of stainless steel or “HR products”) from the domestic market, the volume of such HR products is already captured in the assessment of Indian production. Further, companies who are importing HR products cannot be treated as eligible domestic producers as they are importing one of the forms of the product under consideration.
25. Shah Alloys and the 19 other MSMEs mentioned above are producers of the subject goods. Therefore, the injury information of Shah Alloys and 19 MSME producers have been considered to the extent relevant in order to assess impact of imports on the Indian industry.
26. The Authority considers that the present application was filed by Jindal Stainless Ltd. and Jindal Stainless (Hisar) Ltd. The 19 MSME domestic producers and Shah Alloys has filed injury information post initiation and after the additional opportunity for participation provided by the Authority. Domestic producers through induction furnace route produce hot rolled product and the same is processed further by re-rollers for making it suitable for eventual end use. Both, the induction furnace units and the patta sector re rollers are exclusively producing goods of 200 series. The Induction Furnace Association has submitted that the HR flat product produced by their members compete with the imported Chinese product in as much as the eventual end consumer has a choice to buy finished steel either imported from China or processed by re-rollers. The applicants also sell HR products to re-rollers or finished steel to eventual end consumers. Significant production process is involved in making finished steel from HR patta. Since, the present review is an expiry review of the CVD in force, and therefore the Authority is required to determine whether cessation of CVD is likely to lead to injury to the domestic industry. Therefore, apart from the applicants the Authority has considered the data of 19 MSME industries to assess the impact of imports on the domestic industry as a whole.
27. On the basis of information on record, the Authority has determined share of the applicants in the Indian production. It is noted that the production of the applicants constitutes 62% of the gross domestic production of like article in India.
28. The Authority after examining the information on record, and submissions made by the applicants and various interested parties has determined that the petitioners’ companies constitute domestic industry within the meaning of the Rule 2(b) and the application had been filed by those domestic producers whose collective output constitutes a major proportion in Indian production.

## **F. CONFIDENTIALITY**

### **I. Views of the domestic industry**

29. Following submissions have been made by the domestic industry with regard to confidentiality issues:
- i. The applicants have claimed such information as confidential, confidentiality of which has been permitted under the rules and as per consistent practice of the Authority.
  - ii. The applicants have provided sufficient non confidential version of the application. No interested party has been able to point out any specific instance of information which has been claimed confidential and confidentiality of which is not justified under the rules.

**II. Views of other interested parties**

30. No submissions have been made by other interested parties with regard to confidentiality issues.

**III. Examination by the Authority**

31. With regard to confidentiality of information, Rule 8 of Anti-Subsidy Rules provides as follows:

*Rule 8: Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.*

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

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

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

**G. MISCELLANEOUS ISSUES****I. Views of the domestic industry**

33. The following submissions have been made by the domestic industry with regard to other issues:

- i. A peculiar fact found in sunset reviews as well in this case is a huge difference in the imports reported in Indian customs and exports reported in exporting country's customs. There is material mismatch in import volumes and values between China Customs and DGCI&S – both in volume and values.
- ii. The DGCI&S data reports imports of the product under consideration from Hong Kong, UAE and Malaysia. However, there are no known production facilities. The market intelligence shows that these goods were in fact shipped from the Chinese ports and therefore these exports reported in DGCI&S data should be considered as exports from China. The Authority can corroborate this with the customs data showing therein the port of loading.

**II. Views of other interested parties**

34. No submissions have been made by other interested parties with regard to other issues.

**III. Examination by the Authority**

35. As regards the contention of the domestic industry regarding difference of data reported by the two Custom Authorities i.e., India and China, the Authority notes that it has relied on the DGCI&S import data as the same is collated by the Indian Authorities.

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

36. The application filed by the domestic industry provided adequate *prima facie* evidence of existence of countervailable subsidies in the subject country on the subject goods. Government of Peoples Republic China (“GoC”) was invited for consultations, which were held on 10<sup>th</sup> September, 2021. The present investigation was initiated on the basis of the *prima facie* evidence. The producers and exporters and Government of China were advised to file response to questionnaire and were given adequate opportunity to provide verifiable information/evidence on the existence, degree and effect of alleged subsidy program for a making an appropriate determination of existence and quantum of such subsidies.

37. Neither Government of China nor any of the producers/exporters from China PR have responded to the present investigation, nor filed any meaningful information for the purpose of the present investigation. In the absence of a questionnaire response from Government of China, and the Chinese producers/exporters, the Authority is not in a position to examine possible countervailability of these schemes based on the information/documents

in possession of the Government of China and therefore is constrained to rely on the information available. The Authority is constrained to proceed with determination with regard to existence, degree and impact of various subsidy programs, on the basis of facts available on record, including the information provided by the domestic industry in its petition, information provided by other interested parties, determination earlier made by the Authority, and information / evidence filed by the domestic industry during the course of the investigation.

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

#### Grants

| SN | Program no. | Name  |
|----|-------------|---|
| 1. | 1           | Special fund for energy saving technology reform / incentive fund for transformation of energy-saving technology/ Energy saving, conservation and emission grants |
| 2. | 2           | Special fund for the development of foreign trade and economic cooperation/ Fund for The Development of International Economic Relations and Trade                |
| 3. | 3           | Fund for Industrial Transformation and Upgrading / Grants related to technological upgrading, renovation or transformation  |
| 4. | 4           | Research & Development (R&D) Assistance Grant/ "Incentive for Enterprise Innovation And R&D"  |
| 5. | 5           | Grants for High and new technology industries   |
| 6. | 6           | Reward and Support Fund for Restructuring of Industrial Enterprises   |
| 7. | 7           | Compensation for the production capacity decrease/or incentive to decrease  |
| 8. | 8           | Support for the "going out" policy in the SSHR industry/ Support for "Go Global"  |
| 9. | 9           | Various Government grants- Received by producers/exporters of China PR/ Ad hoc grants provided by municipal/regional authorities                                  |

#### Exports Financing

| SN  | Program No. | Name   |
|-----|-------------|--|
| 10. | 23          | Preferential export financing from the Export-Import Bank of China |
| 11. | 24          | Export Seller's Credit   |
| 12. | 25          | Export Buyer's Credit  |
| 13. | 26          | Export Credit Insurance Subsidies                                  |

#### Tax and VAT incentives

| SN  | Program No. | Name  |
|-----|-------------|---|
| 14. | 10          | Preferential tax policies for companies that are recognized as high and new technology companies /Income Tax Reductions under Article 28 of the Enterprise Income Tax Law/ Preferential income tax for Non-resident enterprises (NRE) under Article 4 of Enterprise tax law |
| 15. | 11          | Exemption or reduction from corporate income tax for the enterprises engaging in environmental protection, energy conservation and water conservation projects that meet the requirements   |

|     |    |  |
|-----|----|--|
| 16. | 12 | Preferential Tax Policies for The Additional Calculation and Deduction of Research and Development (R&D) Expenses/Preferential Income Tax Benefits for Research and Development investments. |
| 17. | 13 | Preferential Tax Policies for Clean Development Mechanism  |
| 18. | 14 | Preferential Tax Treatment for Import of Equipment   |
| 19. | 15 | Accelerated Depreciation on Fixed Assets   |
| 20. | 16 | Tax Preference Available to Companies that Operate at a Small Profit   |
| 21. | 17 | Enterprise Income Tax Treatment of Enterprise going for Restructurings   |
| 22. | 18 | Reduced Tax Rate for Productive FIEs Scheduled to Operate for a Period not Less Than 10 Years  |
| 23. | 19 | Exemption of Tariff and Import VAT for Imported Technologies and Equipment   |
| 24. | 20 | Preferential VAT on Integrated Utilization of Resources/ VAT Refunds for FIEs  |

#### Provision of Goods & Services at less than adequate remuneration

| SN  | Program No. | Name   |
|-----|-------------|--|
| 25. | 29          | Provision of Raw material at less than adequate Remuneration                           |
| 26. | 30          | Provision of Coal and coking coal provided at less than adequate Remuneration.         |
| 27. | 31          | Provision of Land /Land Use rights provided for less than adequate remuneration (LTAR) |
| 28. | 32          | Provision of Electricity provided for less than adequate remuneration (LTAR)           |

#### Preferential Loans & Lending

| SN  | Program No. | Name   |
|-----|-------------|--|
| 29. | 21          | Preferential Lending   |
| 30. | 22          | Loan Guarantee/Credit Loan Guarantee by Government of China/Export Credit Guarantees |

#### Equity infusion

| SN  | Program No. | Name                  |
|-----|-------------|-----------------------|
| 31. | 27          | Equity infusions      |
| 32. | 28          | Debt for equity swaps |

39. Post-initiation of the investigation, the applicants contended existence of following countervailable programs in relation to the subject goods within the extended deadline for filing submissions. The Authority classified various program under 6 broad categories as listed below:

#### Grants

| SN  | Program no. | Name  |
|-----|-------------|---|
| 33. | 33          | The State Key Technology Renovation Projects Fund |
| 34. | 34          | Famous Brands Program                             |

|     |    |   |
|-----|----|---|
| 35. | 35 | Export Assistance Grant   |
| 36. | 36 | Grants to Baoshan Steel   |
| 37. | 37 | Direct Government Grants given by Jiangsu Province  |
| 38. | 38 | Grants provided by Hebei Province   |
| 39. | 39 | Grant - Special Funds for Fostering Stable Growth of Foreign Trade  |
| 40. | 40 | Provincial Government - Equipment Grant   |
| 41. | 41 | Treasury Bonds Loans or Grants  |
| 42. | 42 | Small and Medium-sized Enterprise Support Funds   |
| 43. | 43 | Subsidies Provided in Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area |
| 44. | 69 | Grants for Energy Conservation and Emission Reduction   |
| 45. | 70 | Grants for Retirement of Capacity   |
| 46. | 66 | Exemptions for SOEs from Distributing Dividends   |
| 47. | 83 | Grants for Relocating Production Facilities   |

### Exports Financing

| SN  | Program No. | Name                     |
|-----|-------------|--------------------------|
| 48. | 73          | Export Loans             |
| 49. | 74          | Export Credit Guarantees |

### Tax and VAT incentives

| SN  | Program No. | Name  |
|-----|-------------|---|
| 50. | 44          | Income Tax Reduction for Advanced Technology FIEs   |
| 51. | 45          | Preferential tax policies for companies that are recognised as high and new technology companies  |
| 52. | 47          | Tax concessions for Central and Western Regions   |
| 53. | 48          | Income tax concessions for the enterprises engaged in comprehensive resource utilization (special raw materials')                             |
| 54. | 49          | Tax credit concerning the purchase of special equipment   |
| 55. | 50          | Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone  |
| 56. | 51          | Income Tax Reductions under Article 28 of the Enterprise Income Tax Law   |
| 57. | 51          | Preferential income tax policy for the enterprises in the Northeast region  |
| 58. | 53          | Tax Preference Available to Companies that Operate at a Small Profit  |
| 59. | 54          | Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions) |
| 60. | 55          | Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai   |
| 61. | 64          | Enterprise Tax Law Research and Development Program/Enterprise Income Tax Law, R&D Program  |

|     |    |   |
|-----|----|---|
| 62. | 78 | Income Tax Reductions for HNTEs   |
| 63. | 79 | Income Tax Reductions and Exemptions for HNTEs in Designated Zones                                |
| 64. | 80 | Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax                 |
| 65. | 81 | Income Tax Benefits for Domestically Owned Enterprises Engaging in R&D                            |
| 66. | 46 | VAT Refunds for FIEs Purchasing Domestically Produced Equipment                                   |
| 67. | 82 | VAT and Tariff Exemptions for Purchasers of Fixed Assets Under the Foreign Trade Development Fund |

#### Provision of Goods & Services at less than adequate remuneration

| SN  | Program No. | Name   |
|-----|-------------|--|
| 68. | 56          | Provision of Electricity for Less than Adequate & Fair Market Value Remuneration |
| 69. | 57          | Land Use Rights for SOEs   |
| 70. | 58          | Provision for Coking Coal for Less than Adequate Remuneration                    |
| 71. | 59          | Reduction in Land Use Fees, Land Rental Rates and Land Purchase Prices           |
| 72. | 65          | Provision of Iron Ore for LTAR   |
| 73. | 66          | Provision of Steam Coal for LTAR   |
| 74. | 67          | Provision of Nickel/Nickel Pig Iron for LTAR                                     |
| 75. | 68          | Provision of Ferrochrome/Chromium for LTAR                                       |

#### Preferential Loans & Lending

| SN  | Program No. | Name  |
|-----|-------------|---|
| 76. | 60          | Preferential Loans for SOEs (State Owned Enterprise)  |
| 77. | 63          | Policy Loans to the Stainless Sheet and Strip Industry  |
| 78. | 71          | Preferential Loans for Key Projects and Technologies  |
| 79. | 72          | Preferential Lending to Stainless Sheet and Strip Producers and Exporters Classified As "Honorable Enterprises" |
| 80. | 75          | Loans and Interest Subsidies Provided Pursuant to the Northeast revitalization Program                          |
| 81. | 77          | Loan and/or Interest Forgiveness for SOEs   |

#### Equity infusion

| SN  | Program No. | Name                  |
|-----|-------------|-----------------------|
| 82. | 61          | Debt for equity swaps |
| 83. | 62          | Equity infusion       |

40. The Authority considers that the applicants have identified a large number of countervailable programs wherein similar benefits have been conferred onto the Chinese producers/exporters of the subject goods. The Chinese producers/exporters have not cooperated with the Authority and therefore, the Authority in any case

cannot determine subsidy margins for individual Chinese producers. Further, the applicants have conceded that the Authority need not quantify benefits in those programs which grants similar benefits, once the Authority has accepted and quantified benefit in one of such programs.

41. Principle of judicial economy allows the Authority to refrain from undertaking detailed investigation in respect of those program wherein the Authority is not required to quantify benefits. The present investigation is a sunset review investigation, wherein the Authority is required to ascertain continuation of countervailable subsidies to Chinese producers/exporters or introduction of new countervailable subsidies by the Government of China or termination thereof after the last investigation in order to determine whether there is likelihood of continuation or recurrence of subsidisation causing injury to the domestic industry in the event of cessation of countervailing measures. Therefore, considering these factors, the Authority has restricted examination to ascertain (a) whether subsidies countervailed in the original investigation continue to confer benefit to the stainless-steel industry, (b) whether there are new countervailable programs providing benefit. Further, the Authority has grouped various subsidy schemes into the following broad categories:
- a. Grants
  - b. Exports Financing
  - c. Tax and VAT incentives
  - d. Provision of Goods & Services at less than adequate remuneration
  - e. Preferential Loans & Lending
  - f. Equity infusion
42. The Authority has thus examined whether these countervailable schemes still continue and whether there is evidence of continued benefit being received under the said schemes. Since the present investigation is a sunset review investigation, and the objective of the investigation is to ascertain whether the Chinese producers continue to benefit from countervailable subsidies and further since the Government of China or Chinese producers/ exporters have preferred non-cooperation and have not provided relevant information, and none of the interested parties have provided any information & evidence to rebut the substantiated claim made by the petitioners with regard to continuation of countervailable subsidies, the Authority has considered it unnecessary to quantify benefits under various schemes that were earlier investigated, found countervailable but were not quantified. However, for those schemes wherever necessary information has been submitted by the petitioners for quantification of the subsidy schemes, the Authority has accordingly examined those schemes.

#### **Calculation methodology**

43. Article 14 of ASCM provides guidelines and methodology for calculating the benefit to the recipient conferred pursuant to paragraph 1 of Article 1 and further provides that any method used by the investigating authority to calculate the benefit to the recipient shall be transparent and adequately explained. Further, any method used by the investigating authority to calculate the benefit to the recipient shall be provided for in the national legislation or implementing regulations of the Member concerned and its application to each particular case shall be transparent and adequately explained. The Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 lays down the methodology of determination of quantum of subsidization. The determination in this investigation is in accordance with these guidelines.
44. Before analysing the alleged subsidisation in the form of specific subsidies or subsidy programs the Authority has first assessed government plans, policies, orders, projects and other documents, which are relevant for the subsidies or subsidy programs contended by the applicants. It has been seen that a number of subsidies or subsidy programmes under examination flow from Government of China's documents, such as 13<sup>th</sup> Five Year Plan; Order No 35 of the National Development and Reform Commission- Policies for the development of Iron and Steel Industry; Decision No 40 is a State Council Order that classifies for investment purpose the industrial sectors into different categories, namely 'encouraged, restrictive and eliminated projects'; and the Blueprint for the Adjustment and Revitalisation of the Steel Industry' (2009) is an action plan for the steel industry.
45. The applicants contended that the steel industry in China continues to be the encouraged sector and the Government of China supported the industry in several manner, including through export restraints on key inputs required for production of the PUC. The Authority notes that in the 13<sup>th</sup> Five-Year plan for the steel sector, the Steel Industry Adjustment and Upgrade Plan, covering the period from 2016 to 2020, Steel in general continues to remain a favoured sector. The Authority also notes that the relevant plan in China at the time of original investigation was the 12<sup>th</sup> five-year plan. In the 13<sup>th</sup> Five Year plan, it has been emphasised

that the steel sector is ‘fundamental to the national economy and a cornerstone of China’. The plan sets out the overall objectives for years 2016-2020, which is to ‘build China into a manufacturing power’. The 13<sup>th</sup> Five-Year Plan further emphasises on the role of technological innovation in the economic development of the PRC, as well as the continued importance of ‘green’ development principles. According to its chapter 5, one of the main development lines is to promote the upgrading of the traditional industrial structure, as was already the case in the 12<sup>th</sup> Five Year Plan. This is further elaborated in chapter 22 of the 13<sup>th</sup> Five-year plan, which explains the strategy to modernise the traditional industry in China by promoting its technological conversion. In this respect, the 13<sup>th</sup> Five-Year Plan states that companies will be supported to ‘*comprehensively improve in areas such as product technology, industrial equipment, environmental protection and energy efficiency*’.

46. The applicants further contended, based on ‘Steel Industry Adjustment and Upgrading plan for 2016-2020’ (the 13<sup>th</sup> Five-Year Steel Plan) and final findings of other investigating authorities that the Chinese steel industry is ‘*an important, fundamental sector of the Chinese economy, a national cornerstone*’. The plan elaborates on the principles of technological innovation, structural adjustment and green development mentioned in the 13<sup>th</sup> Five-Year Plan, links them to more specific priorities within the steel industry, and makes the link with various fiscal and financial support measures. The consolidation of the steel sector and the reliance on dominant/major producers is a key feature of the plan. Steel producers in China are encouraged to engage in production and expand their production abroad. Chapter 17, Section 1 of the 13<sup>th</sup> Five-Year Plan states: ‘*The national development strategy and plan will come into play with a leading and constraining role.*’ Finally, the 13<sup>th</sup> Five-Year Steel Plan states that ‘*all local authorities in charge of the steel industry shall ... implement the tasks and policy measures set out in the present plan*’. At the level of individual companies, ‘*relevant enterprises shall ensure convergence with the present plan’s main objectives and priority tasks*’. Consequently, rather than making only general statements of encouragement, the 13<sup>th</sup> Five-Year plan provides a binding framework for the domestic steel industry. That framework has been replicated at local/provincial level by the adoption of additional plans, which provide for further implementing details.
47. Further, the following specific policies of the Government of China, which were found to exist at the time of previous investigations, continue to exist even in the present period:
  - a. Order No. 35 of the National Development and Reform Commission- Policies for the development of Iron and Steel Industry (2005).
  - b. Decision No. 40 is a State Council Order that classifies for investment purpose the industrial sectors into different categories, namely ‘encouraged, restrictive and eliminated projects’.
  - c. ‘The Blueprint for the Adjustment and Revitalisation of the Steel Industry’ (2009) is an action plan for the steel industry.
48. Order No. 35 National Development and Reform Commission- Policies for the development of Iron and Steel Industry: China’s Order No. 35 is a guideline issued by Chinese authorities on promoting the high-quality development of the iron and steel industry. It specifies that China’s iron and steel industry aims to basically form a high-quality development pattern featuring reasonable layout and structure, stable supply of resources, advanced technical equipment, high quality products and outstanding brands, strong global competitiveness, as well as green, low-carbon, and sustainable development by 2025. The guideline also encourages major local steel enterprises to carry out mergers and acquisitions, boost industry concentration and raise endogenous power.
49. China’s Decision No. 40 of the State Council on Promulgating and Implementing the ‘Temporary Provisions on Promoting Industrial Structure Adjustment’ for stainless steel industry is a policy issued in 2005 to encourage and support advanced production capacities, restrict and eliminate outdated production capacities, prevent blind investments and low-level redundant construction, and improve the policy system on industrial structure adjustment.
50. Government of China controls the production and supply of certain rare earth materials through SOEs and major producers, thereby artificially keeping the prices of these materials low for the domestic producers of stainless steel. Government of China controls and manages SOEs in the various ways. The institutional framework allowed the Government of China to have a tight control over SOEs through various bodies. The National Development and Reform Commission (‘NDRC’) is one of the regulatory bodies that controls SOEs. NDRC is in charge of elaborating the macroeconomic and industrial development strategies and ensuring that the local players properly implement the Government of China policy. The NDRC frames guidelines and directives based on the plans issued. All investment by steel producers in China are mandatorily approved by the NDRC.
51. As is evident from various documents, the Government of China exercises a strict control over the steel industry by law. The steel sector is classified under the basic and pillar industries and is also part of the



'encouraged' industries. Consequently, the industry benefits from various subsidy schemes. The Authority notes that State-owned Assets Supervision and Administration Commission of the State Council ('SASAC') is the ultimate owner of all SOEs in China. SASAC directors and managers are all appointed by the Communist Party of China. SASAC has a leading role in the management of SOEs, including disciplinary surveillance, and ensures that SOEs follow the objectives set by the Government of China. It is also involved in investment decisions, and stocks and share transactions. Therefore, the SASAC can be considered as the State regulator of SOEs. It is seen from various evidences that the Government of China's actual direction, management and control of the SOEs continues to be based on the same documents, laws and regulations as were found in the original investigation. These are still in force during the present investigation. The only major amendment since the original investigation has been the replacement of the 12<sup>th</sup> Five-year plan for the steel sector with the 13<sup>th</sup> Five-Year plan. However, such a replacement did not modify the Government of China's predominant role and intervention in the steel sector, and the importance accorded to it.

52. Taking into account the above-listed documents and their provisions, the Authority concludes that the Chinese steel industry continued to be a key/strategic industry, the development of which is actively pursued and directed by the Government of China as a policy strategic objective. Such all-encompassing control and intervention by Government of China is resulting in a regulated market in the steel sector. Further, investigations conducted by this Authority and other investigating authorities globally confirm the Authority's conclusion that steel sector in China is heavily distorted and subsidised.

## **I. EXAMINATION OF SUBSIDY PROGRAMS**

### **I. VIEWS OF OTHER INTERESTED PARTIES**

53. The following submissions have been made by the other interested parties with regard to subsidy and subsidy margins:
- i. It is inappropriate to investigate 21 new subsidy programs that were not covered in the initiation notification.
  - ii. Under Articles 13.1 and 13.2 of the SCM Agreement, before initiation of a CVD investigation, it is incumbent for the government of the investigating country to intimate the government of the exporting country of the alleged subsidy programs intended to be initiated.
  - iii. Unless these programs are intimated to the government of the exporting country, the latter will not have the opportunity to clarify the factual situation and arrive at a mutually agreed situation with the government of the investigating country, as envisaged in Article 13 of the SCM Agreement.
  - iv. As per Article 11.1 of the SCM Agreement, the allegations of subsidy programs are required to be made part of the application itself. It is inappropriate to cover new programs within the scope of the review.
  - v. The applicants have not quantified the subsidy margin for all the subsidy programs alleged by them. The applicants have stated that they have quantified the subsidy margin for only six programs.
  - vi. Para 504 of the final findings issued in the original investigation, it was noted that since no corroborative evidence had been placed regarding the quantum of benefit received under the subsidy programs, the Authority did not quantify subsidy margin for such programs.
  - vii. The alleged benefits under the alleged subsidy programs are not specific as they are available to all enterprises that fulfil the applicable criteria under the applicable laws regardless of the enterprise, sector concerned, or geographic location.
  - viii. As per the WTO Appellate Body Report in US – Carbon Steel (India) (DS436), it was held that NMDC cannot be considered as a public body merely on the basis of government ownership and control.
  - ix. In the absence of any finding that the entities from whom the Chinese producers/ exporters have obtained loans, guarantees and insurance, have exercised functions in pursuance of instructions from the government, it cannot be said that these entities are public bodies.
  - x. The applicants have not established now any of the subsidy programs alleged to be granted has conferred a benefit on the Chinese producers/exporters.

## **A. GRANTS**

### **I. Views of domestic industry**

54. Following submissions have been made by domestic industry with regard to grants:

#### **Program No. 9 and 36**

- i. The Government of China provides grants or special funds to selected enterprises who are producers of the subject goods. These grants are given to the companies by national, provincial, city, county or

direction government authorities and all are specific to the stainless-steel companies, or specific in terms of location or type of industry.

- ii. The petitioners have identified that in 2020 and also preceding years, the Chinese producers/exporters were granted various governments grants. As per the annual reports for example Baosteel, China Metallurgical Corporation, Shanxi Stainless steel Co Ltd TSL and Minmetal Co Ltd wherein grants were provided in order to finance particular projects or assets, reward energy conservation or environmental protection, relocation, waste-water conservation, special funds provide to Zombie companies and clean production funds. The Authority need not examine No. 36 as it pertains to the same benefit.

## II. Views of other interested parties

55. Neither Government of China nor any producer/exporter and other interested parties have provided any specific comments with regard to the alleged program.

## III. Examination by the Authority

### Program No. 36- Grants to Baosteel

56. The Authority in the original investigation had examined this program as Program No. 8.
57. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
58. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings is reproduced herein below:

*Para 103. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it. It is noted that in 2013 'State-Owned Assets Supervision and Administration Commission' of the State Council of China has formulated a scheme named "Special financial funds to industries for Adjusting Structure, promoting transformation and supporting industrial development". The program is aimed at providing various funds in the form of grants, loans, and loan guarantees, as well as goods and services, to the steel industry in general and State-owned enterprises in particular for stabilizing the industry. These assistances are in the nature of financial contribution by the public body conferring benefit on the recipients of the support.*

*104. As per the information supplied by the domestic industry, Shanghai Baoshan steel Group Corporation, one of the largest steel industries in China, has availed substantial benefits under this program. This has not been refuted by either Government of China or by the concerned producer/exporter in spite of providing ample opportunities.*

*105. The program provides a financial contribution in the form of Grants, loans, and loan guarantees as well as goods and services provided by the Government of China conferring benefits on the recipients. Benefits under this program are limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.*

*106. The Authority notes that this program has been earlier examined by other investigating Authorities in the past and existence and countervailability of this program has been established by US authorities in Non-Oriented Steel investigation against China. Further, the Government of China has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. In view of the above the Authority holds this scheme as countervailable subsidy program.*

*107. The Applicants have claimed subsidy margin based on the details provided in the annual report of the Shanghai Baosteel Group Corporation for the year 2015. The evidence with regard to the amount of grants availed by the company and the margin computed by the Applicants has been placed by the Authority in the public file for inspection of the interested parties.*

*108. Since Government of China has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the Government of China and the responding exporters. In the absence of cooperation from the Government of China and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has quantified the subsidy margin as 0.55%.*

59. In the original investigation, the domestic industry had quantified subsidy margin based on the details provided in the annual report of Shanghai Baosteel Group Corporation for the year 2015, and accordingly the margin

was quantified as 0.55%. Since the program being reviewed is non-recurring and benefit in such cases is allocated over the AUL, therefore, the grants received and reported by Baoshan in 2015 continue to be benefitted in the POI of the present investigation. Further, the applicants have provided most recent evidence available i.e., Annual Report for the year 2020 for the same company that shows grants being received by the Chinese producer. The applicants have also identified, and quantified margin for grants received by Shanxi Stainless Steel Co. Ltd. As the present investigation is a sunset review and there is no cooperation by the Chinese producers, for the finding of continued subsidisation, and there is no evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, therefore the Authority does not consider it necessary to re-quantify the subsidy margin.

60. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
61. Program No. 9 i.e. "Various Government grants- Received by producers/exporters of China PR/ Ad hoc grants provided by municipal/regional authorities", identified by the applicants relates to the program which grants the same benefit as has been investigated by the Authority under Program no. 36, as has been conceded by the applicants that the same may not be examined. Therefore, in the interest of judicial economy, the same has not been separately examined.

