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F. No14/12/2016-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)
4th FLOOR, JEEVAN TARA BUILDING, 5, PARLIAMENT STREET
NEW DELHI-110001**

Date: 10.04.2017

NOTIFICATION

Final Findings

Sub: Anti-dumping investigation concerning imports of “Cold-Rolled flat products of alloy or non-alloy steel” originating in or exported from China PR, Japan, Korea RP and Ukraine-reg.

F.No. 14/12/2016-DGAD- Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules) thereof M/s Essar Steel India Limited, M/s Steel Authority of India Limited, M/s JSW Steel Limited and M/s JSW Steel Coated Products Limited (hereinafter referred to as the “applicants” or “petitioners” or “domestic industry”) have jointly filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the AD Rules, for initiation of anti-dumping investigation concerning imports of “Cold-Rolled flat products of alloy or non-alloy steel” (hereinafter also referred to as the subject goods), originating in or exported from China PR, Japan, Korea RP and Ukraine (hereinafter also referred to as the subject countries), and requested for initiation of an investigation for levy of anti-dumping duties on the subject goods.

2. The Authority on the basis of sufficient *prima facie* evidence submitted by the applicant issued a public notice dated 19th April 2016 published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

3. The Authority vide Preliminary Findings issued vide Notification No.14/12/2016-DGAD dated 03.08.2016 recommended provisional anti-dumping duty in the present investigation. Ministry of Finance issued a customs notification imposing provisional anti-dumping duty vide Customs Notification No. 45/2016-Customs (ADD) dated 17.08.2016 accepting the recommendations of the Authority. The Authority, in terms of the second proviso to Rule 13 of the AD Rules, on request of majority exporters from the subject countries, recommended extension of provisional anti-dumping duty for two more months to the Central Government. The Ministry of Finance accepted the extension proposed by the Authority and extended the provisional anti-dumping duty vide Customs Notification No. 06/2017-Cus (ADD), dated 07.02.2017 for two months.

A. Procedure

4. The procedure described below has been followed:
- a. The Authority notified the embassies of subject countries in India about the receipt of application before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the AD Rules.
 - b. The Authority sent copy of initiation notification to the embassies of subject countries in India, known producers/ exporters from the subject countries and known importers/ users/ associations of the subject goods as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification in accordance with Rule 6(2) of the AD Rules.
 - c. The Authority forwarded copy of the non-confidential version of the application to embassies of the subject countries in India, known producers/exporters from the subject countries and known importers of the subject goods, in accordance with the AD Rules. A copy of the application was also provided to other interested parties, wherever requested.
 - d. The embassies of subject countries in India were also requested to advise the producers/exporters from their countries to file their responses within the prescribed time limits.
 - e. The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:

China PR

1. Rizhao
2. Betai Iron & steel
3. Baotou Iron and Steel Group
4. Jiangsu Shagang Group Company Limited
5. Tonghua Iron Steel Group Corporation

6. Angang Steel Company
7. Nanjing Iron and Steel
8. Tangshang Iron & Steel
9. Wuhan Iron and Steel
10. Tianjin Iron & Steel Group Co Ltd

Japan

1. Nippon Sumitomo
2. Kobe
3. JFE Steel Corporation

Korea RP

1. POSCO
2. Hyundai Steel Co Ltd
3. Dongkuk Steel Mill Col Ltd.

Ukraine

1. Arcelor Mittal
2. PJSC "Nikopol Ferroalloy Plant"

f. In response to the initiation notification, the following producers and exporters/traders from the subject countries have filed response to exporter's questionnaire:

I. Korea

1. Kowon Trading Corp (Trader)
2. Dongkuk Industries Co. (Producer)
3. Samsung C&T Corporation- (Hyundai) (Trader)
4. Hyundai Steel Company (Producer)
5. P&A Corporation (Trader)
6. LG International Corp. (Trader)
7. Hyundai Corporation (Trader)
8. Posco Daewoo Corporation (Trader)
9. Posco Asia Co. Ltd. (Trader)
10. Posco, Korea (Producer)
11. Posco Processing & Service Co. Ltd. (Trader)

II. Ukraine

12. Zaporizhstal Integrated Iron and Steel Works (Producer)
13. Metinvest- SMC LLP
14. Metinvest International SA (Trader)

III. China PR

15. Xinsa International Pte. Ltd. (Trader)
16. ZhnagjiagangYantgtze River Cold Rolled Sheet Co. Ltd. (Producer)
17. Jiangsu Shagang International Trade Co. Ltd. (Trader)
18. Future Materials Industry (Hong Kong) Co. Ltd. (Trader)
19. Lu Qin (Hong Kong) Co. Ltd. (Trader)
20. Angang Steel Company Limited (Producer)
21. Angang Group HongKong Co. Ltd. (Trader)
22. Baoshan Iron & Steel Co. Ltd., Ltd (Producer)
23. Baosteel Singapore Pte. Ltd. (Trader)

IV. Japan

24. Nissan Trading Co. Ltd. (Trader)
25. Sumitomo Corporation (Producer)
26. Honda Trading Corporation (Trader)
27. Ohmi Industries (Trader)
28. Kanematsu Corporation (Trader)
29. JFE steel Corporation (Producer)
30. Nisshin steel Co. Ltd. (Producer)
31. Nippon Steel and Sumitomo Metal Corporation (Producer)
32. Marubeni Itochu Steel Inc. (Trader)
33. Toyota Tshusho Corporation (Trader)
34. Nippon Steel &Sumikin Bussan Corporation (Trader)
35. Mitsui & co. Ltd. (NCV Pending) (Trader)
36. JFE Shoji Trade Corporation (Trader)
37. Metal One Corporation (Trader)

- g. None of the producers/exporters from China PR has claimed Market Economy Treatment (MET) rebutting the non-market economy treatment in the present investigation. However, the Ukrainian producer has claimed market economy treatment. The same has been dealt with at appropriate place in the findings.
- h. Questionnaires were sent to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
 1. Alstom India Ltd.
 2. Arcelor Neel Tailored Blank Private Limited
 3. Bharat Heavy Electricals Limited
 4. Bhilai Engineering Corporation Ltd.
 5. C.R.I. Pumps Private Limited
 6. Caterpillar India Pvt. Ltd.
 7. Denis Plast Limited
 8. DesmiEquipmentsPvt.Ltd.
 9. Escorts Ltd.

10. Exedy India Limited
11. Fine Forge Limited.
12. Flakt (India) Limited
13. Gamesa Wind Turbines P.Ltd
14. Ganpati Enterprises
15. Hindustan Shipyard Ltd.
16. Hindustan Construction Co. Ltd.
17. Idl Explosives Limited
18. Ifb Automotive Private Limited
19. JBM Industries Ltd.
20. JCB India Limited
21. Kalinga Fixtures Ltd.
22. Kalpataru Power Transmission Ltd.
23. Larsen & Toubro Limited
24. Lloyds Steel Industries Ltd
25. Maruti Suzuki India Limited
26. POSCO Electrical Steel India Pvt. Ltd.
27. Ravi Steel Co.
28. Superior Steel Industries
29. Tranter India Private Limited
30. TRF Limited

- i. The following importers/users of the subject goods have responded in the form of questionnaire responses or provided comments during the course of investigation:

1. Toyota Kirloskar Motor Pvt. Ltd.
2. SungwooHitech India Limited
3. PHA India (P) Ltd.
4. TI Metal Forming
5. PyungHawa India Pvt. Ltd.
6. Hyundai Motors India Ltd.
7. Hwashin Automotive India Pvt. Ltd.
8. Sungwoo Stamping Pvt. Ltd.
9. Myoung Shin India Automotive Private Ltd.
10. YSI Automotive Pvt. Ltd.
11. Kwang Jin India Autosystems Pvt. Ltd.
12. Dymos Lear Automotive India Pvt. Ltd.
13. Nippon Steel & Sumikin Pipe India Private Limited
14. Rajasthan Prime Steel Processing Center Pvt. Ltd.
15. TT Steel Service India Pvt. Ltd.
16. Baosteel India Company Pvt. Ltd.
17. Hyundai Steel India Limited
18. Posco Electrical Steel India

19. Posco Maharashtra Steel Pvt. Ltd.
20. Baosteel Company India Pvt.
21. POSCO IDPC, POSCO ICPC and POSCO IPPC
22. Maruti Suzuki India Limited

j. Apart from the respondent exporters, importers, domestic industry and other domestic producers, submissions have been received on behalf of the following parties during the course of this investigation:

1. Federation of Industries of India
2. GPT Steel Industries Limited
3. CORSMA
4. Society of Indian Automobile Manufacturers
5. Baoshan Iron & Steel Co. Ltd., Baosteel Company India Pvt. Ltd., Baosteel Singapore Pte. Ltd
6. Metinvest Group
7. Embassy of Ukraine
8. The Japan Iron & Steel Federation
9. Kobe Steel Ltd.
10. Embassy of Republic of Korea
11. Volkswagen India

- k. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in the present findings.
- l. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- m. Further information was sought from the applicant and other interested parties to the extent deemed necessary.
- n. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- o. The Non-Injurious Price (hereinafter referred to as 'NIP') is based on the cost of production and cost to make and sell the subject goods in India

based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules. It has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.

- p. Considering the fact that the subject goods are being imported in various grades/sizes/dimensions, the applicants have proposed Product Control Numbers (PCNs) in order to make a PCN to PCN comparison for computing the dumping margin. Accordingly, the authority has made PCN to PCN comparison for the purpose of computing dumping margins.
- q. Verification of the information provided by the applicant domestic industry was carried out by the Authority to the extent deemed necessary. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- r. Investigation was carried out for the period starting from 1st July 2015 to 31st December 2015 (6 months) (hereinafter referred to as the 'period of investigation' or the 'POI'). The examination of trends, in the context of injury analysis covered the period from 2012-13, 2013-14, 2014-15, April 2015 to December 2015 and the POI.
- s. The petitioners had submitted the petition alleging dumping of the subject goods from the subject countries relying upon transaction wise imports data sourced from IBIS. However, request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of the imports of the subject goods for the past three years, including the period of investigation. The Authority has relied upon the transaction-wise DGCI&S import data. The Authority has also kept the non-confidential version of transaction-wise DGCI&S import data in the public file. Confidential information such as names of importers, IEC codes of importers have been removed from transaction-wise DGCI&S import data before placing the same in the public file.
- t. Arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority.
- u. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 13th October, 2016. All the parties attending the oral hearing were requested to file written submissions of the views expressed orally by 24th October 2017. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to submit their rejoinders by 4th November, 2016.

- v. The Authority again provided opportunity to all interested parties in view of the change in the Designated Authority to present their views orally in a hearing held on 10th January, 2017. All the parties attending the oral hearing were requested to file written submissions of the views expressed orally by 17th January, 2017. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to submit their rejoinders by 24th January, 2017.
- w. In order to examine the PUC exclusion related issues in an objective manner, the authority instructed all the parties seeking exclusions from PUC to provide PCN wise details of the grades sought to be excluded. The domestic industry was also asked to provide PCN wise details manufactured by them during the POI. The domestic industry was requested to reply to the exclusion requests in its rejoinder. Many interested parties had filed their PUC exclusion requests along with their written submissions. A few interested parties, however, requested that a certain grade in a PCN should be excluded. However, such grades were internal grades of such interested parties on which the domestic industry could not file its comments effectively as the domestic industry or the Authority is not aware about the chemical composition of such internal grades. The Authority requested such interested parties to provide equivalent Indian /international grades for the internal grades so that the domestic industry and Authority could meaningfully examine the exclusion request of such interested parties. They submitted that for certain grades for which exclusion has been sought were customer specific grades and not covered under Indian Standards and steel and steel products (Quality Control) Order, 2015.
- x. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 31.03.2017. The post Disclosure Statement submissions received from the domestic industry and other interested parties have been considered, to the extent found relevant, in this Final Findings Notification.
- y. Exchange rate for conversion of US\$ to INR is considered for the POI as INR 65.93 as per customs data.
- z. In this notification, *** represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. Product under Consideration and Like Article

5. The product under consideration (PUC) in the present investigation is:

“Cold rolled / cold reduced flat steel products of iron or non-alloy steel, or other alloy steel, of all widths and thickness, not clad, plated or coated.

The PUC includes cold rolled / cold reduced flat steel products in coils or not in coils including slit coils or sheets, blanks whether or not annealed or box annealed or batch annealed or continuously annealed or any other annealing process or full hard or partially hard. The product concerned covers cold-rolled / cold-reduced flat steel products conforming to prime or non-prime quality whether or not rolled from 4-high reversible mill, 6-high reversible mill, Sendzimir mill, 20-high cold rolling mill, Pickling Lines and Tandem Cold Rolling Mills (PLTCM), Continuous Annealing Line (CAL) or any other cold rolling / cold reducing processes. These products may be oiled or supplied without oil of any type, standard, specification and grade. These products may be conforming to various qualities of steel including but not limited to full hard, partially hard, commercial quality, drawing, deep drawing, extra deep drawing, interstitial free steel, high strength low alloy steels, advance high strength steels, ultra high strength steels, alloy steels, micro-alloyed steel, TRIP steel (Transformation Induced Plasticity), tin mill black plates (TMBP), and many more qualities, whether or not vacuum degassed through any vacuum degassing process. These steels may be produced and supplied with or without skin pass / temper rolling, whether or not aluminium killed / non-ageing quality and whether or not containing Boron and / or Titanium and/or Vanadium or any other suitable elements of any level by weight. These steels may find applications spread across various end-usages including but not limited to automotive industry, tractors, bicycles, appliances, furniture, electrical panels, packaging, drums, barrels, general engineering, substrate for coating, color coating galvanizing, metal-coating / plating, tin plate etc. and many more applications.

The following are not included in the scope of the product under consideration:

- a) Stainless Steel.*
 - b) High Speed Steel, i.e., alloy steels containing, with or without other elements, at least two of the three elements Molybdenum (Mo), Tungsten (W) and Vanadium (V) with a combined content by weight of 7% or more, 0.6% or more of Carbon and 3 to 6% of Chromium.*
 - c) Silicon Electrical Steels conforming to Grain Oriented and Non- Grain Oriented Steels i.e. alloy steels containing by weight, atleast 0.6% but not more than 6% of Silicon and not more than 0.08% of Carbon. This steel may also contain by weight not more than 1% of Aluminium but no other element in a proportion that would give the steel the characteristics of other alloy steel.”*
6. The PUC is used in many applications and sectors such as automotive, oil and gas line pipes/exploration, cold-rolling, pipe and tube manufacturing, infrastructure and construction, general engineering & fabrication, earth-moving & mining

equipment, storage tanks, low pressure heaters, capital goods including plant and process equipment for cement, fertilizer, refineries etc.

7. The PUC is classified under Custom Tariff Heading 7209, 7211, 7225 and 7226. The customs classification is indicative only and is in no way binding on the scope of the present investigation. The Designated Authority analyzed the transaction-wise DGCI&S import data to arrive at the import statistics for the PUC by removing the items that are not part of the product scope.

B.1 Views of the Interested Parties

8. Submissions made by exporters, importers, users and other interested parties with regard to issues related to PUC and considered relevant by the Authority are, inter alia, as follows:
 - a. The product scope is too broad and vague. The products are heterogeneous and cannot be included in one basket as like article. The products classified under different headings are materially different and cannot be clubbed together.
 - b. The subject products imported from Japan into India are consumed in various steel-making industries such as, but not limited to, automotive, electrical and electronic sectors, etc. Those grades that are not obtained in India should be excluded from the product scope.
 - c. The domestic industry has already sought safeguard duty on the imports of the raw material, i.e., hot-rolled steel. The domestic industry is also seeking anti-dumping duty on hot-rolled steel products. It is not understood why the domestic industry is also seeking protection from imports of cold-rolled steel as well when protection from imports of raw material exists. It is difficult to reckon how injury is being caused when safeguard duty is in place on the raw material.
 - d. There are quality issues with the products manufactured by the domestic industry. The domestic industry cannot produce the product concerned in all the sizes. The domestic industry has been unable to obtain customer approval on various grades.
 - e. The products classified under the sub-headings of 7225 and 7208 are not identical and are plural and heterogeneous in nature, and thus, cannot be put together in one basket to determine a single PUC.

