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**F. No. 7/23/2023-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi – 110001**

**Dated: 15<sup>th</sup> June 2024**

**FINAL FINDINGS**

**Case No. CVD/SSR-09/2023**

**Subject: Sunset review investigation of countervailing duty concerning imports of Welded Stainless-Steel Pipes and Tubes originating in or exported from China PR and Vietnam.**

**A. BACKGROUND OF THE CASE**

1. An anti-subsidy investigation into imports of Welded Stainless-Steel Pipes and Tubes (hereinafter also referred to as the “product under consideration” or the “subject goods”) from China PR and Vietnam (hereinafter also referred to as the “subject countries”) was initiated by the Designated Authority on 9<sup>th</sup> August, 2018. Following a detailed investigation, the Designated Authority concluded that the subsidies provided by the Chinese Government and Vietnamese Government to the producers of the subject goods were countervailable in nature and the subject goods were exported from the subject countries at subsidized prices causing injury to the domestic industry. Consequently, the Authority recommended imposition of countervailing duty on imports of subject goods from the subject countries vide final findings No. 6/22/2018-DGAD dated 31<sup>st</sup> July 2019. The measures were implemented by the Ministry of Finance vide Customs Notification No. 4/2018 – Customs (CVD) dated 17<sup>th</sup> September 2019.
2. Pursuant to an application filed by the exporters of the subject goods, the Designated Authority initiated a limited mid-term review of the anti-subsidy duty vide Notification dated 11<sup>th</sup> February 2021 to examine the need for modification of scope of product under consideration. Following a detailed investigation, the Authority concluded that the product exclusion requested by the exporter was not warranted vide Final Findings No. 7/45/2020-DGTR dated 8<sup>th</sup> February 2022.
3. Stainless-Steel Pipe and Tubes Manufacturer Association, New Delhi, and Stainless Steel Pipes & Tubes Manufacturers Association, Gujarat (hereinafter referred to as the “applicants” or “applicant associations”), filed an application before the Authority under Trade Notice 09/2021 dated 29<sup>th</sup> July 2021. This application, made on behalf of their members and producers of the subject goods in India, requested the initiation of a sunset

review of the anti-subsidy duty concerning imports of Welded Stainless-Steel Tubes and Pipes originating in or exported from China PR and Vietnam. Forty (40) members of the applicants (hereinafter referred to as the “applicant domestic producers” or the “domestic industry”) submitted data in accordance with the requirements of Trade Notice 09/2021 dated 29<sup>th</sup> July, 2021.

4. In accordance with Section 9(6) of the Act, countervailing duties imposed shall, unless revoked earlier, cease to have effect upon the expiry of five years from the date of imposition. The Authority is required to review whether the expiry of the countervailing duty is likely to lead to the continuation or recurrence of subsidization and injury. Furthermore, Rule 24(3) of the Rules provides as follows:

*“Any definitive countervailing duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition. The designated authority may upon coming to a conclusion, on a review initiated before that period either on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said countervailing duty is likely to lead to continuation or recurrence of subsidisation and injury to the domestic industry, make recommendation for extending the period of such imposition in accordance with provisions of section 9 of the Act.”*

5. In accordance with the above and based on a duly substantiated application filed by or on behalf of the domestic industry, the Authority is required to review as to whether the expiry of anti-subsidy duties is likely to lead to continuation or recurrence of subsidization and injury.
6. The applicants filed an application dated 31<sup>st</sup> July 2023, requesting initiation of sunset review of anti-subsidy duties imposed earlier and seeking continuation of anti-subsidy duties against imports of Welded Stainless-Steel Tubes and Pipes from China PR and Vietnam. The request was based on the grounds that imports of subsidized subject goods from Vietnam are causing material injury to the domestic industry and the expiry of the measures is likely to result in continuation of subsidization of the product under consideration and consequent injury to the domestic industry.
7. In view of a duly substantiated application with prima facie evidence of material injury to the domestic industry due to imports from Vietnam and likelihood of subsidization and injury due to imports from China PR and Vietnam, filed on behalf of the domestic industry and in accordance with Section 9(6) of the Act, read with Rule 24 of the Rules, the Authority initiated the sunset review investigation vide Notification No. 07/23/2023– DGTR, dated 30<sup>th</sup> September, 2023 to review the need for continued imposition of anti-subsidy duties in respect of the subject goods, originating in or exported from China PR and Vietnam and to examine whether the expiry of anti-subsidy duty on imports of subject goods from the subject countries is likely to lead to continuation or recurrence of subsidization and injury to the domestic industry.

## **B. PROCEDURE**

8. The scope of the present review covers all aspects of the Final Findings No. 6/22/2018 - DGTR dated 17<sup>th</sup> September, 2019 by which the Authority had recommended imposition of anti-subsidy duty on imports of subject goods from the subject countries.
9. The procedure described herein below has been followed in the present investigation:
  - i. The Authority, under the above Rules, received a written application from the applicants on behalf of the domestic industry contending injury due to imports from Vietnam and likelihood of continuation of subsidization and consequent injury to the domestic industry due to imports of product under consideration from the subject countries.
  - ii. The Authority notified the embassies of China PR and Vietnam in India about the receipt of the application before initiation the investigation in accordance with Rule 6(5).
  - iii. The Authority vide Notification No. 07/23/2023 dated 30<sup>th</sup> September 2023, published a public notice in the Gazette of India, Extraordinary, initiating sunset review of anti-subsidy duty on imports of the subject goods from the subject countries.
  - iv. A copy of the public notice was forwarded by the Authority to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers/users in India and other interested parties, as per the information available, to inform them of initiation of the subject investigation in accordance with Rule 7(2) of the Rules.
  - v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Governments of the subject countries through their Embassies in India, and to other interested parties who made a request therefore in writing in accordance with Rule 7(3) of the Rules supra. A copy of the non-confidential version of the application was also provided to other interested parties, wherever requested.
  - vi. The Authority forwarded a copy of the public notice initiating sunset review investigation to the known producers / exporters in the subject country, and other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within the time limit as prescribed in the initiation notification or extended time limit, and make their views known in writing in accordance with the Rule 7(4) of the Rules. The Authority also issued

economic interest questionnaire to all the interested parties and the concerned ministry.

