

F. No. 7/18/2020-DGTR
Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament street, New Delhi -110001

Date: 11th January, 2021

Case No- AD-SSR 08/2020

DISCLOSURE STATEMENT

Subject: Sunset Review investigation concerning imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250mm of non bonafide usage originating in or exported from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA-reg.

Madam/Sir,

1. In accordance with Rule 16 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended, I am directed by the Designated Authority to issue the Disclosure Statement disclosing the essential facts under consideration before the Designated Authority in the matter relating to sunset review investigation concerning anti-dumping duty levied on imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250mm of non bonafide usage originating in or exported from China PR, Korea PR, European Union, South Africa, Taiwan, Thailand and USA.
2. This Disclosure Statement comprises the following four Sections:

Section I: General Disclosure

Section II: Determination of Normal Value, Export Price and Dumping Margin

Section III: Assessment of Injury, Causal Link and Likelihood of continuation or recurrence of dumping and injury

**Section IV: Methodology for arriving at Non-Injurious Price
(Confidential copy for Domestic Industry only)**

3. The Sections cited above contain essential facts under consideration of the Designated Authority which would form the basis for the Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/argument/submission. Arguments raised/submissions made by the interested parties during the course of the

present investigation are reflected in this Disclosure Statement to the extent they are considered relevant to this investigation by the Designated Authority.

4. Notwithstanding the facts given in this Disclosure Statement (including facts given on a confidential basis), the Designated Authority would consider all replies given, on merits, in order to arrive at the final determination.
5. *** in this Disclosure Statement represents information furnished by the interested parties on confidential basis and so considered by the Designated Authority under the Rules.
6. Interested parties may offer their comments, if any, along with soft copy of the same to the email of the undersigned along with a copy marked to the email address ac11-dgtr@gov.in latest by **18th January, 2021 by 17.00 Hrs (IST)**. Interested parties are requested not to repeat their earlier submissions if already included and addressed in this Disclosure Statement.
7. Since anti-dumping investigations are time bound, the Designated Authority shall not entertain any request for extension of time.
8. This issues with the approval of the Designated Authority.

Satyan Sharda

Additional Director General of Foreign Trade,

Room No. 21

Email: adg15-dgtr@gov.in

Tel: +91-11-23408729

Enclosures: As above
To,
All Interested Parties

GENERAL DISCLOSURE

Subject: Sunset Review investigation concerning imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250mm of non bonafide usage originating in or exported from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA-reg.

7/18/2020-DGTR: Having regards to the Customs Tariff Act 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time thereof;

A. BACKGROUND OF THE CASE:

1. M/s Jindal Stainless Limited, M/s Jindal Stainless (Hisar) Limited and M/s Jindal Stainless Steelway Limited (hereinafter also referred to as the Applicants or the Domestic Industry) had filed an application before the Designated Authority (hereinafter also referred to as the Authority) on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the Rules or AD Rules), for initiation of Sunset Review of anti-dumping duty imposed on the imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non bonafide usage (hereinafter also referred as the subject goods or product under consideration or PUC) originating in or exported from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and the United States of America (USA) (hereinafter also referred to as the subject countries).

2. The Applicants have alleged likelihood of continuation or recurrence of dumping of the subject goods originating in or exported from the subject countries and consequent injury to the domestic industry and have requested for review and continuation of the anti-dumping duty imposed on the imports of the subject goods originating in or exported from the subject countries.

3. In terms of Section 9A (5) of the Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the same, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. In view of the duly substantiated application with prima facie evidence of likelihood of dumping and injury filed by the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated the Sunset Review Investigation vide Notification No. 7/18/2020-DGTR dated 30th September, 2020, published in the Gazette of India, Extraordinary, to review the need for continued imposition of anti-dumping duty in respect of the subject goods, originating in or exported from subject countries and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the Domestic Industry.

5. Earlier, anti dumping investigation was initiated by the Authority on the imports of Cold Rolled Flat Product of Stainless Steel of width 600 mm to 1250 mm originating in or exported from the subject countries vide Notification No. 14/06/2008-DGAD dated 25th November, 2008. Provisional duties were recommended vide Notification No. 14/6/2008-DGAD dated 27th March, 2009, which were imposed by the Ministry of Finance vide Notification dated 22nd April, 2009. Definitive anti-dumping duties were recommended by the Authority vide Notification No. 14/6/2008-DGAD dated 24th November, 2009 and the Ministry of Finance imposed the duties vide Notifications No. 14/2010-Customs dated 20th February, 2010.

6. A Mid Term Review investigation was conducted by the Authority and pursuant to its Final Findings dated 8th June 2011, a tolerance of +30 mm for mill edge and 4 mm for trim edge was specified for Cold Rolled Flat Product of Stainless Steel of width 600 mm to 1250 mm originating in or exported from the subject countries. These clarifications were accepted and notified by the Ministry of Finance vide Customs Notification No. 86/2011 dated 6.9.2011.

7. Later on, pursuant to the Sunset Review investigation conducted by the Authority on the imports of Cold Rolled Flat Product of Stainless Steel of width 600 mm to 1250 mm from the subject countries, antidumping duties were extended by the Ministry of Finance vide Custom Notification No. 61/2015 dated 11th December, 2015.

8. An anti-circumvention investigation was also conducted by the Authority on the imports of Cold Rolled Flat Product of Stainless Steel of width 600 mm to 1250 mm and the Authority recommended extension of anti-dumping duties on the imports of Cold Rolled Flat Products of width more than 1250 mm vide Notification No 14/1/2014-DGAD dated 18th August, 2017. The duty was levied by the Ministry of Finance vide Notification No. 52/2017-Customs (ADD) dated 24th October, 2017.

9. Further, since the anti dumping duties were imposed prospectively, the applicants approached the Customs, Excise and Services Tax Appellate Tribunal (CESTAT) and requested for imposition of the duty retrospectively. The CESTAT, vide Order No. 51204-51205/2019 dated 12th September, 2019 remanded back the matter only for the purpose of deciding whether the duty can be imposed retrospectively. The Authority vide Notification No. 14/01/2014-DGAD dated 28th December 2020, confirmed its final finding dated 18th August 2017 recommending application of AD duty on a prospective basis as stated in Para 111 of its final finding.

B. PROCEDURE FOLLOWED IN THE INVESTIGATION

10. The following procedure has been followed in this investigation:
- a. The Authority notified the Governments of the subject countries through their Embassies in India about the receipt of the anti-dumping application before proceeding to initiate the present investigation, in accordance with Rule 5(5) of the Rules.
 - b. The Authority vide Notification No. 7/18/2020-DGTR dated 30th September 2020, published in the Gazette of India, Extraordinary, initiating the anti-dumping investigation against the imports of the subject goods from the subject countries.
 - c. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by the Applicants) and industry associations and gave them opportunity to make their views known in writing in accordance with the Rules.
 - d. The Authority also forwarded a copy of the public notice to all the known importers/users/users organisations of the subject goods in India and advised them to make their views known in writing in accordance with the Rules.
 - e. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of the subject countries in India in accordance with Rules. A copy of the Application was also provided to other interested parties, wherever requested.
 - f. The Authority forwarded a copy of the public notice to all the known importers and user associations of the subject goods in India and advised them to make their views known in writing within the prescribed limit.
 - g. The Authority sent Questionnaire to elicit relevant information to the following known exporters of the subject goods in the subject countries in accordance with Rule 6(4) of the Rules:
 - I. M/s. Nantong Jindi Fastener Co. Ltd.
 - II. M/s. Dk Corporation.
 - III. M/s. Elite Optels (H.K.) Limited
 - IV. M/s. Evershining International (H.K) Ltd
 - V. M/s. Ningbo Yinzhou Gaudhi Metal Products Co Ltd
 - VI. M/s. Excelvantage Global Ltd
 - VII. M/s. Oak Steel Limited
 - VIII. M/s. Five Star Intl Group Ltd
 - IX. M/s. Foshan Chuangshengdian Import and Export Co Ltd
 - X. M/s. Posco Daewoo Corporation
 - XI. M/s. Foshan Shunhengli Import & Export Co Lt
 - XII. M/s. Samsung C And T Corporation

- XIII. M/s. Foshan Teehoo Stainless Steel Co. Ltd
- XIV. M/s. Shandong Mengyin Huarun Imp &Exp Co Ltd
- XV. M/s. Foshan Yingfa Stainless Steel Co.
- XVI. M/s. Shandong Mengyin Huarun Impand Exp. Co. Ltd
- XVII. M/s. Global Steel
- XVIII. M/s. Guangzhou Eversunny Trading Co. Ltd
- XIX. M/s. Topbing International Industrial Limited
- XX. M/s. Hongkong Winner Steel Co Ltd
- XXI. M/s. Walsin Lihwa Corp.
- XXII. M/s. Hyundai Corporation
- XXIII. M/s. Jieyang De Bao Ming Stainlesssteel Co Ltd.
- XXIV. M/s. Yc Inox Co Ltd
- XXV. M/s. Jin Metal Korea Co. Ltd.
- XXVI. M/s. Yieh United Steel Corporation
- XXVII. M/s. Jin Yang Metal Co. Ltd
- XXVIII. M/s. You Steel Co Ltd
- XXIX. M/s. Karl Steel International Company Limited
- XXX. M/s. Yuan Long Stainless-Steel Corp.
- XXXI. M/s. Zhejiang Zhongda Yuantong Industrial Corporation
- XXXII. M/s. Ahmsa - Altos Hornos De Mexico
- XXXIII. M/s. Tata Steel (Thailand) Public Co. Ltd.
- XXXIV. M/s. Thai Coated Steel Sheet Co.,Ltd.
- XXXV. M/s. Thyssenkrupp Acciai Speciali Terni S.P.A. V.Le B. Brin
- XXXVI. M/s. Arcelormittal Germany Holding Gmbh
- XXXVII. M/s. Outokumpu Steel Company
- XXXVIII. M/s. Germany - Acerinox Deutschland Gmbh
- XXXIX. M/s. Acerinox Europa Sau
- XL. M/s. Acerinox Sa, Italy
- XLI. M/s. Thyssenkrupp Nirosta Gmbh
- XLII. M/s. Outokumpu Stainless Ab,
- XLIII. M/s. A.K. Steel Corporation,
- XLIV. M/s. Allegheny Ludlum
- XLV. M/s. North American Stainless
- XLVI. M/s. J & L Specialty Steel, Inc
- XLVII. M/s. Yieh United Steel Corporation (YUSCO)
- XLVIII. M/s. Posco-Thainox Public Company Limited

h. In response to the Initiation Notification, the following exporters/producers from subject countries have responded:

- I. Hyundai Corporation, Korea RP
- II. POSCO Asia Company Limited, Hong Kong
- III. POSCO International, Korea RP
- IV. POSCO-Thainox Public Company Limited, Thailand
- V. Samsung C&T Corporation, Korea RP
- VI. Columbus Stainless (Pty) Ltd, South Africa
- VII. POSCO, Korea

i. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information, in accordance with Rule 6(4) of the Rules:

Sl. No.	Company Name	Sl. No.	Company Name
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1	Accurate Steel	2	Home Zone Stainless Private Limited
3	Moonlight Tube Industries	4	Shakti Pumps India Limited
5	Amanat Steels Pvt. Ltd	6	Horizon Chutes Pvt
7	Naman Steel	8	Shree Ashapura Steel Centre
9	Aminox International	10	Milan Steel
11	National Peroxide Limited	12	Shree Mahavir Steel
13	Ankur Exports	14	IGP Engineers Private Limited
15	Navgrah Fastners Pvt Ltd	16	Shree Ramdev Metal Mart
17	Anupam impex	18	Inco Steel
19	Vikram Metal [India]	20	Home Zone Metals Private Ltd.
21	Montex Stainless and Alloys LLP	22	Inox Stainless
23	Navpad Steel Centre	24	Shree Swangiya Metal Industries
25	Seth Iron & Steel Pvt. Ltd.	26	J.Y. International
27	Navyug Metal Corporation	28	Shree Tube Mfg.Co.Pvt.Ltd.
29	Ashwin Impex	30	Jagdamba Cutlery Private Limited
31	Metal One Corporation India Private Limited	32	Shree Vallabh Metals
33	B.V.S. Overseas	34	Jaiman Metalloys Llp
35	Neptune Steel Impex	36	Shriram Handles
37	Balaji Impex	38	Jainex Steel & Metal
39	NG Industries	40	Siddhant Steel
41	Balaji Niryaat Private Ltd.	42	Hindustan Syringes And Medical Devices Ltd
43	Nickel Impex LLP	44	Siddhivinayak Steel
45	Bhalaria Metal Craft Pvt Ltd	46	Jayna Steel India
47	Numax Steels	48	Silver Steels
49	Bharat Exports	50	Victoria Auto Pvt. Ltd
51	Ohsung Electronics India Private Limited	52	Stainox Alloys Pvt Ltd
53	Bhavyadeep Impex	54	JFE Shoji Trade India Private Limited
55	Om Gurudev Metals	56	Steel International Mahavir Darshan
57	Chanchal Metal & Tube	58	Kamal Metal Corporation
59	P.P. Impex (India)	60	Steel Line (India)
61	Chirag Udyog	62	Kesho Ram Industries
63	Pacific Metal Trading Co.	64	Steel Yard Overseas
65	Devdeep Steel Alloys	66	Keyur Kitchenware
67	Param Industries	68	Stride Industries LLP
69	Saraswati Steel India	70	Kitchen Essentials
71	Paras Impoexpo Pvt Ltd.	72	Suchi Fasteners Pvt Ltd
73	Dhanera Metal Supply Corporation	74	Kraftwares (India) Private Limited.

75	Mayfair International	76	Suman Metal
77	Minox Metal Private Limited	78	Kunal Housewares Pvt.Ltd.
79	Posco-India Pune Processing Center Pvt. Ltd	80	Suncity Sheets Pvt Ltd
81	Divine Overseas Private Limited	82	Larsen & Toubro Limited
83	Rajesh Steel	84	Suncity Strips & Tubes Private Limited
85	Flange Forge India	86	Lubi Industries Llp
87	Rajguru Enterprises Pvt. Ltd	88	Sunder Impex Pvt Ltd
89	Forte Impex Pvt. Ltd.	90	M. P. Steel Centre
91	Ramani Steel House	92	Super Impex
93	Godrej & Boyce Mfg. Co. Ltd.	94	Magppie International Ltd
95	Randen Engineering Pvt.Ltd.	96	Swastik Industries
97	Goodluck Metal Corporation	98	Mahaveer Stainless Steel
99	Riddhi Siddhi Impex	100	Trident Steel
101	Goodluck Steels	102	Mars Housewares
103	Welkin Infotech Private Limited	104	Uttam Steel Alloys Pvt Ltd
105	H. K. Impex Pvt. Ltd.	106	Maruti Suzuki India Limited
107	Hindustan Inox Limited	108	Vishal Steels
109	Veena Steel Industries	110	Maxim Tubes Company Pvt Ltd

- i. In response, the following importers have filed Questionnaire response in the present investigation:
 - i. POSCO India Processing Centre Private Limited
 - ii. POSCO India Pune Processing Centre Pvt. Ltd.
- j. The following exporter has filed only the legal submissions:
 - i. Acerinox Europa S.A., Spain (EU)
- k. The following importers/traders have filed only the legal submissions:
 - i. Shree Ramdev Metalex LLP, India
 - ii. Saraswati Steel (INDIA)
 - iii. Navnidhi Steel & Engineering Co. Pvt. Ltd.
- l. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all the interested parties. Whenever the interested parties requested inspection of the public file and copies of the documents therefrom, the same were provided to them.

- m. The Authority accepted the confidentiality claims, wherever warranted, after due examination and such information has been considered confidential by the Authority and not disclosed to other parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the confidential information, which was made available through public file.
- n. Further information was sought from the Applicants and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- o. PCNs in this investigation were approved through a Notification No. 7/18/2020-DGTR dated 11th November, 2020.
- p. Investigation has been conducted for the period from 1st April 2019 to 31st March 2020 (hereinafter referred to as the 'Period of Investigation' or 'POI') with injury analysis covering the period April 2016 – March 2017, April 2017 – March 2018, April 2018 – March 2019 and the POI.
- q. The Directorate General of Commercial Intelligence and Statistics (DGCI&S) was requested to provide details of imports of the subject goods for the past three years and the period of investigation, and the said information obtained from the DGCI&S has been adopted for the purpose of the present investigation.
- r. The Authority has examined the information furnished by the domestic industry to the extent possible on the basis of guidelines laid down in Annexure III of the Rules to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- s. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views in the oral hearing held on 14th December, 2020 which was attended by various interested parties. All the parties who presented their views in the oral hearing were requested to file written submissions reproducing their views, in order to enable the opposing interested parties to file rejoinders.
- t. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this Disclosure Statement.
- u. '***' in this Disclosure Statement represents the information furnished by an interested party on confidential basis and so considered by Authority under the Rules.
- v. The exchange rate for the POI taken by the Authority for the subject investigation is 1 US\$ = Rs. 71.65.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

C.1 Views of the Domestic industry

11. The following submissions have been made by the domestic industry with regard to the scope of product under consideration and like article:

i. The product under consideration in the present petition should be the product as is attracting anti-dumping duties at present. Therefore, the product under consideration in the present application is:

“Cold-rolled Flat products of stainless steel of width 600 mm to 1250 mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged) and of width above 1250 mm for non bonafide uses of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm, excluding the following:

a. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;

b. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).

c. Further, the product under consideration excludes the following:

- i. an importer who imports the subject goods for end use in the same form without slitting; or
- ii. slitted it into 2 or more subject goods, i.e., sizes above 1250 mm (for example a 2600 mm piece slitted into two 1300 mm size pieces)

Provided that the importer followed the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.”

ii. The PUC is classified under Chapter 72 of the Customs Tariff Act, 1975, under customs sub-headings 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90.

iii. The subject goods are used for manufacture of white goods, processed equipment, dairy equipment, automotive components, rail carts, metro coaches, architecture, building and construction, etc.

iv. The Authority, post initiation, had granted 15 days time to all the interested parties to make comment on the PCNs. PCNs were approved through a Notification No. 7/18/2020-DGTR dated 11th November, 2020. Any comment with regard to PCNs was to be filed within that

time frame. The Authority approved the PCN only after considering the comments of the other parties. This is not an appropriate time to comment on the PCNs and asking for modification on PCNs suggested by the Authority.

v. PCNs adopted in the present investigation are after considering the PCNs finalised in the parallel investigation wherein cold rolled products are also included and wherein PCNs were finalised after receiving comments from various interested parties including POSCO. Thus, there is no reason why such PCNs cannot be adopted in the present investigation. Apart from pricing, cost, technical parameters, etc. are taken into consideration while formulating a PCN. Pricing policy followed by on exporter alone cannot be a criterion to modify the PCNs.

C.2 Views of the other interested parties

12. The following submission have been made by the exporters/other interested parties with regard to the scope of product under consideration and the like article:

i. The Authority shall redefine the PUC as the products sold by JSSL in the domestic market should also be excluded from the definition and scope of PUC in the subject investigation.

ii. List of products excluded from the list of subject goods in the initiation notification due to the reason that those are not being manufactured by the domestic industry shall be excluded from the scope of subject goods in the final findings.

iii. DGTR should reclassify the range of thickness to the one accepted in the original investigation as the circular doesn't reflect POSCO's pricing policy adequately.

iv. The Authority in the initiation notification has excluded JSSL from the scope of the investigation. In such circumstances it would be essential to re-define the PUC as the products sold by JSSL in the domestic market should also be excluded from the definition and scope of PUC in the subject investigation.

v. Exclusion of PUC above 1650mm with given qualification, i.e., of bonafide usage as more than 16500 mm, creates difficulty for the importers, who are traders and not end users of the product, in importing the same.

vi. Range of thickness of the subject goods determines the selling price for export sales and domestic sales. However, the current notice regarding the range of thickness does not reflect POSCO's pricing policy appropriately. Inappropriate PCN structure has been notified.

C.3 Examination by the Authority

13. The product under consideration in the original investigation was as follows:

- a. Cold-rolled flat products of stainless steel of the width of 600 mm upto 1250 mm of all series further worked than Cold rolled (cold reduced) with a thickness of up to 4 mm.
- b. The subject goods will have the following exclusions from the scope of the product on grounds as explained above:

- Grade AISI 420 High carbon (0.28%-0.40%), Grade 420, Grade 430 BA supplied by M/s Thyssenkrupp Stainless International, Germany, Grade AISI 441 and Grade AISI 443.
 - Duplex Stainless Steel grades 2205 (S31803), 2304 (S32304), EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318 and 1.4833 and Ferritic Grades EN 1.4509 and 1.4512.
 - Product supplied under Indian Patent no. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco of Chinese Taipei (Taiwan))
14. In the mid term review investigation, the scope of the product under consideration was modified so as to include the following:
- a. Width tolerance of (+) 30mm shall apply to Mill Edged, cold-rolled flat products of stainless steel of specified width range of 1000 mm or more but not exceeding 1250 mm.
 - b. Width tolerance of (+) 4mm shall apply to Trim Edged cold rolled flat products of stainless steel of specified width range exceeding 1000 mm but not exceeding 1250mm.
15. The domestic industry approached the Punjab and Haryana High court requesting inclusion of certain types of products being produced and supplied by the domestic industry to be included within the scope of the product under consideration. The Hon'ble High Court passed an order dated 8th October, 2010 and the Designated Authority, in compliance with the order issued a Notification No. 18/11/2010-DGAD dated 5th December 2011.
16. The product scope, modified in the first sunset review investigation, was as follows:
- a. Cold-rolled Flat products of stainless steel of width of 600 mm upto 1250 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4 mm (width tolerance of +30 mm for Mill Edged and +4 mm for Trimmed Edged), excluding the following:
 - i. the subject goods of width beyond 1250 mm (plus tolerances);
 - ii. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;
 - iii. product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese- Copper

Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).

17. Further, the Authority conducted circumvention investigation. Resultantly, the anti dumping duty was extended to cold rolled flat products of stainless steel of width above 1250 mm except for bonafide use and the product scope was modified to include as follows:

- a. The subject goods include cold-rolled Flat products of stainless steel of width greater than 1250 mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged), excluding the following:
 - i. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;
 - ii. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).
- b. Further, the product under consideration excludes the following:
 - i. an importer who imports the subject goods for end use in the same form without slitting; or
 - ii. slitted it into 2 or more subject goods, i.e., sizes above 1250 mm.