- f. There are a number of grades the domestic industry cannot manufacture and the same should be excluded from the product scope.
- g. GPT Steel Industries submits that Tin Mill Black Plate is used only as input for producing Electrolytic Tin Plates. There are only three units in India manufacturing Tinplates, including GPT. The other two producers, TCIL and Vallabh(complete name required) produce TMBP for their own consumption only and hence their production and their consumption of TMBP is 100% captive. There are no merchant producers of TMBP coils in India and hence GPT Industries performance has to import the same, and is the sole importer of TMBP in India. Thus, there is no instance or question of any injury being caused to any Indian producers due to the import of TMBP by GPT.
- h. The PUC should be divided into two categories, Cold Rolled Full Hard (CRFH) and Cold Rolled Annealed. But, in the preliminary finding the Designated Authority have levied a single duty on CRFH and Annealed. Although, full hard is produced by the Domestic Industry, the same is primarily consumed captively.
- i. Mere capability to manufacture is not same as commercially supplying the product. If the domestic industry does not manufacture the like article such as many specifications of the product under consideration, then the producers cannot be held to be domestic industry for those specifications. Importance should be given to commercial supply rather than sample supply.

B.2 Views of the domestic industry

9. The submissions made by the domestic industry (DI) and considered relevant by the Authority are as follows:
 - a. Domestic industry submits that they are capable of manufacturing all the grades/types of PUC.
 - b. The interested parties have failed to substantiate their claims with evidence. Further, several exporters have raised issues on the quality of products manufactured by the domestic industry, but they have no locus standi to raise such issues. Such issues are credible if users in India raise them.
 - c. Many users in India, particularly in the automobile sector, have appreciated the quality of products supplied by the domestic industry. These appreciation letters and sample invoices demonstrating supply of various grades have been put on record.

- d. Many interested parties including Maruti Suzuki India Limited have contended that all imported grades that are not manufactured by the domestic industry should be excluded from the product scope. Though such parties have annexed with their submissions a list of grades that they import, but the same have been treated as confidential. Unless such parties provide the list of grades to interested parties on non-confidential basis, the domestic industry will not be in a position to comment on the grades for which they require exclusion. In view of this, exclusions requested by such parties cannot be allowed. It is reiterated that the domestic industry is fully capable of manufacturing all the grades and specifications required by the domestic users in India.
- e. All the exclusions requested by the interested parties are not warranted, as the domestic industry not only manufactures the same but has also supplied to users in India on a regular basis. Evidence in this regard in the form of invoices, mill test certificates and appreciation letters from users have been provided to the Authority. There is no doubt that the domestic industry is fully capable of manufacturing all the grades for which the interested parties have requested exclusion.
- f. The domestic producers are manufacturing Tin Mill Black Plates grade.
- g. The domestic industry regularly manufactures and supplies Cold Rolled Full Hard steel. Therefore, Cold Rolled Full Hard cannot be excluded from the product scope. Even in the cold-rolled investigations done by other authorities, such as in the United States, Cold Rolled Full Hard has been covered in the product scope;
- h. The domestic industry has supplied all the grades or substitutable grades for which the Exporters / Importers / Users have sought exclusions. Nevertheless, interested parties are still requested to provide specifications of specific grades or the relevant PCNs of their concern in non-confidential version to the domestic industry. The domestic industry shall study such specifications or PCNs and make an appropriate reply to the claims raised by interested parties.
- i. Regarding the Designated Authority's analysis on product under consideration in the preliminary findings, the domestic industry submits that the analysis is adequate and addresses the contentions raised by both the domestic industry and other interested parties. The Designated Authority is requested to definitively confirm its analysis on product scope in the final findings.

B.3 Examination of the Authority

10. The submissions made by the interested parties and the domestic industry with regard to the PUC related issues and considered relevant by the Authority are examined and addressed as follows:

- a. The main thrust of the submissions by the aforementioned interested parties is three-fold: i) the domestic industry does not produce many grades covered in the product scope; ii) the domestic industry does manufacture certain grades but the quality is not suitable; and iii) for certain grades, the domestic industry does not have customer's approval. The domestic industry has filed a detailed response addressing the claims of these interested parties. During the verification visit and from the response filed by the domestic industry, the authority found that the domestic industry is manufacturing all the grades(exactly matching / closely resembling PCNs) and supplied them to users in India.
- b. In order to examine the PUC exclusion related issues in an objective manner, the authority instructed all the parties seeking exclusions from PUC to provide PCN wise details of the grades sought to be excluded. The domestic industry was also asked to provide PCN wise details of PUC manufactured by them during the POI. From a thorough examination of the information, the authority found that the domestic industry either manufactured exactly matching PCN or a closely resembling PCN for each PCN for which interested parties had requested exclusion. In view of this, no exclusions are warranted from the product scope. This detailed analysis takes care of all the requests for exclusions from the product scope. However, in the succeeding paragraphs, the authority has additionally addressed the individual requests for exclusions to the extent deemed necessary.
- c. It has been contended by the interested parties that the product scope is too broad, vague and heterogeneous and all the products cannot be clubbed into one PUC. The Authority notes that the definition of the PUC is very precise. The interested parties have been able to examine the PUC definition and make comments on the grades/specifications that should not be part of the product scope. However, no interested party could substantiate its assertions on PUC with credible evidence. Further, no interested party has been able to demonstrate if there is a legal bar in defining the PUC in the manner as above.
- d. Merely because safeguard duty is levied on imports of the raw material hot-rolled steel and an anti-dumping investigation is also on-going on hot-rolled steel products, it does not mean that the domestic industry is barred from filing an anti-dumping application on cold-rolled steel products. Such assertions by the other interested parties are not legally tenable.

- e. The authority notes that domestic producers in India are manufacturing Tin Mill Black Plates. Moreover, Tin Mill Black Plates and Cold Rolled Annealed products are closely substitutable products.
- f. As regards the contention that the PUC is too broad and vague, the Authority notes that the PUC has been appropriately defined keeping in view the imports from the subject countries. The Authority has examined the contentions by all parties before arriving at the product scope.
- g. With regard to like article, Rule 2(d) of the AD Rules provides as follows: “like article” means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation. On the basis of information on record and considering the submissions made by the interested parties, the Authority holds that there is no known difference in the subject goods produced by the Indian industry and those imported from the subject countries. The two are comparable in terms of physical characteristics, functions and uses, product specifications, and tariff classifications of the goods. The two are technically and commercially substitutable. The consumers use the two interchangeably. The Authority, thus, holds that the products manufactured by the Applicants constitute like article to the subject goods being imported into India from the subject countries.
- h. In terms of Rule 6(7) and Rule 7 of the Rules, the Authority is required to provide evidence presented to it by one interested party to another interested party. If an interested party claims confidentiality on submissions and evidence, that interested party is under obligation under Rule 7 to provide the same submissions and evidence in non-confidential format. However, such non-confidential submissions should be meaningful enough so as to allow other interested parties to make comments. The Authority notes that many interested parties have requested for exclusion of various grades from the product scope but some such interested parties like Maruti Suzuki India Ltd, GPT Steel Industries and Hyundai Motor India Limited have claimed confidentiality on such exclusion lists or PCN lists. The Authority, being a quasi-judicial authority, has provided non-confidential submissions of such parties to the domestic industry. The Authority notes that the above interested parties have not complied with Rule 7 as their non-confidential submissions are not meaningful enough as they do contain the list of PCNs/grades for which they have requested exclusions. This has denied the domestic industry a fair opportunity to offer comments on exclusions requested by the above interested parties. In view of this, the Authority holds that exclusion requests by above interested parties cannot be allowed.

- i. The Authority hereby confirms the Product Under Investigation for this investigation as under:

“Cold rolled / cold reduced flat steel products of iron or non-alloy steel, or other alloy steel, of all widths and thickness, not clad, plated or coated.

The PUC includes cold rolled / cold reduced flat steel products in coils or not in coils including slit coils or sheets, blanks whether or not annealed or box annealed or batch annealed or continuously annealed or any other annealing process or full hard or partially hard. The product concerned covers cold-rolled / cold-reduced flat steel products conforming to prime or non-prime quality whether or not rolled from 4-high reversible mill, 6-high reversible mill, Sendzimir mill, 20-high cold rolling mill, Pickling Lines and Tandem Cold Rolling Mills (PLTCM), Continuous Annealing Line (CAL) or any other cold rolling / cold reducing processes. These products may be oiled or supplied without oil of any type, standard, specification and grade. These products may be conforming to various qualities of steel including but not limited to full hard, partially hard, commercial quality, drawing, deep drawing, extra deep drawing, interstitial free steel, high strength low alloy steels, advance high strength steels, ultra high strength steels, alloy steels, micro-alloyed steel, TRIP steel (Transformation Induced Plasticity), tin mill black plates (TMBP), and many more qualities, whether or not vacuum degassed through any vacuum degassing process. These steels may be produced and supplied with or without skin pass / temper rolling, whether or not aluminium killed / non-ageing quality and whether or not containing Boron and / or Titanium and/or Vanadium or any other suitable elements of any level by weight. These steels may find applications spread across various end-usages including but not limited to automotive industry, tractors, bicycles, appliances, furniture, electrical panels, packaging, drums, barrels, general engineering, substrate for coating, color coating galvanizing, metal-coating / plating, tin plate etc. and many more applications.

The following are not included in the scope of the product under consideration:

- a) Stainless Steel.*
- b) High Speed Steel, i.e., alloy steels containing, with or without other elements, at least two of the three elements Molybdenum (Mo), Tungsten (W) and Vanadium (V) with a combined content by weight of 7% or more, 0.6% or more of Carbon and 3 to 6% of Chromium.*
- c) Silicon Electrical Steels conforming to Grain Oriented and Non- Grain Oriented Steels i.e. alloy steels containing by weight, atleast 0.6% but not more*

than 6% of Silicon and not more than 0.08% of Carbon. This steel may also contain by weight not more than 1% of Aluminium but no other element in a proportion that would give the steel the characteristics of other alloy steel.”

C. Confidentiality

C.1 Views of Exporter, importers and other Interested Parties regarding the standing of domestic industry

11. Following are the issues raised by interested parties with respect to excessive confidentiality:

- a. Copy of Original/Raw transaction-wise import data obtained from IBIS has not been provided in excel file format.
- b. The company-wise production and sales volume detail of the domestic producer other than the applicant has not been provided.
- c. The item wise details of constructed value as well as normal value have been kept confidential and even ranges of normal value have not been given.
- d. It is submitted that the domestic industry resorted to excessive confidentiality depriving the interested parties from offering meaningful comments which is completely against the confidentiality provisions provided in the AD Rules.
- e. The applicant industry has kept considerable information confidential without providing any justifiable reasons like selling price, cost of production, ROCE, productivity, employment etc. This is not permissible under the Rules as can be seen from the provisions above. Instances of information which has been withheld under the garb of confidentiality are as follows:
- f. Anti-Dumping authority has stated that they have relied on DGCIS data but a copy of DGCIS data has not been enclosed with preliminary findings.

C.2 Views of the Domestic Industry

12. Few interested parties are of the view that the domestic industry has exercised excessive confidentiality in the petition by keeping confidential - i) IBIS import data; ii) company-wise production and sales volume details; iii) item-wise details of constructed normal value; iv) evidence regarding adjustments for ocean freight, marine insurance, port expenses, etc.; v) domestic selling prices; vi) profit and

ROCE in %age terms; viii) Constructed Normal value etc. The domestic industry wholly denies and objects to the above contentions. First of all, it is clarified that Rule 7 of the AD Rules allows a party to claim confidentiality on information. Rule 7 also mandates that confidential information should be provided in non-confidential summary to interested parties, and where that is not possible, reasons should be provided why summarisation is not possible. The domestic industry has claimed confidentiality on certain data in compliance with Rule 7 of the AD Rules. The Designated Authority has also accepted the domestic industry's confidentiality claims. Therefore, the above contentions by interested parties hold no water. Further, import data for this investigation is already placed in the public file. Therefore, contentions regarding non availability of import data are unfounded. Further, the domestic industry has placed on record the list of PCNs produced by them in non-confidential version of the written submissions.

C.3 Examination by the Authority

13. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:-

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

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

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

14. Submissions made by the interested parties with regard to confidentiality are examined and addressed accordingly. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been

considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential. Also, it is to be noted that the Authority placed the transaction-wise DGCI&S import statistics in the public file after removing confidential information such as names of , importers and IEC codes of importers from the same.

D. Domestic Industry and Standing

15. Rule 2 (b) of the AD rules defines the 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”

16. The application has been filed M/s Steel Authority of India Limited, M/s. JSW Steel Limited, M/s Essar Steel India Limited and M/s JSW Steel Coated Products Limited. The production of the aforesaid four producers accounts for a major proportion of the total domestic production and is more than 50% of Indian production. The application has also been supported by one domestic producer, namely, Bhushan Steel Limited.

D.1 Views of Exporter, importers and other Interested Parties regarding standing of the domestic industry.

17. JSW cannot be termed as part of domestic Industry because of the reasons stated below:

- a. Investment of more than 4600 cr. by JFE in JSW (Constitutes more than 15% of shareholding)
- b. Technical Collaboration
 - i) Collaboration for automotive steel production
 - ii) JFE and JSW have also arrived at a broad consensus on the areas where possible collaboration can be explored in India in near future.
- c. Director nominated by JFE in JSW
- d. Import of subject goods by JSW from JFE

Investigation initiated based on the false disclosure by the domestic industry has led to wrongful determination of scope of domestic industry. The authority cannot revisit the scope of Domestic Industry; investigation is void-ab-initio and should be terminated immediately.

D.2. Views of the Domestic Industry

18. The following are the submissions of the domestic industry with respect to the issues raised by various interested parties regarding standing of the domestic industry:

- a) Some interested parties are of the view that since JFE Steel has a shareholding to the extent of 15% in JSW Steel, it should not be treated as part of the domestic industry. The domestic industry wholly denies and objects to this contention. For a meaningful analysis, it is important to refer to Rule 2(b) of the AD Rules, which is extracted in relevant part below:

“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.

Explanation – For the purposes of this clause, -

- (i) *producers shall be deemed to be related to exporters or importers only if, –*
- a) one of them directly or indirectly controls the other; or*
 - b) both of them are directly or indirectly controlled by a third person;*
or
 - c) together they directly or indirectly control a third person, subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.*
- (ii) *a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.*
- b) In view of the above legal provision, domestic industry submitted that it is not established in the facts of the case that JSW Steel is related to JFE Steel in terms of Rules 2(b)(i) and 2(b)(ii) of the AD Rules. In particular, none of the interested parties have been able to establish that JFE Steel directly or

indirectly controls JSW Steel or vice versa. Further, none of the interested parties have been able to establish that JFE Steel and JSW Steel together control a third entity. It is also not established in the facts of the case that JFE Steel exercises restraint or direction over JSW Steel or vice versa. Thus, the question of JFE Steel exercising control over JSW Steel or vice versa is not established at all in the present case in terms of Rules 2(b)(i) and 2(b)(ii) of the AD Rules.

- c) In this regard, the domestic industry relied on the Final Findings in Circular Weaving Machines from China PR issued vide No.14/25/2008-DGAD dated 16 November 2010, where the Designated Authority has held that mere shareholding/relation does not demonstrate control in terms of the AD Rules. The relevant extract from the final findings is reproduced below for ease of reference:

15. The Authority notes that the key element in regard to relationship of the domestic producer and the exporter is 'control', legal or operational. The Authority finds that Starlinger, China is a 100% subsidiary of Starlinger, Austria whereby both are related companies. Further, it is evidenced that Starlinger, Austria is holding 34.67% shares in the applicant company i.e. LohiaStarlinger Limited. But mere shareholding does not amount to exercise of control and therefore does not make Starlinger, Austria and/or Starlinger, China related to LohiaStarlinger Limited (LSL) within the meaning of Anti Dumping Rules. Majority shareholding i.e. above 50% only gives legal control. Further, the Authority finds that no Director representing Starlinger, Austria has been appointed in the Board of applicant company since 2002. It is brought on record by both the parties that Starlinger, Austria has filed a Petition before Company Law Board seeking appointment of its nominee on the Board of LSL. All these establish that Starlinger, Austria has no operational control as well over LSL. Further, even if the two parties are related parties, the mere fact of relationship is insufficient to consider the domestic producer as ineligible. There must be sufficient grounds justifying exclusion of such related domestic producer. There must be evidence that the related domestic producer has acted differently due to relationship, or has participated in dumping practices and has taken such steps which would have resulted in self inflicted injury. In the instant case, there is no such evidence that the relationship between the two parties have led to petitioner behaving in a manner different from an unrelated producer.

16. Thus, in the absence of legal or operational control by Starlinger, Austria and/or Starlinger, China over LSL and in the absence of sufficient grounds to treat LSL as ineligible domestic producer in the light of the

provision contained in Rule 2(b), the Authority holds that the applicant is entitled to be treated as domestic industry within the meaning of Rule 2(b) of the AD Rules and has the standing to file the petition in terms of Rule 5(3) of the AD Rules.

