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**F.No. 6/22/2018-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF TRADE REMEDIES)
Jeevan Tara Building, 4th Floor 5, Parliament Street, New Delhi-110001**

Dated 31st July, 2019

NOTIFICATION

FINAL FINDINGS

Subject: Final Findings in anti-subsidy investigation concerning imports of Welded Stainless Steel Pipes and Tubes originating in or exported from China PR and Vietnam.

No. 6/22/2018-DGAD: Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the “Act”), and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter also referred to as the “Countervailing Duty Rules” or the “Rules”) thereof:

A. BACKGROUND OF THE CASE

1. Whereas, M/s Stainless Steel Pipe And Tubes Manufacturer Association, New Delhi, M/s Stainless Steel Pipes & Tubes Manufacturers Association, Ahmedabad, M/s South India Stainless Steel Pipe And Tubes Manufacturer Association and M/s Haryana Stainless Steel Pipe And Tube Manufacturer Association (hereinafter also referred to as the “petitioners”) have jointly filed a petition, before the Designated Authority (hereinafter also referred to as the “Authority”) in accordance with the Customs Tariff Act, 1975 and Countervailing Duty Rules for imposition of countervailing duty on imports of Welded Stainless Steel Pipes and Tubes (hereinafter also referred to as “subject goods” or “product under consideration”) from China PR and Vietnam (hereinafter also referred to as the “subject countries”).
2. And, whereas, the Authority, on the basis of sufficient evidence submitted by the Petitioners, issued a public notice vide Notification No. 6/22/2018 - DGAD dated 9th August, 2018, published in the Gazette of India, initiating the subject investigation in accordance with Rule 6 to determine existence, degree and effect of the alleged subsidy

and to recommend the amount of anti-subsidy/ countervailing duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
 - a. The Authority informed the Embassies of People's Republic of China and Vietnam in India about the receipt of the present anti-subsidy application before proceeding to initiate the investigation.
 - b. The Authority invited the Governments of the subject countries for consultations with the aim of clarifying the factual situation and arriving at a mutually agreed solution in accordance with Article 13 of the Agreement on Subsidies and Countervailing Measures (ASCM). The Authority held consultations with the representatives of the Government of China PR (hereinafter also referred to as "GOC") on 27th June, 2018 and the representatives of the Government of Vietnam (hereinafter also referred to as "GOV") on 6th July, 2018 at New Delhi. The consultations were attended by representatives of the two countries. The facts clarified and documents/information filed, if any, by the governments of the subject countries were taken on record.
 - c. The Authority issued a public notice dated 9th August, 2018 published in the Gazette of India, Extraordinary, initiating countervailing duty/anti-subsidy investigation concerning imports of the subject goods.
 - d. The Authority sent a copy of the initiation notification dated 9th August, 2018 to the embassy of the subject countries, known producers/exporters from the subject countries, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the Petitioners and requested them to make their views known in writing within the prescribed time limit.
 - e. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject countries in India in accordance with Rule 7(3) of the Rules supra.
 - f. The embassy of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
 - g. The Authority sent questionnaire to the government of the subject countries in order to seek relevant facts/information with regard to various schemes/programs where countervailable benefit were alleged to have been conferred by the governments/public bodies.
 - h. The Authority sent questionnaire to the following known producers/ exporters in the subject countries, in accordance with Rule 7(4) of the Rules:
 - i. Shen Zen 1-Touch Business Service Limited, China PR
 - ii. Wuxi Joyray International Corp, China PR

- iii. Lianzhong Stainless Steel Corporation, China PR
- iv. Foshang Liteng Economy & Trade Co., Ltd, China PR
- v. Foshan Gangtuo Import & Export Co., Ltd., China PR
- vi. Fujian Fuxin Special Steel Co., Ltd., China PR
- vii. Ningbo Tierslia Imp. & Exp. Co., Ltd., China PR
- viii. Shenzen Zhaoheng Specialty Steel Co., Ltd., China PR
- ix. Sichuan Dayang Trading Co., Ltd., China PR
- x. Shenzhen Zhongchuang Yu Steel Industry Co., Ltd., China PR
- xi. Minmetals Steel Co., Ltd., China PR
- xii. Jieyang City Baowei Stainless Steel Co., Ltd, China PR
- xiii. Foshan Sun Ming Trading Co.,Ltd, China PR
- xiv. Pohang (Zhangjiagang) Stainless Steel Processing Co., Ltd., China
- xv. Xiamen Great Corporation, China PR
- xvi. Guangdong Foreign Trade Imp & Exp. Co., China PR
- xvii. Ningbo Chinaworld Grand Import And Export Co., Ltd., China PR
- xviii. Shandong Huaye Stainless Steel Products Co., China PR
- xix. Export Co., Ltd., China PR
- xx. Beijing Jingnanfang Decoration Engineering Co., Ltd., China PR
- xxi. Xiamen Golden Huanan Imp. & Exp. Co., Ltd., China PR
- xxii. Yu Gang Import And Export Trading Co Ltd., China PR
- xxiii. Shanxi Taigang Stainless Steel Co., Ltd, China PR
- xxiv. Mianzhu Honda Trading Co., Ltd, China PR
- xxv. Xiamen Tancheng Import And Export Co., Ltd, China PR
- xxvi. Foshan Vigor Dragon Imp & Exp Co., Ltd, China PR
- xxvii. Foshan International Trade Co. Ltd, China PR
- xxviii. Shanghai Hyss International Trading Co., Ltd, China PR
- xxix. T Singshan Holding Group Shanghai Internatiqnal Trading Co., Ltd, China PR
- xxx. Export Co., Ltd., Nanjing Robinson, China PR
- xxxi. Sokal Steel Co., Ltd., China PR
- xxxii. Gaoming District Of Foshan City Octopus Stainless Steel Co , Ltd, China PR
- xxxiii. Foshan Guang Yu Stainless Steel Co., Ltd, China PR
- xxxiv. Zhejiang, One Of Qualcomm Enterprise Services Ltd, China PR
- xxxv. Kinforo Henan Construction Machinery Co., Ltd, China PR
- xxxvi. China Western Power Industrial Co., Ltd., China PR
- xxxvii. Nanhai Shun Tang Imp. & Exp.Co., Ltd of Foshan, China PR
- xxxviii. Taikoo (Xiamen) Aircraft Engineering Co., Ltd, China PR
- xxxix. TAP International, JSC, Vietnam
- xl. Inox Hoa Binh JSC, Vietnam
- xli. Sonha International Corporation, Vietnam
- xlii. OSS Dai Duong International Joint Stock Company, Vietnam
- xliii. Vinainox, Vietnam
- xliv. Ming Huu Lien JSC, Vietnam

- i. In response, the following exporters/producers from the subject countries filed exporter's questionnaire response in the prescribed format:
 - i. Zhejiang Jiuli Hi-Tech Metals Co. Ltd., China PR
 - ii. Sonha SSP Vietnam Sole Member Co., Ltd., Vietnam
 - iii. Nam Cuong Metal Company Limited, Vietnam
 - iv. OSS Dai Duong International Joint Stock Company, Vietnam
 - v. Tuan Dat Metal Company Limited, Vietnam
 - vi. Vinlong Stainless Steel (Vietnam) Co., Ltd., Vietnam
 - vii. Steel 568 Co., Ltd., Vietnam
 - viii. Gia Anh Joint Stock Company, Vietnam
 - ix. Ha Anh Stainless Steel Company Limited, Vietnam
 - x. Gia Anh Hung Yen Company Limited, Vietnam
- j. Pursuant to the initiation notification, apart from the above producers/ exporters from the subject countries, GOV also filed the questionnaire response. GOC has however not filed any questionnaire response in the present investigation.
- k. The Authority sent Importer's Questionnaires to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 7(4) of the Rules:
 - i. Maruichi Kuma Steel Tube Private Ltd
 - ii. Magppie International Ltd.
 - iii. Posco-India Delhi Steel Processing Centre Pvt. Ltd
 - iv. U- Like Exports
 - v. Posco-India Pune Steel Processing Centre Pvt. Ltd
 - vi. Aadinath Metal
 - vii. Sharda Motor Inds Ltd
 - viii. JKB International
 - ix. Minox Metal Pvt.Ltd
 - x. Anant Inox
 - xi. Navnidhi Steel Engineering Co. Pvt. Ltd.
 - xii. Shiva Utensils Industries Pvt. Ltd.
 - xiii. Automotive Steel Pipe India Private Limited
 - xiv. Rajputana Stainless Ltd
 - xv. Stainox Alloys Pvt Ltd
 - xvi. Radha Raman Stainless Steel Pvt. Ltd.
 - xvii. Posco India Chennai Steel Processing Centre Pvt.
 - xviii. Janki Metal Strips Private Limited
 - xix. Tenneco Automotive India Private Limited
 - xx. M M Metal International
 - xxi. Reliance Fabrications Pvt. Ltd.
 - xxii. Mukesh Steel Trading
 - xxiii. IDMC Limited
 - xxiv. Sunrise Stainless Pvt. Ltd.
 - xxv. Navnidhi Steel Engineering Co. Pvt. Ltd.
 - xxvi. Kone Elevator India Pvt Ltd

- xxvii. Paharpur Cooling Towers Limited
 - xxviii. Larsen & Toubro Limited
 - xxix. Inox India Ltd
 - xxx. Godrej & Boyce Manufacturing Company Limited
 - xxxi. Renaissance Biochemicals Pvt. Ltd.
 - xxxii. Sulzer India Ltd.
 - xxxiii. Isgec Heavy Engineering Ltd
 - xxxiv. Manak Overseas Ltd.
 - xxxv. Suncity Strips & Tubes Private Limited
 - xxxvi. Shah Foils Limited
 - xxxvii. Repute Exim
 - xxxviii. Bharat Heavy Electricals Limited
 - xxxix. Divya Kitchenware Pvt Ltd.
 - xl. Apex Tubes Private Limited
 - xli. Punjab Stainless Steel Industries
 - xlii. Honest Enterprise Ltd
- l. None of the importers has filed response to the questionnaire. However, M/s Paxal Corporation has filed submissions during the hearing.
 - m. The Authority made available non-confidential version of the evidence presented / submissions made by various interested parties in the form of a public file kept open for inspection by the interested parties.
 - n. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for the present purposes.
 - o. The Non-Injurious Price (NIP) based on the cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry has been worked out so as to ascertain whether countervailing duty lower than the subsidy margin would be sufficient to remove injury to the Domestic Industry.
 - p. On-the-spot verification of the information/ data provided by the applicant domestic industry, to the extent deemed necessary, was carried out by the Authority. Only such verified information with necessary rectification, wherever applicable, has been relied upon for the purpose of present final findings.
 - q. Verification of the information provided by the producers/exporters and Government of Vietnam, to the extent deemed necessary and to the extent these parties have provided information and evidence, was carried out by the Authority and has been relied upon for the purpose of present final findings.
 - r. The period of investigation for the purpose of the present anti-subsidy investigation is from April 2017-March 2018 (12 months). The injury investigation period has however, been considered as the period from 2014-15, 2015-16, 2016-17 and the period of investigation.

- s. In accordance with Rule 7(6) of the Rules, the Authority also provided opportunity to all interested parties to present their views orally in a hearing held on 15th February, 2019. All the parties who attended the oral hearing were advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals.
- t. The arguments made in the written submissions/rejoinders received from the interested parties have been considered in the present final findings to the extent considered relevant and necessary for the present purposes.
- u. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- v. Information provided by the interested parties on confidential basis was examined with regard to appropriateness 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.
- w. 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 present final findings on the basis of the facts available.
- x. A Disclosure Statement was issued to interested parties on 19th July, 2019 containing essential facts under consideration of the Designated Authority, giving time up to 27th July, 2019 to furnish comments, if any, on the Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately in the present final findings.
- y. The exchange rate adopted by the Authority for the subject investigation is US\$1 = ₹ 65.33.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 4. At the stage of initiation, the product under consideration was defined as “*Welded Stainless Steel Pipes and tubes*”.

C.1. Submissions by domestic industry

- 5. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. The product under consideration is “Welded Stainless Steel Pipes and Tubes”. The product under consideration is largely made either from 200 series or 300 series steel

- (though there are some market for 400 series pipes as well), and the price of pipes made from different series of steel varies significantly.
- b. The goods produced by the domestic industry and those imported are like article.
 - c. The use of PCN-wise data is important as there is significant difference in the cost and price of subject goods of different grades.
 - d. With regard to the other interested parties' allegation that PCN-methodology suggested by petitioners was erroneous, it is submitted that raw material cost vary significantly depending upon the series of steel used and conversion costs account for only 10-12% of the total cost. Further, the responding exporters have not demonstrated that there are no differences in cost and price structures due to difference in steel used.
 - e. Subject goods of 200 series are primarily used for ornamental purposes, those of 300 series are mainly used for industrial and structural purposes, while those of 400 series is used for exhaust pipes. However, the price difference between the tubes and pipes is not on account of the usage, but on account of the grade of steel used.
 - f. Responding to arguments regarding sub-types of industrial types, it is submitted that there are actually no significant price and cost differences between the pipes meant for different usages.
 - g. Regarding the argument that only M/s Ratnamani Metals & Tubes Ltd. is engaged in production of industrial pipes, it is submitted that other producers, such as Hissar Steels Pvt. Ltd., Suman Steel Industries, Paras Bhavani Steel Pvt. Ltd, P.S. Raj Steels Pvt Ltd., etc. also produce this product.
 - h. Regarding the importer's argument that quality of subject goods from Vietnam is better than that produced domestically, it is submitted that Indian producers use inputs of BIS standards, whereas the Vietnamese producers procure inputs from China. Also, the Vietnamese producers are selling the subject goods under tags of "Made in India", which itself demonstrates that their product is not superior to that of the Indian manufacturers.
 - i. Responding to argument that range of products manufactured in Vietnam is not available in India, it is submitted that the Indian manufacturers have produced the subject goods of different size or thickness, and using different grade of stainless steel. In any case, pipes and tubes of different sizes can be made on the same machines, with minor retooling.

C.2. Submissions by other interested parties

- 6. The submissions made by the exporters, importers, users and other interested parties with regard to product under consideration and like article, and considered relevant by the Authority, are as follows:
 - a. The product under consideration produced in Vietnam is of far superior quality in terms of metallurgy and finishing.
 - b. The range of products manufactured by Vietnamese industry is not available in India. Pipes and tubes of certain sizes and dimensions are not manufactured by domestic producers and even if the same are manufactured, the costs are prohibitive.

- c. Goods produced in India have a lot of gauge variation which ultimately impair usage.
- d. Since the Authority called for information to be submitted with regard to subject goods, and not on PCN basis, the data furnished by domestic industry on PCN basis holds no relevance.
- e. The methodology adopted for sub-categorization under 200 series and 300 series is erroneous as it does not capture difference in product sub-categories on account of cost and price differences.
- f. In India and world-wide, stainless steel pipes are broadly classified into three categories, that is, (a) ornamental & structural tubes, (b) exhaust tubes, and (c) tube & pipe for industrial applications.
- g. The market for industrial tube & pipe can be further broken down into (a) instrumentation & hydraulic tubes, (b) heat exchanger tubes, (c) hygienic tubes, (d) mechanical tubes, (e) process pipe, and (f) tubes and pipes used as a component of furnace, heater, air cooler, condenser and other industrial applications.
- h. PCN may be devised after giving due opportunity to all interested parties and on the basis of three broad categories namely (a) ornamental & structural tubes, (b) exhaust tubes, and (c) tube & pipe for industrial applications.
- i. The scope of domestic industry has been incorrectly determined considering four associations who are not themselves engaged in production of subject goods. Only the producers can be treated as domestic industry, and not associations.

C.3. Examination by the Authority

- 7. The Authority has noted submissions made by various interested parties with regard to scope of the product under consideration and like article offered by the domestic industry.
- 8. The product under consideration in the present investigation, as defined in the initiation notification, is “Welded Stainless Steel Pipes and tubes”. The input material for welded pipes and tubes is stainless steel sheet/skelp/coil/plates which are formed into required shape and welded through suitable welding process. Pipes and tubes are generally made with similar production process. Further, the sheet/skelp/coil/plates can be of different types, depending upon the requirement.
- 9. The subject goods can be used for ornamental purposes, industrial and structural purposes and in exhaust pipes. The product under consideration is classified under Chapter 73 of the Customs Tariff Act, 1975, and further classified under customs sub-heading 73064000, 73066100, 73066900 73061100 and 7306210. The customs classification is indicative only and in no way binding upon the product scope.
- 10. The Authority proposed a PCN and invited comments from all interested parties with regard to the PCN methodology, vide letter dated 6th March, 2019. After receiving and evaluating comments from interested parties, the Designated Authority communicated PCN decided by the authority vide letter dated 14th March, 2019. The PCN methodology adopted is based on the grade of steel used, for the reason that the cost and price of the

subject goods are largely impacted by the cost of raw material used. Accordingly, the PCN methodology followed is as under:

- a. Pipes and tubes of 200 series stainless steel
- b. Pipes and tubes of 300 series stainless steel
- c. Pipes and tubes of 400 series stainless steel

11. The Authority finds that the subject goods produced by the domestic industry and that imported from subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The consumers importing the product under consideration have also purchased the same from the domestic industry.
12. As regards the contentions in respect of quality of the subject goods and the like articles produced by the domestic industry, it is noted while the importers alleged differences in the domestic and imported product, the foreign producers have not raised any such concern. The importers, while alleging quality differences, have not provided any verifiable information and evidence to demonstrate differences in the quality of the imported and domestically produced goods. The importer has not even filed response to prescribed questionnaire. The domestic industry has contended that it uses steel of BIS standards. The Authority further notes that in order to have fair and appropriate comparison between subject goods and goods produced by the domestic industry, the PCN methodology has been adopted. Accordingly, the Authority holds that no quality differences have been demonstrated between the imported product and goods produced by the domestic industry.
13. As regards the argument that the domestic industry does not produce all types, kinds, size and thickness of subject goods included in the product scope; the Authority notes that the interested parties have not specified any product type that is not produced by the domestic industry, nor adduced any evidence to show that the domestic industry has failed to provide any type or kind or size of the product. Therefore, the Designated Authority does not find any merit in the argument that all types, sizes and kinds of subject goods are not produced by the domestic industry.
14. In view of the above, the Authority holds that the subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries.

