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**F. No14/28/2016-DGAD**  
**Government of India**  
**MINISTRY OF COMMERCE & INDUSTRY**  
**DEPARTMENT OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**  
**4<sup>th</sup> Floor Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated the 30<sup>th</sup> August, 2017

**NOTIFICATION**

**FINAL FINDINGS**

**Sub: Anti-dumping investigation concerning imports of “Color coated / pre-painted flat products of alloy or non-alloy steel” originating in or exported from China PR and European Union-reg.**

F.No.14/28/2016-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 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 “**Color coated / pre-painted flat products of alloy or non-alloy steel**” (hereinafter also referred to as the subject goods), originating in or exported from China PR and European Union-reg. (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 29<sup>th</sup> June 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.14/28/2016-DGAD dated 20.10.2016 recommended provisional anti-dumping duty in the present

investigation. Further, the Authority issued a Corrigendum to the aforementioned Preliminary Findings, vide Notification No 14/28/2016-DGAD dated 30.11.2016. Ministry of Finance issued a customs notification imposing provisional anti-dumping duty vide Customs Notification No. 02/2017-Customs (ADD) dated 11.01.2017 accepting the recommendations of the Authority.

#### **A. Procedure**

4. The procedure described below has been followed:

- a. The Authority notified the Delegation of the European Union to India and the Embassy of China PR 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 Delegation of the European Union to India and the embassy of China PR 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 the Delegation of the European Union to India and the embassy of China PR 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 Delegation of the European Union to India and the embassy of China PR 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:

#### **European Union (EU)**

1. Steel Coat Europe Alleur (Arcelor Mittal)
2. ThyssenKrupp Steel Europe AG
3. Tata Corus
4. SSAB
5. Metal Trade Comax
6. Voestalpine AG

### **China PR**

1. Shanghai Metal Corporation
  2. Baosteel Group Corporation
  3. Sino East Steel Enterprise Co. Ltd
  4. Qingdao Sino Steel Co. Ltd
  5. Shanghai Color Steel Co. Ltd
- f. In response to the initiation notification, the following exporters/producers from the subject countries and traders have filed exporter's questionnaire:

### **China PR**

1. Shandong Hwafone Steel Co. Ltd. (Producer)
  2. Jiangsu Shagang International Trade Co. Ltd. (Exporter)
  3. Zhnagjiagang Shajing Heavy Plate Co. Ltd (Producer)
  4. Shagang International Singapore Pte Ltd (Exporter)
  5. Qingdao RHT Steel Co. Ltd. (Exporter)
  6. M/s Jiangyin Xingcheng Special Steel Works Co. Ltd (Producer/Exporter)
- 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 disclosure statement.
- 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. Sungreen Ventilation Systems (P) Limited
  2. Shree Rama Steel Syndicate,
  3. Indian Pipes Pvt. Ltd.
  4. Metal Shine Roofing,
  5. Brijlal & Sons
  6. Kumar Corporation
  7. Oriental Metals India Pvt. Ltd.
  8. M.K.K. Metal Sections Pvt Ltd
  9. Kusum Metals Pvt Ltd
  10. Steel Co,
  11. Shanker Mercantile Pvt Ltd
  12. G M Traders
  13. PB Traders Private Limited

14. Whirlpool of India Ltd.
  15. Samsung India Electronics Pvt.Ltd.
- i. None of the importers/users of the subject goods has filed questionnaire response or provided comments to the initiation of the investigation except Whirlpool of India Ltd.
  - j. Further, the following parties have filed submissions/comments during the course of investigation:
    1. Delegation of European Union to India
    2. Whirlpool of India Ltd
    3. Jiangyin Xingcheng Special Steel Works, Co., Ltd, China PR
    4. China Chamber of International Commerce
    5. Zhnagjiagang Shajing Heavy Plate Co. Ltd (Producer)
    6. Jiangsu Shagang International Trade Co. Ltd. (Exporter)
    7. Shagang International Singapore Pte Ltd (Exporter)
    8. Shandong Hwafone Steel Sheet Co., Ltd., China PR ( Producer )
    9. Qingdao RHT Steel Co. Ltd. (Exporter)
  - 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 disclosure statement.
  - 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. The applicants proposed Product Control Numbers (PCNs) in order to make a PCN to PCN comparison for computing the dumping margin. However, keeping in mind the factual matrix of the case the authority has not adopted PCN to PCN comparison.
- q. Verification of the information provided by the applicant domestic industry was carried out by the Authority to the extent deemed necessary and only such verified information with necessary rectification, wherever applicable, has been relied upon.
- r. Investigation was carried out for the period starting from 1<sup>st</sup> July 2015 to 31<sup>st</sup> 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.
- 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. Exchange rate for conversion of US\$ to INR is considered for the POI as INR 65.93 as per customs data.
- v. In this notification, \*\*\* represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

- w. 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 4<sup>th</sup> May, 2017. All the parties attending the oral hearing were requested to file written submissions of the views expressed orally by 9<sup>th</sup> May, 2017. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to submit their rejoinders by 15<sup>th</sup> May, 2017.
- x. A Disclosure Statement containing the essential facts in this investigation which have formed the basis of the Final Findings was issued to the interested parties on 12.08.2017. 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.