- d) None of the interested parties have established that an alleged 15% share (though not admitted) of JFE Steel in JSW Steel accords control to JFE Steel thereby making JFE Steel and JSW Steel related. JFE Steel does not exercise any control on JSW Steel. Therefore, JSW Steel is not related to the exporter JFE Steel, and thus, qualifies as domestic industry in terms of Rule 2(b) of the AD Rules.

D.3 Examination by the Authority:

19. The issues raised by various interested parties with regard to standing of domestic industry are examined as under:

- a) None of the interested parties have been able to establish that JFE Steel directly or indirectly controls JSW Steel or vice versa. Further, none of the interested parties have been able to establish that JFE Steel and JSW Steel together control a third entity. It is also not established in the facts of the case that JFE Steel exercises restraint or direction over JSW Steel or vice versa.
- b) In order to consider a producer ineligible in terms of Rule 2(b) of AD Rules due to relationship with exporter, there must be evidence that the related domestic producer has acted differently due to relationship, or has participated in dumping practices and has taken such steps which would have resulted in self-inflicted injury. In the instant case, there is no such evidence that the relationship between the two parties have led to petitioner behaving in a manner different from an unrelated producer.
- c) Thus, in the absence of legal or operational control by JFE over JSW Steel and in the absence of sufficient grounds to treat JSW Steel as ineligible domestic producer in the light of the provision contained in Rule 2(b) of the AD Rules, the Authority treats JSW Steel as an eligible applicant in this case. Similar view was taken by the authority in the anti-dumping investigation concerning imports of Circular Weaving Machines from China PR.
- d) The Authority holds that JSW Steel is eligible to be part of domestic industry in terms of Rule 2(b) of the AD Rules.
- e) The authority also holds that the applicants together command a major proportion of the production of the subject goods in India. Accordingly, the

applicants satisfy the standing requirement in terms of Rule 5(3) and constitute ‘domestic industry’ in terms of Rule 2(b) of the AD Rules.

E. De Minimis Limits

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

F. Miscellaneous issues

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

F.1. Miscellaneous issues raised by the interested parties

- a. The demand figures mentioned by the Petitioners in the Petition are exaggerated and not accurate. A press release obtained from SAIL website makes it clear that demand in FY 2014-15 was lower than in the previous years. Moreover, the demand for the PUC is based on data collected from a private agency and not from official sources such as Joint Plant Committee (JPC).
- b. The Petition is based on the data from a private agency and not from authentic database such as JPC. The raw data is collected by a private commercial agency and may be twisted to suit requirements of its rich clients. The data has been further doctored by the Petitioners and thus not acceptable for independent investigations.
- c. The Petition does not contain information as to the captive consumption of the PUC. In the absence of such information any allegation made by the Petitioners must be considered unsubstantiated and not sufficient to make a prima facie case of evidence of alleged injury. No information has been provided with regard to inventories, employment wages and growth. On the basis of overall positive outlook of the Indian industry, it can be presumed that these indicators have performed well.
- d. The inventory of CR Coils during the POI was within the norms of 15-20 days of monthly production, the normal time lag between production and dispatch of

finished products to various destinations is due to issue of test certificates, packing, linking with sale orders, invoicing availability of rakes/wagons etc. The inventory level reported by the petitioners is also within the norms but necessitates further investigation to ascertain the actual position.

- e. The Petition does not contain sufficient information with regard to the reduction in capacity utilization. It is not clear from the complaint what particular mix of products the petitioners refer to.
- f. The India producers are already over protected by customs duty at 12.5%. Apart from customs duty imposed on HR Coils, the domestic producers are also protected by technical barriers on imports through Steel and Steel Products Quality Control Order. The raw material used for the PUC is under imposition of safeguard duty and the Petitioners are currently seeking anti-dumping measures on the imports of Hot rolled flat products of alloy or non-alloy steel. Moreover, minimum import price (MIP) measures are also in place. This reflects the Petitioner's own inefficiency to openly compete in the market. The Petitioners are trying to monopolize the domestic market by seeking these protective measures.
- g. There is no further need to protect the steel industry after imposition of MIP, increase in import duty and imposition of safeguard duty. The prices of steel are on a rising trend now and major domestic steel players such as JSW Steel, Bhushan, Essar, JSPL, TATA are reported to be doing good.
- h. As per Article 3.3 of the Antidumping Agreement, Ukraine asks the Authority to consider the impact of Ukrainian imports of PUC separately from the other countries.
- i. The Petition does not provide evidence establishing that the injury suffered by the DI was caused by imports from Ukraine. The Petition merely contains allegation that the negative performance is due to dumped imports.
- j. The DI has resorted to excessive confidentiality depriving the interested parties from offering meaningful comments. Information such as production volume, domestic sales volume, inventory volume, selling price per unit in indexed, profit per unit in indexed, ROCE in percentage, employment, Proforma IV B etc. have been withheld under the garb of confidentiality.
- k. The non-confidential version of the Petition does not meet the requirements of Article 7 of the Indian Anti-Dumping Rules. The Petitioners have restricted access to series of elements that is crucial for defending the position of the other interested parties.

- l. The Indian steel market is a de facto oligopoly, as the petitioners account together for 74% of the market share. The imposition of anti-dumping duties is only likely to worsen the conditions of competition causing detriment to the Indian economy by hurting consumers' interests. The excessive use of trade defense instruments is not in line with the public interest.
- m. The ROCE of 22% for computing NIP is very high. Reliance is placed on the judgement of H'ble CESTAT in the case of *Bridgestone Vs. Designated Authority*.

F.2. Miscellaneous submissions made by the Domestic Industry and considered relevant by the Authority are as follows:

- a. Section 9A (3) of the Act is with reference to history of dumping of the product. Petitioners request the authority to recommend retrospective levy of anti-dumping duty on the subject goods because the conditions for retrospective levy of antidumping duty are fully satisfied.
- b. Exporters are well aware that they are resorting to dumping which is causing injury to the domestic industry since import prices of PUC have reduced significantly as evident from the landed values for respective countries.
- c. Some interested parties are of the view that 22% return on capital employed is not justified in calculating non-injurious price. The domestic industry strongly objects to the above contention and submits that none of the interested parties have adduced evidence to demonstrate why 22% return on capital employed is not justified. In fact, in two recent CESTAT rulings, it has been observed that 22% return on capital employed is valid as per the consistent practice of the Designated Authority and the onus is on the party refuting it to demonstrate with evidence why 22% return is not justified. In this regard, the Designated Authority's attention is invited to CESTAT rulings in *Merino Panel Products Ltd. v. Designated Authority*, Final Order No. AD/A/53541/2015-CU[DB] dated 27 November 2015 and *Eximcorp India Pvt. Ltd. v. Designated Authority*, Final Order No. AD/A/53462/2016-CU[DB] dated 12 September 2016. In view of the above CESTAT orders, 22% return on capital employed is valid in the present case and should be affirmed definitively in the final findings.
- d. From perusal of the preliminary findings, the domestic industry is of the view that some errors appear to have crept in the calculation of the non-injurious price. The non-injurious price appears to be understated. It is requested that such errors be corrected. The domestic industry also requests the Designated Authority to disclose the preliminary non-injurious

price calculations for examination and meaningful comments by the domestic industry in light of the Hon'ble Supreme Court's judgment in Reliance Industries Ltd. v. Designated Authority & Others, (2006) 10 SCC 368, which has been recently confirmed by the larger bench of the Hon'ble Supreme Court in Union of India v. Meghmani Organics Ltd. & Others, Civil Appeal No. 1679 of 2010.

F.3 Examination by the Authority

22. Miscellaneous submissions made by the interested parties and considered relevant by the authority are examined and addressed as follows:

- a. With regard to the submission of interested parties that the demand figures are exaggerated and is not based on the official sources such as JPC, the authority notes that the petitioners have relied upon JPC data for computing the production figures, wherever necessary, and the same is clearly mentioned in the non-confidential version of the petition kept in the public file. For import related information, the petitioners have relied upon IBIS data which is a private agency. However, the present findings/statements are based upon the DGCI&S data, thereby addressing the concerns of interested parties.
- b. The interested parties have submitted that sufficient information in relation to captive consumption, capacity utilization, inventories, employment etc. is not given in the petition filed by the Domestic Industry and, therefore, the petition is unsubstantiated. In this regard, the authority notes that all the relevant information required for substantiating the petition has been provided by the petitioners.
- c. The interested parties have submitted that the Indian Domestic Industry is seeking over-protection and that it is already enjoying various protections like safeguard duty, Quality Control Order and MIP. In this regard, the authority notes that:
 - (i) No safeguard duty has been imposed on the PUC. The contention that safeguard duty has been imposed on Hot Rolled Steel Flat products which are used as input for the PUC are irrelevant.
 - (ii) MIP was introduced by Government of India as a temporary measure and the same was in force for the subject goods till 4th August 2016.
 - (iii) The existence of Quality Control Order is to ensure that certain quality parameters are met. In the present investigation, domestic industry is seeking protection against dumped imports. Existence of

Quality Control Order does not lead to a conclusion that there is no dumping and consequent injury to domestic industry.

- d. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of a public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.
- e. With regard to the contention of the interested parties that imposition of anti-dumping duty will lead to monopolistic practices by the domestic industry and will be detrimental to the interest of the end consumer, the authority notes that the object of antidumping duty is to prevent the unfair trade practices and to redress its injurious effect on the domestic industry by providing them a level playing field. Moreover, imposition of anti-dumping duty neither restricts nor prevents imports.
- f. With regard to the contention of the interested parties that period of investigation should be more than 6 months, the authority notes that according to recommendation of committee on anti-dumping practices (WTO document no. G/ADP/6 dated 16 May 2000):
“...the period of data collection for dumping investigations normally should be twelve months, and in any case no less than six months, ending as close to the date of initiation as is practicable”

Therefore, in view of above recommendation, 6 months period can be taken as the POI. The Authority has taken six months POI in other investigations also.

- g. As regards the request for retrospective imposition of anti-dumping duty, Section 9A(3) of Customs Tariff Act provides as follows:

If the Central Government, in respect of the dumped article under inquiry, is of the opinion that

- (i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and*

(ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may, by notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

- h. The Authority would examine the matter concerning retrospective imposition of anti-dumping duty at the stage of the final finding.

G. Assessment Market Economy Treatment (MET), Normal Value, Export Price and Dumping Margin

NORMAL VALUE

23. Under Section 9A(1)(c), normal value in relation to an article means:

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

or

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

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

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

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

Provisions relating to Non- Market Economy countries

24. Annexure-I to AD rules states as under:

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

8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3)

(3) The designated authority shall consider in each case the following criteria as to whether:

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

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

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

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

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph”.

Submissions made by Exporters, Importers, Users and other Interested Parties

25. Various submissions made by the interested parties with regard to MET, Normal value, export price and dumping margin and considered relevant by the Authority are examined and addressed as follows:

- a. It is submitted that if profit making transactions are less than 20%, then the normal value should be determined on the basis of cost of production plus reasonable profit.
- b. M/s Zaporizhstal Integrated Iron and Steel Works, Ukraine has filed the MET response and claims MET.
- c. Baoshan Iron & Steel Co. Ltd., Ltd ("Baoshan"), Baosteel Singapore Pte. Ltd, Baoshan Company India Pvt. Ltd has submitted that the domestic industry has resorted to construction of the Normal Value for the purpose of determining dumping margin and it would be absolutely unfair if the importers/users are not allowed to comment upon the information relied upon to construct normal value which has a direct bearing on them. The foreign manufacturers have

lesser cost of manufacturing due to efficiency in their operation and scale of production.

- d. Nippon Steel and Sumitomo metal Corporation has submitted that the rejection of domestic sales as a determinant of normal value can only be done if the domestic sales are found to be “not in the ordinary course of trade” as clarified in Section 9A of the Customs Tariff Act, 1975, as well as Annexure I to the Anti-dumping Rules.
- e. Embassy of Ukraine has submitted that Ukraine should not be treated as non-market economy as it does not reflect the economic situation in Ukraine and it is inconsistent with India’s obligations under the WTO law. The presumption that Ukraine is a non-market economy is in stark contrast with the practice of generality of other WTO Members in the context of anti-dumping investigations on products from Ukraine. Also, the choice of Japan as the surrogate country proposed by the petitioners is erroneous.

Submissions made by the Domestic industry

26. Various general submissions made by the domestic industry with regard to MET, Normal value, export price and dumping margin during the course of the investigation and considered relevant by the Authority are as follows:

- a. Domestic Industry has provided evidence of selling price of product concerned in the domestic market of the subject countries.
- b. There is sufficient reason to consider that the producers in the subject countries are dumping the subject goods. These producers have been selling the product under consideration at prices less than cost of production or domestic prices are significantly higher than the export price to India.
- c. None of the Chinese and Ukrainian producers can satisfy market economy status. None of the WTO Member countries have granted market economy status to Chinese producers on the basis of the latest detailed evaluation of relevant criteria. India has never granted MET status to producers from Ukraine.
- d. Unless the responding producers/exporters from Ukraine and China PR conform to the standards laid down under the Rules, the Designated Authority is required to determine the normal value in accordance with Para 7 of Annexure-I to the Rules.
- e. None of the producers/exporters from China PR has claimed market economy treatment.

27. The domestic industry made the following specific submissions with respect to dumping margins, normal value, export price and questionnaires filed by various interested parties:

- a. Baoshan Iron & Steel Co. Ltd., China PR (“Baoshan”) and its related companies: Baoshan contends that Appendix 2 is not applicable to it as it is a producer. Baoshan further contends that Appendix 2 is applicable to its related exporter who has cooperated in this case and supplied Appendix 2 to the Designated Authority. In view of this, Baoshan has requested the Designated Authority to treat it as cooperative. However, the Designated Authority has observed in paragraph 69 of the preliminary findings that Baoshan has not submitted ‘**any information**’ in Appendix 2. This means that information in Appendix 2 has not been provided at all. If this is the case, then Baoshan group cannot be treated as cooperative, as complete information to calculate ex-factory export price is not available with the Designated Authority. In view of this, Baoshan should be continued to be treated as non-cooperative.
- b. Kobe Steel, Japan (“Kobe”): Kobe contends that it has filed updated Appendix 2 with the Designated Authority after issuance of the preliminary findings and has also requested for certain exclusions in the product scope. It is respectfully submitted that Kobe’s questionnaire response is too late to be considered. Timelines to file questionnaire responses are long over. In view of this, Kobe’s questionnaire responses, updated responses, and any request for exclusions in product scope cannot be accepted at this belated stage.
- c. Hyundai Steel Company, Korea RP (“Hyundai Steel”): In paragraphs 37 and 38 of the preliminary findings, the Designated Authority has observed that Hyundai Steel has sold the subject goods in the domestic market to 3 related parties but none of the related parties have filed their questionnaire response. It is submitted that Hyundai Steel should have been treated non-cooperative on this ground alone as normal value cannot be reliably determined for Hyundai Steel in absence of cooperation by related parties of Hyundai Steel. The Designated Authority is requested to consider this submission and treat Hyundai Steel as non-cooperative in the final findings.
- d. POSCO, Korea RP: The Designated Authority has categorically observed in paragraphs 39 and 40 that 2 out of 3 related parties of POSCO have not filed any response with regard to domestic sales. The Designated Authority should not have accepted the response filed by POSCO merely because volume of domestic sales to non-affiliated parties during the POI was more than a certain threshold. It is submitted that POSCO should have been treated non-cooperative on this ground alone as normal value cannot be reliably

determined for POSCO in absence of cooperation by related parties of POSCO. The Designated Authority is requested to consider this submission and treat POSCO as non-cooperative in the final findings.