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1. Submissions by the domestic industry

15. The submissions made by the domestic industry during the course of the investigation with regard to scope of domestic industry & standing are as follows:
- a. The petition was filed by four associations. Twelve producers provided injury and costing information at the stage of application. Post initiation and in response to initiation, ten more producers have provided their costing information.
 - b. The data of the producers that participated post initiation should be considered. Even in the past, the Designated Authority has added producers that provided relevant information post initiation as part of the domestic industry.
 - c. Since the petition has been filed by the four associations and all the producers of the product under consideration are a member of one or the other association, it should be considered that the application has been made "on behalf of domestic industry" and is supported by those domestic producers whose collective output constitutes more than fifty percent of the total production.
 - d. The production of the participating domestic producers constitutes a major proportion of the total domestic production.
 - e. Since there is no publicly available information with regard to total production and the industry belongs largely to the MSME sector, production in the period of investigation has been considered on the basis of the supply of raw material in the market.
 - f. The petitioners had sought information from the Ministry of Statistics & Programme Implementation under RTI. However, the Ministry has stated absence of relevant information.
 - g. As M/s Jindal Stainless is the major producer and biggest supplier of the raw materials of the subject goods in the Indian market. This company carries out detailed research on the market size and production by various producers in the country and tracks consumption of raw materials in India as its marketing requirement and the same can be used to establish Indian production.
 - h. Following the judgment of the Apex Court in Commissioner of Customs, Bangalore Vs. G. M. Exports, Rule 2(b) of the Countervailing Duty Rules must be read harmoniously with the definition of domestic industry under Article 16.1 of ASCM. Therefore, the word "shall" used in Rule 2(b) should be interpreted to mean "may", in line with the provisions of ASCM. Accordingly, the Designated Authority has discretion to consider the producers, who have imported the subject goods, as domestic industry for the present purpose. There should be no automatic exclusion of such producers. Some of the domestic producers, being small-sized companies, were not in a position to continue production operations at loss-making prices and were forced to import due to significant price difference between the domestic and imported product. Significant price difference between the domestic and imported product led to these producers to keep their production facilities idle and instead import the product, which itself is an evidence of injury being caused by the imports.
 - i. Even if the domestic producers that have imported the subject goods are treated ineligible domestic industry, the remaining participating producers would nevertheless constitute a major proportion in the domestic production.

- j. Participating domestic producers constitute major proportion whether importing producers are considered eligible or ineligible domestic industry.
- k. In response to the argument that domestic industry has not given declaration regarding imports, it was clarified that none of the producers that had provided data in the petition, have imported the subject goods.
- l. Even for the other producers, the share of participating domestic producers increases if producers, that have imported, are excluded and there was nothing to be gained by the petitioners by not reporting the fact of imports. The petitioners, however, believe that these producers need to be included as the imports were made out of necessity.
- m. In response to the argument that the list of members of association was not provided, it was highlighted that there was no requirement to provide the same. However, the list of members was furnished on being pointed out.
- n. In response to the contention that details of 22 companies remain confidential, it is submitted that the non-confidential version of the letters filing the costing data formed part of the public file open for inspection and thus, the details of companies were known to all parties.
- o. Responding to the argument that associations are not domestic producers, it is submitted that associations are only petitioners, and not domestic industry. Under Rule 6(1), the application can be made by or on behalf of the domestic industry.
- p. Contrary to the arguments of the opposing parties, the petitioners had not excluded any producer for reason of imports and the standing was determined on the basis of gross Indian production.
- q. While the exporter and other interested parties have questioned the estimates of total domestic production provided in the application, none of these parties have been able to refute these estimates with such cogent evidence and a claim of domestic production.
- r. There is no merit in the argument that when the domestic industry is determined based on major proportion of total domestic production, the production of subject goods by importers cannot be excluded. Nor does the Rule in any way provide that if producers engaged in importation are excluded, then all remaining domestic producers must be considered, as has been argued by the exporters.
- s. Contrary to the arguments of the interested parties, M/s Maven Stainless had filed its data within the stipulated time i.e.23rd October, 2018.

D.2. Submission by other interested parties

- 16. The submissions made by interested parties with regard to the scope and standing of the domestic industry are as follows:
 - a. Despite admitting that the applicants have no information on importers of subject goods, they have excluded a large number of producers on the pretext of importation.
 - b. Jindal Services Corporate Management Services Pvt. Ltd. merely acts as an internal advisor to the Jindal Stainless Group Companies and does not maintain information with regard to Indian production of subject goods.

- c. Since a large number of producers belong to the MSME sector, the relevant information with regard to production is not available. As a result, the evaluation of 25% criteria is devoid of merits.
- d. The onus of providing information regarding domestic production in India lies with the applicants and a solitary report by a Company, which is not even engaged in business of collecting such information, should not be relied upon unless an opportunity to review and rebut the same is provided to all parties.
- e. The Panel Report in the case of China – Anti-dumping and Countervailing Duty Measures on Broiler Products from the United States and Manual of SOP of DGTR highlight the importance of establishing domestic production. In cases where a large number of producers are from MSME sector, the verification of total domestic production of product under consideration becomes even more important.
- f. Of all applicants, only M/s Ratnamani Metals & Tubes Ltd., which is also an importer, is engaged in production of industrial pipes. Since none of the other applicants are engaged in production of industrial pipes, the same should be removed from the scope of product under consideration.
- g. There are three methodologies for determining domestic industry, (a) domestic producers as a whole, (b) major proportion of domestic production, and (c) domestic producers excluding importers of subject goods. When the domestic industry has been defined as per major proportion of total domestic production, the production of subject goods by importers cannot be excluded. Under third methodology, no producer can be excluded unless they have imported the subject goods.
- h. Since M/s Ratnamani Metals & Tubes Ltd. has admitted as having imported the subject goods, the applicants should be treated as non-cooperative.
- i. The Authority has taken on record the data filed by M/s Maven Stainless at a belated stage, in contravention of the deadline of 23rd October, 2018.
- j. Since a number of producers have turned out to be importers, the applicants would seek to modify the constituents of domestic industry or seek to substitute the importing producers with other additional producers. The Authority should not allow the applicants to file information as per their convenience.
- k. Petition shows that a large number of producers of the subject goods in India are also importing.
- l. Ratnamani is included as a domestic producer and also in the list of importers.
- m. The use of the word “shall” in Rule 2(b) implies that the Authority has no discretion regarding exclusion of a producer who has imported subject goods.
- n. Domestic industry has not given a declaration about the imports by them or their affiliate parties from subject countries.
- o. The petitioners have not provided information such as capacity, production for the other Indian producers. In the absence of the same, their claim of being domestic industry cannot be verified.

D.3. Examination by the Authority

17. Rule 2(b) of the Countervailing Duty Rules defines domestic industry as follows:

“domestic industry means the domestic producers as a whole of the like article or domestic producers whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged subsidized article, or are themselves importers thereof, in which case such producers shall be deemed not to form part of domestic industry”.

18. The Petition has been filed on behalf of the domestic industry by following associations of domestic producers of the product under consideration in India
 - i. Stainless Steel Pipe and Tubes Manufacturer Association, New Delhi,
 - ii. Stainless Steel Pipes & Tubes Manufacturers Association, Ahmedabad,
 - iii. South India Stainless Steel Pipe and Tubes Manufacturer Association,
 - iv. Haryana Stainless Steel Pipe and Tube manufacturer Association.
19. At the stage of petition, twelve (12) domestic producers, being members of the aforesaid associations, filed relevant injury data and required costing information. Post initiation of the investigation, ten (10) more producers of the subject goods in India responded and provided relevant injury data along with costing information. The information filed by the producers was made available to all interested parties.
20. In the absence of any publicly available information, the petitioners have estimated gross domestic production on the basis of information provided by the major supplier of raw material in India. The opposing parties have disputed use of such an approach/ methodology for determining the domestic production. The Authority notes that the present industry belongs to MSME sector. Further, the unit of measurement used for commercial transaction in the PUC is not standard one and it could either be in terms of length or numbers or weights etc. The applicants submitted that, for these reasons, it was not possible to quantify eligible Indian production by collating production of each and every producer.
21. Since no concrete information with regard to Indian production is compiled or available either with the associations, or with any agency, which would be accessible to the associations as public information; considering various facts and circumstances of the present case, the Authority considers that resort to best information available is reasonable and appropriate. Difficulties arising in quantifying gross domestic production in case of fragmented industry has been well recognised. While the interested parties have objected to the use of information provided by Jindal Stainless, it is noted that these interested parties have not provided any evidence to demonstrate that the domestic production determined is understated. The Authority holds that in facts and circumstances like the present case, domestic production can be quantified and determined on the basis, such as consumption of raw material in the country. Since M/s Jindal Stainless is the largest supplier of raw material in the country, and has direct

interest in ascertaining the Indian production, its information with regard to Indian production constitutes a reliable estimate of Indian production of the subject goods. On the basis of the said steel consumption, the domestic production has been estimated as between 1,60,000 MT to 1,70,000 MT. The Designated Authority has considered the average of the two i.e. 1,65,000 MT as total domestic production.

22. It is clarified that the information provided by the raw material producer is not limited to its own sales. The said information is based on gross Indian production. Merely because the information has been provided by a domestic supplier of raw material does not imply that the same pertains to production and sales of that party alone. It is further clarified that the information with regard to injury to the domestic industry is based on production, sales and other injury data of participating companies.

23. The interested parties have opposed the consideration of additional ten producers, who have filed injury data post initiation. The Authority considers that it would be appropriate to include these companies within the scope of domestic industry for the purpose of the determination for the following reasons:
 - a. On one hand, the interested parties contend that the size of the domestic industry is small whereas on the other the interested parties have contended that information of more producers should not be added after initiation. This is inherently contradictory. Greater participation in the investigation on the contrary will result in more representative data and ensure improvement in quality of investigation.
 - b. In a situation where information with regard to domestic producers as a whole is not available, the Rules require the Authority to consider those producers whose collective output constitutes a major proportion of the total domestic production.
 - c. The Appellate Body in European Communities – Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China [WT/DS397/AB/R] observed that the domestic industry should be defined in such a manner so as to reduce the risk of distortion in the injury analysis. It follows thus that the higher the proportion of participating producers, lesser the likelihood of distortion in the injury determination.
 - d. The inclusion of these additional domestic producers only ensures that the scope of domestic industry is representative of the domestic producers as a whole.
 - e. Contrary to the claim of other interested parties, non-confidential version of the consolidated injury information was shared with the interested parties before the oral hearing. In fact, oral hearing scheduled was postponed only to allow the interested parties to defend themselves appropriately and adequately. Therefore, the interested parties received due opportunity to comment upon the information and defend their interest.
 - f. The domestic producers consented for verification of information provided by them and provided non confidential version of their information, which was kept in the public file. Accordingly, the information has been accepted after due verification of the information filed.

In view of the foregoing, the Designated Authority has considered the data filed by the 10 producers after initiation of investigation. .

24. The interested parties have argued that some of the domestic producers participating in the investigation have imported the subject goods into India. It has also been contended that a number of producers are importers of the product under consideration. The petitioners have also admitted that some imports might have been made by some domestic producers through some affiliate, rather than importing in their own name. The issue has been examined at length. The import data received from the DGCI&S has also been analysed. The Authority has only checked names of the petitioners in the DGCI&S to ascertain whether any of them have imported the product. It is seen that three of the domestic producers, namely, M/s Ratnamani Metals & Tubes Limited, M/s Quality Stainless Private Limited and M/s ASB Tubes have imported the subject goods into India.
25. The domestic industry has argued that the Authority should consider the domestic producer importing the product as eligible domestic industry. The Designated Authority however holds that considering the language of CVD Rules, it would not be appropriate to treat a domestic producer as eligible domestic industry if such producer is itself an importer or related to importer or exporter of subject goods. In view of above, the Authority holds that M/s Ratnamani Metals & Tubes Limited, M/s Quality Stainless Private Limited and M/s ASB Tubes cannot be treated as part of eligible domestic industry.
26. The interested parties have contended that the petitioners have excluded domestic producers on the basis that they are importers of the subject goods. In response, the petitioners have clarified that no producer has been excluded from domestic production while establishing standing. Production of 1,65,000 MT has been considered as gross domestic production for the reason stated above and the same has been considered for establishing standing in the present case. The Authority further notes that production of producers, which have been found to have imported the subject goods, has now been excluded from the total eligible domestic production and eligible production of petitioners for determination of standing, as required under the Rules.
27. . The authority notes that as of now, the 19 eligible petitioners companies account for 49.44% of the domestic production. It is further noted that subsequently i.e after initiation of the investigation 86 more firms/ companies producing the subject goods have expressed support in favour of the petition. There is no opposition to this petition by any domestic producer. Hence, the requirement of domestic industry standing in terms of CVD Rules is met. It is further noted that even with 12 petitioner companies at the time of initiation, the requirement of standing is met.

28. From the above, it is noted that the participating eligible domestic producers account for a major proportion of the total domestic production and constitute domestic industry within the meaning of the Countervailing Duty Rules.

E. ISSUES RELATING TO CONFIDENTIALITY

E.1. Submissions by the domestic industry

29. The following submissions have been made by the domestic industry with regard to confidentiality issues:
- a. The participating exporters have violated the provisions of Rule 8, the practice and the trade notice on confidentiality.
 - b. The non-confidential version of the response does not permit a reasonable understanding of the confidential information and the exporters have not provided any reasons for not providing a non-confidential summary.
 - c. The exporters have completely omitted certain exhibits from the non-confidential version of the responses.
 - d. The exporters have claimed information which is easily available in the public domain as confidential.
 - e. In response to allegation that domestic industry has claimed excessive confidentiality, it was submitted that most of the data for the domestic industry on an actual basis and its confidentiality claims are consistent with the Trade Notice No. 10/2018.
 - f. The petitioners have provided actual number or trends of all injury parameters which is sufficient for the opposing interested parties to argue on merits of the case and have disclosed much more information as compared to the producers and exporters of the subject countries.
 - g. Annual reports and costing formats of the participating producers contain business sensitive information in relation to production, sales, selling price, cost of sales, profit and return on investment of such producers and cannot be disclosed.
 - h. Even the updated petition, post initiation, was filed before the issuance of Trade Notice No. 10/2018, that is, on 23rd August, 2018.

E.2. Submissions by other interested parties

30. The following submissions have been made by other interested parties with regard to confidentiality issues:
- a. The petitioners cannot keep assessment of subsidy as confidential from the exporters.
 - b. In contravention of Trade Notice 10/2018, the petitioners have failed to provide (a) Relationship of petitioners with foreign producers / exporters / importers / domestic producers; (b) Name and addresses of all other Indian Producers; (c) Volume and value of production by all other producers except the domestic industry. The domestic industry has not provided above information in actual figures.

- c. Right of defence of interested parties cannot be fully exercised since significant data has not been properly indexed in non-confidential version in the petition.
- d. In Section VI, reference has been made to Annexure 6 or annual report, which has been claimed confidential on the ground of being business sensitive information.

E.3. Examination by the Authority

31. With regard to confidentiality of information, Rule 8 of the Countervailing Duty Rules provides as follows:

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

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

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

32. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties through the public file containing non-confidential version of evidences submitted by various interested parties for inspection.
33. Submissions made by the domestic industry and other opposing interested parties with regard to confidentiality to the extent considered relevant were examined by the Authority 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 also notes that all interested parties have claimed their business-related sensitive information as confidential.

34. The petitioners have adequately disclosed their assessment of subsidy in the petition. No specific instance has been pointed out where the petitioners have not disclosed an information publicly available. It is seen that the petitioners have provided relevant information prescribed under Trade Notice 10/2018. No specific instance has been pointed out where the petitioners have not disclosed an information publicly disclosed by them, but claimed confidential in the present petition. The Authority considers that the costing information by nature is confidential and is not susceptible to summarisation. The Authority has been consistently permitting all interested parties to claim confidentiality on costing information, as disclosure of this information can cause significant prejudice to the legitimate rights of these parties.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by other interested parties

35. The following miscellaneous submissions have been made by other interested parties:
- a. The imports from Vietnam are necessitated because of (a) superior quality of goods, (b) stable pricing, and (c) stable delivery schedule. On the other hand, goods manufactured by domestic producers are not up to the mark, the prices are unstable and delivery is erratic.
 - b. The basis on which the investigation has been initiated has no merits since manufacturers in Vietnam are not known to subsidized the subject goods.
 - c. Supplier of the goods exports only 15-20% of their total production to India and that too after repeated persuasion in view of high demand for quality pipes.
 - d. Imposition of countervailing duty may jeopardize healthy relationship that Vietnam and India have enjoyed over the last five decades.
 - e. The non-confidential version of the verification report of M/s Ratnamani Metals & Tubes Pvt. Ltd. and other domestic producers should be placed in the public file, in accordance with Article 12 of the ASCM and WTO Panel Report in EU – PET (Pakistan).

F.2. Submissions by the domestic industry

36. In response to the submissions of the interested parties, the domestic industry submitted as under:
- a. Since a number of producers belong to the MSME sector and the margins involved are nominal, some of the producers have been forced to turn to importation.
 - b. Considering the massive increase in imports in a relatively short period, and that the injury caused to the domestic industry would be difficult to repair, there is a need for retrospective imposition of duty.

- c. As regards the argument that the countervailing investigation would damage friendly relations with Vietnam, it is submitted that as signatories to ASCM, both GOI and GOV have agreed to not grant countervailable subsidies, as would cause injury to the industry of another country, and accepted the prerogative of the importing country to take necessary action to protect its industry against such subsidization.
- d. It must be examined if the exports from Vietnam are passing the test of value addition required for claiming concessional customs duty. The raw material is imported into Vietnam and the value addition to make the subject goods is below 20%, whereas the Rules of Origin under AIFTA require a value addition of 35%. However, the subject goods are exported to India as originating in Vietnam.
- e. The exporters are flouting value addition conditions, leading to a loss of Rs.125-150 crores to the Government of India.
- f. With regard to the argument that levy of duty is against the public interest, it is submitted that it is not for GOV to comment upon public interest in India. The foreign producers have caused material injury to the Indian domestic industry and the same must be answered by the GOV. The duty will ensure level playing field for both Indian and foreign suppliers and the same will not restrict availability of the subject goods.
- g. With regard to the argument that the imports from Vietnam are necessary, it is submitted that the subject goods manufactured in India are produced using stainless steel of BIS standard and therefore the question of inferior quality due to gauge variation or any other reason does not arise. Further, the pricing of the subject goods is dependent upon the spot prices of chrome, iron, nickel, copper, etc., and therefore, subject to change. With regard to delivery schedule, it was submitted that transit time from Vietnam to India is much more than the time taken by domestic producer to process the order.