## **B. TAX AND VAT INCENTIVES**

### **I. Views of the domestic industry**

62. Following submissions have been made by the domestic industry with regard to tax and VAT incentives:

#### **Program No. 10**

- i. The Ministry of Science and Technology, MOF and MOFCOM have provided preferential tax policies for companies that are recognized as high and new technology companies that need to be supported within specific areas set by law for the development of foreign economic cooperation and technological exchanges, as well as the areas where the State Council has stipulated the implementation of special policies in the above areas, can enjoy transitional tax benefits.
- ii. Article 28 of the Enterprise Income Tax Law provides that the State needs to give priority to support high-tech enterprises who will be levied a corporate income tax at a reduced rate of 15%. It is also submitted that this scheme is enterprise specific and is limited to high & new technology industries. Preferential tax rates that is 25% are given at reduced rates to 15% or 12.5%.
- iii. The Authority need not examine Program No. 11, 13, 16, 17, 18, 44, 45, 47, 48, 50, 51, 53, 54, 55, 59, 78, and 79 as it pertains to the same benefit.

#### **Program No. 12**

- i. This program in the SSR application is the same as Program No. 33, 34 and 46 of the original segment of the investigation.
- ii. Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM) and Science and Technology Bureau administer a series of programs which extends certain tax benefits to the domestic as well as foreign invested enterprises in China to encourage investment in R&D activities.
- iii. As per Article 30.1 of Enterprise Income Tax law of PRC, enterprises may deduct "expenses for the research and development of new technologies, new products and new techniques" from the calculation of taxable income. On approval of the said project, enterprises are eligible for 50% reduction of those expenses from the taxable income for the purpose of computation of corporate income tax. Further, under Article 95 of Implementation Regulations of the Enterprise Income Tax Law of the People's Republic of China-2019, eligible research and development expenditures incurred by the enterprise for the development of new technologies, new products, and new processes "not forming an intangible asset," an additional 50% deduction from taxable income may be taken on top of the actual accrual amount. If these expenditures form the value of certain intangible assets, they may be amortized based on 150% of the intangible asset's costs.
- iv. This program is operational under the:
  - Enterprise Income Tax Law of the People's Republic of China-Amended tax laws in -2018
  - Implementation Regulations of the Enterprise Income Tax Law of the People's Republic of China-2019
  - Circular on Improving the Policy on Extra Pre-tax Deduction of Research and Development Expenses- Cai Shui [2015] No.119

- Announcement of the State Administration of Taxation on Issues concerning the Scope of Pooling of R&D Expenses for the Purpose of Additional Pre-tax Deduction- Announcement of the State Administration of Taxation [2017] No.40
- v. The preferential tax benefits confer a financial contribution on the recipient and therefore, amounts to a subsidy. The program is also limited in scope and is availed by limited number of enterprises and therefore, is specific subsidies.
- vi. The benefit under the program is not limited to product under consideration alone. Benefit under the program is available on total profits of the company, once the company is able to claim that it is entitled to benefit under the program.

**Program No. 19**

- i. Program No. 14 in the SSR list is identical to Program No. 19 under this SSR segment. These programs confer identical benefits i.e. exemption of tariff/VAT on imported equipment.
- ii. Administered by MOF, SAT, MOFCOM, GACC and NDRC.
- iii. Exempting the tariff and VAT on the equipment imported for self-use by domestically and foreign-invested projects.
- iv. The Financial contribution conferred by this program is revenue foregone which is otherwise due.
- v. The Benefit provided by this program is in the form of exemption of tariff on imported equipment.
- vi. This program is enterprise specific as it is only available to limited number of enterprises engaging in the import of equipment for self-use. The Stainless-Steel industries also qualify for this program.

**Program No. 46**

- i. Program number 36 and 51 of the original investigation have been inadvertently compared with program no. 20 in the submissions made before. Program no. 36 (original investigation) is in fact same as program No. 46 now identified in the present SSR. However, program No. 36 of the original investigation is the same as program No. 46 identified in the present sunset review investigation. The applicant in their submission dated 29<sup>th</sup> December, 2022 stated that program No. 46 is required to be seen as continuation of the program from the POI of the original investigation (identified as program no. 36 in the original investigation).
- i. Further, since in the original investigation program nos. 36 and 51 were quantified as one as they were concurrent benefits, accordingly, program nos. 20 and 82 pertain to the same benefit. Therefore, the Authority need not examine and quantify program no. 20 and 82 separately.
- ii. The program in question is linked with VAT refunds for purchase of domestically produced fixed assets, the benefit under this should be (as was done in the original investigation) amortised over the life of the equipment i.e., the AUL period.
- iii. Since the program confers a benefit of non-recurring in nature, and such benefited is allocated over the life of the asset, therefore, the benefit quantified earlier continues to benefit the Chinese producers in the present POI as well.
- iv. This program is enterprise specific and is available to the stainless-steel industry.

**Program No. 49**

- i. As per Article 34 of the “PRC Law on Enterprise Income Tax”, Article 100 of “Regulations on Implementation of the PRC Law on Enterprise Income Tax by the State Council” the firms, which purchase cost of special equipment used for environmental protection, energy and water saving and production safety the enterprises are eligible for reduction of 10% offset from the total income. This program is same as program no. 39 of the original investigation.

**II. Views of the opposing interested parties**

63. Following submissions have been made by other interested parties with regard to tax and VAT incentives:
  - i. The alleged programs on tax benefits do not constitute a countervailable subsidy since this is uniformly available to all companies and is hence not specific in nature.

**III. Examination by the Authority**

64. The Authority has examined below the schemes related to Tax and VAT incentives. However, as regards scheme no. 14, the Authority has not examined this scheme as the petitioners have not submitted the complete information which could help the Authority in reaching to a fair and just conclusion of quantification of these above said schemes.

**Program No. 10- Preferential tax policies for companies that are recognised as high and new technology companies/ income tax reductions under Art. 28 of the Enterprise income tax law/ preferential income tax for non-resident enterprises (NRE) under Art. 4 of enterprise tax law**

65. The Authority initiated investigation into preferential tax policies under Chinese tax law and identified the program as program no. 10 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 35 and 42.
66. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
67. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings are reproduced herein below:

*Para 309. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, the Authority has relied on the information contained in the petition and best information available with it. The Authority notes that the enterprise tax laws of China, administered by various State agencies such as Government of China PR, state council, Ministry of Finance (MOF), Ministry of Commerce (MOC) and State Administrative Tax (SAT) under the following laws and regulations provide certain tax benefits to the enterprises under different categories:*

- *Article 28.2 of the Enterprise Income Tax Law, enterprises that are qualified as high-new-technology enterprises ("HNTEs") are entitled to a reduced tax rate of 15 percent instead of 25 percent.*
- *Article 28 of the "Corporate Income Tax of China PR", Advance and New Technology Enterprises which are eligible for key support from the State shall be reduced up to 15%, income tax. Existence of the said program is as per "Corporate income tax Decree No. 63-2007".*
- *Order 63- Enterprise income tax -2007 and "Corporate Income Tax Decree No. 63-2007". Indeed, manufacturers in "key" sectors, including steel production, are eligible for benefits;*
- *"Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology",*
- *"Ministry of Finance, and State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises, GuoKeFaHuo (2008) No. 172, certain products are to be supported through this income tax reduction."*
- *Administrative Measures for the Determination of High and New Technology Enterprises, and the Notice of the State Administration of Taxation on the issues concerning Enterprises Income Tax Payment of High and New Technology Enterprises (GuoShui Han [2008] No. 985),*
- *Circular GuoShui Fa No. 135 of 2003 and Circular Caishui (2014) No.59 & 65,*
- *Circular on the Administrative Measures Governing the Recognition of High or New Technology Enterprises Jointly Issued by the Ministry of Science and Technology, Ministry of Finance, and*
- *State Administration of Taxation, Administrative Measures Governing the Recognition of High or New Technology Enterprises, GuoKeFaHuo (2008) No. 172, Circular 115-Oct 2009,*
- *SAT Circular GuoShui Fa No. 139 of 1995/135 of 2003.*
- *"Circular of the State Council concerning Several Policies on Carrying out the Development of China's Vast Western Regions" (Issued by MOF, General Tax Bureau and General Custom Office)-2011;*
- *12th Five year plan for Western Region-2012;*
- *State Administration of Taxation-2015,*
- *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (the Tax Law; Decree [1991] No. 85 of the State Council [30 June 1991];*
- *Order [1991] No. 45 of the President of the People's Republic of China [9 April-91];*
- *Notification of the State Council on carrying out the transitional preferential policies concerning Enterprise Income Tax (Guo Fa 2007 No. 39)*
- *Notice of the State Administration of Taxation on Issues regarding pre tax deduction from enterprise Income Tax on interests expenditure for enterprise borrowing money from natural person. (Letter No. 777, 2009)*

- *Article 73 of the Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises*
  - *Catalogue of High and New Technology Products of China promulgated by the Ministry of Science and Technology ("MOST")*
  - *State Council Circular Guo Fa No. 37 of 2000*
  - *Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007;*
  - *Implementation Rules of the Income Tax Law of the People's Republic of China of Foreign Investment Enterprises (July 1, 1991) ("Decree 85");*
  - *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax No. 39 [2007] of the State Council; Enterprise income tax law, 2008;*
  - *Article 7 of the FIE Tax Law; Article 71 of Decree 85.*
  - *Decree [1991] No. 85 of the State Council [30 June 1991]*
  - *Order [1991] No. 45 of the President of the People's Republic of China [9 April-91]*
  - *State Council Circular Guo Fa No. 37 of 2000*
  - *Notification of the State Council on Carrying out the Transition Preferential Policies Concerning Enterprise Income Tax, Guo Fa No. 39 of 2007*
  - *Notice on Wuxi municipal people's government approving outline of industrial development planning-2006;*
  - *Provisions of the State Council Concerning the Encouragement of Investment in Developing Hainan Island.*
  - *It is noted that the existence of this scheme has been reported in China Syndrome-2006*
310. Under these regulations enterprises with 'Advanced and New-Tech enterprises Certificates' and those located in specified regions or zones are eligible for reduction of the normal tax rate of 25% to the preferential rate of 15%.
311. As per the "Notice on Favourable Tax Policies for Western Region Development" this preferential tax treatment is available for the encouraged type of enterprises in the Western Region (enterprises with major business accounting for 70 % or more of total income as described in the Catalogue of industry, product & technologies encouraged by the State).
312. As per Article 7 of Order 45 "Law of PRC on Income tax of enterprises, with FIEs and foreign investment and preferential policies for investment in Tianjin new coastal area" FIEs who are located in the Tianjin Port Free Trade Zone, are permitted to pay a reduced income tax at a rate of 15 percent.
313. As per Article 7 of the FIE Tax Law and Article 71 of Decree 85, "productive" FIEs located in the designated economic zones pay enterprise income tax at a reduced rate of either 15 or 24 percent, depending on the zone. As per Para 1 (2) of Article 73 of the Income Tax Law of the People's, FIEs that were established in the Coastal Economic Open Zones, in the old urban districts of the cities where the Special Economic Zones are located, are eligible for reduced cooperate income tax rate of 15%. The foreign investors who reinvest the profit made from the enterprises established in Hainan special economic zones into the infrastructure construction projects of, or agricultural development enterprises in, the Hainan special economic zones may be refunded the entire portion of the enterprise income tax that has been paid on' the reinvested amount.
314. As per the notifications and circulars issued under People's Republic of China's Enterprise Income Tax Law (2007) and announcement No. 17 [2015] of the State Administration of Taxation: Announcement on Issues concerning the Implementation of the Expansion of the Scope of Small Low-Profit Enterprises subject to Half Reduced Enterprise Income Tax; and Announcement of the Guangdong Provincial Office of the State Administration of Taxation on Relevant Issues concerning Implementing the Preferential Income Tax Policies for Small Low-Profit Enterprises, Announcement No. 6 [2014] of the Guangdong, there are provisions to reduce the burden on enterprises making small profits, in order to maintain job opportunities.
315. Under this program, where an enterprise, whose income tax is collected through checking accounts, is eligible for enjoying the preferences of small profit enterprises, if its taxable income in the previous year is 100,000 Yuan or less. The taxable income in such cases is computed at the reduced rate of 50% of its income and the enterprise income shall be computed and prepaid at the rate of 20%.
316. Further, Export-oriented enterprises in special economic and other specially designated zones are eligible for preferential tax rates. Under Article 57 of the Enterprise Income Tax Law of the People's Republic of China 2008, enterprises, which have been approved and established prior to the promulgation of this law

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

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

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

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

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

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

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

68. It is seen from information on record, that the law governing this program has not changed since the original investigation. The applicants further contended that the Chinese producers/exporters continue to be benefitted from financial support in the form of exemption/reduction in enterprise tax. The applicants have also relied upon the final findings notified by this Authority and other authorities. Neither the Government of China nor the Chinese producers/exporters provided evidence suggesting that the stainless-steel industry stopped benefiting from this program.
69. It is also noted that the existence of this program has been notified by China to WTO in Notification No. G/SCM/N/372/CHN dated 27<sup>th</sup> August, 2021 disclosing China's new and full notification of information on programmes granted or maintained at the central and sub-central government level during the period from 2019 to 2020. The applicants contended that this program was examined by European Commission in expiry review of certain organic coated steel from China (2019). Considering the disclosure before WTO by Government of China, in the most recent period that is relevant for the present investigation, evidence

provided by the domestic industry with regard to continued availability of the program and provided to Chinese producers/exporters of subject goods.

70. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
71. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
72. Since Program No. 11, 13, 16, 17, 18, 44, 45, 47, 48, 50, 51, 53, 54, 55, 59, 78, and 79 identified by the applicants relates to the program which grant similar benefit as has been investigated by the Authority as Program no. 10, the Authority, in the interest of judicial economy, has not separately examined these programs.
73. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

**Program No. 12- Preferential Tax Policies for The Additional Calculation and Deduction of Research and Development (R&D) Expenses/Preferential Income Tax Benefits for Research and Development investments.**

74. The Authority has identified the program as program no. 12 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 33.
75. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
76. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings is reproduced herein below:

*Para 289. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.*

*290. The Authority notes that Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM) and Science and Technology Bureau administer a series of programs which extends certain tax benefits to domestic as well as foreign invested enterprises in China to encourage investment in R&D activities.*

*291. As per Article 30.1 of Enterprise Income Tax law of PRC, enterprises may deduct "expenses for the research and development of new technologies, new products and new techniques" from the calculation of taxable income. On approval of the said project, enterprises are eligible for 50% reduction of those expenses from the taxable income for the purpose of computation of corporate income tax. Further, under Article 95 of the Enterprise Income Tax Law Implementation Regulation (Decree 512 of the State Council, 2007) eligible research expenditures "not forming an intangible asset," an additional 50% deduction from taxable income may be taken on top of the actual accrual amount. If these expenditures form the value of certain intangible assets, they may be amortized based on 150% of the intangible assets costs.*

*292. These programs are stated to be implemented under the*

- *Notices of MOF and SAT on policy concerning Free Tax- Super deduction of R&D expenses- Circular 70, 2013, Article 3 of Notice of SAT;*
- *Article 3 of Notice of SAT on issuing the Administrative measures for the pretax deduction of Enterprise research and development (R&D) expenses, 2008;*
- *Corporate Income Tax Law of the PRC (Article 30.1) and*
- *Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC (Decree No 512 of the State Council of the PRC) and the Guide to Key Fields (Notification.6, 2007).*



- *Guo Shui Han (2001) No. 405*
- *SAT Circular Guo Shui Fa No. 173 of 1999*

293. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by the Designated Authority in the matter of countervailing duty investigations concerning castings for Wind Operated Electricity Generators; and (b) by EU, in countervailing case against China PR Certain organic coated steel. It is also noted that the existence of this program has been notified by China to WTO in various notifications since 2006-2016 under documents No.s G/SCM/N/220/CHN, G/SCM/N/253/CHN, G/SCM/N/284/CHN, G/SCM/Q2/CHN/49- OCT-2013- WTO-Supplement notification of 29 July 2016. Further, the Government of China has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy. Thus, the programs have been held countervailable.

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

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

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

77. As per information on record, the law in the original investigation i.e., Enterprise Income Tax Law remains the same. It has only gone an amendment in 2018 however, the provision governing this benefit i.e. Article 30.1 and 95 have remained the same. It is seen that the existence of this program has been notified by China to WTO in Notification No. G/SCM/N/372/CHN dated 27<sup>th</sup> August, 2021 disclosing China's new and full notification of information on programmes granted or maintained at the central and sub-central government level during the period from 2019 to 2020. Considering the disclosure before WTO in the latest available notification by Government of China, and other evidence on record, the Authority has not re-evaluated countervailability of this program, and relies on the examination and findings of the original investigation and other information and evidence on record. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
78. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
79. Program No. 64 i.e., Enterprise Tax Law Research and Development Program/Enterprise Income Tax Law, R&D, identified by the applicants relates to the program which grants the same benefit as has been investigated by the Authority under Program no. 12, as has been conceded by the applicants that the same may not be examined. Therefore, in the interest of judicial economy, the same has not been separately examined.
80. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

**Program no. 46: VAT Refunds for FIEs Purchasing Domestically Produced Equipment**

81. The Authority initiated investigation on this program and identified the program as program No. 46. The Authority in the original investigation had examined this program as Program No. 36. Further, the Authority had quantified the margin under program no. 36 and since the program number 36 and 51 confers same benefit, no separate benefit was quantified in the two programs.
82. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
83. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings re reproduced herein below:

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

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

329. *The program is governed by:*

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

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

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

332. *The program is governed by the following notifications:*

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

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

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

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

84. It is noted that the applicants in their written submissions had erroneously compared Program Nos 36 and 51 of the original investigation, with Program no. 20 of the SSR investigation. As the present investigation is a

sunset review and there is no cooperation by the Chinese producers, for the finding of continued subsidisation, the Authority notes that since the benefit linked in this program is linked to fixed assets, the Authority does not consider it necessary to re-examine whether the law governing this program has changed since the original investigation. Indeed, there is no claim that there was some change since the original investigation. Further, the final findings notified by other Authorities (in the matters of final findings notified by the EC in the matter of expiry review of countervailing duty imposed on imports of certain organic coated steel from China PR (2019) and final determination of the US authority in the matter of the Countervailing Duty Order on Stainless Steel Sheet and Strip from the People's Republic of China (2022), have followed the same approach and have found this program to have continued. Neither the Government of China nor the Chinese exporting producers provided evidence suggesting that the stainless-steel industry stopped benefiting from this program.

85. In the original investigation, the domestic industry had quantified subsidy margin based on the details provided in the annual report of Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015, and accordingly the margin was quantified as 0.20%. Since the program confers a benefit of non-recurring in nature, and such benefited is allocated over the life of the asset, therefore, the benefit quantified earlier continue to benefit the Chinese producers in the present POI as well. The program in question is linked with purchase of fixed assets, the benefit under this should be (as was done in the original investigation) amortised over the life of the equipment. Thus, the Authority concludes that Chinese producers/exporters are still benefiting from this subsidy in the current review investigation period. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
86. Since Program No. 20 and 82 grants the benefit of the same nature as has been investigated under Program no. 46, the Authority, therefore, in the interests of judicial economy, has not separately examined these programs.
87. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

**Program No. 49: Tax credit concerning the purchase of special equipment**

88. The Authority considered this program post-initiation and has been identified as Program No. 49. The Authority in the original investigation had examined this program as Program No. 39.
89. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
90. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings is reproduced herein below:

*Para 345. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China the Authority has relied on the information contained in the petition and best information available with it.*

*346. The Authority notes that Government of China PR, maintains a program, under Article 100 of Regulations on Implementation of the PRC Law on Enterprise Income Tax, which allows the enterprises to offset 10 % of the purchase cost of special equipment used for environmental protection, energy and water saving and production safety, against the corporate income tax payable in the year of purchase. The remaining part of the 10 % of the amount invested can be carried forward to the succeeding 5 years.*

*347. The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU, Organic coated steel. It is also noted that the existence of this program has been notified under various WTO notifications. Further, the Government of China has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.*

*348. The Authority notes the said program provides financial contribution in form income tax reduction and confers benefit and limited to certain enterprises, and therefore, is specific within the meaning of ASCM and Rules. The Authority therefore, holds that the program constitutes countervailable subsidy.*

*349. The Applicants have claimed subsidy margin based on the details provided in the annual report of the Shanxi Taigang Stainless Steel Co. Ltd. for the year 2015. Since Government of China has not filed*

*questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the Government of China and the responding exporters. In the absence of cooperation from the Government of China and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has computed the subsidy margin for this scheme as 0.25%.*

91. As per information on record, the law in the original investigation i.e., Enterprise Income Tax Law remains the same. It has only gone an amendment in 2018 however, the provision governing this benefit i.e., Article 100 have remained the same. It is seen that the existence of this program has been notified by China to WTO in Notification No. G/SCM/N/372/CHN dated 27<sup>th</sup> August, 2021 disclosing China's new and full notification of information on programmes granted or maintained at the central and sub-central government level during the period from 2019 to 2020. Considering the disclosure before WTO in the latest available notification by Government of China, and other evidence on record, the Authority has not re-evaluated countervailability of this program, and relies on the examination and findings of the original investigation and other information and evidence on record. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
92. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

**Program No. 52 Preferential income tax policy for the enterprises in the Northeast region**

93. The Authority initiated investigation and identified the program as program no. 52 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 44. Program no. 44 of the original investigation dealt also with accelerated depreciation and amortization of expenses on fixed assets for enterprises located in the north-eastern region.
94. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
95. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings re reproduced herein below:

*Under the program no. 44, The Authority notes that as per the following notifications of Government of China PR, the enterprises which are located in Northern region are eligible for accelerated depreciation and amortization of expenses upto 40% for purchase of fixed assets. 40%: The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established by EU, Organic coated steel, Solar Glass products and steel glass and (b) US in Non Oriented Steel and Certain Carbon & Steel Alloy from China PR and Stainless Steel - Sheets and strips. It is also noted that the existence of this program has been notified under WTO notification G/SCM/Q2/CHN/42. Further, the Government of China has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.*

*The authority notes that the programs provides benefit to enterprises in the North Eastern region of the country in the form of tax savings making it a specific subsidy and therefore, countervailable. The authority therefore, holds that the program constitutes countervailable subsidy.*

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

*Since Government of China has not filed questionnaire response, the CVD margin could not be determined on the basis of questionnaire response of the Government of China and the responding exporters. In the absence of cooperation from the Government of China and the Chinese producers/exporters, the Authority has quantified the subsidy margin based on the best fact available. The Authority has quantified the subsidy margin as 1.41%*

96. It is seen that the existence of this program has been notified by China to WTO in Notification No. G/SCM/N/372/CHN dated 27<sup>th</sup> August, 2021 disclosing China's new and full notification of information on programmes granted or maintained at the central and sub-central government level during the period from

2019 to 2020 (China reports in calendar year). Considering the disclosure before WTO by Government of China in the most recent period that is relevant for the present investigation, and non-cooperation by the Government of China and Chinese producers/exporters, the Authority considers it unnecessary to examine its countervailability.

97. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. The applicant has submitted quantification based on an annual report of stainless-steel producer. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.

### **C. PREFERENTIAL LOANS & LENDING**

#### **I. Views of the domestic industry**

98. Following submissions have been made by domestic industry with regard to preferential loans and lending:

##### **Program no. 21**

- i. The domestic industry refers to subsidy program no. 21 in the present review investigation is the same as program no. 73 of the original investigation as well as Program no. 63, 72 and 75 of the present investigation. Therefore, the Authority need not examine program no. 63, 72 and 75 as it pertains to the same benefit.
- ii. The said program administered by Government of China, through state owned commercial banks SOEs are provided subsidized preferential loans. the steel producers are provided with subsidized loans at low interest rates through state-owned commercial banks and government banks.
- iii. In accordance with the State's policy, relevant departments may subsidized interests on loans, with a view to promoting the growth of certain industries and economic development in some areas. The implications of that for banks and the loans rates they set are uncertain in China as they are still bank- dominated financial system, wherein the state (at the central and local government levels) maintains and exercises effective control over the vast bulk of banking sector assets.
- iv. Chapter 5 of the Plan for the Steel Sector issues guidance to financial institutions and private capital to support the priority tasks of the Plan, and provides that as regards enterprises having a market and being profitable, banks will keep the demand for credit reasonable.

##### **Program No. 22**

- i. The Export-Import Bank of China (EIBC) and the China Export & Credit Insurance Corporation ("SINOSURE") provide export credit guarantees, which permit the banks to lower the rates charged for export financing. According to the EIBC, the \$16.055 billion in letters of guarantee issued in 2014 "played a key role in supporting Chinese companies to go global," and have promoted "the export of new- and high-tech products." According to SINOSURE's website, the export business must be supported by governmental policies to qualify for guarantees. As noted above, there are several government policies that support the SS industry in China and, as producers of high- tech products, Chinese producers of SS are eligible for export credit guarantees. The Authority has previously investigated and countervailed export credit guarantees to Chinese producers in the original Investigation. The 2020 annual reports of some of the major SOEs in the steel sector such as Baoshan Iron and Steel Co. Ltd. indicates significant Loan Guarantee provided by the Government to such enterprises. The effect of the Govt guarantee is to reduce the interest burden on the companies and therefore, confers a financial benefit on the companies. The said program is specific as the support is limited to large sized state-owned enterprises and state-holding enterprises involved in steel production and therefore, countervailable.

#### **II. Views of the opposing interested parties**

99. Following submissions have been made by other interested parties with regard to preferential lending:
- i. With regards to the subsidy programs under the sub-heading "Preferential Loans & Lending" any loans, guarantees, and credits obtained by Chinese producers/ exporters, which are ordinary commercial loans, ordinary commercial guarantees, and ordinary export credit are provided purely under commercial conditions.

#### **III. Examination by the Authority**

100. The Authority has examined below the schemes related to preferential loans and lending. However, as regards

scheme no. 22, the Authority has not examined this scheme as the petitioners have not submitted the complete information which could help the Authority in reaching to a fair and just conclusion of quantification of these above said schemes.