- vii. The Authority sent a questionnaire to the Government of China PR (GOC) and the Government of Vietnam (GOV) seeking relevant information in the form and manner prescribed regarding various schemes/programs where countervailable benefits might have been conferred onto the producers/exporters in the subject countries. However, no response was filed by either Government of China PR or the Government of Vietnam.
- viii. The Authority forwarded the exporters' questionnaires to the following known producers/ exporters in the subject countries:
  - a. Emetal Company Ltd., China PR
  - b. Foshan Metalwell Co Ltd., China PR
  - c. Foshan Nanhai Zhouying Hardware Acc, China PR
  - d. Guangdong Foreign Trade Imp. & Exp. Co., China PR
  - e. Guangdong Sumwin New Material Group Co. Ltd., China PR
  - f. Guangfeng Steel Corporation, China PR
  - g. Haimen Senda Decoration Material Co., Ltd., China PR
  - h. Jiangsu New Qiujiang Stainless Steel Co., Ltd., China PR
  - i. Jieyang City Baowei Stainless Steel Co., Ltd., China PR
  - j. Low Metals Ltd., China PR
  - k. Minimetals Steel Co., Ltd., China PR
  - l. Okaya (Shanghai) Co., Ltd., China PR
  - m. Pohang (Zhangjiagang) Stainless Steel Processing Co., Ltd., China PR
  - n. Shandong Huaye Stainless Steel Products Co., China PR
  - o. Shanghai Hyss International Trading Co., Ltd., China PR
  - p. Shanxi Taigang Stainless Steel Co., Ltd., China PR
  - q. Tsingshan Holding Group Shanghai International Trading Co., Ltd., China PR
  - r. Wuxi City Steel Co., Ltd., China PR
  - s. Wuxi Joyray International Corp, China PR
  - t. Xiamen Golden Huanan Imp. & Exp. Co. Ltd., China PR
  - u. Young Metal Co. Ltd., China PR
  - v. Yuyao Xingda Stainless Steel Co., Ltd., China PR
  - w. Zhangjiagang Pohang Stainless Steel Co., Ltd., China PR
  - x. Zhejiang Huashun Metal Materials Co., Ltd., China PR
  - y. Zhenshi Group Eastern Special Steel Co., Ltd., China PR
  - z. Gia Anh Hung Yen Company Limited, Vietnam
  - aa. Gia Anh Joint Stock Company, Vietnam
  - bb. Ha Anh Stainless Steel Company Limited, Vietnam
  - cc. Inox Hoa Binh, JSC, Vietnam
  - dd. Minh Huu Lien JSC, Vietnam
  - ee. Nam Cuong Metal Company Limited, Vietnam
  - ff. Oss Dai Duong International Joint Stock Company, Vietnam

- gg. Sonha International Corporation, Vietnam
  - hh. Steel 568 Co., Ltd., Vietnam
  - ii. Tap International, JSC, Vietnam, Vietnam
  - jj. Tuan Dat Metal Company Limited, Vietnam
  - kk. Vinainox, Vietnam
  - ll. Vinlong Stainless Steel (Vietnam) Co., Ltd., Vietnam
- ix. The Governments of the subject countries, through their Embassies 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 known producers/exporters was also sent to the Embassies of the subject countries along with the details of the known producers/ exporters.
- x. The following producers/exporters from the subject countries filed a response to the exporters' questionnaire:
- a. Sonha International Corporation, Vietnam
  - b. Steel 568 Co., Ltd., Vietnam
  - c. TVL Steel Production and Construction Joint Stock Company, Vietnam
  - d. Gia Anh Hung Yen Company Limited, Vietnam
  - e. OSS Daiduong International Joint Stock Company
  - f. Nam Cuong Metal Company Limited
- xi. The Authority forwarded a copy of the Notification to the known importers/ users of subject goods in India calling for necessary information In response to the Notification, none of the importers/users have responded by filing questionnaire response.
- xii. The Authority issued Economic Interest Questionnaire to the Embassy of the subject countries, all the known exporters, importers and the domestic industry. The Economic Interest Questionnaire was also shared with the administrative line ministry. Response to Economic Interest questionnaire has been filed only by the applicants.
- xiii. A list of all interested parties was uploaded on the DGTR's website, along with a request for all the parties to email the non-confidential version of their submissions to each of the interested parties.
- xiv. The period of investigation (POI) for the purpose of the present investigation is 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 (12 months). The injury analysis period covers 2019-20, 2020-21, 2021-22 and the period of investigation.
- xv. The applicants submitted that they did not have access to DGCIS transaction-wise data and hence, the information regarding imports into India was provided as per the market intelligence. A request was made by the Authority to the Directorate General

of Systems (“DG Systems”) to provided transaction-wise details of imports of subject goods for the past three years and the period of investigation, which was received by the Authority.