Provided that the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

18. The product scope has been modified since the original investigation. Thus, the product scope for the present investigation is follows:

“Cold-rolled Flat products of stainless steel of width 600 mm to 1250 mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged) and of width above 1250 mm for non bonafide uses; of all series not further worked than Cold rolled (cold reduced); with a thickness of up to 4mm, excluding the following:

- a. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509;
- b. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).
- c. Further, the product under consideration excludes the following:
 - i. an importer who imports the subject goods for end use in the same form without slitting; or
 - ii. slitted it into 2 or more subject goods, i.e., of sizes above 1250 mm (for example a 2600 mm piece slitted into two 1300 mm size pieces)

Provided that the importer followed the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017”

19. The product under consideration is classified under the category “Base Metals and Articles of Base Metals” in Chapter 72 of the Customs Tariff Act, 1975 and further under 7219.31, 7219.32, 7219.33, 7219.34, 7219.35 and 7219.90 as per Customs Classification. However, Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Product Control Number (PCN) system

20. The Authority at the stage of initiation proposed PCN system and sought comments from the parties. The initiation notification stated as follows:

Product control numbers (PCN)

9. Applicants have proposed a product control number (PCN). In parallel anti-dumping investigation concerning imports of Flat Rolled Products of Stainless Steel initiated vide Notification 6/12/2019-DGTR dated 03.07.2019, the Authority has adopted a PCN Methodology based on certain factors viz. product type, grade of the product, form of the product, width of the product, thickness and finish of the product. The same has been considered by the Authority in the anti-subsidy being undertaken on the subject goods. The PCN methodology as published vide notification 6/12/2019-DGTR dated 14/08/2019 is proposed to be adopted in this investigation to the extent it concerns with the present product under consideration. Further, any comments with regard to the proposed PCN may be filed within 14 days from the date of initiation of this investigation.

21. After taking into consideration the views and comments of interested parties on the PCN methodology proposed in the Initiation Notification, the Authority adopted the following

PCN methodology and informed to the interested parties through communication No. 7/18/2020-DGTR dated 11th November, 2020:

S. No.	Description	PCN	Code
1	Product Type	Cold Rolled Cold Rolled Annealed & Pickled	2 4
2	Grade of the Product	201 202 216 301 304 304L 309 310/S 316 316/L 405 409 410 410/S 415 420 430 432 436 439 444 446 Duplex Any Other Special- Pl Specify	201 202 216 301 304 304L 309 310S 316 316L 405 409 410 410S 415 420 430 432 436 439 444 446 DUP ORS SPC
3	Form of the Product	Coil Plate/Sheet Strips Punched Coil Circles Other- Pl specify	1 2 3 4 7 8
4	Width of the product	Of a width 600 MM or more but upto 1250 MM Of a width more than 1250 MM (Non-bonafide Uses)	2 3
5	Thickness	Of a thickness of less than 0.5 MM Of a thickness of 0.5 MM and above but less than 1.00 MM Of a thickness of 1.00 MM and above but less than 3.00 MM Of a thickness of 3.00 MM and above upto 4.00 MM	9 10 11 12
6	Finish of the Product	No special finish Special finish- Pl specify finish in separate column	1 2

Note: The grades specified above at Row 2 are Indian Standards. Whenever a product has been exported adopting a specification other than the Indian Standard, the equivalent grade of Indian Standard should be specified.

For example, consider the following illustration:

1. A Cold Rolled Annealed & Pickled, 316L grade, strip of below 600 mm having a thickness of 0.8 with 2B finish shall be specified as 4316L31102. Further "2B" may be specified in a separate column
22. With regard to POSCO's contention to change the thickness parameters, it is noted that sufficient time was given to all the interested parties to file comments on PCN. The company has not established the need for modification to the PCN system earlier proposed. The Authority after examining the comments received by the parties notified the PCNs vide communication dated 11.11.2020.
23. On the basis of information on record, the Authority holds that there is no known difference in the subject goods produced by the Indian domestic industry and those imported from the subject countries. The two are comparable in terms of physical characteristics, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumer also uses the two interchangeably. The Authority, therefore, holds that product manufactured by the applicants constitutes "like article" to the subject goods being imported into India from the subject countries.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of the Domestic Industry

24. Following submissions have been made by the domestic industry with regard to scope and standing of the domestic industry:
 - a. The present application has been filed by M/s Jindal Stainless Limited, M/s Jindal Stainless (Hisar) Limited and M/s Jindal Stainless Steelway Ltd. The Applicant companies are neither related to an importer in India nor an exporter of the subject country. The Applicant companies have also not imported the product under consideration from the subject countries. The Applicant companies hold a major proportion of the total domestic production of subject goods in India. The Applicants, therefore, satisfy the requirement of standing and constitute domestic industry within the meaning of the Rules.
 - b. The production figures of other Indian producers are based on estimates. The applicants have analyzed imports and sales of the domestic industry to determine production by the unorganized sector/re-rollers. Even if, the entire imports are being

converted to Cold Rolled products, even then the production by the Applicants will constitute a major proportion of the total Indian production.

- c. There are four other known producers of the product under consideration in India, namely, BRG Iron and Steel Co. Pvt. Ltd., Salem Steel Plant (SAIL), Shah Alloys Ltd. and Rimjhim Stainless Ltd. whose production is based on estimates during the POI.
- d. Jindal Stainless Steelway Ltd. (JSSL) is a 100% subsidiary of the other two petitioner companies, i.e., JSL and JS(H)L. Data of JSSL has not been considered for the purpose of determining standing nor is included in the injury information. It has been added as a petitioner only to establish injury and injury margin on product types being imported, which are not supplied by JSL/JSHL but are being processed by JSSL (for instance, circles, Anti Finger Print 2. No.8 Mirror Finish, Embossing, Etching). The product is being imported in significant volumes in forms such as Circles, Anti Finger, Mirror Finish, Embossing, Etching and it is vital to impose ADD on these forms.
- e. The product under consideration is also produced in the unorganized sector by re-rollers. Applicants have established standing by considering facts available with regard to Indian production. Share of imports of hot rolled products of width above 600mm and thickness below 8mm and share of the sale of hot rolled products of width above 600mm and thickness below 8mm have been considered as production of CR products by other MSME producers in the market. However, even if imports are considered entirely, even then production of the petitioners constitutes a major proportion in Indian production.
- f. The Authority in the parallel anti dumping investigation, with regard to the same issue, held that the product produced by JSSL is not distinct from what is being produced by JSL and JSHL. The only difference is the form of PUC which is being sold by JSSL after doing incremental activities.

D.2 Views of other interested parties

25. The other interested parties have made the following submissions with regard to scope of domestic industry and standing:
 - a. Certain products are not supplied by Jindal Stainless Limited (JSL) and Jindal Stainless Hisar Limited (JSHL) however, in respect of such products, processing is undertaken by JSSL. It is not clear as to how the injury would be determined in respect of the subject products processed by Jindal Stainless Steelway Limited (JSSL) when the data of the said company has not been considered in the petition.
 - b. It is submitted that in the absence of any data from JSSL on standing and injury in the petition, it cannot be considered as a petitioner in this case and cannot be treated as forming part of the domestic industry under Rule 2(b) of the AD Rules. The Authority is requested to disregard any information or submission supplied by JSSL in the present case.

c. It is not clear as to how the injury can be demonstrated on certain imports when the relevant data has not been considered by the petitioners itself for the purpose of injury analysis.

d. JSSL is only performing incremental activity on certain finishes and circles, etc. which are not even supplied JSL and JSHL in identical form. It is submitted that in the absence of any data from JSSL on standing and injury in the petition, it cannot be considered as a petitioner in this case and cannot be treated as forming part of the domestic industry under Rule 2(b) of the AD Rules. The Authority is requested to disregard any information or submission supplied by JSSL in the present case. The Authority has followed a similar approach in the investigation on Stainless Steel Flat Products from 15 countries where petition was filed by the same three petitioners.

D.3 Examination of the Authority

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

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

27. The present sunset review application has been jointly filed by M/s Jindal Stainless Limited, M/s Jindal Stainless (Hisar) Limited and M/s Jindal Stainless Steelway Ltd. The applicant companies have not imported the subject goods from the subject countries nor are they related to any exporter or importer of the subject product in India. Jindal Stainless Steelway Limited (JSSL) is undertaking incremental activity only on the steel being produced by JSL and JSHL. The applicants have clarified that this company has been added only to assist the Authority to seek any information considered relevant to the present investigation and that its production has neither been included in Indian production nor this company’s data has been included in injury information. It is noted that verified injury and costing information provided by JSL and JSHL only has been considered. It is thus clarified that the Authority has not considered JSSL as a part of the domestic industry in the present investigation nor it has been considered for purposes of determining standing of the applicant or injury determination. The scope of domestic industry for the purpose of Rule 2(b) covers the applicant companies JSL and JSHL only.

E. CONFIDENTIALITY

E.1 Submissions of the domestic industry

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

- a. Information in terms of volume parameters such as production, sales, etc. has not been disclosed as the same is not in public domain. Disclosure of such highly business sensitive information would be of significant competitive advantage to competitors and consumers and would seriously impact the interest of the Applicants. The Applicants have, however, provided indexed information wherever possible.
- b. Applicants have provided sufficient information justifying initiation of the investigation and have provided all information as required under the application proforma. As regards failure of evaluation of certain parameters in the write up, the Applicants submit that it is not necessary for the Applicants to evaluate all the parameters in the application. The Applicants are obliged to provide all relevant information, which has been done.
- c. DGCI&S data is confidential data and, therefore, cannot be circulated. The interested parties are free to collect transaction wise data from DGCI&S if they so desire.
- d. The applicants submitted that they have provided the data in indexed form in the non-confidential version of the application in accordance with Rule 7 of the Rules and Trade Notice No. 10/2018 dated 7th September 2018.
- e. Indexed information has been provided wherever possible. The injury analysis is essentially an analysis of trend which can be easily seen through trends of various parameters provided in the application.
- f. The confidentiality has been claimed strictly as per the trade notice issued. The information in the petition contains data of two related companies, JSL and JSHL, and thus non confidential petition has been filed disclosing information as required to be submitted by a two-petitioner company format. In fact, it should be considered that there is de-facto one petitioner company, as the two petitioners are part of one group only.
- g. A careful examination of the non confidential version of the response would show the extent of confidentiality claimed by these interested parties and the response does not permit a reasonable understanding of the substance of the information filed on confidential basis.
- h. Exporters/producers like Hyundai Corporation, POSCO International, POSCO, Korea RP, POSCO-Thainox Public Company Limited, Samsung C&T Corporation, in complete disregard to the procedure and requirements set by the Rules, have not filed *EXPORTERS QUESTIONNAIRE - Part II Further Information concerning the Sunset Review*. They have deliberately skipped an entire portion of the questionnaire response marking the answer to most of the question as confidential. The foreign producers have failed to provide any information regarding likelihood. The Authority is requested to reject the response of the above-mentioned producers/exporters on this ground alone.

E.2. Submissions made by other interested parties

29. The following submissions have been made by the exporters, importers, users or any other interested party with regard to confidentiality:
- a. Excess confidentiality has been claimed and incomplete petition has been filed as Costing Information is completely missing. Petitioner has failed to show reasonable justification for these and further the justification table is not as per the trade notice.
 - b. Excessive confidentiality has been claimed by the domestic industry. Non-compliance of the requirement of confidentiality reasoning required for more than two producers.

E.3 Examination by the Authority

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

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

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

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

31. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties.

F. MISCELLANEOUS ISSUES

F.1 Submissions made by the Domestic Industry

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

- a. The remedial effects of the anti-dumping duty imposed in 2008 actually became effective in 2017 post conclusion of circumvention investigation.
- b. Importers evaded customs duties by misrepresenting the Regional Value Content; misdeclaration of goods by selectively using words; usage of advance authorisation during non-applicable periods; non-compliance of RMS in bill of entry; importing under advance license scheme; and not completely revealing specifications such as width, length etc. The exporters are habitual offenders as a large number of DRI investigations have been effected against them.