## **B. Product under Consideration and Like Article**

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

*“Pre-painted, painted, colour coated or organic coated flat steels in coils or not in coils whether or not with metallic coated substrate of zinc, aluminium-zinc or any other substrate coating.”*

These steels are either of alloy or non-alloy steel whether or not of prime or non-prime quality, either in the form of coils or plain sheets or profiled sheets including but not limited to trapezoidal, sinusoidal, corrugated or any other type of profiles. These products are available in various paint qualities and a variety of paint colours whether or not pre-coated with primer or any other suitable material. These steels may either be painted on top surface of the steel sheet or on bottom surface or on both top and bottom surfaces. This product may be supplied with or without guard film / lamination.

6. PUC offers resistance to corrosion along with barrier protection. PUC is used in many applications and sectors including but not limited to construction, roofing, walling, panelling, cladding and decking, automotive, white goods & appliances and furniture etc.
7. The PUC is classified under tariff item 72107000, 72124000, 72259900 and 72269990 of the Customs Tariff Act, 1975. However, the imports have also been observed in certain other ITC HS Codes viz. 72101110, 72101190, 72101210, 72101290, 72103010, 72103090, 72104100, 72104900, 72105000, 72106100, 72106900, 72109010, 72109090, 72121010, 72121090, 72122090, 72123090, 72125020, 72125090, 72126000, 72255030, 72259200 and 72261100. The Customs classification is indicative only and is in no way binding on the scope of the present investigation.

## **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. One of the exporters has submitted that they export middle or heavy plate with a thickness of 6mm or more to India which is painted with one kind of shop primer. This product is not covered within the scope of the PUC but even then they have filed exporter questionnaire response as a measure of abundant caution. There is difference between the applications of the PUC and product exported by the exporter. In general, the thickness of the PUC is less than 6mm.
- b. Zhangjiagang Shajing Heavy Plate Co. Ltd. has sought exclusion for 'prime coated hot rolled non-alloy steel plates'. The following reasons have been advanced by Zhangjiagang for exclusion of its product:
  - i. The product manufactured by domestic industry follows IS 14246-2013 whereas Zhangjiagang follows BS EN 10025-3:2004.
  - ii. Different chemical and physical characteristics.
  - iii. The steel grade is different.
  - iv. Production process is different - There should be at least two layers of coating and should be baked but for the product exported by Zhangjiagang the extra production process are only blast cleaning and spraying the paint.
  - v. Sales price of product exported by Zhangjiagang is different.

## **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 has submitted that PUC covers all coated products whether pre-painted, painted, colour coated or organic coated flat steels in coils whether or not with metallic coated substrate of zinc, aluminium-zinc or any other substrate coating. These steels are either of alloy or non-alloy steel whether or not of prime or non-prime quality, either in the form of coils or plain sheets or profiled sheets including but not limited to trapezoidal, sinusoidal, corrugated or any other type of profiles.

- b. With regard to the submission of the exporter that heavy plates with thickness of 6mm or more may be kept out of the PUC, the Domestic Industry submits that this contention may be accepted as these plates are already not covered within the scope of the PUC.
- c. The domestic industry submits that the authority has already held in the preliminary findings that plates of thickness 6mm or more does not form part of the product scope. The exclusion request made by Zhangjiagang is, therefore, devoid of any merit and does not require any further consideration.
- d. Even otherwise there is no merit in the legal arguments based on which exclusion request has been made by Zhangjiagang.
- e. The product under consideration covers primer-coated non alloy steel sheet. The fact that product exported by Zhangjiagang follows different product standards as compared to that of other exported products covered within scope of product under consideration cannot be any ground for exclusion. Likewise, difference in grade, physical characteristics, production process and sale price of the exported product from the other exported product which forms part of product under consideration cannot be the ground for exclusion from the scope of product under consideration.
- f. Zhangjiagang has attempted to only distinguish its product type based on certain parameters from other types of the product under consideration i.e. the imported product that is under investigation. However, at the minimum, the exporter seeking exclusion of the product under consideration has to identify and differentiate its product from the like domestic product in India. Zhangjiagang does not even claim such differences. It is also not the claim of Zhangjiagang that its product is not substitutable and directly competitive with the like domestic product. There is no averment that the domestic industry does not manufacture the like product - either in the first leg of the definition i.e. identical or alike in all respects to the product exported by them or in the second leg of the definition i.e. product having closely resembling characteristics. Thus, there is no rational for exclusion of such product from the scope of product under consideration.

### **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. Domestic industry has submitted that the PUC covers steels either of alloy or non-alloy steel whether or not of prime or non-prime quality, either in the form

of coils or plain sheets or profiled sheets including but not limited to trapezoidal, sinusoidal, corrugated or any other type of profiles. Accordingly, the PUC does not cover plates of thickness 6mm or more.

- b. The Authority has examined the request for exclusion by Zhangjiagang and it notes that plates of thickness 6mm or more have already been excluded from the scope of PUC and therefore their concern has already been addressed.
  - c. 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, manufacturing process, functions and uses, product specifications, distribution and marketing, and tariff classifications of the goods. The two are technically and commercially substitutable. The consumers use the two interchangeably. The Authority holds that the products manufactured by the Applicants constitute like article to the subject goods being imported into India from the subject countries.
11. Accordingly, the Product Under Consideration under the investigation is "Pre-painted, painted, colour coated or organic coated flat steels in coils or not in coils whether or not with metallic coated substrate of zinc, aluminum-zinc or any other substrate coating excluding plates of thickness 6mm or more."