- xvi. The application for initiation of the present investigation was made by the applicant associations on behalf of the domestic industry under Trade Notice 09/2021. The application was filed by the domestic industry, accompanied by data from 18 entities. The Authority is cognizant of the fact that over 100 Micro, Small, and Medium Enterprises (MSMEs) produce the subject goods across the country. The Authority sought to ascertain whether the trends observed in the data of the 18 companies were representative of the broader industry. To this end, the Authority requested additional data from companies affiliated with the associations. The analysis of this expanded data set revealed that all major economic parameters aligned with the trends identified in the initial data. Owing to the presence of large number of producers within the MSME sector in India manufacturing the subject goods, and the complexity involved in handling large amount of data the Authority opted for sampling in the present investigation.
- xvii. The Authority sought further information from the sampled domestic producers to the extent deemed necessary. The verification of the data provided by the sampled domestic producers was conducted to the extent considered necessary for the purpose of the present investigation. The Authority has considered the verified data of the sampled domestic producers in its analysis in the present case.
- xviii. The Authority sought further information from the other interested parties to the extent deemed necessary. The verification of the data provided by the other interested parties was conducted to the extent considered necessary for the purpose of the present investigation. The Authority has considered the verified data of the interested parties in its analysis in the present case.
- xix. The non-injurious price has been determined based on the optimum cost of production and cost to make & sell the subject goods in India as per information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP).
- xx. In accordance with Rule 7(6) of the Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 14<sup>th</sup> May 2024. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xxi. The submissions made by the interested parties, arguments raised and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present

investigation, have been appropriately considered by the Authority in this disclosure statement.

- xxii. The Authority, during the course of the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this disclosure statement to the extent possible and verified the data/ documents submitted by the domestic industry to the extent considered relevant, practicable and necessary.
- xxiii. The information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of the confidentiality claims. 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 a confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis
- xxiv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non- cooperative and recorded this disclosure statement on the basis of the facts available.
- xxv. \*\*\* in this final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxvi. The exchange rate adopted by the Authority for the subject investigation is **1 US\$ = ₹ 81.06.**

## **C. SCOPE OF PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **C1. Submissions by other interested parties**

- 10. One of the interested parties requested the Authority to adopt the PCNs considered in the original investigation in the ongoing investigation, which are provided below
  - a) 200 Series
  - b) 300 Series
  - c) 400 Series

### **C2. Submissions by the domestic industry**

- 11. The following submissions have been made by the domestic industry with regard to the scope of product under consideration or like article.
  - a. The present investigation being a sunset review investigation, the scope of the product under consideration is the same as defined in the original investigation.

- b. The product under consideration is Welded Stainless-Steel Pipes and Tubes. The subject goods are made up of 200, 300 and 400 series. Accordingly, the PCN has been proposed based on the raw material used.
- c. The subject goods produced by the domestic industry are like article to product under consideration imported from the subject countries.

### **C3. Examination by the Authority**

12. The product under consideration in the present investigation is Welded Stainless Steel Tubes and Pipes. The present investigation being a sunset review investigation, the scope of the product under consideration remains the same as that in the original investigation.
13. The product under consideration is classified under Chapter 73 of the Customs Tariff Act, 1975 (51 of 1975) under the tariff codes 7306 40 00, 7306 61 00 and 7306 69 00. The domestic industry has submitted that the subject goods are also being imported under the HS Codes 7304 11 10, 7304 11 90, 7304 41 00, 7304 51 10, 7304 90 00, 7305 11 29, 7305 90 99, 7306 11 00, 7306 21 00, 7306 29 19, 7306 30 90, 7306 50 00, 7306 90 11, 7306 90 19 and 7306 90 90. The customs classification is indicative only and is not binding on the scope of the product under consideration.
14. Based on the comments received from the interested parties, the Authority found it appropriate to adopt PCN methodology for fair comparison. The following PCNs were finalized by the Authority.

SN	PCN Parameter (Grade of Steel)	Code
1.	200 series	2S
2.	300 series	3S
3.	400 series	4S

15. The PCNs finalized in the present investigation are identical to that of original investigation. Therefore, the Authority holds that the product under consideration is the same as in the original investigation i.e., “welded stainless steel pipes and tubes”.
16. The Authority notes that the subject goods produced by the domestic industry and that imported from the 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. In view of the same, Authority holds that the goods produced by the domestic industry are like article to the product under consideration imported from the subject countries.

## **D. DOMESTIC INDUSTRY AND STANDING**

### **D1. Submissions by the other interested parties**



17. The following submissions have been made by the other interested parties with regard to the domestic industry and standing.
- a. The present investigation should not have been initiated since the applicant domestic producers do not account for 25% of the total Indian production. The Authority consistently applies test of standing in terms of Rule 6(3)(a) in sunset reviews.
  - b. None of the domestic producers constituting domestic industry have filed Annexure I in accordance with Trade Notice 09/2021. Accordingly, the present investigation should be terminated immediately.
  - c. The Authority may not accept the response submitted by the domestic producers voluntarily since such producers may be those with high cost of sales which are suffering injury on account of internal reasons. Trade Notice 09/2021 prescribes sample selection based on statistically valid techniques in order to ensure fairness and transparency.