F.2 Submissions made by the other interested parties

33. The following submissions have been made by the other interesting parties with regard to miscellaneous issues:
 - a. The Designated Authority has initiated the investigation without having sufficient and adequate information. The law requires that *prima facie* there should be sufficient information regarding dumping and likelihood in order to justify initiation. The investigation has been initiated without any adequate and sufficient information. The evidence presented to the Authority must be of adequate quality in order to constitute sufficient evidence-reference made to *Mexico – Steel Pipes and Tubes* (DS-331), *United States- Softwood Lumber from Canada*, *Guatemala – Cement II* (DS-156), *Mexico – Steel Pipes and Tubes* (DS-331)
 - b. The WTO Panel in US-DRAMS (DS99) observed that “Anti-Dumping duties shall remain in force only as long as and to the extent necessary, to counteract injurious dumping as a necessity requirement”. The economic parameters examined for domestic industry does not suggest necessity for the continued imposition of anti-dumping duty.
 - c. The initiation of the investigation is in contravention to the Rule 5(3) and Article 5.3 of the anti-dumping agreement as they are largely based on estimates and assumptions.
 - d. The continued imposition of the relevant measures would lead to deterioration of market competition and thus act against public interest. This will result in a downgrade of production technology and efficiency and may damage the industry’s long-term and fundamental interests.
 - e. The Authority in *sunset review investigation concerning imports of ‘Dry Cell Batteries’ originating in or exported from China PR* observed that anti-dumping duty shall not continue for more than 10 years except in special cases. Further while establishing a special case, additional circumstances must be looked at. In the present situation the domestic industry has not established the situation to be a special case.
 - f. The Authority should be consistent in the decision making. DGTR is a quasi-judicial authority. Thus, a legal principle should be applicable on subsequent cases through rule of precedent.

- g. The highest ROI recorded in the past 5 years for global steel producing majors like ArcelorMittal and POSCO was 9.92% and 5.36%, respectively. Thus, a rate of 22% cannot be applied as a set yardstick for all kinds of PUC.
- h. The Authority failed to give adequate time for filing of responses. The due date for filling submissions was 16th November, 2020. However, the Authority changed the PCN on 11th November, 2020.
- i. The Authority need not initiate sunset review investigation compulsorily.
- j. There is no clarity on inclusion of JSSL as petitioner. If no information has been provided by JSSL and they are not considered as domestic industry, how can injury analysis be done for the product being produced by JSSL.
- k. The Authority may conduct a detailed verification of the cost allocation done by the domestic industry to PUC in order to ensure correct calculation of the non-injurious price.
- l. Imports are happening only to fill gap between increase in demand and supply.

F.3 Examination by the Authority

- 34. As regards the contention of the interested parties that imports are necessary in view of demand supply gap, the Authority notes that there are other domestic producers apart from the domestic industry and the production details considered for the Indian industry is comparable to the Indian demand. In any case, demand supply gap can only justify imports of goods, not the phenomenon of dumping.
- 35. As regards the issue that the domestic industry has received adequate protection for last 10 years and continuation of the duty will lead to deterioration of market competition and thus act against public interest, the Authority notes that the purpose of anti-dumping duty is only to create a level playing field and to provide relief to domestic industry due to injurious effect of dumping. Further, it is also noted that the anti-dumping duty is not envisaged to provide undue protection to the domestic industry. Moreover, none of the interested parties has provided any evidence whatsoever as to how the continuation of duties against imports from the subject countries would be detrimental to the larger interests of the economy or the country. However, the issues of undue protection, if any, has been examined in the relevant section so that the duty is not unduly imposed for a period beyond which it is required.
- 36. As far as adequacy of information submitted by the applicants in its application for sunset review is concerned, the Authority notes that the prima facie evidence submitted by the applicants was examined by the Authority before initiation of the investigation and being satisfied with the prima facie evidences the subject investigation was initiated. However, the actual determination is based on actual data of the responding exporters and importers and other facts available with the Authority.

37. As far as ROI of other steel manufactures in the world is concerned, the same cannot be a yardstick for the Indian manufacturers. The ROI of certain companies such as ArcelorMittal and POSCO cannot be seen in isolation and a lot of other factors impacting the performance of the companies are also to be seen. Apart from that the domestic industry has not alleged injury on account of drop of ROI.

Section- II

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

G.1 Normal Value

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

- (i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the*

particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –

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

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

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

G.2 Submissions made by the Domestic Industry

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

- a. China PR should be considered a non-market economy in line with the position taken by the Authority in previous cases and by investigating authorities in other countries. Chinese Producer's cost and price cannot be relied upon for determination of normal value.
- b. The Designated Authority shall follow Para 1-6 of Annexure I for determination of normal value only if the responding Chinese companies establish that their costs and price information is such that individual normal value and dumping margin can be determined. If the responding Chinese companies are not able to demonstrate that their costs and price information can be adopted, the Designated Authority shall reject the claim of individual dumping margin.
- c. The Applicants have determined normal value on the basis of the price actually payable in India, adjusted to include a reasonable profit margin which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits.
- d. In the present investigation none of the responding producers/exporters has filed response to the Market Economy Treatment questionnaire.
- e. The Applicants have considered prices of product under consideration in Taiwan, EU, USA and Korea RP as per prices reported in MEPS Stainless Steel Review. The prices reported by MEPS is a good evidence of prevailing prices of the subject goods in these

domestic markets and are above the estimates of cost of production of the subject goods in these countries.

- f. The Applicants could not get prices for Thailand and South Africa in the MEPS Stainless Steel Review or by any other means and thus the normal value in Thailand and South Africa has been determined on the basis of estimates of cost of production, duly adjusted with selling, general and administrative expenses.
- g. Exporters/producers like Hyundai Corporation, POSCO International, POSCO, Korea RP, POSCO-Thainox Public Company Limited, Samsung C&T Corporation, in complete disregard to the procedure and requirements set by the Rules, have not filed *EXPORTERS QUESTIONNAIRE - Part II Further Information concerning the Sunset Review*. They have deliberately skipped an entire portion of the questionnaire response leave aside marking the answer to most of the question as confidential. The foreign producers have failed to provide any information regarding likelihood. The Authority is requested to reject the response of the above-mentioned producers/exporters on this ground alone.

G.3 Submissions made by other interested parties

- 40. The following submissions have been made by other interested parties with regard to determination of dumping margin.
 - a. The Authority may rely on the questionnaire response for determining the injury margin and dumping margin. If there is any insufficiency, the Authority may issue deficiency letter.

G.4 Examination by the Authority

- 41. The Authority had sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers/exporters have co-operated in this investigation by filing the prescribed questionnaire responses:

- i. Hyundai Corporation, Korea RP
- ii. POSCO Asia Company Limited, Hong Kong
- iii. POSCO International, Korea RP
- iv. POSCO, Korea RP
- v. POSCO-Thainox Public Company Limited, Thailand
- vi. Samsung C&T Corporation, Korea RP
- vii. Columbus Stainless (Pty) Ltd, South Africa

Market Economy status for Chinese producers

- 42. Article 15 of China's Accession Protocol in WTO provides as follows:

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

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

- (i) If the producers under investigation can clearly show that market conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*
- (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

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

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

d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry

or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”

43. It is noted that while the provisions contained in Article 15(a)(ii) have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocol require criterion stipulated in para 8 of the Annexure I of India's Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the responding producers and the exporters from China PR have not submitted supplementary questionnaire response, the normal value computation is required to be done as per provision of para 7 of Annexure I of the Rules. Accordingly, the normal value and export price for all the producers/exporters from China PR have been determined as below.

I. China PR

Determination of Normal Value for China PR

44. As none of the producers from China PR has filed the supplementary questionnaire response for market economy treatment, the normal value has been determined in accordance with Para 7 of Annexure I of the Rules. In the absence of sufficient information on record regarding the other methods enshrined in Para 7 of Annexure I of the Rules, the Authority has determined the normal value by considering the method on "any other reasonable basis".
45. The Authority has, therefore, constructed the normal value for China PR on the basis of cost of production in India, duly adjusted, including selling, general and administrative expenses and addition of reasonable profits. The constructed normal value so determined for Chinese producers/exporters is mentioned in the dumping margin table below.

Determination of Export Price for China PR

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

General Methodology for determination of Normal Value for the other countries

47. It was first determined whether the total domestic sales of the subject goods by the producers/exporters in the subject countries were representative when compared to exports of the subject goods to India. Thereafter, it was examined whether these sales are under ordinary course of trade in terms of Para 2 of the Annexure I to the Rules. Wherever the producers/exporters have provided transaction wise details of sales made in home market and same has been accepted by the Authority, the said information has

been relied upon to determine the normal value of the subject goods sold in their home market

48. For conducting ordinary course of trade test, the cost of production of the product concerned was examined with reference to the information provided by the producers/exporters and compared with domestic selling price to determine whether the domestic sales were in the ordinary course of trade. The Authority has considered all the transactions in the domestic market for the determination of normal value for the cooperating producers/exporters where profit making transactions are more than 80%. In cases, where profitable transactions are less than 80%, only profitable domestic sales have been taken into consideration for the determination of the normal value.
49. Wherever there were no domestic sales or no profitable domestic sales of particular PCN/ grade, normal value was constructed based on the cost of production along with reasonable addition for administrative, selling & general costs and for profits.

II. Korea RP

Determination of Normal Value for POSCO, Korea RP

50. During the POI, POSCO, Korea RP has sold *** MT of the subject goods for ***KRW in the domestic market to related and unrelated parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The Authority noted that if profit making transactions are more than ***, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than ***, only profitable domestic sales are being taken into consideration for the determination of the normal value. Wherever there were no domestic sales or no profitable domestic sales of particular PCN, normal value is constructed based on the cost of production along with reasonable profit. With regard to POSCO, Korea RP, since the profit making sales are below ***, the Authority has considered only profit making sales to determine the normal value. POSCO, Korea RP has claimed adjustment on account of inland transportation, warehousing expenses, warranty expenses, credit cost, early payment discount, late payment interest income and packing expenses and the same have been allowed by the authority. Accordingly, normal value at ex-factory level for POSCO, Korea RP, has been determined and the same is shown in the Dumping Margin Table below.

Determination of Export Price for POSCO, Korea RP

51. M/s POSCO, Korea, who is a major producer and exporter of the subject goods in Korea RP, has filed questionnaire response. During the POI, POSCO, Korea RP exported *** MT of the subject goods for *** KRW to India through seven traders, namely, M/s Posco International Corporation, M/s Hyundai Corporation, M/s Samsung C&T

Corporation, M/s Hyosung TNC Corporation, M/s SK Networks Co., Ltd., M/s Stinko Co., Ltd. and M/s Toyota Tsusho, out of which four traders, namely, M/s Hyosung TNC Corporation, M/s SK Networks Co., Ltd., M/s Stinko Co., Ltd. and M/s Toyota Tsusho have not filed questionnaire responses. These four non-participating exporters constitute only ***% of total exports to India by POSCO, Korea RP. The same has not been considered to work-out ex-factory export price. The responses of POSCO, Korea and the participating trading companies named above were also verified in accordance with the procedure. The dumping margins of POSCO, Korea and participating traders have been determined on the basis of the response filed by them. Dumping margins for non-cooperating producer/exporters from Korea RP have been determined on the basis of information filed by cooperating exporters and other facts available. The export price at ex-factory level for POSCO, Korea RP, has been determined and the same is shown in the Dumping Margin Table below.

All other exporters from Korea RP

52. The Authority notes that no other of the producer/exporter from Korea has responded in the present investigation. The Authority, for the non-cooperative producers/exporters has determined normal value at ex-factory level on the basis of facts available and the same is shown in the Dumping Margin Table below.

III. European Union

Determination of Normal Value for European Union

53. None of the producers/exporters from European Union has submitted Questionnaire Response in the present review investigation. Accordingly, the normal value has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

Determination of Export Price for European Union

54. None of the producers/exporters from European Union has submitted Questionnaire Response in the present review investigation. Therefore, the Authority has determined the net export price based on transaction-wise DGCI&S import data after making appropriate adjustments on account of ocean freight, insurance, commission. port expenses and inland freight charges to arrive at the net export price at ex-factory level. Accordingly, the net export price at ex-factory level for exports from European Union has been calculated and is shown in the dumping margin table below.