F.3. Examination by the Authority

- 37. The Authority notes that countervailing duty, if imposed, shall not prevent imports from Vietnam, but shall only remove the distortion caused by the allegedly subsidised imports from the subject countries..
- 38. Considering the significant volume of imports from Vietnam, it cannot be concluded that the exporters in Vietnam supply only an insignificant share of their production in India.
- 39. As regards the effect of imposition of duty on relations between the countries, the Authority notes that imposition of trade remedial measures is only done after a thorough investigation by the importing WTO member country. The investigation is regulated by the ASCM and the domestic anti-subsidy laws, and therefore is fair in nature. Thus, any trade remedial measure imposed for providing level playing field is in accordance with the ASCM and in keeping with spirit of WTO rules for global trade.
- 40. Regarding the request for non-confidential version of the verification report, the Authority does not, as a practice, keep the verification report of any interested party in

the public file. Moreover, a Verification Report is only to confirm, corroborate and authenticate the data and information that has already been submitted by the interested party. The purpose of the verification report is to notify the party submitting the information regarding the information that has been verified and that which could not be verified.

41. As regards the argument of the domestic industry that the goods supplied from Vietnam do not satisfy the criteria of value addition as prescribed under the Rules of Origin, it is noted that the same is for the Customs Authorities to examine at the time of importation and is not within the scope of the present investigation.

G. DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN

42. The petition was filed by the domestic industry which provided prima facie evidence of existence of countervailable subsidies in the subject countries. The domestic industry filed a submission showing how each of the scheme identified in the petition was properly included in the petition and was required to be investigated.

a. SUBSIDIES INVESTIGATIONS IN RESPECT OF CHINA

43. Government of China (GOC) was invited for consultation, which was held on 27th June, 2018 in New Delhi.
44. After consultation and examination of the schemes as provided in the petition, the Authority identified following three programs wherein investigation was not necessary. No investigation was therefore initiated in respect of these programs:
 - i. Program No. 1: The State Key Technology Renovation Projects Fund
 - ii. Program No.13: Ad hoc subsidies
 - iii. Program no 17: Pension Fund Grants
45. The Authority initiated investigations for the following CVD programs wherein the producers of the product under consideration may have potentially received countervailable benefits

I. Programs in the form of grants

1. Program No. 2: Famous Brands Program
2. Program No. 3: Direct Government Grants given by Jiangsu Province
3. Program No. 4: Grants for Antidumping Investigations
4. Program No. 5: Superstar Enterprise Grant
5. Program No. 6: Research & Development (R&D) Assistance Grant
6. Program No. 7: Export Assistance Grant
7. Program No. 8: Grants to Baoshan Steel
8. Program No. 9: Grants for Listing Shares

9. Program No. 10: Funds for Outward Expansion of Industries in Guangdong Province.
10. Program No. 11: Grants provided through the Provincial Fund for Fiscal and Technological Innovation.
11. Program No. 12: Various grants provided to Shandong Province
 - a. Program No. 12 (a): Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers
 - b. Program No. 12 (b): Shandong Province's Award Fund for Industrialization of Key Energy-Saving Technology
 - c. Program No. 12 (c): Shandong Province's Environmental Protection Industry Research and Development Funds
 - d. Program No. 12 (d): Shandong Province's Construction Fund for Promotion of Key Industries
12. Program No. 14: Grants provided by Hebei Province
 - a. Grants under the Science and Technology program of Hebei Province
 - b. Government of Shijiazhuang City Export Award
13. Program No. 15: Various grants provided to Fuyang City
 - a. Grant for Enterprises Paying Over RMB 10 Million in Taxes
 - b. Grants under the Export of Sub-Contract Services Program
 - c. Grants under Excellent New Products/Technology Award
 - d. Investment grants from Fuyang City Government for key industries
 - e. Grants for Enterprises Operating Technology and Research and Development Centers
 - f. Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees
 - g. Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)
14. Program No. 16: Grant - Special Funds for Fostering Stable Growth of Foreign Trade
15. Program No. 18: Provincial Government - Equipment Grant
16. Program No. 19: Treasury Bonds Loans or Grants
17. Program No. 20: Interim Measures of Fund Management of Allowance for Zhongsham Enterprises to Attend Domestic and Overseas Fair
18. Program No. 21: International Market Fund for Export Companies
19. Program No. 22: Special Fund for Energy Saving Technology Reform
20. Program No. 23: Small and Medium-sized Enterprise Support Funds
21. Program No. 24: Subsidies Provided in Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
22. Program No. 25: State Special Fund for Promoting Key Industries and Innovation Technologies.

II. Programs in the form of export financing and export credit

23. Program No. 26: Export Seller's Credit
24. Program No. 27: Export Buyer's Credit

25. Program No. 28: Other Export Financing from State-Owned Banks

III. Programs in the form of tax and VAT incentives

26. Program No. 29: Income Tax Refund for Re-investment of FIE Profits by Foreign Investors
27. Program No. 30: Reduced Tax Rate for Productive FIEs Scheduled to operate for a Period not Less than 10 Years
28. Program No. 31: Income Tax Reduction for Advanced Technology FIEs
29. Program No. 32: Preferential Tax Policies for FIEs and Foreign Enterprises and Certain Domestically- Owned Companies Which Have Establishments or Places in China and are Engaged in Production or Business Operations Purchasing Domestically Produced Equipment's
30. Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses
31. Program No. 34: Preferential Tax Policies for the Research and Development of FIEs
32. Program No. 35: Preferential tax policies for companies that are recognised as high and new technology companies
33. Program No. 36: VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
34. Program No. 37: Tax concessions for Central and Western Regions
35. Program No. 38: Income tax concessions for the enterprises engaged in comprehensive resource utilisation (special raw materials')
36. Program No. 39: Tax credit concerning the purchase of special equipment
37. Program No. 40: Enterprise Income Tax Rate Reduction in the Tianjin Port Free Trade Zone
38. Program No. 41: Income Tax exemption for investment in domestic technological renovation
39. Program No. 42: Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
40. Program No. 43: Preferential Tax Policies for Enterprises with Foreign Investment (FIEs) Established in Special Economic Zones- & Coastal Economic Open Areas and in the Economic and Technological Development Zones
41. Program No. 44: Preferential income tax policy for the enterprises in the Northeast region
42. Program No. 45: Tariff and VAT Exemptions for Imported Equipment
43. Program No. 46: Tax Offsets for Research and Development at FIEs
44. Program No. 47: Tax Preference Available to Companies that Operate at a Small Profit
45. Program No. 48: Tax Reductions for Export-Oriented FIEs
46. Program No. 49: Tax Reductions for Technology or Knowledge-Intensive FIEs

47. Program No. 50: Various local tax discounts (Shandong Province, Chongqing City, Guangxi Region Zhuang, Tax privileges to develop central and western regions)
48. Program No. 51: VAT deduction on fixed assets in the Central region
49. Program No. 52: Shanghai Municipal Tax Refund for High-tech Achievement Commercialization Projects
50. Program No. 53: Local income tax and reduction program for the productive FIEs
51. Program No. 54: Preferential Tax Policies for FIEs Established in the Pudong Area of Shanghai
52. Program No. 55: Local Income Tax Exemption and/or Reduction in SEZs in Guangdong and Hainan Island
53. Program: No. 56: Industrial Parks promoting growth of Steel Industry
54. Program No. 57: Other tax privileges of Ma'anshan

IV. Programs in the form of provision of goods and services

55. Program No. 58: Provision of Electricity for Less than Adequate & Fair Market Value Remuneration
56. Program No. 59: Provision of Water for less than Adequate Remuneration
57. Program No. 60: Land Use Rights for SOEs
58. Program No. 61: Government Provision for Steel Scrap for Less than Adequate Remuneration
59. Program No. 62: Provision for Coking Coal for Less than Adequate Remuneration
60. Program No. 63: Hot rolled Steel (HRS) Provided by Government at Less than Fair Market Value
61. Program No. 64: Provision of Cold-Rolled for Less Than Adequate Remuneration
62. Program No. 65: Raw Materials Provided by the Government at Less than Fair Market Value
63. Program No. 66: Reduction in Land Use Fees, Land Rental Rates and Land Purchase Prices
64. Program No. 67: Exemptions from Administrative Charges for Companies in Industrial Zones and the Provision of Land-Use Rights for LTAR – Land Use Rights in Certain Industrial and SEZs
65. Program No. 68: Export Restrictions on Coke
66. Program No. 69: Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction
67. Program No. 70: Purchase of Goods by the Government for higher than adequate Remuneration

V. Programs in the form of preferential loans and lending

68. Program No. 71: Allowance to Pay Loan Interest
69. Program No. 72: Policy Loans

- 70. Program No. 73: Preferential Loans for SOEs (State Owned Enterprise)
- 71. Program No. 74: Credit Loan Guarantee by GOC
- 72. Program No. 75: Preferential export financing from the Export-Import Bank of China.

VI. Programs in the form of equity infusion

- 73. Program No. 76: Debt for equity swaps
- 74. Program No. 77: Debt Forgiveness
- 75. Program No. 78: Deed Tax
- 76. Program No. 79: Dividend exemption between qualified resident enterprises
- 77. Program No. 80: Unpaid dividends
- 78. Program No. 81: Equity infusions

46. Post initiation, the GOC and producers/exporters of the product under consideration were advised to file response to the questionnaire in the form and manner prescribed and were given adequate time and opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy program for making an appropriate determination of existence and quantum of such subsidies, if any.

47. Government of China did not file questionnaire response. M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. ["Jiuli Hi Tech"] is the only producer/ exporter from China which has filed questionnaire response.

Submissions by the domestic industry

48. The following submissions have been made by the domestic industry in the petition and during the course of the present investigations.

- i. The Governments of subject countries are providing prohibited or actionable subsidies to its producers/exporters of the product under consideration. The domestic industry has provided prima facie evidence of existence of such subsidy schemes, including documents relating to legislation and policy.
- ii. Petitioner has provided documents such as relevant laws & regulations, WTO reports, media reports, government reports, independent reports & studies, countervailing duty investigations determination of other investigating authorities. The petitioner has provided elaborate information regarding various subsidy programs.
- iii. The identified programs constitute a countervailable subsidy for following reasons:
 - a. There is a financial contribution by government or a public body, where the government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits), government provides goods or services other than general infrastructure, or purchases goods;
 - b. Benefit is conferred on the Chinese producers/ exporters of the PUC; and
 - c. The program is specific within the meaning of Indian Rules and ASCM.

- iv. Relevant laws and regulations, WTO reports, various Government reports, media reports and independent studies and analysis, findings of other investigating agencies in their anti-subsidy investigations clearly constitute sufficient evidence of the existence of countervailable subsidy programs in subject countries. These evidences were made available to all interested parties, including the Governments and the known producers and exporters in subject countries.
- v. The term "Government of People's Republic of China" should cover all levels of government, i.e. Federal, Central, Provincial, Regional or Local Govt. such as Municipal or City or Township Govts. Village or Local legislative, administrative or judicial agencies/bodies; and State-owned enterprises, operating under the direct or indirect control or influence of the GOC which operate as 'public bodies' within the meaning of the term as defined in the ASCM.
- vi. The responding exporter has barely mentioned any details on the benefits received out of the alleged schemes. Therefore, in the absence of a response by the Government of China, the countervailability of the schemes should be presumed.
- vii. The questionnaire responses filed by the responding exporters are not consistent with the questionnaire format prescribed by the Directorate. The responding exporters have suppressed vital facts and have filed incomplete questionnaire responses.
- viii. The investigation has been initiated by the Authority only after scrutiny of the evidence provided by the petitioners with regard to the existence and nature of the subsidy program.
- ix. The petition contains the evidence in the form of legal basis, nature of the scheme, financial contribution and specificity, enterprises that are eligible and that might have availed the benefits under particular scheme, decision of other investigating authorities demonstrating that the schemes actually exist and determined as countervailable with subsidy margins worked out and any other web research.
- x. As regards information concerning availment of benefits by producers/ exporters of the product under consideration, various schemes identified by the petitioners can be categorized into – (a) country wide programs, (b) sector specific programs, (c) region specific program.
- xi. The petitioners have given sufficient evidences in order to link the program either with the product under consideration or the enterprise or the region where the enterprises producing the product under consideration are located. The petitioners are not bound to relate the program with the producer/exporters of the subject goods.
- xii. With respect of GOC schemes, the petitioners have further submitted as follows
 - (a) the producers/exporters of the subject goods have received countervailable subsidies under the following categories of various levels of Govts., classified under six broad categories. Various programs classified under these categories are listed below:
 - I.** Grants
 - II.** Export Financing and export credit
 - III.** Tax and VAT incentives

IV. Provision for goods and services at LTAR

V. Preferential loans and lending

VI. Equity infusion

- (b) Since the Government of China has not filed questionnaire response nor provided any meaningful information regarding alleged subsidy programs, the countervailability and actionability of the schemes cannot be questioned. The Authority must draw adverse inference and proceed on the basis of facts available with regard to the existence of schemes and their countervailability.
- (c) The Authority has already established the actionability of the subsidy schemes and quantified the margins on the raw material of the subject goods in China. The exporter should provide complete details of their raw material and other inputs procurement and establish that there is no subsidy in the same.
- (d) Jiuli has not disclosed all subsidies received by it and has suppressed and misrepresented facts with an intent to mislead the Designated Authority and obtain a lower subsidy margin.
- (e) The nature of the program is the deciding factor to define the program and the benefit. Nomenclature of the programs is of little importance so long as a scheme exists and provides a benefit. Authority should consider the nature of the scheme, and the legal basis behind the same to define the program.
- (f) The investigation is not restricted to the scheme alleged in the petition and would also include any information with regard to any benefit not alleged by the petitioners during the course of investigation.

Submissions by other interested parties

49. The following submissions have been made by other interested parties:

- a. Out of the 78 subsidy programs initiated by the Authority, the responding exporter, M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. has accepted availing the benefit out of the following schemes:
 - a. Program No. 7: Export Assistance Grant
 - b. Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses
 - c. Program No. 35: Preferential tax policies for companies that are recognized as high and new technology companies
 - d. Program No. 39: Tax credit concerning the purchase of special equipment
 - e. Program no 42: Income Tax Reductions under Article 28 of the Enterprise Income Tax Law
- b. The Authority initiated investigation into programs for which the petitioners have not even made proper allegation. The petitioners did not establish the existence of the three elements comprising a countervailable subsidy, namely, (a) financial contribution, (b) benefit and (c) specificity.

- c. The authority should justify (a) whether it has assessed the adequacy and accuracy of the evidence concerning subsidization; and (b) the basis on which it considers that the petition contains adequate and accurate information for each subsidy alleged.
- d. None of the programs identified by the petitioners is substantiated with facts and figures that are benefitting the producer/exporter listed in the petition. In fact, the petitioners have themselves admitted in the petition that they do not have evidence to establish that the subsidies have been received by each producer of the product.
- e. Anti-subsidy duty may be imposed only if there is subsidization at the time of imposition of duty.
- f. When the petitioners are unable to assess the effects of subsidy, the Authority could not have determined, at the time of initiation, that the subsidy margin is above de – minimis.
- g. The petitioners cannot keep assessment of subsidy as confidential from the exporter.
- h. No additional information has been sought by the Authority from Jiuli, evidencing that the response filed by Jiuli is complete.
- i. Non-cooperation by Government of China does not lead to rejection of response filed by Jiuli. The exporter should be accorded benefit of individual margin.
- j. Loans obtained by Jiuli from State-Owned Commercial Banks fall outside the purview of subsidy as the interest rate is determined by market forces.
- k. Export Assistance Grant is granted by the Huzhou Commerce Bureau to the exporter for participating in overseas exhibitions. Such grant is not an export subsidy in terms of Article 3 of the ASCM, as it is not contingent on export performance.
- l. Rule 11 specifically excludes subsidy programs conferred on persons engaged in manufacturing, producing or exporting the article for research activities. Tax deduction for R&D expenses is excluded from scope of countervailable subsidy.
- m. Income Tax Reductions under Article 28 of the Enterprise Income Tax Law were introduced to promote new and advanced technology and is available to all enterprises who fulfil the eligibility criteria. Therefore, it is not specific.
- n. Tax credit concerning the purchase of special equipment was introduced to promote upgradation to environment-friendly equipment, which is excluded from scope of countervailable subsidies under Rule 11(1)(c)(iii).
- o. ASCM/Rules do not provide any methodology for including new program identified during the course of the investigation. Most of the programs listed in the Annual Report of Jiuli do not relate to the subject goods. If the Authority is satisfied that there exists a degree of specificity and benefit for such programs, it may issue a supplementary questionnaire to Jiuli and Jiuli would provide any information required.

Examination by the Authority

50. Government of China has not filed the questionnaire response. The sole responding producer/ exporter, M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. has filed questionnaire response and has accepted availment of benefit under following schemes/programs:

- a. Program No. 7: Export Assistance Grant
- b. Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses
- c. Program No. 35: Preferential tax policies for companies that are recognised as high and new technology companies
- d. Program No. 39: Tax credit concerning the purchase of special equipment
- e. Program no 42: Income Tax Reductions under Article 28 of the Enterprise Income Tax Law

51. The above acceptance in the questionnaire response of the producer shows existence of the above-mentioned schemes/programs. However, while GOC has not filed questionnaire response, the questionnaire responses filed by the said producer was verified, including an onsite verification in China.

Grants

52. In the questionnaire response the exporter M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. has itself admitted availment of benefit under Program No. 7: Export Assistance Grant.

53. Analysis of the annual report of the sole responding producer/exporter M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. shows that the company has received subsidies from the Government Authorities in China and these have been reported in the annual report under the head of “Government Subsidies” for grants related to Asset, Income and Finance.

54. Accordingly, the Authority holds that these Govt. subsidies in the form of Grants constitute financial contribution by a public body conferring a benefit to the company concerned and are specific in nature. Accordingly, the subsidy margin under the head of ‘Grants’ reported in the annual report has been considered for quantifying CVD margin. For the purpose, total amount reported in the annual report under the head “Govt. subsidies” has been considered as the benefit conferred. The amount of CVD margin thus determined is *** %.

Tax and VAT incentives

55. The GOC and its agencies administer a number of tax programs, which provide tax exemption/reduction/remission to certain categories of enterprises based on their location or nature of the enterprises or technological innovation.

56. The exporter M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. in the questionnaire response has admitted availing benefit under Program No. 33: Tax Policies for the deduction of research and development (R&D) expenses. The exporter has contended that it is a permitted subsidy, as it concerns R&D. The Authority however holds that it is actionable subsidy. The subsidy margin on this account comes to ***%.