## **D2. Submissions by the domestic industry**

18. The following submissions have been made by the applicants with regard to the domestic industry and standing:
- a. The application has been filed by Stainless Steel Pipe and Tubes Manufacturer Association, New Delhi and Stainless Steel Pipes & Tubes Manufacturers Association, Gujarat under Trade Notice 09/2021 on behalf of the domestic industry.
  - b. The Indian industry is composed of more than 100 producers. 40 members of the applicant associations have filed data for the purpose of the present investigation.
  - c. As opposed to the contention of the other interested parties, at the time of filing the application, the applicant domestic producers accounted for more than 25% of the total Indian production.
  - d. While 18 companies filed data at the time of filing the application, post filing 22 more companies provided information sought by the Authority thereby increasing the share of the domestic producers to 50% of the total Indian production.
  - e. The applicant domestic producers have not imported the product under consideration from the subject countries and are not related to any exporters/ importers.
  - f. The total Indian production has been determined based on raw materials supplied for the production of the subject goods as estimated by JSSL, one of the largest Indian producers of upstream product catering to approximately 70% of the domestic demand.
  - g. Five sampled producers as well as seven other producers have filed complete cost data for the purpose of the present investigation. The Authority may choose to add any of the volunteering producer for their micro analysis.
  - h. As opposed to the contention of the other interested parties, the present investigation is a sunset review initiated under Rule 24 of the Anti-Subsidy Rules. As per the amended rules, Rule 6 is not applicable to sunset review and there is no requirement to establish standing.

## **D3. Examination by the Authority**

19. The application for initiation of the present review has been filed by two registered associations of the producers of the subject goods in India under Trade Notice 09/2021. The application has been filed by Stainless Steel Pipe and Tubes Manufacturer Association, New Delhi and Stainless-Steel Pipes & Tubes Manufacturers Association, Gujarat on behalf of the domestic industry.
20. The Authority notes that the present investigation involves producers in MSME segment. The Indian industry manufacturing the subject goods is fragmented in nature and there are more than 100 producers of the subject goods in India.
21. The applicants have submitted that since there are a number of producers in India, they do not have access to the total production of the subject goods in India. In order to determine the total Indian production, the Authority has relied on the information filed by Jindal Stainless Steel Limited (“JSSL”). As per the information on record JSSL is the largest supplier of raw material, that is, stainless-steel coils for the production of the subject goods in India. JSSL accounts for \*\*\*% of the market share of the demand of raw material in India. JSSL has supplied \*\*\* MT of raw material in India during the period of investigation. In order to determine the total Indian production, the Authority has considered the SION norms of 1.05.

Particulars		Quantity (MT)
Coil Supplied by Jindal	A	***
Coil supplied by others	$B = A/70\% \times 30\%$	***
Total Coil supplied	$C = A+B$	***
Estimated Indian production*	$D = C/1.05$	***
Range	MT	2,50,000- 3,50,000

\*consumption norm of 1.05

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

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article, except when such producers are related to the exporters or importers of the alleged subsidized article, or like article from other countries or are themselves importers thereof, the term ‘domestic industry’ may be interpreted as referring to the rest of the producers”.
23. Regarding the submissions from other interested parties asserting that Rule 6 is applicable to the current investigation, the Authority notes that since the present review is being conducted under Rule 24, Rule 6 does not apply. Rule 24 is as under:

(1) Any countervailing duty imposed under section 9 of the Act shall remain in force so long as and to the extent necessary, to counteract subsidisation, which is causing injury.

(2) The designated authority shall review the need for continued imposition of the countervailing duty, where warranted on its own initiative or upon request by any interested party who submits necessary information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive countervailing duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, when it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said countervailing duty is removed or varied and is therefore no longer warranted.

(3) Any definitive countervailing duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition. The designated authority may upon coming to a conclusion, on a review initiated before that period either on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said countervailing duty is likely to lead to continuation or recurrence of subsidisation and injury to the domestic industry, make recommendation for extending the period of such imposition in accordance with the provision of section 9 of the Act.

(4) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.

[Provided that notwithstanding anything contained in rule 19, such review shall be completed at least three months prior to expiry of the countervailing duty under review].

[(5) Subject to sub-rule (4), the provisions of rules 7,8, 9,10,11,12,13,18,19,20,21 and 22 shall apply mutatis mutandis apply in case of review.]

24. The other interested parties have argued that the data submitted voluntarily by certain producers should not be used, as it may lead to data distortion. The Authority notes that when the number of producers is very large and more than 100 in number and these producers are mostly MSMEs and fragmented. The domestic industry has submitted injury information of 18 entities which was duly examined. Further, in order to substantiate their claim they have voluntarily submitted the data related to injury parameter of 22 more entities. On further examination, the Authority notes that the injury trend found in case of 18 entities are mostly similar to that of 22 additional entities and trend is also similar for that of 40 entities combined together.

## **E. CONFIDENTIALITY**

### **E1. Submissions by other interested parties**

25. The following submissions have been made by the other interested parties with regard to confidentiality.
- a. The applicant associations have not filed documents as per the requirement of Trade Notice 09/2021. In case such documents have been filed, the same may be provided to the other interested parties along with an opportunity for oral hearing.
  - b. The applicants have claimed excessive confidentiality as sales value, list of members of associations who have supported or opposed the investigation has been claimed confidential. According to trade notice 10/2018, the domestic industry has to disclose actual information in case of multiple producers. The principles laid down in the Trade Notice are applicable to anti-subsidy investigation as well. Confidentiality should not be granted automatically but a thorough examination of the same is required as held by the Supreme Court in Sterlite Industries (India) Ltd. V. Designated Authority.
  - c. The applicants must show good cause in order to claim confidentiality as held by the Appellate Body in EC – Certain Iron or Steel Fasteners from China. The Authority may direct the domestic industry to file a proper non-confidential version of the petition as instructed in investigation on clear float glass. A fresh hearing may be granted after proper NCV of the application is filed by the applicants.