IV. South Africa

Determination of Normal Value for Columbus Stainless (Pty) Ltd, South Africa

55. M/s Columbus Stainless (Pty) Ltd., South Africa is the only producer-cum exporter from South Africa which has filed the questionnaire response in this review investigation. The information submitted by this company was verified. The Authority

has relied upon the information submitted by this cooperating producer/exporter for determination of their dumping margin. It is noted from the response that Columbus has sold the subject goods directly to unrelated customers in the domestic market and in India.

56. M/s Columbus Stainless (Pty) Ltd., South Africa has submitted details of domestic sales and cost of sales of subject goods during the POI. During the POI, Columbus has sold ***MT of the subject goods for ***USD directly to unrelated customers in the domestic market. On the basis of cost of sales claimed, the Authority has carried out Ordinary course of trade (“OCT”) test PCN-wise. In respect of the PCNs for which OCT test was satisfied, normal value has been determined basis the average ex-factory domestic sales prices. In other PCNs where OCT test was not satisfied, ex-factory cost along with margin of ***% has been considered for determination of normal value. Columbus has claimed adjustments on account of insurance, inland transportation, credit cost, packing cost and commission. The normal value so determined is mentioned in the dumping margin table below.

Determination of Export Price for Columbus Stainless (Pty) Ltd, South Africa

57. During the POI, M/s Columbus Stainless (Pty) Ltd., South Africa has exported ***MT of the subject goods for ***USD directly to unrelated customers in India. Columbus has provided all the relevant information in the requisite formats. It is noted from the response that during the POI, Columbus has sold ***MT of subject goods to India. Columbus has claimed adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses, credit cost, packing cost and commission. Accordingly, the net export price at ex-factory level has been calculated and is shown in the dumping margin table below.

All other exporters from the South Africa

58. For the non-cooperative producers/exporters, the Authority has determined the normal value at ex-factory level on the basis of facts available and the same is shown in the Dumping Margin Table below.

V. Taiwan

Determination of Normal Value for Taiwan

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

Determination of Export Price for Taiwan

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

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

VI. Thailand

61. M/s POSCO, Thainox Public Company Ltd, who is a major producer and exporter of the subject goods in Thailand has filed questionnaire response.

POSCO-THAINOX Public Company Limited, Thailand

62. During the POI, POSCO-THAINOX Public Company Limited, Thailand, has sold *** MT of the subject goods for ***THB in the domestic market to related and unrelated parties. The domestic sales are in sufficient volumes when compared with exports to India. To determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of production of subject goods. The Authority noted that if profit making transactions are more than **%, all transactions in the domestic sales are being considered for the determination of normal value and in cases profit making transactions are less than **%, only profitable domestic sales are being taken into consideration for the determination of the normal value. Wherever there were no domestic sales or no profitable domestic sales of particular PCN, normal value was constructed based on the cost of production along with reasonable profit. With regard to POSCO-THAINOX, since the profit making sales are below **%, the Authority has considered only profit making sales to determine the normal value. In some of the PCNs, transactions are without any profit at all and, therefore, the Authority has worked out normal value for these PCNs at cost plus reasonable profit basis. POSCO-THAINOX has claimed adjustment on inland transportation, credit cost, and packing expenses and the same have been allowed by the authority. Accordingly, normal value at ex-factory level for POSCO-THAINOX has been determined and the same is shown in the Dumping Margin Table below.

Determination of Export price for POSCO-Thainox Public Company Limited, Thailand

63. During the POI, POSCO-THAINOX Public Company Limited, Thailand sold ***MT the subject goods for *** USD to India directly as well as through three traders, namely, M/s Posco International Corporation, M/s Hyundai Corporation and M/s POSCO Asia Co., Ltd. POSCO-THAINOX has claimed adjustment on account of ocean freight, inland transportation, handling charges, customs clearance, marine insurance, credit cost and packing expenses and the same have been allowed. The weightage average PCN-wise export price has accordingly been determined for POSCO-THAINOX and the same is shown in the Dumping Margin Table below.

All other Exporters in Thailand

64. For all other exporters from Thailand dumping margins have been determined on the basis of information available in the questionnaire response filed by the cooperating exporter in Thailand. For non-cooperative producers/exporters, the Authority has determined the normal value at ex-factory level on the basis of facts available and the same is shown in the Dumping Margin Table below.

VII. USA

Determination of Normal Value for USA

65. The Authority notes that none of the producers/exporters from USA has responded in the present investigation. For the non-cooperative producers/exporters, the Authority has determined normal value at ex-factory level on the basis of facts available and the same is shown in the Dumping Margin Table below.

Determination of Export Price for USA

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

Dumping Margin

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

Dumping Margin Table for all Countries

Sl. No.	Country	Producer	Normal Value (USD per MT)	Export Price (USD per MT)	Dumping Margin Price (USD per MT)	Dumping Margin (%)	Dumping Margin (Range)
1.	Korea RP	POSCO, Korea RP	***	***	***	***	10-20
2.	Korea RP	All others	***	***	***	***	20-30
3.	South Africa	Columbus Stainless (Pty) Ltd	***	***	***	***	30-40

4.	South Africa	All others	***	***	***	***	40-50
5.	Thailand	POSCO-THAINOX Public Company Limited	***	***	***	***	20-30
6.	Thailand	All others	***	***	***	***	30-40
7.	China PR	All Producers	***	1223.03	***	***	30-40
8.	European Union	All Producers	***	2302.50	***	***	20-30
9.	Taiwan	All Producers	***	1655.52	***	***	0-10
10.	USA	All Producers	***	1920.05	***	***	40-50

H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

68. Rule 11 of the Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....”. In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
69. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
70. The Authority notes that the application for continuation of antidumping duty has been jointly filed by Jindal Stainless (Hisar) Limited, Jindal Stainless Limited (JSL) and Jindal Stainless Steelway Limited (JSSL). In terms of Rule 2(b) of the Rules, the Applicants JSHL and JSSL have been treated as the domestic industry for the purpose of this investigation. Therefore, for the purpose of injury determination, the cost and injury information of JSL and JSHL has been examined.

H.1 Submissions made by the Domestic Industry

71. The following submissions have been made by the domestic industry with regard to injury and causal link:
- a. The imports from subject countries increased throughout the injury period. Imports in relation to production and consumption have also increased over the injury period.
 - b. Subject imports have increased over the injury period despite anti dumping duty in force. The order the CESTAT in *AIA Engineering vs Union of India* is referred to and relied upon which provides that low volume of imports would not be a relevant criterion in a sunset review investigation.
 - c. The final findings issued in the parallel antidumping investigation, covering the present product scope, albeit from different countries, have concluded that the industry was suffering material injury in 2018-19 in view of dumped imports.
 - d. The present volume of imports from the subject countries is not only increasing but also is being made at dumped price.

- e. The subject goods have history of dumping from various countries. The Authority in multiple investigation has tried to address the unfair dumping in the country. The Authority also undertook anti-circumvention investigation to address the continued dumping. The volume of dumped imports at present is being addressed at present in a separate investigation.
- f. The domestic industry has not claimed injury to the domestic industry in the POI. The domestic industry concedes that finally after almost a decade, the domestic industry has been able to improve its performance when the antidumping duties became effective.
- g. The sunset review final findings issued by the Authorities show significant losses being incurred by the domestic industry during the period 2011-12 to POI (January 2013 to 31st December, 2013) and further intensified losses in post POI (January 2014 - June 2014). Thus, the domestic industry started making profits only after 2014-15 and the antidumping duties started having desired effect only after anti-circumvention investigation.
- h. The interested parties are wrongly linking capacity with capital employed. The capital employed should be linked with production and changes in working capital.
- i. The landed price of the imports was below the selling price of the domestic industry and thus likely to undercut the prices of the domestic industry in event duties were to expire.
- j. The import price that is competing with the domestic industry is the price after adding ADD which is not causing price suppression and depression. The price without ADD is at a level that is likely to cause price suppression and depression in the domestic market.
- k. The landed price of the imports from subject countries barring South Africa are below the non-injurious price. Thus, imports are continuing to undersell the prices of the domestic industry.
- l. The overall performance of the domestic industry has improved over the injury period. However, such improvement is very recent despite anti-dumping duty being imposed since 2009 and the domestic industry is still faced with significant unutilized capacities.
- m. Current imports from subject countries except South Africa have significant dumping and injury margin.
- n. The interested parties are not consistent with their submissions. At one place they have contended that domestic industry does have not capacity to cater the Indian demand and at the other hand they have an issue with domestic industry increasing its capacity. The domestic industry has been able to increase its capacity due to imposition of anti-dumping duty. The capacity has been increased to meet the domestic demand.
- o. Reliance on Viscose Rayon Filament Yarn above 60 deniers case is clearly misplaced. There is a stark difference between the facts of that case and the present case. In that case, the Authority considered that there was no information on excess capacities and trade diversion, the price undercutting was negative throughout the injury period, the demand declined amongst other reasons for finding likelihood of dumping and injury in the event of cessation of duties.

- p. Presence of other factors do not vitiate the merits for a sunset review investigation where proving likelihood of recurrence or continuation of dumping and injury is more important than current injury. Other factors causing injury make the domestic industry all the more vulnerable to dumping. There is clear causal link between likelihood of dumping and injury with the imports from subject countries in the event of cessation of duties.
- q. Current improvement in performance itself does not evidence no likelihood of dumping and injury. In such situation, it needs to be seen whether cessation of duties is likely to lead to dumping and injury or not. The Tribunal in Thai Acrylic Fibre Co. Ltd. vs. DA, CESTAT held that unlike original investigations, sunset reviews are prospective in nature as they focus on the likelihood of the continuation or recurrence of dumping and injury in case antidumping duties are removed.
- r. All necessary information with regard to allocation of cost while determining NIP has been provided to the Authority and the same may be verified.
- s. The conditions mentioned for cumulative assessment requirement are not strictly applied in sunset review cases. De-minimis test is also not applicable to sunset review, whether with regard to volume or dumping margin. The very fact that there may be likelihood even if the dumping margin is negative itself establishes that negligibility of either volume or margin in itself does not establish need for cessation of ADD.
- t. The allegation made about inflated imports are completely baseless and is denied. Imports have sourced from the DGCI&S data and the Authority may kindly verify the same.
- u. There is sufficient capacity for the product in the country and the imports are entirely unnecessary. Domestic industry has sufficient capacity to cater to the domestic demand. If Thailand is so eager to meet the Indian demand, they can export the goods at fair price without resorting to dumping.
- v. The argument that post POI performance should not be seen in view of COVID-19 is completely misplaced. It would mean that any industry will not be able to file a fresh case for duties in this period. The law takes care of such situations and any adjustments warranted on account of COVID-19 can be made and then the Authority may examine likelihood of injury in a situation it deems fit.
- w. The applicants believe that subject goods are routed from China to India through Thailand. China is subject to CVD and ADD in India but Thailand is not. Thus, China is exploiting Thailand to route the imports to India. Thai Circumvention law is not applicable in such case.

H.2 Submissions made by the other interested party

- 72. The following submissions have been made by the other interested parties with regard to injury and causal link:
 - a. The increase in imports from Thainox is moderate and to meet the increasing demand in India. The increase in imports from Thailand is at much smaller rate than the increase in domestic industry's production and sales.