#### **A.1 Program no. 21- Preferential lending**

101. The Authority initiated investigation into preferential lending and identified the program as program no. 21 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 72. While the applicants in their submissions have stated that program no. 21 is same as program no. 73 of the original investigation, however, it is seen that the same is erroneous, and it was revealed during examination that it is actually same as program no. 72. Further, it is also seen that program no. 73 of the original investigation has actually been alleged by applicants as program no. 60 in the present investigation.
102. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
103. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings re reproduced herein below:

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

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

*433. The Authority notes that the existence and countervailability of this scheme has been established by Canadian authorities in Certain Stainless Steel Sinks Originating in or Exported from China PR and by Australian authorities in Deep drawn stainless steel sinks from China PR.*

*434. Under Program No 72, the Authority notes that under this program the steel producers benefit from low (subsidized) interest rates from state-owned commercial banks and government banks in accordance with the Government of China policy to support and develop the expansion of the Chinese steel industry under the five-year plans. Order No 40 identifies steel sector as encouraged sector and provides policy loan facility for this sector as per Article 16 for the development of "key technology" and supporting "key steel projects" through various methods to encourage steel producers.*

*435. The program is implemented through the State owned banks. These banks are controlled by the government and exercise government authority in a manner that their actions can be attributed to the State. Government of China involvement in Chinese financial market is the role played by the People's Bank of China in setting the specific limits on the way interest rates are set and fluctuate as per rules set out in the PBOC's Circular on the Issues about the Adjusting Interest Rates on Deposits and LoansYinfa (2004) No 251 ("Circular 251").*

*436. As per Order No. 35 - Policies for the development of Iron and Steel Industry, in particular Articles 24 and 25 which limit the provision of loans only to those companies which comply with the national development policies for the Iron and steel industry, do not distinguish between state-owned and privately-owned commercial banks.*

*437. These programs are governed by the following notifications:*

- *Decision No. 40 of the State Council on Promulgating and Implementing the 'Temporary Provisions on Promoting Industrial Structure Adjustment' ('Decision No. 40');*
- *Article 34 and Article 38 of the Commercial Banking Law; Articles 16, 24 and 25 of Order No. 35 - Policies for the development of Iron and Steel Industry;*
- *The Ministry of Industry and Information Technology's 2012 Industry Transfer Guidance Catalog supports key and advantaged industries, such as the steel industry, through preferential lending; Directory Catalogue on Readjustment of Industrial Structure ('Directory Catalogue')- 2005 & 2011;*

• *Guidelines for the Eleventh Five-Year Plan for National Economic and Social Development (2006- 2010) ('11th Five-year Plan')*; YinFa [2003] No. 50; Yinfa (2004) No 251; *A blueprint for implementing the adjustment and revitalisation program for the steel industry [2009] provides for "increasing the financial support for key backbone enterprises".*

438. *The Authority notes that this program has been earlier examined by some other investigating Authorities in the past and existence and countervailability of this program has been established (a) by EU authorities in certain organic coated steel products as well as in Coated fine paper and (b) US authorities in Melamine as well as in Steel Wheel. It is also noted that the existence of this program has been notified by China to WTO in WT/TPR/S/230, WT/TPR/S/264 and the scheme has been reported in the Guandong Development Plan and Web research: China's banking sector- ripe for the next stage (2006). Further, the Government of China has not provided any evidence to show that this program in any of its form does not exist or does not confer countervailable subsidy.*

439. *The program provides financial support to industries classified as encouraged industries, in the form of subsidized loans provided by Government of China through state owned commercial banks and government banks, which is in the nature of financial contribution by the public body conferring benefit on the recipients. The benefit is limited to certain types of business enterprises and therefore, are specific within the meaning of Rules.*

440. *Under Program No 73, the Authority has notes that in China PR major banks have the power to support development of state-owned enterprises and those banks also prefer to allocate their loans to state-owned enterprises in form preferential loans through state-owned commercial or policy banks, as Chinese financial sector is dominated by state owned banks which exclusively lend to state owned enterprises.*

441. *The Authority further notes that the existence and countervailability of this scheme has been established by US authorities in High Pressure Steel Cylinders; in Carbon and Certain Alloy Steel Wire Rod; in Non-oriented electrical steel; in Certain Steel Wheels; in Carbon and Alloys – Steel Plates, in Certain Biaxial Integral Geogrid Products, in Stainless Steel – Sheet and Strips and in Melamine. It is also noted that the existence of this program has been reported in Web research- The role of state-owned enterprises in the Chinese economy, Fan Gang and Nicholas C. Hope.*

442. *The program seeks to provide financial support to specific enterprises in the form of subsidized preferential loans provided by Government of China through State owned banks. This amounts to financial contribution to the enterprises by a public body conferring benefit on the recipients of the support. The authority therefore, holds that the program no 71, 72 and 73 constitute countervailable subsidy.*

443. *The amount of countervailable subsidy is calculated in terms of the benefit conferred on the recipients, which is found to exist during the period of investigation. The benefit conferred on the recipient is considered to be the difference between the amount that the company pays on the loan availed from banks and the amount that the company would pay for a comparable commercial loan obtainable on the market. Since the loans provided by Chinese banks reflect substantial government intervention in the banking sector and do not reflect rates that would be found in a functioning market.*

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

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

104. It is seen that the law governing scheme no. 72 of the original investigation has not changed since the original investigation. Neither the Government of China nor the Chinese exporting producers provided evidence suggesting that stainless steel industry stopped getting benefited from preferential lending. The Authority has already examined the impact of Decision No. 40, 'The Blueprint for the Adjustment and Revitalisation of the Steel Industry' (2009) is an action plan for the steel industry, 13<sup>th</sup> five-year Plan, the Steel Plan and Order No. 35 in distorting the Chinese Steel sector hereinabove. The only change in law is to the extent of reference to the five-year plan.
105. The applicants have contended that this program is administered by State-owned banks, where the Chinese state-owned commercial & private banks provide loans at low interest rates.
106. The Government of China's General Rules on Loans under Article 15 provides that in accordance with the

State's policy, relevant departments may subsidise interests on loans, with a view to promoting the growth of certain industries and economic development in some areas. The applicant further contended that for the steel sector, "Opinions of the State Council on Resolving Overcapacity in the Iron and Steel Industry to gain Profits and Development (Guo Fa [2016] No. 6)" in the Iron and Steel Industry provide for the following framework of the preferential support:

*"financial institutions must fully recognize the pillar role and strategic importance of steel and coal industries and continue to give credit support to the steel companies which comply with industrial policy and which adjust and regroup themselves without increasing their production capacity. This support shall extend to the setting of interest rates and the promotion of bonds and loans for mergers and acquisitions. Furthermore, debt restructuring and debt forgiveness is promoted"*

107. Government of China and the State-owned commercial banks and private banks have undertaken preferential lending to Chinese producers/exporters as a means of advancing industrial policies that promote various steel industries. As has already been seen above by the Authority, the steel sector is an important and strategic sector for the Chinese Government, and therefore, Government of China formulates and further directs public bodies in various capacities, to work in pursuance of the policy objective.
108. In the CVD investigations conducted by the European Commission on imports of certain organic coated steel from China PR (2019), and by US Department of Commerce in case of Stainless-Steel Sheet and Strip from the People's Republic of China (2022), it has been found by both these Authorities that the preferential lending as countervailable subsidy continued. This Authority found that in the final findings notified in the matters of Welded Stainless-Steel Pipes and Tubes from China, Government of China provides preferential loans to steel industry/sector.
109. Taking into account the above-listed documents and their provisions, the Authority reiterates its conclusion from the original investigation that the Chinese steel industry continues to receive financial support to specific enterprises in the form of subsidized preferential loans.
110. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. The applicant has submitted quantification based on an annual report of a stainless-steel producer.
111. As the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
112. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
113. Since Program No. 63, 72 and 75 of the SSR list of programs, identified by the applicants relates to a scheme which grants same benefit as has been investigated by the Authority in Program No. 21, the Authority, in the interest of judicial economy has not separately examined these programs.

#### **D. PROVISION OF GOODS AND SERVICES AT LESS THAN ADEQUATE REMUNERATION**

##### **I. Views of the domestic industry**

114. Following submissions have been made by domestic industry with regard to provision of goods and services at less than adequate remuneration:

##### **Program no. 31**

- i The domestic industry refers to subsidy program no. 31 in the present review investigation is the same as program no. 60 of the original investigation as well as Program no. 57 and 59 of the present investigation. Therefore, the Authority need not examine program no. 57, 59 and 60 as it pertains to the same benefit.
- ii According to Land Administration Law of the PRC, all land belongs to the people and could not be bought by or sold to businesses unless by bidding, quotation or auction under the conditions specified in the law. Companies cannot purchase the land. The Government of China sets the price and company pays the set price.
- iii It has also been mentioned by the domestic industry that high and new technologically advanced enterprise and certain other categories of industries also receive exemption from administrative charges and land use rights for less than adequate remuneration.



- iv With subject to bidding process, prices are often set by the authorities and government are unclear and non-transparent.
- v Existence of this program has been notified by China to WTO in G/SCM/Q2/CHM/42.
- vi Land is completely state owned there is no benchmark within China that can be used to determine the amount of subsidy. The Authority and other country investigation have considered Taiwanese land lease rate as benchmark for calculations.

**Program no. 32**

- i The domestic industry refers to subsidy program no. 32 in the present review investigation is the same as program no. 58 of the original investigation, as well as Program no. 56 of the present investigation.
- ii Government of China, via the NDRC, uses preferential electricity rates as an industrial policy tool to support certain industries over others.
- iii NDRC sets and publishes the electricity prices based on procedures. These prices are for different provinces.
- iv An additional price differential exists for different industrial users to pursue the industrial policies set by the Government of China.
- v Users falling in the 'advantageous' enterprises according to the NDRC catalogue, pay the basic electricity rate, whereas users falling in the 'outdated' or 'prohibited' enterprises, pay a surcharge on top of the basic rate.
- vi Users not falling into any category listed in the catalogue fall in the default category of 'allowed' enterprises and also pay the basic rate without surcharges.
- vii Stainless steel producers would normally fall in the category of 'encouraged' enterprises according to Decision No. 40 of the NDRC.
- viii The electricity rates paid are preferential depending on the individual enterprise, sector, or their geographical location.
- ix The applicants are unable to extract specific rates at which stainless steel producers are procuring electricity.
- x In this case, it is requested to continue the duties originally determined.

**Program no. 29**

- i The domestic industry claims that program no. 29 in the present review investigation is the same as program no. 65 of the original investigation.
- ii Majority of the producers of inputs/raw material are SOEs. These SOEs are controlled by Government of China.
- iii Major raw material for production of stainless steel is stainless steel scarp that is largely controlled by Government of China through several policy interventions, including high export duty on scrap (40%), which keeps the price of the major raw material artificially low in the domestic market.
- iv The large State-Owned Steel enterprises such as Min Metal significantly controls trading and pricing of scrap in China.
- v Government of China maintains several export restraints on all materials such as Ferro-chrome, Nickel, Molybdenum, etc. which are used in Stainless steel production:
  - Export tariffs on ferrosilicon, ferrochrome, and high-purity pig iron have been raised to 25 percent, 20 percent, and 15 percent, respectively.
  - China applied a provisional zero import tax rate on pig iron, crude steel, recycled steel raw materials, and ferrochrome.
  - The US Authority has continued to countervail this program in their review investigation against import of stainless-steel sheets and strips from China.
  - 13<sup>th</sup> Five-year plan of China for the Steel Industry influences the business decisions of the steel companies and have impact on cost structure and prices.
  - The Steel Plan indicates there are significant export controls.

**II. Views of the opposing interested parties**

115. Following submissions have been made by other interested parties with regard to provision of goods and services at less than adequate remuneration:
- i. The program pertaining to availability of land at less than adequate remuneration is not a subsidy as it is not specific and, is available to any industry which wishes to use land. The specificity criteria become absent since all land in China PR is government owned, and any benefits arising out of the same are available to all business entities in China PR.
  - ii. According to the provisions on the Assignment of State-owned Construction Land Use Right through Bid Invitation Auction and Quotation, concerning the land for industry, commerce, tourism, entertainment, commercial housing or other business operations, or on which there are two or more intended land users, the assignment shall be conducted through bid invitation, auction or quotation.
  - iii. The only criterion governing the eligibility for this program is “the land for industry, commerce, tourism, entertainment, commercial housing or other business operations, or on which there are two or more intended land users”, which applies to almost all enterprises registered in China.
  - iv. Any foreign legal person or individual in China can also acquire and use the land through fair competition and public bidding process.
  - v. The rates at which electricity is supplied by the suppliers to the Chinese producers/ exporters are based on commercial, arms-length basis. Therefore, there is no subsidy in this regard. Electricity rates in China PR are determined as per market factors and there is no government intervention which results in supply at less than adequate remuneration.

**III. Examination by the Authority****Program No. 29- Provision of raw materials at less than adequate remuneration**

116. The Authority initiated investigation into provision of inputs at less than adequate remuneration and identified the program as program no. 29 in the notice of initiation.
117. In the absence of cooperation and information from Government of China, and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
118. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings are reproduced herein below:

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

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

*398. Under program 63 and 64, Authority notes that the Government of China policies for the development of Iron and Steel Industry encourages the steel companies to act in certain ways, sets conditions on investments and makes investment subject to approval by the authorities, influence competition for resources and even provide for sanctions for non-complying companies. Further, 12th five-year plan of China for the Steel Industry influences the business decisions of the steel companies and have impact on cost structure and prices. Also, the Constitution of the Communist Party of China prescribes the primary role of the public ownership, e.g. preamble of the Constitution of CCP reads: "the Party must uphold and improve the basic economic system, with public ownership playing a dominant role.*

*400. Neither the Government of Government of China, nor the producers concerned have provided any information regarding the degree and extent of control of the Government of China on these SOEs and whether these SOEs are public bodies within the meaning of the term as per ASCM. The domestic industry has argued that these SOEs are largely Govt, controlled and function as per the guiding principles of the State Policy highlighted above. Therefore, they are considered as public bodies discharging the functions of the*

*Government Therefore, the provision of the goods at LTAR by these SOEs constitutes subsidy. In the absence of any specific information from Government of China and other interested parties the Authority holds these SOEs as public bodies, and supply of goods by them to further processors at less than adequate remuneration amounts to a subsidy as per ASCM. Since the program is limited to a specific sector and availed by limited number of enterprises the subsidy is specific and therefore, countervailable.*

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

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

119. In the program being examined herein, besides the economic and institutional framework of the Chinese steel sector as already examined above in detail that is effectively leading to the entire steel sector being distorted, Government of China has also taken specific measures which have resulted in raw materials used by the steel industry becoming available to the Chinese producers/exporters at prices lower than the prices prevailing in international market. Government of China has imposed export duty of 40% on scrap and ferrochrome, and 25% on ferrosilicon. These inputs constitute a major cost in production of the product. China issues notice every year which is known as the Tariff Adjustment Plan. This notice sets out specific export duty rates applicable to certain products during a given year. It is noted that export duties continued to be imposed on these products. Imposition of export restrictions or export duties especially on key input materials, lead to considerable price differences between the country imposing export tax and the international market. Export measures whether restrictions or duties, imposed by China are to ensure that the downstream industry gets access to cheaper raw materials. The economics behind such imposition is that increased supply in the domestic market, which is not necessarily linked with an increased demand, drives the domestic prices for those products downward. The cheaper raw materials mean lower cost of production and enable the downstream industry to undercut the international prices of the downstream products and expand their exports of the finished products. China by imposing export duty on the above-stated raw materials is providing countervailing subsidy by reducing the prices of inputs to the steel sector. It is also seen that SOEs in line with the 13<sup>th</sup> five-year plan continue to supply the raw materials at less than adequate remuneration to the producers in steel sector.

120. Explanation to Section 9(1) of the Act read with Article 1.1 of the Agreement on Subsidy and Countervailing Measures ("ASCM") provides that a "subsidy" is deemed to exist if there is "financial contribution" by the government or any public body in the exporting or producing country or territory, or when such government grants or maintains any form of "income or price support", and a benefit is thereby conferred. Financial contribution by a government or public body is said to exist where:

- i. Government practice involves a direct (or potential) transfer of funds,
- ii. Government revenue that is otherwise due is foregone or not collected,
- iii. Provision of goods or services, other than general infrastructure, or purchase of goods by Government, or
- iv. Government makes a payment to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clause (i) to (iii) above.

121. Financial contribution" by a government or public body is an essential component of a "subsidy" under the Section 9. A financial contribution, however, need not always be a direct contribution by the government but can also exist where a government indirectly, through its policy measures, entrusts or directs private parties to supply goods (raw material) at below world market prices. The Authority had in several past investigations, such as in anti-subsidy investigation concerning imports of "Continuous Cast Copper Wire Rods" interalia from Indonesia, Malaysia, Thailand and Vietnam, and "Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products" from China, held that a countervailable subsidy in the form of "financial contribution" exists where the object and intent behind imposition of export restraints on raw material is to ensure availability of such raw material to downstream industries at LTAR.

122. It is noted that in final findings notified by the Authority in the matter of Welded Stainless-Steel Pipes and Tubes from China issued on 31<sup>st</sup> July 2019, also found that raw materials being used as input in production of stainless-steel pipes and tubes, is countervailable subsidy. Further, other Authorities in following cases also found steel sector to be distorted

- a. Expiry review of countervailing duty imposed on imports of certain organic coated steel from China on 2<sup>nd</sup> May 2019 and expiry review of anti-dumping duty imposed on imports of stainless-steel cold-rolled flat products from China on 15<sup>th</sup> September, 2021; investigated by European Commission. It is seen that in the aforementioned investigations, the European Commission relied on their staff working document on “Significant distortions in economy of People’s Republic of China”, to determine existence of subsidies and distortions.
  - b. First Sunset Review of the Countervailing Duty Order on Stainless Steel Sheet and Strip from the People’s Republic of China issued on 29<sup>th</sup> June 2022, investigated by US Department of Commerce.
123. On the basis of available information, the Authority concludes that raw materials continue to be provided to Chinese producers at less than adequate remuneration to the producers of the PUC.
  124. It is seen from the applicants’ submissions that the law governing this program has not changed since the original investigation. The applicants further contended and relied on findings of other investigating authorities that continue to conclude that Chinese producers/exporters continue to benefit from provision of inputs at less than adequate remuneration. Neither the Government of China nor the Chinese exporting producers provided evidence suggesting that the stainless-steel industry stopped benefiting from the provision of raw materials at less than adequate remuneration.
  125. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
  126. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. Since, the present investigation is a sunset review where the Authority is required to determine whether the expiry of the duty would be likely to lead to continuation or recurrence of subsidization, and there is neither cooperation by the Chinese Government and producers, nor any evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, the Authority does not consider it necessary to re-quantify the subsidy margin.
  127. Since Program No. 65, 66, 67 and 68 identified by the applicants relates to a scheme which grants same benefit as has been investigated by the Authority as Program No. 29, the Authority, in the interest of judicial economy has not separately examined this program.
  128. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

**Program No. 31- Provision of land at less than adequate remuneration**

129. The Authority initiated the investigation into provision of land at less than adequate remuneration and identified the program as program no. 31 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 60, 66 and 67.
130. In the absence of cooperation and information from the Chinese Government and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.
131. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings re reproduced herein below:

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

*388. The program provides financial support in the form of reduced land use fees, rental rates, and purchase prices for the land provided by the government to certain specified types of industries. The program is limited to certain types of business enterprises and confers benefits on the recipients, Therefore, program is a specific subsidy within the meaning of Rules,*

*389. The Authority notes that this program has been earlier examined by other investigating Authorities and existence and countervailability of this program has been established by (a) EU authorities in Certain Coated*

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

132. Even though the Authority had held the program as countervailable, no benefit under the scheme was quantified in view of absence of relevant information and evidence on record. However, in the present investigation, the applicants have sought investigation into the program and have provided relevant information & evidence for quantification of the benefit. Therefore, the Authority has examined the scheme in detail.
133. Article 2 of the Land Administration Law provides that all land in China is government-owned. According to the Chinese constitution and relevant legal provisions, land belongs collectively to the people of China. No land can be sold but land-use rights may be assigned according to the law. The applicants contended that situation concerning use of land rights in China is non-transparent, and the prices are set by the authorities without any transparent publicised methodology and procedure. In the steel sector, use of industrial land is by law limited only to companies respecting the industrial policies set by the State.
134. The Authority notes that in the final findings notified in the matters of Welded Stainless-Steel Pipes and Tubes from China, it has concluded that the land use rights being paid by Chinese exporters/producers are at less than adequate remuneration and therefore, is a countervailable subsidy. In the CVD investigation conducted by the European Commission on imports of certain organic coated steel from China PR (2019), and by US Department of Commerce in case of Stainless-Steel Sheet and Strip from the People's Republic of China (2022), it has been found by those Authorities that due to significant government intervention, Chinese land prices are distorted with no functioning market. Hence, both the EU and US authorities relied on external benchmarks to quantify the benefit being received by Chinese producers/exporters.
135. Considering the information available before the Authority in this investigation, the Authority holds that market conditions do not prevail in China, and therefore in order to determine the amount of benefit being received for use of land at less than adequate remuneration, the Authority finds it appropriate to rely on an external benchmark.
136. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

#### **COMPUTATION OF SUBSIDY MARGIN**

137. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. The applicants have submitted quantification based on an annual report of stainless-steel producer. The Authority notes that in the original investigation in the absence of sufficient corroborative information, the subsidy margin was not computed. However, since the information has now been made available, the Authority is quantifying the subsidy amount. In this respect it is considered appropriate to use information from Taiwan as an appropriate benchmark. European Commission in case of certain organic coated steel products originating in the People's Republic of China, had also considered prices prevailing in Taiwan as benchmark. The subsidy margin has been computed by comparing the annual land rent paid by one of the Chinese stainless-steel producer with Taiwanese annual land rent payable, based on information provided by the applicants, in view of the non-cooperation by the parties involved. The Authority has thus, quantified the subsidy margin based on the facts available, as 0.96%.
138. Since Program No. 57 and 59 identified by the applicants in the present SSR investigation relates to a scheme which grants same benefit as has been investigated by the Authority as Program No. 31, the Authority, in the interest of judicial economy has not separately examined this program.

#### **Program No. 32 Provision of electricity at less than adequate remuneration**

139. The Authority initiated investigation into provision of electricity at less than adequate remuneration and identified the program as program no. 32 in the notice of initiation. The Authority in the original investigation had examined this program as Program No. 58.
140. In the absence of cooperation and information from Government of China, and the producers/exporters from China, and considering that the present investigation is a sunset review of CVD earlier recommended, the Authority has relied on the previous investigation relating to the PUC, information contained in the petition, information provided by the interested parties, and information available on record of the present and previous investigation.

141. The Authority has already found this program to be countervailable in the original investigation and the relevant portion of the final findings reproduced herein below:

*Para 373. As per the information available, National Development Reforms Commission (NDRC), a public body in China, sets the prices of electricity applicable in various provinces in China. Local price bureaus in the provinces merely act as an executive arm of the decision taken at central level by the NDRC. NDRC issues Notices setting tariff for each of the provinces. These notices are formally transposed into local notices adopted by the local price bureaus and implemented at local level. Differential electricity rates applicable for certain sectors and/or at provincial and local level are set in accordance with certain factors including, notably the pursuit of the industrial policy goals set by the central and local governments in their 5-year plans and in the sectoral plans.*

*374. The said program is governed under:*

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

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

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

142. It is seen that Order No. 35, Decision no. 40 and Circular of State Council concerning several policies on Carrying out the Development of China's vast Western regions, as per information on record are still in force. The impact of Order no. 35 and Decision No. 40 has been examined in detail herein above.
143. In the present investigation, the applicants contended that the law governing this program has not changed since the original investigation. Further, the applicants have also provided evidence that the laws referred by the Authority in the original investigation, continue to exist. Neither the Government of China nor the Chinese producers/exporters provided evidence suggesting that the stainless-steel industry stopped benefiting from the provision of electricity for less than adequate remuneration.
144. The applicants have also relied on to the conclusions of the European Commission Staff Working Document on significant distortions in the economy of the PRC and the final findings notified by the EC in the matter of expiry review of countervailing duty imposed on imports of certain organic coated steel from China PR (2019); and expiry review of anti-dumping duty imposed on imports of stainless-steel cold-rolled flat products from China PR (2022). The applicants have also relied upon the final determination of the US authority in the matter of Stainless-Steel Sheet and Strip from the People's Republic of China. Further, the Authority has earlier examined same scheme in the matter of Welded Stainless-Steel Pipes and Tubes from China PR and found that the Chinese producers are getting electricity at less than adequate remuneration. It is seen that stainless steel producers in China are getting electricity at less than adequate remuneration. Thus, in view of the information available on record, it is concluded that the stainless-steel producers continue to get benefit of electricity at less than adequate remuneration.
145. Accordingly, the Authority concludes that there is sufficient evidence showing that the provision of electricity for less than adequate remuneration as a countervailable subsidy continued during the POI.
146. In the absence of cooperation from the Government of China and the Chinese exporting producers, the Authority has no company-specific information to calculate the amount of subsidy conferred during the POI. The applicant has submitted quantification based on an annual report of one of the stainless-steel producer. As the present investigation is a sunset review and there is no cooperation by the Chinese producers, for the

finding of continued subsidisation, and there is no evidence that the level of subsidisation has reduced or eliminated when compared to the original investigation, therefore the Authority does not consider it necessary to re-quantify the subsidy margin.

147. The Authority based on the above examination notes that this program currently remains to be in force and continues to confer countervailable benefits in a similar manner as in the original investigation.
148. The applicants have identified schemes relating to coal or coking coal. However, coal or coking coal is used in production/generation of electricity. Considering the Authority's determination in the original investigation that benefit accruing from provision of coal or coking coal at less than adequate remuneration need not be quantified since electricity has already been countervailed, the Authority, in the interest of judicial economy, has not examined Program No. 30 and 58 for the purpose of present determination.
149. The Authority based on the above examination notes that this program continued to be in force during the POI and continued to confer countervailable benefits to the Chinese producers/exporters of the product under consideration.

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

150. Subsidy Margin with regard to the above 81 countervailed subsidy programs quantified by the Authority are as follows:

| SL. No. | Sub-head wise Subsidy Programs | Subsidy Margin |
|---------|--------------------------------|----------------|
| 1.      | Grants                         | 0.55%          |
| 2.      | Export financing               | 0.00%          |
| 3.      | Tax & VAT Incentives           | 2.30%          |
| 4.      | Provision of Goods & Services  | 16.74%         |
| 5.      | Preferential Loans & Lending   | 0.32%          |
| 6.      | Equity                         | 0.00%          |
|         | Total                          | 19.91%         |

### **J. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

#### **I. Views of the Domestic Industry**

151. Following submissions have been made by the domestic industry with regard to injury and causal link:
- Imports have consistently increased in the Indian market since 2009 as a result of global surplus, despite sufficient capacity with the Indian industry. Additionally, unfairly priced imports have shifted from one country to other country.
  - The domestic industry has not received sufficient protection from subject imports for over 15 years. China's historical data of imports and exports show how in 2009, from 10,809 MT imports to a 4.2 lakh MT export in a period of 12 years shows huge subsidies provided by Chinese Government There are over 15 measures in place against China imposed by different countries around the globe.
  - The applicants have requested the Authority to examine the impact of dumped import on both the applicant domestic industry, i.e., JSL and JSHL, and for industry as a whole to the extent relevant information has been made available to the Authority.
  - Imports from China declined since imposition of duties in 2017. Imports from Indonesia started increasing. Following the imposition of CVD on Indonesian products in October, 2020, the imports from China increased. Imposed CVD was suspended in February, 2021 and imports from China intensified significantly in last quarter of POI, April-June 2021.
  - This increase in imports is despite decline in demand in the country. Major increase in imports is of 200 series, largely of grades that goes for utensils, which is in direct competition with Patta sector. Monthly imports now stand at 80,000 MT per month.
  - The combined capacity for the product under consideration in India is about 50 lacs MT as against the current demand of 30 lacs MT. The imports are causing injury to the Indian industry as a whole.

- vii. The domestic industry increased its capacity in 2019-20, which became fully operational in the POI. Production and sales increased till 2019-20 and have declined thereafter in POI. Even after decline in demand in the POI, imports from China have increased. Thus, the domestic industry haven't been able to contain some of the ill effects of loss or demand.
- viii. Profitability of the petitioners in 200 series shows improvement. However, further segregation of profitability within 200 series would show that the applicants are suffering losses in the grades that are sold in direct competition to China. Applicants are unable to compete with the low-priced imports from China.
- ix. In their submissions, the applicants have presented segment wise analysis of injury parameters. It was contended that the petitioners and other Indian producers are selling a wide basket of products (42 different variants of the product during the POI), whereas the imports from China are of only limited variants (26 variants of the product). It was claimed that the impact of the suspension of withdrawal of the duty is observable only on those products sold by the Indian producers which are in competition with the imports from China ("competing segment").
- x. It is the contention of the petitioners in its rejoinder submissions that 90% of imports from China are in the 200 series, and thus the impact of increase in imports is visible on this segment of the product. The petitioners further state that the 200 series is used for various applications such as utensils, fabrications, pipes and tubes, etc. The specific grades manufactured by the petitioners that goes in utensils production are J1S, J2S, J5, J6, J7, J8. The petitioners have allegedly identified the imports of the competing sector vs non-competing sector based on thickness of the product.
- xi. The petitioners have contended that almost 70% of imports of 200 series are for utensils and compete with the patta sector. The petitioners have provided the data regarding economic effects of the subject imports in competing and non-competing segments as follows:

(a) **Market Share in demand of 200 series**

| Particulars                   | UOM     | 2017-18 | 2018-19 | 2019-20 | POI | POI(A) |
|-------------------------------|---------|---------|---------|---------|-----|--------|
| China                         | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 59      | 59      | 145 | 145    |
| Indonesia                     | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 307     | 1336    | 186 | 186    |
| Other Countries               | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 332     | 406     | 558 | 558    |
| Total Import(a+b+c)           | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 95      | 152     | 184 | 184    |
| Petitioner Sales              | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 93      | 82      | 80  | 80     |
| Sales Others Indian Producers | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 106     | 104     | 100 | 100    |
| MSME                          | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 102     | 103     | 95  | 95     |
| Other Indian Producers        | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 124     | 112     | 123 | 123    |
| Domestic producers as a whole | %       | ***     | ***     | ***     | *** | ***    |
| Trend                         | Indexed | 100     | 100     | 95      | 92  | 92     |
| Total Demand                  | %       | 100     | 100     | 100     | 100 | 100    |



**(b) Comparison of sales by Indian producers as a whole, domestic industry and China in the competing segment**

Competing Segment

| Particulars            | UOM     | 2017-18 | 2018-19 | 2019-20 | POI(A) |
|------------------------|---------|---------|---------|---------|--------|
| China                  | MT      | ***     | ***     | ***     | ***    |
| Trend                  | Indexed | 100     | 58      | 65      | 138    |
| JSHL                   | MT      | ***     | ***     | ***     | ***    |
| Trend                  | Indexed | 100     | 68      | 36      | 36     |
| Other Indian Producers | MT      | ***     | ***     | ***     | ***    |
| Trend                  | Indexed | 100     | 101     | 112     | 92     |

**(c) Comparison of sales of Domestic industry and imports upto post POI in the competing segment**

Competing Segment

| Particulars | UOM     | 2017-18 | 2018-19 | 2019-20 | POI(A)   | Jul22-Mar22 | Apr22-Dec22 |
|-------------|---------|---------|---------|---------|----------|-------------|-------------|
| China       | MT      | 79,231  | 45,703  | 51,105  | 1,09,152 | 2,43,031    | 3,68,704    |
| JSHL        | MT      | ***     | ***     | ***     | ***      | ***         | ***         |
| Trend       | Indexed | 100     | 68      | 36      | 36       | 53          | 30          |

JSL+JSHL

Competing and Non-Competing

| Particulars   | UOM     | 2017-18 | 2018-19 | 2019-20 | POI(A) |
|---------------|---------|---------|---------|---------|--------|
| Cost          |         |         |         |         |        |
| Competing     | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 103     | 94      | 96     |
| Non-Competing | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 112     | 98      | 104    |
| Total         | Rs/MT   | ***     | ***     | ***     | ***    |
| Selling Price |         |         |         |         |        |
| Competing     | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 96      | 88      | 96     |
| Non-Competing | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 102     | 96      | 105    |
| Total         | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 103     | 100     | 109    |
| Profit/(Loss) |         |         |         |         |        |
| Competing     | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 182     | 164     | 88     |

| Particulars   | UOM     | 2017-18 | 2018-19 | 2019-20 | POI(A) |
|---------------|---------|---------|---------|---------|--------|
| Non-Competing | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | -2      | 72      | 121    |
| Total         | Rs/MT   | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | -214    | 164     | 371    |

## Competing (based on JSHL)

| Particulars   | UOM     | 2017-18 | 2018-19 | 2019-20 | POI(A) | Jul22-Mar22 | Apr22-Dec22 |
|---------------|---------|---------|---------|---------|--------|-------------|-------------|
| Cost          | Rs/MT   | ***     | ***     | ***     | ***    | ***         | ***         |
| Trend         | Indexed | 100     | 103     | 94      | 96     | 132         | 135         |
| Selling Price | Rs/MT   | ***     | ***     | ***     | ***    | ***         | ***         |
| Trend         | Indexed | 100     | 96      | 88      | 96     | 135         | 133         |
| Profit/(Loss) | Rs/MT   | ***     | ***     | ***     | ***    | ***         | ***         |
| Trend         | Indexed | (100)   | (182)   | (164)   | (88)   | (99)        | (158)       |

- xii. Market share of the domestic and Indian industry declined in 2019-20 owing to significant increase in imports from Indonesia. Imposition of CVD on China earlier led to decline in market share of China till 2019-20. However, imposition of CVD on Indonesia and suspension/revocation of CVD on China led to decline in market share of Indonesia and increased in market share of China.
- xiii. The level of inventories with the domestic industry declined till March 2019. Productivity declined in the POI, due to decline in production.
- xiv. Price undercutting and injury margin has significantly increased in the present CVD investigation.
- xv. Data of supporters' economic performance does not suggest fragility. Capacity of the MSME producers has increased over the period. Production and sales increased till 2019-20 and declined in POI. Production and sales declined 30% and 29% respectively, when the demand declined only by 14%.
- xvi. Profitability of the Indian Industry improved after imposition of duty. Indian industry however, started suffering losses in 2018-19 when imports from Indonesia and other countries increased at dumped and subsidised rates. Performance thereafter remained at low in 2019-20 with significant increase in dumped and subsidised imports. Profitability increased in POI with decline in imports from other countries and other market sources favouring the market sentiment. The ROI of the producers is significantly below reasonable level.
- xvii. The induction furnace industry, i.e., melting units, are dependent on sales to the patta sector. Since patta is not able to utilise its capacity and source goods from these melting units because of imports, even the induction furnace units are getting injured.
- xviii. The performance of the Indian industry as a whole shows the adverse impact of imports from China in the POI. The MSMEs which are producing only 200 series product are suffering losses on account of imports from China.
- xix. The CVD margin, price undercutting and injury margin are much higher than before. Imports have increased significantly at significantly low-price post suspension of duties.
- xx. The applicants have only referred to JSHL's performance for the competing segment as only JSHL sells those goods to patta and not JSL.
- xxi. Almost 90% of imports from China is 200 series which has adverse volume and price effects. In the POI, the applicants are selling wide basket of products (42 variants) and Chinese imports were only limited to 26 variants. Impact of suspension and withdrawal of CVD is most visible on product types being sold by Chinese producers. Petitioners for this reason analysed the performance of applicants and Indian industry in two segments against Chinese imports – competing and non-competing.