## **C. Confidentiality**

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

12. Following are the issues raised by interested parties with respect to excessive confidentiality:
- a. 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.

- b. The applicant industry has kept considerable information confidential without providing any justifiable reasons like calculation of working capital, interest on term loan, depreciation, miscellaneous income, purchase and sales policy, inventory valuation, quality control procedure etc. This is not permissible under the Rules as can be seen from the provisions above.
- c. The Petitioner failed to evaluate some of the relevant economic factors and indices listed in Rule 11 of the Rules & para IV of Annexure II thereof. Indexed data on unit price, total costs, investments, employment and stocks are not explicitly provided and analyzed in the narrative version of the Petition, which lacks a meaningful analysis.

## **C.2. Views of the Domestic Industry**

- 13. Following submissions are made by domestic industry with respect to excessive confidentiality
  - a. Interested parties have objected to the grant of confidentiality over working capital, interest on term loans, overdue and compounding interest, rate of depreciation, income earned by the domestic industry, break up of cost, purchase and sales policy etc. All the aforesaid information are highly business sensitive in nature and the disclosure of such information will cause prejudice to the domestic industry. Also, as a matter of practice, none of the aforesaid information is disclosed by the authority in any anti-dumping investigation. There can be no doubt that such information need not be disclosed to all the other interested parties.
  - b. Interested parties merely allege that they are not able to fully understand the claims put forward by the domestic industry because of confidentiality claimed over costing information in the petition. Notwithstanding the fact that costing information of the domestic industry is business sensitive in nature and cannot be disclosed, interested parties have also failed to provide even a single instance of specific claim which it is unable to respond to due to unavailability of the information which is considered as confidential. Thus, there is no merit in the claim of interested parties who have merely listed information over which confidentiality is claimed without specifying the prejudice caused to them due to unavailability of such confidential information.

## **C.3. Examination by the Authority**

- 14. 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.*

15. 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.

#### **D. Domestic Industry and Standing**

16. 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”

17. The application has been filed M/s Essar Steel India Limited and M/s. JSW Steel Coated Products Limited. The production of these aforesaid producers accounts for a major proportion of the total domestic production and is more than 50% of Indian production.

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

18. The calculation of the support to the Petition by Indian producers and the standing are not clear and the document relied upon for these calculations should be provided to the interested parties.

**D.2. Examination by the Authority:**

19. With regard to the issue that calculation of the support to petition and standing is not clear, the Authority notes that the application has been filed by M/s Essar Steel India Limited and M/s. JSW Steel Coated Products Limited and these producers account for a major proportion of the total domestic production. The share of these producers is more than 50% of Indian production as can be seen from the table below. Further, there are no supporters in the present application.

Production	Unit	2012-13	2013-14	2014-15	April 15- Dec 15 (A)	POI (July 15- Dec 15)	POI (A)
Petitioners							
-Essar Steel India Ltd.	MT	***	***	***	***	***	***
-JSW Steel Coated Products Ltd.	MT	***	***	***	***	***	***
Petitioners Total Production	MT	414,910	576,975	559,218	591,385	277,318	554,636
Other producers	MT	407,090	303,025	348,782	320,615	160,682	321,364
Total Domestic production (based upon JPC data)	MT	822,000	880,000	908,000	912,000	438,000	876,000

20. Therefore, the Authority holds that the applicants command a major proportion of the production of the subject goods in India and for the purpose of this investigation the applicants satisfy the standing requirement in terms of Rule 5(3) and constitute the domestic industry in terms of Rule 2(b) of the AD Rules.

## **E. De Minimis Limits**

21. 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**

22. 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 disclosure statement, 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 POI "should be representative and as recent as possible". Deviations from the benchmarking one-year POI should be substantiated by the Petitioners and the Designated Authority by positive evidence which is not present in the current case. The POI of six months is too short for arriving at a conclusion and it should be at least one year.
- b. The information submitted in the Petition is not sufficient to initiate the investigation and certain data is wrongfully treated as confidential. The non-confidential summaries of confidential information are not detailed enough.
- c. The domestic industry has already received multiple protection in violation of the WTO Agreements:
  - Increase of customs duty
  - Minimum import price
  - Anti-dumping investigations on other steel products.
- d. The import data should be provided to the interested parties in MS Excel format.
- e. The ROCE of 22% for computing NIP is very high. Reliance is placed on the judgement of Hon'ble CESTAT in the case of Bridgestone Vs. Designated Authority.

- f. Imposition of anti-dumping duty on the imports of the subject goods would accrue undue advantage to Domestic Industry and will not be in the larger interest of Indian industry.

**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. The 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. There is evidence of dumping of subject goods which is evident from the fact that many countries have initiated anti-dumping investigation against import of the subject goods. Massive dumping of PUC into India has taken place in a relatively short period of time causing injury to the domestic industry.
- 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. 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.

**F.3. Examination by the Authority**

23. Miscellaneous submissions made by the interested parties and considered relevant by the authority are examined and addressed as follows:
  - a. 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 in the past.