### **E2. Submissions by the domestic industry**

26. The following submissions have been made by the domestic industry with regard to confidentiality:
- a. TVL Steel Construction and Joint Stock Company, Sonha SSP Vietnam and Steel 568 Co. have claimed blanket confidentiality regarding its ownership structure, shareholders, affiliate companies, nature of activities performed by affiliated entities, whether it has purchased inputs from affiliated/ government entity for producing subject goods.
  - b. TVL Steel Construction and JSC has claimed that it has not applied/ availed benefit for any import duty exemption for raw material, the information provided has been claimed confidential. Appendix-1 has been claimed confidential.
  - c. As opposed to the contention of the other interested parties, documents of associations cannot be disclosed as they contain business proprietary information which cannot be shared with the other interested parties.
  - d. The comments on confidentiality filed by the other interested parties are belated in nature as the same have been filed post 7 days from the date of circulation of the non-confidential version of the petition.

- e. While the applicants have disclosed aggregate actual information with regard to volume parameters, price parameters are confidential business sensitive information disclosure of which will provide undue benefit to the competitors.

### **E3. Examination by the Authority**

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

*“Confidential information: (1) Notwithstanding anything contained in sub-rules (1), (2), (3) and (7) of rule 7, sub-rule(2) of rule 14, sub-rule (4) of rule 17 and sub-rule (3) of rule 19, copies of applications received under sub-rule (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 authorization of the party providing such information.*

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

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

- 28. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidence submitted by various interested parties by directing the interested parties to share the non-confidential version of the submissions with each other through e-mails.
- 29. The other interested parties have contended that the applicants have not shared the documents of the associations. The Authority notes that the documents of the associations contain minutes of meetings, by-laws of the association as well as the memorandum of

association which the contain business proprietary information and cannot be disclosed to the other interested parties.

30. As regards confidentiality on sales value, the Authority notes that the sales value consists of sales volume and price. These are business proprietary information and its confidentiality needs to be maintained in order to compete with the other producer in the market. The Authority notes that disclosure of such information will provide undue advantage to the other interested parties. Therefore, the Authority has accepted the claim of confidentiality over such information.

## **F. MISCELLANEOUS ISSUES**

### **F1. Submissions by other interested parties**

31. No miscellaneous submissions have been made by the other interested parties.

### **F2. Submissions by the domestic industry**

32. The domestic industry has not made any miscellaneous submissions.

## **A. DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN**

### **A.1 Views of other interested parties**

33. The other interested parties have made the following submissions with regard to the subsidy and subsidy margin issues:
- i. Since the producer/exporter has fully cooperated in the investigation, the margins must be determined as per the response filed and an individual duty may be granted to it.
  - ii. The exporter did not participate in the original investigation as it started commercial production in 2019-20 and exported to India in 2021-22. This is the first opportunity of participation.
  - iii. A new exporter is eligible for individual duty in a sunset review which is evident from the fact that the Authority has requested information from all interested parties including new exporters via the initiation notification. In a number of investigations such as those on imports of VSF, Graphite Electrodes, NFY, Aluminium Foil, NBR, NTCF and Jute, the Authority has prescribed individual duties to producers for first time in a sunset review. The CESTAT in Indian Graphite Manufacturers Association V. DA held that the Authority can fix anti-dumping duty for new exporters in a sunset review.
  - iv. A sunset review conducted by the Authority is akin to original investigation as held by the CESTAT in Robin Resources V. Designated Authority. Since the Authority in the present investigation is examining all parameters relevant for determination of subsidies, there is no rationale for not granting individual rate of duty to the new exporter.

- v. The duty can be imposed to countervail any subsidy granted by the government of the exporting producers / exporters, not on subsidy granted by the government of a third country.
- vi. Most Indian producers of the subject goods also import raw materials from China PR. Any claims of pass through of benefits would mean that the Indian producers are also getting subsidy on the raw materials imported from China PR.
- vii. The claim of pass through of subsidy was made in the original investigation and was not accepted by the Authority.

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

34. The domestic industry has made the following submissions with regard to the subsidy and subsidy margin issues:

- i. The governments of the subject countries have provided significant support to the steel industry in the form of various subsidies.
- ii. The benefits under some of the schemes are non-recurring and must be examined over the average useful life for the subject goods.
- iii. Only the government can provide detailed information related to whether a said scheme is countervailable or not. An exporter can only provide information on whether any benefit was received or not.
- iv. In anti-subsidy investigation concerning imports of Hot Rolled and Cold Rolled Stainless Steel Flat Products from China, which is the raw material for the subject goods, the Authority concluded that the Government of China provides various countervailable subsidies.
- v. The Government of China has formulated various policies to support the iron and steel industry which has lead to overcapacities and excess production. This has even spilled over to foreign producers in Vietnam, that have exported subsidized goods to India.
- vi. No response has been received from the Government of China or Chinese producers/exporters.
- vii. In the absence of any information the Authority can undertake examination based on information available.
- viii. Since the continuation of various programs has not been contested, the new schemes alleged in the present investigation must not be investigated and the examination of subsidies in China may be restricted to only continuation of existing duty.
- ix. The holding company and the sister company of Gia Anh Hung Yen have not filed a response in the current investigation.
- x. The Authority may call for information on the affiliate entities.
- xi. The response filed by the responding producer should be rejected since complete details of the subsidies received cannot be obtained in case of non-participation of affiliated companies.
- xii. The producer has suppressed relevant information and has failed to provide a complete response, rendering its response fit for rejection.
- xiii. The import duty exemptions on inputs for exported products are not countervailable as long as the exemption is extended to the production of exported products only.