57. The exporter M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. in the questionnaire response has admitted availing benefit under Program No. 35: Preferential tax policies/income tax

reductions for companies that are recognized as high and new technology companies. The Authority has determined the margin as *** %

58. The exporter M/s Zhejiang Jiuli Hi Tech Metals Co. Ltd. in the questionnaire response has admitted availing benefit under Program No. 39: Tax credit concerning the purchase of special equipment. The Authority has quantified the subsidy margin on the basis of tax rebate received under the program. The subsidy margin so quantified is ***%
59. The DI has provided the quantification of Program No 51: VAT rebate received by the company on fixed assets for Central region. The Authority has quantified the subsidy margin by taking increase in fixed assets from the year 2016 to 2017 by the responding exporter and the VAT rebate received on the same taking sales turnover as denominator. The CVD margin so quantified is ***%.

Provision of goods and services for less than adequate remuneration (LTAR)

a. Land-use rights

60. The authority notes the absence of questionnaire response from GOC, which acquires relevance in respect of availability of land use rights to Chinese producers, The authority in earlier investigations had examined the existence of countervailable subsidies in the form of land use rights and had noted that Government of China is providing land use rights to certain enterprises at less than adequate remuneration, which amounts to countervailable subsidies on account of financial contribution, resultant benefit and specificity by virtue of being limited to certain type of enterprises. Therefore, the Authority earlier noted that the provision of land use rights by the GOC is a countervailable subsidy program.
61. Authority initiated investigations in the present investigation for the following programs
- a. Program No. 60: Land Use Rights in Industrial and Other Special Economic Zone,
 - b. Program No. 61: Land Use rights for SOEs
 - c. Program No. 62: Land Use rights for FIE.

Since the authority has examined countervailability of land use rights in the past and further GOC has not filed questionnaire response, in the absence of sufficient cooperation from the Government of China (GOC), the authority has considered land use right as countervailable subsidies equivalent to subsidy margin given in the table below.

b. Utilities (electricity)

62. The notice of initiation refers to subsidy Program No. 58 regarding provision of electricity for less than adequate remuneration. In earlier CVD investigations, it has been noted that public bodies in China provide electricity to industrial enterprises at less than adequate remuneration and have accordingly been countervailed. In view of absence of questionnaire response from the Govt. of China, the Authority holds program no. 58 countervailable. The subsidy margin determined is ***%.

c. Raw materials

63. It is noted in the domestic industry claim that the authority has earlier determined subsidies in raw material (viz. Certain Hot Rolled and Cold Rolled flat products of stainless steel) used to manufacture the PUC in the year 2017 as 18.95%. Further, the only responding exporter from China was asked to provide details of raw material purchases including the source of the same. The information provided by the said exporter showed that the company has sourced substantial quantities of raw material from both within Chinese market as also through imports. It was found by the Authority from the analysis of the data so submitted that the price difference between the domestic and imported purchase prices was ***%. The responding exporter has not reported any difference between the domestically purchased and imported raw material. Therefore, the subsidy margin in the raw material has been determined to be ***%

Preferential Loans and Lending

64. The authority initiated investigations in respect of Program No. 71, 72, 73, 74, and 75. While GOC did not file questionnaire response, the sole responding exporter contended that the loans are provided by commercial banks. Since GOC has not filed questionnaire response, the authority has not been able to investigate whether the commercial loans given by the banks are without any direction or control by a public body.

65. The Authority has earlier determined that GOC provides loans at discounted rates. The Authority noted that preferential lending has resulted in financial contribution in the form of direct transfer of funds and determined countervailing duty against such preferential lending by comparing the interest rate charged by the state-owned bank from the exporter receiving loan with the commercial benchmark interest rate. This benefit is specific because it is limited to certain type of enterprises in China.

66. The Authority notes that the loans to the Chinese enterprises (which includes producers of the PUC as well) provides a benefit to these enterprises. Since the authority has examined countervailability of these programs in the past and further since GOC has not filed questionnaire response in the form and manner prescribed, the authority considered that the Chinese producers of the PUC have been benefited from loans at less than benchmark rates. As per facts available on record, the Authority considers that a benefit of ***% is conferred on the Chinese producers of the PUC.

Conclusion on CVD Schemes in China

67. In view of the foregoing, the Authority finds that the Chinese producers have benefited from countervailable subsidies. On the basis of the investigations conducted, facts on record available and considering absence of questionnaire response from the GOC, Authority has quantified margin of subsidies in various subsidy schemes as shown in table below.

SN	Name of Scheme	Subsidy Margins M/s Jiuli	Subsidy Margins Residual
I	Grant Program	0-5%	0-5%
II	Tax and VAT Incentives (a+b+c+d as below)	0-5%	0-5%
IIa	<ul style="list-style-type: none"> • Tax rebate for high and new technology enterprises 	0-5%	0-5%
IIb	<ul style="list-style-type: none"> • VAT rebate 	0-5%	0-5%
IIc	<ul style="list-style-type: none"> • Tax credit on Capital assets 	0-5%	0-5%
IId	<ul style="list-style-type: none"> • Tax rebate on R&D 	0-5%	0-5%
III	Provision for goods and services at LTAR (a+b+c as below)	25-30%	25-30%
IIIa	<ul style="list-style-type: none"> • Raw material 	20-25%	20-25%
IIIb	<ul style="list-style-type: none"> • Land use right 	0-5%	5-10%
IIIc	<ul style="list-style-type: none"> • Electricity LTAR 	0-5%	0-5%
IV	Preferential loans and lending	0-5%	0-5%
	Total Subsidy Margin (Range)	25-35%	30-40%

b. SUBSIDIES INVESTIGATION IN RESPECT OF VIETNAM

68. Government of Vietnam was invited for consultation, which was held on 6th July, 2018 in New Delhi.

69. After the consultation and examination of the schemes as provided in the petition, the Authority identified two programs wherein investigation was not necessary. No investigation was therefore initiated in respect of these programs:

- i. Program No 4: Preferential Import Tariff
- ii. Program No 12: Vietin Bank for Export financing/Activity

70. The Authority initiated investigations for the following CVD programs

I. Schemes identified as tax incentives and exemptions

1. Program No 1: Income Tax Preferences under Chapter V of Decree 24 (Implementation of the Law on Enterprise Income Tax)
2. Program No 2: Import duty exemption or reimbursement for raw material
3. Program No. 3: Exemption on corporate income tax for enterprises

II. Schemes identified as export financing and export credit

4. Program No 5: Preferential lending to exporters
5. Program No 6: Export Promotion Program
6. Program No 7: Export credits from the Vietnam Development Bank
7. Program No. 8: Export Support Credit

III. Schemes identified as investment incentives

8. Program No. 9: Preferential Lending for investors
9. Program No. 10: Interest rate of the investment credit loans
10. Program No. 11: On investment support on foreign investors who invested on establishing small and medium scale enterprises.

IV. Schemes Identified as benefits from banks

11. Program No. 13: Financial Guarantees by Vietin Bank

V. Schemes Identified for being located in specific zones

12. Program No 14: Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142

VI. Schemes Identified for incentives on use of utilities

13. Program No. 15: Government provision of land for less than adequate remuneration and exemptions or reductions from land and water rents.

71. Post initiation, the GOV and producers/exporters of the product were advised to file response to the questionnaire in the form and manner prescribed and were given adequate time and opportunity to provide verifiable evidence on the existence, degree and effect of alleged subsidy program for making an appropriate determination of existence and quantum of such subsidies, if any.

72. The Government of Vietnam has filed questionnaire response and provided some information with regard to some of the schemes/programs. Further, the following producers/ exporters of the subject goods from Vietnam filed questionnaire response:

- i. Sonha SSP Vietnam Sole Member Co. Limited.
- ii. Nam Cuong Metal Company Limited
- iii. OSS Dai Duong International Joint Stock Company
- iv. Tuan Dat Metal Company Limited
- v. Gia Anh Joint Stock Company
- vi. Ha Anh Stainless Steel Company Limited
- vii. Gia Anh Hung Yen Company Limited
- viii. Vinlong Stainless Steel (Vietnam) Co. Ltd.
- ix. Steel 568 Co. Ltd.

73. The responses filed by the abovesaid producers/exporters and GOV were examined and verified.

G.1. Submissions by the domestic industry

74. With respect to Vietnam schemes, the petitioners have further submitted as follows:

- (a) the producer/exporter of the subject goods have received countervailable subsidies under the following categories of various levels of Govts.
 - (i) Tax Incentives and Exemptions
 - (ii) Export financing and Export Credit
 - (iii) Investment Incentives
 - (iv) Benefits from banks
 - (v) Benefits in specific Zones
 - (vi) Incentives on use of utilities
 - (vii) Free trade agreements, including ASEAN, Indo-ASEAN, China-ASEAN agreement
- (b) Vietnamese producers are sourcing steel, the primary raw material, from China at less than adequate remuneration. Since this procurement is under Govt. program (China-ASEAN trade agreement), the Authority should investigate and consider that the subsidies in steel procured from China cannot be ignored for the present purposes.
- (c) Since the exporters in Vietnam have imported hot rolled steel from China and processed it to produce the subject goods in Vietnam, the value addition cannot be more than limits prescribed under Indo-ASEAN agreement, unless the Vietnamese producers include Chinese manufacturing as part of their production. The Vietnamese producers have exported the subject goods, claiming the same to be of Vietnamese origin, in order to take benefit of concessional rate of duty under the ASEAN-India Free Trade Agreement (AIFTA) only on the strength of Chinese production. The A-I form issued by the competent authority in Vietnam clearly shows that the Vietnamese

producers claimed and such competent authority in Vietnam and India accepted a value addition on the basis of manufacturing carried out in two countries – Vietnam and China.

- (d) The production process undertaken by the Vietnamese, as declared to customs authorities and as declared to Designated Authority cannot be different. If a different process has been claimed, the Designated Authority in any case should reject the questionnaire response holding that the Vietnamese producers have made contradictory claims between two authorities in India. If the Vietnamese producers have claimed production process employed in China and Vietnam as the process carried out by them for fulfilling the value addition condition, the Designated Authority should consider the same for the present purposes. If the input disclosed to the Authority is steel, showing a value addition of about 10%, it is a clear case of misrepresentation of facts and making contradictory claims before two authorities in India.
- (e) Unless scrap is used, the value addition in producing the subject goods shall remain much less than that prescribed under the ASEAN-India FTA for claiming preferential tariff treatment. However, the government authorities in Vietnam have issued certificates showing the country of origin as Vietnam and value addition beyond the minimum limits prescribed under the agreement. Either GOV should agree that it has allowed Vietnamese producers to export the subject goods to India based on fraudulent certificates of origin, or, the GOV should agree that the value addition has been claimed based on production carried out in two countries – China and Vietnam.
- (f) Since production process from scrap to steel has been reported by the producers of the product as their production process, the Vietnamese producers have benefited by the Chinese subsidised steel upto the stage of hot and cold rolling. The quantum of such subsidization has been determined by the Authority in previous CVD investigation as 18.95%.
- (g) Since A-I form value addition is based on production process in China, the Vietnamese producers deemed to have carried out that production process while producing and selling the product. There can be no different explanation for the claims made by the Vietnamese producers in the A-I form.
- (h) The Vietnamese producers should provide complete purchase details of steel, transaction wise, and showing country of supplier. Unless this information is provided, the Authority cannot determine whether the Vietnamese producers were benefited by the production process deemed to have been carried out by them in China.
- (i) GOV has conferred countervailable subsidies to its exporters, which have allowed them to export to the Indian market at injurious prices.
- (j) GOV must have been fully aware of the production process claimed by the Vietnamese producers, while permitting issuance of the certificates. Further, the GOV must have carried out verifications, as mandated under the trade agreement, periodically, to ensure that the declarations given by the Vietnamese producers are correct. The GOV therefore now cannot plead ignorance.

- (k) The Questionnaire response filed by the responding exporters from Vietnam such as OSS Dai Dong and Vinlong Stainless Steel clearly show purchase of raw material from China or a related entity/parent company is in China.
- (l) There was no production facility either in Vietnam or within ASEAN from the stage of steel melting. The production facility available either in Vietnam or within ASEAN and value addition from that stage upto the product under consideration under no circumstances can lead to the value additions as are being reported under A-I form (which shows value addition of ***%).
- (m) GOV is trying to mislead the authority on the legal position with respect to non-actionable subsidies under the WTO, as the provisions expired at the end of 1999. Rule 11 of the Countervailing Duty Rules should be read in consonance with the Articles of the ASCM.
- (n) The petitioners have quantified the subsidy margin for both the producers/exporters from Vietnam based on the information available in the public domain, in addition to the subsidy margin determined by Authority in the raw material vide notification No 14/18/2015-DGAD dated 04th July, 2017.
- (o) There is no provision that requires that countervailing duty can be imposed only when there is subsidy at the time of imposition. If the existence and availment of subsidy during period of investigation is established, countervailing duty can be imposed, whether such subsidy is in existence or availed at the time of imposition of countervailing duty. Subsidies for fixed assets can be considered over the entire AUL.
- (p) If the governments and the producers/exporters of the subject countries are non-cooperative, the Authority must apply adverse facts and determine the countervailability of the schemes based on evidences already available on record and proceed further in determining the subsidy margins.

G.2. Submissions by other interested parties

75. With respect to Vietnam schemes, the other interested parties have submitted as follows:

- a. Since India and Vietnam are rapidly developing friendly relations, solution for problems arising from bilateral trade must be arrived through consultation. Countervailing investigation would damage interests of Indian invested enterprises in Vietnam.
- b. There is no evidence of existence of a benefit for exporting producers from Vietnam in respect of all direct tax programs mentioned in the petition.
- c. Decree 24/2007 /ND-CP was replaced by Law No. 14/2008/QH12, and was therefore, not applicable during the period of investigation.
- d. Countervailing duty should not be imposed because Vietnamese exporters did not receive any countervailable subsidies from the Government of Vietnam.
- e. Exporters did not receive any loan from the Government of Vietnam or Vietnam Development Bank, and all outstanding loans were provided by commercial banks at market rates of interest and without any exemption.

- f. While five of the exporters did not receive any income tax or import duty preferences, the benefits received by the sixth exporter were based on its location in a disadvantaged region. Therefore, it does not constitute a countervailable subsidy as the benefit was based on location in a disadvantaged region and hence, is non-actionable.
- g. All five exporters did not receive any exemption or reduction with regards to land rent, electricity and water fee.
- h. Government of India also provides tax incentives to units situated in SEZ, less developed areas, incentives for special industries, North east and Himalayan states etc. as well as to exporters such as drawback, EOU, EPCG, etc.

G.3. Examination by the Authority

76. The Authority notes that few of the participating producers/ exporters have not provided the requisite details asked from them during the verification. Accordingly, the subsidy margin in these cases have been determined on the basis of facts available with the Authority as per the Rules.

I. Programs identified as Tax Incentives:-

A. Program No 1: Income Tax Preferences under Chapter V of Decree 24 (Implementation of the Law on Enterprise Income Tax) and

B. Program No. 3: Exemption on corporate income tax for enterprises

77. The petitioners contended that these programs are governed by GOV and administered by Ministry of Finance and Ministry of Commerce. GOV submitted that the Enterprise Income tax 2003- Law no. 09/2003/QHI has ceased and new law has taken its effect on January 2008, and therefore the said benefit is not applicable during POI, and none of the responding exporters are benefited. Petitioners however pointed out towards Article 19(3) & 4 of No.14/2008/QH12 clearly deals with enterprises which enjoy enterprise income tax incentives under Enterprise Income Tax Law and submitted that enterprises continue enjoying these incentives for the remaining duration (i.e. residual benefits) under Enterprise Income Tax Law No. 09/2003/QH11. Petitioners further submitted that in case enterprise income tax incentives (including tax rate incentives and tax exemptions & reductions duration) are lower than the tax incentives specified in this Law, the tax incentives under this Law apply for the remaining duration. Petitioners have also submitted that Article 20.2 of the Decree No. 218/2013/ND-CP clearly demonstrates that enterprises having investment projects and by the end of tax period of 2013 still are entitled to the incentives of corporate income tax. In other words, the petitioners submitted that even when the law is repealed, residual benefit remains available to the enterprises who were earlier eligible for the same. The program no. 1 has been replaced by program no. 3. Some of the responding exporters have even admitted having received benefit under program no.3.

78. Responding exporters from Vietnam, Nam Cuong Metal Company Vietnam, Dai Duong OSS Co. Ltd, Tuan Dat Metal Company Ltd, Vinlong Stainless Steel (Vietnam) Co. Ltd, Steel 568 Co. Ltd, Gia Anh Joint Stock Company, Ha Anh Stainless Steel Co. Ltd, Gia Anh Hung Yen submitted that they have not applied or received any benefit during POI, because the said Decree is terminated in 2009. These companies have however not stated anything with regard to residuary benefits available under the earlier program.
79. Sonha SSP Vietnam Sole Member Co. Ltd stated that the law has been terminated in 2009 but same has amended and supplemented by Law No. 32/2013 I QH13 dated 19/06/2013 of the National Assembly, which amended and supplemented some of articles of the Law on Enterprise Income Tax, effective from January 1,2014. It has further stated that Law No. 7112014 I QH13 dated 26/11/2014 of the National Assembly was amended and added some of articles of the tax law, effective from 01/01/2015. The company has also stated that Decree No.218/2013/ND-CP dated 26/12/2013, detailing and guiding Law on corporate income tax, Effective 15/02/2014. Since the company does not fall under the said criteria, the company has not benefited.
80. The authority notes that these programs are countervailable. Some producer/ exporter(s) have availed the benefit under these programs whereas some of producer/ exporters have not. Accordingly, the subsidy margins determined by the Authority have been given in the table below.

C. Program no. 2: Import duty exemption or reimbursement for raw material

81. The petitioners contended that these programs are governed by GOV and administered by Ministry of Finance and Ministry of Commerce, which provides exemption on payment of import duty for the importation of raw materials into Vietnam for further production which is contingent on export performance.
82. GOV submitted that import duty is exempted for imported raw material used in production of the exported goods. The amount of the exemption is equal to the amount of the duty corresponding to the value of imported materials actually used in the production of the finished goods that are exported. The program is monitored by the General Department of Vietnam Customs (GDVC) under the Ministry of Finance. To monitor implementation of this policy, the GDVC under the Ministry of Finance is in charge of development of a system to track (1) the amount of imported material actually consumed for the production of export products, including scrap and discarded products that are lost in the production process (this is called the "consumption norm"); and (2) whether the exported products are actually exported.
83. Responding exporters Sonha SSP Vietnam sole Member Co., Steel 568 Co, HA ANH Stainless Steel Company Limited, Tuan Dat Metal Company Limited, OSS Dai Doung International Joint Stock, Gia ANH Hung Yen Company Limited, NamCuong Metal Company Limited have claimed to have not received any benefit under import duty exemption or reimbursement for imported raw material because tariff schedule has been

scheduled at 0% duty rates. Vinlong Stainless Vietnam Com Ltd stated that they have not benefited from the said program as they are Export processing enterprises and not subject to any import/export duties & VAT exemptions.