- e. Dongkuk Industries Co. Ltd., Korea RP (“DKI”): The Designated Authority has categorically observed in paragraphs 59 and 60 that DKI has exported the subject goods through 2 traders POSCO Daewoo and Kowon Trading both of which have filed their response. However, the Designated Authority also observes that POSCO Daewoo has exported all the quantities to its related company POSCO ICPC, which has not cooperated in the investigation. In view of this significant non-cooperation by the related party of the trader, DKI should have been treated non-cooperative in this case. The Designated Authority is requested to consider this submission and treat DKI as non-cooperative in the final findings. .
- f. JFE Steel Corporation, Japan: The Designated Authority has categorically observed in paragraphs 45 and 46 that 4 out of 5 related parties of JFE Steel Corporation have not filed any response with regard to domestic sales. Merely because the quantum of sales to related parties is less, the Designated Authority should not have accepted the response filed by JFE Steel Corporation. It is submitted that JFE Steel Corporation should have been treated non-cooperative on this ground alone as normal value cannot be reliably determined for JFE Steel Corporation in absence of cooperation by related parties of JFE Steel Corporation. The Designated Authority is requested to consider this submission and treat JFE Steel Corporation as non-cooperative in the final findings.
- g. Nippon Steel & Sumitomo Metal Corporation, Japan (NSSMC): The Designated Authority has categorically observed in paragraphs 49 and 50 that 5 out of 7 related parties of NSSMC have not filed any response with regard to domestic sales. Merely because the quantum of sales to these related parties are less, the Designated Authority should not have accepted the response filed by NSSMC. In view of the significant non-cooperation, NSSMC should be treated as non-cooperative.
- h. Nisshin Steel Co. Ltd., Japan (“NSC”): The Designated Authority has rejected NSC’s response in paragraph 53 of the preliminary findings as NSC had failed to submit data regarding its domestic sales. The Designated Authority is requested to definitively confirm this observation in the final findings. NSC should not be allowed to submit domestic sales data at any time during the investigation as it has failed to submit the responses within the stipulated timelines.

- i. With regard to cooperation by interested parties, the domestic industry further submits that there is a strict requirement placed by investigating authorities in other WTO member countries. In case of countervailing duty investigation concerning imports of Certain Corrosion Resistant Steel Products from India conducted by United States, the US Department of Commerce (“USDOC”) has treated an exporter as non-cooperative just because the exporter has failed to inform the USDOC that related company supplying a miniscule quantity of raw material was in operation for the final two months of the POI.
- j. It is the global practice that suppression of facts and non-cooperation should lead to rejection of questionnaire response. The Designated Authority should make similar obligations on exporters and treat them non-cooperative for the reasons cited above.
- k. It is also requested that in calculation of the ex-factory export price, bank charges should also be reduced as deduction from the export price of the exporters for fair comparison.

Examination by the Authority

Market Economy claims for Chinese producers

28. Article 15 of China’s Accession Protocol provides as follows:

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

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

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

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

(b) 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.”

29. Article 15 implies that provisions of one of the subparagraph shall expire 15 years from date of China's Accession. The provisions of this paragraph expired on 11thDec., 2016. Since the factum of dumping causing injury to the domestic industry is established based on investigation period, the conditions prevalent during the investigation period alone is relevant, appropriate and necessary for the purpose of present investigation. The Period of Investigation (POI) for the purpose of the present review is July 2015 to December 2015. Since the sub-paragraph of Article 15 was in existence during the period of investigation, the Authority 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.

30. The Authority notes that in the past three years China PR has been treated as non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to

rebuttal of the presumption by the exporting country or individual exporters in terms of the Rules.

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

- a. The decisions of concerned firms in China PR and Ukraine regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values.
- b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts.
- c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms.
- d. The exchange rate conversions are carried out at the market rate.

32. It is noted that none of producers of subject goods in China PR have claimed market economy treatment. Accordingly, the authority is not required to examine any of the above criteria for Chinese Producers and holds that producers/exporters from China PR are not operating under market economy conditions and therefore, has adopted the constructed normal value for determination on normal value in terms of Para-7 to Annexure-1 to the Rules

Determination of Normal Value

33. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. The following parties have filed exporter questionnaire responses:

I. Korea

1. Kowon Trading Corp (Trader)

2. Dongkuk Industries Co. (Producer)
3. Samsung C&T Corporation- (Trader)
4. Hyundai Steel Company (Producer)
5. P&A Corporation (Trader)
6. LG International Corp. (Trader)
7. Hyundai Corporation (Trader)
8. POSCO Daewoo Corporation (Trader)
9. POSCO Asia Co. Ltd. (Trader) (Hong Kong)
10. POSCO Korea (Producer)
11. POSCO Processing & Service Co. Ltd. (Trader)

II. Ukraine

12. Zaporizhstal Integrated Iron and Steel Works (Producer)
13. Metinvest- SMC LLC
14. Metinvest International SA (Trader) (Switzerland)

III. China PR

15. Xinsa International Pte. Ltd. (Trader) (Singapore)
16. ZhnagjiagangYantgtze River Cold Rolled Sheet Co. Ltd. (Producer)
17. Jiangsu Shagang International Trade Co. Ltd. (Trader)
18. Future Materials Industry (Hong Kong) Co. Ltd. (Trader) (Hong Kong)
19. Lu Qin (Hong Kong) Co. Ltd. (Trader) (Hong Kong)
20. Angang Steel Company Limited (Producer)
21. Angang Group HongKong Co. Ltd. (Trader) (Hong Kong)
22. Baoshan Iron & Steel Co. Ltd., Ltd (Producer)
23. Baosteel Singapore Pte. Ltd. (Trader) (Singapore)

IV. Japan

24. Nissan Trading Co. Ltd. (Trader)
25. Sumitomo Corporation (Producer)
26. Honda Trading Corporation (Trader)
27. Ohmi Industries (Trader)
28. Kanematsu Corporation (Trader)
29. JFE steel Corporation (Producer)
30. Nisshin steel Co. Ltd. (Producer)
31. Nippon Steel and Sumitomo Metal Corporation (Producer)
32. Marubeni Itochu Steel Inc. (Trader)

33. Toyota Tshusho Corporation (Trader)
34. Nippon Steel & Sumikin Bussan Corporation (Trader)
35. Mitsui & Co. Ltd. (Trader)
36. JFE Shoji Trade Corporation (Trader)
37. Metal One Corporation (Trader)

Determination of Normal Value for producers and exporters in China PR

34. It is noted that none of the producers of subject goods in China PR have claimed market economy treatment. Therefore, the Authority has adopted the constructed normal value for determination of the normal value in terms of Para-7 to Annexure-1 to the Rules.

Methodology for determination of normal value for producers and exporters in China PR

35. In view of the above, the normal value for China PR is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules. As per the provisions of Para 7 of Annexure I, the normal value in China PR is required to be determined based on domestic selling prices in a market economy third country, or the constructed value in a market economy third country, or the export prices from such a third country to any other country, including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted to include reasonable profit margin.
36. In the absence of any reliable price and cost details for the subject goods in any market economy third country, the Designated Authority has constructed the normal value for China PR on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin. Accordingly, the Normal Value for all the producer/exporters of the subject goods from China PR has been constructed and the same is shown in the Dumping Margin Table below.

Determination of Normal Value for producers and exporters in Korea RP, Japan and Ukraine

General Methodology for working out Normal Value

37. It was first determined by the Authority whether the total domestic sales of the subject goods by the producers/exporters in these subject countries were representative when compared to exports of the subject goods to India.
38. Thereafter, it was examined whether their sales are under ordinary course of trade in terms of Para 2 of the Annexure I to the Anti-dumping 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.

39. 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 or not. 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% and 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.
40. 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.

Korea RP

Normal Value for cooperating exporters

Normal Value for M/s Hyundai Steel Company (“Hyundai Steel”) Korea RP, (Producer)

41. During the POI, Hyundai Steel has sold the subject goods in the domestic market to related and unrelated parties. The authority notes that none of the related parties have filed questionnaire response. However, it is also noted that approximately ***% of the domestic sales have been made to non-affiliated parties during the POI. Therefore, the authority accepts the domestic sales for calculating the normal value. 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. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.
42. Hyundai Steel has claimed adjustment on account of credit cost, warehouse expenses & inland freight and the same have been allowed by the authority. Accordingly, normal value at ex-factory level for Hyundai Steel has been determined and the same is shown in the Dumping Margin Table below.

Normal Value for M/s POSCO, Korea RP (Producer)

43. During the POI, POSCO has sold the subject goods in the domestic market to related and unrelated parties. The authority notes that only one of the related party of the POSCO, M/s. POSCO P&S has filed the questionnaire response. However, it is also noted that more than ***% of the domestic sales have been made to non-affiliated parties during the POI. Therefore, the authority accepts the domestic sales for determination of normal value. The domestic sales are in sufficient volumes when compared with exports to India. Accordingly, all the domestic sales transactions have been considered for determination of the normal value. 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 the subject goods. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.
44. POSCO has claimed adjustment on account of commission, discount, warehousing, inland freight, packing cost, warranty cost, credit expense, indirect selling expenses & level of trade. The authority has not accepted the adjustments for warranty cost, indirect selling expenses & level of trade for the purpose of final determination. Accordingly, the normal value at ex-factory level for POSCO has been determined and the same is shown in the Dumping Margin Table below.

Normal Value for M/s Dongkuk Industries Co., (Producer)

45. M/s Dongkuk Industries Co. (DKI) has made all the sales in the domestic market to non-affiliated parties during the POI. 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 cost of production of the subject goods. If profit making transactions are more than 80%, then authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.
46. DKI has claimed adjustment on account of packing cost, claims, credit cost & inland freight and the same have been allowed by the authority. Accordingly, the normal value at ex-factory level for DKI has been determined and the same is shown in the Dumping Margin Table below.

Normal Value for non-cooperating producers and exporters from Korea RP

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

Normal Value for Japan

Normal Value for M/s JFE Steel Corporation Japan (Producer) (“JFE”)

48. During the POI, JFE has sold the subject goods in the domestic market to related and unrelated parties. The authority notes that only one of the related entity M/s. JFE Shoji Trading has filed the response. However, it is also noted by the authority that domestic sales made to non-cooperating related parties are insignificant in terms of total domestic sales. Therefore, the authority has determined the normal value based upon the domestic sales. The domestic sales are in sufficient volumes when compared with exports to India.
49. 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 the subject goods. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.
50. JFE has claimed adjustment on account of credit cost, discounts, inland freight and storage cost. The authority has accepted all the adjustments for final determination. Accordingly, the normal value at ex-factory level for JFE has been determined and the same is shown in the Dumping Margin Table below.

Normal Value for M/s. Nippon Steel & Sumitomo Metal Corporation (“NSSMC”)

51. During the POI, NSSMC has sold the subject goods in the domestic market to related and unrelated parties. The authority notes that only two of the related entities M/s. Nippon Steel & Sumikin Bussan Corporation and Nippon Steel & Sumikin Pipe Co, Ltd, have filed their responses. It is also noted by the authority that the domestic sales made to non-cooperative related parties are insignificant in terms of total domestic sales. Therefore, the authority has determined the normal value based upon the domestic sales. The domestic sales are in sufficient volumes when compared with exports to India.

52. 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 the subject goods. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.
53. NSSMC has claimed adjustments on account of price adjustments, rebate, warranty, early payment, credit cost, inland freight, insurance and storage. The authority has accepted all the adjustments except early payment. Accordingly, the normal value at ex-factory level for NSSMC has been determined and the same is shown in the Dumping Margin Table below.

Nisshin Steel Co. Ltd.

54. The authority notes that Nisshin Steel Co. Ltd (“NSC”) has submitted the exporters’ response claiming to be producer of subject goods and informed that it has exported the subject goods through traders in Japan. However, the authority notes that NSC has not submitted any details about domestic sales/export to India in Appendix-1/ Appendix-2 and other costing information. NSC has submitted only Appendix-2A and 2B, which too are also grossly incomplete. Therefore, the authority is unable to determine the normal value and export price for NSC in the absence of any information and accordingly rejects the response filed by NSC. Accordingly, the normal value and export price for NSC is based on the facts available with the authority and the same is shown in the Dumping Margin Table below.

Normal Value for non-cooperating producers and exporters from Japan

55. The Authority notes that no other producer/exporter from Japan has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Japan, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

Normal Value for Ukraine

Market Economy Claims of M/s Zaporizhstal Integrated Iron-and-Steel Works (“Zaporizhstal”).

56. M/s Zaporizhstal Integrated Iron-and-Steel Works (“Zaporizhstal”) has requested the authority for grant of Market Economy Treatment and has submitted a detailed Market Economy Treatment Questionnaire in this regard. During the course of verification it was pointed out that Ukraine has not been treated a Non-Market Economy by any member of WTO during last three years. The authority examined the claims of the company and notes as under:

- a. There is no state interference in Zaporizhstal while fixing the prices for its products.
- b. The decisions regarding costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference.
- c. The costs of major inputs substantially reflect market values.
- d. The production costs and financial situation of Zaporizhstal are not subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts.
- e. Zaporizhstal is subject to bankruptcy and property laws of Ukraine which guarantee legal certainty and stability for the operation of the firms.
- f. Exchange rate conversions are carried out at the market rate in Ukraine since early 2015 .
- g. Zaporizhstal prepares its financial statements according to GAAP of Ukraine and the financial accounts are audited by independent auditors. The accounting standards followed in Ukraine are in line with the International accounting norms

57. Accordingly, the authority notes that Zaporizhstal satisfies the Market Economy criteria specified in the AD Rules. Therefore, the normal value of M/s Zaporizhstal is based on domestic selling prices and cost of production of the company.

Normal Value for M/s Zaporizhstal Integrated Iron-and-Steel Works ("Zaporizhstal").

58. During the POI, Zaporizhstal has sold the subject goods in the domestic market to related and unrelated parties. The related party Metinvest- SMC LLC has filed the complete information. The domestic sales are in sufficient volumes when compared with exports to India.

59. 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 the subject goods. If profit making transactions are more than 80%, then the authority has considered all the transactions in the domestic market for the determination of the normal value and 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. 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.

60. Zaporizhstal has claimed adjustment on account of inland freight, commission, credit cost and level of trade. The authority has accepted all the adjustments except level of trade. The adjustment for level of trade was claimed on the ground that the product under consideration was sold in the domestic market through retail centres directly to the consumers as against exports where the sale was not to the end user. However, there was no plausible justification given by the company for the claims well as the extent of the claim. Accordingly, the normal value at ex-factory level for Zaporizhstal has been determined and the same is shown in the Dumping Margin Table below.

Normal Value for non-cooperating producers and exporters from Ukraine

61. The Authority notes that no other producer/exporter from Ukraine has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Ukraine, the Authority has determined the normal value at ex-factory level on the basis of best available information and the same is shown in the Dumping Margin Table below.

EXPORT PRICE

Export Price for Korea RP

Export Price for M/s Hyundai Steel Company, Korea RP, (Producer) along with M/s Hyundai Corporation, Korea RP, M/s LG International Corp. and M/s P&A Corporation, Korea RP (Exporters/Traders).

62. M/s Hyundai Steel, a producer of the subject goods in Korea RP, has filed a questionnaire response along with its unrelated trading companies', namely, M/s Hyundai Corporation, Korea RP, M/s. LG International Corp. and M/s P&A Corporation, Korea RP. These trading companies exported the subject goods to India manufactured by the Hyundai Steel during the POI. All of these Exporters/Traders have filed their Questionnaire responses with the Designated Authority.
63. The export of Hyundai Steel to India are either directly to its related company in India, namely, M/s. Hyundai Steel India Private limited or to unrelated Indian importers (through cooperating unrelated trading companies). The exports are on FOB/CFR/CIF basis. It was observed by the authority that there was significant variation between the export price to its related company (M/s. Hyundai Steel India Private limited) and the export price to unrelated customers in India for the same PCN/Grade. M/s Hyundai Steel was unable to provide any valid reasons for such a significant variations in export prices between related and unrelated parties for the same PCN/grade. Therefore, authority has only considered the exports to unrelated parties for determination of export price in terms of Annexure I to the AD Rules. Hyundai Steel has claimed adjustment on account of inland freight,

ocean freight, handling charge, bank charge and credit expenses and the same have been allowed. The export price has accordingly been determined for Hyundai Steel and the same is shown in the Dumping Margin Table below.

Export price for M/s POSCO Korea RP, (Producer) along with M/s Hyundai Corporation, M/s LG International Corp., M/s POSCO Asia Co., Ltd, M/s POSCO Processing & Service Co., Ltd., (POSCO P&S), M/s POSCO Daewoo, M/s Samsung C&T (Exporters/Traders).

64. M/s POSCO, a producer of the subject goods in Korea RP, has filed a questionnaire response along with its unrelated/related trading companies', namely, M/s Hyundai Corporation, M/s LG International Corp., M/s POSCO Asia Co., Ltd., M/s POSCO Processing & Service Co., Ltd. (POSCO P&S), M/s POSCO Daewoo, M/s Samsung C&T who have exported the subject goods to India manufactured by the POSCO. POSCO has also made direct exports to its related company in India, POSCO Maharashtra during the POI.
65. The export sales of POSCO through its cooperating unrelated/related trading companies are on FOB/C&F basis. POSCO has claimed adjustment on account of inland freight, ocean freight, handling charge, packing cost, commission and credit expenses and the same have been allowed. Accordingly, the export price has been determined for POSCO at ex-factory level and the same is shown in the Dumping Margin Table below.