- xiv. The Government of China must have a system in place to confirm the inputs consumed for exported products. If such a system does not exist or is not applied effectively, it will lead to countervailing of the entire amount of the exemption.
- xv. The Authority should quantify the subsidy margin based on the best facts available.
- xvi. In other jurisdictions, where the Government of the exporting country does not cooperate, the investigating authorities rely on the facts available and determine the countervailability of the schemes.
- xvii. Some of the exporters / producers have failed to respond to Part - II of the questionnaire response.
- xviii. New subsidies alleged in this investigation need to be investigated in case of producers / exporters with zero percent margin in the original investigation.
- xix. The exporters have not shown that the information or evidence provided by the domestic industry is not accurate. The domestic industry has provided sufficient evidence required for initiation.
- xx. The subsidies provided to the producers of steel products, which has been found countervailable by the Authority in its findings in Hot Rolled and Cold Rolled Stainless Steel Flat Products from China have spilled over to foreign producers, even those in Vietnam, allowing such producers to export the goods to other countries, including India, at uncompetitive prices.

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

- 35. The application filed by the domestic industry provided *prima facie* evidence of the existence of countervailable subsidies in the subject country on the subject good. The Authority notes that adequate opportunity was provided to the governments of China and Vietnam, through written communications and consultations, to provide relevant information concerning the existence, operations and administration of various subsidy schemes contended by the applicants, countervailability of the same vis-à-vis the WTO ASCM and Indian Rules, and benefits availed by the producers/exporters of the subject countries under these schemes. The Authority notes that the Government of China has neither filed the response to the questionnaire, nor has provided any information relevant to various subsidy schemes. The Government of China has, thus, failed to co-operate with the Authority in the present investigation. As the Government of China has not extended the required co-operation, the Authority is constrained to proceed with the best available information for the purpose of the present disclosure statement. The response filed by Government of Vietnam has been taken on record and examined by the Authority.
- 36. The present investigation was initiated on the basis of *prima facie* evidence. Post initiation, the producers/ exporters of the subject goods 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 the alleged subsidy program for making an appropriate determination of existence and quantum of such subsidies, if any. However, no producers / exporters of the subject goods from China have filed questionnaire responses whereas the following producers/ exporters of the subject goods from Vietnam have filed questionnaire responses:



- i. Steel 568 Co. Limited
  - ii. Sonha SSSP Vietnam Company Limited
  - iii. TVL Steel Production and Construction Joint Stock Company (TVL)
  - iv. Gia Anh Hung Yen Co., Limited (Gia Anh)
  - v. Nam Cuong Metal Company Limited (Nam Cuong)
  - vi. OSS Daiduong International Joint Stock Company (OSS)
37. The domestic industry has alleged that producers/exporters of the subject goods are receiving countervailable subsidies under the following programs of various levels of governments and they have been classified under six broad categories: grants, tax and VAT incentives, preferential loans and lending / financing, export financing and export credit, provision of goods at less than adequate remuneration, and equity infusions.

### **A.3.1 Subsidies in respect of China PR**

38. With respect to China, the Authority has initiated the investigation against the following schemes:

- i. *Schemes identified as provision of Goods and Services at Less Than adequate remuneration*
  - a. Provision of Water for Less than Adequate Remuneration
  - b. Hot Rolled Steel (HRS) provided by Government at less than adequate remuneration.
  - c. Provision of Cold-Rolled Steel for Less Than Adequate Remuneration (LTAR)
  - d. Government Provision for Steel Scrap for Less than Adequate Remuneration
  - e. Land use rights provided at less than adequate remuneration
  - f. Land Use Rights for SOEs
  - g. Provision of Nickel/Nickel Pig Iron for LTAR
  - h. Provision of Ferrochrome/Chromium for LTAR
  - i. Provision of Coking Coal for LTAR
  - j. Iron Ore at LTAR
  - k. Electricity at LTAR
  - l. Export restrictions on Coke
  - m. Provision of Land-Use Rights for LTAR – Land Use Rights in Certain Industrial and SEZs
- ii. *Schemes identified as Tax and Vat Incentives*
  - a. Tariff and VAT Exemptions for imported equipment
  - b. Preferential tax policies for companies that are recognized as high and new technology companies.
  - c. Tax concessions for central and western regions
  - d. Tax preference available to companies that operate at a small profit
  - e. Enterprise income tax rate reduction in the tianjin port free trade zone

- f. Tax credit concerning the purchase of special equipment
- g. Income tax concessions for the enterprises engaged in comprehensive resource utilisation (special raw materials)
- h. Preferential tax policies for FIEs established in the pudong area of shanghai
- i. Income tax reduction for enterprises with foreign investment and foreign enterprises established in special economic zones
- j. Tax policies for the deduction of research and development (R&D) expenses
- k. Preferential income tax policy for the enterprises in the northeast region
- l. Income tax refund for re-investment of FIE profits by foreign investors
- m. Reduced tax rate for productive FIEs scheduled to operate for a period not less than 10 years
- n. Income tax reduction for advanced technology FIEs
- o. 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
- p. Preferential tax policies for the research and development of FIEs
- q. VAT refunds for FIEs purchasing domestically - produced equipment
- r. Tax reductions for technology or knowledge-intensive FIEs
- s. Shanghai municipal tax refund for high-tech achievement commercialization projects
- t. Local income tax and reduction program for the productive FIEs
- u. Local income tax exemption and/or reduction in SEZs in Guangdong and Hainan Island
- v. Industrial parks promoting growth of steel industry
- w. Dividend exemption between qualified resident enterprises
- x. Preferential tax policies for FIEs established in the coastal economic open areas and in the economic and technological development zones