84. With regard to submissions made by the GOV and the responding exporters Steel 568 Co, HA ANH Stainless Steel Company Limited, Tuan Dat Metal Company Limited, OSS Dai Doung International Joint Stock, Gia ANH Hung Yen Company Limited, Nam Cung Metal Company Ltd. stated that as per the AESAN -India Free Trade Agreement (AIFTA) the import tariff in effect at the time of importation for the raw materials was 0% and hence no duty was payable and no benefit could have been received.
85. The authority notes that the said program provides financial contribution and benefit is conferred for import duty exemptions on raw materials for exported goods, the exemptions cannot exceed the amount of duty levied; otherwise, the excess amounts exempted confer a countervailable benefit.

D. Program No. 5: Preferential lending to exporters

86. The petitioners have submitted that the program no. 5 relating to preferential lending to exporters is governed by GOV and administered by Ministry of Finance, State Agencies, State Bank of Vietnam and Other Commercial banks, State capital investment corporation (SCIC); Vietin Bank (SOE Bank), Vietnam Development bank which provides low interest loans and where 50% of loans which are provided and granted by state owned commercial banks in Vietnam as the banking sector in Vietnam is controlled by State-owned State bank of Vietnam, which sets maximum interest rates. Petitioners further submitted that the interest rate cannot be accepted as the producers of the subject goods have acquired loan at subsidized rate. The producers in Vietnam have benefitted in the form of reduced rate of interest.
87. The GOV stated that there is no such policy that directs the banks to operate as per state or national policy in Vietnam and that commercial banks make lending decisions independently after considering various factors with respect to the borrowers and these decisions have no correlation to the government authority. Vietnam Development bank is a state-owned commercial bank and was established by Decision 108/2006/QD-TTg on May 2006. Under Decree No. 32/2017/ND-CP, state investment credit is provided. The bank provides three key types of benefits, preferential lending to exporters is one of them. However, it is completely inaccurate on the part of the petitioners to allege that a policy bank in Vietnam operates as per the directives of the State or the National government. The loan amount under the present program is provided under market-based interest rates and is not subsidized or reduced.
88. None of the responding exporters have given any explanation or description about the program. They have either stated that they have not received any benefit under the said program or that they are not eligible for benefit under this program. However, none of the exporters have provided complete details of each of the loans taken by them and the rate of

interest paid thereon to demonstrate that there is no differential interest on different categories of loans taken by them.

89. The Authority notes that loans can be provided at concessional rates by a bank which may be Govt. owned or privately controlled. Even if a bank is privately controlled, it cannot be said that there is absence of countervailability if the private bank offers loan at the concessional rate at the direction of the central bank/ government.
90. The Authority also notes that the said program has been examined by US-Laminated Woven Sacks and countervailed in respect of Vietnamese producers.
91. Accordingly, the subsidy margin has been determined by the Authority as per the table given below.

E. Program No 6: Export Promotion Program

92. Petitioners claimed that this program aims at enhancing trade promotion activities, developing export markets, creating initial conditions for building material foundations in service of trade promotion and contributing to raising the business capacity of the relevant enterprises under investigation. Petitioners have stated that the present program is contingent on export performance.
93. GOV submitted that export promotion program, is governed by Ministry of Industry and Trade (MOIT) through their local body who governs trade promotion activities for expanding trade to foreign markets, bordering areas and even mountainous regions. The program emerged in 2010 and has been in accordance with the National Trade Promotion Policy. The eligibility criteria for the program is that the specific enterprise must have a trade promotion plan which must meet the laid down objectives and should include plan for promotion of local products over imported ones. GOV further submitted that none of the responding exporters have benefited during the POI. However, GOV has not provided list of producers/exporters of the product who have not responded and who may have benefited under the program.
94. Responding to the contentions of the GOV, petitioners submitted that as per Decision No. 137 / QĐ-BCT dated 16/01/2017 of the Minister of Industry and Trade, National Trade Promotion Program in 2017 clearly indicates that scheme is replaced with the said notification and scheme is still in existence. The authority notes that the said development has not been brought on record by the GOV, nor existence of Decision No. 137 / QĐ-BCT dated 16/01/2017 denied by the GOV.
95. The authority notes that the program is regulated by a public body and provides for trade promotion activities which is held countervailable.
96. Accordingly, the subsidy margin has been determined as per the table given below.

F. Program No. 7: Export credits from the Vietnam Development Bank

97. Petitioners have submitted that Vietnam Development Bank is granting export credits to the Vietnamese producers/exporters. The program is governed by GOV and administered by Ministry of Finance, State Agencies, State Bank of Vietnam and Other Commercial banks, State capital investment corporation (SCIC), Vietin Bank (SOE Bank), Vietnam Development Bank. These banks provide low interest cost loans and where loans are provided and granted by state owned commercial banks. Petitioners have further submitted that the banking sector in Vietnam is controlled by State owned “State Bank of Vietnam”, who sets maximum interest rates for the purpose.
98. The GOV has stated that Vietnam Development Bank is a state-owned commercial bank and was established by Decision 108/2006/QD-TTg on May 2006. The bank provides three key types of benefits – preferential lending to the exporters being one of them. They have further stated that it is completely inaccurate of the petitioners to allege that a policy bank in Vietnam operates as per the directives of the State or the National government and that the loan amount under the present program is provided under market-based interest rates and is not subsidized or reduced.
99. Responding to the submissions made by GOV and responding exporters, petitioners have submitted that no detailed explanation and description of the program has been provided by GOV or responding exporters; and they have simply stated that they have not received any benefit under the said program or they are not eligible for benefit under this program without giving any explanation to support their statement.
100. The Authority notes that loans provided by public body or at the direction of public body, if provided at concessional rates, may constitute countervailable subsidies.
101. The Authority also notes that the said program has been examined by other investigating authorities, including Canada in cold rolled steel & copper fitting, EU in polyester staple fiber, US in frozen warmwater shrimp and have been countervailed.
102. Accordingly, the subsidy margin has been determined as per the table given below.

G. Program No. 8: Export Support Credit

103. Petitioners have submitted that the said program is provided to exporters to receive credit, at concessional rates, based support on the exportation of certain goods. The export support will be applicable only to those exporters that are involved with the investors and have the capacity to repay the debt, the project must have completed the investment and construction stage and investor must have been evaluated by the Development Assistance Fund for financial plans and loan repayment plans.
104. GOV has stated that the said program has been started in 2001 and terminated in 2007 and none of the responding exporters are benefited from the said program.

105. Responding to the GOV contention, the petitioners have submitted that Article 8 and 9 of decree 32/2017 provides that loan repayment period is 12 years. In other words, the petitioners claimed that the program provided residual benefits. However, GOV and the responding exporters have not reported that there is any residuary benefit under the program.
106. The Authority noted the contention of the petitioners. The Authority also notes the contention of the petitioners about medium and long-term investment loans under the program for investment projects of producing, manufacturing or processing export goods with export revenue accounting for at least 30% of total annual revenue. The Authority notes that the said program has been evaluated by other investigating authorities such as Canada in cold rolled, copper fitting; EU in polyester staple fiber, US in frozen warmwater shrimp cases and countervailed the same.
107. The Authority holds that the benefit under this program is incumbent upon export performance and hence countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

H. Program No. 9: Preferential lending for investors

108. The petitioners have contended that credits at preferential rates are provided to investors in Vietnam. The program is administered by Ministry of Finance, State Agencies, State Bank of Vietnam and Other Commercial banks, State capital investment corporation (SCIC); Vietin Bank (SOE Bank), Vietnam Development Bank.
109. The petitioner has further contended that this program provides low interest loans by state owned commercial banks in Vietnam as the banking sector in Vietnam is controlled by State Bank of Vietnam, who sets maximum interest rates.
110. The GOV submitted that Vietnam Development Bank is a state-owned commercial bank and was established by Decision 108/2006/QD-TTg on May 2006 and Decree No. 75/2011/ND-CP. The bank provides three key types of benefits, preferential lending to exporters is one of them. They have stated that it is completely inaccurate on the part of the petitioners to allege that a policy bank in Vietnam operates as per the directives of the State or the National government. The loan amount under the present program is provided under market-based interest rates and is not subsidized or reduced.
111. Responding to the contentions of the GOV, the petitioners have submitted that the claim of the GOV regarding the interest rate being derived from market practices is not correct. The producers of the subject goods have acquired a loan from the GOV controlled bank at a subsidized interest rate. Petitioners have further stated that interested parties have either simply stated that they have not received any benefit under the said program or they are not eligible for benefit under this program without giving any explanation to support their statement.

112. The Authority notes the contention of the domestic industry that loans are provided at concessional rates in Vietnam to the enterprises. While stating that the rates are fixed based on market practices, neither GOV nor the responding exporters have provided complete details of various loans obtained by the responding exporters, and interest thereon to establish that these loans were in fact obtained at market prices. The GOV has also not provided showing documents relating to fixation of interest rates by its central bank.
113. The Authority notes that the said program has been examined by other investigating authorities such as in US- Certain Steel Nails and countervailed the same.
114. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

I. Program No. 10: Interest rate of the investment credit loans

115. Petitioners submitted that GOV allows Vietnam Development Bank, to act as a policy bank. The Bank, as per Decisions 108/2006/QD-TTg allows for investment credit loans to be provided to enterprises that are seeking to invest into projects which are on the list of those eligible for investment credit stipulated by the Government.
116. The petitioners further submitted that Article 21 of Decree 75 specifies the lending interest rate provisions and under Clause (1) of the same it is stated that “export lending interest rates shall be reported by the Chairman of the Vietnam Development Bank Management Board to the Ministry of Finance for publication on the principle of compatibility with market interest rates.” Further, it cannot be said that the Central bank is not acting in accordance with the policies of the GOV.
117. Petitioners have also submitted that Decree No. 75/2011/ND-CP is only an updated legal text of Decree 151/2006/ND-CP and provides necessary changes to various provisions of the old Decree which includes the relevant provisions for both investment Credit and export credit programs of the Vietnam Development bank.
118. Petitioners also referred to Circular No. 76/2015/TT-BTC on Regulations on Credit Loans for Investment, which specifies the interest rate for investment credit loans and export credit loans.
119. The GOV stated that there are no such provisions that allow banks to operate on the state or national policy in Vietnam and that commercial banks make lending decisions independently after considering various factors with respect to the borrowers and these decisions have no correlation to the government authority.
120. The producers/exporters have stated not having acquired a benefit under the program. Further, the decree documents show that only certain types of investments, which are listed under Appendix 1 of the Decree No. 75/2011/ND-CP are eligible for the benefit.

121. The authority notes the submission of the petitioners. The Authority notes that the said program has been examined by other investigating authorities such as US- Certain Steel Nails and countervailed this program.
122. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

J. Program No. 11: On investment support on foreign investors who invested on establishing small and medium scale enterprises

123. The petitioners have submitted that GOV provided investment support to foreign investors for establishing small and medium scale enterprises in order to facilitate and support the investment projects for small and medium enterprises.
124. The GOV has submitted that in order to facilitate development of small and medium sized enterprises (SMEs), GOV issued Decree 56/2009/ND-CP to provide guidelines for support of SMEs, which applies to SMEs throughout the country regardless of any form and type of business. The Ministry of Planning and Investment (MPI) acted as the body assisting the Government in performing the unified state management of assistance to the development of small and medium sized enterprises, and subsequently providing guidelines to implementation of the Government's policy regarding support for SMEs. Local authorities are responsible for designing and implementing SMEs support programs based on principles and guidelines from the central government.
125. GOV also stated that Vinlong Stainless Steel Company Limited qualify as a SME. Vinlong did not apply and has not got any benefit under programs. None of the responding exporters have availed the benefit under the said scheme.
126. The Authority also notes that the said program has been evaluated by other investigating authorities, such as US- Certain Steel Nails and countervailed the same.
127. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

K. Program No. 13: Financial Guarantees by Vietin Bank

128. Petitioners submitted Vietin Bank, which is a state-owned commercial bank, provides financial guarantee on exportation of Vietnamese domestic goods, promoting the export performance of the enterprise.
129. The GOV has not provided any information relating to this subsidy program and has stated that none of the companies under investigation have received a benefit under the program. However, some of the responding producer/ exporters have admitted having availed the said benefit, but not for PUC.

130. The domestic industry has submitted that the program allows credit institutions to provide financial guarantee to enterprises fulfilling the requisite provisions. They have quoted the legal basis as under:

Article 3, Clause (1) defines bank guarantee as “a form of credit granting, which the guarantee party commits in writing with party receiving guarantee that it shall perform finance obligation of the guaranteed party upon the guaranteed party fails to perform or insufficiently perform the obligation committed with party receiving guarantee; the guaranteed party must take over debt and repay for the guarantee party as agreement.” Further, as per Article 11 clause (2) (a) the Credit institutions that are providing the guarantee benefit must be licensed by the State Bank to business in and supply such service.

131. The benefit under the present program allows enterprises to receive guarantees for the extension of the export business which has to be paid later on at a preferential interest rate to the Credit institution or commercial bank.

132. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

L. Program No. 14: Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142

M. Program No. 15: Government provision of land for less than adequate remuneration and exemptions or reductions from land and water rents

133. The petitioners have submitted that the GOV has provided land based incentives to encourage enterprises to set up investment projects in areas of specially difficult socio-economic conditions. Enterprises involved in investment projects and located in specified zones, regions and who are listed as encouraged industries, are granted exemption and reduction from payment of land rent.

134. GOV has stated that, in order to encourage enterprises to invest into geographical regions or areas with especially difficult socio-economic conditions, the GOV pursues a policy of exemption and reduction of land rent for companies who have investment projects in such regions. Exemption of land rent also applies to investment projects in special cases such as construction of lodging houses for poor workers, dormitory for students in universities, agricultural land for minority citizens in mountainous areas, etc., as well as investment projects in encouraged industries. Based on their investment certificate or business registration, the relevant local tax authority determines the amounts payable by the land tenants. None of the responding exporters have availed the said benefit. However, no details of the relevant documents relating to administration of the program have been provided. Further, the GOV has provided no details showing non-granting of benefit to the responding or non-responding exporters of the PUC.

135. The Authority notes that the said program has been examined by other investigating authorities in the past, including evaluation done by Canada in cold rolled & copper fitting, EU in polyester staple fiber and countervailed.
136. The authority notes the following contentions of the GOV and the exporters with regard to provision of land for less than adequate remuneration:
- (i) if an investor, regardless of foreign or domestic, obtains the LUR from a private source including developer, to which a LUR was already granted, to establish factory or company premise, LUR transfer price would be determined by free negotiation between the two parties.
 - (ii) in the case where an investor obtains LUR of a parcel of land via Land Allocation and Land Lease from the State, price of land allocation and land lease will be determined mainly on the basis of on auction winner price. Starting price for auction would not be lower than the price list applicable to that land parcel promulgated by the Provincial People's Committee. The price list is officially promulgated by the Provincial People's Committee every five years on 01 January of the beginning year. (Article 114, Land Law 2013). Sample of price lists promulgated by four provinces of Hung Yen, Hanoi, Long An and Tien Giang is given in the Annex 7.2.
 - (iii) if no auction takes place, the Local Government will determine the price of that land parcel based on the actual value of the land under normal circumstances ("specific land price"), which involves participation of council for land price appraisal. The council for land price appraisal comprises the head of the Local People's Committee (provincial level) as the chairperson, representatives of relevant agencies, and an organization that provides consultancy on land price determination. (Article 114, Land Law 2013).
 - (iv) to ensure determined land prices are in line with market price, the GOV uses five land pricing methods, namely direct comparison method, subtraction method, income-based method, surplus-based method and land price coefficient method. Details of these methods and their application are given in Article 4 and 5 of Decree No. 44/2014/ND-CP on the regulations on land prices. These pricing methods are widely used all over the world and are recognized internationally. They are applied not only in determining specific land price but also in constructing the land price lists by the provincial level authorities.
 - (v) regarding the LUR revocation, the State can recover LUR in the following cases (Section 1, Chapter VI, Land Law 2013):
 1. For national defense and security; socio-economic development in national and public interest; or
 2. Due to violations of the law and regulations on land;
 3. Due to termination of land use in accordance with law, voluntary return of land, or the risk of threatening human life.

Thus, if the recovery of LUR is made for national defense and security or for socio-economic development in national and public interest, the State shall compensate to the LUR owner for land and remaining investment cost on land of the LUR owner.

137. Thus, the GOV contended that neither the GOV has given any specific benefit like lower or no lease rental to the PUC (Welded Stainless Pipe and Tube) industry or to the regions where the PUC producers are located nor any of the PUC producer has availed any benefit under this program.
138. The Authority notes that land is owned by the GOV and price of land is determined by them and some authorities like EU, US and Canada have countervailed these programs.
139. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

Non-alleged Subsidy

“Import duty exemption for equipment for equipment and machinery to create fixed asset”.

140. GOV stated in their questionnaire response that apart from the “Import duty exemption or reimbursement for raw material”, there are other “Import duty exemption for equipment for equipment and machinery to create fixed asset”. The said program is administered by Ministry of Finance department of Vietnam Customs(GDVC).
141. Import duty exemption on imports of equipment and machinery to create fixed assets is provided under the Law on Import and Export Duty 2016 Article 16.11 of the Law on Import and Export Duty 2016 and Article 14 of Decree134/2016/ND-CP provide that imported goods to create fixed assets for companies subject to investment preferences are exempt from import duties. These imported goods include machinery and equipment; components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for the manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment; special use vehicles in a technological line directly used for a manufacture project; and building materials that cannot be domestically-produced.
142. GOV stated that Dai Duong only imported equipment and machinery to create fixed assets in 2010 and thus it only received this benefit in 2010, a point of time long prior to the POI. Since the benefit is conferred to capital assets the said benefit for average useful life and hence Dai Duong OSS have availed the said benefit.
143. The Authority notes that the benefit under this program is countervailable. Accordingly, the subsidy margin has been determined as per the table given below.

Conclusion on CVD Schemes in Vietnam

144. In view of the foregoing, the Authority finds that the Vietnamese producers are benefited from countervailable subsidies. On the basis of the investigations conducted, facts on record, and the investigations conducted in the past, and considering absence of full cooperation from few of the Vietnamese participating producers/ exporters of PUC,

Authority has quantified various subsidy schemes and margin of subsidies therein as shown in table below. It is seen by the Authority that the quantum of CVD margins are significant and above de-minimus except in case of M/s Sonha SSP Vietnam Sole Member Co. Limited and M/s Steel 568 Co. Ltd.