- xxii. The applicants identified imports that go into competing and non-competing sector based on thickness. Imports up to 0.55mm are meant for utensils, between 0.56 mm to 0.80 mm are used in both pipe/tube as well as utensils (assumed a ratio of 1:1 between both applications) and thickness greater than 0.8mm for pipe/tube and general application. 70% of the imports are utensils and compete with the patta-sector.
- xxiii. Volume of imports primarily consists of J3 and 201 grade. Besides the volume being significant, the landed price of the imports is also significantly lower as compared to that of imports in the non-competing sector. Losses in competing segment are enhanced in post-POI, which shows that losses in POI were contained by the duties.
- xxiv. Comparison of sales by Indian producers as a whole, domestic industry and China in the competing segment:
- xxv. From the base year of CVD (2012-13), as soon as CVD was imposed, imports from China started declining and started increasing from other countries. The domestic industry hence had to proceed with an ADD application for the subject goods. Import from other countries was not as significant as imports from China and now Indonesia, due to non-imposition of duty. Indian Industry is suffering due to dumped/subsidised imports in Indian market.
- xxvi. As provided above, trends from China and Indonesia post imposition of anti-subsidy show imports from Indonesia are de-facto pseudo-Chinese set ups. Since the current non-levy of anti-subsidy duties on the subject goods from China, the import volume has once again increased significantly from China.
- xxvii. The applicants contend that it is without any valid reasoning that the respondents have chosen to selectively comment only on the data of 4 producers i.e., Hisar Metals, Real Strips, Quality Foils and Veer Metals, whereas information was provided for various other producers. Absolute information with the Authority would show that profitability of these producers is not as reasonable as it has been presented. In the base year the Indian industry was suffering injury on account of dumped/subsidised imports. This adverse performance was due to low priced imports.
- xxviii. Improvement in performance is not a sole factor in determining if duties have served their purpose. The improvement of the applicants is due to temporary nature of other factors in that period.
- xxix. The respondent's argument that termination of duty is the norm and continuation is an exception is false. Countervailing duty is a redressal against unfair price by the foreign producers injurious to the Indian industry. It is not protection to the industry, but rather a tool to bring fair market competition in the country which was taken away by unfairly priced imports. The objective of continuation of anti-subsidy duty is to establish a level playing field, by removing any trade distortion by the producers in the subject country and allowing the Indian industry an opportunity for fair competition. Therefore, so long as distortion exists, measures in the form of countervailing duty would have to continue.

## II. Views of other interested parties

152. Following submissions have been made by the other interested parties with regard to injury and causal link:
- i. The situation of the domestic industry is not fragile, the economic performance of the domestic industry is healthy.
  - ii. The revised format H submitted by the applicants shows increase in volume of subject imports, decline in price of subject imports and increase in domestic selling price of the domestic industry.
  - iii. However, inspite of these circumstances, the market share of the subject imports during the POI was only 7%, whereas the market share of the domestic industry was 47% and that of other domestic producers is 34%.
  - iv. The domestic industry's market share clubbed with the market share of other producers amounts to 81%.
  - v. During the POI, the market share of the domestic industry and domestic producers increased at a time when the import price declined by around 30% from the previous year and the volume of the subject imports nearly doubled.
  - vi. The domestic industry was not even able to command the same level of domestic selling prices throughout.
  - vii. The capacity of the Indian producers has increased from 16,00,000 MT in the first two years of the injury period to 16,75,00 MT in 2019-20 and further to 19,00,000 MT in the POI.
  - viii. Though there has been a decline in the domestic industry's production of the PUC, the quantum of decline in the POI is less than 5%.
  - ix. Although the capacity utilization has reduced in the POI, the same is to be attributed to the increase in

- installed capacity by nearly 15% from the previous year. This increase in capacity could not be absorbed in the POI – hence decline in capacity utilization.
- x. The volume of domestic sales has continuously increased throughout the injury period, except for the decline during the POI. The decline is only a small decline which may be attributable to COVID-19.
  - xi. Apart from a decline in 2019-20, the domestic industry's domestic selling price has increased in the injury period. In fact, in the POI (A), it was the highest. As a result, the domestic sales value has followed the same trend.
  - xii. Employment and productivity are not significant parameters for evaluating the domestic industry's economic parameters, they are relevant for examining whether the state of the domestic industry is fragile.
  - xiii. The domestic industry's employment levels have been constant throughout the injury period and the productivity has increased significantly during the POI.
  - xiv. Proforma IV-A shared by the applicants shows high financial growth over the injury period.
  - xv. The data demonstrates that except for 2018-19, profitability has significantly increased throughout the injury period. Profitability has increased by around 500 indexed points from 102 indexed points in 2019-20 to 671 indexed points in the POI (A) and cash profits increased from 116 indexed points in 2019-20 to 275 indexed points in the POI (A).
  - xvi. ROCE has increased by nearly 70 indexed points.
  - xvii. The data filed by other domestic producers also does not show any fragility.
  - xviii. The cash profits of Hisar Metals has gone up from 115 index points in 2019-20 to 321 index points in the POI. Profit before tax has gone up from 15 index points in 2019-20 to 302 index points in the POI. The ROCE has increased from 68 index points in 2019-20 to 110 index points in the POI.
  - xix. For Real Strips Ltd. The profits before depreciation, interest and tax per MT has increased from 94 index points to 109 index points in POI.
  - xx. The cash profits per MT of Quality Foils has increased from 108 index points in 2019-20 to 136 index points in the POI. The profits before depreciation, interest and tax has also increased from 129 index points to 160 index points in this period.
  - xxi. The net sales realization per MT of Veer Metals has increased from 100 index points in 2019 to 106 index points in the POI. The profit before depreciation, interest and tax has increased from 94 index points in 2019-20 to 109 index points in the POI.
  - xxii. The applicants' arguments that most of the injury is being caused by imports from the 200 series must be rejected since the applicants have segregated imports using secondary sources of data. However, the written submissions of the applicants do not clarify what this secondary source of data is and what the methodology for segregation has been.
  - xxiii. The Authority must verify the data and the grade-wise and the series-wise segregation of data made while analyzing the injury from imports of the 200 series products.
  - xxiv. The applicants have not provided any data regarding the prices of the series of the PUC complained about. In the absence of such data, the applicants' claims do not have any standing and deserve to be rejected.
  - xxv. The scope of the injury analysis under the Customs Tariff Act and the CVD Rules must be limited only to the domestic industry and not the domestic producers as a whole.
  - xxvi. The purpose of referring to the supporters' economic performance data is to examine whether injury to the domestic industry is due to the subject imports or any other factors.
  - xxvii. The supporters' economic performance data becomes relevant only when the domestic industry is facing injury, which in the present case, the domestic industry is not claiming, nor do the facts on record support the same.
  - xxviii. The data placed on record for the MSMEs is potentially marred with selective inputs. The applicants have not identified the MSMEs whose data is being assessed; further it is not clear as to whether only loss-making MSMEs have been covered under the MSME data filed.
  - xxix. The applicants have not revealed the source of the data for claiming that the imports of stainless steel have been circumvented. There is no proof on record of Indonesian production being pseudo-Chinese set ups as alleged by the applicants.

- xxx. Even if the applicants' allegations regarding the Indonesian production facilities being surrogates of Chinese producers of the PUC are correct, this is not a ground for the continued imposition of the CVD on the subject imports. There must be a separate anti-circumvention investigation for this purpose.
- xxxi. The domestic industry has been provided protection in some form or the other through anti-dumping duties imposed on different forms and subsets of PUC from different countries over the past 15 years.
- xxxii. The applicants have not provided any proof that China has been exporting only the "basic grades" of the subject goods which can be produced by the domestic industry and that there is no demand-supply gap.
- xxxiii. Chinese producers enjoy a competitive edge owing to the variety of products and the customizable quality they offer, which make them the preferred choice in the market. Chinese coils are preferred over the "Patta" steel flats produced by the domestic producers.
- xxxiv. with regards to the PCN-wise determination of injury, the law is clear that a duty can only be continued in a review if the discontinuation of the duty would lead to a likelihood of recurrence or continuation of subsidization and injury. Hence, instead of establishing the injury margin, it is necessary to establish the likelihood of recurrence or continuation of subsidization and injury.
- xxxv. A mere increase in imports does not demonstrate the likelihood of injury to the domestic industry as the domestic industry's performance has been stellar in the absence of countervailing duty since February 2021.
- xxxvi. In the present case, the Authority has a rare occasion of ascertaining the "future" performance i.e., post-POI since the CVD has not been in force for a period of two years since February 2021. Therefore, the Authority must consider the post-POI performance of the domestic industry.
- xxxvii. CVD cannot be recommended/continued merely on the basis of past trends, which is a hypothesis and conjecture and based on assumption. Instead, they must be based only and only on the parameter of likelihood of continuation or recurrence of dumping/subsidization and injury.
- xxxviii. If the domestic industry is aggrieved by any future dumping/subsidization, it has the liberty to approach the Authority with an application requesting initiation of an anti-dumping or countervailing duty investigation.
- xxxix. The market share of the subject imports in the POI (A) was only 7% whereas the market share of the domestic industry in the POI (A) was 47%. Imports from the subject country could not pose a threat to the applicant's economic performance even when the domestic industry was not accorded any protection.
- xl. The applicants claim in the written submission that injury is due to the subject imports is contrary to their submissions made during the oral hearing that they are not claiming injury due to the subject imports.
- xli. Though there are huge imports of the 200 series (utensils grade) of the PUC, the same must be analysed in the context that the utensil manufacturers in India prefer steel coils over "Patta" steel for multiple reasons such as inventory management, finishing etc.
- xlii. In spite of alleged increased price undercutting, the applicants, in the POI(A), have been able to increase their domestic selling price.
- xliii. The applicant's installed capacity has increased from 16,00,000 MT in the first two years of the injury period to 16,75,000 MT in 2019-20, and further increased to 19,00,000 MT in the POI.
- xliv. The applicants, while alleging a likelihood of recurrence or continuation of subsidization and injury, have themselves been investing in such a high quantum towards capacity expansion – this indicates that the applicants have been expecting future growth in addition to the already healthy performance.
- xlv. Profitability has increased by around 500 index points from 102 index points in 2019-20 to 671 index points in the POI (A) and cash profits increased from 116 index points in 2019-20 to 275 index points in the POI (A). Even the return on capital employed has increased by nearly 70 index points during this period.
- xlvi. The % of PBIT in revenue from operations ranges approximately between 5-9% for the applicants when the duty was not in place, while such percentage has gone up to 12-13% in the time when CVD was either suspended or revoked, as can be seen from their annual reports of the applicant companies.
- xlvii. With regard to the domestic industry's claims concerning employment levels and productivity, the respondents submit that they have been constant through the injury period, whereas productivity has significantly increased in the POI(A).

- xlvi. With regard to the domestic industry's claims concerning inventory levels in the injury period, the respondent submits that the inventory levels have increased because of an increase in sales volume in the corresponding period.
- xlix. The data pertaining to the performance of the MSMEs must not be relied upon before deeper examination. It must be examined whether only data of the low-performing MSMEs has been taken to give doctored and negative results.
- i. The decline in performance of the domestic producers can be solely attributed to a combination of multiple factors such as inter-se competition, quantity constraints by for the small producers, the role of the applicants in determining the raw material price for many domestic producers. etc.
  - ii. Even then, the decline is to be attributed to the onset of COVID-19 in the first quarter of POI.
  - iii. Even if it is assumed that the state of the domestic industry is fragile, this is due to factors other than subject imports.
- liii. As per Articles 15.4 and 15.5 of the SCM Agreement, the investigating authority while examining the impact of the subsidies, must analyse multiple factors having an impact on the performance of the domestic industry.
- liv. The DGTR's Manual of Operating Practices for Trade Remedy Investigations states that *inter se* competition between producers in the country resulting in injury to all the applicants should be seen carefully.
- iv. The two applicants (i.e., JSL and JSWL) are the biggest players in the Indian market and have captured a significantly high percentage of the market as compared to other smaller producers.
  - vi. The applicants have been able to earn increasingly high profits. The domestic producers may have been adversely impacted and any alleged decline in their performance is attributable to the *inter se* competition.
  - vii. The other domestic producers are forced to compete with the industry giants. The Authority must analyse the impact of such competition on the performance of the supporting domestic producers.
- lviii. Significant number of domestic producers are mere cold rollers of the hot-rolled products. These producers procure the subject goods as raw materials from the applicants and further process the same. Hence the profits of the applicants have increased substantially. This is the reason for the lower market share of the upstream hot-rolled product segment.
- lix. If the applicants are in a position to determine a substantial part of the price of raw materials for many of the supporting domestic producers, the alleged fragility of the other domestic producers cannot be attributed to the subject imports.
- lx. Only the data of the applicants must be taken into consideration while determining the likelihood of continuation or recurrence of subsidization and injury as the domestic producers' performance is highly based on the internal dynamics between them and the applicants.
- lxi. The applicants have not provided any data in the said paragraphs that establishes a correlation between the volume of the imports complained about and the economic performance of the MSME producers which they claim has been injured by such imports.
- lxii. The factors which have caused injury to the domestic producers may be lack of variety of products produced, non-availability of high quantities, and inter-se competition from the biggest players in the market such as the domestic industry itself.
- lxiii. The domestic producers have not taken necessary steps for upgrading their production facilities to meet the specific demands of the domestic user industry, particularly the utensils manufacturing industry.
- lxiv. The investments made by the applicants are exponentially higher than that of the other domestic producers. This indicates that the *inter-se* competition and the influence of the applicants are the reasons for the injury to the domestic industry.
- lxv. Even though there has been an increase in the raw material price during the POI, the applicants have not reduced their prices. On the contrary, they increased their domestic selling price and did not lose their market share.
- lxvi. The MSMEs lack the manufacturing facilities to produce steel coils and in the absence of the same, there is a demand-supply gap in the market. This gap is being catered to by the imports from China.
- lxvii. The reason for decline in performance of the MSMEs cannot in simpliciter be rising quantum of imports from China but the inability of the MSMEs to cater to a market and compete effectively.

- lxviii. Currently dominant steel producer introduced a new grade which is getting adopted in market and sending ripples to the processors, who have come to support this petition.
- lxix. Processors views submitted in the meeting are not independent but doctored views.
- lxx. Coil is better than patta for utensil manufacturing with regard to finishing and better for inventory management.
- lxxi. Till transformation of changing patta mills to coil mills takes place, good quality of steel (coil) is in short supply, therefore gap needs to be filled by imports.
- lxxii. Imports should take place as it keeps the prices in check.
- lxxiii. When duty was in place, frequent times when international prices were stable, domestic prices were increased.
- lxxiv. Many grades and sizes are not available with domestic manufacturing.
- lxxv. Rightly pointed out that if balance is not right (sink example) there will be a time in future when utensils will be imported and 50,000 industries will be affected, bringing unemployment to lakhs of workers.
- lxxvi. About 15 years were given to the domestic players to shape up and match competition, primary players are green now.
- lxxvii. Various products of stainless-steel may be processed to obtain a different product altogether which is classifiable u/ Chapter 73, not Chapter 72. Even such products are being covered under the CVD. Appropriate exception should be done to ensure unintended products are not covered under CVD.
- lxxviii. Various subsidies have been suspended or watered down. There is no subsidized import taking place into India from China (which is not at par w/ exports to India from other countries). Tax rebate- withdrawn. Extracts from Chinese govt sites have been provided.
- lxxix. Price of the domestic industry considered during final findings not genuine and heavily influenced by one of the domestic suppliers with highly inflated prices.
- lxxx. Monopolistic control over price by domestic producer. CVD levy was misused by the domestic industry, price wasn't brought down. A debt-ridden entity became debt free and make huge profits by overcharging and over-reporting price.
- lxxxii. Import quantum remained healthy for imports from China indicates CVD had no role to play in this. Market share of China increased as domestic industry was not able to meet the demand. Imports from all countries increased. No adverse inference can be drawn based on quantum of imports from China.
- lxxxiii. Ministry of Finance itself suspended CVD ever since February 2021.
- lxxxiii. Likelihood factor- increase in capacity in China and presumption of depression/ suppression - proven to be unfounded. Export to India- purely commercial.
- lxxxiv. MSME, SME suffering due to lack of supply. While domestic producers earned huge profits.
- lxxxv. Data submitted by petitioners fails to demonstrate injury/ causal link.
- lxxxvi. DG Safeguards attributed higher fixed cost, abnormal high depreciation and finance charges as main cause of injury and not imports
- lxxxvii. Abnormal increase in salary and wages may be one reason of losses
- lxxxviii. One of the petitioners made huge loss in speculation business in 2008 and guarantor SBI had to pay. Since then, there has been major profits made by them by misusing ADD and CVD. Losses portrayed by the domestic industry need to be considered in light of real reasons.

### III. Examination by the Authority

153. Rule 13 of the Countervailing Duty Rules, 1995 read with Annexure I provides that an injury determination involves examination of factors that may indicate injury to the domestic industry, taking into account all relevant facts, including the volume of subsidised imports, their effect on prices in the domestic market for like article and the consequent effect of such imports on domestic producers of such articles.
154. Rule 24 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 22 and 23 shall apply *mutatis mutandis* in case of a sunset review. The Authority has evaluated the injury parameters which are required under Rules and Annexure I of the Rules and has also examined as to whether the expiry of said duty is likely to lead to continuation or recurrence of subsidisation and injury.
155. The Authority has considered submissions made by various interested parties and relevant legal provisions. The Authority has examined injury information of the domestic industry having regard to these legal

provisions. The examination hereinbelow *ipso facto* deals with the submissions made by the domestic industry and interested parties concerning injury to the domestic industry.

156. The applicants contended that to evaluate the impact of imports after suspension and then cessation of CVD, analysis of the market should be undertaken separately where imports are significant (described as “competing sector” by the applicants) and where imports are not happening in significant volume (described as “non-competing sector” by the applicants). The applicants have contended that about 90% of imports of the subject goods from China PR are in the “competing sector”. The applicants have also contended that the imports from the “competing sector” are largely competing in the utensil sector and adversely impacting MSME producers, and other producers that are largely in the unorganised patta sector. It was alleged that producers are dependent practically on these products for their operations.
157. In order to examine the claims made by the applicants more carefully, the Authority has conducted a segmented injury analysis by categorising the product under consideration into two segments based on the grades of the product – products in the “200 series” and products in “other grades”. The “200 series” category comprises of products of grades 201, J1, J2 and J3, whereas product in the “other grades” category comprise of products in the 300 and 400 series, and any other grades. Products in the 200 series are those products that are majorly manufactured by MSME and producers in the unorganised sector. While the applicants also produce certain quantities of products in the 200 series, most of the products manufactured by the applicants belong to the “other grades” category. The following table gives an overview of the classification of product categories:

| Series       | Grade           |
|--------------|-----------------|
| 200          | 201             |
|              | J1              |
|              | J2              |
|              | J3              |
| Other Grades | <b>304</b>      |
|              | 316             |
|              | <b>409</b>      |
|              | <b>410</b>      |
|              | <b>430</b>      |
|              | 441             |
|              | Any other grade |

158. The Authority notes that a segment-wise injury analysis is permissible under the CVD Rules as well as the WTO SCM Agreement. The Appellate Body in *US – Hot-Rolled Steel [DS 184]* has observed that: “[I]t seems to us perfectly compatible with Article 3.4 for investigating authorities to undertake, or for a Member to require its investigating authorities to undertake, an evaluation of particular parts, sectors or segments within a domestic industry. Such a sectoral analysis may be highly pertinent, from an economic perspective, in assessing the state of an industry as a whole.” (Paragraph 195)
159. Similarly, in the recent WTO dispute of *US – Ripe Olives [DS577]*, the USDOC had conducted a segmented injury analysis, by dividing the domestic industry into three “consumer groups” and conducted an injury analysis for each of the three consumer segments separately. In the Injury Determination, the USITC determined that ripe olives were generally sold to purchasers categorized as retailers, distributors, and institutional/food processors. The USITC described these customer groups as “channels of distribution”. The USITC prepared data concerning sales and market share of domestic, Spanish, and other imported ripe olives based on sectors defined by each customer group. The USITC then examined trends relating to these customer groups, particularly retailers, in its injury analysis. The WTO Panel observed that such a methodology of injury analysis is permissible:

“7.223. ... We find no support, however, for the different proposition espoused by the European Union, which is that an investigating authority may only consider sections of a market while undertaking an injury analysis when it has explicitly identified these sections in the definition of the domestic industry.



*There is no reason that an investigating authority's analysis of market segments would necessarily imply that the final injury determination was not made with respect to the domestic industry as defined by the investigating authority. We therefore disagree that the USITC's analysis of market segments posed a risk of distortion. In particular, in this case the three customer groups collectively represented the whole market. Their analysis by the USITC would thus not necessarily leave parts of the domestic industry unexamined. We therefore do not see any material risk of distortion arising from the fact that the USITC did not incorporate into its definition of the domestic industry reference to the various market segments it later analysed."*

160. The Authority has conducted its injury analysis by examining the volume of imports in the 200 series and the other grades – separately and cumulatively. The Authority has also examined the sales, production, etc. of the applicants the 200 series and the other grades category. The Authority has received injury related information from 19 other Indian producers belonging to the MSME sector who have come forward and voluntarily provided data for the present investigation. The Authority notes that the 19 companies that have voluntarily provided information to the Authority would constitute a representative sample of MSME companies, through which the Authority may be able to gauge the impact of the revocation of the duty on the all MSME producers in the country. The Authority has conducted a segment-wise analysis for the 19 MSME companies that have provided their injury information. Through this segmented methodology, the Authority has attempted to determine the likelihood of recurrence or continuation of injury for the applicants as well as the 19 other Indian producers in relation to the 200 series as well as the other grades category. Wherever data has been made available, and wherever the Authority has deemed it necessary, the post-POI data has also been examined.
161. The Authority has conducted the injury analysis in terms of Rule 13 of the CVD Rules, read with Annexure-I to the Rules, based on the data pertaining to the domestic industry, and with respect to the product under consideration as a whole.

#### **K. VOLUME EFFECT OF SUBSIDIZED IMPORTS AND IMPACT ON DOMESTIC INDUSTRY**

##### **Assessment of Demand**

162. For the purpose of the present investigation, the Authority has defined demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers and imports from all sources. It is noted that the product under consideration is being imported into India both in cold and hot rolled conditions. Further, the product under consideration is being produced by the companies such as petitioners who are producing both hot and cold rolled product. Some producers of cold rolled product buy hot rolled either from the domestic market or imports. Therefore, production and sales of these producers of cold rolled products has not been counted to determine consumption of the product under consideration in India in order to avoid double accounting of one production. The demand so assessed is as follows:

| <b>Particulars</b>               | <b>Unit</b> | <b>2017-18</b> | <b>2018-19</b> | <b>2019-20</b> | <b>POI(A)</b> |
|----------------------------------|-------------|----------------|----------------|----------------|---------------|
| Imports from China PR            | MT          | 1,77,837       | 91,755         | 90,573         | 1,74,741      |
| Imports from All other countries | MT          | 2,66,386       | 3,76,987       | 5,52,658       | 3,21,130      |
| Total Imports                    | MT          | 4,44,223       | 4,68,742       | 6,43,231       | 4,95,871      |
| Petitioner sales                 | MT          | ***            | ***            | ***            | ***           |
| Trend                            | Indexed     | 100            | 102            | 102            | 98            |
| Sales Others Indian Producers    | MT          | ***            | ***            | ***            | ***           |
| Trend                            | Indexed     | 100            | 100            | 108            | 91            |
| Sales Indian Producers (3+4)     | MT          | ***            | ***            | ***            | ***           |
| Trend                            | Indexed     | 100            | 101            | 105            | 95            |
| Indian Demand/ consumption       | MT          | ***            | ***            | ***            | ***           |

163. It is seen that demand for the subject goods increased till 2019-20 and declined in the POI. However, despite the decline in demand, the imports of the subject goods have almost doubled during the POI as compared to the previous years. The decline in demand during the POI may be a result of the COVID pandemic. However, it is to be noted that imports from other countries and sales of Indian producers (petitioners and other producers) have declined as a result of the decline in demand, whereas the imports from China PR have increased significantly. If the import pattern is seen in the different segments, it is noted that almost 85% of total

imports from China PR are in the 200 series:

| Grade          | Volume   | %    |
|----------------|----------|------|
| 200 series- J3 | 1,17,962 | 54%  |
| 200 series-201 | 66,738   | 31%  |
| Other grades   | 33,726   | 15%  |
| Total          | 2,18,426 | 100% |

164. The Authority has examined post POI data in the present case for the reason that the CVD was not in force during the post POI period and therefore the volume and pattern of imports post POI was pertinent for making an assessment of likelihood in the event of cessation of ADD. The table below shows the import volume for the POI and post POI upto December 2022.

| Grade          | Volume              |      | %           |      | Volume      |      | % |  |
|----------------|---------------------|------|-------------|------|-------------|------|---|--|
|                | POI                 |      | Post POI    |      | Post POI    |      |   |  |
|                | (April 20- June 21) |      | Jul21-Mar22 |      | Apr22-Dec22 |      |   |  |
| 200 series- J3 | 1,47,453            | 54%  | 2,08,073    | 68%  | 3,31,517    | 65%  |   |  |
| 200 series-201 | 83,423              | 31%  | 39,933      | 13%  | 38,509      | 8%   |   |  |
| Other grades   | 42,158              | 15%  | 56,628      | 19%  | 1,38,935    | 27%  |   |  |
| Total          | 2,73,033            | 100% | 3,04,635    | 100% | 5,08,960    | 100% |   |  |

165. During the POI, 85% of the total imports from China PR were in the 200 series segment whereas only 15% of the total imports from China PR are in the other grades. It is thus seen that there was high concentration of Chinese imports in the 200 series which largely caters to a specific segment of the market, i.e., utensil segment. It is pertinent to note that the interested parties have submitted that the 200 series of products are mainly produced by manufacturers belonging to the MSME and unorganised sectors in India. Jindal Steel Limited and Jindal Steel Hisar Limited are mainly involved in the production of the products in the 'other grades' segment. It is seen that the majority of the applicants' sales are in the 'other grades' category in which the import volumes from China PR are low. On the other hand, a vast majority of the sales of the other Indian producers are in the 200 series, which are in direct competition with imports from China PR. Only a miniscule ratio of sales of the other Indian producers are in the 'other grades' category. It is therefore seen that other Indian producers are primarily concerned the 200 series only. The producers in the MSME and unorganised sectors are almost entirely reliant on sales in the 200 series for their business. Any revocation and suspension of the duty against China PR would mainly impact the MSME and unorganised sectors in India.