Export Price for M/s Dongkuk Industries Co., (Producer) through traders POSCO Daewoo and Kowon Trading Corp, Korea

66. From the information provided to the authority, the authority notes that M/s Dongkuk Industries Co. (DKI) has exported the subject goods through traders POSCO Daewoo and Kowon Trading. From the response filed by POSCO Daewoo, the authority notes that POSCO Daewoo has exported all the quantity to its related company POSCO ICPC. It is also noted that export to India made through non-cooperative related/unrelated parties are insignificant in terms of total exports to India. Therefore, the authority accepts the exports to India for determination of export price. The export sales of DKI through its trading companies are on FOB/C&F/CIF basis. DKI has claimed adjustment on account of commission, inland freight, ocean freight, handling charge, insurance, bank charges, claim, packing cost and credit expenses and the same have been allowed. Further, the authority notes that POSCO Daewoo has exported the subject goods to India to POSCO ICPC at a price which does not cover for traders' expenses. The authority has, therefore, made appropriate adjustments on account of traders' expenses and profit. Accordingly, the export price determined for DKI at ex-factory level has been determined and the same is shown in the Dumping Margin Table below.

Export Price for non-cooperating producers and exporters from Korea RP

67. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea RP, the Authority has determined the

export price on the basis of best available information and the same is shown in the Dumping Margin Table below.

Export Price for Japan

Export Price for M/s JFE Steel Corporation Japan (Producer) along with JFE Shoji Trade Corporation, Japan, Honda Trading Corporation, Japan, Nissan Trading Co. Ltd, Ohmi Industries, Mitsui & Co. Ltd, Japan and Metal One Corporation, Japan (exporters/traders).

68. JFE has filed a questionnaire response along with its unrelated/related trading companies' JFE Shoji Trade Corporation, Japan, Honda Trading Corporation, Japan, Nissan Trading Co. Ltd, Ohmi Industries, Mitsui & Co. Ltd, Japan and Metal One Corporation, Japan.
69. JFE has claimed adjustment on account of inland freight, insurance and credit expenses and the same have been allowed. The authority notes that some of the traders have exported the subject goods to India at a price which does not cover for traders' expenses. The authority has, therefore, made appropriate adjustments on account of traders' expenses also. The export price for JFE at ex-factory level has accordingly been determined and the same is shown in the Dumping Margin Table below.

Export Price for M/s. Nippon Steel & Sumitomo Metal Corporation ("NSSMC"), Japan through Nippon Steel & Sumikin Bussan Corporation, Honda Trading Corporation, Japan, Kanematsu Corporation Ltd., Japan, Marubeni-Itochu Steel Inc., Japan, Mitsui & Co. Ltd, Japan, Sumitomo Corporation, Japan and Metal One Corporation, Japan and Toyota Tshusho Corporation, Japan (Exporters/Traders)

70. NSSMC has filed a questionnaire response along with its unrelated/related trading companies', namely, Nippon Steel & Sumikin Bussan Corporation, Honda Trading Corporation, Japan, Kanematsu Corporation Ltd., Japan, Marubeni-Itochu Steel Inc., Japan, Mitsui & Co. Ltd, Japan, Sumitomo Corporation, Japan and Metal One Corporation, Japan and Toyota Tshusho Corporation, Japan, who have exported the subject goods to India manufactured by the NSSMC.
71. The export sales of NSSMC through its unrelated/related trading companies are on FOB basis. NSSMC has claimed adjustment on account of price adjustments, credit cost, warranty, inland freight, insurance, storage and handling and the same have been allowed. The authority notes that some of the traders have exported the subject goods to India at a price which does not cover for traders' expenses. The authority has, therefore, made appropriate adjustments on account of traders' expenses also. The export price has accordingly been determined for NSSMC and the same is shown in the Dumping Margin Table below.

Export Price for non-cooperating producers and exporters from Japan

72. The Authority notes that no other producer/exporter from Japan has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Japan, the Authority has determined the export price for on the basis of best available information and the same is shown in the Dumping Margin Table below.

Export Price for China PR

M/s Angang Steel Company Limited, China PR (Producer)

73. M/s Angang Steel Company Limited (“Angang”) in its questionnaire response has stated that Angang has exported the subject goods to India through related exporter/trader, namely, M/s Angang Group Hong Kong Co., Ltd. (“Angang HK”) and that Angang Group International Trade Corporation (“Angang International”) is acting as commission agent. However, during the verification, it was noted by the authority that commercial invoice to Angang HK are issued by Angang International. No invoices were issued by Angang to Angang HK. The status of Angang Group International Trade Corporation (“Angang International”) therefore is of an exporter / a trader rather than a commission agent. In view of the fact that no response has been filed by Angang International and also that this fact was suppressed Angang, the Authority does not accept the response of Angang and determines the export price for the company on the basis of best available information and the same is shown in the Dumping Margin Table below.

M/s Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd. (Yangtze), (Producer) through related companies M/s Jiangsu Shagang International Trade Co., Ltd., (Shagang International), M/s Xinsha International PTE LTD (Xinsha), M/s Lu Qin (Hong Kong) Co., Ltd., and M/s Future Materials Industry (Hong Kong) Co., Ltd., (Exporters/Traders).

74. M/s Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd. (Yangtze), is a producer/manufacturer of subject goods from China PR and has exported the subject goods to India during the POI. Yangtze has sold subject goods to India through related exporter/trader M/s Jiangsu Shagang International Trade Co., Ltd., (Shagang International), who has then sold the subject goods to M/s Xinsha International PTE LTD (Xinsha). Xinsha ultimately exported the subject goods to India through two another exporters/traders, namely, M/s Lu Qin (Hong Kong) Co., Ltd. and M/s Future Materials Industry (Hong Kong) Co. Ltd. The sales to Indian customers are on CFR basis and the total quantity exported to India has been considered. The producer/exporter has claimed adjustments on account of inland freight, port handling charges/customs fee, ocean freight and non-refundable VAT and the same have been allowed. Accordingly, the export price has been determined for Yangtze at ex-factory level and the same is shown in the Dumping Margin Table below.

Baoshan Iron & Steel Co. Ltd., Ltd (Producer) through Baosteel Singapore Pte. Ltd. (Trader) (Singapore)

75. It is submitted by M/s Baoshan Iron & Steel Co. Ltd., Ltd (“Baoshan”) that the company has exported the subject goods through its related trader Baosteel Singapore Pte. Ltd. (Trader) (Singapore) to India. Baoshan has not submitted any information in Appendix-2. Therefore, the authority in absence of any information is unable to determine export price for Baoshan. Accordingly, the export price for Baoshan is based on the facts available with the authority.

Export Price for non-cooperating producers and exporters from China PR

76. The Authority notes that no other producer/exporter from China PR has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in China PR, the Authority has determined the export price on the basis of best available information and the same is shown in the Dumping Margin Table below.

Export Price of Zaporizhstal Integrated Iron-and-Steel Works (Producer), Ukraine exported through Metinvest International SA.

77. From the information submitted by M/s Zaporizhstal Integrated Iron-and-Steel Works (“Zaporizhstal”), the authority notes that Zaporizhstal has exported the subject goods to India through related exporter/trader M/s Metinvest International SA. The sales to Indian customers are on FOB basis. The producer/exporter has claimed adjustments on account of inland freight and credit cost and the same have been allowed. Accordingly, the export price has been determined for Zaporizhstal at ex-factory level and the same is shown in the Dumping Margin Table below.

Export Price for non-cooperating producers and exporters from Ukraine

78. The Authority notes that no other producer/exporter from Ukraine has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Ukraine, the Authority has determined the export price on the basis of best available information and the same is shown in the Dumping Margin Table below.

DUMPING MARGIN

79. The export price to India (net of all the adjustments claimed by the exporter and accepted by the Authority) has been compared with the normal value to determine the dumping margin. The dumping margin during the POI for all the exporters/producers from the subject countries has been determined as shown in the Dumping Margin Table below.

Dumping Margin Table

S. No	Country	Producer	Exporter	Normal Value	Net Export Price	Dumping Margin	Dumping Margin %	Dumping Margin Range %
1.	Korea RP	M/s Hyundai Steel Company	1. M/s Hyundai Steel Company, Korea RP 2. M/s Hyundai Corporation, Korea RP 3. M/s. LG International Corp, Korea RP. 4. M/s P&A Corporation, Korea RP	***	***	***	***	45-55
2.	Korea RP	M/s POSCO	1. M/s POSCO, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. M/s LG International Corp., 4. M/s Hyundai Corporation, Korea RP 5. M/s Samsung C&T Corporation, Korea RP 6. M/s POSCO Asia, Hong Kong 7. POSCO Processing and Service Co. Ltd., Korea RP	***	***	***	***	45-55
3.	Korea RP	M/s Dongkuk Industries Co	1. M/s Dongkuk Industries Co, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. Kowon Trading Corp, Korea	***	***	***	***	0-10
4.	Japan	JFE Steel Corporation	1. JFE Shoji Trade Corporation, Japan, 2. Honda Trading	***	***	***	***	15-25

			Corporation, Japan, 3. Nissan Trading Co. Ltd, 4. Ohmi Industries, 5. Mitsui & Co. Ltd, Japan 6. Metal One Corporation, Japan.					
5.	Japan	M/s. Nippon Steel & Sumitomo Metal Corporation	1. Honda Trading Corporation, Japan 2. Kanematsu Corporation Ltd, Japan 3. Marubeni-Itochu Steel Inc., Japan 4. Metal One Corporation, Japan 5. Mitsui & Co. Ltd, Japan 6. Nippon Steel & Sumikin Bussan Corporation, Japan 7. Sumitomo Corporation, Japan 8. Toyota Tshusho Corporation, Japan	***	***	***	***	35-45
6.	China PR	M/s Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd.	1. M/s Jiangsu Shagang International Trade Co., Ltd., China PR 2. M/s Xinsha International Pte Ltd, Singapore 3. M/s Lu Qin (Hong Kong) Co., Ltd., Hong Kong 4. M/s Future Materials Industry (Hong Kong) Co., Ltd, Hong Kong	***	***	***	***	85-95
7.	Ukraine	Zaporizhstal Integrated Iron and Steel Works	Metinvest International SA, Switzerland	***	***	***	***	35-45

Dumping Margin for other producers and exporters from the subject countries

80. The Normal Value and export price to India in respect of other producers and exporters in the subject countries has been determined on the basis of best information available. The information provided by the responding exporters has been adopted for the purpose. The dumping margin so worked out is mentioned in the table below.

Particulars	UoM	Japan	Korea RP	China	Ukraine
Normal Value	US\$/MT	***	***	***	***
Net Export Price	US\$/MT	***	***	***	***
Dumping Margin	US\$/MT	***	***	***	***
Dumping Margin %	%	***	***	***	***
Dumping Margin % Range	% Range	55-65	85-95	85-95	35-45

81. It is seen that the dumping margins are quite significant and more than the limits prescribed under the Rules in respect of the exports made by all the producers-exporters of the product under consideration from the subject countries.

Determination of Injury and Causal Links

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

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

83. The submissions made by the opposing interested parties with regard to injury related issues and considered relevant by the authority are as follows:

- a. Indian producers have not reduced prices in line with the declining raw material costs. It is not the cheap imports but high domestic prices of Cold Rolled Coils which have hit the Indian manufacturing sector and the Indian economy.
- b. The main reason for the cheap imports was steep fall in the domestic and global prices of iron ore, coking coal, lubricants etc.

- c. Misleading information has been provided by the domestic industry on return on investments. The fall in ROCE in the current case is account of other factors including investments made by the interested companies in recent times which have not generated returns. The injury information provided in Proforma IVA suggests that DI has not suffered any injury on account of continued imports.
- d. The Petition does not contain sufficient evidence of the negative impact of the allegedly dumped imports on the Domestic Industry. Production increased by 23%, domestic sales increased by 13%, market share increased by 4%, capacity increased by 45%, capital employed increased by 50% and export sales increased 2.5 times during April 2015-Dec 2015(A) as compared to April 2012-March 2013. The indicators definitely prove the positive development of the Petitioners.
- e. The share of the petitioners in the domestic production increased during the investigation period. The market share of the petitioners increased with the increase in domestic sales. Therefore, the information on record confirms that the Domestic Industry is not suffering any injury.
- f. As per publicly available information, the petitioner companies are not suffering any injury and are doing well. SAIL has plans for making strategic investments. Essar Steel points to a positive situation and the company has shown a positive trend with regard to the domestic consumption of steel. JSW Steel acknowledges that sales of cold rolled products surged by 54% in FY 2014-15 compared to FY 2013-14. Therefore, Metinvest draws the attention of the authority that the concerned companies themselves have not suffered injury but have actually registered positive performance.
- g. The reasons for alleged injury to the petitioner companies are high debt, underutilization of capacities and lower export prices vis-à-vis domestic prices. Even if the entire Indian demand is met by the Petitioners, there would still be huge unutilized capacity in India. The Authority must investigate the burden of such excess capacities on costs before concluding injury. Production of the Petitioners remained stable over the years and no adverse impact appears to have been caused to the production.
- h. Essar has high finance cost, cost of material consumed, depreciation as compared to JSW Steel and SAIL.

- i. Embassy of Ukraine stated that Steel Authority of India Limited indicated in its publicly available annual report that the reasons for underperformance in 2014-2015 were higher salaries and wages, increase in royalty in iron ore, higher stores and spare expenditures, higher depreciation due to capitalization of new facilities, increased competition from domestic and international companies located in India.
- j. It is apparent that the injury to the Domestic Industry is self-inflicted and not due to alleged dumped imports. Massive indiscreet investments in India, loss making ventures beyond financial capacity, distorted debt equity ratio and heavy interest burden have resulted in poor performance of some of the producers. Moreover, the DI has neglected technological upgradation for cost reduction and product development.
- k. Any injury allegedly suffered by the Petitioners is due to factors other than imports from the subject countries.e.g.FTAs with other WTO members, overcapacity in China, overall negative outlook of the world steel industry, decrease in exports of steel from India and various negative factors relating to specific companies, viz., SAIL, Essar Steel, JSW Steel etc. may have had negative impact on the Indian domestic production.
- l. The information in the application as claimed by the applicants shows that the demand for the product has recorded significant decline. This shows that there is no causal link between alleged dumped imports and injury to the domestic industry. Any continued injuries are on account of other factors such as decline in demand.
- m. There is a strong competition in the domestic market amongst the domestic producers. Furthermore, SAIL referred in its Annual Report to the increasing competition from domestic and international steel companies located in India. Increase in the interest cost and cost of sales cannot be attributed to the influence of imports. Thus, competition amongst the domestic producers and growth in costs should be considered as other factors within the meaning of Article 3.5 of the Antidumping Agreement.
- n. The imports of Cold Rolled sheets/coils rose in July-September 2015 due to sharp fall in the production of HR Coils- the base material, necessitating higher imports by the manufacturing sector. Production of the PUC declined due to expansion and maintenance works at SAIL and the imports had no role in decline in the production.
- o. The complaint by the Petitioners is deficient concerning the very existence of price depression. The Petition neither provides evidence with

regard to the effects caused by imports from any single country nor adequate evidence to substantiate the claim that the DI has suffered injury.

- p. As per the import statistics procured from International Trade Centre (based on UN COMTRADE), in 2015-16, Ukraine's share of imports in the total import was 2.48%, i.e., it should be deemed negligible within the meaning of Article 5.8 of the Antidumping Agreement. In 2015-16, imports from Ukraine halved as compared to previous years. Therefore, there was no significant increase in imports from Ukraine which could have caused injury to the domestic producers.
- q. Ukrainian imports are decreasing and are countercyclical with regard to imports from other sources. Imports from Ukraine do not represent a threat to the DI and are already decreasing even without imposition of anti-dumping duties. The impact of Ukrainian import should be decumulated from that of imports from other sources. Moreover, the imports from Ukraine are likely to decrease after stabilization of security situation in the country.
- r. Hyundai Steel company and Dongkuk Industries Co has submitted that Designated authority has determined negative injury margin for them in the Preliminary Findings. This shows that landed prices of exports made by above mentioned parties are higher as compared to Non-Injurious prices as determined by the designated authority in preliminary finding. Domestic Industry has also urged Designated Authority to confirm the Preliminary Finding at Final Finding.
- s. NIP is calculated on the basis of the production cost of the Domestic Industry and is inflated.
- t. There is no price undercutting from Japan. The respondent, thus, submits that in the absence of price undercutting and price suppression, no case of price injury is made out in the present investigation.