- b. With regard to issue that domestic industry has already received multiple protection in violation of the WTO Agreements, the Authority notes that it is only required to examine the situation as prescribed under AD rules. Further, there is no violation of WTO Agreements by increase in customs duty. Applicability of antidumping duty on other steel products does not mean that domestic industry is not suffering injury for PUC.
- c. MIP was introduced by Government of India as a temporary measure and was in force till 3<sup>rd</sup> December, 2016.
- d. With regard to issue that import data should be provided in MS-excel format, authority notes that it could be provided to stakeholders based on specific request provided they undertake to use the data for the purpose of the impugned investigation only.
- e. The Authority notes that the argument that imposition of anti-dumping duty on the imports of the subject goods would accrue undue advantage to Domestic Industry is presumptuous and pre-mature. Anti-dumping investigations are based on facts and law to analyze and assess the magnitude of dumping and consequent injurious effect on the domestic industry and to recommend imposition of suitable and adequate antidumping measure to provide a fair and level playing field to the domestic industry.
- f. 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.

- 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. Taking into account the facts of the case, the Authority does not find it appropriate to recommend retrospective imposition of anti-dumping duty.
- i. The Authority notes that none of the interested parties have provided any evidence as to why the return on capital employed for the purpose of computing non-injurious price should be less than 22%. Further, it is the standard practice of the Authority to take ROCE as 22%.
- j. The present investigation has been initiated on the basis of *prima facie* analysis of the information/data furnished by the applicant showing dumping of subject goods from the subject countries, injury to the applicant on account of the said dumping and causal link between the two. With regard to the contention of the opposing interested parties that the initiation of investigation is bad in law due to misleading data furnished by the applicant and improper evaluation of data by the Authority, the Authority notes that it *prima facie* satisfied itself about the accuracy and adequacy of information on the basis of information furnished by the applicants at the time of initiation.

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

### **G.1. NORMAL VALUE**

24. 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**

25. 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 d*

*esignated 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 years 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”.*

## **G.2. Submissions made by Exporters, Importers, Users and other Interested Parties**

26. 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. While determining the normal value for China PR, domestic selling prices and cost of Chinese producers should be considered as China PR has transitioned to a market economy in December 2016 as per its accession protocol to the WTO.
  - b. The construction of the normal value is not appropriate. The cost of production used to construct the normal value is very high due to the low capacity utilization.
  - c. The construction of the normal value based on the domestic industry's data is not supported by enough evidence. In addition, an average dumping calculation based on the constructed normal value is too simplistic and does not reflect the different types of products.
  - d. The dumping and injury calculations should take into account different types of products and qualities.

## **G.3. Submissions made by the Domestic industry**

27. 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. The contention raised by interested parties that the Appellate Body in EC-Fastener provided strong justification for China to automatically obtain

market-economy status is incorrect. There is no such observation in the Appellate Body Report. The Appellate Body Report was adopted by the WTO DSB on 28 July 2011 i.e. five years before the date of expiry of 11 December 2016. In EC-Fastener, imposition of definitive anti-dumping duties by the EU on imports of certain iron or steel fasteners originating in China PR was under challenge before the WTO DSB. Clearly, the issue regarding China's status as a market economy country was not before the WTO Appellate Body.

- b. China's accession protocol does not provide that China will get market-economy status after fifteen years automatically. It just says that a very specific provision of para 15 (a)(ii) will cease to apply. The other parts of Article 15 (including Article 15(a)(i)) continue to apply. Article 15(a) clearly provides that 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. Article 15(a)(i) further provides that Chinese prices or costs shall be used if the producers under investigation can clearly show that market economy conditions prevail.
- c. Annexure 1, Rule 8(4) of the Anti-dumping Rules, 1995 clearly provides that the Designated Authority (DA) may treat such country as market economy country which, on the basis of the latest detailed evaluation of criteria, has been treated as a market economy country for the purpose of anti-dumping investigations, by a WTO member country. There is no evidence provided by the interested parties to satisfy this criteria for China PR.
- d. The date of initiation of present investigation was June 29, 2016. The date of expiry contemplated in China PR's accession protocol is December 11, 2016. Even if the expiration of provision has the stated effect as alleged by the interested parties, the same cannot be applied with retrospective effect so as to apply to investigations that were initiated prior to December 11, 2016.
- e. None of the Chinese producers can satisfy market economy status.
- f. Unless the responding Chinese exporters 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.
- g. None of the producers/exporters from China PR has claimed market economy treatment.

28. The domestic industry has made detailed submissions requesting that the producers/exporters treated as non-cooperating should be continued to be treated as non-cooperating in the final findings as well.

#### **G.4. Examination by the Authority**

##### **Market Economy claims for Chinese producers**

29. 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.”*

30. 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 11th Dec., 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 investigation 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.
31. 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.
32. 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 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 are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to

consider the following criteria as to whether:

- a. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values.
  - b. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts.
  - c. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms.
  - d. The exchange rate conversions are carried out at the market rate.
33. 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.

#### **G.5. Determination of Normal Value**

34. 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. Shandong Hwafone Steel Co. Ltd, China PR (Producer)
  - ii. Jiangsu Shagang International Trade Co. Ltd, China PR (Exporter)
  - iii. Zhnagjiagang Shajing Heavy Plate Co. Ltd, China PR (Producer)
  - iv. Shagang International Singapore Pte Ltd, China PR (Exporter)
  - v. Qingdao RHT Steel Co. Ltd, China PR (Exporter)
  - vi. Jiangyin Xingcheng Special Steel Works, Co. Ltd, China PR (Producer/Exporter)

#### **Determination of Normal Value for producers and exporters in China PR**

35. 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.