- b. The cost of sales, selling price, sale, number of employee, wages, productivity, level of inventory, cash profits and profitability of the domestic industry have shown improvement over the injury period. The profit before tax increased by almost 748 basis points in the POI as compared to the base year. However, the export performance of the domestic industry has significantly deteriorated.
- c. There is no material injury to the domestic industry. The parameters such as profitability, volume of imports, cost of sales, net selling price, capacity, production, domestic sales, cash profits, return in investments, installed capacity have all improved significantly for the Domestic Industry over the injury period.
- d. The domestic demand in India increased by 40% from 2016-17 to 2019-20 and it has resulted in an increase in the domestic sales and import from the subject countries.
- e. The applicants may have suffered injury on account of other factors such as sharp depreciation of rupees as against US\$, COVID-19, corporate debt restructuring and significant imports from non-subject countries.
- f. The increase in average capital employed during the period of investigation is disproportionate to increase in installed capacity.
- g. The increase in imports from Thailand and Korea RP appears to be highly inflated. The actual reports of exported products by Thainox and Korea RP suggest that the increase is very negligible and such imports are in order to meet the increasing demand in India. Further, the increase in imports from Thailand is at much smaller rate than the increase in domestic industry's production and sales.
- h. The imports from South Africa constitute merely 0.09% of the total imports of the subject goods in India. Further, import prices have also increased.
- i. As per Rule 23, Rule 11 is mutatis mutandis applicable in the case of a sunset review. Therefore, even in case of sunset review, the Authority is required to undertake causal link analysis.
- j. Imports from EU and South Africa are below de minimis level. In terms of Annexure II, the imports from these countries cannot be cumulated with the imports from other countries.
- k. The imports from EU have declined significantly. The market share of the imports from EU was merely 0.95% in the POI.
- l. The existing Anti-Dumping duty (since 2010) is no more required as Domestic Industry has improved significantly. Extension of the same would violate Article 11.1 and Rule 23(1). The Authority in case of Viscose Rayon Filament Yarn above 60 deniers (Para 132) from China PR (Case No.: 6/26/2020-DGTR), observed that even though Normal Value is less, the financial growth and health of the Domestic Industry is sound enough and, therefore, imposition of anti-dumping duty is no more required.
- m. Imports from Korea decreased in 2017-18 when compared to base year 2016-17; then increased in 2018-19 and in the POI. However, the increase in imports from Korea RP appears to be highly inflated. The actual reports of exported products by Korea RP suggest that the increase is very negligible and increase in exports by them is moderate and is to meet the increasing demand in India.

- n. Profitability, volume effect of imports, cost of sales, net selling price, capacity, production, domestic sales, cash profits, return in investments, installed capacity have all improved significantly for the Domestic Industry over the period of injury and investigation. Thus, there is no merit to the claim of material injury.
- o. The increase in the domestic demand by 40% from 2016-17 to 2019-20 has resulted in an increase in domestic sales and import from the subject countries. Additionally, a 436% increase in volume of imports is from the non-subject countries which strikingly more than the respondents. Similarly, the market share of these countries has increased by a large amount. Thus, the material injury shall be examined through these non-subject countries and not the subject ones.
- p. Petitioner has been performing well even after the POI period. Thus, the prospective analysis as required in a likelihood of injury analysis would render that there is no likelihood of continuous injury to the petitioner in the present case.
- q. There is no clarity on inclusion of JSSL as petitioner. If no information has been provided by JSSL and they are not considered as domestic industry, how can injury analysis be done for the product being produced by JSSL. The domestic industry, while giving confidentiality, has taken approach of more than two producers. This is again in contradiction to whatever the domestic industry said about JSSL.
- r. The import data for March, 2020 has not been provided even though it is available now.
- s. The alleged injury is caused to the domestic industry due to imports from China PR, Korea RP and other non-subject countries and not due to imports from South Africa.
- t. Imports from EU are below de minimis level and sum total of all de minimis imports is 4.82% of the total imports.
- u. Imports of the subject goods from Taiwan is merely 3.2% of total imports from the subject countries during the POI and it is merely 1.45% of the total imports into India in POI. Such a miniscule import cannot cause injury to the DI.
- v. Market share of imports from Taiwan declined from 1.89% to 1.45%. Market share of imports from China and Korea are much higher and CIF import price are much lower than Taiwan.
- w. Volume injury to the domestic industry is on account of imports from China PR, Korea RP and other countries and not from Taiwan. The domestic industry was able to increase its capacity from 1.6 million MT in 2016-17 to almost 1.67 million MT during the POI.
- x. Same plant is used for manufacturing PUC as well as Non-PUC. The DGTR may verify the cost allocated to the PUC and ensure that NIP is correctly determined.

H-3 Examination by the Authority

- 73. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.

74. According to Section 9(A)(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
75. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.
76. It is not necessary that all parameters of injury show deterioration. Some parameters may show deterioration, while some others may not. The Authority considers all injury parameters and, thereafter, concludes whether the domestic industry has suffered injury due to dumping or not. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the domestic industry and other interested parties.

I. ASSESMENT OF DEMAND

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

Demand in India	Unit	2016-17	2017-18	2018-19	POI
Sales of domestic industry	MT	***	***	***	***
Trend	Indexed	100	120	124	126
Sales of other Indian producers	MT	***	***	***	***
Trend	Indexed	100	125	118	122
Total Indian Producers	MT	***	***	***	***
Trend	Indexed	100	122	122	124
Subject Countries	MT	30,185	30,441	56,858	66,339
Other Countries	MT	14,969	26,254	52,378	82,625
Total Indian Demand	MT	***	***	***	***
Trend	Indexed	100	122	129	137

78. It is seen that demand for the subject goods has increased over the injury period.

II. VOLUME EFFECT OF DUMPED IMPORTS

i. Import Volumes and Share of Subject Countries

79. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms

or relative to production or consumption in India. In the present case, however, ADD has been in force. For the purpose of injury analysis, the Authority has relied upon the import data procured from DGCI&S. The volume of imports of the subject goods and share of the dumped imports during injury investigation period are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI
China PR	MT	15,577	20,921	30,660	37,279
EU	MT	2,341	1,737	4,885	1,343
Thailand	MT	2,983	1,607	1,769	4,533
Taiwan	MT	854	2,082	2,050	2,104
Korea RP	MT	6,297	1,657	15,869	17,495
USA	MT	1,462	1,128	583	3,421
South Africa	MT	671	1,308	1,041	166
Total imports from Subject Countries	MT	30,185	30,441	56,858	66,339
Imports from subject countries relative to demand in India	%	***	***	***	***
Trend	Indexed	100	82	146	160
Imports from subject countries relative to production in India	%	***	***	***	***
Trend	Indexed	100	82	155	175

80. It is seen that:

- a. Imports from the subject countries have increased over the injury period.
- b. Imports in relation to consumption and production in India declined in 2017-18 and increased thereafter in 2018-19 and the POI. Further, imports are significant in absolute terms and relative terms even after imposition of anti-dumping duty.

III. PRICE EFFECT OF THE DUMPED IMPORTS

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

i. Price Undercutting

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

Country	Qty	Landed Price	Net Selling price	Price Undercutting		
				Rs/MT	%	Range%
	MT	Rs./MT	Rs./MT	Rs/MT	%	Range%
China PP	37,279	113775	***	***	***	10-20
EU	1,343	188927	***	(***)	(***)	Negative
Korea RP	17,495	120032	***	***	***	0-10
South Africa	166	124449	***	***	***	0-10
Taiwan	2,104	135623	***	(***)	(***)	Negative
Thailand	4,533	149474	***	(***)	(***)	Negative
USA	3,421	156942	***	(***)	(***)	Negative
Total/Average	66,339	122335	***	***	***	0-10

83. It is seen that except for EU, Taiwan, Thailand and USA. Imports from China PR, Korea RP, and South Africa are undercutting the domestic prices. The average price undercutting during the investigation period in respect of subject countries as a whole is in the range of 0-10 percentage.

ii. **Price Suppression/depression**

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
Landed value					
China P R	Rs/MT	1,19,947	1,19,980	1,17,564	1,13,775
Trend	Indexed	100	100	98	95
EU	Rs/MT	1,60,744	1,45,176	1,64,652	1,88,927
Trend	Indexed	100	90	102	118
Thailand	Rs/MT	1,09,219	1,39,734	1,57,794	1,49,474
Trend	Indexed	100	128	144	137
Taiwan	Rs/MT	1,15,490	1,33,891	1,46,754	1,35,623
Trend	Indexed	100	116	127	117
Korea RP	Rs/MT	97,802	1,18,163	1,35,511	1,20,032
Trend	Indexed	100	121	139	123
U S A	Rs/MT	1,13,918	1,28,264	1,26,594	1,56,942
Trend	Indexed	100	113	111	138
South Africa	Rs/MT	92,055	88,034	1,02,933	1,24,449
Trend	Indexed	100	96	112	135

Particulars	Unit	2016-17	2017-18	2018-19	POI
Landed value					
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	108	119	107
Net Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	112	120	110

85. It is seen that domestic industry was able to increase its selling price with increase in cost. The landed price of China PR, Korea RP and South Africa are below selling price. However there is no depressing effect of imports on domestic prices with ADD in place.

Impact on Economic Parameters of the Domestic Industry

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

i. Capacity, production, Capacity Utilization and Sales

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

Particulars	UOM	2016-17	2017-18	2018-19	POI
Capacity	MT	16,00,000	16,00,000	16,00,000	16,75,000
Trend	Indexed	100	100	100	105
Production (Total)	MT	***	***	***	***
Trend	Indexed	100	113	111	116
Production (PUC)	MT	***	***	***	***
Trend	Indexed	100	120	124	128
Production (NPUC)	MT	***	***	***	***
Trend	Indexed	100	111	106	111
Capacity utilization	%	***	***	***	***
Trend	Indexed	100	114	113	111
Domestic sales	MT	***	***	***	***
Trend	Indexed	100	131	141	144

88. It is seen that:

- a. Capacity remained same till 2018-19 and increased marginally in the POI. The capacities are, however, not dedicated only to product under consideration and are utilised for production of other flat rolled products also. The Authority has, therefore, considered gross production, including production of other products not under investigation, for assessing performance with regard to capacity utilisation.
- b. Production and domestic sales have increased over the injury period with the increase in demand. While production of product under consideration has increased, the production of other products not under investigation has declined in the POI as compared to preceding year. Overall production has shown very marginal decline in the POI as compared to preceding year.
- c. Capacity utilisation increased till 2018-19, but declined in the POI. Whereas capacity increased in the POI, the capacity utilisation declined.

ii. Profits, Return on Capital Employed and Cash Profit

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

Particulars	UOM	2016-17	2017-18	2018-19	POI
Profit/Loss	Rs/MT	***	***	***	***
Trend	Indexed	100	594	269	655
Profit/Loss	Rs Lacs	***	***	***	***
Trend	Indexed	100	780	379	946
PBIT	Rs Lacs	***	***	***	***
Trend	Indexed	100	169	137	180
Cash Profit	Rs Lacs	***	***	***	***
Trend	Indexed	100	224	181	289
ROI	%	***	***	***	***
Trend	Indexed	100	178	125	205

90. It is seen that profits, return on investment and cash profits first increased till 2017-18, then declined in 2018-19 and increased thereafter in the POI.
91. The domestic industry has contended that the domestic industry started making profits only after 2014-15 and the antidumping duties started having desired effect only after anti circumvention investigation in 2017.

iii. Market Share in Demand

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

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Import from Subject Countries	%	4.16	3.67	6.39	7.2
2	Import from Other Countries	%	2.06	3.16	5.89	8.68

3	Total imports	%	100.00	6.83	12.28	15.89
4	Domestic industry	%	51.76	50.67	49.88	47.75
5	Others Indian Producers	%	42.02	42.95	38.47	37.28
6	Domestic producers as a whole	%	93.78	93.62	88.35	85.03

93. The Authority notes that the market share of domestic industry increased till 2018-19 and then declined in POI. The decline in market share is despite the increase in capacities. Further, the market share of other domestic producers has also declined over the injury period. The market share of domestic producers as a whole has declined over the injury period.

iv. Employment, Wages and Productivity

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
Employee	Nos.	***	***	***	***
Trend	Indexed	100	102	106	106
Wages	Rs./MT	***	***	***	***
Trend	Indexed	100	95	92	109
Production/Employee	MT/Employee	***	***	***	***
Trend	Indexed	100	117	118	121
Productivity/Day	Per Day (MT)	***	***	***	***
Trend	Indexed	100	120	124	171

95. It is seen that the performance of the domestic industry has improved over the injury period in respect of employment, wages and productivity.

v. Inventory

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
Opening Stock	MT	***	***	***	***
Trend	Indexed	100	96	97	92
Closing Stock	MT	***	***	***	***
Trend	Indexed	100	101	96	119
Average Stock	MT	***	***	***	***
Trend	Indexed	100	98	96	105

97. It is seen that level of inventories with the domestic industry has declined till 2018-19 and then increased in the POI.

vi. Magnitude of Dumping

98. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India and are consequently causing or likely to cause injury to the domestic

industry. It is noted that imports from the subject countries are entering into India at dumped prices and the margin of dumping is above *de minimis* limits and significant.

vii. Ability to raise capital investment

99. The Authority notes that the profits of the domestic industry have increased as anti-dumping duties were imposed. There is no evidence of adverse effect of subject imports on the ability of the domestic industry to raise capital investment.

viii. Growth

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

Particulars	Unit	2016-17	2017-18	2018-19	POI
Production	%	-	20%	3%	3%
Domestic Sales	%	-	31%	7%	2%
Domestic Profit-Per MT	%	-	494%	-55%	144%
Domestic profit-Per Lacs	%	-	680%	-51%	150%
Cash Profit	%	-	124%	-19%	60%
PBIT	%	-	69%	-19%	32%
ROI	%	-	78%	-30%	64%

101. It is seen that growth in a number of the economic parameters was positive over the injury period.

ix. Factors Affecting Domestic Prices

102. The selling prices of the domestic industry have not been affected by dumped imports from the subject countries during the POI.