Views of the domestic industry

84. The authority has taken into consideration the relevant submissions of the petitioners made in the application filed with the authority.

Examination of the issues by the Authority

85. The submissions made by the domestic industry and other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as under :

- a. The interested parties have made submission that the prices of raw materials have declined and consequently there is a fall in prices of the subject goods. The Authority notes that landed values of imports of the subject goods from the subject countries have declined much more than the decline in raw material prices and the domestic industry has been forced to match such low prices causing injury to the domestic industry.
- b. Various interested parties have contended that the increased quantities of imports for PUC were due to the fact that the production of Hot Rolled products, which are used as input raw material for producing the PUC, have reduced sharply during the POI. The authority notes that the contention of the interested parties is not correct and that the production of Hot Rolled flat products in India have remained stable.
- c. It has been argued that the imports from Ukraine are negligible and there is no significant increase in the imports from Ukraine during 2015-16 which could cause injury to the domestic industry. The authority notes that the share of imports from Ukraine in total imports of the PUC into India is above de-minimis.
- d. Interested parties have submitted that the injury suffered by the domestic industry is due to their own internal factors including increased interest burden, lower export prices, indiscreet investments in India, loss making ventures, high fixed cost burden, high freight cost, lack of technological upgradation, raw material crisis, underutilized capacities and inability to meet the quality requirements of specific downstream industry. The authority notes that these claims are very general and unsubstantiated. On detailed examination, the authority found that the domestic industry has suffered injury due to increased quantities of dumped imports coming into India from the subject countries. Further, detailed analysis of various injury parameters and causal link are discussed hereunder.

Cumulative Assessment

86. Article 3.3 of WTO agreement and Annexure II para (iii) of the Anti-dumping Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Authority will cumulatively assess the effect of such imports, in case it determines that:

- a. The margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively account for more than seven percent of the import of like article, and
- b. Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

87. The Authority notes that:

- a. The subject goods are being dumped into India from the subject countries. The margins of dumping from each of the subject countries are more than the de minimis limits prescribed under the Rules.
- b. The volume of imports from each of the subject countries is individually more than 3% of the total volume of imports.
- c. Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries not only directly compete with the like articles offered by each of them but also the like articles offered by the domestic industry in the Indian market.

88. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

89. Rule 11 of AD 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales

realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the AD Rules.

Volume Effect of Dumped Imports and Impact on Domestic Industry

Assessment of Demand

90. The demand of subject goods has been determined by adding the domestic sales of Indian producers of like product with the imports of the subject goods from all countries. For the purpose of present injury analysis, the Authority has relied on the import data procured from DGCI&S. The Authority notes that demand of subject goods increased over the injury period as can be shown in the table below:

Particulars (Qty. in MT)	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Total Import from subject countries	11,98,244	10,69,866	13,67,432	15,38,922	9,19,313	18,38,625
Imports from other countries	2,53,087	1,16,982	1,85,325	1,24,566	55,244	1,10,488
Total Imports	14,51,331	11,86,848	15,52,757	16,63,488	9,74,557	19,49,113
Domestic Sales of Petitioners	17,72,143	17,93,934	19,66,473	19,96,730	9,66,568	19,33,136
Domestic Sales of Supporters	4,96,965	5,16,368	4,64,625	5,59,434	2,92,715	5,85,430
Domestic Sale of other producers	24,69,727	22,61,061	21,93,144	19,14,871	9,30,988	18,61,977
Total Demand	61,90,166	57,58,211	61,76,999	61,34,524	31,64,828	63,29,656

Import Volumes and Share of Subject countries

91. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The volume of imports of the subject good from the subject countries has been analyzed as under:

Particulars	Unit	2012-13	2013-14	2014-15	April 2015-Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
China PR	MT	2,64,420	1,06,642	2,84,094	2,33,478	1,62,172	3,24,343
Japan	MT	3,04,308	2,59,711	2,50,269	3,75,895	2,02,561	4,05,122
Korea	MT	5,79,507	6,50,815	6,99,157	8,10,760	5,15,799	10,31,598
Ukraine	MT	50,008	52,699	1,33,912	1,18,789	38,781	77,562
Other	MT	2,53,087	1,16,982	1,85,325	1,24,566	55,244	1,10,488

Particulars	Unit	2012-13	2013-14	2014-15	April 2015- 2015-Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Total Imports	MT	14,51,331	11,86,848	15,52,757	16,63,488	9,74,557	19,49,113

Particulars	Unit	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Total Import from subject countries	MT	11,98,244	10,69,866	13,67,432	15,38,922	9,19,313	18,38,625
Trend	Indexed	100	89	114	128	77	153
Imports from other countries	MT	2,53,087	1,16,982	1,85,325	1,24,566	55,244	1,10,488
Trend	Indexed	100	46	73	49	22	44
Total Imports	MT	14,51,331	11,86,848	15,52,757	16,63,488	9,74,557	19,49,113
Trend	Indexed	100	82	107	115	67	134
Total Demand in India	MT	61,90,166	57,58,211	61,76,999	61,34,524	31,64,828	63,29,656
Trend	Indexed	100	93	100	99	51	102
Imports from Subject Countries relative to consumption	%	19.4%	18.6%	22.1%	25.1%	29.0%	29.0%
Production of Petitioners	MT	39,13,055	41,51,750	47,89,793	48,48,849.93	22,92,142	45,84,284
Trend	Indexed	100	106	122	124	59	117
Imports from Subject Countries relative to petitioners' total production	%	30.6%	25.8%	28.5%	31.7%	40.1%	40.1%

92. The Authority notes as under from the above table:

- a. Dumped imports of the subject goods from subject countries have increased in absolute terms from 11,98,244MT in 2012-13 to 18,38,625 MTin POI (A).
- b. Dumped imports of the subject goods from subject countries have increased in relation to petitioners' production from 30.6% in 2012-13 to 40.1 % in the POI (A).

- c. Dumped imports of the subject goods from the subject countries have increased in relation consumption in India from 19.4% in 2012-13 to 29.0% in POI (A).

93. It is, thus, concluded that imports of the PUC from the subject countries have increased both in absolute terms and in relation to production and consumption in India.

Price Effect of the Dumped Imports on the Domestic Industry

94. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows:

"With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree."

95. It has been examined whether there has been a significant price undercutting by the dumped imports of 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. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any.

Price Undercutting

96. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. In this regard, a comparison has been made between the landed value of the product 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 the ex-factory level. The domestic prices and margin of undercutting is shown as per the table below:

Price Undercutting	Unit	2012-13	2013-14	2014-15	April 2015- Dec 2015	POI (Jul 2015- Dec 15)
Landed Value	Rs. /MT	44,710	45,162	43,592	32,926	31,032
Trend	Indexed	100	101	97	74	69

Price Undercutting	Unit	2012-13	2013-14	2014-15	April 2015- Dec 2015	POI (Jul 2015- Dec 15)
Domestic Selling Price	Rs. /MT	***	***	***	***	***
Trend	Indexed	100	99	99	82	80
Price Undercutting	Rs. /MT	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	%	(10) to 0	(20) to (10)	(10) to 0	0 to 10	0 to 10

Price Undercutting (POI)	Unit	China PR	Japan	Korea	Ukraine	Subject Countries
Landed Value	Rs. /MT	30,734	33,504	30,232	30,016	31,032
Domestic Selling Price	Rs. /MT	***	***	***	***	***
Price Undercutting	Rs. /MT	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	%	0 to 10	(10) to 0	0 to 10	0 to 10	0 to 10

97. The Authority notes that during the POI, price undercutting exists for the subject countries except Japan, but is also of the opinion that for a proper examination, price undercutting should be examined in conjunction with price depression and price suppression and that price undercutting should not be examined in isolation in a situation where the Domestic Industry has been constantly forced to reduce its prices to match with the landed value of imports. If the Domestic Industry does not respond to imports by bringing down its prices, it will lose more customers and the injury would be more severe.

Price Underselling

98. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from subject counties. For this purpose, the NIP determined for the domestic industry has been compared with the landed price of imports. Comparison of weighted average NIP of the domestic industry with weighted average landed price of imports shows as follows:

Particulars	UOM	Japan	Korea RP	China PR	Ukraine
Weighted average- Non injurious price	Rs/MT	***	***	***	***
Landed Price	Rs/MT	33,504	30,232	30,734	30,016
Price Underselling	Rs/MT	***	***	***	***
Price Underselling	%	***	***	***	***
Price Underselling	% Range	10-20	20-30	20-30	25-35

99. It is seen that the landed price of the subject goods from subject countries were significantly lower than the NIP determined for the domestic industry.

Price Suppression/Depression

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

Particulars	Unit	2012-13	2013-14	2014-15	April 2015- Dec 2015	POI (July 2015- Dec 15)
Cost to make and sell	Rs./MT	***	***	***	***	***
Trend	Indexed	100	103	101	93	92
Domestic Selling Price	Rs./MT	***	***	***	***	***
Trend	Indexed	100	99	99	82	80
Landed Value	Rs./MT	44,710	45,162	43,592	32,926	31,032
Trend	Indexed	100	101	97	74	69

101. The authority notes that the cost to make and sell has declined by 8 indexed points during the POI as compared to 2012-13. On the other hand, the selling price has declined by 20 indexed points during the same period which is much higher than the reduction in cost to make and sell. It is observed that due to a significant decline in landed value of 31 indexed points from 2012-13 to the POI, the domestic industry has been forced to reduce its selling price. The imports were thus suppressing and depressing the prices of the domestic industry in the market.

Economic parameters of the domestic industry

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

industry has suffered material injury. The various injury parameters relating to the domestic industry are discussed below.

Production, Capacity, Capacity Utilization and Sales

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

Particulars	Unit	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Installed Capacity	MT	61,48,000	72,21,716	89,20,404	89,20,404	44,77,750	89,55,500
Total production	MT	39,13,055	41,51,750	47,89,793	48,48,850	22,92,142	45,84,284
Capacity Utilisation	%	63.65%	57.49%	53.69%	54.36%	51.19%	51.19%

104. The authority notes that capacity utilization of the domestic industry has declined from 63.65% during 2012-13 to 51.19% during the POI. The domestic industry has been able to achieve best capacity utilisation of 63.65% during 2012-13. It is observed that due to increased quantities of dumped imports of the PUC into India, the domestic industry has not been able to utilise its spare capacity.

Profits, profitability, return on investment and cash profits

Profit/ (Loss)	Unit	2012-13	2013- 14	2014- 15	April 2015-Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Profit	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	(100)	(449)	(301)	(1,144)	(594)	(1,189)
Profit/MT	Rs./MT	***	***	***	***	***	***
Trend	Indexed	(100)	(443)	(271)	(1,015)	(1,090)	(1,090)

Cash Profits	Unit	2012-13	2013-14	2014-15	April 2015-Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Cash Profits	Rs. Lacs	***	***	***	***	***	***
Trend	Indexed	100	(188)	(50)	(668)	(351)	(702)
Cash Profit/MT	Rs./MT	***	***	***	***	***	***
Trend	Indexed	100	(186)	(45)	(593)	(644)	(644)

Particulars	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
ROCE (%)	***	***	***	***	***	***
Trend	100	46	91	(48)	(58)	(58)

105.It is observed from the above table that the return on capital employed has been significantly affected. Due to increased quantities of dumped imports, the domestic industry is unable to earn a reasonable return on its investments. It is also noted that the cash profits have turned into cash losses and the situation only worsened during the POI.

Market Share

106.The effects of the dumped imports on the market share of the domestic industry have been examined as below:

Particulars	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Demand (MT)	61,90,166	57,58,211	61,76,999	61,34,524	31,64,828	63,29,656
Indexed	100	93	100	99	51	102
Market Share						
Share of Petitioners	28.6%	31.2%	31.8%	32.5%	30.5%	30.5%
Share of Supporters	8.0%	9.0%	7.5%	9.1%	9.2%	9.2%
Share of Other Producers	39.9%	39.3%	35.5%	31.2%	29.4%	29.4%
Share of Subject countries	19.4%	18.6%	22.1%	25.1%	29.0%	29.0%
Share of Other countries	4.1%	2.0%	3.0%	2.0%	1.7%	1.7%

107.The market share of the Domestic Industry has decreased during POI as compared to the preceding year even though demand for the subject goods has been rising in India during the same period. This is due to the reason that the imports have aggressively captured the increase in demand.

108. The market share of import from the subject countries has constantly been increasing.

Growth

Particulars	Unit	2013-14	2014-15	April 15 to Dec 15 (A)	POI(A)
Production	%	6%	15%	1%	-5%
Market Share	%	9%	2%	2%	-6%
Cost of Production	%	3%	-2%	-7%	-1%
Selling Price	%	-1%	0%	-17%	-3%
Loss per unit	%	343%	-39%	274%	7%
Return on Capital Employed	%	-54%	-19%	-230%	-21%

109.The Authority notes that the growth of the domestic industry with regard to production, domestic sales, capacity utilization, profits, return on investment and cash profits remained negative during the entire injury investigation period. The situation worsened during the POI (A), despite positive growth in demand for the PUC in the country. On the whole, the growth of the domestic industry has been negative over the injury period.

Ability to raise capital investments

110.The Authority notes that given the rising demand of the product in the country, the domestic industry has made investments in plant and machinery. However, despite these investments, the performance of the domestic industry has deteriorated considerably and further investments may get adversely affected.

Level of dumping & dumping margin

111.It is noted that imports from the subject countries are entering into the country at dumped prices and that the margins of dumping are significant.

Factors Affecting Domestic Prices

112.The examination of the import prices from the subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market, etc., shows that the landed value of imported material from the subject countries, except Japan, is below the selling price and the landed value of imported goods from all the subject countries is below the non-injurious price of the domestic industry, causing significant price under-cutting, price under-selling, price suppression and price depression in the Indian market. Thus, the primary factor affecting the domestic prices is landed value of subject goods from the subject countries.

Conclusion on injury

113. It is thus seen that there has been a significant increase in the volume of dumped imports from the subject countries in absolute terms. The imports have increased significantly in relation to consumption and production of the product in India. Imports have thus increased both in absolute terms and in relation to production and consumption in India. Dumped imports have had significant adverse price effect in terms of price suppression, price depression and price under-cutting. Effect of dumped imports has been to reduce the domestic prices of the subject goods. Low priced dumped imports have forced the domestic industry to fetch a market price which could not even cover its cost. The domestic industry is facing price underselling. There does exist significant price depression and suppression due to low priced dumped imports coming in India. The dumping margin determined by the Authority is quite significant. With regard to consequent impact of dumped imports on the domestic industry, it is noted that dumped imports from the subject countries have adversely impacted the performance of the domestic industry in respect of production, domestic sales, capacity utilization, market share, profits, cash profits and return on investment. The Domestic Industry's profitability and return on capital employed have been affected during POI. Thus, the Authority concludes that the domestic industry has suffered material injury.

Causal Link

114. The Authority has examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows:

Imports from third countries

115. The imports from countries other than subject countries are not significant in volume terms so as to cause or threaten to cause injury to the domestic industry. Moreover, the price at which goods are coming from other countries is much higher than the price at which goods are coming from subject countries.

Contraction in demand

116. The demand for the subject goods has shown an increasing trend. Accordingly, fall in demand cannot be the reason for injury to the domestic industry. In fact, the domestic industry has not been able to increase its sale and market share commensurate to increase in demand.

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

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

Developments in technology

118.The technology for production of the product concerned has not undergone any change. Thus, developments in technology cannot be regarded as a factor of causing injury to the domestic injury.

Changes in pattern of consumption

119.The domestic industry is producing the type of goods that have been imported into India. Possible changes in pattern of consumption are not a factor that could have caused claimed injury to the domestic industry.

Export performance

120.Claimed injury to the domestic industry is not on account of possible significant deterioration in export performance of the domestic industry. In fact, exports by the domestic industry have not materially declined. In any case, the domestic industry has considered domestic performance wherever possible.

Performance of the domestic industry with respect to other products

121.The Authority notes that the performance of other products being produced and sold by the domestic industry has not affected the assessment made by the Authority of the domestic industry's performance. The information considered by the Authority is with respect to the product under consideration only.

Productivity of the domestic industry

122.The Authority notes that deterioration in productivity has not caused injury to the domestic industry.

Factors establishing causal link

123.Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject countries. Causal link between dumped imports and the injury to the domestic industry is established on the following grounds:

- Imports of the subject goods have increased in absolute terms over the entire period of investigation.
- Imports of the subject goods have increased relative to production and relative to consumption in India.
- Market share of the dumped imports from subject countries has increased.
- The Domestic Industry has not been able to increase its production and sales commensurate with the increase in demand.
- There is significant price depression and suppression due to low priced dumped imports coming into India.
- The Domestic Industry's profitability and return on capital employed have been drastically affected. The return on capital employed, net profits and cash profits have followed a negative trend during the entire injury period and the losses have further increased during the POI.