36. 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.
37. 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 European Union**

38. The Authority notes that no producer/exporter from the European Union has responded to and cooperated with the Authority in the present investigation. For all the non-cooperative producers/exporters in the EU, the Authority has determined weighted average normal value at ex-factory level for subject goods on the basis of best available information and the same is shown in the Dumping Margin Table below.

**G.6. EXPORT PRICE**

**M/s Zhangjiagang Shajing Heavy Plate Co., Ltd, China PR (Producer) through related traders M/s Jiangsu Shagang International Trade Co., Ltd, China PR and M/s Shagang International (Singapore) Pte. Ltd, Singapore**

39. From the response filed by M/s Zhangjiagang Shajing Heavy Plate Co., Ltd, China PR ("Shajing"), the Authority notes that Shajing is the producer of the subject goods. Its related company, M/s Jiangsu Shagang International Trade Co., Ltd ("Shagang International") has exported the subject goods to India through another related trading company M/s Shagang International (Singapore) Pte. Ltd. ("Shagang SG").

40. From the response submitted by Shagang SG, the Authority notes that Shagang SG has further resold the subject goods to Samsung C and T Corporation, Korea ("Samsung"). Samsung has not filed any response. Further, Shajing has not reported any exports to India in Appendix-2. In the absence of information in Appendix-2 from the producer, it is not possible to ascertain the ex-factory export price to India.
41. Therefore, in view of absence of complete information from Shajing including non-cooperation by Samsung, the Authority does not accept the response filed by Shajing. Accordingly, the export price for Shajing is based on the facts available with the Authority.

**Shandong Hwafone Steel Sheet Co., Ltd. (Producer) through unrelated trader M/s. Qingdao RHT Steel Co., LTD.**

42. From the response filed by M/s Shandong Hwafone Steel Sheet Co., Ltd, China PR ("Hwafone"), the Authority notes that Hwafone is the producer of the subject goods and has exported the subject goods through unrelated trader M/s Qingdao RHT Steel Co., Ltd ("RHT"). Hwafone has reported all the sales as domestic sales in the appendices filed by it. It has not reported any exports to India in Appendix-2 even though in the questionnaire response filed by Hwafone, it has expressly stated that it has exported the goods to India through RHT. The authority also notes that there is a mismatch in the information submitted by Hwafone and RHT.
43. Therefore, in view of the above, the Authority does not accept the response filed by Hwafone. Accordingly, the export price for Hwafone is based on the facts available with the Authority.

**M/s Jiangyin Xingcheng Special Steel Works, Co., Ltd (Producer/Exporter)**

44. From the response filed by M/s Jiangyin Xingcheng Special Steel Works, Co., Ltd, China PR ("JXSS"), the Authority notes that JXSS has exported plates having thickness more than 6mm and same are not covered under the scope of the PUC. Therefore, no examination is done for information submitted by JXSS.

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

45. 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, including the above mentioned producers/exporters whose responses have not been accepted by the Authority, the Authority has determined the weighted average export price for subject goods on the basis of best available information and the same is shown in the

Dumping Margin Table below.

**Export Price for producers and exporters in European Union**

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

**G.7. DUMPING MARGIN**

47. 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 USD	Net Export Price USD	Dumping Margin USD	Dumping Margin %	Dumping Margin Range %
1.	China PR	All	All	***	***	***	***	50-60
2.	European Union	All	All	***	***	***	***	70-80

48. It is seen that the dumping margins are quite significant and more than the de-minimis 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.

**H. Determination of Injury and Causal Link**

49. 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.

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

50. The submissions made by the opposing interested parties with regard to injury related issues and considered relevant by the authority are as follows:
- a. The Petition does not contain adequate and sufficient evidence of dumping and injury.
  - b. The performance of the domestic industry has been stable and has improved. There is no change in the landed value, price undercutting has declined, production of the domestic industry and capacity utilization has increased.
  - c. The injury is caused by the adverse export performance of the domestic industry. The injury has been caused by factors other than imports from China PR.
  - d. The demand for retroactive measures is unwarranted.
  - e. The cumulation is not appropriate in the light of the conditions of competition given that the Chinese imports account for 84% of the total imports.
  - f. The domestic industry does not suffer injury given that most of the economic parameters either show a positive trend or are largely stable. The production, demand, sales, capacity and capacity utilization have increased.
  - g. The domestic industry is loss making but it was already loss making in 2012-13 at the beginning of the period considered for the injury determination.
  - h. The injury has been caused by other factors that the authority is required to examine.
  - i. The domestic industry has not been making profit since the beginning of the period considered for the injury determination. Petitioners were already making losses in 2012-13.
  - j. Performance of the domestic industry which has a problem of efficiency with utilization rate fluctuating around 50%. The decision to invest and increase the production capacity has caused the injury.
  - k. The imposition of Anti-Dumping Measures will trigger price increase, which is not in public interest.