#### L. IMPORTS IN ABSOLUTE TERMS

166. With regard to volume of the subject imports, the Authority is required to consider whether there has been a significant increase in subsidized imports either in absolute terms or relative to production or consumption in India. The import volumes from the subject country for the injury period are given above. It is seen that imports from the subject country declined till 2019-20 and then increased in the POI. The increase in imports in the POI is despite decline in demand in this period. Whereas the demand declined by 13% in POI as compared to preceding year, imports increased by 89% in the same period and with rescission of CVD.

167. The Authority also notes that the countervailing duties which were in force on the subject goods from China PR were suspended on 1<sup>st</sup> February 2021, and were later withdrawn on 1<sup>st</sup> February 2022. In other words, no countervailing duties have been in force on the subject goods for over two years since 1<sup>st</sup> February 2021. This has led to an immediate increase in imports of the subject goods from China as seen from the table below:

| Years                  | Chinese imports | Import from other countries | Total imports |
|------------------------|-----------------|-----------------------------|---------------|
| Before CVD was imposed | MT              | MT                          | MT            |
| 2012-13                | 87,408          | 2,12,136                    | 2,99,544      |

| Years                               | Chinese imports | Import from other countries | Total imports |
|-------------------------------------|-----------------|-----------------------------|---------------|
| 2013-14                             | 1,06,030        | 1,94,838                    | 3,00,868      |
| 2014-15                             | 2,30,629        | 2,24,422                    | 4,55,051      |
| Jan15-Dec15                         | 2,57,063        | 2,27,928                    | 4,84,991      |
| 2015-16                             | 2,76,457        | 2,29,099                    | 5,05,556      |
| 2016-17                             | 2,60,889        | 2,19,192                    | 4,80,081      |
| Part of 2017-18 with no duties (A)  | 2,68,353        | 2,24,181                    | 4,92,533      |
| When CVD was in force               |                 |                             |               |
| Part of 2017-18 with duties (A)     | 1,13,182        | 2,96,534                    | 4,09,716      |
| 2018-19                             | 91,755          | 3,76,987                    | 4,68,742      |
| 2019-20                             | 90,573          | 5,52,658                    | 6,43,231      |
| Part POI (April 20-Jan 21)          | 1,32,706        | 3,21,108                    | 4,53,814      |
| When CVD was suspended or withdrawn |                 |                             |               |
| Part POI (Feb21-Jun 21)             | 2,58,810        | 3,21,175                    | 5,79,985      |
| Jul'21-Mar'22                       | 3,04,634        | 5,84,968                    | 8,89,602      |
| Apr'22-Dec22                        | 5,08,961        | 5,38,563                    | 10,47,524     |

\*\*\* All Figures above are on annualized basis

168. A closer scrutiny of the import data during the POI would show that when the duties were in force for 10 months of the POI (i.e., April 2020 to January 2021), the imports of the subject goods from China PR was 1,10,545 MT, whereas in the 5 months of the POI when the duty was suspended (i.e., February 2021 to June 2021), the imports were 1,07,815 MT. The import volumes of 5 months when the duty was not in force were almost the as the import volumes of 10 months when the duty was in force.

Import in relation to production and consumption-

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

Subject imports in relation to:

|               |         | 2017-18 | 2018-19 | 2019-20 | POI    |
|---------------|---------|---------|---------|---------|--------|
| Production    | %       | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 52      | 49      | 104    |
| Consumption   | %       | ***     | ***     | ***     | ***    |
| Trend         | Indexed | 100     | 51      | 46      | 100    |
| Total Imports | %       | 40.03%  | 19.57%  | 14.08%  | 35.24% |

170. It is seen that the subject subsidised imports declined significantly till 2019-20, in relation to the total imports in India and production & consumption of the product in India. The same however increased significantly in the present POI. It is also seen that whereas total imports of the product into India declined in the POI, imports from China increased. The subject imports holds largest share in imports in the POI.

#### M. PRICE EFFECT OF SUBJECT IMPORTS AND IMPACT ON DOMESTIC INDUSTRY

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

**N. PRICE UNDERCUTTING**

172. Price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry for the investigation period. While computing the net selling price of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level has been determined for comparison with the landed value of the subsidised imports.

| Particulars             | Unit   | POI    |
|-------------------------|--------|--------|
| Net sales realization   | Rs./MT | ***    |
| Landed price of imports | Rs./MT | ***    |
| Price undercutting      | Rs./MT | ***    |
| Price undercutting      | %      | ***%   |
| Price undercutting      | Range  | 30-40% |

**O. PRICE SUPPRESSION AND DEPRESSION**

173. In order to determine whether the subsidised imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. The position on the basis of the cost of sales and selling price furnished by the domestic industry is shown as per the table below:

| Particulars                        | Unit    | 2017-18 | 2018-19 | 2019-20 | POI |
|------------------------------------|---------|---------|---------|---------|-----|
| <i>Applicants (JSL &amp; JSHL)</i> |         |         |         |         |     |
| Cost of sales                      | Rs./MT  | ***     | ***     | ***     | *** |
| Trend                              | Indexed | 100     | 113     | 103     | 109 |
| Selling price                      | Rs./MT  | ***     | ***     | ***     | *** |
| Trend                              | Indexed | 100     | 110     | 102     | 116 |
| Landed price                       | Rs./MT  | ***     | ***     | ***     | *** |
| Trend                              | Indexed | 100     | 106     | 98      | 90  |

174. It is seen that:

- Both cost of sales and selling price increased in 2018-19. However, the increase in cost of sales was higher than increase in selling price.
- Both cost of sales and selling price declined in 2019-20, and the decline in cost of sales was higher than decline in selling price.
- Both cost of sales and selling price increased in POI. However, the increase in selling price was higher than increase in cost of sales.

175. With respect to the other Indian (MSME) producers that are primarily involved in the production of the 200 series, it is seen that the selling price during the POI is lower than the cost of sales. It is the contention of the interested parties that the landed price of imports in the 200 series are lower than the selling price of the other Indian producers. The cost of sales of the other Indian producers has increased in the year 2018-19 and has reduced in the year 2019-20, but has once again increased in the POI. It has been contended that the imports being made in the utensil segment is cold rolled whereas the grades being sold by applicant domestic industry and MSME industry is hot rolled flat product which undergoes two stages of rolling. Thus, value addition from hot rolled flat to cold rolled patta needs to be added while making appropriate comparison. In view of the value addition required from Hot rolled to cold rolled patta product, it is noted that landed price of imported cold rolled product should be significantly above the cost and selling price of the Indian industry's hot rolled product. The Indian industry has claimed that the value addition would be in the range of Rs. 25,000- 30,000/ MT.

| Particulars (POI)                         | UOM   | Domestic industry (JSL +JSHL) | MSME Industry (19 producers) |
|---|-------|-------------------------------|------------------------------|
| Selling Price                             | Rs/MT | ***                           | ***                          |
| Cost                                      | Rs/MT | ***                           | ***                          |
| Landed Value of imports in the 200 series | Rs/MT | ***                           |                              |

176. Authority notes that M/s Quality Foils, which is a re roller and is involved in converting hot rolled flat products to cold rolled product, had filed injury information vide submission dated 29<sup>th</sup> December 2022. It is seen from the information filed that value addition based on this data is also around Rs 28000/MT. Accordingly, the landed price of imported cold rolled product would be below the cost of the cold rolled product produced by the Indian industry after converting from hot rolled stage considering such value addition. Resultantly, the selling price of the hot rolled flat product produced by the Indian industry is seen to be lower than the respective cost of production. Thus, imports in this segment are causing price depression in the domestic market.

177. Domestic industry had provided information on cost, selling price and landed price of imports for post POI. Table below demonstrates:

|   | Post POI |              |              |
|---|----------|--------------|--------------|
|   | UOM      | Jul21- Mar22 | Apr22- Dec22 |
| Cost  | Rs/MT    | ***          | ***          |
| Trend   | Indexed  | 132          | 135          |
| Selling Price   | Rs/MT    | ***          | ***          |
| Trend   | Indexed  | 135          | 133          |
| Landed price of imports of grades going in utensil segment (200 series) | Rs/MT    | ***          | ***          |
| Trend   | Indexed  | 100          | 103          |

178. It is seen that the landed value of cold rolled product continues to remain significantly below the cost of the cold rolled product converted from the hot rolled product produced by domestic industry after considering the value addition required as noted earlier.

#### P. ECONOMIC PARAMETERS RELATING TO THE DOMESTIC INDUSTRY

179. The Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the subsidized imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

a. Production, Capacity, Capacity Utilization and Sales

180. Position of the domestic industry over the injury period with regard to Production, Capacity, Capacity Utilization and Sales was as follows:

| Particulars                         | Unit    | 2017-18 | 2018-19 | 2019-20 | POI-A |
|-------------------------------------|---------|---------|---------|---------|-------|
| <i>Petitioners (JSL &amp; JSHL)</i> |         |         |         |         |       |
| Capacity                            | MT      | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 100     | 105     | 119   |

| Particulars                         | Unit    | 2017-18 | 2018-19 | 2019-20 | POI-A |
|-------------------------------------|---------|---------|---------|---------|-------|
| <b>Petitioners (JSL &amp; JSHL)</b> |         |         |         |         |       |
| Production (PUC and NPUC)           | MT      | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 99      | 103     | 98    |
| Capacity Utilization                | %       | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 99      | 98      | 83    |
| Sales Volume                        |         |         |         |         |       |
| a. Domestic                         | MT      | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 102     | 102     | 98    |
| b. Exports                          | MT      | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 79      | 84      | 74    |
| c. Total Sales                      | MT      | ***     | ***     | ***     | ***   |
| Trend                               | Indexed | 100     | 97      | 98      | 94    |

181. The Authority notes that since the duties have been in force, the petitioners have been able to improve their sales up till 2019-20 and have even enhanced their capacity in the POI. Due to the increase in capacity during the POI, the capacity utilization has declined. The petitioners have also managed to improve their sales in both the domestic and export markets till 2019-20 on account of the level playing field which was created by the countervailing duties in force. Subsequently, during the POI, when the duty was revoked, the sales and production of the applicants have declined.

182. With respect to the other Indian (MSME) producers that are primarily engaged in the production of 200 series, it is seen that while the duty was in force (upto 2019-20), the other Indian producers have been able to improve their installed capacity, production quantity, capacity utilization and domestic sales. When the duty was revoked during the POI, the capacity utilization of the other Indian producers has declined to the lowest level. Further there has been a decline in production and sales during the POI as compared to 2019-20.

| Particulars                             | Units   | 2017-18 | 2018-19 | 2019-20 | POI Annualized |
|---|---------|---------|---------|---------|----------------|
| <b>Other Indian Producers (19 MSME)</b> |         |         |         |         |                |
| Installed Capacity*                     | MT      | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed | 100     | 128     | 168     | 177            |
| Total Production Qty (PUC+NPUC)*        | MT      | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed | 100     | 152     | 203     | 169            |
| Capacity Utilization                    | %       | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed | 100     | 120     | 122     | 96             |
| Production Qty of PUC                   | MT      | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed | 100     | 145     | 188     | 159            |
| Domestic Sales (Total)                  | MT      | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed | 100     | 145     | 185     | 155            |

**b. Profitability, return on investment and cash profits**

183. Position of the domestic industry (JSHL and JSL) over the injury period with regard to profitability, ROI and cash profit are as follows:

| Particulars                     | Unit       | 2017-18 | 2018-19 | 2019-20 | POI-A |
|---------------------------------|------------|---------|---------|---------|-------|
| <b>Profit /( Loss) Domestic</b> |            |         |         |         |       |
| Cost of sales                   | Rs./MT     | ***     | ***     | ***     | ***   |
|                                 |            | 100     | 113     | 103     | 109   |
| Selling price                   | Rs./MT     | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 110     | 102     | 116   |
| Profit/( Loss) per unit         | Rs./MT     | ***     | (***)   | ***     | ***   |
| Trend                           | Indexed    | 100     | (182)   | 102     | 676   |
| Profit/( Loss)                  | Rs. crores | ***     | (***)   | ***     | ***   |
| Trend                           | Indexed    | 100     | (185)   | 104     | 667   |
| Profit/loss % of price          | %          | ***%    | (***)%  | ***%    | ***%  |
| Trend                           | Indexed    | 100     | (165)   | 99      | 585   |
| <b>Profit /( Loss) Exports</b>  |            |         |         |         |       |
| Cost of sales                   | Rs./MT     | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 116     | 121     | 122   |
| Selling price                   | Rs./MT     | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 116     | 127     | 126   |
| Profit/( Loss) per unit         | Rs./MT     | (***)   | (***)   | ***     | ***   |
| Trend                           | Indexed    | 100     | 120     | 60      | 6     |
| Profit/( Loss)                  | Rs. crores | (***)   | (***)   | ***     | ***   |
| Trend                           | Indexed    | (100)   | (94)    | 51      | 6     |
| Profit/loss % of price          | %          | (***)   | (***)   | ***     | ***   |
| Trend                           | Indexed    | (100)   | (103)   | 47      | 5     |
| Total profits                   | %          | (***)   | (***)   | ***     | ***   |
| Trend                           | Indexed    | 100     | -557    | 309     | 1558  |
| Cash Profit total               | Rs. crores | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 18      | 115     | 270   |
| Cash Profit per unit            | Rs/MT      | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 18      | 114     | 274   |
| Interest cost                   | Rs. crores | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 106     | 94      | 74    |
| Profit before Interest          | Rs. crores | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 45      | 96      | 198   |
| Capital Employed (domestic)     | Rs. crores | ***     | ***     | ***     | ***   |
| Trend                           | Indexed    | 100     | 91      | 101     | 121   |
| ROCE                            | %          | ***%    | ***%    | ***%    | ***%  |
| Trend                           | Indexed    | 100     | 49      | 95      | 164   |

184. It is seen that the profitability of the applicants have improved during the POI despite the revocation of the duty during the POI. The Authority notes that 85% of all imports are in the 200 series, whereas the applicants are primarily engaged in production and sales of the “other grades”. The return on capital employed of the applicants during the POI was at a very high level. The improvement in profitability is not due to the export sales of the applicants since the profit per unit earned through export sales is lower than profit per unit earned through domestic sales. It appears that the applicants, which are mainly producing and selling the ‘other grades’ category of the product under consideration have not suffered any injury after the revocation of duty.
185. The Authority notes that the performance of the other Indian producers (19 MSME) has declined. In the year 2019-20, the other Indian producers (19 MSMEs) have recorded losses, which have intensified during the POI. The profit before tax, PBIT, PBDIT and cash profits are at the lowest levels during the POI owing to the imports from the subject country – which are mainly in the 200 series.

| Particulars  | Units    | 2017-18 | 2018-19 | 2019-20 | POI Annualized |
|--|----------|---------|---------|---------|----------------|
| <b>Other Indian Producers (19MSMEs)</b>            |          |         |         |         |                |
| Cost of Sales (ex-factory)                         | Rs./MT   | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 107     | 97      | 101            |
| Selling Price                                      | Rs./MT   | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 107     | 95      | 99             |
| Profit/Loss (per unit)                             | Rs./MT   | ***     | ***     | (***)   | (***)          |
| Trend  | Indexed  | 100     | 68      | -10     | -57            |
| Net Sales Realisation                              | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 155     | 177     | 154            |
| PBT (Profit before Tax)                            | Rs. Lacs | ***     | ***     | (***)   | (***)          |
| Trend  | Indexed  | 100     | 98      | -18     | -88            |
| PBIT (Profit before Interest & Tax)                | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 124     | 85      | 43             |
| PBDIT (Profit before Depreciation, Interest & Tax) | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 124     | 110     | 75             |
| Cash Profit (PBT+ Depreciation)                    | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 108     | 61      | 13             |
| Interest Cost                                      | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 153     | 198     | 185            |
| PBIT as % of Average Capital Employed (ROI)        | %        | ***     | ***     | ***     | ***            |
| Trend  | Indexed  | 100     | 87      | 47      | 20             |

**c. Market share in demand**

186. Position of the domestic industry over the injury period with regard to market share in demand was as follows:

| SN | Particulars      | 2017-18 | 2018-19 | 2019-20 | POI(A) |
|----|------------------|---------|---------|---------|--------|
| 1  | Import           |         |         |         |        |
| A  | China            | 6.92%   | 3.52%   | 3.16%   | 6.94%  |
| B  | Other Countries  | 10.37%  | 14.44%  | 19.28%  | 12.76% |
| 2  | Total Imports    | 17.30%  | 17.97%  | 22.44%  | 19.70% |
| 3  | Petitioner sales | ***     | ***     | ***     | ***    |



| SN | Particulars                   | 2017-18 | 2018-19 | 2019-20 | POI(A)  |
|----|-------------------------------|---------|---------|---------|---------|
|    | Trend (Indexed)               | 100     | 100     | 91      | 100     |
| 4  | Sales Others Indian Producers | ***     | ***     | ***     | ***     |
|    | Trend (Indexed)               | 100     | 98      | 97      | 93      |
| 5  | Sales Indian Producers (3+4)  | ***     | ***     | ***     | ***     |
|    | Trend (Indexed)               | 100     | 99      | 94      | 97      |
| 6  | Indian Demand/ consumption    | 100.00% | 100.00% | 100.00% | 100.00% |

187. It is seen that market share of both the domestic industry and other producers, declined in 2019-20. The market share of domestic industry has increased in the POI. The market share of China declined upto 2019-20 and increased in the POI, whereas the market share of imports from other countries have declined. Market share of subject imports increased in the POI when the demand declined.

**d. Employment, Wages and Productivity**

188. Position of the petitioners over the injury period with regard to employment and wages are as follows:

| Particulars                         | Unit     | 2017-18 | 2018-19 | 2019-20 | POI |
|-------------------------------------|----------|---------|---------|---------|-----|
| <b>Petitioners (JSL &amp; JSHL)</b> |          |         |         |         |     |
| No of Employees                     | Nos      | ***     | ***     | ***     | *** |
| Trend                               | Indexed  | 100     | 100     | 100     | 100 |
| Salaries & Wages                    | Rs. Lacs | ***     | ***     | ***     | *** |
| Trend                               | Indexed  | 100     | 103     | 111     | 91  |
| Salaries & Wages per Unit           | Rs./MT   | ***     | ***     | ***     | *** |
| Trend                               | Indexed  | 100     | 105     | 110     | 94  |
| Productivity per Day                | MT/Day   | ***     | ***     | ***     | *** |
| Trend                               | Indexed  | 100     | 99      | 101     | 97  |
| Productivity per Employee           | MT/No    | ***     | ***     | ***     | *** |
| Trend                               | Indexed  | 100     | 98      | 100     | 96  |

189. Employment have remained almost constant during the injury period and POI. However, salaries and wages have decreased in the POI. The productivity per day and the productivity per employee have declined during the POI.

190. The Authority notes that the other Indian producers (19 MSMEs) that are mainly involved in the production and sales of the 200 series, have managed to increase the number of employees and salary and wages of employees.

| Particulars                             | Units    | 2017-18 | 2018-19 | 2019-20 | POI Annualized |
|---|----------|---------|---------|---------|----------------|
| <b>Other Indian Producers (19MSMEs)</b> |          |         |         |         |                |
| No of employees                         | Nos.     | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed  | 100     | 127     | 114     | 146            |
| Salaries & Wages                        | Rs. Lacs | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed  | 100     | 142     | 189     | 186            |
| Productivity Per day                    | MT/Day   | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed  | 100     | 145     | 188     | 159            |
| Productivity Per employee               | MT/Nos   | ***     | ***     | ***     | ***            |

| Particulars                             | Units      | 2017-18 | 2018-19 | 2019-20 | POI Annualized |
|---|------------|---------|---------|---------|----------------|
| <b>Other Indian Producers (19MSMEs)</b> |            |         |         |         |                |
| Trend                                   | Indexed    | 100     | 114     | 165     | 109            |
| Productivity Per day per employee       | MT/Day/Nos | ***     | ***     | ***     | ***            |
| Trend                                   | Indexed    | 100     | 100     | 200     | 100            |

**e. Inventories**

191. Position of the domestic industry over the injury period with regard to inventories is shown in the table below:

| Stock (Volume) | Unit    | 2017-18 | 2018-19 | 2019-20 | POI |
|----------------|---------|---------|---------|---------|-----|
| Opening        | MT      | ***     | ***     | ***     | *** |
| Trend          | Indexed | 100     | 76      | 75      | 91  |
| Closing        | MT      | ***     | ***     | ***     | *** |
| Trend          | Indexed | 100     | 98      | 119     | 171 |
| Average        | MT      | ***     | ***     | ***     | *** |
| Trend          | Indexed | 100     | 86      | 94      | 126 |

192. It is seen that the inventories with the domestic industry declined till 2018-19, and increased thereafter.

193. With respect to the other Indian producers that are in the 200 series, it is seen that the level of inventories has increased steadily. This indicates accumulation of stock of the other Indian producers.

| Particulars       | Units   | 2017-18 | 2018-19 | 2019-20 | POI Annualized |
|-------------------|---------|---------|---------|---------|----------------|
| Opening Inventory | MT      | ***     | ***     | ***     | ***            |
| Trend             | Indexed | 100     | 118     | 122     | 155            |
| Closing Inventory | MT      | ***     | ***     | ***     | ***            |
| Trend             | Indexed | 100     | 104     | 132     | 282            |
| Average Inventory | MT      | ***     | ***     | ***     | ***            |
| Trend             | Indexed | 100     | 110     | 127     | 224            |

**f. Growth**

194. Overall growth of the domestic industry was positive in respect of price parameters. The growth in terms of volume parameters, however, became adverse in the POI as production and sales have not increased in the POI.

**Q. CONCLUSION ON INJURY**

195. The Authority notes that the duty was imposed on 07<sup>th</sup> September 2017 and was suspended on 1<sup>st</sup> February 2021. The duty was subsequently withdrawn on 1<sup>st</sup> February 2022. No duty has been in force for more than two years. It is noticed that during injury period from 2017-18 to 2019-20, the petitioners as well as the other Indian producers (19 MSMEs) have shown an improvement in performance since the duty was serving its purpose of protecting the domestic industry from unfairly traded goods from China PR. The duty was suspended during the POI; there is a noticeable and immediate increase in imports as soon as the duty was suspended and throughout the post-POI period when no duties were in force. Further, it was also seen that 85% of all imports were in the 200 series.

196. It has been contended by the domestic industry that the domestic producers produce hot rolled product through the induction furnace route and the same is processed further by re-rollers in patta sector for making it suitable for eventual end use. Both, the induction furnace units and the patta sector re rollers are exclusively producing goods of 200 series meant for utensil segment. It has been contended that the induction furnace industry is entirely dependent on sales to the patta re-roller sector. These parties contended that the Chinese imports have very adversely impacted them, as the patta re-rollers have reduced their purchase of HR flat either because of direct Chinese imports or because of loss of their own business. These units claimed that they are already suffering injury due to Chinese imports. The Authority has noticed that the MSME and patta sector producers, have been the most vulnerable to the adverse impacts of the imports from China PR since during the POI over

92% of the products manufactured by these MSME producers are in the 200 series. These MSME producers are therefore in direct competition with 85% of Chinese subsidized imports. The injury parameters examined above clearly demonstrates that the MSME producers are disproportionately affected by the imports from China PR post the suspension of the duty. The consequences of the suspension of the CVD are evidently visible from the clear deterioration in the performance of the Indian MSME producers. The Indian MSME producers were very prosperous and profitable when the duty was in force, but has suffered significant losses during the POI when the duty was suspended and eventually withdrawn.

197. On the other hand, it is noticed that the petitioners have been profitable despite the suspension of the duty. It is to be noted that the petitioners (JSL and JSHL) are producing goods in the 'other grades' category in addition to the 200 series. Majority of the goods produced by the petitioners are in the 'other grades' category, which were competing with only 15% of the imports from China PR. The petitioners were profitable during the POI. It is thus concluded that the imports of the subject goods from China PR are mainly causing injury in the 200 series.

#### **R. MAGNITUDE OF INJURY AND INJURY MARGIN**

198. The Authority has determined non-injurious price (NIP) for the domestic industry. The non-injurious price of the PUC has been determined by adopting the information/data relating to the cost of production provided by the domestic industry and duly certified for the period of investigation by practicing accountant. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilization of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price.
199. The non-injurious price has been considered for comparing the landed price from the subject country for calculating the injury margin. Based on the landed price and NIP determined as above, the injury margin as determined by the Authority is provided in the table below:

| <b>Particular</b>    | <b>Amount</b> |
|----------------------|---------------|
| Non-injurious price  | Rs. ***       |
| Landed Value         | Rs. ***       |
| Injury margin amount | Rs. ***       |
| Injury margin %      | ***%          |
| Injury margin range  | 20-30%        |

#### **S. CAUSAL LINK AND OTHER FACTORS (NON-ATTRIBUTION ANALYSIS)**

200. The Authority examined whether other factors listed under the CVD Rules could have caused injury to the domestic industry.

#### **PATTERN OF IMPORTS**

201. The Authority notes that during the POI, 85% of imports from China PR are from the 200 series, whereas the rest of the 15% of imports are from the 'other grades'. Due to the low volume of imports in the 'other grades' category, there appears to be insufficient causal link between the alleged injury and the subsidized imports. Further, the petitioners (JSL and JSHL) are mainly producing and selling products belonging to the 'other grades' category. Majority of the goods produced by the petitioners are in the 'other grades' category, which were competing with only 15% of the imports from China PR. The petitioners were profitable during the POI, and were not suffering from injury. This is a clear demonstration that imports from the 'other grades' category have not had an adverse impact on the performance of the petitioners. For the reasons examined above, there appears to be insufficient causal link with respect to the injury caused due to the imports of the 'other grades' from China PR.
202. On the other hand, the other Indian producers that are in the MSME and patta sectors, primarily produce 200 series and are in direct competition with 85% of imports from China PR. The Authority has noticed that the MSME and patta sector producers, have been the most vulnerable to the adverse impacts of the imports from China PR since during the POI over 92% of the products manufactured by these MSME producers are in the 200 series. These MSME producers are therefore in direct competition with 85% of Chinese subsidized imports. The injury parameters examined above clearly demonstrates that the MSME producers are disproportionately affected by the imports from China PR post the suspension of the duty. The consequences

of the suspension of the CVD are evidently visible from the clear deterioration in the performance of the Indian the MSME producers only. The Indian MSME producers were very prosperous when the duty was in force, but have suffered significant losses during the POI when the duty was suspended and eventually withdrawn. Hence the profitability parameters of these other Indian producers have significantly declined during the POI. It is therefore noticed that there exists a strong causal link with respect to the injury caused due to the imports of the 200 series of the product under consideration.

#### **VOLUME AND VALUE OF IMPORTS FROM THIRD COUNTRIES**

203. Imports from other countries are either below *de-minimus* limits or their prices are higher than China PR except Malaysia and Hong Kong. As regards Malaysia, applicants referred to CRU report and contended that the report publishes worldwide melting capacity. As per the report, petitioners contended that Malaysia has been shown as having no melting capacities, and therefore the product exported by it is produced from hot rolled product imported, re-rolled and exported to India. With regard to Hong Kong, applicants contended that it does not even identify as either a country having melting or re-roller facilities. Hong Kong, applicants contended, is a mere trading country.