*iii. Schemes identified as Preferential Loans and Lending*

- a. Credit guarantee by GOC
- b. Preferential lending (including policy loans)
- c. Preferential export financing from the Export-Import Bank of China
- d. Preferential loans for SOEs
- e. Allowance to pay loan interest

*iv. Schemes identified as Export Financing and Export Credit*

- a. Export Seller's Credit
- b. Export Buyer's Credit
- c. Export Credit Insurance Subsidies
- d. Other export financing from State Owned Banks

*v. Schemes identified as Equity Infusion*

- a. Debt for equity swaps
- b. Equity infusions

- c. Unpaid dividends
- d. Debt Forgiveness
- e. Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring

*vi. Schemes identified as Grants*

- a. Famous Brands Program/ Incentive fund for famous-brand products
- b. Special fund for energy saving technology reform
- c. Direct Government Grants given by Jiangsu Province
- d. Grants to Baoshan Steel
- e. Grants for Antidumping Investigations
- f. Superstar Enterprise Grant
- g. Research & Development (R&D) Assistance Grant
- h. Export Assistance Grant
- i. Grants for Listing Shares
- j. Funds for Outward Expansion of industries in Guangdong Province
- k. Grants provided through the Provincial Fund for Fiscal and Technological Innovation
- l. Grant - Special Funds for Fostering Stable Growth of Foreign Trade
- m. Interim Measures of Fund Management of Allowance for Zhongsham Enterprises to Attend Domestic and Overseas Fair
- n. International Market Fund for Export Companies
- o. Small and Medium-sized Enterprise Support Funds
- p. State Special Fund for Promoting Key Industries and Innovation Technologies
- q. Treasury Bonds Loans or Grants
- r. Provincial Government - Equipment Grant
- s. Various grants provided to Fuyang City and Hangzhou City
  - i. Grant for Enterprises Paying Over RMB 10 Million in Taxes
  - ii. Grants under the Export of Sub-Contract Services Program
  - iii. Grants under Excellent New Products/Technology Award
  - iv. Investment grants from Fuyang City Government for key industries
  - v. Grants for Enterprises Operating Technology and Research and Development Centers
  - vi. Local and Provincial Government Reimbursement Grants on export Credit Insurance Fees
  - vii. Initial Public Offering (IPO) Grants from the Hangzhou Prefecture and the City of Fuyang (Zhejiang Province) & (Anhui Province)
- t. Grants provided by Hebei Province
  - i. Grants under the Science and Technology program of Hebei Province
  - ii. Government of Shijiazhuang City Export Award
- u. Various grants provided to Shandong Province
  - i. Shandong Province's Special Fund for the Establishment of Key Enterprise Technology Centers
  - ii. Shandong Province's Award Fund for Industrialization of Key Energy Saving Technology

- iii. Shandong Province's Environmental Protection Industry Research and Development Funds
      - iv. Shandong Province's Construction Fund for Promotion of Key Industries
    - v. Subsidies Provided in Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
    - w. Shanghai Municipal Subsidy to Coal-Fired Power Plants for Emissions Reduction
  - vii. *Schemes identified as provision of Goods and Services at Less Than Adequate Remuneration*
    - a. Purchase of Goods by the Government for higher than adequate remuneration
39. The principle of judicial economy allows the Authority to refrain from undertaking a detailed investigation in respect of those programs that were determined to be countervailable in the original investigation. The Authority has to examine whether countervailable schemes as determined during the original investigation continue and whether there is evidence of continued benefit being received under the said schemes. The present investigation is a sunset review investigation, and the objective of the investigation is to ascertain whether Chinese producers continue to benefit from countervailable subsidies. However, the Government of China and the exporters from China PR have failed to co-operate and provide any response or comments. On the other hand, the domestic industry has made submissions demonstrating that the producers and exporters in China continue to avail the benefit of such countervailable subsidies. Thus, in view of the absence of any evidence presented by the government of China or its producers/exporters on whether such schemes have been withdrawn or not and the submissions by the domestic industry, the Authority concludes that the subsidy schemes countervailed in the original investigation continue to exist in China and provide benefit to the producers/exporters of the subject goods, based on the facts available.
40. In the sunset review investigation, the primary focus is to determine the likelihood of the continuation or recurrence of subsidies and the resultant injury. Unlike the original investigation, where it is necessary to establish and quantify current subsidy or injury margins to apply the principle of the lesser duty rule and accordingly determine the rate of duties, the present analysis centers on the likelihood of these factors and the continuation of already existing duties. Consequently, in the present circumstances where there are no new or contrary facts adduced before the Authority, the Authority exercises judicial economy concerning these schemes previously addressed and deemed countervailable in the original investigation. Thus, the existing subsidy margins are to be maintained and the Authority thereby restricts itself from repeating the exercise of detailed examination of subsidy schemes afresh for the subject sunset review investigation.

**New Programs alleged by the domestic industry in the present investigation**

41. The domestic industry has contended that there is one more countervailable scheme “Export Credit Insurance Subsidies” which provides benefit to the exporter / producers, thereby allowing them to sell at lower prices. No information has been provided by the producers/exporters or GOC about this scheme. Further, the domestic industry has also not provided sufficient information with regard to this program in order to quantify the benefit received by the producers / exporters from the subject country. In light of absence of sufficient information, the Authority does not consider it appropriate to examine countervailability of the new subsidy program alleged. Accordingly, the new program has not been examined for the purpose of the present investigation.
42. In absence of any response from producers / exporters and GOC, the Authority is constrained to rely on facts available on record, including the findings of the Authority in the original investigation as well as the information/evidence provided by the domestic industry during the course of the investigation. Therefore, the Authority continue to holding the above-mentioned programs as countervailable on the basis of its findings in the original investigation. Thus, the Authority has determined the subsidies equivalent to the subsidy margin quantified in the original investigation.