P. No.	Name of the Program	Son Ha SSP Vietnam	Nam Cuong Vietnam and Tuan Dat Metal Company Ltd.	Dai Duong OSS Co. Ltd.	Gia Anh Hung Yen and Gia Anh Joint Stock Company
P.1	Income Tax Preferences under Chapter V of Decree 24 (Implementation of the Law on Enterprise Income Tax)	NIL	NIL	0-5%	0-5%
P.3	Exemption on corporate income tax for enterprises				
P.2	Import duty exemption on reimbursement for raw material	NIL	NIL	NIL	NIL
P.5	Preferential lending to exporters	NIL	0-5%	0-5%	0-5%
P.6	Export Promotion Program	NIL	0-5%	0-5%	0-5%
P.7	Export credits form the Vietnam Development Bank	NIL	0-5%	0-5%	0-5%
P.8	Export Support Credit	NIL	0-5%	0-5%	0-5%
P.9	Preferential Lending for investors	NIL	0-5%	0-5%	0-5%
P.10	Interest rate of the investment credit loans	NIL	0-5%	0-5%	0-5%
P.11	On investment support on foreign investors who invested on establishing small and medium scale enterprises.	NIL	0-5%	0-5%	0-5%
P.13	Financial Guarantees by Vietin Bank	NIL	0-5%	0-5%	0-5%
P.14	Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142	0-5%	0-5%	0-5%	0-5%
P.15	Government provision of land for less than adequate remuneration and exemptions or reductions from land and water rents				
Other	Import duty exemption for equipment and machinery to create fixed asset	NIL	0-5%	0-5%	0-5%
Total Subsidy Margin %		De-minimus	***	***	***
Total Subsidy Margin (Range %)		De-minimus	10-20%	10-20%	10-20%

P. No.	Name of the Program	Ha Anh Stainless Steel Co. Ltd.	Vinlong Stainless Steel (Vietnam) Co. Ltd.	Steel 568 Co. Ltd	Residual
P.1	Income Tax Preferences under Chapter V of Decree 24 (Implementation of the Law on Enterprise Income Tax)	0-5%	0-5%	NIL	0-5%
P.3	Exemption on corporate income tax for enterprises				
P.2	Import duty exemption on reimbursement for raw material	NIL	NIL	NIL	NIL
P.5	Preferential lending to exporters	0-5%	0-5%	NIL	0-5%
P.6	Export Promotion Program	0-5%	0-5%	NIL	0-5%
P.7	Export credits form the Vietnam Development Bank	0-5%	0-5%	NIL	0-5%
P.8	Export Support Credit	0-5%	0-5%	NIL	0-5%
P.9	Preferential Lending for investors	0-5%	0-5%	NIL	0-5%
P.10	Interest rate of the investment credit loans	0-5%	0-5%	NIL	0-5%
P.11	On investment support on foreign investors who invested on establishing small and medium scale enterprises.	0-5%	0-5%	NIL	0-5%
P.13	Financial Guarantees by Vietin Bank	0-5%	0-5%	NIL	0-5%
P.14	Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142				0-5%
P.15	Government provision of land for less than adequate remuneration and exemptions or reductions from land and water rents	0-5%	0-5%	0-5%	
Other	Import duty exemption for equipment and machinery to create fixed asset	0-5%	0-5%	NIL	0-5%
Total Subsidy Margin %		***	***	De-minimus	***
Total Subsidy Margin (Range %)		10-20%	10-20%	De-minimus	10-20%

H. INJURY ASSESSMENT AND CAUSAL LINK

H.1. Submission by the domestic industry

145. The submissions made by domestic industry are as follows:

- a. There has been a flood of imports from the subject countries, which have increased by 662% over the injury period.
- b. Within a period of only one year, the subject imports have increased to nearly 3.5 times from *** MT in 2016-17 to *** MT in the period of investigation.
- c. The imports from subject countries have increased in relation to domestic production from 27% in to 80% from 2016-17 to 2017-18.
- d. The increase in imports is way beyond the increase in demand for the subject goods.
- e. The imports are significantly undercutting the prices of the domestic industry and the price underselling is positive and significant.
- f. The subject imports have depressed the prices of the domestic industry. However, most of the domestic producers being part of the small-scale sector, the producers do not take an order unless they get some margins. Therefore, the aspect of price suppression or depression may not be as noticeable as is seen in general in chemical, petrochemical or steel industries.
- g. Despite the domestic industry increasing its capacity with expectation of catering to the increasing demand, it has not been able to increase its production and sales commensurately.
- h. The domestic industry had been operating at less than ***% capacity throughout the period despite there being ample demand in the market. The capacity utilization of the domestic industry has declined by ***%.
- i. The subject imports have eaten into the market share of the Indian industry.
- j. The domestic producers being part of MSME industry cannot allow a huge blockage of inventories and therefore produce only when they have orders or are sure of order booking.
- k. The profitability of the domestic industry has declined steeply over the period.
- l. The cash profits and return on investment of the industry have also witnessed a decline.
- m. All profitability parameters of the domestic industry have registered a decline and in case of volume parameters, the growth of the domestic industry has been sub-optimal.
- n. The imports have increased to 1.5 times of that in period of investigation in the 6 months post period of investigation.
- o. Owing to the small scale of operations and nominal margins, a number of domestic producers have been forced to import and some are even working as de-facto commission agents for the exporters for keeping their livelihood.
- p. The increase in imports post period of investigation has been prompted by communication of M/s Sonha SSP Vietnam Sole Member Co., Limited, wherein it has assured the importers that no duties would be levied on exported products at least

- for a period of 6 months and that it would reimburse any countervailing duty imposed.
- q. Imposition of tariff quotas by European Union, increase in tariff rates by US, and imposition of anti-dumping duty by Thailand and Turkey have created a further threat of aggravated injury to the domestic industry.
 - r. Owing to the small investment required for producing the subject goods, the companies in China have responded to the imposition of duties on raw materials of PUC by India by increasing the exports of product under consideration (PUC).
 - s. Since tariff duty on imports from China to Vietnam is nil under China-ASEAN agreement, the raw materials are exported to Vietnam and thereafter, the product under consideration is imported into India at concessional rate of duty.
 - t. Injury to the domestic industry has not been caused by any other known factor.
 - u. The causal link between subsidized imports and injury to the domestic industry is evident from the following:
 - i. There has been a significant increase in imports and such imports are undercutting the prices of the domestic industry. Resultantly, the Indian industry has lost its place in the market and it has not been able to increase its production commensurate to the increase in capacity and demand.
 - ii. The selling price of domestic industry has reduced and it is facing loss per unit sold.
 - v. In response to the argument that the decline in capacity utilization was due to increasing demand, it was submitted that the domestic industry had not been able to increase its production in line with the increasing demand. Furthermore, the nature of the product under consideration is not such that the producers require significant time to optimize production capacities.
 - w. The increase in capacity was justified in anticipation of increasing demand.
 - x. Since profit before interest has also declined over the period, there is no merit in the argument that the return on investment has declined due to increase in capital employed.
 - y. Since exports constitute less than 5% of its total sales, no injury could have been suffered due to possible deterioration in exports.
 - z. With regard to arguments with respect to increase in employment and productivity, it was submitted that there is no change in the employment per unit of capacity and the increase in number of employees is in line with the increasing capacity and production. It was also submitted that the productivity per day was much lower than capacity per day.
 - aa. With regard to arguments that Indian production of stainless steel grew from ***% from 2016 to 2017, and that the production of pipes and tubes increased from 2016 to 2018; it is submitted that none of the figures relates to product under consideration. In any case, the increase in imports is much more than the increases in production referred to.
 - bb. As regards the argument that prices of stainless steel have increased, it was submitted that an increase in prices of stainless steel products as a whole is not indicative of

- the trend in price of subject goods in India as the DGCI&S data shows a decrease by *** % in the landed price of imports.
- cc. While the sales revenue of the domestic industry has increased, its selling price has reduced, leading to a decline in its profits.
 - dd. Regarding the argument that volume of imports from Vietnam is not significant, it was highlighted that the imports from Vietnam constitute ***% of the total imports of subject goods and one-tenth of the market in India, which is not insignificant.
 - ee. The fact that the supplier of subject goods export ***% of their goods to India shows that India is one of their major export markets.

H.2. Submission by other interested parties

146. The submissions made by other interested parties with regard to injury and causal link, are as follows:

- a. Despite claiming difficulties in identifying the MSME producers, the applicants have quantified the performance of such producers to evaluate market share, demand and consumption of subject goods, which is per se incorrect.
- b. Despite increase in production capacities, capacity utilization has remained low, leading to increased cost of production. The applicants should be asked to furnish project report and reasons for abysmal capacity utilization.
- c. Since production and sales of the applicants have remained constant, it is evident that there is no adverse impact on the production and sales of subject goods.
- d. An increase in number of employees without commensurate increase in productivity has resulted in financial burden.
- e. The capacity utilization is declining because the petitioners are increasing capacity. The production of the domestic industry has increased.
- f. Injury is caused to the domestic industry by undue/unjustified increase in capacities as it is unable to stabilize its capacities which resulted in higher capital employed, negative return on capital employed and huge losses.
- g. While domestic sales have increased by ***%; export sales show a decline of ***%, which has caused injury.
- h. Inventory as number of days of sales and of production have declined.
- i. Selling price declined with decline in cost of sales.
- j. Goods from Vietnam are coming at the same price at which the goods are exported from other subject countries, whereas goods from China PR are coming at very low prices.
- k. Price undercutting from Vietnam is negative which means subject goods from Vietnam are above non-injurious price.
- l. China has a share of ***%, Vietnam only has a share of ***%. Low priced Chinese imports are causing injury to domestic industry and there is no causal link between imports from Vietnam and injury to the domestic industry.
- m. Return on capital employed is positive during the injury period.
- n. Number of employees has increased, as also productivity.

- o. Overall performance of the domestic industry is improving and injury to the domestic industry cannot be attributed to imports from subject country.
- p. There is no causal link between the imports of subject goods and injury to the domestic industry, which is being caused by low-priced goods from China.
- q. The injurious effects of other imports must be segregated from other factors.
- r. Indian industry did not suffer material injury from Vietnamese imports during the period of investigation.
- s. Domestic production of Stainless Steel in India grew at the rate of ****% from *** million tons to *** million tons from 2016 to 2017. The production of pipes and tubes increased from *** million MT to *** million MT from 2016 to 2018.
- t. Sale price of stainless steel products of all forms have been increasing from 2016 to 2017, due to increase in price of nickel, iron and scrap.
- u. The average price of subject goods from Vietnam increased by 10% from 2016 to 2017.
- v. Two of the largest producers in India, Ratnamani Metals & Tubes and Apex Tubes Pvt. Ltd. have shown a constant increase in revenue.
- w. The injury to the domestic industry may result from factors other than subject imports.
- x. The export sales of the Indian companies may be impacted by the effect of trade investigations initiated by other countries such as United States and European Union.
- y. Volume of imports of subject goods from Vietnam is not so significant so as to immediately dent the interest of the domestic industry.

H.3. Examination by the Authority

147. In consideration of the various submissions made by the interested parties and the domestic industry, the Authority has examined injury to the domestic industry on account of imports from the subject countries. The analysis undertaken by the authority ipso facto takes into account the submissions made by the petitioners and opposing interested parties.
148. Injury information was filed by following companies post initiation of investigations in the form and manner prescribed by the authority
- a. Maven Stainless Private Limited
 - b. Navbharat Tubes Limited
 - c. Jindal Quality Tubular Limited
 - d. SNP Steels
 - e. JNB Steel Industries Pvt. Ltd.
 - f. Remi Edelstahl Tubulars Ltd.
 - g. Bengal Pipe Manufacturing Co.
 - h. Ravi Stainless Steels
 - i. Quality Stainless
 - j. ASB Tubes

149. Data of following companies have been collectively considered for the purpose of injury determination as domestic industry for the purpose of present investigations:

- a. Hisar Steels Pvt Ltd.
- b. P.S. Raj Steels Pvt Ltd.
- c. Vikas Stainless Pvt. Ltd.
- d. Ramsons Stainless
- e. Sanjhi Metals Pvt. Ltd.
- f. Shiv Ganga Stainless
- g. Paras Bhavani Steel Pvt. Ltd.
- h. JSS Steelitalia Ltd.
- i. Raajratna Ventures Ltd.
- j. Suman Steel Industries
- k. Tirupati Tubes Pvt. Ltd.
- l. Maven Stainless Private Limited
- m. Navbharat Tubes Limited
- n. Jindal Quality Tubular Limited
- o. SNP Steels
- p. JNB Steel Industries Pvt. Ltd.
- q. Remi Edelstahl Tubulars Ltd.
- r. Bengal Pipe Manufacturing Co.
- s. Ravi Stainless Steels

a. **Assessment of demand**

150. Demand or apparent consumption of the product concerned in India is defined as the sum of domestic sales of Indian producers and imports from all other countries. The demand so assessed is as follows.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Subject imports	MT	9,391	17,254	20,594	71,593
Other imports	MT	1,317	1,855	3,141	6,798
DI sales	MT	***	***	***	***
Other producers' sales	MT	***	***	***	***
Demand/ consumption	MT	191,137	201,197	223,553	248,392

151. It is seen that demand for the subject goods has increased throughout the injury period.

I. Volume effect of imports

152. With regard to volume of the subject imports, the Authority is required to consider whether there has been a significant increase in imports either in absolute terms or relative to production or consumption in India. The volume of imports of the subject goods from the subject countries have been analysed as under.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
China PR	MT	4,411	3,630	6,702	43,059
Vietnam	MT	4,980	13,624	13,892	28,535
Subject imports	MT	9,391	17,254	20,594	71,593
Other imports	MT	1,317	1,855	3,141	6,798
Total imports	MT	10,708	19,109	23,735	78,392
Imports in relation to					
DI production	%	***	***	***	***
Consumption	%	5%	9%	9%	29%
Total imports	%	88%	90%	87%	91%

153. It is seen that:

- a. There has been a significant increase in the absolute volume of imports from subject countries by 662%.
- b. The imports have increased sharply in relation to production of the domestic industry from ***% to ***%.
- c. The market share of subject imports has increased significantly and the imports account for 29% of the demand.
- d. The imports are largely from the subject countries accounting for 91% of share in imports.

II. Price effect of imports

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

a. Price undercutting

155. Price undercutting has been worked out by comparing the landed price of imports with the net sales realization of the domestic industry for the investigation period. The price undercutting has been determined separately for each PCN and thereafter for the product under consideration as a whole.

Particulars	Unit	200 series	300 series	Weighted Average
China PR				
Import volume	MT	33,438	9,094	42,532
Landed price	Rs/MT	101,245	151,589	112,010
Net sales realization	Rs/MT	***	***	***

Particulars	Unit	200 series	300 series	Weighted Average
Price undercutting	Rs/MT	***	***	***
Price undercutting	%	***	***	***
Price undercutting	Range %	10-20%	20-30%	10-20%
Vietnam				
Import volume	MT	2,611	25,923	28,535
Landed price	Rs/MT	111,606	159,348	154,979
Net sales realization	Rs/MT	***	***	***
Price undercutting	Rs/MT	***	***	***
Price undercutting	%	***	***	***
Price undercutting	Range %	0-10%	10-20%	10-20%

156. The Authority notes that the subject imports are undercutting the prices of the domestic industry. Further, the price undercutting is significant, except in case of import of PUC of 200 series from Vietnam. It is also noted that whereas 78% of Chinese imports were of 200 series, 91% of the Vietnamese imports were of 300 series. Based on domestic industry's selling prices, it is seen that the price difference between the 200 series and 300 series pipes is in the region of 75%.

a. Price underselling

157. The Authority has worked out non-injurious prices of the subject goods and compared the same with the landed values of the imported goods to arrive at the extent of price underselling. The price underselling has been determined separately for each PCN and thereafter for the product under consideration as a whole.

Particulars	Unit	200 series	300 series	Weighted Average
China PR				
Import volume	MT	33,438	9,094	42,532
Landed price	Rs/MT	101,245	151,589	1,12,010
Non-injurious price	Rs/MT	***	***	***
Price underselling	Rs/MT	***	***	***
Price underselling	%	***	***	***
Price underselling	Range	10-20%	10-20%	10-20%
Vietnam				
Import volume	MT	2,611	25,923	28,534
Landed price	Rs/MT	1,11,606	1,59,348	1,54,979
Non-injurious price	Rs/MT	***	***	***

Particulars	Unit	200 series	300 series	Weighted Average
Price underselling	Rs/MT	***	***	***
Price underselling	%	***	***	***
Price underselling	Range	0-10%	10-20%	10-20%

158. It is noted from the above table that the price underselling is positive, indicating that the imports have entered the market at injurious prices.

b. Price suppression and depression

159. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority has examined the changes in the landed price of imports, and costs & prices of the domestic industry over the injury period.

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Cost of sales	Rs./MT	***	***	***	***
Trend	Indexed	100	92	88	96
Selling price	Rs./MT	***	***	***	***
Trend	Indexed	100	91	88	95
Landed price	Rs./MT	1,43,488	1,38,290	1,29,110	129,136
Trend	Indexed	100	96	90	90

160. It is seen that both the selling price and cost of sales of the domestic industry have reduced. It is further noted that the landed price of imports declined by 10% over the injury period and is significantly below the selling price of the domestic industry and the cost of the subject goods. This shows that the imports are depressing the prices of the domestic industry and are preventing the price increases, which otherwise would have occurred.