Other Known Factors and Causal Link

103. The Authority examined whether factors listed under the Rules could have contributed to injury to the domestic industry.

a) Volume of imports from third countries

Particulars	Unit	2016-17	2017-18	2018-19	POI
Imports Volume					
Imports from Subject Countries	MT	30,185	30,441	56,858	66,339
Other Countries	MT	14,969	26,254	52,378	82,625
Total	MT	45,154	56,694	1,09,235	1,48,964

104. It is seen that volume of imports of subject goods has increased significantly from both subject countries and other countries. The increase in imports from countries not under

investigation is higher and in POI constitutes majority share from a situation of minority share in the base year. It is noted that imports from other countries are primarily from Indonesia, Japan and Malaysia. The Authority has conducted a parallel investigation in respect of imports of flat rolled products of stainless steel which includes the PUC in this investigation from China, Korea PR, European Union, Taiwan, Indonesia, Japan, USA, Thailand, South Africa, Malaysia, Mexico, Vietnam, Singapore, UAE and Hong Kong and have found these imports as dumped and causing injury to the domestic industry. The Authority has recommended imposition of anti dumping duty on imports from Korea RP, Japan, EU, Malaysia, China, Taiwan and Indonesia vide Notification No. 6/12/2019-DGTR dated 23rd December, 2020.

b) Export Performance

105. The domestic industry has made significant exports of the subject goods. The volume of export sales has declined over the injury period. However, the Authority has segregated and examined injury only in respect of domestic operations in respect of parameters such as profits, cash profits, ROI, sales, and market share.

c) Developments in Technology

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

d) Trade restrictive practices of and competition between foreign and domestic producers

107. The Authority notes that there is no evidence of possible adverse trade restrictive practice contributing to the injury to the domestic industry.

e) Change in pattern of consumption

108. The pattern of consumption with regard to the product under consideration has not undergone any changes. Changes in pattern of consumption is unlikely to contribute to the injuries to the domestic industry.

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

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

I.1 Conclusion on Injury:

110. The Authority notes that:

- a. There has been a significant increase in volume of dumped imports from subject countries in absolute terms and in relation to production and consumption in India.
- b. Imports from other countries not under investigation have also increased both in absolute terms and in relation to production and consumption in India. The Authority has determined that imports from China, European Union, Indonesia, Japan, Korea, Malaysia and Taiwan are at dumped price and have caused material injury to the domestic industry.
- c. The Authority has conducted a parallel investigation in respect of imports of flat rolled products of stainless steel which includes the PUC in this investigation from China, Korea PR, European Union, Taiwan, Indonesia, Japan, USA, Thailand, South Africa, Malaysia, Mexico, Vietnam, Singapore, UAE and Hong Kong and have found these imports as dumped and causing injury to the domestic industry. The Authority has recommended imposition of anti dumping duty on imports from Korea, Japan, EU, Malaysia, China, Taiwan and Indonesia vide Notification No. 6/12/2019-DGTR dated 23rd December, 2020.
- d. Dumping margin from the subject countries is positive and significant.
- e. Landed price of imports from the subject countries as a whole is positive. Imports are undercutting the domestic prices.
- f. Performance of the domestic industry improved in terms of a number of parameters, including production, sales, profits, return on investment and cash flows. The performance has shown some decline in respect of capacity utilisation, market share and inventories in the POI.
- g. Market share of domestic producers as a whole has shown decline in the POI.

111. The Authority would conclude on injury after receipt of comments on the disclosure statement from the interested parties.

MAGNITUDE OF INJURY MARGIN FOR QUANTIFICATION OF DUTY

112. The Authority notes that the present investigation is a sunset review investigation and the Authority is required to determine whether cessation of existing anti dumping duty is likely to lead to continuation or recurrence of dumping and consequent injury to the domestic industry. Rule 17 of the Rules, which is applicable mutatis mutandis to sunset reviews, requires the Authority to recommend the amount of duty which, if levied, would remove the injury, where applicable, to the domestic industry after considering the principles laid down in the Annexure III to the Rules. The Authority has determined non-injurious prices (NIP) for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. NIP has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. The production has been considered at the best capacity utilisation and the same has been considered for

arriving at per unit fixed cost. No extraordinary or non-recurring expenses have been 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 has been allowed as pre-tax profit to arrive at NIP. The non-injurious price so determined has been compared with the landed price of imports from the subject countries to determine the extent of injury margin. Further, the NIP and injury margin have been determined separately for each PCN. Weighted average injury margin has been determined for the product under consideration as a whole, considering associated import volumes.

Injury Margin Table for all countries

Sl. No.	Country	Producer	Non-Injurious Price (USD per MT)	Landed Value (USD per MT)	Injury Margin Price (USD per MT)	Injury Margin (%)	Injury Margin (Range)
1.	Korea RP	POSCO, Korea RP	***	***	***	***	0-10
2.	Korea RP	All others	***	***	***	***	20-30
3.	South Africa	Columbus Stainless (Pty) Ltd	***	***	***	***	0-10
4.	South Africa	All others	***	***	***	***	10-20
5.	Thailand	POSCO-THAINOX Public Company Limited	***	***	***	***	10-20
6.	Thailand	All others	***	***	***	***	30-40
7.	China PR	All Producers	***	1,550	***	***	0-10
8.	European Union	All Producers	***	2,627	(***)	(***)	Negative
9.	Taiwan	All Producers	***	1,909	(***)	(***)	Negative
10.	USA	All Producers	***	2,204	***	***	10-20

I. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

113. In a review investigation, the Authority is required to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is allowed to cease.

I.1 Submissions made by domestic industry

114. The domestic industry submitted as follows with regard to likelihood of continuation or recurrence of dumping or injury –

- a. The imports have increased significantly despite anti-dumping duties in force.
- b. The positive price undercutting in the POI sufficiently proves that in the event of expiry of the existing anti-dumping duty, the dumped imports would cause suppressing/depressing effects on the domestic prices.
- c. There are mammoth capacities available in the subject countries and they are waiting for the market opportunities.
- d. Barring Thailand, all the subject countries have capacities far exceeding their domestic demand.
- e. The producers in the subject countries are highly export oriented and have significant disposable production capacities. The Indian steel consumption is growing at CAGR of 9-10% per annum and is expected to increase further.
- f. The global market scenario experienced a major shift in 2010. The supply of the subject goods was far more than the demand. This was triggered by China that shifted from being a net importer to a net exporter. China accounted for 49.2% of global steel manufacturing. Even in this surplus situation in the global market, the Chinese stainless steel producer Tsingshan Holding Group has planned to set-up in Busan, South Korea a cold-rolling mill with annual capacity of 600,000 tonnes per year.
- g. The cost advantage to the Indonesian producers in hot rolled products provides unfair cost advantages to these facilities in cold rolled production, and allows them to sell at unfairly low prices.
- h. The declining capacity utilisation in the subject countries indicates significant idle capacities available in the subject countries.
- i. The COVID-19 outbreak has led to decline in demand and surplus capacities leading to oversupply of the subject goods. China never stopped production even during the lockdown.
- j. The subject goods face numerous trade remedial investigations across the globe.
- k. The producers and exporters are in habitual evasion of duties and have further tried to maintain their presence in the domestic market. DRI reports suggest that these exporters issued certificate of origins and the importers have evaded the customs duty by availing concessional duty rates by misrepresenting the Regional Value Content.

1. India is a major market and also a price attractive destination for producers in the subject countries.

I.2 Submissions by other interested parties

115. Following submissions have been made by other interested parties with regard to likelihood of continuation or recurrence of dumping or injury:

- a. The allegations of the Domestic Industry with regard to the likelihood of continuation or recurrence of dumping and injury are hypothetical and not based on facts.
- b. Thainox built up capacities to become cost competitive. The notion that exporters from subject countries have freely disposable capacities is incorrect.
- c. POCSO-THAINOX's capacity utilization has been above ***% throughout the investigation period and the period of injury, and their exports have decreased from ***% in 2016 to ***% during POI. India is not a target market for Thailand. Imports from Thailand to India have always been at very low levels. Thainox is domestic market oriented but still hasn't penetrated it. Further, the FTA between India and Thailand doesn't include stainless steel products, ASEAN-India FTA benefits only those Thai producers that use raw materials only from the member parties.
- d. POSCO Korea and POSCO- Thainox are independent listed companies in two different countries. Both these companies have completely different management and shareholding pattern. There is no record of the shifting of dumping, thus it's unlikely that POSCO Korea would use Thailand to intensify the dumping. There is no upward trend of flat cold-rolled stainless steel imported from Korea as the proportion has been changing between *** – ***% since 2016.
- e. The ASEAN-China FTA does not grant exemption of import duty for imports of cold rolled stainless steel from China; imports are subject to MFN duty in Thailand. The export from China to Thailand was 15% in 2017-18 and Thailand imposed anti-dumping duty to Chinese imports. Thus, it does not make sense to circumvent goods through Thailand. Further, Thailand has an Anti-circumvention Act prohibiting such activities.
- f. Economic performance of the Domestic Industry during post period of investigation is not an appropriate parameter to apply likelihood test.
- g. The existing anti-dumping duty is no more required in light of improvement in the Domestic Industry's performance.
- h. POSCO claims that it has been functioning at more than ***% capacity utilisation and hence it does not have freely disposable capacities. There were no capacity increases and the claim regarding increase of capacity by *** MT is incorrect. POSCO's capacity utilization rate has been stable and because of it mainly selling to its end users it is not able to suddenly increase.
- i. There is no likelihood of recurrence of material injury as a decline in inventories of the petitioner proves that it is performing well thus taking away the threat of material injury. The petitioner's capacity to raise capital was not impacted thus disproving its deteriorating performance

- j. An excessive capacity does not necessarily cause an imminent threat of injury. The Authority in the Sunset Review Anti-dumping investigation concerning imports of White Cement originating in or exported from Iran and UAE observed that there is nothing suggestive of an excessive capacity with the producer which can be shipped at dumped prices to India due to revocation of duties.
- k. There is no significant increase of imports from South Africa.
- l. The ‘surplus capacity’ cannot refer to just any capacity over and above the domestic demand in a particular country. Such an understanding is exceptionally flawed in a globally integrated market. Surplus refers to idle capacities left over after meeting domestic demand and global demand
- m. As per the Authority’s observation in Dry Cell Battery case, there does not exist any special/exceptional circumstances calling for continuance of anti-dumping duty taking into consideration the facts of this case.