#### **CONTRACTION IN DEMAND OR CHANGES IN THE PATTERN OF CONSUMPTION**

204. Demand for the product under consideration has registered a decline in the POI. This was due to Covid pandemic. However, it is noted that demand continues to remain significant. It is seen that the demand for the product has increased significantly in the post POI period. The pattern of consumption with regard to the product under consideration has not undergone any change.

#### **TRADE RESTRICTIVE PRACTICES OF AND COMPETITION BETWEEN THE FOREIGN AND DOMESTIC PRODUCERS**

205. The Authority notes that there is no evidence of possible adverse trade restrictive practices.

#### **DEVELOPMENTS IN TECHNOLOGY**

206. There is no evidence on record showing possible change in technology for production of the product or any likely changes in the foreseeable future.

#### **EXPORT PERFORMANCE**

207. The applicant companies export the like article and the volume of exports are quite significant. Injury information has however been segregated as regards sales volumes, profits, cash profits and investments; and, therefore, possible deterioration in export performance could not be a factor responsible for injury claimed by the domestic industry.

#### **T. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF SUBSIDIZED IMPORTS AND INJURY**

##### **I. VIEWS OF DOMESTIC INDUSTRY**

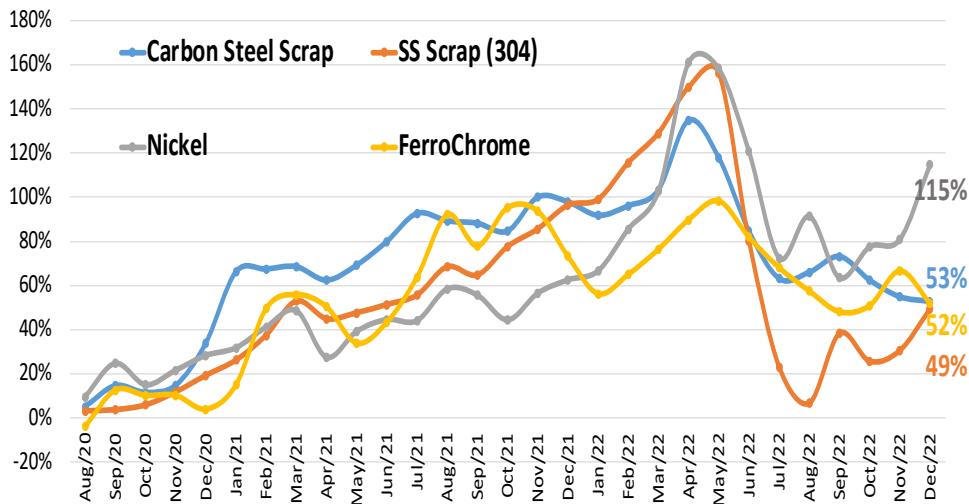
208. Following submissions have been made by the domestic industry with regard to likelihood of continuation or recurrence of subsidized imports and injury:

- i. Imports increased significantly during the POI, and given significant price undercutting, significant surplus capacities already existing with Chinese producers, and further expansions planned, it is evident that the imports will increase further in the event of cessation of CVD.
- ii. After June 2021 till date, when there was no CVD in place, imports surged from 87,408 MT in base year of original investigation to 1,75,048 MT in POI and to 80,000 MT in December, 2022 alone.
- iii. China is the largest producer in the world, with total existing capacity of 41 million MT which is 16 times the Indian demand of 25 lacs MT. Despite having surplus capacities, Chinese producers kept adding new capacities with plans of capacity additions.
- iv. As per CRU Stainless-steel-flat-products-market-outlook-november-2022-statistical-review, capacities built by Chinese producers exceed their domestic demand. With almost 51% capacity being unutilised, being sufficient to take away entire Indian demand. China's share in world capacity is 58%.
- v. As per CRU published reports, in terms of melting capacity, following producers Jiangsu Dongfeng Shipbuilding Co., Jiangsu Huiran Industry, Linyi Steel Investment Co, Shandong Shengyang Group and Shandong Lingang Special Steel, Inner Mongolia Jing'an, Mintal group are increasing their capacity.
- vi. The level of trade distortion in stainless steel globally can be gauged from the number of trade remedial measures imposed or ongoing. Countries are riddled with stagnant demand and excess production and surplus capacity which leaves very little space for absorbing additional volumes. US and EU imposed measures restricting import of Stainless Steel. Therefore, exports from China to various destinations fell

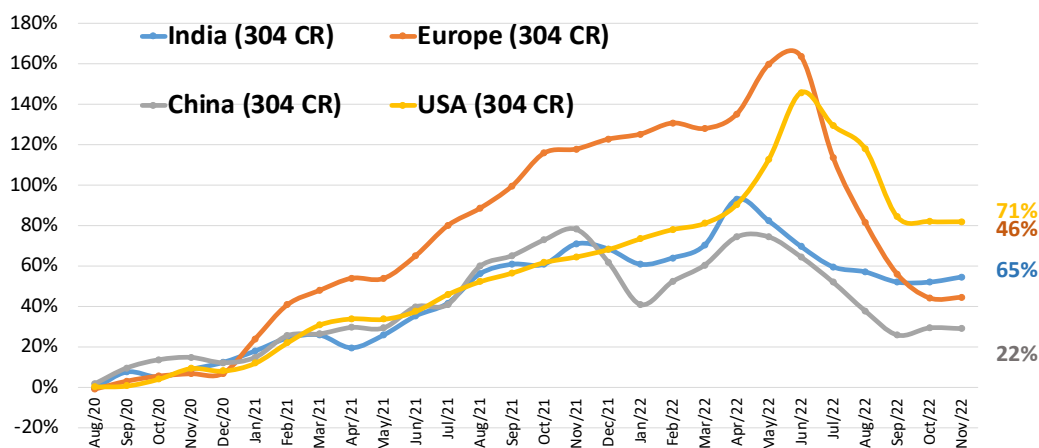
sharply. China has no other option but to look for markets which are price attractive, has positive demand and has no trade remedial measure in place against China.

- vii. Imports were undercutting the prices of DI to a significant extent. Margin of undercutting is high in 200 series leading to a significant increase in imports of 200 series. Imports are likely to increase further if anti-subsidy measures are not continued.
- viii. Landed value of imports is much lower than the selling price and cost of sale of the domestic industry. Producers from the subject country find the Indian market quite attractive in terms of prices. Imports are having a significant suppressing effect on domestic prices, would likely increase demand for further imports.
- ix. Chinese producers are heavily export oriented, have turned from a net importer in 2009 to a net exporter from 2010 onwards with record high in 2022. China has mammoth capacities, and freely disposable production capacities, same can be used to target export market.
- x. India’s consumption of stainless-steel is growing at a CAGR of 9-10% per annum. Global per-capita stainless-steel consumption is 6 kgs, for India it is 2kgs, indicating the growth is expected to continue. This makes India a very obvious target for stainless-steel capacities in China as well as Indonesia.
- xi. The domestic industry improved profitability in POI on account of market forces. Raw material and stainless-steel prices are inter-linked. POI period saw significant increase in raw material prices leading to significant increase in profitability of stainless-steel.
- xii. Prices of stainless-steel has improved, highest increase registered by USA by around 71%. Price increase is not a unique occurrence to the applicant, but rather a global phenomenon. Despite high material prices, Chinese prices have not increased as much, indicating the highly subsidised and injurious prices.
- xiii. Producers globally are reporting higher profitability rates than applicant companies, despite their performance their authorities have continued to levy measures on China, including EU’s safeguard.

Graph showing raw material prices



Graph showing stainless steel prices



- xiv. The actual exports made by China to other countries can also be diverted into the Indian market if the prices to the Indian market are more attractive. Due to non-cooperation of the exporters, this capacity is not determined and may be understated.
- xv. China has more than 51% unutilised capacity. The petitioners' maximum capacity utilisation during the injury period was 100%. It would thus be seen that the producers can produce to its complete capacity. This excess capacity is 564% of Indian demand. In addition to the excess capacity, major countries have imposed measures on China and thus these markets are restricted. Thus, Indian market with growing demand is lucrative for all the exporters in China who wants to utilise their unutilised capacities.

## II. VIEWS OF OTHER INTERESTED PARTIES

209. The other interested parties have filed the following comment or submissions with regard to likelihood of continuation or recurrence of subsidization and injury.
  - i. Termination of the duty is the norm whereas continuation is an exception.
  - ii. Rule 24 of the Customs Tariff (CVD) Rules and Section 9(6) of the Customs Tariff Act states that the life of CVD must ordinarily be 5 years. Only in exceptional circumstances can the duty be continued.
  - iii. The word used in Section 9(6) and Rule 24 is "likely/likelihood" and not "possible/possibility". The applicants must establish that termination of the duty 'will' result in dumping and injury and not merely the possibility.
  - iv. As per the Judgement of the General Court (First Chamber) in Case T-422/13, it was observed that the mere possibility that injury might continue or recur is insufficient to justify retaining a measure. Retention is dependent on likelihood of continuation or recurrence of injury being established.
  - v. The continuation of the CVD is mentioned in the proviso to Section 9(6) of the Act. As per the rules of statutory interpretation, provisos are added to create an exception to the general rule laid down in the main provision.
  - vi. Reliance is placed on Ram Narain Sons Ltd. V. Asstt. CST, AIR 1995 SC 765 and Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subbash Chandra Yograaj Sinha, AIR 1961 SC 1596.
  - vii. The language of Article 21 of the SCM Agreement states that the measure shall remain in force only as long as and to the extent necessary to counteract subsidization which is causing injury.
  - viii. In the Panel Report in *US – Carbon Steel (India) (DS436)*, it is stated that Article 21.3 reflects the application of the general rule set out in Article 21.1 – that a CVD shall remain in place only as long as necessary – in the specific instance where five years have elapsed since the imposition of a CVD.
  - ix. To make a case of continuation of CVD, the applicants will have to demonstrate that discontinuation of the duty would lead to likelihood of recurrence or continuation of both subsidy and injury.
  - x. In the instant case, CVD was imposed on 7<sup>th</sup> September 2017 and the financial situation of the domestic industry has improved substantially since then.
  - xi. CVD was suspended from 1<sup>st</sup> February 2021 and thereafter rescinded from 1<sup>st</sup> February 2022. In this unprotected period, the domestic industry's financial performance has exponentially improved.
  - xii. It is therefore seen that the CVD on the subject goods has served its purpose and is no longer required.

- xiii. The present investigation is a rare situation where the Authority can evaluate the actual state of the domestic industry in the absence of CVD and determine whether the likelihood of continuation of injury to the domestic industry upon the cessation of CVD would have proven true.
- xiv. The annual financial statements of the applicants show a massive growth in profits and other performance parameters after the CVD was rescinded.
- xv. The revenue of the applicant companies as per the annual reports has increased in the injury period and has suddenly increased post-POI.
- xvi. The revenue from operations for JSL jumped from Rs. 11,679 Crore in 2020-21 to Rs. 20,312 Crore in 2021-2022. Similarly, for JSHL, such revenues increased from Rs. 8,400 Crore in 2020-21 to Rs. 13,549 Crore in 2021-22.
- xvii. The sudden spike in revenues and profits during the year 2021-22 coincides with the period where the domestic industry was not given any protection via the CVD. This demonstrates that the applicants have performed unprecedentedly well despite the absence of CVD on the subject imports.
- xviii. The percentage of PBIT in revenue from operations ranges approximately between 5-9% for the applicants when duty was not in place, while such percentage has gone up to 12-13% in the time when CVD was either suspended or revoked.
- xix. The applicants have presented in their investor presentation, that there has been a substantial increment in the stainless-steel production capacity from 1.1MTPA to 2.1MTPA. Phase- 1 of the precision strip capacity expansion of 26ktpa has been commissioned. This has doubled the applicants' total capacity to 48 ktpa.
- xx. The applicants, while alleging a likelihood of recurrence or continuation of subsidization and injury, have themselves been investing in such high quantum towards capacity expansion. This shows that the applicants have been expecting future growth.
- xxi. JSL has stated in its annual report that the stainless-steel industry is likely to benefit further from demand improvement in segments like infrastructure, railways, automotive, process industry, etc. It has also been stated that there is healthy cash flow generation by the company.
- xxii. The applicants' reliance on the CRU, "*Stainless Steel Flat Products Market Outlook, November 2020*" to show idle capacity is misplaced. The applicants have failed to establish the reliability of the report.
- xxiii. The applicants do not mention any basis that was taken by the report to calculate the capacity utilization.
- xxiv. In *All India Laminated Fabrics Manufacturers Association v. Designated Authority*, the CESTAT observed that when the source material was not disclosed nor the authenticity established, it was not proper for the designated authority to have placed reliance upon the report.
- xxv. The latest version of the report was published in November 2022; however, the applicants have not filed the latest version of the report.
- xxvi. Excess capacity does not refer to any capacity over and above the domestic demand in a particular country. Rather, it refers to idle capacities that may be engaged, in the future, for production and sale of the subject goods to India.
- xxvii. Merely because 24% capacity is unutilized does not mean this will be utilized to export the subject goods to India.
- xxviii. The average capacity utilisation of producers in China PR has been over 75% in the injury period; the capacity utilisation in 2020 was 83% while in 2021 was 88%. Even in 2022, where such capacity utilisation had reduced, it was at 77%.
- xxix. As per the OECD's Steel Market Development Report for the 4<sup>th</sup> Quarter of 2022, the average global rate of capacity utilization can be estimated to be around 80%. Against this benchmark, the average capacity utilization of stainless-steel producers in China PR, does not suggest any idle capacity.
- xxx. In *Indian Spinners Association v. Designated Authority*, the CESTAT held that existence of surplus production capacity cannot be taken as posing a clearly foreseen and imminent threat of injury.
- xxxi. In the sunset review investigation on Aniline from USA and Japan, the Authority observed that the mere availability of surplus capacity does not itself justify a finding that dumping from a subject country may continue or recur.
- xxxii. Mere increase in imports would not demonstrate likelihood of continuation or recurrence of subsidization and injury, especially when economic parameters of the domestic industry show high growth even when the imports of China have been going up.

- xxxiii. There is a significant difference in the data cited by them in the written submissions and the data cited in the petition, where they have relied on the same source.
- xxxiv. While the capacity utilization of the producers in China PR as reported in the petition (on the basis of CRU data published in November 2020) for the years 2017, 2018 and 2019 was 76%, 76% and 84%, respectively, the capacity utilization of the producers in China PR as reported in the written submissions (on the basis of CRU data published in November 2022) for the years 2017, 2018 and 2019 was 55%, 57% and 64%, respectively.
- xxxv. The reports cited by the applicants to claim that there is excess capacity must be rejected since it is not reliable.
- xxxvi. Chinese government has already initiated plans to reduce their stainless-steel production.
- xxxvii. Trade remedial measures by multiple other countries cited by the applicants are not new or measures that would lead to a sudden diversion of exports from those markets to India.
- xxxviii. The market price of the PUC in India is much lesser than that of other countries, the Indian market is not attractive compared to that of other countries.
- xxxix. The applicants have not provided the source of the data from where they have made the claim that there is export orientation of Chinese producers.
- xl. Even if there is export orientation, it does not establish that Chinese producers will immediately flood the Indian market.
- xli. Post cessation of the CVD since February 2021, there has been no substantial increase in the volume of subject imports. Any such imports have been made to meet the shortfall in supply in India.
- xlii. Union Steel Minister of India has stated that the cheap imports from China are very minimal and that the Indian steel market has been growing tremendously. It was also stated that the threat to India, if any, has been from its “FTA countries” and not China.
- xliii. The allegation of the applicants that despite increase in cost of raw materials, Chinese producers have not increased their price is not supported by any evidence or data.
- xliv. Even though the global prices of the raw materials of the PUC have increased. The applicants have not established that the raw material prices of the Chinese producers in particular have increased.
- xlvi. It is possible that the Chinese producers may be sourcing their raw materials locally, whose prices may follow a different price trend due to market factors in China PR.

### III. EXAMINATION BY THE AUTHORITY

210. The present investigation is a sunset review of anti-subsidy duty on the imports of subject goods from China PR. Under the Rules, the Authority is required to determine whether cessation of existing duty is likely to lead to continuance or recurrence of subsidized imports and injury to the domestic industry.
211. There are no specific methodologies available to conduct such a likelihood analysis. However, clause 3 of Annexure-I of the CVD Rules provides, *inter alia*, factors which are relevant for threat of injury and the same factors may be used for likelihood analysis in a sunset review as well. These are non-exhaustive list of factors. Further, these factors are required to be considered and applied having regard to the requirements of a sunset review where the Authority is required to determine whether injury to the domestic industry is likely to continue or recur in the event of cessation of CVD. Further, since there were no CVD in place or not collected w.e.f. 1st February, 2021, the Authority has analysed imports of the product for the most recent period (i.e., April 2022 to December, 2022). The Authority notes that whereas consideration of post POI period may not have been appropriate in a review where ADD was in place in the POI and the post POI period, in a case where CVD was withdrawn or not collected for significant period after the post POI, it would be appropriate to consider the information for the said period. The non-exhaustive factors analysed by the authority to determine the likelihood of continuation of subsidised imports of subject goods from China are:
- i. Nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;
  - ii. a significant rate of increase of subsidized imports into the domestic market indicating the likelihood of substantially increased importation;
  - iii. sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidized exports to Indian market, taking into account the availability of other export markets to absorb any additional exports;
  - iv. whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and



v. inventories of the product being investigated.

212. In the absence of cooperation and information from the Government of China and the producers/exporters from China, the Authority has relied on the data/information submitted by the domestic industry and the information available with the Authority for conducting the likelihood analysis. The Authority notes that the applicants have relied on the CRU report which is claimed to be a globally accepted trade journal for information with respect to capacities, production, and demand of the subject goods both in the subject country and globally.

#### CONTINUED IMPORTS IN SUBSTANTIAL QUANTITIES

213. The volume of imports during the injury investigation period and the post POI is as follows:

| Particulars  | 2017-18  | 2018-19 | 2019-20 | POI(A)   | 2021-22 (A) | 2022-23(A) |
|--------------|----------|---------|---------|----------|-------------|------------|
| <b>China</b> | 1,77,630 | 93,928  | 92,441  | 1,75,048 | 3,04,634    | 5,08,961   |

214. It is seen that the volume of subsidized imports of the product under consideration from the subject country declined in absolute terms between 2017-18 and 2019-20. The imports have however been increasing since POI, the volume of which has significantly increased in post POI period.
215. The Authority further notes that even though volume of subsidized imports of product under consideration from China declined in 2018-19 and 2019-20, in the POI, they were comparable to the volume in the base-year level. The volume of the subsidized imports is significant despite the anti-subsidy duty in place during the initial years, during the POI and in the post-POI period the imports surged higher, however the duty was suspended during the POI period.
216. The Authority notes that during the POI, 85% of imports from China PR are from the 200 series, whereas the rest of the 15% of imports are from the 'other grades'. Further, the petitioners (JSL and JSHL) are mainly producing and selling products belonging to the 'other grades' segment, whereas the other Indian producers belonging to the MSME and patta sector do not manufacture significant quantities of 'other grades'. Majority of the goods produced by the petitioners are in the 'other grades' category, which were competing with only 15% of the imports from China PR. The petitioners were profitable during the POI, and were not suffering from injury. The effect of the imports from the 'other grades' are not significant on the Indian MSME producers since they are not manufacturing significant quantities of products belonging to the 'other grades' category. Due to the low volume of imports in the 'other grades' category, and due to the fact that the petitioners have been profitable during the POI when the duties were not in force, there appears to be insufficient likelihood of recurrence or continuation of injury in case the countervailing duty in respect of the 'other grades' of the product under consideration is revoked/withdrawn.
217. On the other hand, the other Indian producers that are in the MSME and patta sectors, primarily produce the 200 series and are in direct competition with 85% of imports from China PR. The Authority has noticed that the MSME and patta sector producers, have been the most vulnerable to the adverse impacts of the imports from China PR since during the POI over 92% of the products manufactured by these MSME producers are in the 200 series. These MSME producers are therefore in direct competition with 85% of Chinese subsidized imports. The injury parameters examined above clearly demonstrates that the MSME producers are disproportionately affected by the imports from China PR post the suspension of the duty. The consequences of the suspension of the CVD are evidently visible from the clear deterioration in the performance of the Indian the MSME producers only. The Indian MSME producers were very prosperous when the duty was in force, but have suffered significant losses during the POI when the duty was suspended and eventually withdrawn. Hence the profitability parameters of these other Indian producers have significantly declined during the POI. It is therefore noticed that there exists a strong likelihood of recurrence and continuation of injury in case the duty in respect of the 200 series of the product under consideration is revoked/withdrawn.

#### SURPLUS CAPACITY IN CHINA

218. It is noted that neither the producer/exporter from China PR nor the Government of China has participated in the subject sunset review investigation. Therefore, no information is available with the Authority based on questionnaire response of producers/exporters from China PR or the Government of China. As per information made available by the applicants i.e., from the CRU Report (November 2022) it is noted that the capacities available with the producers in China are way more than their domestic demand.

| China            |        |        |        |        |        |        |
|------------------|--------|--------|--------|--------|--------|--------|
| (Quantity in kt) | 2017   | 2018   | 2019   | 2020   | 2021   | 2022   |
| Capacity         | 29,000 | 30,470 | 30,750 | 31,300 | 31,000 | 40,940 |

|                                 |        |        |        |        |        |        |
|---------------------------------|--------|--------|--------|--------|--------|--------|
| Consumption                     | 16,064 | 17,305 | 19,619 | 20,412 | 21,325 | 20,779 |
| Capacity utilisation            | 55%    | 57%    | 64%    | 65%    | 69%    | 51%    |
| Global capacity                 | 53,704 | 56,426 | 58,019 | 60,192 | 60,784 | 70,586 |
| China's share in world capacity | 54%    | 54%    | 53%    | 52%    | 51%    | 58%    |

219. It is seen that the Chinese producers hold mammoth capacity far beyond their own domestic demand and current exports, leading to significant under-utilisation of production capacities. Additionally, no elements have been brought on record by any interested party that could indicate that the Chinese domestic demand or other third country markets could absorb the available surplus capacity.

220. The Authority further notes despite significantly underutilised capacities, the Chinese producers have been adding capacities, practically every year. None of the interested parties have brought any evidence that these capacity additions were made to fill in some gap in some market segments, despite existing overall surpluses. It was seen during plant visit of the petitioners that capacities are fungible and hence, can be utilised to produce different product types within the PUC. However, there is no such verifiable claim made by any interested party. Further, the evidence provided by the applicants shows plans of Chinese producers to further expand capacities with significant investments.

#### **A.1.1 Historical analysis of market share and imports**

221. The Authority notes that the historical analysis of market share and imports from the subject country into India shows that imports from China have been significant throughout. The imports fell for a short period of time during the imposition of duty in the years 2018-19 and 2019-20 but have increased significantly in the POI and post-POI period and have remained significant throughout. Similar is the case with market share. In the base year, the market share of imports of the PUC from subject country was very high, it decreased for two years, but remained significant. In the POI the market share has caught up to the level of base year and stood at 6.94%. However, the market share of imports of 200 series declined from the base year till 2019-20 but increased to 11% during the POI.

222. The Authority also notes the argument of the domestic industry and finds that whereas China was a net importer of the product during the periods 2002-2009, the China became a significant volume exporter of the product from about 2010. The China has exported about 5,15,843 MT of stainless-steel flat rolled product in 2022.

#### **PERSISTENT PRESENCE OF EXPORTERS IN THE MARKET AND VULNERABILITY OF THE DOMESTIC INDUSTRY**

223. The Authority notes that the Indian market even after the imposition of the anti-subsidy duty has witnessed the consistent presence of imports from the subject country. The Authority notes that Indian Industry has sufficient capacity to meet the Indian demand. The installed capacities with the MSME sector alone is 15,00,000 MT in these grades, as against gross Chinese imports of 3,81,720 MT in most recent period of Apr-December, 2022.

#### **SWITCHING OF IMPORT SOURCES AND PRODUCT PROFILE**

224. The Authority notes that, from the analysis of previous investigations on stainless steel flat products, Chinese imports have almost consistently increased in the Indian market since 2009. Additionally, it is seen that the pattern of imports kept shifting from one product form to another form, depending on the products that were subject to anti-dumping measures.

#### **Trade Measures imposed by other countries**

225. As per the information on record, there have been a number of trade remedial measures imposed and in-force against Chinese exports by a number of countries, including India. Table below shows various measures invoked by various investigating authorities globally.

| Country  | Investigated Country | Unit    | Range of duty   | Date of original imposition |
|----------|----------------------|---------|-----------------|-----------------------------|
| Brazil   | China                | US\$/MT | 175.62 - 629.44 | 04.10.2013                  |
| EU       | China                | %       | 24.4 - 25.30    | 27.08.2015                  |
| Malaysia | China                | %       | 2.68 - 23.95    | 08.02.2018                  |
| Mexico   | China                | %       | 63.00%          | 02.10.2020                  |

|             |       |   |                                     |            |
|-------------|-------|---|-------------------------------------|------------|
| South Korea | China | % | 23.69 - 25.82                       | 15.09.2021 |
| Taiwan      | China | % | 38.11-38.11                         | 15.08.2013 |
| Thailand    | China | % | 8.5 - 33.32                         | 10.12.2013 |
| USA         | China | % | 63.86 - 76.64 (ADD)<br>75.60-190.71 | 03.04.2017 |
| Vietnam     | China | % | 17.94 - 31.85                       | 04.10.2014 |

226. The Authority notes that the level of trade distortion in stainless steel globally is reflected from the number of trade remedial measures imposed or ongoing. Countries like China, EU, Japan, Korea and USA are the major consumers of the PUC, these countries have stagnant demand & excess production and surplus capacity which leaves very little space for absorbing additional volumes.

227. The US has imposed various trade protection measures like Section 232 tariffs, as a result of which, access to these markets is automatically blocked. The EU has imposed definitive safeguard measures, which impose country-specific quotas. China itself has imposed anti-dumping duties on imports of stainless-steel slabs and hot-rolled stainless steel from the EU, Japan, South Korea and Indonesia. It is seen that China has a historical and persistent practice of dumping and exporting subsidised subject goods in other countries as well.

### Third country injurious exports

228. The Authority has examined third country injurious exports by comparing landed price of the subject goods (to third countries) with the NIP of the domestic industry Information with respect to the third country injurious exports is given below:

|   |       |           |
|---|-------|-----------|
| Export to third countries at injurious price      | MT    | 14,08,406 |
| Total exports to third countries                  | MT    | 32,69,701 |
| Exports to other countries at injurious price     | %     | 42%       |
|   | Range | 40-50%    |
| Exports at injurious prices as % of Indian demand | %     | 55%       |
|   | Range | 50-60%    |

229. It is seen that a significant share of exports to third countries are at injurious prices. The volume of exports from the subject country to third countries at injurious price and is almost 56% of Indian demand.

### PRICE ATTRACTIVENESS OF THE INDIAN MARKET

230. Information with respect to price attractiveness is given below:

|   |       |           |
|---|-------|-----------|
| Export to other countries below price to India                        | MT    | 20,42,536 |
| Total exports to third countries                                      | MT    | 32,69,701 |
| Exports to other countries below price to India                       | %     | 62%       |
|   | Range | 60-70%    |
| Exports to other countries below price to India as % of Indian demand | %     | 82%       |
| Range   | %     | 80-90%    |

231. It is seen that volume of exports from subject country to third countries at prices below their export price to India.

### U. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

#### I. VIEWS OF OTHER INTERESTED PARTIES

232. It has been claimed by the other interested parties that imposition of countervailing duty, if any, on the subject

goods would not be in public interest for the following reasons:

- i. PUC forms such high percentage of the total cost of raw material costs of the users that any addition to the cost of the PUC will have a direct adverse impact on the user industry.
- ii. The importer-traders and end-users will not be able to absorb the increased price hike and will be forced to pass the increase in costs due to continuation of countervailing duty to the end-consumer.
- iii. The domestic consumers would rather prefer to import the finished products (such as kitchen sinks) directly from China PR or any other country. This would lead to shutting down of the user industry of the subject goods in India, which would prove detrimental to the Indian economy and the domestic market.
- iv. The applicants have not been able to meet the demand for the PUC in India; as a result, the user industry is constrained to import the PUC from China.
- v. Supporting producers produce "Patta" Steel. However, steel coils are much better source to make utensils than the flat or "Patta" steel.
- vi. There is a higher demand of steel coil and since the domestic producers cannot cater to this demand, the same is catered to by the imports from China.