III. Economic parameters relating to the domestic industry

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

to raise capital investments. Accordingly, performance of the domestic industry has been examined over the injury period.

a. Production, capacity, capacity utilization and sales

162. The position of the domestic industry over the injury period with regard to production, capacity, capacity utilization and sales was as under:

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Capacity	MT	1,10,385	1,18,835	1,29,735	1,39,005
Production	MT	58,743	65,172	66,873	73,927
Capacity utilization	%	53%	55%	52%	53%
Domestic sales	MT	56,198	63,095	66,091	72,471

163. The Authority notes that

- a. The capacity of the domestic industry has increased over the injury period. Whereas demand for the product increased by *** MT, capacities with the domestic industry increased only by *** MT. However, the domestic industry was unable to increase its capacity utilisation and almost half of the capacity remains unutilized.
- b. The production of the domestic industry increased over the injury period. However, the increase in production was not commensurate with the increase in demand or capacity. Whereas capacity increased by *** MT, production increased only by *** MT. Resultantly, capacity utilization of the domestic industry remained quite low.
- c. The sales of the domestic industry have increased over the period. However, it is noted that whereas the Indian industry sales were earlier low in comparison to its capacities, due to absence of demand; the domestic industry suffered low volume of sales in the period of investigation despite significant increase in demand.

b. Market share

164. The market share of the domestic industry and domestic producers over the injury period was as under:

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Subject imports	%	5%	9%	9%	29%
Other imports	%	1%	1%	1%	3%
Domestic industry	%	***	***	***	***
Other producers	%	***	***	***	***
Domestic producers as a whole	%	94%	91%	89%	68%

165. It is noted that while the market share of the domestic industry increased in 2015-16 and has been declining thereafter, the market share of domestic producers as a whole has declined over the period and market share of subject imports has increased significantly, particularly in the POI. The imports have taken away significant market share of Indian producers, despite existence of capacities in India.

c. Inventories

166. The data relating to inventories of the subject goods is as follows

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Opening inventory	MT	***	***	***	***
Closing inventory	MT	***	***	***	***
Average inventory	MT	***	***	***	***

167. It is noted that the average inventories increased in 2015-16, and have shown a decline thereafter.

d. Profit or loss, cash profits and return on capital employed

168. The profitability position of the domestic industry in terms of profit or loss, cash profits and return on investment was as under:

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Profit / Loss	Rs./MT	(***)	(***)	(***)	(***)
Trend	Indexed	-100	-610	-305	-241
Profit before tax	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	-100	-685	-359	-311
Per unit cash profit	Rs./MT	***	(***)	***	***
Trend	Indexed	100	-44	43	91
Cash profits	Rs. Lakhs	***	(***)	***	***
Trend	Indexed	100	-49	51	117
Return on capital employed	%	***	***	***	***
Trend	Indexed	100	36	44	62

169. The Authority notes that:

- a. The domestic industry has been suffering financial losses throughout the injury period.
- b. The losses suffered by the domestic industry increased over the injury period, despite increase in sales.

- c. Cash losses and return on capital employed of the domestic industry have followed the same trend.
- d. The return during the period of investigation is much lower than that in 2014-15 and much below the reasonable level.

e. Employment, wages and productivity

170. The situation of the domestic industry with regard to employment, wages and productivity during the injury period was as under:

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Wages	₹ Lacs	***	***	***	***
Trend	Indexed	100	115	131	209
No of employees	Nos	***	***	***	***
Productivity per day	MT/day	***	***	***	***

171. It is seen that the number of employees has increased over the injury period with an increase in wages and the productivity per employee.

f. Growth

172. The trends of volume and profit parameters of the domestic industry showed as under

Particulars	Unit	2014-15	2015-16	2016-17	2017-18
Production	%	-	11%	3%	11%
Domestic sales	%	-	12%	5%	10%
Profit per unit	%	-	-510%	50%	21%
Cash profit per unit	%	-	-149%	204%	130%
Return on capital employed	%	-	-64%	22%	41%

173. It is noted that the volume parameters of the domestic industry have shown growth. However, there has been a deterioration in price parameters. The profits, cash profit and return on capital employed have also shown a significant decline over the injury period. The profitability of the domestic industry declined steeply in 2015-16, and has not recovered fully thereafter.

g. Ability to raise capital investment

174. It is seen that the domestic industry has enhanced capacity for the subject goods over the period, making capital investment. However, despite increase in demand, the capacities are lying significantly underutilised. While the low capacity utilisation in the past was attributable to lack of demand, the present low capacity utilisation is due to increase in imports.

h. Factors affecting domestic prices

175. The Authority notes that the imports are undercutting the prices of the domestic industry. The market share of subject imports has increased over the period, whereas that of the domestic producers has declined. This shows that the imports are penetrating the market with low prices.

IV. Conclusions on Injury

176. The Authority notes that the imports have increased significantly in absolute terms as well as in relation to production and consumption in India. The imports are undercutting the prices of the domestic industry and have had a depressing effect on the prices of the domestic industry. The price underselling is also positive. While the market share of subject imports has increased significantly, that of domestic producers has declined. The capacity utilisation of the domestic industry is low. Even though performance of the domestic industry has improved in terms of production, sales and capacity; it is seen that the domestic industry is suffering from underutilised capacities. Further, the domestic industry has suffered losses and its return on investment is low. Accordingly, the Authority concludes that the domestic industry has suffered material injury.

V. Causal Link

177. The Authority has examined whether other known factors could have caused injury to the domestic industry as follows:

a. Volume and prices of imports from third countries

178. Since the imports from other countries are not significant, these could not have caused injury to the domestic industry.

b. Contraction of demand and changes in the pattern of consumption

179. The Authority notes that there is no contraction of demand. On the contrary, overall demand for subject goods has shown improvement over the injury period. Further, there have been no changes in the pattern of consumption which could have caused injury to the domestic industry.

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

180. There is no known trade restrictive practice which could have contributed to the injury to the domestic industry.

d. Developments in technology

181. None of the interested parties have furnished any evidence to demonstrate any change in the technology that could have caused injury to the domestic industry.

e. Export performance of the domestic industry

182. The injury information has been considered separately for domestic and exports, to the extent the same could be segregated. Further, exports by the domestic industry are not significant in proportion to the total sales. In fact, it is seen that about 98% of the production has been sold in the domestic market. Possible decline in exports volume or profits could not have caused injury to the domestic industry. .

f. Performance of other products being produced and sold by the domestic industry

183. The Authority has considered data only in relation to the product under consideration. Therefore, the performance of other products being produced and sold by the domestic industry is not relevant.

VI. Conclusions on causal link

184. While known other factors listed under the rules do not appear to have caused the injury, the following parameters show that injury to the domestic industry is caused by the subsidized imports.

- a. The imports are entering the domestic market at prices materially lower than the domestic industry prices, due to the subsidization of the subject goods.
- b. The imports are undercutting the prices of the domestic industry. As a consequence of price undercutting, the selling price of the domestic industry has declined as the imports depressed the prices of the domestic industry and prevented price increases, which otherwise would have occurred.
- c. The positive price undercutting resulted in an increase in the market share of the foreign producers. As a result, there is decline in market share of domestic producers.
- d. While the production, sales and capacity of the domestic industry have increased over the injury period, the increase is not commensurate to the increase in demand for the subject goods. The domestic industry is faced with underutilisation of production capacities.
- e. The domestic industry has suffered losses and its return on investment remains low and inadequate.

185. Accordingly, the Authority concludes that there is a causal link between subsidised imports and the injury suffered by the domestic industry.

I. MAGNITUDE OF INJURY MARGIN

186. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed price of the exports from the subject countries for determination of injury margin during the period of investigation. The injury margin thus determined is as under

China

Particulars	Unit	Jiuli	Residual
Non-injurious price	Rs./MT	***	***
Landed price	Rs./MT	1,51,589	1,00,398
Injury margin	Rs./MT	***	***
Injury margin	%	***	***
Injury margin	Range	15-25	20-30

Vietnam

Particulars	Unit	Son Ha SSP Vietnam	Nam Cuong Vietnam and Tuan Dat Metal Company Ltd.	Dai Duong OSS Co. Ltd.	Gia Anh Hung Yen and Gia Anh Joint Stock Company
Non-injurious price	Rs./MT	***	***	***	***
Landed price	Rs./MT	1,54,578	1,57,938	1,53,889	1,48,009
Injury margin	Rs./MT	***	***	***	***
Injury margin	%	***	***	***	***
Injury margin	Range	15-25	10-20	15-25	15-25

Particulars	Unit	Ha Anh Stainless Steel Co. Ltd.	Vinlong Stainless Steel (Vietnam) Co. Ltd.	Steel 568 Co. Ltd	Residual
Non-injurious price	Rs./MT	***	***	***	***
Landed price	Rs./MT	1,48,785	1,62,304	1,31,740	1,31,740
Injury margin	Rs./MT	***	***	***	***
Injury margin	%	***	***	***	***
Injury margin	Range	20-30	10-20	15-25	30-40

J. POST DISCLOSURE COMMENTS

187. The post disclosure submissions have been received from the interested parties. Majority of the issues raised have already been raised earlier and also addressed appropriately. Additional submissions have been analysed as under

K.1. Submission by the domestic industry

188. The domestic industry reiterated its submissions with regard to scope of domestic industry, inclusion of producers that have imported the subject goods, excess confidentiality claimed by exporters, suppression of facts by exporters and injury. In addition, the domestic industry submitted as under:

- a. The domestic industry was not allowed adequate access to relevant information, documents and submissions. The submissions filed by interested parties in response to submissions of the domestic industry, queries raised by the Designated Authority, rejoinder submissions and verification reports issued to the interested parties have not been disclosed to the domestic industry.
- b. Due to excessive confidentiality, the petitioners are handicapped in defending their interests.
- c. In case of Vietnam, the subsidies in raw material have not been captured.
- d. US has now set tariffs as high as 456 percent on Vietnam steel imports using material from South Korea and Taiwan, due to abuse of Rules of Origin.
- e. The Vietnamese producers have benefited from subsidised steel available to them, but this aspect has not been examined.
- f. The Vietnamese producers have procured steel from other countries, and claimed a value addition of 55%, despite value addition for process involved usually being only 15%.
- g. Two producers have procured raw material from their related entity in China.
- h. The questionnaire response of the GOV is restricted to only responding producers/exporters and not country as whole and therefore, does not relate to non-participating exporters.
- i. When Zhejiang Jiuli had not disclosed all subsidies received by it, then its response cannot be accepted.
- j. In the absence of a response by related parties, the response filed by Steel 568, Sonha, Jiuli, OSS Dai Duong and Ha Anh cannot be accepted.
- k. It is essential that related parties that are themselves producer of subject goods, parent companies, input suppliers and any other related party that transferred a subsidy to the exporter must participate, failing which the exporter cannot be treated as cooperative. This is in line with the practices in other jurisdictions such as US, Brazil, European Union, Australia and Egypt.
- l. The manufacturing capacity in Vietnam for subject goods has increased drastically, due to availability of subsidized inputs from China.
- m. Zhejiang Jiuli has not exported the subject goods, but seamless stainless steel pipes and tubes.
- n. The Countervailing Duty Rules provide for levy of duty, adequate to remove injury to the domestic industry. However, the non-injurious price determined would not protect the domestic industry..
- o. The non-injurious price should be determined on the basis of actual cost of production.

- p. There is a need for redetermination of non-injurious price, taking into account the raw material cost incurred and actual capacity utilization.

K.2. Submission by other interested parties

189. In addition to reiterating their earlier submissions, the interested parties submitted as under:

- a. The reason that most of the importers in the list to whom questionnaire response were sent have not filed the importer questionnaire response is that they have been importing stainless steel flat products namely coils and sheets falling under HS Code 7219 and 7220 whereas HS code for the product under investigation is 7306.
- b. BIS compliance is not required for product under consideration but for the input used in them. If BIS was required for product under consideration, most of the companies that have joined in the petition are not registered under BIS for the product. Lam Khang Joint Stock Company, a non-participating producer/exporter procures the raw material from AIFTA member Pt. Indonesia Guang Ching Nickel and Stainless Steel Industry, Indonesia who are BIS compliant.
- c. It is not possible to manufacture all sizes of welded tubes and pipes by only making minor changes in the tooling as separate range of machines with particular range of diameter and thickness will be required to produce desired size with desired tolerance.
- d. The size and the production of the industry cannot be judged based on the capacity or sales of a sole raw material producer and supplier. Further, the absence of data reveals the fact that the domestic industry is not following the standard rules and regulations laid down by the concerned authorities and there by the government is losing revenue from the said industry.
- e. In the absence of the supporting data by the domestic industry in regards to production, sales, revenue/employment generation, market share, level of injury etc, it is clear that the sole beneficiary of this investigation is single corporate entity.
- f. Producers are maintaining good quality in terms of welding, polishing and roundness/flatness of tubes have been able to sell at fair price. This makes it clear that the domestic industry is lacking in terms of quality parameters and therefore, imports are made out of necessity.
- g. The conclusion of the Authority that few of the participating producers/ exporters have not provided the requisite details asked from them during the verification is factually incorrect as no verification was carried out at the premises of Vinlong. The additional documents were sought and no extension was granted inspite of request.
- h. Further, the conclusion to quantify various subsidy schemes and margins on the basis of facts available due to absence of full cooperation by Vinlong is factually incorrect. Vinlong has submitted complete Questionnaire Response and was open for verification. No deficiency was pointed out by the Designated Authority during the course of investigation
- i. Scheme wise comments for the alleged subsidies of Vietnam are as follows: -
 - i. For Program 1 and Program 3 of the alleged subsidy schemes, the Authority has determined that some of the producers have availed the benefit. The

Authority is requested to provide the name of the producers who have availed benefits under them.

- ii. For Program 2, the import tariff at the time of importation of raw materials is 0% in accordance with China-ASEAN Free Trade Agreement (ACFTA) and ASEAN-India Free Trade Agreement (AIFTA). Hence no duty was payable and no benefit was received. Vinlong is an Export Processing Enterprise and is not subject to any import/export duties or VAT on any materials or goods imported or exported according to Law.
- iii. For Program 5, the Authority has concluded its finding based on the finding of US-Laminated Woven Stacks, which is for a different product examined by different Authority with different facts and different period of investigation. Further, there is no direction by the Government of Vietnam to the banks to provide loans at concessional rates. Even if there is a direction, it alone cannot be termed as financial contribution by the government or any public body.
- iv. For program 6, steel industry is not under the scope of the scheme, and none of companies under investigation received any supports from that scheme.
- v. For Program 7, none of the companies have availed benefit under Export Credit from Vietnam Development Bank. Further, Export Credit by Vietnam Development Bank was regulated by Decree 75/2011/ND-CP on State investment credit and export credit, which was applicable upto May 14, 2017. Decree 32/2017/ND-CP on State Investment Credits came into effect on May 15, 2017 has replaced Decree 75.
- vi. For Program 8, this program was terminated on 16 January 2007 as provided under Decree 151/2006/ND-CP.
- vii. For Program 9, the exporters have filed complete questionnaire responses and it was the responsibility of the Authority to conduct on-site verification of all the co-operating producers/exporters and collect & verify the required information from their Books of Accounts. Even in the further information sought for, the latest published Annual Report of State Bank of Vietnam was provided which gives the trends of short term and long-term interest rates prevailing in the country.
- viii. For Program 10, none of the producers/exporters of subject goods fall under any of the subheads and hence are not eligible for any benefit.
- ix. For Program 11, none of the co-operating producers/exporters fall under the definition of Small and Medium Scale Enterprises, except one producer, namely Vinlong Stainless Steel (Vietnam) Co., Ltd., who had provided all the information as part of its Exporters Questionnaire Response and had not applied for or received any benefit under this scheme.
- x. For Program 13, the producers/exporters have not availed any benefit for subject goods/PUC, its effect cannot be taken to and applied in this investigation.
- xi. For Program 14 and Program 15, Vietnam's market economy status has been recognized by over 70 countries as well as by India in 2009 and therefore also

accepted that the price of land use-right and the banking services provided by commercial banks are operated under market principles.

- xii. Under Import duty exemption for equipment and machinery to create fixed assets which has not been alleged, to calculate any amount of benefit under this scheme, the benefit should consider allocating the benefit over the life of assets. Further, in case of multi product company, allocating such amount into one subject goods will be highly unjustified.
- xiii. With regard to all the subsidy schemes alleged, the petitioner could not establish the existence of the financial contribution by a government or public body; benefit; and specificity.
- j. Vinlong has been shipping very small quantities of the PUC India and that too at the most expensive price. The share of imports made from Vinlong is hardly 5% in the total imports from Vietnam.
- k. Vinlong has different products lines such as Slotted welded tubes, Sanitary welded tubes, Big diameter welded pipes, Big and thick structural welded tubes and these are also sold under the same HS code. The Indian mill cannot produce all the products manufactured by Vinlong. The authority is requested to clarify the difference between the products and not recommend the duty on products not manufactured by the Indian mill.
- l. Gia Anh Hung Yen Co. Ltd, Ha Anh, Tuan Dat, Nam Cuong, OSS Dai Duong and Gia Anh JSC have stated that inspite of them fully co-operating with the Authority, the Authority should not apply the usage of facts available in their case. This would be inconsistent with the Customs Tariff Rules 1995 and the WTO Agreement on Subsidies and Countervailing Measures.
- m. Gia Anh Hung Yen Co. Ltd, Ha Anh, Tuan Dat, Nam Cuong, OSS Dai Duong and Gia Anh JSC have submitted that since they did not receive any benefit during the period of investigation, the calculation of subsidy margins for them is fully inconsistent with the actual facts pertaining to them.
- n. The DSB rulings indicate that certain types of statements and assertions are not adequate to meet this standard including among others the following:
 - i. Simple assertions unsubstantiated by relevant evidence are not adequate.
 - ii. General information about government policy, with no direct connection to the subsidy programme, is not “sufficient evidence” of specificity.
 - iii. The fact that a company is the user of a program is not evidence that it is the sole or one of the limited users of the program thereby demonstrating specificity.
 - iv. In the absence of information on the allocation of the benefit of the subsidy to the proposed investigation period, much less the inclusion of any evidence in this regard, the requirement to demonstrate the existence of a benefit in the expected investigation period is not met.
- o. As per Trade Notice 13/2018 dated 27th September 2018, supporting firms/ companies are required to submit data/ information in the prescribed format as laid out in Annex-I and Annex-II at pre-initiation stage. On inspection of the public file, no supporting letters were available. The fact that the interested parties have not been

given an opportunity to comment on the data of the 19 petitioner companies constituting the domestic industry and 86 supporting companies is violation of principal of natural justice.