124. The above analysis indicates that the Domestic Industry is suffering material injury due to increasing dumped imports of PUC into India. There exists a strong nexus between the increase in dumped imports of the subject goods and the material injury being suffered by the Domestic Industry.

Conclusion on Injury and Causation

125. From the above examination of injury and causal link, the Authority concludes that the domestic industry has suffered injury as a result of dumping of the subject goods from the subject countries. There has been a significant increase in the volume of dumped imports from the subject countries in absolute terms throughout the injury period and in relation to production and consumption in India. The dumped imports have had significant adverse effect on the prices of the domestic industry in the market. The dumping margin for the subject countries has been determined and is considered significant. Dumped imports from the subject countries have adversely impacted production, sales and capacity utilization. Market share of the subject imports has significantly increased. Performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on investments. The Authority concludes that the domestic industry has suffered injury as a result of dumped imports from the subject countries.

126. The Authority has determined the non-injurious price for the domestic industry and compared with the landed values of the subject imports of the responding exporters to determine the injury margin. The injury margin so determined has been considered for determination of weighted average injury margin. The injury margins have been determined as follows:

Injury Margin

S.No	Country	Producer	Exporter	NIP	Landed Price	Injury Margin	Injury Margin %	Range
1.	Korea RP	M/s Hyundai Steel Company	1. M/s Hyundai Steel Company, Korea RP 2. M/s Hyundai Corporation, Korea RP 3. M/s. LG International Corp, Korea RP. 4. M/s P&A Corporation, Korea RP	***	***	***	***	5-15
2.	Korea RP	M/s POSCO	1. M/s POSCO, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. M/s LG International Corp., 4. M/s Hyundai Corporation, Korea RP 5. M/s Samsung C&T Corporation, Korea RP 6. M/s POSCO Asia Co. Ltd, Hong Kong 7. POSCO Processing & Service Co., Ltd., Korea RP	***	***	***	***	35-45
3.	Korea RP	M/s Dongkuk Industries Co. Ltd	1. M/s Dongkuk Industries Co. Ltd, Korea RP	***	***	***	***	(55)-(65)

			2. M/s POSCO Daewoo Corporation, Korea RP 3. Kowon Trading Corp, Korea					
4.	Japan	JFE Steel Corporation	1. JFE Shoji Trade Corporation, Japan, 2. Honda Trading Corporation, Japan, 3. Nissan Trading Co. Ltd, 4. Ohmi Industries Ltd, Japan 5. Mitsui & Co. Ltd, Japan 6. Metal One Corporation, Japan.	***	***	***	***	0-10
5.	Japan	M/s. Nippon Steel & Sumitomo Metal Corporation	1. Honda Trading Corporation, Japan 2. Kanematsu Corporation Ltd, Japan 3. Marubeni-Itochu Steel Inc., Japan 4. Metal One Corporation, Japan 5. Mitsui & Co. Ltd, Japan 6. Nippon Steel & Sumikin Bussan Corporation, Japan 7. Sumitomo Corporation, Japan	***	***	***	***	15-25

			8. Toyota Tshusho Corporation, Japan					
6.	China PR	M/s Zhangjiagang Yangtze River Cold Rolled Sheet Co., Ltd.	1. M/s JiangsuShagang International Trade Co., Ltd., China PR, 2. M/s Xinsha International Pte Ltd, Singapore 3. M/s Lu Qin (Hong Kong) Co., Ltd., Hong Kong 4. M/s Future Materials Industry (Hong Kong) Co., Ltd, Hong Kong	***	***	***	***	55-65
7.	Ukraine	Zaporizhstal Integrated Iron and Steel Works PJSC	Zaporizhstal Integrated Iron and Steel Works PJSC	***	***	***	***	25-35

127. The level of dumping margins and injury margins as determined are significant.

Landed Value and Injury Margin for other producers and exporters from the subject countries

128. The landed value to India in respect of other producers and exporters in the subject countries has been determined on the basis of best information available. Information provided by the responding exporters has been adopted for this purpose. The injury margin so worked out is mentioned in the table below.

Particulars	UOM	Japan	Korea RP	China PR	Ukraine
NIP	US\$/MT	***	***	***	***
Landed Value	US\$/MT	***	***	***	***
Injury Margin	US\$/MT	***	***	***	***
Injury Margin %	%	***	***	***	***
Injury Margin % Range	% Range	15-25	35-45	55-65	25-35

Indian industry's interest & other issues

129. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

130. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of these product. The domestic industry submitted that imposition of proposed duty shall have insignificant cost implications for the consumer. Therefore, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

Post Disclosure Statement submissions by the Interested Parties

131. The following comments on Disclosure statement are submitted by interested parties:

- a) Zaporizhstal Integrated Iron and Steel Works submitted that a level of trade adjustment to domestic sales of Zaporizhstal (Appendix 1) should be applied in order to bring the Normal Value to a level comparable to Export Price. By rejecting claims of Ukrainian producer for the necessity for level of trade adjustment the Designated Authority violates the principle of the fair comparison as stipulated in the Article 2.4 of the Antidumping Agreement.
- b) Metinvest also stated that the CV Disclosure of DM Calculation furnished is inadequate and the Export Price calculation is not clear. Also, they claimed that their export price has been determined in the Disclosure Statement on the basis of internal transfer prices of the producer (Zaporizhstal) to its related trading company located in Switzerland (Metinvest International SA, or MISA) for eventual export to India, but not on the actual export prices by Metinvest Group (i.e. Metinvest International SA) to the final unrelated buyer in India. The Hon'ble Authority has incorrectly decided to determine the Export Price at the level of transfer prices between Zaporizhstal and MISA.

- c) JFE Steel Corporation and Nippon Steel & Sumitomo Metal Corporation have submitted that in the confidential dumping margin calculation sheet provided by the authority, there is no clarity on how the final normal value and cost were calculated. The belated and incomplete disclosure of the margin calculation has severely limited their ability to respond in the prescribed time in a fair manner. Also, with regard to the finding of the Hon'ble Designated Authority at paragraph 49 w.r.t. adjustments, it is submitted that Hon'ble Designated Authority has not disclosed what nature of adjustment was made.
- d) Angang Steel Company Limited (Angang) submitted that the rejection of the questionnaire response is not correct. In this regards, Angang submitted that it has explained in its questionnaire response that Angang International is just a commission agent and it issues the commercial invoices on behalf of Angang under its own name. A copy of agreement has also been provided for the same.
- e) POSCO has submitted that 22% return on capital employed should not be allowed as it is too high . POSCO further contends that Full Hard and Cold-rolled annealed products should be segregated for the purpose of calculating dumping margin.
- f) The Japan Iron and Steel Federation proposed that certain steel products which are not competing with the domestic products such as those for “Automotive” and “E&E” should be excluded from the scope of this investigation.
- g) Volkswagen India and Toyota Kirloskar Motor Private Limited submitted that DI list of PCN did not include the list of PCN submitted by the respondent for exclusion.
- h) Various interested parties have submitted that the disclosure statement simply mentioned a general statement that the domestic industry is manufacturing all the grades (exactly matching / closely resembling PCNs). This lack of detailed information in the disclosure statement has seriously prejudiced the interested parties in providing a meaningful response as the respondent is not aware as to the details of the PCN manufactured by the DI which closely resembles the respondent's PCNs. Also, there is no disclosure (or even mention) of the actual evidence filed by the domestic industry which could be used to establish the PCNs they are claiming to be identical or closely resembling are appropriately coded (using the PCN methodology) and that the domestic industry actually produced and sold the PCNs which are being selected as closely resembling or identical.
- i) JFE Steel Corporation, Nippon Steel & Sumitomo Metal Corporation and Kobe Steel, Ltd. have submitted that the methodology of PCN comparison for the purposes of likeness test and exclusion, currently applied by the

Hon'ble Designated Authority is an erroneous methodology. By not comparing the specification to specification test for the purposes of likeness and exclusion, the Hon'ble Designated Authority is purposefully including within the fold of the duties such products which the domestic industry could not even produce and then compete. The Hon'ble Designated Authority should have rightfully conducted the comparison of the specification test based on commercial sales made by the Domestic Industry.

- j) Ukrainian Side has argued that Article 7.4 of the Antidumping Agreement requires that provisional measures shall be limited to as short a period as possible, which could be extended upon request by exporters representing a significant percentage of the trade involved. However, the Authority did not name such exporters while extending the provisional measures. Further, the share of imports from Ukraine in total import was significantly lower than that of China, Japan and Korea. In POI, the share of imports from Ukraine in total imports was less than 4%, i.e. insignificant. Accordingly, there was neither significant increase in imports from Ukraine nor the significant presence on the Indian market that could have caused injury to the domestic producers. Therefore, there is no legal reason for application of anti-dumping measures against Ukrainian imports and Ukrainian side insists on revocation of provisional anti-dumping duty and termination of this investigation without imposition of anti-dumping measures.
- k) Various interested parties have submitted that the time provided for submitting the response is too short. Considering that the disclosure statement is based on submissions made by multiple parties including 3 companies which are part of the DI, any meaningful comments to the disclosure statement would require review of the previous submissions by the opposing parties and the corresponding essential facts arrived by the Hon'ble DA. This exercise would require a considerable time period and in view of the same, it is submitted that the time period of 2 days is grossly inadequate.
- l) Toyota Kirloskar Motor Private Limited, Volkswagen India and Kobe requested the DA to take reference price as the basis for imposition of anti-dumping duty, if any, at the time of issuing the final findings.
- m) Maruti Suzuki India Limited submitted that the data submitted by it for exclusion of some PCN (on confidential basis) is required to be examined by the Authority to determine whether all such grades are being produced by the domestic industry.
- n) Government of Japan submitted that in preliminary findings, there is no explanation on how the authority calculated the reference price. Thus the Government of Japan was not able to assess if the provisionary duties are

appropriate or not. Also, it is not clear whether the imposed duties are not exceeding dumping margin of specific companies.

- o) Nippon Steel & Sumitomo Metal Corporation, Kobe Steel, Ltd. and JFE Steel Corporation
 - a. The name of the Producer at paragraph 4(e) that its name has incorrectly been referred to as 'Nippon Sumitomo', while its correct name is 'Nippon Steel & Sumitomo Metal Corporation'. It is requested that the Hon'ble Designated Authority take the same into consideration for the duty table in the final recommendation.
 - b. It has been submitted that the Hon'ble Designated Authority has incorrectly excluded the effect of the MIP. MIP renders the POI highly unsuitable for a fair and unbiased analysis of injury. It is necessary to analyse the effect of the MIP and the status of the domestic industry and the imports from the subject country post imposition of the MIP.
 - c. The Authority has not addressed all the non-attributive factors that the Producers and any other interested parties had identified, such as low domestic demand, sharp reduction in input prices, depreciation of currencies, higher usage of external inputs, new capacities etc.
- p) M/s Hyundai Steel Company, Korea RP, (Producer) along with M/s Hyundai Corporation, Korea RP, M/s LG International Corp. and M/s P&A Corporation, Korea RP (Exporters/Traders) have submitted that rejection of the export transactions to related parties is not correct. Export price to related parties did not seem to be unreliable. Sales between Hyundai Steel Company, Korea RP, to Hyundai Steel India Private Limited (related party) are not influenced by any relationship and all transactions are at arm's length. In any event if the Authority was not satisfied with the justifications given in our reply for price variation, the Designated Authority shall have resorted to Section 9A(b) of the Customs Tariff Act 1975. The Law provides that in case actual export price may not be used for the reasons set out under the Section 9A(b) of the Customs Tariff Act, 1975, the export price may be constructed on the basis of the price at which the imported goods are first resold to an independent buyer. Section 9A(b) requires that the export price must be worked back from the price at which the subject goods have been sold by Hyundai Steel India Private Limited to unrelated buyers in India. By rejecting the export transactions made by Hyundai Steel Company, Korea RP, to Hyundai Steel India Private Limited, the Designated Authority has violated Section 9A(b) of Customs Tariff Act 1975 as well provisions of Article 2.3 of Anti-Dumping Agreement.
- q) Baoshan Iron Steel Co Ltd., Boashan Company India Pvt. Ltd., Baosteel Singapore PTE Ltd. submitted that the data submitted by the group has been rejected without providing any basis to do so. It was submitted that the

observations made in the disclosure statement are in complete disregard of the submissions made by them. It is further submitted that Appendix 2 of questionnaire response does not apply to Baoshan. Further, Baosteel Singapore Pte. Ltd. has submitted information in Appendix 2.

Comments on Disclosure statement by domestic industry:

132. The following comments on Disclosure statement are submitted by domestic industry:

- a. The non-injurious price computed in the subject investigation seems to be understated. In particular, the NIP computed for JSW Steel Coated Products Limited (“JSCPL”) and Essar Steel India Limited (“Essar”) is understated.
- b. From the confidential NIP workings shared by the Designated Authority vide emails dated 3 April 2017 and recent discussions with the Designated Authority, the domestic industry understands that NIP for JSCPL has been computed by considering the transfer price (being the market price) for HR Coils as input cost for the subject goods manufactured by JSCPL. The transfer price for HR Coils was very low during the POI because of dumped imports of HR Coils coming into India. The transfer price so considered does not even cover the cost of production of HR Coils, leave aside reasonable return, thereby keeping the NIP for JSCPL low. The authority is, therefore, requested to consider the full cost as well as the return on the capital employed for manufacturing HR Coils used by JSCPL as inputs for manufacturing the subject goods.
- c. From the confidential NIP workings shared by the Designated Authority vide emails dated 3 April 2017 and recent discussions with the Designated Authority, it is understood that certain deductions have been made from the net fixed assets while calculating the return on capital employed for Essar. Further, it was submitted that:
 - i. The Designated Authority should consider all the assets for Essar as reflected in the audited books of accounts.
 - ii. All the amounts have been capitalized in the books of accounts as per the relevant Accounting Standards issued by the Institute of Chartered Accounts of India. There is no reason for the Designated Authority to go beyond the audited books of accounts and disallow any amount on arbitrary basis. There is no provision in the law that allows the Designated Authority to

make any such deduction from the assets deployed by the domestic industry.

- iii. It was also submitted that the deductions made by the Designated Authority are contrary to Annexure III to the AD Rules. The Designated Authority's approach is arbitrary and in violation of principles of natural justice. The above issues should be immediately addressed and all the net fixed assets should be considered in computing the NIP.
- d. The domestic industry had submitted that Dongkuk Industries Co., Ltd ("DKI") should be treated as non-cooperative as the related party of its trader has not cooperated in the present investigation. The domestic industry further submits that DKI's data should be closely scrutinised. A group company of DKI, Dongkuk Steel Mill Co. Ltd. had participated in an anti-dumping investigation on imports of CORE into United States (*supra*). The preliminary determination indicated the dumping margin for this company as 2.99%, which was close enough to de-minimis level. However, on close scrutiny of the data during the latter part of the investigation, dumping margin for this company significantly increased to 8.75% at the final determination stage. Due to the past conduct of a Dongkuk group company before the USDOC, it is all the more important that DKI's response is closely scrutinised as it may reveal significant dumping margin and injury margin. It may also be noted that Dongkuk was given all other's rate by the United States in another anti-dumping investigation on cold-rolled steel flat products from Korea. Further submitted that:
- e. The domestic industry understands that DKI has exported insignificant quantities of the subject goods to India during the POI (about 2000-3000 MT). The said exports are mere 0.08% to 0.13% of DKI's annual cold-rolled capacity, which is 2.4 million MT. Further, the aforesaid exports comprise only 0.22% to 0.32% of imports from subject countries during the POI. Such low exports are not representative and should be disregarded for the purpose of dumping margin calculation and injury margin calculation. In previous investigations, the Designated Authority has disregarded low exports for calculating dumping margin and injury margin in several cases, such as (i) final findings dated 1 April 2016 in anti-dumping investigation concerning imports of Methyl Acetoacetate originating in or exported from United States of America (USA) and China PR, (ii) final findings dated 19 December 2014 in anti-dumping investigation concerning import of Sheet Glass originating in or exported from China PR, and (iii) final findings dated 7 December 2011 in sunset review of anti-dumping duty

imposed on imports of Saccharin originating in or exported from China PR. As mentioned earlier, Dongkuk group is already facing high anti-dumping duties in the United States. Their low exports to India at alleged high prices are suspicious and the Designated Authority should disregard such unrepresentative exports for computing dumping margin and injury margin as per its consistent practice.