## II. VIEWS OF DOMESTIC INDUSTRY

233. Following submissions have been made by the domestic industry with regard to public interest:

- i. Continuation of the duty would be in the interest of the downstream industries, consumers as well as the public at large.
- ii. The effect of countervailing duty should be examined from perspective of different stakeholders.
- iii. Imports of the subject goods imported into India are rapidly increasing and gaining significant share of the market. Further, they are made at subsidised prices that is even below the cost of sales of the domestic industry.
- iv. The purpose of continuation of countervailing duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices and restore fair competition in the Indian market.
- v. Competitive domestic industry is in favour of consumers. Supplying the product to consumers in competition with fair priced imports.
- vi. If consumers become import reliant, they will be forced to keep higher degree of inventory. However, in case of procurement from the domestic industry, the consumers have the option of maintaining lower inventory levels.
- vii. It is in the interest of the public at large to have a strong, competitive domestic production of the product.
- viii. Encouraging domestic manufacturing activities is essential to make India the manufacturing powerhouse.
- ix. Encouraging domestic production will boost employment and increase the GDP of the country.
- x. With no demand-supply gap and no reliance on the imports, the Indian Steel industry is a totally Atmanirbhar Industry.
- xi. Indian Industry has surplus capacities. Further, they are capable to produce all the grades and qualities that are being imported from China.
- xii. If the imports from the subject country are to cease as a result of the proposed duty, it would not lead to the applicants monopolising the Indian market since the applicants already face competition from other Indian producers
- xiii. Majority of the producers of like article in India belong to MSME sector and thus we need to protect MSME. Also, there are several other producers in the Indian market in the MSME sector that may be unable to put forward such resistance.
- xiv. Stainless steel uses in Infrastructure industry are just 12% as compared to 62% in carbon steel industry. Table below shows consumption profile of the product

| Particular                 | Steel | Stainless |
|----------------------------|-------|-----------|
| Construction & Infra       | 62%   | 12%       |
| Auto, Railways & Transport | 12%   | 13%       |

|                        |      |      |
|------------------------|------|------|
| Capital Goods/ Process | 15%  | 30%  |
| Durables/ Household    | 5%   | 44%  |
| Others                 | 6%   | 1%   |
|                        | 100% | 100% |

- xv. The eventual impact on the cost of the end products is insignificant. While immediate consumers pass on the cost increase/reduction to their consumers, and do not bear the cost increase, the impact on the eventual end product will not be unbearable.

| Segment                              | Range %   |
|--------------------------------------|-----------|
| Automobile, Railways, Transportation | 0.10-0.15 |
| Metro                                | 0.55-0.65 |
| Railways                             | 0.05-0.10 |
| Architecture, Building, Construction | 0.01-0.05 |
| Process Industry                     | 0.05-0.10 |
| Thermal Power                        | 0.05-0.10 |
| Nuclear Power                        | 0.01-0.05 |
| Petrochemical industry               | 0.01-0.05 |
| Fertilizer industry                  | 0.25-0.30 |
| Paper plant                          | 0.10-0.15 |
| Kitchenware                          | 0.60-0.70 |
| Domestic kitchen                     | 0.60-0.70 |
| Commercial kitchen                   | 0.80-0.90 |
| total impact of SS as whole          | 0.05-0.10 |

- xvi. The impact of duties, if the same is fully passed into product prices, is hardly in the range of 0.05%-0.10%, which is insignificant and inconsequential to the ultimate end-consumers.
- xvii. The manufacturing industry is a labour-intensive, capital intensive and provides large-scale employment.
- xviii. Significant investment is involved in the establishment of capacities by the domestic producers as a whole which is to the tune of 30,000 Crores. Thus, not protecting the interest of domestic producer would directly jeopardise the huge investments made and will lead to large scale unemployment.
- xix. The actual benefit of duties would be immeasurable in the present case, as about 500 MSME companies in the Patta segment and 80 companies in the melting segment, which employ more than 4 Lakh workmen, are directly impacted by the increasing Chinese imports.
- xx. The producers in the subject country will only operate with the objective of maximization of their revenue and have no stake and interest in long term development of the Indian market or consumers. In the event another market offers better prices, the producers in the subject country are bound to switch their sale targets. On the contrary, the Indian industry being established in the same national territory as the consumers, will keep the consumer's interest in mind.
- xxi. Indian market is not only self-sufficient but also has the potential to be a global supplier; thereby contributing towards the forex reserves of India.
- xxii. Countervailing duty is a redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India. It is not a protection to the industry, rather a tool to bring fair market competition in the country.

- xxiii. The objective of continuation of anti-subsidy duty is to establish a level playing field, by removing any trade distortion by the producers in the subject country and allowing the Indian industry an opportunity for fair competition.
- xxiv. The melting units in the MSME sector (induction furnace sector) sell goods to the patta industry which then rolls the product and sells goods to the utensil manufacturers. Since imports are coming in this sector, this segment is directly impacted. The information on capacity, production and sales have been provided by 60 companies from these sectors.
- xxv. The production with domestic producers increased till 2019-20 and considering the growth in production and sale, the industry also enhanced its capacity in POI. The production and sales, however, declined in the POI with increases in imports from the subject country.
- xxvi. In the present investigation as many as 78 consumers have communicated their support. Had there been an adverse impact of duties, the Authority would not have had such an overwhelming support from the consumers.
- xxvii. The benefit of duties is much larger for the stainless-steel industry in comparison to the possible “adverse impact” on the consumers.

### III. EXAMINATION BY AUTHORITY

- 234. The Authority issued initiation notification inviting views from all interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information with regard to present investigation, including any possible effects of anti-dumping duty on their operations. The Authority considered whether continued imposition of duty will have any adverse impact on the public interest. During the course of the investigation, steps were taken to examine whether continuation of anti-subsidy duties will be against public interest. For this, the Authority has considered information on record and interests of various parties, including applicant, importers, and users of the product.
- 235. The Authority notes that the purpose of anti-subsidy duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices 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. Extension of anti-subsidy measures would not restrict imports from the subject country/territory in any way, and, therefore, would not affect the availability of the product to the consumers.
- 236. It is recognized that the imposition of anti-subsidy duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-subsidy measure, particularly if the levy of the anti-subsidy duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, extension of anti-subsidy measure would remove the unfair advantages gained by subsidisation, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
- 237. It has been contended that anti-subsidy duty is a significant cost to the end users. The Authority notes that Suncity Sheets Pvt. Ltd., and Shah Foils Ltd. filed user questionnaire responses. Additionally, Honest Enterprise Pvt. Ltd. submitted Importer questionnaire response, and All India Stainless Steel Industries Association (AISSIA) made submissions as an association of importers and users of subject goods. The submissions made by the consumers during the course of the investigation have been taken into account. The Authority notes that these interested parties have not shown with verifiable information that the imposition of the anti-subsidy duties shall have significant adverse effect either on these consumers or the public at large. On the contrary, applicants have provided quantified information of the impact of duty on various products used in different sectors such as in automobile industry, railways, transportations, architecture, building, construction, process industry, utensils and kitchenware. It is seen that the impact of the duty is not significant. It is also seen that in construction and infrastructure, stainless steel has only 12% utilisation as opposed to carbon steel which has 62% usage. Further, in case of utensils and kitchenware, since stainless steel is highly durable and long-lasting, its impact becomes inconsequential on the ultimate end-consumer.
- 238. During the course of the investigation, it had been contended that there is a demand and supply gap which necessitates the imports. From the information on record, it was seen that there exists no demand and supply gap and the interested party were asked to provide the basis of the claim. It is therefore seen that there exists no demand and supply gap and the imposition of duty will not impact the availability of the products to the end users. Nonetheless, imposition of duties is not to block imports from entering the Indian market, rather address the unfair pricing of imports.
- 239. It is noted that the purpose of continuation of anti-subsidy duty is to protect the Indian industry from unfair and subsidised imports and thereby provide a level playing field for the domestic producers. Continuation of duty

will protect the interests of the producers, including those belonging to the MSME sector and consumers. As has been noted above, the Indian industry has a unique composition as besides the conventional producers of stainless steel, there also exists patta producers, re-rollers and induction furnace producers. The patta producers are over 500 in number and induction furnace over 60. Together these two types of producers provide employment to more than 4 lakh people.

240. It is recognized that a presence of healthy domestic industry is ultimately in the interest of the users. The recent experience in the Covid-19 period has also shown that the public at large is likely to suffer, if the products are not sufficiently available in the domestic market. There are several producers of the like article in India apart from the applicants. Hence, even if the imports from the subject country are to reduce as a result of the anti-subsidy duty, it would not lead to the applicants monopolising the Indian market, since the applicants already face significant competition from other Indian producers. It is seen that in the POI, the share of domestic industry is only 10.94% in these segment where the Chinese imports were predominantly present. Further, MSME sector was the dominant supplier in that segment. Addressing the injury being suffered by the Indian industry through the continuation of anti-subsidy duty would only make this competition even more vibrant.
241. The Authority also notes that the domestic producers as a whole have made investments to the tune of Rs. 30,000 crores to enhance capacity, enabling them to independently cater to Indian demand. It is in the interest of domestic producers to utilise this enhanced capacity. Continued imposition of duty on unfairly priced Chinese imports will enable utilisation of existing capacities and will reduce reliance on imports.

## V. POST DISCLOSURE COMMENTS

### I. Views of the Domestic Industry

242. Following post disclosure submissions have been made by the domestic industry:
- a. Induction furnace units and patta re rollers are entirely co-dependent as the entire production of induction furnace units goes for patta re rollers consumption.
  - b. Imports are largely coming under product types J3 and 201 grade which is the product type produced by patta re rollers and is directly impacting them. This in turn is largely impacting the utensil application steel and threatening the survival of the MSME units in induction furnace units and patta re rollers.
  - c. The petitioners request the Authority to consider the total MSME volume data which would show impact on volume parameters and also consider volume information provided for the 61 producers in the patta re roller segment to corroborate the impact of imports.
  - d. The Authority is required to assess whether the subsidy quantified is “measurable” or “not negligible” to have an impact.
  - e. Program No. 45 of original investigation was found countervailable but not quantified by the Authority, however, the petitioners quantified the same and submitted it as Program No. 14 in the present investigation. Program No. 14 and 19 are *de-facto* the same and the Authority could consider examination of either of these two programs as the benefit under these two would also remain the same.
  - f. Program No. 36 and 51 of the original investigation have been inadvertently compared with Program No. 20 in the previous submissions made. Program No. 36 in the original investigation is the same as Program No. 46 identified in the present investigation and needs to be seen as continuation of the program from the POI of the original investigation. Further, there is no claim from other interested parties on any changes to this program since the original investigation.
  - g. Submissions on injury and Indian industry in utensil segment was made and shared with all interested parties and the same was noted and rebutted by the interested parties. Hence, no new information/argument was made in the rejoinder submissions.
  - h. All information at the PCN level had been submitted in the application and PCN wise cost information was also provided in Format I. The Authority has also used the PCN wise sales and cost for price undercutting and NIP calculation respectively. Hence, it cannot be said that PCN wise profit information was not part of records.
  - i. Rejoinder submissions provide an opportunity to the interested parties to make relevant submission to rebut the submissions made by other parties and the same was utilized by the domestic industry to establish the adverse impact of increase in imports on its performance.
  - j. No prejudice is caused to the other interested parties on the non-circulation of NCV of rejoinder submissions and the same was justified by the DGTR before the courts. All facts to the extent considered relevant by the Authority are disclosed through the disclosure statement and the interested parties have an opportunity to comment on these claims made by the domestic industry.

- k. Imports from the subject country declined after the imposition of measures (and with increase in imports from Indonesia). Since the suspension of duties in February 2021 there was a significant surge in imports which doubled in the part of the POI where duties were non-existent compared to the other part. The increase in imports happened when there was a decline in demand and imports intensified further post POI.
- l. The plant in Indonesia Tsingshan, was set up with Chinese investment and imports from Indonesia is pseudo-Chinese investment as imports from China declined while imports from Indonesia increased significantly. With the imposition of provisional duties on Indonesia imports declined, however, it has started to increase once again.
- m. Malaysia and Vietnam have no melting capacities as per CRU data and hence, the product exported by them are produced from hot rolled product imported, re-rolled, and exported to India.
- n. UAE and Hong Kong do not have any melting or re-roller facilities and are merely trading countries. Imports from UAE and Hong Kong has intensified significantly, and these are indeed Chinese origin goods. Further, imports from China and Hong Kong combined have increased almost 4 times over the injury period.
- o. Imports of J3 and 201 constitutes almost 85% of total imports in the POI. The share of imports of utensil application products has increased over the injury period both in absolute and relative terms.
- p. Pattern of imports post POI show that the 200 series imports have further increased significantly and the absolute level of imports in 300 and 400 series increased significantly post POI and some of these imports are even more than the entire non-utensil sector imports.
- q. The MSME segment can be divided into induction furnace units and patta sector. The induction furnace industry has melting units are dependent on the sales to the patta sector which produces the direct input required for utensil manufacture. Imports pose a direct competition to the products produced by the patta industry. Consequently, Patta is unable to utilize its capacity which has affected its sourcing of goods from the induction furnace industry which are in turn getting injured. Hence, it is necessary to consider the performance of both segments to evaluate the impact of imports.
- r. Information provided by 19 MSME producers is representative of the information for the entire induction furnace industry. Of the total 80 induction furnace units, several units have shut down their plant as was claimed by the induction furnace associations. Further, some companies included in the data showed improvement while some showed deterioration and the claims of any selective approach taken to include the companies is baseless.
- s. Information on other induction furnace units who have not provided the data can be determined by considering the information for induction furnace producers as a whole and 19 companies. It can be seen that the performance of other induction furnace units in terms of production, sales, and capacity utilization have been far adverse compared to the 19 companies.
- t. Induction furnace producers sell only flat produced after melting stage, however, the imports entering the market is the further processed cold rolled product. Thus, imported cold rolled steel cannot be compared with hot rolled flat sold by induction furnace units without adding the processing cost of Rs. 28,000/MT.
- u. The petitioners have provided information in respect of all companies who came forward. There are practical difficulties faced by the MSME segment to provide information in the limited time that was available. There is no contrary evidence to demonstrate that performance of the companies which was not included is much different from the performance of the companies whose information is on record.
- v. In so far as market share is concerned, Chinese share increased after imposition of CVD on Indonesia and consequent decline in import volumes from Indonesia. Thus, the Indian industry was not able to fully benefit from the volumes earlier lost to Indonesia. Since the Indian industry had lost volumes to Indonesia because of subsidised imports from Indonesia, the industry was legitimately expecting to recover these volumes after imposition of CVD. However, the industry was not able to fully regain these volumes. Significant portion of the same has been taken away by subsidised imports from China.
- w. In so far as price parameters are concerned, (a) firstly, between volume and price injury, while both may exist, it is possible that only one exists, (b) the domestic industry decided to hold the price and improve its profitability in view of the past adverse effect. However, adverse effect of this was left on volumes. The industry had hoped to improve its profitability after imposition of CVD measures on Indonesia.
- x. Further, the Government of India had introduced QCO on a number of products falling under 300 and 400 series. Resultantly, the Indian industry was aware that Chinese producers would not be able to immediately start resorting to low priced exports.



- y. The petitioners have been adversely impacted in the utensil segment compared. The domestic sales of the petitioners in this segment very significantly declined over the injury period inflicting significant financial losses. Consequently, the petitioners reduced their domestic sales and consequent production in this segment due to significant imports in this segment.
- z. The injury to the industry in respect of utensil application products is reflected in the overall operation of the domestic and Indian industry. Chinese imports surged even when the demand for the product declined which affected the stakeholders performance in this period. The Indian industry was not able to gain the volumes released by Indonesia after duties were imposed on it and was faced with decline in sales more than the decline in demand because of increase in imports from China.
- aa. Imports increased in the POI compared to the preceding year affecting the performance of the petitioners which declined in terms of production, sales, capacity utilization, and inventories. The production declined even when capacities increased and hence, Jindal suffered volume injury during the period.
- bb. Market share of China increased after imposition of duties on Indonesia. The domestic industry maintained its prices to improve its profitability due to past adverse effects which had a critical impact on the volumes.
- cc. The present duties need to be extended as the applicants have not sought modification of the quantum and initiation of the present review was based on a duly documented application and hence, scope of review should be restricted to the grounds for review sought in the application.
- dd. Duties should not be modified in a sunset review according to the WTO ASCM and the Rules. The same quantum of duties needs to be extended even in situation where injury margin is negative and any variation in duty will be contrary to the Act, the Rules, and WTO Agreement. The practice of extending same quantum of duties is done by several WTO member countries such as EU, USA, China, Argentina etc.

**Views of association for domestic producers, namely, Stainless Steel Re-rolling Association, Delhi; Stainless Steel Induction Furnace Association, Gujarat; Kala Amb Stainless Steel Furnace Association; Delhi Stainless Steel Trade Association**

- a. The members who primarily are MSMEs situated in and around Delhi are adversely affected by the huge unfair imports of CR 200 series from China as it directly competes with the products used for utensil manufacture and have caused critical financial stress to the MSME units.
- b. Several units have already closed down and many more are on the verge of closure due to these unfair imports.
- c. MSMEs are the backbone of Indian economy and stainless-steel sector is an important contributor to the growth and development of India. The association members provide direct and indirect employment to almost 2 lakh individuals and is making significant tax contribution to the government.
- d. Revocation of CVD on Chinese stainless-steel producers led to low-priced imports into India which led to the decline in demand for domestically produced stainless steel particularly in the induction furnace and re-rolling industries. These imports have also led to reduction or negative margins as Indian producers are forced to reduce their prices as well, resulting in heavy losses.
- e. Since, the removal of CVD on China, imports of Chinese origin 201 grade has surged in India resulting in significant increase in the share of imported stainless steel in the Indian market. Consequently, these foreign payments made to China is increasing the trade deficit and decreasing the purchasing power of the common man.
- f. Around 15 units of induction furnace have closed down due to the losses they incurred since the revocation of CVD of China. The other units which survived are operating on 40 to 50% capacity only.
  - a. Surana Metacast (India) Pvt Ltd
  - b. Veer Ispat
  - c. Nami Steel Pvt Ltd
  - d. Able steel
  - e. Peacock Iron Steel India Pvt Ltd
  - f. Marica Alloys Pvt Ltd
  - g. Karambhumi Metal Industries Pvt Ltd
  - h. BD Industries

- i. Prema Alloys Pvt Ltd
  - j. Concept Steels
  - k. Gyscol Alloys Ltd
  - l. GS Iron and Steel Corporation
  - m. KPT Metal Pvt Ltd
  - n. Dharmik Industries
  - o. Laxmi Alloys & Casting
- g. Duties on China should be reinstated to achieve higher production and to curb trading of cheap Chinese imports.
  - h. Due to the high imports of 200 series from China at subsidized prices, many units have closed down leading to huge loss of employment of more than 1000 employees.
  - i. The low-priced imports from China has led to huge financial distress and the association members are struggling with their loan repayment to banks. The current huge financial losses and distress could lead to the entire industry being wiped out from India.
  - j. The association members are mostly MSMEs producing/trading stainless steel sheets which are used for utensil making and other household applications.
  - k. The members are adversely hit by huge rising subsidized imports of 200 series imports from China and as a result their sales are badly affected. The member companies cannot match the prices of the Chinese imports and are hence un-competitive in the domestic market.
  - l. Financial losses are being suffered by the members and some units have already closed down due to rising imports from China which has led to significant job losses.

## II. Views of the other Interested parties

243. Following post disclosure submissions have been made by the other interested parties:

- a. The time of only 5 working days given for submission of comments is inadequate. Interested party reserves right to file any additional comments on the disclosure statement. In *Nirma Ltd. v. UOI Gujarat High Court* said that a time of 6 days for submission of comments on disclosure statement was inadequate.
- b. Chinese government revoked export tax rebates on Iron and Steel products on 26th April 2021. The same may be removed from the calculations of subsidy margin provided in the final findings, if included.
- c. There is no material injury to the domestic industry. All economic parameters show positive improvement. Performance has been tremendous even though there has been high quantum of exports from China. In a case where Thai authorities determined injury in spite of positive movement in economic parameters, WTO panel held it would require a thorough and persuasive explanation as to whether and how such positive movements were outweighed by any other factors and indices which might be moving in a negative direction during the injury period.
- d. While imports have increased, the demand for the subject goods has been significant. Demand declined by only 3% in the POI, but it has been increasing through the injury period.
- e. Volume of imports in the POI are merely 7.74% of the Indian production. It is not even 8% of the total consumption in the POI. Quantum is not significant enough to cause injury.
- f. The Authority has recorded price undercutting data only for the POI and not for the previous years. In the absence of the same, comments cannot be made. The Authority is requested to share this data so that respondent may comment.
- g. While the landed price has decreased from 2019-20 to POI and the cost of sales have increased, the domestic industry has had the flexibility to increase their selling price by 14 Index points in the POI. Hence, no price suppression or depression has occurred due to the imports from China.
- h. From an interview response of the Joint MD, Jindal South West Steel it emerges that domestic steel producers have reduced their prices because of influx of imports from countries with whom India has FTAs and not because of imports from China.
- i. Data extracted at Para 172, records consolidated data for both PUC & NPUC. It is important to examine the performance parameters for the PUC separately. The Authority is requested to do a fresh analysis.
- j. Capacity through the injury period increased. Decline in production and sales is a miniscule and does not demonstrate any significant injury.

- k. Decline in volume of the PUC exported by domestic industry must be factored to account for the decline in production. Decline in domestic sales in the POI is also miniscule. In case of injury, it would've reduced significantly.
- l. Decline in capacity utilisation is due to increase in capacity in the last 2 years of the injury period. Newly added capacity takes some time to get utilized.
- m. Profitability, cash profits & ROI improved through the injury period and has further increased in the POI.
- n. Domestic Industry continues to hold around 80% of the total market in India. An increase of around 3% in the market share of imports from China is insignificant and insufficient to conclude any injury. Market share of the subject imports is not more than 10% in the post POI. With such a limited market share, the domestic industry cannot be said to face any injury upon cessation of CVD.
- o. Domestic industries' employment levels have been constant through the injury period, whereas productivity significantly increased in the POI(A).
- p. Performance of 19 MSME producers:
  - Capacity of MSME increased. Production quantity increased in the injury period, reduced during the POI due to decline in demand and still remains significantly higher than the base year.
  - Reduction in capacity utilisation is due to increase in the installed capacity.
  - Increase in productivity, salaries and wages and employees shows a healthy state of the MSMEs.
  - Inventories increased but is not a conclusive factor to determine injury.
  - Financial performance of the other domestic producers is because of factors other than imports. While their profits have decreased in the POI, the domestic industry's profits increased and were the highest in POI.
  - The applicants are the biggest players in the Indian market, have captured a significantly high percentage of the market and have been able to earn increasingly high profits. decline in other domestic producer's performance is attributable to the inter-se competition which the Authority has not deliberated the possibility of.
- q. Scope of enquiry in SSR is only limited to likelihood. The Authority did not have to analyse the causal link (Appellate Body in US — Anti-Dumping Measures on Oil Country Tubular Good referred to).
- r. Volume of subject imports and its increase is because of the high demand for the PUC in India, and even then, it is insignificant in comparison to the domestic producers' high market share.
- s. "Surplus capacity" is not just any capacity over and above the domestic demand, but idle capacities left over after meeting domestic and global demand. Mere existence of surplus capacities is not sufficient to establish likelihood and mere expansion of capacity would not demonstrate a threat. (Indian Spinners Association vs. DA)
- t. The Authority has done a historical analysis of the increasing trends of the imports from China but has not quantified the trends. Quantum of exports from China is not more than 10% of the market demand. Mere increase in quantum of imports would not lead to injury or likelihood.
- u. Since the market price of the PUC in India is much lesser than that of other countries, the Indian market is not attractive compared to that of other. Price of goods exported to India is much lesser than the price in rest of the world, there is no incentive for them to increase exports to India.
- v. Detailed submissions is made in written submissions, rejoinder and user industry questionnaire response by the respondent with regard to the cost impact on the user in case duty is imposed. PUC forms a majority share in the total cost incurred by users of the PUC.
- w. It is incorrect for the Authority to state that information submitted by the user industry is not verifiable. Respondent is willing to fully cooperate for verification. The Authority has not sought any clarification or further information or issued deficiency letter.
- x. The final end consumer is significant and must be taken into consideration while deciding to continue the duty. The PUC forms a high percentage of the total cost of raw material used by the users, any addition to the cost of the PUC will have a direct adverse impact on the user.
- y. End-users are lower and middle-income group households. Any increase in costs of sinks and utensils as a result of continued imposition of CVD would be severe and immediate.

- z. The Authority notes that domestic producers have made major investment to enhance capacity and it is in the interests of domestic producers to utilise this enhanced capacity. Protection not protectionism is the purpose of trade remedial measures. Authority must discourage attempts of domestic industry to seek protection of its capital investments.

### III. Examination by the Authority

244. The Authority has examined the post disclosure submissions made by the domestic industry, and the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below:
- a. It has been claimed by the other interested parties that the domestic industry has not suffered injury and thus there is no likelihood of injury. The Authority notes in this regard that the performance of induction furnace MSME producers shows significantly low-capacity utilisation, decline in capacity utilisation in the POI, and industry is suffering from financial losses from a situation of profits earned earlier. The domestic industry produces and supplies much larger basket of products as compared to limited basket of MSME producers. Imports have also largely occurred in those categories of products where MSME is also selling. Therefore, comparison of overall performance of the domestic industry either with the MSME or with the imports would not be appropriate. The domestic industry provided segregated information with regard to the products comparable to MSME products and reported consistent financial losses and steep decline in domestic sales volumes. Further, it has been observed that the domestic industry has not suffered injury in those products where MSME is not at currently present and import volumes were low. Analysis of imports during the injury period shows that imports have predominantly been in 200 series, and these increased both in absolute and relative terms. This trend continued in the post POI period.
  - b. The Authority notes that there are a large number of producers which are MSME and are operating exclusively in a particular segment of the product. These producers cannot produce and sell entire range of products because of nature of production facilities created. The analysis of information provided by the 19 MSME producers clearly shows that their capacity utilisation has remained low throughout the injury period. Their production and sales declined in the POI with increase in imports. The profitability was also low during the injury period and started incurring losses since 2019-20 as a result of imports and the losses intensified significantly thereafter in the POI with increase of imports from China.
  - c. The interested parties have contended that the performance of the domestic producers has not shown material decline in the POI as compared to preceding year. The Authority however considers that performance in POI should be considered and compared with the previous year, after due consideration to the facts that demand in POI declined, Central government had earlier imposed CVD on imports from Indonesia, imports from China are not uniformly spread through the product range of the product under consideration, the Central Government has invoked quality control order (QCO) on a large number of products falling within product under consideration (which products fall in 300 and 400 series category of products), 200 series products are out of the purview of QCO at present. Under these circumstances, domestic sales and consequently production and capacity utilisation of applicant domestic industry and participating MSME induction furnace producers have shown decline. The domestic industry and the induction furnace producers have reported significant financial losses in the POI in the product segment where imports are concentrated which falls under 200 series. The Authority notes that the domestic industry's performance has improved on overall basis even absorbing the losses in the segment where imports are concentrated. Thus, domestic industry is not adversely impacted in respect of 300 and 400 series products. The applicant domestic industry submitted that import volumes remained low in 300 and 400 series products and have started showing increase after the POI as more and more Chinese producers are being subjected to QCO. While appreciating that the volume and price effect of imports might have remained contained in the POI due to QCO, the Authority considers that the same does not justify extension of CVD on 300 and 400 series products. As regards increase in imports in post POI period, the Authority considers that information cannot be selectively considered only in respect of imports and there is no information available with regard to effect of these increase in imports of 300 and 400 series products in post POI. The Authority therefore considers that no justification is established for extension of CVD in so far as 300 and 400 series products are concerned.
  - d. The Authority examined whether the information provided for induction furnace producers is selective and is not representative of MSME sector. It is seen that the information provided represents about 38% of production by induction furnace producers. Analysis of data provided by MSME producers also does not show a possibility of selective presentation of data. Indeed, some companies have shown decline, while

some have some improvement. The average performance has shown decline. The Authority thus concludes that the MSME information on record is representative of the performance of this sector.