## **H.2. Views of the domestic industry**

51. The following are the submissions with regard to injury related issues made by the domestic industry and considered relevant by the Authority:
- a. Imports of the subject goods have increased in absolute terms over the entire period of investigation. Imports of the PUC from the subject countries have increased in absolute terms.
  - b. Imports of the subject goods have increased relative to production and also relative to consumption in India.
  - c. Market share of the Domestic Industry has decreased even though demand for the subject goods has been rising in India. This is due to the reason that imports have aggressively captured the increase in demand and the market share of imports from subject countries sharply increased from 2012-13 to POI (A).
  - d. The Domestic Industry has not been able to increase its production and sales commensurate with the increase in demand.
  - e. Inventories of the Domestic Industry have been on the rise as the Domestic Industry has not been able to increase its sales despite increase in demand. Imports have been aggressively capturing the demand in India.
  - f. There is significant price depression and suppression due to low priced dumped imports coming into India.
  - g. The Domestic Industry's profitability has been drastically affected. The profitability has followed a negative trend during the entire injury period and the losses have further aggravated during the POI.
  - h. The export performance of the Domestic Industry in no way has affected its financial and economic situation. Also, the petitioners have ignored the information related to exports while examining the injury parameters and entire injury analysis is based only on domestic performance of Applicants.
  - i. The analysis overwhelmingly 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.

- j. Interested parties have submitted that injury being suffered by the domestic industry is due to other factor and over capacities. These claims are very general and without any facts and figures to support. The fact that injury has been caused due to dumped imports of the subject goods in India has already been established. The domestic industry has been in existence since many years and has been doing well in the past.

### **H.3. Examination of the issues by the Authority**

- 52. 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 Authority notes that landed value of imports of the subject goods from the subject countries has declined and the domestic industry has been forced to match such low prices causing material injury to domestic industry.
  - b. With regard to the export performance of the domestic industry, the authority notes that the entire injury analysis is based only on the domestic performance of the DI.
  - c. The Authority has further analysed the contention of the interested parties that injury being suffered by the domestic industry is due to other factors. These claims are without any supporting facts and figures.

### **Cumulative Assessment**

- 53. 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.

54. 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.
55. 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.
56. 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**

57. 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 seen in the table below:

Particulars (in MT)	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Total dumped imports from subject countries	60,771	73,854	2,09,895	4,12,322	2,13,311	4,26,622
Imports from other countries	41	304	0	192	0	0
Total imports	60,812	74,159	2,09,895	4,12,513	2,13,311	4,26,622
Domestic sales of petitioners	2,30,213	3,27,096	3,08,076	4,15,032	1,89,723	3,79,446
Domestic sale of other producers	2,25,874	1,71,790	1,92,146	2,25,007	1,09,928	2,19,857
Total Demand/Apparent consumption	5,16,898	5,73,045	7,10,117	10,52,552	5,12,963	10,25,925

### **Import Volumes and Share of Subject countries**

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

Particulars (in MT)	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Dumped imports from subject countries	60,771	73,854	209,895	412,322	213,311	426,622
Trend	100	122	345	678	351	702
Imports from other countries	41	304	0	192	0	0
Trend	100	748	-	471	-	-
Total Imports	60,812	74,159	209,895	412,513	213,311	426,622
Trend	100	122	345	678	351	702
Total Demand/Apparent consumption	5,16,898	5,73,045	7,10,117	10,52,552	5,12,963	10,25,925
Trend	100	111	137	204	99	198
Dumped imports from Subject Countries relative to consumption	12%	13%	30%	39%	42%	42%
Production of Petitioners	4,14,910	5,76,975	5,59,218	5,91,385	2,77,318	5,54,636
Dumped imports from Subject Countries relative to petitioners' total production	15%	13%	38%	70%	77%	77%

59. The Authority notes as under from the above table:
- a. Imports of subject goods from subject countries have increased in absolute terms from 60,771 MT in 2012-13 to 426,622 MT in POI (A).
  - b. Imports of subject goods from subject countries have increased in relation to petitioners' production from 15 % in 2012-13 to 77 % in POI (A).
  - c. Imports of the subject goods from the subject countries have increased in relation to consumption in India from 12% in 2012-13 to 42% in POI (A).
60. 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**

61. 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."*

62. It has been examined whether there has been a significant price undercutting by the dumped imports 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 price undercutting, price suppression and price depression, if any.

#### **Price Undercutting**

63. 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:

<b>Price Undercutting</b>	<b>July 15 to Dec 15</b>	<b>China PR</b>	<b>EU</b>
Landed Value	Rs. /MT	40,761	35,801
Domestic Selling Price	Rs. /MT	***	***
Price Undercutting	Rs. /MT	***	***
Price Undercutting	% of LV	***	***
Price Undercutting Range		20-30%	35-45%

64. The authority notes from the aforesaid table that significant price undercutting exists for China PR as well as European Union.

### **Price Suppression/Depression**

65. 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:

<b>Particulars (Rs. per MT)</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>April 2015- Dec 2015</b>	<b>POI (July 2015- Dec 15)</b>
Cost to make and sell	***	***	***	***	***
Trend	100	104	106	95	94
Domestic Selling Price	***	***	***	***	***
Trend	100	104	105	93	91
Landed Value	41,440	45,340	45,338	41,501	40,372
Trend	100	109	109	100	97

66. It is noted that decline in the domestic selling price is higher than the decline in the cost of sales. The import prices have remained significantly lower than the domestic selling prices as well as the cost to make and sell for domestic industry throughout the injury investigation period. The low priced dumped imports did not allow the domestic industry to fetch a selling price which could recover even its cost. The imports were thus suppressing the prices of the domestic industry in the market.