- f. In the alternative, if the Designated Authority intends to treat DKI as cooperative, the conditions in Note 2 to the duty table in the preliminary findings dated 3 August 2016 read with Note 2 to the duty table in the provisional customs notification No. 45 /2016-Customs (ADD) dated 17 August 2016 should be made applicable on DKI.
- g. The present comments are based on the essential facts under consideration and observations disclosed under Rule 16 of the AD Rules. If the essential facts under consideration and observations change at any time, it is requested that another disclosure statement be issued to the Respondents under Rule 16 of the AD Rules for examination and comments and another hearing should also be provided to the domestic industry.

Examination of the Authority

133. The Authority notes that most of the submissions by parties are repetitive in nature and were already addressed earlier in the disclosure statement. The findings above ipso facto deal with these arguments of the parties. Further, the Authority has examined submissions of interested parties herein below to the extent relevant and not addressed elsewhere:

- a) With respect to submissions made by various interested parties regarding calculation of their respective normal value, export price and dumping margin, the Authority clarifies that the same have been calculated based on the verified data of the interested parties. Suitable adjustments were made in the normal value or export price for some of the interested parties as per the legal provisions to ensure fair comparison.
- b) Many parties have expressed concern that the time period to file comments on the disclosure statement was short. The Authority notes that the disclosure statement was issued on 31 March 2017 to all parties and all parties were given time till 5 April 2017 to file their comments. This time was reasonable and sufficient for parties to respond.

- c) Some interested parties have submitted that the DI's list of PCN did not include the list of PCN submitted by the interested parties and that the disclosure statement simply mentions a general statement that the DI is manufacturing exactly matching PCN or a closely resembling PCN for each PCN. They have further contended that Disclosure Statement does not provide any information on PCN grades which are claimed by the DI as exactly matching PCN or a closely resembling PCN. In this regard, the authority observes that the domestic industry provided a list of PCNs manufactured by them during the POI and the opposing interested parties provided a list of PCNs for which exclusion was sought by them. The list provided by domestic industry was provided to all the interested parties. On examination of the list of PCNs provided by the domestic industry and other interested parties, it was noticed that the domestic industry either manufactured exactly matching PCN or a closely resembling PCN for each PCN for which interested parties had requested exclusion. In case of exactly matching PCNs, the opposing interested parties have not raised any objection. The only objection is with regard to closely resembling PCNs. It is pertinent to mention here that one of the parameters in the PCN was quality. The domestic industry had manufactured all the qualities for which exclusion was being sought except one quality where the domestic industry had manufactured a higher strength quality than the quality for which exclusion was sought. The differences in the closely resembling PCNs were only on account of width, thickness, longitudinal edges and surface treatment. Therefore, the claim of opposing interested parties does not have any merit.
- d) Angang Steel Company Limited ("Angang") and Angang Group Hong Kong Co., Ltd. ("Angang HK") submit that Angang Group International Trade Corporation ("Angang International") is the commission agent and not a trader as it books commission as its sales revenue and not the value of the goods. They further argue that commercial invoice issued by Angang International on its behalf is the only invoice between Angang Steel and Angang HK; Angang International organises the export logistics, documentation and customs procedure. This practice is accepted under Chinese Law. They have now provided a copy of an agreement between Angang and Angang International. Such contentions could have been easily examined had Angang International filed a questionnaire response along with verifiable documents in support. Without cooperation from Angang International and in absence of any questionnaire response with verifiable records from Angang International, the Authority is unable to accept the contentions raised by Angang. The Authority

confirms its observations regarding determination of export price for Angang on the basis of best facts available.

- e) Hyundai Steel Company, Korea (“Hyundai”) argues that in case the Authority finds that Hyundai’s export price to its related company is not reliable, the Authority should construct the export price. The Authority notes that even in the disclosure comments Hyundai has not been able to provide any valid reason for significant variation between its export price to related company and unrelated customers. Further, for the first time in the disclosure comments it has been brought to the notice of the authorities that Hyundai Steel India Private Limited has sold 19% of the subject goods to related end user and 81% of the subject goods to unrelated end users. These facts were never brought to the Authority’s attention before. At this belated stage, the Authority finds it difficult to accept this new unverified information. In view of this, the Authority has correctly relied on exports to unrelated parties for determination of Hyundai’s export price
- f) JFE Steel argues that PCN-wise comparison is inappropriate to decide product exclusions. This is contrary to JFE Steel’s earlier consent to the Authority regarding PCN-wise comparison to decide product exclusions. During the second public hearing itself, representatives of all parties including JFE Steel’s representatives had consented that PCN-wise comparison should be conducted for deciding product exclusions. Only after the consent of all interested parties, the Authority requested all interested parties during the second public hearing to provide a list of PCNs for which they needed exclusions. Pursuant to this, JFE Steel provided a list of PCNs along with their written submissions filed with the Authority after the second public hearing. The Authority has done a thorough analysis of such exclusion requests. Now, JFE Steel is taking a contrary stand at the very end of the investigation and contending that the Authority should reject PCN-wise comparison, which JFE Steel and other interested parties had themselves agreed to earlier. The process of PCN-wise comparison to decide product exclusions was conducted in a fair, thorough and objective manner and in view of the requests and consent of all interested parties. The Authority is not in a position to disregard this entire exercise just because some interested parties have not found a favourable outcome as a result of this exercise. In view of the above, the Authority does not accept JFE Steel’s contentions in their comments on disclosure statement with regard to PCN-wise comparison. As regards sharing calculations with JFE Steel, the Authority has provided the calculations regarding normal value, export price and dumping margin to JFE Steel. The reason regarding making

adjustments in export price of traders have been explained very clearly in the disclosure statement as well as the present findings.

- g) Kobe Steel Limited and Nippon Steel & Sumitomo Metal Corporation have made similar submissions as JFE Steel Limited, which have already been addressed above. All these companies have raised other issues, which they had raised earlier as well. The Authority has already addressed such issues in other parts of the present findings.
- h) Upon issuance of disclosure statement, Maruti Suzuki India Limited (“Maruti”) had one more opportunity to provide a list of PCNs on non-confidential basis for which they needed exclusions along with their comments on disclosure statement. Despite this opportunity, Maruti yet again expressed inability to provide the PCN list on non-confidential basis. The Authority observes that in view of such excessive exercise of confidentiality, the domestic industry has been denied the opportunity to compare Maruti’s PCN list with theirs and offer comment on the same. The essence of PCN-wise comparison was to allow interested parties the opportunity to substantiate with evidence why certain type/ grade of the product under consideration should be excluded from the product scope. This could be accomplished only when interested parties provided list of PCNs on non-confidential basis to the domestic industry for comments, thereby enabling the Authority to examine contentions and evidences provided by both sides to arrive at a fair and objective decision regarding the product exclusion. However, Maruti yet again chose to deny access to its PCN list to the domestic industry because of its confidentiality claim. This has prevented the Authority from examining their exclusion requests and accordingly the product exclusion requests could not be examined by the Authority.
- i) Zaporizhstal Integrated Iron and Steel Works and its related trader/exporter Metinvest International SA argue that the normal value and export price for the companies is not at the same level of trade. The Authority clarifies that the data of these companies have been duly considered and normal value and export price has been compared at the ex-factory level as per the AD Rules. Suitable adjustments were made in the normal value and export price as per the legal provisions to ensure that comparison in normal value and export price is made at the same level of trade. In view of this, the Authority does not find their contentions acceptable.
- j) The Ukrainian side argues that investigation against Ukraine may be terminated in view of low imports. The Authority observes that

imports from Ukraine are above de-minimis and also satisfy the requirements for cumulation in the present case. Therefore, investigation against Ukraine cannot be terminated.

- k) Interested parties argue that the effect of MIP should have been considered by the Authority. However, the Authority observes that MIP is a post POI development and under the AD Rules, the Authority is obligated to consider only the POI and the previous three years for analysis. The Authority's injury analysis is in accordance with the AD Rules.
- l) Society of Indian Automobile Engineers ("SIAM") and The Japan Iron and Steel Federation ("JISF") have made very generic submissions. JISF has requested for exclusion of products such as "automotive" and "E&E". The Authority finds these submissions vague and thus unacceptable. SIAM and JISF have not been able to identify even one specific grade or PCN for which they need exclusion. In the absence of a specific request for product exclusion from SIAM and JISF, the Authority cannot accept these submissions.
- m) Regarding POSCO's submissions that return on capital employed of 22% should not be allowed, the Authority observes that return on capital employed has been allowed as per the standard practice of the Authority. POSCO's contention that Full Hard and Cold-rolled annealed products should be segregated for the purpose of calculating dumping margin has been taken care of in the PCN-wise dumping margin examination conducted by the Authority.
- n) Baoshan Iron & Steel Co. Ltd. ("Baoshan") contends that it should be treated as cooperative. However, Baoshan has not provided any information in Appendix 2. In view of this, the Authority is unable to determine Baoshan's export price. In view of this, the Authority has applied best facts available.
- o) Volkswagen India ("Volkswagen") and Toyota Kirloskar Motor Private Limited ("Toyota") argue that certain specific PCNs should have been excluded from the product scope as the same did not feature in the domestic industry's list of PCNs. However, the Authority notes that the domestic industry has manufactured closely resembling PCNs, because of which Volkswagen's and Toyota's exclusion requests cannot be accepted. Volkswagen and Toyota have repeated other issues, which have already been addressed by the Authority in the present findings.

- p) As regards the domestic industry's concerns regarding non-injurious price, the Authority observes that non-injurious price has been calculated in accordance with Annexure III of the AD Rules. The Authority finds no merit in the domestic industry's contentions on disregarding export transactions of Dongkuk Steel Mill Co. Ltd. However, the Authority accepts the domestic industry's request that Note 2 of the preliminary findings applicable on the company be confirmed for the purpose of the present findings.
- q) All other issues raised by the interested parties have already been addressed in other parts of the present findings.
- r) With regard to issue raised by Government of Japan on methodology of calculation of reference price, the authority has done the calculation keeping in mind the concept of lesser duty rule followed by the Indian authority.

Recommendations

134. After examining the submissions made and issues raised, and considering the facts available on record, the Authority concludes that:
 - (a) The product under consideration has been exported to India from the subject countries below normal value.
 - (b) The domestic industry has suffered material injury on account of subject imports from the subject countries.
 - (c) The injury has been caused by the dumped imports of the subject goods from the subject countries.
135. The Authority notes that the investigation was initiated and it was notified to all interested parties. Adequate opportunity was given to the exporters, importers and other interested parties to provide information on the aspects of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and the causal link thereof in terms of the Anti-Dumping Rules and having established a positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti-dumping duty is necessary to offset dumping and injury.
136. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, the Authority recommends imposition of definitive anti-dumping duties on the imports of the subject goods, originating in or exported from the subject countries, from the date of notification to be issued in this regard by the

Central Government, as the difference between the landed value of the subject goods and the amount indicated in Col 8 of the duty table appended below, provided the landed value is less than the value indicated in Col 8. The landed value of imports for this purpose shall be the assessable value as determined by the customs under Customs Tariff Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

Duty Table

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
1.	7209, 7211, 7225 and 7226	Cold rolled / cold reduced flat steel products of iron or non-alloy steel or other alloy steel, of all widths and thickness, not clad, plated or coated	Korea RP	Korea RP	M/s Hyundai Steel Company	1. M/s Hyundai Steel Company, Korea RP 2. M/s Hyundai Corporation, Korea RP 3. M/s. LG International Corp, Korea RP. 4. M/s P&A Corporation, Korea RP	576	MT	US\$
2.	-do-	-do-	Korea RP	Korea RP	M/s POSCO	1. M/s POSCO, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. M/s LG International Corp., 4. M/s Hyundai	576	MT	US\$

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
						Corporation, Korea RP 5. M/s Samsung C&T Corporation, Korea RP 6. M/s POSCO Asia Co. Ltd, Hong Kong 7. POSCO Processing & Service Co., Ltd., Korea RP			
3.	-do-	-do-	Korea RP	Korea RP	M/s Dongkuk Industries Co. Ltd	1. M/s Dongkuk Industries Co. Ltd, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. Kowon Trading Corp, Korea	NIL (Please Refer Note -1 below the Duty Table)	MT	US\$
4.	-do-	-do-	Korea RP	Korea RP	M/s Dongkuk Industries Co. Ltd	1. M/s Dongkuk Industries Co. Ltd, Korea RP 2. M/s POSCO Daewoo Corporation, Korea RP 3. Kowon Trading Corp, Korea	576	MT	US\$
5.	-do-	-do-	Korea RP	Korea RP	Any combination other than S. No. 1, 2, 3, & 4		576	MT	US\$
6.	-do-	-do-	Korea	Any	Any	Any	576	MT	US\$

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
			RP	country other than those subject to anti-dumping duty					
7.	-do-	-do-	Any country other than those subject to anti-dumping duty	Korea RP	Any	Any	576	MT	US\$
8.	-do-	-do-	Japan	Japan	JFE Steel Corporation	1. JFE Shoji Trade Corporation, Japan, 2. Honda Trading Corporation, Japan, 3. Nissan Trading Co. Ltd, 4. Ohmi Industries Ltd, Japan 5. Mitsui & Co. Ltd, Japan 6. Metal One Corporation, Japan.	576	MT	US\$
9.	-do-	-do-	Japan	Japan	M/s. Nippon Steel & Sumitomo Metal Corporation	1. Honda Trading Corporation, Japan 2. Kanematsu Corporation Ltd, Japan 3. Marubeni-	576	MT	US\$

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
						Itochu Steel Inc., Japan 4. Metal One Corporation, Japan 5. Mitsui & Co. Ltd, Japan 6. Nippon Steel & Sumikin Bussan Corporation, Japan 7. Sumitomo Corporation, Japan 8. Toyota Tshusho Corporation, Japan			
10.	-do-	-do-	Japan	Japan	Any combination other than S. No. 8 & 9		576	MT	US\$
11.	-do-	-do-	Japan	Any country other than those subject to anti-dumping duty	Any	Any	576	MT	US\$
12.	-do-	-do-	Any country other than those subject to anti-dumping duty	Japan	Any	Any	576	MT	US\$
13.	-do-	-do-	China PR	China PR	M/s Zhangjiagang Yangtze River Cold	1. M/s Jiangsu Shagang International Trade Co.,	576	MT	US\$

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
					Rolled Sheet Co., Ltd.	Ltd., China PR, 2. M/s Xinsha International Pte Ltd, Singapore 3. M/s Lu Qin (Hong Kong) Co., Ltd., Hong Kong 4. M/s Future Materials Industry (Hong Kong) Co., Ltd, Hong Kong			
14.			China PR	China PR	Any combination other than S. No. 13		576	MT	US\$
15.			China PR	Any country other than those subject to anti-dumping duty	Any	Any	576	MT	US\$
16.			Any country other than those subject to anti-dumping duty	China PR	Any	Any	576	MT	US\$
17.	-do-	-do-	Ukraine	Ukraine	Zaporizhstal Integrated Iron and Steel Works PJSC	Metinvest International SA, Switzerland	576	MT	US\$

S.No.	Heading/ Sub heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
18.	-do-	-do-	Ukraine	Ukraine	Any combination other than S. No. 17		576	MT	US\$
19.	-do-	-do-	Ukraine	Any country other than those subject to anti-dumping duty	Any	Any	576	MT	US\$
20.	-do-	-do-	Any country other than those subject to anti-dumping duty	Ukraine	Any	Any	576	MT	US\$

Note-1: Only applicable for following quality/grades:

- i. Micro-alloyed steels of Advanced High Strength Quality with minimum UTS ≥ 590 MPa having width ≤ 600 mm oiled and with trimmed edges.
- ii. Medium and High Carbon steels with Carbon $>0.15\%$ having width ≤ 600 mm oiled and with trimmed edges.

137. The description of goods does not include the imports of the following:

- a) *Stainless Steel.*
- b) *High Speed Steel, i.e., alloy steels containing, with or without other elements, at least two of the three elements Molybdenum (Mo), Tungsten (W) and Vanadium (V) with a combined content by weight of 7% or more, 0.6% or more of Carbon and 3 to 6% of Chromium.*
- c) *Silicon Electrical Steels confirming to Grain Oriented and Non- Grain Oriented Steels i.e. alloy steels containing by weight, atleast 0.6% but not more than 6% of Silicon and not more than 0.08% of Carbon. This steel may also contain by weight not more than 1% of Aluminium but no other element in a proportion that would give the steel the characteristics of other alloy steel."*

138. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate

Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

(Dr. Inderjit Singh)
Designated Authority