- e. As regards the argument that it is the *inter se* competition that led to decline in their performance, the Authority notes that conditions of competition *inter-se* domestic producers has not undergone any change over the period. If the demand for the product has declined, imports of the subject products would not have increased, had the domestic product been available at lower prices. Since the product is imported in cold rolled form, if the landed price of the subject products is compared with the selling price of the MSME induction furnace industry, after appropriate adjustments for the processing involved upto cold rolled stage, the MSME producers have contended that in fact that the product is imported at a price materially below the cost of production in India. Further, whereas demand declined, subject imports increased. Thus, it is the import which were causing price depression in the market. The Association of induction furnace sector have submitted a list of producers who have shut down their production in the recent period as production has become unviable because of presence of low-priced product.
- f. As regards the argument that increase in imports in the post POI is only around 10% of demand and cannot be treated as significant enough to cause injury, it is noted that the imports from China has shown significant surge in the POI, Chinese imports increased both in absolute and relative term in the POI when the demand had infact declined. Further this admitted increase of market share to 10% in post POI cannot be considered insignificant, particularly when majority of this is restricted to 200 series products. The imports have increased to 3,43,893 (annualised) MT in April-September, 2022, and 4,42,058 MT (annualised) in October-December, 2022 thus showing continuous increase. Further, considering the demand of the products in 200 series category during the POI, and nearly four times increase in imports in April-December, 2022 period, these imports are now holding more than 30% of the demand in this segment. This is a significant increase in imports after suspension of duties and cannot be termed as immaterial.
- g. The interested parties have submitted that no conclusion as to existence of likelihood can be reached merely on grounds of surplus capacities. In this regard, it is noted that the Authority has analysed the existence of likelihood parameters as laid down in para vii of Annexure – II to the Rules. Accordingly, the Authority has analysed present and historical volume of imports, export orientation of the producers, the volume and value of exports to third countries to examine the injurious, price attractive volume, trade remedial measures imposed on China by various countries globally. The interested parties have not provided any evidence that the Chinese producers have dedicated part of their capacities to some global markets and these are now not available for export to India. The interested parties have contended that the export price from China to other destinations is rather higher than India. However, facts on record have shown that the imports into India have increased by almost 4 times in the most recent period, i.e., April 22- Dec 22. If the Chinese producers did not have unutilised capacities or their export price to other countries were materially higher than India, exports to India would not have shown this quantum increase. The determination of existence of likelihood has been reached after analysing the above stated factors.
- h. As regards the argument that Chinese Government revoked export tax rebates on Iron and Steel products on 26<sup>th</sup> April 2021, the Authority notes that it has not countervailed or quantified schemes on export tax rebates.

## W. CONCLUSION & RECOMMENDATIONS

245. After examining the submissions made by the interested parties and issues raised therein, and considering the facts available on record, the Authority concludes that:
  - a. The product under consideration in the present investigation is flat rolled products of stainless steel, which comprises mainly of 200, 300 and 400 series products. While the applicants and Chinese producers can interchangeably produce different products falling within product under consideration using the common facilities, the MSME producers are restricted only to 200 series products. The eventual end consumers require a specific type of steel and cannot interchange it with some other product. Thus, the inter-se substitutability of the products falling within the scope of the product under consideration is limited only from producers point of view, and is absent from end consumers point of view.
  - b. The petitioners constitutes domestic industry and the application satisfied the criteria of standing in terms of Rule 6 (3) of the Rules.
  - c. The product supplied by the Indian industry is like article to the product under consideration imported from the subject country.
  - d. Even though the Central Government had first suspended and then removed CVD on imports from China, the behaviour of Chinese imports is not uniform throughout the product range of the product under

consideration. The Indian industry has admitted that imports of the product under consideration have increased largely in 200 category. It is however seen that the imports of 300 and 400 series have shown some increase in the post POI.

- e. Information of the 19 producers from the MSME segment has also been examined to assess the impact of imports from the subject country as the imports were largely concentrated in the segment where these producers operate.
- f. Both Government of China and Chinese producers have preferred non-cooperation in the present investigations, and the present determination is based on facts on record.
- g. The Chinese producers continue to benefit from countervailable subsidies. Neither the Chinese producers nor the Chinese Government gave any evidence of possible reduction in CVD margins. The domestic industry gave evidence of subsidies in the land program where the Authority did not quantify benefit in the original investigation.
- h. Imports from China increased in the POI and increased significantly thereafter in post POI, after suspension of duties.
- i. MSME producers are primarily engaged in producing and selling 200 series product. Their performance remained adverse during the injury period and deteriorated in the POI. This sector is having low-capacity utilisation throughout the injury period and has shown deterioration in the POI in respect of production, sales, market share, profits and ROI. The MSME producers have suffered significant financial losses in the POI.
- j. The Chinese imports are undercutting the domestic prices. The extent of price undercutting is significant and material whether determined considering domestic industry prices or MSME sector prices (after due adjustments for processing from hot rolled flat to cold rolled plate).
- k. The demand for the product under consideration declined in the POI as compared to the preceding year. However, whereas the demand declined and all other suppliers to the market lost sales, the Chinese imports increased in this period.
- l. The domestic industry's performance declined in respect of production, capacity utilisation and sales in the POI. However, the market share of the domestic industry increased in the POI, as the market share of Indonesian imports declined. Performance of the domestic industry however improved in respect of profits, cash profits and return on investment in respect of all products barring product falling under 200 series.
- m. Performance of the domestic industry in the segment where MSME and Chinese imports were concentrated has been adverse. The sales have declined very significantly throughout the injury period and in post POI, and the domestic industry is incurring significant financial losses in this segment.
- n. There exists a likelihood of continuation of subsidisation in the event of non-continuation of countervailing duty in light of the surplus capacities maintained by the Chinese producers, high export orientation of the Chinese producers, trade remedial measures imposed by other countries (leading to such market getting restricted), third country dumped and injurious exports, attractiveness of the Indian market, increase in imports in the post POI period and the export orientation of the Chinese producers. While industry is already suffering injury in respect of 200 series products, and injury to the domestic industry is likely to intensify in the event of non-continuation of CVD in view of these factors, there is no evidence that the Indian industry suffered injury as a result of suspension and thereafter withdrawal of CVD in so far as 300 and 400 series products are concerned. The Authority therefore concludes that whereas suspension and thereafter withdrawal of CVD led to injury to the Indian industry in respect of 200 series products, it did not lead to injury to the Indian industry in respect of 300 and 400 series products. Nor there is sufficient evidence that injury to the Indian industry is likely in respect of 300 and 400 series products.
- o. Despite providing all formats for users/ importers to quantify the impact of CVD and elaborate on how extension of CVD will adversely impact them, the interested parties have not established possible adverse impact of CVD on the user industry with verifiable information. The domestic industry has however provided information and evidence to substantiate that there was no adverse impact of the ADD and CVD imposed in the past, imports of downstream products remained contained (barring pipes & tubes, where the Government has invoked CVD and the same has restricted Chinese imports), and user industry has remained viable irrespective of prevailing prices of the product for the reason that either they pass on the price increase to their consumers (for instance, pipes & tubes, utensils), or, the impact of the product in downstream product selling price is minimal (for instance, railway metro coaches etc).

- p. There is healthy competition in the Indian market and continuation of the duties would not deprive the user industry of any requirements. There is no demand supply gap in the country. The Indian industry for the product are significantly underutilised and there are a large number of domestic producers.
- q. The impact of duties on the eventual end consumers is insignificant.
246. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide information on the aspects of likelihood of continuation/recurrence of subsidisation and injury.
247. Having concluded that there is likelihood of continuation/recurrence of subsidisation and injury if the existing countervailing duties are not continued, the Authority is of the view that continuation of duty is required on the imports of the PUC from the subject country.
248. Under the aforesaid circumstances, the Authority considers it appropriate to recommend continuation of the existing quantum of duties on the imports of the subject goods from China which would address and mitigate the likelihood of injury from the subject country. However, the relief is required to be restricted only in respect of 200 series products falling under the product under consideration. The Authority, thus, considers it necessary to recommend the continuation of existing definitive countervailing duty imposed vide notification No. 01/2017 dated 07th September, 2017 on all product types falling under 200 series of stainless-steel flat products.
249. The Authority, thus, considers it appropriate and necessary to recommend continuation of definitive duty equal to the figure indicated in Col. 7 of the duty table below for a period of five (5) years on all imports of the subject goods from the subject country. The subsidy margin determined in the present review is 19.91%; however, the present investigation, being a sunset review, the Authority deems it appropriate to extend the existing duties as per the Original Investigation. Therefore, considering the facts and circumstances of the case, as established hereinabove, countervailing duty equal to the amount indicated in Col 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all product types falling under 200 series of stainless-steel flat products for a further period of five (5) years.

Duty Table

| Sl. No. | Heading/<br>subheading | Description of<br>goods   | Country of<br>origin | Country of<br>export | Producer | Duty amount as %<br>of landed value |
|---------|------------------------|---|----------------------|----------------------|----------|-------------------------------------|
| (1)     | (2)                    | (3)   | (4)                  | (5)                  | (6)      | (7)                                 |
| 1.      | 7219 ,7220             | Flat-rolled<br>products of<br>stainless steel- 200<br>series (note below) | China PR             | China PR             | Any      | 18.95%                              |
| 2.      | -do                    | -do-  | China<br>PR          | Any<br>Country       | Any      | 18.95%                              |
| 3.      | -do                    | -do-  | Any<br>Country       | China<br>PR          | Any      | 18.95%                              |

*Note:*

1. *The product under consideration is defined as*

*Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates, sheets, or in coil form or in any shape, of any width, of thickness 1.2mm to 10.5mm in case of hot rolled coils; 3mm to 105 mm in case of hot rolled plates & sheets; and up to 6.75 mm in case of cold rolled flat products. Product scope specifically excludes razor blade grade steel."*

2. *The duty is recommended only on imports of products belonging to the 200 series.*

**X. FURTHER PROCEDURE**

250. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

ANANT SWARUP, Designated Authority

## ANNEXURE - 1

## LIST OF EXPORTERS

| Exporter Name                                  | Exporter Name                                    |
|--|--|
| Elite Optels (H.K.) Limited                    | Nantong Jindi Fastener Co. Ltd.                  |
| Foshan Chuangshengdian Importand Export Co Ltd | Ningbo Polairs Metal Products Co. Ltd            |
| Excelvantage Global Ltd                        | Ningbo Tierslia Imp & Exp Co Ltd                 |
| Five Star Intl Group Ltd                       | Ningbo Yinzhou Gaudhi Metal Products Co Ltd      |
| Metal China Industrial Co Ltd                  | Oak Steel Limited                                |
| Foshan Gog Stainless Steel Co Ltd              | Perfect Metal Fabrication Co. Limited            |
| Foshan Hinato Ceramics Co. Ltd                 | Shandong Mengyin Huarun Imp & Exp Co Ltd         |
| Foshan International Trade Co Ltd              | Shandong Mengyin Huarun Imp And Exp. Co. Ltd     |
| Foshan Realtme Import & Export Co. Ltd.        | Shenzhen Onetouch Business Service Ltd           |
| Foshan Shunhengli Import & Export Co Ltd       | Sinosteel Shenzhen Co.Ltd.                       |
| Foshan Teehoo Stainless Steel Co. Ltd          | Topbing International Industrial Limited         |
| Wuxi Baoya Metal Co Ltd                        | Wuxi Zhongzhixin Stainless Steel Co Ltd          |
| Foshan Yingfa Stainless Steel Co. Ltd          | Zhejiang Zhongda Yuantong Industrial Corporation |
| Guangzhou Eversunny Trading Co. Ltd            | Jieyang Baowei Stainless Steel Co Ltd            |
| Guizhou Zhongruixianghe Supply Chain Co. Ltd   | Jieyang De Bao Ming Stainless Steel Co Ltd       |
| Hongkong Winner Steel Co Ltd                   | Karl Steel International Company Limited         |
| Jiangsu New Qiuqing Stainless Steel Co. Ltd    | Xiamen Tancheng Import And Export Co Ltd         |

## ANNEXURE -2

## LIST OF IMPORTERS/USERS

| Importer Name                  | Importer Name                            |
|--------------------------------|--|
| Accurate Steel                 | Moonlight Tube Industries                |
| Amanat Steels Pvt. Ltd.        | Naman Steel                              |
| Aminox International           | National Peroxide Limited                |
| Ankur Export                   | Navgrah Fastners Pvt Ltd                 |
| Anupam Impex                   | Navgrah Fastners Pvt. Ltd.               |
| Montex Stainless And Alloys    | Navpad Steel Centre                      |
| Ashok Metal Corporation        | Navyug Metal                             |
| Ashwin Impex                   | Nenava Metal Corporation                 |
| B.V.S. Overseas                | Neptune Steel Impex                      |
| Balaji Impex                   | Ng Industries                            |
| Balaji Niryaat Private Limited | Nickel Impex Llp                         |
| Bhalaria Metal Craft Pvt Ltd   | Numax Steels                             |
| Bharat Exports                 | Ohsung Electronics India Private Lintied |
| Bhavyadeep Impex               | Om Gurudev Metal                         |



|  |   |
|--|---|
| Chanchal Metal & Tube                      | P.P. Impex (India)                          |
| Chirag Udyog                               | Pacific Metal Trading                       |
| Devdeep Steel Alloys                       | Param Industries                            |
| Dhanera Impex.                             | Paras Impex                                 |
| Dhanera Metal Supply Corporation           | Phoenix Foils Pvt. Ltd.                     |
| Minox Metal Private Limited                | Posco-India Pune Processing Center Pvt.Ltd. |
| Divine Overseas Private Limited            | Rajesh Steel                                |
| Flange Forge India                         | Rajguru Enterprises Pvt. Ltd                |
| Forte Impex Pvt. Ltd.                      | Ramani Steel                                |
| Godrej & Boyce Mfg. Co. Ltd.               | Randen Engineering Pvt.Ltd.                 |
| Goodluck Metal Corporation                 | Riddhi Siddhiimpex                          |
| Goodluck Steels                            | Welkin Infotech Private Limited             |
| H. K. Impex Pvt. Ltd.                      | S S Impex                                   |
| Him Enterprises                            | Saneet Steel                                |
| Hindustan Inox Limited Block               | Saraswati Steel India                       |
| Hindustan Syringes and Medical Devices Ltd | Seth Iron & Steel Pvt. Ltd                  |
| Home Zone Metals Private Limited           | Shah Foils Limited                          |
| Home Zone Stainless Private Limited        | Shakti Pumps India Limited                  |
| Horizon Chutes Pvt Ltd                     | Shree Ashapura Steel Centre                 |
| Hypro Engineers Pvt Ltd.                   | Shree Mahavir Steel Mart                    |
| Igp Engineers Private Limited              | Shree Ramdev Metal Mart                     |
| Inco Steel                                 | Shree Ramdev Steels Pvt.Ltd.                |
| Inox Stainless                             | Shree Swangiya Metal Industries             |
| J.Y. International Gala                    | Shree Tube Mfg.Co.Pvt.Ltd.                  |
| Jagdamba Cutlery Private Limited           | Shree Vallabh Metals                        |
| Jaiman Metalloys Llp                       | Shriram Handle                              |
| Jainex Steel & Metal                       | Siddhant Steel                              |
| Jay Laxmi Metal Corporation                | Siddhivinayak Steel                         |
| Jayna Steel India                          | Silver Steels                               |
| Jewel Impex Pvt Ltd                        | Stainox Alloys Pvt Ltd                      |
| Jfe Shoji Trade India Private Limited      | Steel International Mahavir Darshan         |
| Kamal Metal Corporation                    | Steel Line (India)                          |
| Kesho Ram Industries                       | Steel Yard Overseas                         |
| Keyur Kitchenware                          | Stride Industries Llp                       |
| Kitchen Essentials                         | Suchi Fasteners Pvt Ltd                     |
| Kraftwares (India) Private Limited         | Suman Metal                                 |
| Kunal Housewares Pvt. Ltd.                 | Suncity Sheets Pvt Ltd                      |
| Larsen & Toubro Limited                    | Suncity Strips & Tubes Private Limited      |

|   |                              |
|---|------------------------------|
| Lubi Industries Llp.                        | Sunder Impex Pvt Ltd         |
| M. P. Steel Centre                          | Super Impex                  |
| Magppie International Ltd.                  | Swastik Industries           |
| Mahaveer Stainless Steel                    | Trident Steel                |
| Mars Housewares                             | Uttam Steel Alloys Pvt. Ltd. |
| Maruti Suzuki India Limited                 | Vishal Steels                |
| Maxim Tubes Company Pvt Ltd                 | Veena Steel Industries       |
| Mayfair International                       | Victoria Auto Pvt. Ltd       |
| Metal One Corporation India Private Limited | Vikram Metal [India]         |
| Milan Steel                                 |                              |

#### LIST OF USERS ASSOCIATION

| Name Of Associations                                | Name Of Associations                                 |
|---|--|
| Jagadhri Stainless Steel Re- Rollers Association    | The Rajasthan Stainless Steel Re-Rollers Association |
| Stainless Steel Rollers Association                 | Wazirpur Industrial Estate Welfare Society           |
| All India Stainless Steel Cold Rollers Associations | Association Of Indian Medical Equipment Device       |
| All India Stainless Steel Industry Association      | Metal And Stainless Steel Merchants Association      |
| Process Plant And Machinery Association Of India    | Delhi Stainless Steel Trade Association              |
| Steel Furnace Association Of India                  |  |

#### ANNEXURE -3

#### LIST OF INTERESTED PARTIES

##### Petitioners

1. Jindal Stainless Limited and
2. Jindal Stainless (Hisar) Limited

##### List of parties that supported the application

| S. No. | Name of the Party       | Nature of the Party |
|--------|-------------------------|---------------------|
| 1.     | Janki Metals            | Domestic producer   |
| 2.     | Shree Yug Ispat         | Domestic producer   |
| 3.     | Shyam Sundar Alloys     | Domestic producer   |
| 4.     | Vasco Ispat Pvt Limited | Domestic producer   |
| 5.     | N-Steel                 | Domestic producer   |
| 6.     | Maruti Inox             | Domestic producer   |
| 7.     | MI Alloys               | Domestic producer   |
| 8.     | SNB Metal               | Domestic producer   |

| S. No. | Name of the Party                   | Nature of the Party |
|--------|-------------------------------------|---------------------|
| 9.     | Shivpriya Ispat                     | Domestic producer   |
| 10.    | Western                             | Domestic producer   |
| 11.    | Hi-Ganesh                           | Domestic producer   |
| 12.    | Ambica Alloys                       | Domestic producer   |
| 13.    | Savitri Alloys                      | Domestic producer   |
| 14.    | Avdesh Steel Works                  | Domestic producer   |
| 15.    | Amba Industrial                     | Domestic producer   |
| 16.    | Jaiswal Metal                       | Domestic producer   |
| 17.    | Vashisht Alloys                     | Domestic producer   |
| 18.    | Bajrang Alloys                      | Domestic producer   |
| 19.    | Chandan Pani                        | Domestic producer   |
| 20.    | Shah Alloys Limited                 | Domestic producer   |
| 21.    | Frontier Strips Private Limited     | Producer            |
| 22.    | Snb Enterprises Pvt Ltd             | Producer            |
| 23.    | Mettech Steels                      | Producer            |
| 24.    | Quality Foil (India) Pvt. Ltd.      | Producer            |
| 25.    | Aligarh Tubes and Shutter Pvt. Ltd. | Producer            |
| 26.    | Star Stainless Industries           | Producer            |
| 27.    | Sri Ram Products                    | User Industry       |
| 28.    | JCM Stainless                       | User Industry       |
| 29.    | Bag Tubes                           | Producer            |
| 30.    | Suraj Steel Pipes                   | User Industry       |
| 31.    | Aditya Steels Industries            | User Industry       |
| 32.    | HR Inox                             | User Industry       |
| 33.    | Surana Metacast (India) Pvt. Ltd.   | Producer            |
| 34.    | Focus Tubes (India)                 | User Industry       |
| 35.    | Midas Touch Stainless               | Producer            |
| 36.    | Sunlight Steel Industries           | User Industry       |
| 37.    | M/S Ap Steel Industry               | User Industry       |
| 38.    | IUP Jindal Metals & Alloys Ltd.     | User Industry       |
| 39.    | Ombre Stainless                     | User Industry       |
| 40.    | Blue Star Industries                | User Industry       |
| 41.    | Bright Refractories                 | User Industry       |
| 42.    | Accurate Metals                     | Producer            |
| 43.    | Aditya Steels                       | User Industry       |
| 44.    | Aggarwal Sons                       | Producer            |

| S. No. | Name of the Party                                | Nature of the Party      |
|--------|--|--------------------------|
| 45.    | Amba Industrial Corporation                      | Producer                 |
| 46.    | Anmol Stainless Pvt. Ltd.                        | User Industry            |
| 47.    | Arihant Steel                                    | Producer                 |
| 48.    | Ashutosh Metal Pvt. Ltd.                         | Producer                 |
| 49.    | Avdesh Steel Works Pvt. Ltd.                     | Producer                 |
| 50.    | B.P.B India                                      | Producer                 |
| 51.    | Chandanpani Pvt. Ltd.                            | Producer                 |
| 52.    | City Steel Industries                            | User Industry            |
| 53.    | D.M. Metalloys Pvt. Ltd.                         | Producer                 |
| 54.    | G.R. Mills                                       | Producer                 |
| 55.    | Hans Raj Tubes Pvt. Ltd.                         | Producer                 |
| 56.    | Hisar Properties Pvt. Ltd.                       | Producer                 |
| 57.    | Jaiswal Metals Pvt. Ltd.                         | User Industry            |
| 58.    | Janki Metal Strips Pvt. Ltd.                     | Producer                 |
| 59.    | K.L. Stainless India                             | Producer                 |
| 60.    | Khemani Metal Industries Pvt. Ltd.               | Producer                 |
| 61.    | Maheshwari Stainless                             | User Industry            |
| 62.    | MetTech Steels                                   | Producer                 |
| 63.    | Nami Steel Pvt. Ltd.                             | Producer                 |
| 64.    | National Metals                                  | Producer                 |
| 65.    | National Steel Industries                        | Producer                 |
| 66.    | Navkar Metasteels Pvt. Ltd.                      | Producer                 |
| 67.    | Om Stainless India                               | Producer                 |
| 68.    | Panchami Pipes Pvt. Ltd.                         | User Industry            |
| 69.    | Pooja Steel                                      | Producer                 |
| 70.    | Pratik Metals Pvt. Ltd.                          | Producer                 |
| 71.    | Prem Paradise Alloys                             | Producer                 |
| 72.    | Prem Paradise Steel Pvt. Ltd.                    | Producer                 |
| 73.    | Radha Krishna S.S. Pipe Industries               | User Industry            |
| 74.    | Raj Metal Industries                             | Producer                 |
| 75.    | Rajasthan Stainless Steel Re-Rollers Association | Association of producers |
| 76.    | Ramdev Steel                                     | User Industry            |
| 77.    | Ramsons Stainless                                | Producer                 |
| 78.    | Reliable Steels                                  | Producer                 |
| 79.    | Rishi Steels & Tubes                             | Producer                 |
| 80.    | Roshan Metal Industries Pvt. Ltd.                | Producer                 |

| S. No. | Name of the Party  | Nature of the Party      |
|--------|--|--------------------------|
| 81.    | S.A. Steel (India)   | Producer                 |
| 82.    | S.S. Pipe Industries   | Producer                 |
| 83.    | Shinemax Roofing (India) Pvt. Ltd.                           | User Industry            |
| 84.    | Shiv Ganga Stainless   | Producer                 |
| 85.    | Shri Shankeshwar Metal and Warehouse Pvt. Ltd.               | Producer                 |
| 86.    | Sidhi Vinayak Industries                                     | Producer                 |
| 87.    | SNP Steels   | Producer                 |
| 88.    | Sri Varenyam Associates                                      | Producer                 |
| 89.    | Shrinathji Tube Industry                                     | Producer                 |
| 90.    | Stainless Steel Induction Furnace association (SIFA) Gujarat | Association of producers |
| 91.    | Stainless Steel Re Rolling Association                       | Association of producers |
| 92.    | Steel Authority of India Ltd (SAIL) – SALEM                  | Producer                 |
| 93.    | Sudama Stainless Steel Industries                            | User Industry            |
| 94.    | Sunrise Steel Industries                                     | User Industry            |
| 95.    | Suraj Steel Pipes  | User Industry            |
| 96.    | Surana Metals  | Producer                 |
| 97.    | TR OX Tubes and Pipes  | Producer                 |
| 98.    | True Metals  | Producer                 |
| 99.    | Uni - Impex  | Producer                 |
| 100.   | Vikas Stainless Pvt. Ltd.                                    | Producer                 |
| 101.   | Vinayak Industries   | Producer                 |
| 102.   | Vishnu Steels  | Producer                 |
| 103.   | Trinox Tubes and Pipes                                       | User Industry            |
| 104.   | All India Stainless Steel Cold Rollers Association           | Association of Producers |
| 105.   | Bhalaria Metal Craft Pvt. Ltd.                               | User Industry            |
| 106.   | Shri Laxmi Metal   | Producer                 |
| 107.   | Jagadhri Stainless Steel Re-Roller Association               | Association of producers |
| 108.   | Indian Stainless Steel Development Association               | Association of producers |
| 109.   | SNB Metals & Alloys  | Producer                 |
| 110.   | N. Steels Pvt. Ltd.  | Producer                 |
| 111.   | Vikram Industries  | Producer                 |
| 112.   | Mangaldeep Metal   | Producer                 |
| 113.   | Garden Kitchenware Pvt. Ltd.                                 | Producer                 |
| 114.   | Kad Udyog  | Producer                 |
| 115.   | Monika Steel   | Producer                 |
| 116.   | Kad Steel Rolling Mills                                      | Producer                 |

| S. No. | Name of the Party                            | Nature of the Party |
|--------|--|---------------------|
| 117.   | Smart Stainless Tubes Pvt. Ltd.              | User Industry       |
| 118.   | Wazirpur Industrial Estate Welfare Society   | Association         |
| 119.   | Delhi Stainless Steel Trade Association      | Association         |
| 120.   | Stainless Steel Rollers Association          | Association         |
| 121.   | Shri Kanha Stainless Pvt. Ltd.               | User Industry       |
| 122.   | Bengal Pipe Mfg. Co.                         | User Industry       |
| 123.   | Agraawal Steel and Pipe Depot LLP            | User Industry       |
| 124.   | Laxmi Steel                                  | User Industry       |
| 125.   | Khambhlay Tubes                              | User Industry       |
| 126.   | My Steel                                     | User Industry       |
| 127.   | Falcon Steels                                | User Industry       |
| 128.   | Puro Steel                                   | User Industry       |
| 129.   | JT Steel Tube Pvt. Ltd.                      | User Industry       |
| 130.   | R.G. Stainless Engineers Ltd                 | User Industry       |
| 131.   | Shrinathji Tube Industry                     | User Industry       |
| 132.   | Indicorp India Private Limited               | User Industry       |
| 133.   | Chirag Pipes industries                      | User Industry       |
| 134.   | Anmol Metal Industries                       | Producer            |
| 135.   | Anu Udyog                                    | User Industry       |
| 136.   | Abro   | User Industry       |
| 137.   | Dwarka Steel Industries Pvt. Ltd.            | User Industry       |
| 138.   | Gujarat Metal Industries                     | User Industry       |
| 139.   | Hem Rolling Mills Pvt. Ltd.                  | User Industry       |
| 140.   | Hindustan Rolling Mill                       | User Industry       |
| 141.   | Hisar Metal Industries Limited               | User Industry       |
| 142.   | Ishwar Metals Private Ltd.                   | User Industry       |
| 143.   | J. Premchand Industries                      | User Industry       |
| 144.   | Jahaan Steels Limited                        | User Industry       |
| 145.   | Kala Amb Stainless Steel Furnace Association | User Industry       |
| 146.   | M. A. Enterprises                            | User Industry       |
| 147.   | Maa Bhanbhoori Steel & Alloys                | Producer            |
| 148.   | Mahalaxmi Steels                             | User Industry       |
| 149.   | Manglam Steel                                | User Industry       |
| 150.   | Manidhari Industries                         | User Industry       |
| 151.   | Marvel Metal Industries                      | User Industry       |
| 152.   | Maya Udyog                                   | User Industry       |
| 153.   | Mehta Alloys Ltd.                            | User Industry       |

| S. No. | Name of the Party                 | Nature of the Party |
|--------|-----------------------------------|---------------------|
| 154.   | MMV Steel Industries              | User Industry       |
| 155.   | Monika Udyog                      | User Industry       |
| 156.   | Mukesh Udyog                      | User Industry       |
| 157.   | Shri Raju Enterprises             | User Industry       |
| 158.   | Rathod Industries                 | User Industry       |
| 159.   | Ratnadeep Industries              | User Industry       |
| 160.   | Rolmetal Industries               | User Industry       |
| 161.   | S.M. Industries                   | User Industry       |
| 162.   | Shree Devkinandan Metals Pvt. Ltd | User Industry       |
| 163.   | Sethi Metal Industries            | User Industry       |
| 164.   | Shayona Enterprise                | User Industry       |
| 165.   | Shri Bhumika Strips Pvt. Ltd.     | User Industry       |
| 166.   | Shree Nandkishor Metals Pvt. Ltd. | User Industry       |
| 167.   | S.M. Enterprise                   | User Industry       |
| 168.   | Sweta Industries                  | User Industry       |
| 169.   | Virat Alloys (P) Ltd.             | User Industry       |
| 170.   | Vanguard                          | User Industry       |

**List of interested parties that have opposed continued imposition of duties:**

1. Embassy of China
2. Shah Foils Ltd.
3. Honest Enterprise Pvt. Ltd.
4. Suncity Sheets Pvt. Ltd.
5. Avon Appliances Pvt. Ltd.
6. All India Stainless Steel Association