### **Economic parameters of the domestic industry**

67. 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**

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

<b>Particulars</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>April 2015-Dec 2015 (A)</b>	<b>POI (Jul 2015- Dec 15)</b>	<b>POI (A)</b>
Installed Capacity (MT)	7,15,000	10,73,000	10,83,000	10,83,000	5,41,500	10,83,000
Total production (MT)	4,14,910	5,76,975	5,59,218	5,91,385	2,77,318	5,54,636
Capacity Utilization	58%	54%	52%	55%	51%	51%
Domestic Sales	2,30,213	3,27,096	3,08,076	4,15,032	1,89,723	3,79,446

69. The Authority notes that even though the domestic production of the subject goods have increased, the significant increase in dumped imports has not allowed the domestic industry to achieve optimum capacity utilisation during injury investigation period.

### **Profitability**

<b>Particulars</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>April 2015-Dec 2015 (A)</b>	<b>POI (Jul 2015- Dec 15)</b>	<b>POI (A)</b>
Profit Before Tax (PBT) (Rs. In crores)	(***)	(***)	(***)	(***)	(***)	(***)
Trend	(100)	(150)	(166)	(253)	(127)	(254)
PBT (Rs./MT)	(***)	(***)	(***)	(***)	(***)	(***)
Trend	(100)	(106)	(124)	(140)	(153)	(153)
Cash Profits (PBT+Depreciation) (Rs. crores)	(***)	(***)	(***)	(***)	(***)	(***)
Trend	(100)	(133)	(174)	(282)	(144)	(287)
Cash Profit (Rs./MT)	(***)	(***)	(***)	(***)	(***)	(***)

Particulars	2012-13	2013-14	2014-15	April 2015-Dec 2015 (A)	POI (Jul 2015-Dec 15)	POI (A)
Trend	(100)	(94)	(130)	(156)	(174)	(174)

70. The Authority notes the following from the above table:

- a. The domestic industry's profitability has been adversely affected due to increased dumping by exporters from subject countries. The losses suffered by the domestic industry have significantly increased during POI.
- b. Due to severe dumping from subject countries during POI, domestic industry has not been able to recover its cost of sales leave aside earning a reasonable profit.

#### **Return on capital employed**

Particulars	2012-13	2013-14	2014-15	POI (A)
ROCE%	***	(***)	(***)	***
Trend	100	(471)	(802)	111

71. The authority notes that the domestic industry has not been able to earn an adequate return on capital employed throughout the injury investigation period. Due to severe dumping from subject countries during POI, domestic industry has not been able fetch a selling price which can provide for a reasonable return on capital employed.

#### **Market Share**

72. 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)	5,16,898	5,73,045	7,10,117	10,52,552	5,12,963	10,25,925
Indexed	100	111	137	204	99	198
Market Share						
Share of Petitioners	45%	57%	43%	39%	37%	37%
Share of all other Producers	44%	30%	27%	21%	21%	21%
Share of Subject countries	12%	13%	30%	39%	42%	42%

Particulars	2012-13	2013-14	2014-15	April 2015- Dec 2015 (A)	POI (Jul 2015- Dec 15)	POI (A)
Share of Other countries	0%	0%	0%	0%	0%	0%

73. From above table, the Authority observes that the market share of the Domestic Industry has decreased even though demand for the subject goods has been rising in India. Further, the authority notes that market share of the imports from the subject countries has increased over the injury period. This is due to the reason that imports have aggressively captured the increase in demand.
74. The domestic industry has not been able to increase the sales of the PUC commensurate with the increase in demand because of the significant volume of dumped imports coming from the subject countries.

### **Inventories**

Particulars	2012-13	2013-14	2014-15	POI (Jul 2015- Dec 15)
Average Inventory (MT)	27,044	36,707	38,220	61,980
Trend (Indexed)	100	136	141	229

75. The Authority notes that the Domestic Industry is facing significant accumulated inventories. The levels of inventories have been increasing as compared to the base year. Due to increasing imports, the market share of the Domestic Industry has come down and the increased demand has been significantly captured by imports. As a result, the Domestic Industry is unable to increase its production and sales which is leading to a situation of inventory accumulation over the injury period.

### **Productivity of the domestic industry**

76. The Authority notes that deterioration in productivity has not caused injury to the domestic industry. It can be seen in the table given below that productivity has increased from 100 indexed points in 2012-13 to 145 indexed points during the POI.

Particulars	2012-13	2013-14	2014-15	POI
Productivity	***	***	***	***
Trend	100	139	134	145

## **Growth**

<b>Particulars</b>	<b>Unit</b>	<b>2013-14</b>	<b>2014-15</b>	<b>POI(A)</b>
Cost of Production	%	4%	2%	-11%
Selling Price	%	4%	1%	-13%
Loss	%	50%	11%	53%
Cash Loss	%	33%	31%	65%
Market Share	%	12%	-24%	-15%

77. The Authority notes that the growth of the domestic industry with regard to profitability, market share and selling price has been negative.

## **Ability to raise capital investments**

78. 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**

79. 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**

80. 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 is below the selling price as well as the non-injurious price of the domestic industry, causing significant price under-cutting and price under-selling in the Indian market. Thus, the primary factor affecting the domestic prices is landed value of subject goods from the subject countries.
81. 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. The Domestic Industry's profitability and return on capital employed have been affected during POI.

## **I. Causal Link**

82. 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**

83. 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**

84. 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**

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

### **Developments in technology**

86. 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**

87. 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**

88. 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 Authority has considered domestic performance wherever possible.