- p. It is hereby submitted that no sufficient notice to GOV and the participating producers/exporters verified was given. 10-day notice to prepare for the onsite verification for GOV and three working day time to producers/exporters to prepare for verification is grossly insufficient. Hence, the verification visit was conducted in violation of the provisions of SCM Agreement, Annex VI para 5 and Para 8.8.5 (v) of the Manual of Operating Practices issued by DGTR.
- q. Out of the 9 companies who filed complete exporter questionnaire responses, 6 companies were not verified during the course of verification. Additional information was sought from the unverified producers and exporters and effectively only one working day was given to the unverified exporters to file a voluminous data. Extension requested by Vinlong Stainless Steel (Vietnam) Co., Ltd. was not granted.
- r. As per Para (8) of Rule 7 of the countervailing duty rules, the investigation authority may record its findings on the basis of facts available in case an interested party:
 - i. refuses access to; or
 - ii. does not provide necessary information within a reasonable time; or
 - iii. significantly impedes the investigation.
- s. The producers/exporters have provided all the information and are ready to provide further information. The Director General must categorically clarify which information was not provided in the prescribed format and mere making a statement that the information was not provided in the prescribed format is not enough.
- t. The conclusion has been drawn based on investigations conducted in the past by other investigating authorities for different product and different period.
- u. The authority while using the 'facts available' in a countervailing duty investigation must take into account all the substantiated facts provided by the interested party, even if those facts may not constitute the complete information requested of that party. Further, the 'facts available' to the authority are generally limited to those that may reasonably replace the information that an interested party failed to provide.
- v. The provisions of the Article 12.7 are to ensure that in case the interested party fails to provide the necessary information, the investigation should not be hindered. Thus, the provision permits the use of facts on record solely for the purpose of replacing information that is missing to arrive at an accurate subsidization or injury determination.
- w. Same facts and level of participation by all the producers/exporters from Vietnam was made and the same verification report was issued by the Authority, still NIL subsidy margins has been given to two companies and information submitted by remaining seven companies have been rejected. This shows an inconsistent approach followed by Authority.
- x. Authority must issue a corrigendum Disclosure Statement, disclosing the computation/methodology for injury margin.

- y. The Authority declined the request made by Zhjeian Jiuli Hi-Tech Metals for extension of time to file questionnaire response. However, the Authority has discriminately allowed the domestic producers to file their data after the stipulated time and at a belated stage. The consolidated data of 22 producers was filed at the stage of oral hearing. Therefore, the data should be rejected.
- z. The consolidated information/data purportedly submitted by said producers has not been made available. The Authority is requested to record the date of the submission filed by the Applicant wherein consolidated information of 19 eligible producers was furnished and provide this information to Jiuli so that adequate comments in this regard can be submitted prior to final findings.
- aa. The Authority is requested to consider the submission made by Jiuli concerning the determination of subsidy rate for LTAR and take into account the data for determination of the LTAR subsidy rate.
- bb. It is submitted that the grants received by the company do not automatically qualify as countervailable subsidy and therefore grants received by the company concerning other products does not qualify as countervailable subsidy for the present investigation.
- cc. Rule 2 (b) of CVD Rules does not allow the inclusion of importers within the scope of 'domestic industry'. Importers should have been excluded from the scope of 'domestic industry', at the stage of initiation itself. Therefore, the present investigation is vitiated being based on false and misleading facts/data.
- dd. The support letters filed by domestic producers after the stage of initiation should be rejected. The support letter filed by domestic producers does not meet the requirement stipulated in Trade Notice 13/2018 issued by DGTR.
- ee. The Authority is requested to reject the information concerning total production as estimated by Jindal Stainless Corporate Management Services Private Limited and must revisit the manner in which the estimates of domestic production have been arrived at since the same is unjustified.
- ff. The Authority is requested to disclose all economic parameters not claimed as confidential (including production, capacity, capacity utilization, domestic sales, export sales, inventory, etc.) in the Final Findings.
- gg. Data concerning economic parameters as reflected in disclosure statement does not reconcile with data filed by the domestic producers.
- hh. The authority is requested to upload list of interested parties on DGTR website.
- ii. In terms of the CVD Rules, duty should not be levied when the injury on account of imports is absent. Therefore, to implement the same, Authority is requested to recommend a reference price /benchmark form of duty in the present investigation.
- jj. It is quite evident that the domestic producers are themselves importing the subject goods and causing injury to other Indian producers.
- kk. The Authority should have considered data of all 86 supporting producers for arriving at injury analysis, as it would have enabled the Authority to arrive at a conclusion based on higher participation of domestic producers.
- ll. The Designated Authority should follow 'lesser duty rule' and recommend duty at a rate lower than the margin of subsidy (i.e. to the extent of injury margin as the same is adequate to remove injury), if at all there is any determination of injury.

- mm. The Authority has sought details from Jiuli about the nature of domestic entities/suppliers of input material. The said data submitted by Jiuli clearly demonstrate that the input materials were sourced from private entity as well as SOE's and confirms that the government of China is not a monopoly supplier of input materials.
- nn. The Authority has not disclosed the area/location in Thailand used to compare the price of land in China. If the benchmark prices of 2010 are indexed, it would show that the rate of subsidy is negligible (0.10% %) and therefore, no subsidy rate should be determined for the Land program. Further, CVD Rules do not permit compounding of benefit on land to determine subsidy rate. Accordingly, Jiuli reiterates that the Authority should not consider land use rights as countervailable subsidy.
- oo. Program 51 - VAT deduction on fixed assets is applicable to entities located in central region. Jiuli is not located in the central region and hence the scheme is not applicable.
- pp. The finance raised through issuance of convertible bonds falls outside the scope of loans provided by the Government of China and should be excluded from the scope of countervailable subsidy.
- qq. Benefit under Program No. 32 for China has not been availed by Jiuli as it has been submitted earlier in the questionnaire response as well.
- rr. Program No. 39 for China alleged is not related to the PUC and hence is not a countervailable subsidy.
- ss. It can be seen from the Appellate Body Report, United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, WT/DS379/AB/R, where WTO held that state ownership is not a sole decisive criterion for determination of 'public body'. Therefore, the loan obtained from the State-Owned Commercial Banks (SOCB) falls outside the preview of subsidy.
- tt. The decline in capacity utilization of the domestic industry is on account of some intrinsic factors. On account of low productivity of domestic industry, the consumers are forced to import subject goods. Therefore, the Authority is requested to investigate the reasons for low capacity utilisation during the period prior to POI and its cascading impact on performance of 'domestic producers'.

K.3. Examination by the Authority

190. As regards submission that no sufficient notice to GOV and the participating producers/exporters was provided for verification, it is noted that the Authority has granted sufficient notice for onsite verification to the GOV as well as to the concerned exporter who agreed for verification. The Authority proceeded for verification only thereafter. According to the GOV's communication addressed to the Authority on 04.06.2019, it is amply clear that the GOV knew well in advance about the verification to be conducted from 17th June, 2019 onwards. The participating producers/exporters were also intimated well in advance giving them time of 7-10 days for preparation of verification. In addition to written communication, oral intimation was given to the legal representatives much before the actual verification. In fact, representatives of the GOV and exporter were called about the verification to be taken up by the Authority

191. With regard to the submission that sufficient time was not granted to Vinlong Stainless Steel and no extension was granted by the Authority for submission of documents, the Authority notes that the exporter had requested for 4 extra days for submitting the information and the request was not denied by the Authority. But the exporter failed to file the required information even after the expiry of 4 extra days.
192. The authority notes that verification of M/s Son Ha SSP and M/s Steel 568 was conducted since these companies accounted for highest volume of exports to India. These producers/ exporters furnished all the information sought by the Authority at every stage of the investigation. However, the remaining seven exporters out of total nine exporters did not provide the same and accordingly the Authority has applied facts available, wherever applicable, in the case of these seven exporters.
193. In case of M/s Dai Duong, it may be noted that its response has not been rejected by the Authority. But, wherever the concerned exporter has not provided the information as required by the Authority at any stage of the investigation, the Authority has applied facts available.
194. The issue of BIS compliance is not relevant to the issue of subsidization of the subject goods and injury to the domestic industry.
195. Some interested parties have contended that it is not possible to manufacture all sizes of welded tubes and pipes by only making minor changes in the tooling and separate range of machines with particular range of diameter and thickness will be required to produce desired size with desired tolerance. The Authority notes that this alone does not establish that some product type should be excluded from the scope of the product under consideration.
196. It is seen that the volumes of imports have increased significantly over the injury period and market share of domestic producers as a whole has declined significantly. The petitioners submitted that majority of the production of the product is in MSME category. It has not been established by interested parties that the imports of the product are due to quality considerations. No verifiable evidence has been provided to that effect.
197. Authority holds that a verification is not a substitute for information required to be provided by a party for the purpose of present determination. In fact, verification is only for the satisfaction of the authority. Authority is fully justified in calling information instead of collecting it at the time of verification. Verification is not an opportunity with the interested party to provide information required for determination..
198. As regards the contention that Indian industry cannot produce all products manufactured by Vinlong, Authority notes that no such claim has been established by the company. In fact, no such claim was made at the stage of initiation, nor any evidence has

been provided showing exports of a type for which like article is not supplied by the domestic industry. In the absence of any specific claims and evidence, a belated claim with regard to exclusion of some product cannot be accepted. In any case, request for exclusion is very generic and no specific claim has been made in this regard.

199. The Rules do not require the Authority to make data of individual producers of the domestic industry available to other interested parties. The rule requires an opportunity to interested parties to comment on information relating to domestic industry as a whole. It has been consistent practice of the Authority to make available information with regard to domestic industry as a whole and not individual constituents of the domestic industry.
200. Adequate time and opportunity have been provided to the GOV and the participating producers/exporters to prepare for verification. In addition to written communication, oral intimation was given to the legal representatives much before the actual verification. Further, in addition to written communication specifying requirement for verification of documents, the legal representatives of the parties were orally informed several times about the requirements. It is also noted that it was obligatory on the part of these parties to provide information to the Authority in the initial questionnaire response itself. It is noted that the initial questionnaire responses were highly sketchy and did not contain all relevant information. It is noted that the Authority had very clearly specified in the questionnaire itself that all relevant information and evidence should be provided along with the questionnaire response.
201. In regard to the contention that data of the ten additional producers should not be accepted, it is noted that the issue has already been examined earlier.
202. As regards subsidy margin in case of Jiuli, the domestic industry in its comments to the disclosure statement has submitted that M/s Jiuli has exported only seamless tubes & pipes (NPUC) to India and not the welded one (PUC). After receiving the comment, the Authority called for the import data from D.G. Systems also and has found that not all export transaction for the PUC export to India reported by M/s Jiuli during the POI do appear therein. It is also noted that the rate reported by M/s Jiuli for these export transactions as a whole is too high than average export price of PUC from China PR. In view of the submissions made by the domestic industry and the analysis as done by the Authority, the export price of M/s Jiuli cannot be accepted for determination of injury margin. Accordingly, the Authority has used the facts available for determination of injury margin of M/s Jiuli. However, the Authority has accepted most of the information as submitted by M/s Jiuli in its EQR for the purposes of determination of subsidy margin for M/s Jiuli.
203. As regards the contention by some of the participating companies regarding non-exclusion of the companies which had imported the PUC, it is noted that the Authority has excluded such entities for the purpose of DI standing. However, even after exclusion

- of such entities the standing requirement of domestic industry is met even at the initiation stage.
204. As regards the contention that the gross domestic production reported by Jindal Stainless Corporate Management Services Private Limited be not accepted, it is noted that none of the interested parties has provided any other information with regard to gross domestic production. In the instant case, 12 companies provided their injury information at the stage of initiation, while additional 86 companies supported the petition. Post initiation, 10 companies provided their injury information. It is noted that even if producers importing the product under consideration is excluded, then also the companies forming part of domestic industry constitute a major proportion within the meaning of the rules.
205. As regards list of interested parties' placement on the website, the Authority has already listed names of all the exporters and importers who have participated in the present investigations. Further, all the relevant information was placed in public file and access to the same was provided to the interested parties during the course of the investigations.
206. As regards recommendation of benchmark form of duty is concerned, it is noted that appropriate form of duty is recommended by the Authority depending on factual matrix of the case.
207. With regard to subsidies in land use right, it is noted that the benefit on land use has been determined as per Annexure IV of the CVD Rules. Further, as regards the claims that the benchmarking of 2010 prices will show negligible subsidy, the authority notes that the concerned exporter has not substantiated its claim with any documentary evidence. In the absence of any such evidence, the authority has determined the benefit based on facts available.
208. With regard to the contention that the subsidy determination made in other investigation cannot be applied to the present investigation, it is noted that the authority has only proceeded on the basis of facts available where requisite information has not been produced by the exporter/producer.
209. Some interested parties have contended that the decline in capacity utilisation of the domestic industry is on account of some other factors. However, no such factor have been identified nor any evidence has been provided to demonstrate that the decline in capacity utilisation is on account of some intrinsic factors and not on account of subsidized import.
210. With regard to the contentions raised in respect of subsidy schemes of Vietnam, the issues raised and concerns expressed by the interested parties have been dealt herein as under:

- i. In regard to the contention that the name of the producers availing benefits under Program 1 and Program 3 should be identified, it is noted that the subsidy margin has been imposed on the producers/exporters of the subject goods as mentioned in the relevant table.
- ii. With regard to the contentions raised in Program 5, the Authority notes that loans can be provided at concessional rates by a bank which may be Govt. owned or privately controlled and that even if a bank is privately controlled, it cannot be said that there is absence of countervailability if the private bank offers loan at the concessional rate at the direction of the central bank/ government.
- iii. With regard to the contentions raised in Program 6, the Authority notes that the program is not product/ sector specific as claimed.
- iv. With regard to the contentions raised in respect of Program 7, 8 and 10 that the steel sector is excluded from the benefit under Decree 75/2011/ND-CP on state investment credit and export credit, which was applicable up to May 14, 2017, it is noted that Decree 75/2011/ND-CP has been replaced by Decree 32/2017/ND-CP on State Investment Credits with effect from May 15, 2017 which continues to exclude steel sector from the benefit. However, it is noted that this benefit is given to the steel industry under a different scheme namely “Steel Industry Development Master plan”
- v. With regard to Program no.11, the Authority notes that the GOV should not restrict its response to only responding producers/exporters. The benefit under the scheme is provided to the SMEs. Neither the GOV nor the exporter has provided appropriate reasons as to why Vinlong Stainless Steel Company Limited despite being a SME eligible to avail the benefit under the scheme has not applied or availed the benefit under the scheme.
- vi. With regard to contention raised with respect to Program 13, it is noted that neither the GOV nor the exporters have disputed the existence of this programme and therefore it is countervailable for residual category of Vietnam based producer(s) /exporter(s).
- vii. With regard to Program 14 and Program 15- relating to grant of land/land use rights at less than adequate remuneration, it has been contended that Vietnam has been given market economy status by the Government of India and accordingly no such benefit has been conferred on the producer(s)/exporter(s) of the PUC. In this regard, authority notes that grant or otherwise of market economy status to the exporting country has no relation with operation of such programs less than adequate remuneration.
- viii. With regard to the scheme of import duty exemption for equipment and machinery to create fixed assets, it is noted that the GOV has accepted the existence of this programme and has mentioned M/s Dai Duong having availed this benefit. M/s Dai Duong however has not reported this benefit and accordingly the authority has proceeded on the basis of facts available.
- ix. With regard to the request for declaring Vietnamese exporters as non-cooperative on account of non-submission of information/ data/details in respect of their

related parties, it is noted that the domestic industry have failed to substantiate that input(s) for the PUC have been sourced from any such related parties and accordingly the authority does not deem fit to declare Vietnamese exporter as non-cooperative on this ground.

- x. In regard to the contention of the domestic industry that the Vietnamese producer/exporter of the PUC are violating rules of origin criteria by misdeclaring the value addition achieved on imported inputs, the authority notes that examination of this issue is outside the purview of the current investigation.

K. CONCLUSIONS

211. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings, the Authority concludes that
 - i. The product under consideration has been exported to India from subject countries at subsidized value, thus resulting in subsidization of the product.
 - ii. The domestic industry has suffered material injury due to subsidization of the product under consideration.
 - iii. The material injury has been caused by the subsidized imports of the subject goods originating in or exported from the subject countries.

L. INDIAN INDUSTRY'S INTERESTS AND OTHER ISSUES

212. The Authority notes that the purpose of imposition of countervailing duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidization 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 countervailing duty would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the products to the consumers.
213. It is recognized that the imposition of countervailing duty might affect the cost of the subject goods. However, fair competition in the Indian market will not be reduced by the imposition of the countervailing measures, particularly if the levy of the countervailing duty is restricted to an amount necessary to redress the injury caused to the domestic industry by the imports of subsidized subject goods. On the contrary, imposition of countervailing measures would remove the unfair advantages gained by subsidization and create level playing field.

M. RECOMMENDATION

214. The Authority notes that the investigation was initiated and notified to all interested parties including Government of China PR and Government of Vietnam and adequate

opportunity was given to provide information/evidence on the aspect of subsidization, injury and causal links in favour or against thereof. Having initiated and conducted the investigation into subsidization, injury and causal links in terms of the Rules laid down and having established positive subsidy margin as well as material injury to the domestic industry caused by such subsidized imports, the Authority is of the view that imposition of definitive countervailing duty is required to offset subsidization and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive countervailing duty on the imports of the subject goods from China PR and Vietnam in the form and manner described hereunder.

215. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive countervailing duty equal to the lesser of margin of subsidy and margin of injury for a period of 5 years, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic industry. Accordingly, the definitive countervailing duty as mentioned in Col 7 of the duty table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of the subject goods, originating in or exported from China PR and Vietnam.

DUTY TABLE

S.No.	Heading/sub heading	Description of goods	Country of origin	Country of export	Producer	Duty amount as a % of CIF Value
1	73064000, 73066100, 73066900, 73061100, 73062100	Welded stainless steel pipes and tubes	China PR	Any country including China PR	Zhejiang Jiuli Hi-Tech Metals Co., Ltd.	21.74
2	-do-	-do-	China PR	Any country including China PR	Any producer other than S.No. 1	29.88
3	-do-	-do-	Any country other than China PR and Vietnam	China PR	Any	29.88
4	-do-	-do-	Vietnam	Any country including Vietnam	Sonha SSP Vietnam Sole Member Company Limited	NIL

5	-do-	-do-	Vietnam	Any country including Vietnam	Nam Cuong Metal Company Limited	11.04
6	-do-	-do-	Vietnam	Any country including Vietnam	OSS Dai Duong International Joint Stock Company	11.10
7	-do-	-do-	Vietnam	Any country including Vietnam	Vinlong Stainless Steel (Vietnam) Co., Ltd.	10.33
8	-do-	-do-	Vietnam	Any country including Vietnam	Steel 568 Co., Ltd.	NIL
9	-do-	-do-	Vietnam	Any country including Vietnam	Ha Anh Stainless Steel Company Limited	11.96
10	-do-	-do-	Vietnam	Any country including Vietnam	Gia Anh Hung Yen Co., Ltd.	11.96
11	-do-	-do-	Vietnam	Any country including Vietnam	Any producer other than 4 to 10 above	11.96
12	-do-	-do-	Any country other than Vietnam and China PR	Vietnam	Any	11.96

216. Landed value of imports for the purpose of this Notification shall be the assessable value as determined under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

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

(Sunil Kumar)
Additional Secretary & Designated Authority