I.3 Examination by the Authority

116. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure – II (vii) of the Anti-Dumping Rules, and other relevant factors brought on record by the interested parties.

117. The present investigation is a sunset review of duties imposed on the imports of subject goods from subject countries. Under the Rules, it is required to be determined whether continued imposition of antidumping duty is warranted. This also requires an examination of whether the duty imposed is serving the intended purpose. Further, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The allegation of the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry based on data made available is as follows:

I. Rate of increase in imports during the period of investigation

118. The import details in the subject investigation are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Import from Subject Countries	MT	30,185	30,441	56,858	69,909
China P RP	MT	15,577	20,921	30,660	40,238
EU	MT	2,341	1,737	4,885	1,460
Thailand	MT	2,983	1,607	1,769	4,763
Taiwan	MT	854	2,082	2,050	2,242
Korea RP	MT	6,297	1,657	15,869	17,474
U S A	MT	1,462	1,128	583	3,597
South Africa	MT	671	1,308	1,041	136

Particulars	Unit	2016-17	2017-18	2018-19	POI
Imports from other Countries	MT	14,969	26,254	52,378	84,276
Total Imports	MT	45,154	56,694	1,09,235	1,54,185

119. It is seen that while overall imports from subject countries have increased over the injury period, imports have increased significantly from China, Thailand, Taiwan, Korea and USA. Imports have declined from EU. Further, the volume of imports in relation to consumption is significant in respect of imports from China and Korea. It is, however, low and insignificant in respect of imports from all other countries under investigation.

120. The Authority notes that the applicants have relied on the CRU Report for information with respect to capacities, production and demand in the subject countries.

II. **The capacities with the subject countries exceed domestic demand**

121. As per the information provided by the applicants, there is huge capacities available with the subject countries. Further, based on the information supplied by the domestic industry it is noted that the capacities available with the producers of the subject countries are way more than their domestic demand:

(KT)	2016	2017	2018	2019	2020
Capacity					
China	15,305	16,155	16,990	18,005	19,835
Korea	1,986	1,986	1,986	1,986	1,986
European Union	4,595	4,663	4,663	4,663	4,663
South Africa	545	545	545	545	545
Taiwan	1,668	1,768	1,768	1,768	1,768
Thailand	300	300	300	300	300
USA	2,390	2,475	2,755	2,755	2,755
Demand					
China	11,349	12,341	13,119	14,801	15,040
Korea	964	991	953	996	1,037
European Union	3,350	3,492	3,541	3,355	3,322
South Africa	97	134	136	126	138
Taiwan	631	611	589	546	574
Thailand	287	294	325	314	330
USA	1,554	1,551	1,664	1,520	1,538
Excess capacity					
China	3,956	3,814	3,871	3,204	4,795
Korea	1,022	995	1,033	990	949
European Union	1,245	1,171	1,122	1,308	1,341
South Africa	448	411	409	419	407
Taiwan	1,037	1,157	1,179	1,222	1,194
Thailand	13	6	-25	-14	-30
USA	836	924	1,091	1,235	1,217

III. **Surplus capacity with the exporters**

122. The domestic industry has provided evidence showing freely disposable capacities of the subject goods in subject countries which have been determined after deducting production. As per CRU information provided by the applicants, exporters in the subject countries have freely disposable capacities that can be further utilised to export goods to India.

(KT)	2016	2017	2018	2019	2020
Capacity					
China	15,305	16,155	16,990	18,005	19,835
Korea	1,986	1,986	1,986	1,986	1,986
European Union	4,595	4,663	4,663	4,663	4,663
South Africa	545	545	545	545	545
Taiwan	1,668	1,768	1,768	1,768	1,768
Thailand	300	300	300	300	300
USA	2,390	2,475	2,755	2,755	2,755
Production					
China	12,381	13,380	14,281	15,955	16,138
Korea	1,219	1,263	1,223	1,174	1,171
European Union	3,345	3,338	3,305	3,073	3,118
South Africa	302	314	298	281	246
Taiwan	1,270	1,306	1,252	1,130	1,176
Thailand	221	223	235	241	245
USA	1,513	1,631	1,686	1,531	1,549
Unutilised capacities					
China	2,924	2,775	2,709	2,050	3,697
Korea	767	723	763	812	815
European Union	1,250	1,325	1,358	1,590	1,545
South Africa	243	231	247	264	299
Taiwan	398	462	516	638	592
Thailand	79	77	65	59	55
USA	877	844	1,069	1,224	1,206

IV. Export orientation

123. Information provided by the applicants show that the producers in the subject countries are highly export oriented:

Subject Countries (in KT)	2016	2017	2018	2019	2020
China PR	1,334	1,313	1,438	1,483	1,380
Korea	587	620	641	598	556
European Union	4,223	4,341	4,354	4,108	4,126
South Africa	222	194	179	171	127
Taiwan	769	819	790	689	712
Thailand	86	83	87	85	80
USA	334	464	337	242	228

V. **Price undercutting, suppression/ depression effect on cessation of duty**

124. The Authority is to examine 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 in the event of cessation of ADD. It is seen that the imports are undercutting the domestic prices. The degree of price undercutting is quite significant. Should the domestic industry reduce its prices as a result of cessation of ADD, the domestic industry would be forced to sell the product at a price materially below the cost of production. Therefore, imports are likely to have significant suppressing/ depressing effects in event of expiry of the current anti-dumping duties.

VI. **Inventories**

125. The domestic industry has not provided evidence of inventories in the subject countries. Questionnaire response have been filed by exporters from Korea, Thailand and South Africa, analysis of which shows that the inventories with a number of responding exporters have increased.

VII. **Trade remedial measures by other countries**

126. It is noted that trade remedial measures have been invoked on various flat rolled products by a number of countries, while a number of investigations are going on. The production facilities are interchangeably used between the product under consideration and other flat rolled products. Imposition of these measures and proposed measures is likely to restrain ability of the foreign producers to sell similar volumes in these markets. Volume of imports in India has already shown increase over the current injury period. Below is the list of ongoing trade remedial measures with respect to the subject good, across the globe as provided by the Domestic Industry:

Investigating country	Type	Investigated product	Investigated country
USA	Safeguard	All steel products	All
Mexico	AD	Cold Rolled Stainless Steel	China, Taiwan
EU	Safeguard	All steel products	All
Turkey	Safeguard	Stainless steel flat products	All
Canada	Safeguard	All steel products	USA
China	Safeguard	all stainless-steel products	USA
China	AD	Slab, Billet and Hot Rolled Coil	EU, Japan, South Korea, Indonesia
USA	CVD	Stainless steel plate in coils	South Africa
Thailand	AD	Cold-rolled flat products	Taiwan, China, Japan, South Korea

India	AD	Cold-rolled flat products	China, South Korea, EU, South Africa, Taiwan, China, Thailand, USA
India	AD	Cold rolled flat products of 400 series	EU, South Korea, USA
Thailand	AD	Cold-rolled flat products	China
EU	AD	Cold-rolled flat products	Taiwan, China, Indonesia
EU	AD	Cold Rolled Flat products stainless steel	India, Indonesia
EU	AD	Cold Rolled Flat products stainless steel	China, Taiwan
Malaysia	AD	Cold-rolled stainless steel	China, South Korea, Taiwan, China, Thailand
Malaysia	AD	Cold-rolled stainless steel	Indonesia, Vietnam
Vietnam	AD	Cold-rolled stainless-steel coil and sheet	China, Indonesia, Malaysia, Taiwan
Turkey	AD	Cold-rolled flat products	China, Taiwan China
South Korea	AD	Stainless Steel Plate	Japan
Brazil	AD	Cold Rolled Flat products	China, Taiwan
Brazil	AD	Austenitic Stainless Steel Tubes	Malaysia, Thailand, Vietnam
Indonesia	AD	Cold Rolled stainless steel	China, Malaysia
Taiwan	AD	Cold Rolled flat products	China, South Korea

127. On the basis of information and evidence on record, and considering the submissions made by the domestic industry and interested parties, the Authority notes the following:

- i. Imports from the subject countries have increased significantly in absolute terms and in relation to production and consumption in India despite existing anti dumping duty.
- ii. The subject imports continue to be at dumped and injurious price.
- iii. Subject imports, barring South Africa, are undercutting the domestic prices. The degree of price undercutting is quite significant.
- iv. It is provisionally noted that cessation of anti dumping duty is likely to have significant depressing and suppressing effect on the prices in the market.
- v. Overall imports from subject countries have increased significantly over the injury period. While imports have increased from China, Thailand, Taiwan, Korea and USA, imports have declined from EU.
- vi. The volume of imports in relation to consumption is significant in respect of imports from China and Korea.
- vii. Performance of the domestic industry with regard to profit, cash profit & ROI has improved during the current period.

128. The essential facts gathered by the Authority during the course of the investigation, and as established by the Authority on the basis of information received from various sources are hereby disclosed in the present Disclosure Statement in order to enable the various interested parties to offer their comments on these facts gathered by the Authority. The Authority will however make the final determination on various aspects of the investigation on the basis of the comments received thereof from the interested parties to this Disclosure Statement to the extent they are relevant.
129. The Authority would make a final decision in the matter after receiving the comments of the interested parties on this Disclosure Statement.

J. METHODOLOGY FOR DETERMINATION OF NON-INJURIOUS PRICE

130. The NIP has been determined by adopting the verified information/data relating to the cost of production for the period of investigation (April 2019 to March 2020) in respect of the domestic industry. Detailed analysis/examination and reconciliation of the financial and cost records maintained by the company, wherever applicable, were carried out for this purpose.
131. The NIP for the domestic industry has been determined in terms of the principles outlined in Annexure III to the Rules as briefly described below:
- a. **RAW MATERIAL COST:** The best utilization of raw materials by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
 - b. **COST OF UTILITIES:** The best utilization of utilities by the domestic producer, over the POI and preceding three years period, at the POI rates was considered.
 - c. **PRODUCTION:** The best utilization of production capacity over the POI and preceding three years period was considered.
 - d. **SALARY & WAGES:** Propriety of the expenses grouped under this head and charged to the cost of production was examined. It has been ensured that no extraordinary or nonrecurring expenses were charged to the cost of production.
 - e. **DEPRECIATION:** The reasonableness of the amount of depreciation charged to the cost of production was examined to ensure that no charge has been made for facilities not deployed on the production of the subject goods. Further amortisation of goodwill has been disallowed.
 - f. **IDENTIFICATION AND ALLOCATION/APPORTIONMENT OF EXPENSES:** The reasonableness and justification of various expenses claimed for the POI has been examined and scrutinized by comparing with the corresponding amounts in the immediate preceding year and admitted for computing NIP.
 - g. The expenses and incomes that were not considered while determining NIP have been shown in the individual NIP calculation sheet.
 - h. **REASONABLE RETURN ON CAPITAL EMPLOYED:** A reasonable return (pre-tax) @22% on average capital employed (i.e. Average Net Fixed Assets and Average Working Capital) for the product under consideration was allowed for recovery of interest, corporate tax and profit. For the purpose of calculating working capital, certain items which were not considered while determining the NIP, have been shown in the NIP calculation sheet.
 - i. Interest is allowed as an item of cost of sales and after deducting the interest, the balance amount of return has been allowed as pre-tax profit to arrive at the NIP.

j. NIP FOR THE DOMESTIC INDUSTRY: The NIP for the subject goods is proposed to be determined as **US\$ *** per MT.**