**Performance of the domestic industry with respect to other products**

89. 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**

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

**Factors establishing causal link**

91. 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 the dumped imports and the injury to the domestic industry is established on the following grounds:

- Imports of the subject goods from the subject countries have increased in absolute terms over the entire period of investigation.
- Imports of the subject goods from the subject countries have increased relative to production and consumption in India.
- Market share of the Domestic Industry has decreased even though demand for the subject goods has been rising in India. This is due to the reason that imports have aggressively captured the increase in demand.
- Inventories of the Domestic Industry have been on the rise as the Domestic Industry has not been able to increase its sales despite increase in demand. Imports have been aggressively capturing the demand in India.
- There exists price suppression and price depression due to low priced dumped imports coming in to India.

- The Domestic Industry's profitability has been drastically affected. This is evident from the fact that the losses suffered by the domestic industry have significantly increased during the POI.

**J. Conclusion on Injury and Causation**

92. From the above examination of injury and causal link, the Authority concludes that the domestic industry has suffered material 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 capacity utilization of the domestic industry. 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 material injury as a result of dumped imports from the subject countries.
93. The Authority has determined the non-injurious price for the domestic industry and compared it with the landed values of the subject imports from the subject countries to determine the injury margin. The injury margins have been determined as follows:

**Injury Margin**

S.No	Countries	Producer	Exporter	NIP USD	Landed Value USD	Injury Margin USD	Injury Margin %	Injury Margin Range %
1.	China PR	All	All	***	***	***	***	30-40
2.	EU	All	All	***	***	***	***	45-55

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

**K. Post Disclosure Statement submissions by the Interested Parties**

95. The post disclosure submissions have been received from various interested parties. Majority of the issues raised therein have already been raised earlier during the investigation and also addressed appropriately. Additional submissions have been analysed as under:

## **Submissions made by the Domestic Industry**

96. The following submissions have been made by the 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, 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, 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 Accountants 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. It has been submitted by the domestic industry that the reference price based duty has not been able to put adequate checks on the quantum of imports of the subject goods into India. The imports from the subject countries have been significant even after imposition of provisional anti-dumping duty. In addition, it has also been noticed that the import prices have been hovering around the reference price fixed by the authority in the provisional findings despite there being a significant increase in the input costs after the POI. The domestic industry has requested the authority to recommend fixed duty in the final findings to give appropriate protection to the domestic industry. Application of fixed form of duty will ensure the effectiveness of measures as it would reduce the likelihood of price manipulation or circumvention.
- e. Level of anti-dumping duties imposed by other countries like US and the European Union are very high on imports of colour-coated steel products in light of the severe dumping and injury faced by their respective domestic industries.

#### **Submissions made by other interested parties**

97. The submissions made by the other interested parties have been summarized as below:
- a) It is submitted that no examination of the data submitted by Zhangjiagang Shajing Heavy Plate Co., Ltd., China PR (Producer) should be made as it has exported plates having thickness more than 6MM and same are not covered under the scope of Product Under Investigation.
  - b) Separate assessment for Dumping Margin for Zhangjiagang Shajing Heavy Plate Co., Ltd., is not appropriate.

#### **Examination by the Authority**

98. The Authority notes that most of the submissions made by interested 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 the submissions of interested parties herein below to the extent relevant and not addressed elsewhere:
- a. In response to the Disclosure Statement, M/s Zhangjiagang Shajing Heavy Plate Co. Ltd., China PR (Producer) and its trader's M/s Jiangsu Shagang International Trade Co. Ltd., China PR and M/s Shaganag International (Singapore) Pte. Ltd., Singapore, have informed that they have exported heavy plates of more than 6mm thickness to India which is not covered within the scope of PUC. The authority notes that since the product exported

by these interested parties is not covered within the scope of PUC, their concern has already been addressed by the authority.

- b. 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.
- c. With regard to the request of domestic industry to recommend anti-dumping duty in the form of fixed duty rather than reference price, authority notes that reference price based form of duty is appropriate for subject goods keeping in mind the facts and circumstances of the case.

#### **L. Indian industry's interest & other issues**

- 99. 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.
- 100. 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.

#### **M. Recommendations**

- 101. 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.

102. 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.

103. 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. The validity of the recommended definitive anti-dumping duty, if accepted by the Central Government, will be upto a period of five years from the date of imposition of provisional duty by the Central Government vide Notification No. 02/2017-Customs (ADD) dated 11.01.2017.

#### **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.	7210, 7212, 7225 and 7226	Pre-painted, painted, colour coated or organic coated flat steels in coils or not in coils whether or not with	China PR	China PR	Any	Any	822	MT	US\$

S.No.	Heading/ Sub heading	Description of Goods*	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
		metallic coated substrate of zinc, aluminium-zinc or any other substrate coating							
2.	- do -	- do -	China PR	Any country other than the subject countries	Any	Any	822	MT	US\$
3.	- do -	- do -	Any country other than the subject countries	China PR	Any	Any	822	MT	US\$
4.	-do-	-do-	European Union	European Union	Any	Any	822	MT	US\$
5.	-do-	-do-	European Union	Any country other than the subject countries	Any	Any	822	MT	US\$
6.	-do-	-do-	Any country other than the subject countries	European Union	Any	Any	822	MT	US\$

**\*Note: The description of goods does not include the plates of thickness of 6mm or more.**

104. 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. Inder Jit Singh)  
Designated Authority.