S.NO.	Name of Scheme	CVD Margin	Range
1.	Grants	***	0-10
2.	Tax and VAT Incentives	***	0-10
3.	Preferential lending	***	0-10
4.	Provision for goods and services at LTAR (A+B+C)	***	30-40
A.	Electricity at LTAR	***	0-10
B.	Land use rights provided at LTAR	***	0-10
C.	Raw Material at LTAR	***	20-30
	Total Subsidy Margin	***	30-40

### **A.3.3 Subsidies in respect of Vietnam**

#### **Schemes previously found as countervailable in the original investigation**

43. With respect to Vietnam, the Authority has initiated the investigation against the following schemes:
- i. Schemes identified as Tax Incentives and Exemption*
- Import duty exemption or reimbursement for raw material
  - Import duty exemption for equipment and machinery to create fixed asset
  - Exemption on corporate income tax for enterprises
  - Enterprise Income Tax Exemption under Chapter III of the Law on Enterprise Income Tax

- ii. *Schemes identified as Export Financing and Export Credit*
    - a. Preferential Lending for investors
    - b. Export Promotion Program
  - iii. *Schemes identified as Investment Incentives*
    - a. Preferential lending to exporters
    - b. Assistance to Small-Medium Enterprises
    - c. Interest rate of the investment credit loans
    - d. On investment support on foreign investors who invested on establishing small and medium scale enterprises.
  - iv. *Schemes identified as Benefits from Banks*
    - a. Export credits from Vietnam Development Bank
    - b. Export financing activity by Vietin Bank
    - c. Financial Guarantees by Vietin Bank
    - d. Export Support Credit
  - v. *Schemes identified as being provided in Specific Zones*
    - a. Land preference for Enterprises in Encouraged Industries or Industrial Zones
  - vi. *Schemes identified as Incentives on Use of Utilities*
    - a. Exemptions or reduction on water rent
    - b. Government provision of land for less than adequate remuneration and exemption or reductions from land rents
44. In the original investigation, the Authority found the following programs to be countervailable.

**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 form 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

**Schemes found as countervailable in the subject investigation**

45. The Authority notes that the applicants have primarily alleged likelihood of continuation/recurrence of subsidization and consequent injury. Therefore, the Authority in the subject investigation, has focused on determination of the likelihood of the continuation or recurrence of subsidies and the resultant injury in the event of cessation of current duties.
46. The Authority acknowledges that in the initial investigation, schemes held countervailable were also found to benefit the participating exporters/producers. In the ongoing sunset review investigation, participating exporters/producers contended that they did not receive any benefits from the alleged schemes. However, no substantial evidence to establish that they have discontinued to avail the benefits from the countervailed schemes is provided to the Authority. Moreover, the Government of Vietnam (GOV), in their submissions have specifically asserted that there have been no discontinuation of the alleged programs and also there are no anticipated changes in the said programs. Consequently, in the present circumstances where there are no new or contrary facts adduced before the Authority, the Authority exercises judicial economy concerning these schemes previously addressed and held countervailable in the original investigation. Thus, the existing subsidy margins are to be maintained and the Authority thereby restricts itself from repeating the exercise of detailed examination of subsidy schemes afresh for the subject sunset review investigation.
47. The Authority observed that the questionnaire response submitted by Nam Cuong Metal Company Limited was severely lacking and did not adhere to the format specified by the Authority. Furthermore, it failed to provide any pertinent information, documentation, or evidence regarding the programs under investigation. Consequently, the Authority was compelled to rely on the best available facts for the exporter/producer in question, as outlined in Rule 7(8) of the CVD Rules, 1995.
48. Exporter/producer OSS Dai Duong International Joint Stock Company have stated that they did not export to India during the period of investigation. This claim has been verified by the Authority using DG systems data. Further, to investigate whether OSS was still availing the benefits of the subsidy schemes countervailed in the original investigation during the POI of the present investigation, the investigation team requested OSS to participate in the remote desk verification to verify its response. However, OSS failed to respond to this request. This wilful omission on part of OSS has hindered the Authority's ability to verify the information provided. Consequently, the Authority has calculated OSS's subsidy margin based on the facts available, as stipulated under Rule 7(8) of the CVD Rules, 1995.

49. Gia Anh Joint Stock Company had claimed that it did not export the subject goods to India during the POI. This claim was verified by the investigation team through DG Systems data. Gia Anh has filed complete exporter questionnaire response. To verify whether Gia Anh had taken benefit in the POI of the present investigation under any of the schemes countervailed in the original investigation, the investigation team requested to participate the above mentioned exporter/producer in remote desk verification meeting for validation of its response. During the remote desk verification Gia Anh claimed that it had not taken any benefit under any of the schemes. Investigation team posed several queries to Gia Anh regarding the subsidy schemes. While examining availment of subsidies under Program no 3 and 14, the investigation team put forward the Investment Policy Certificate issued by People's Committee of Hung Yen Province to Gia Anh. According to this Certificate, Gia Anh is entitled to various incentives aimed at fostering the production of high-grade stainless steel products in Vietnam. Further, article 4 of the Certificate specifies that this entitlement remains effective until November 13, 2052. Gia Anh was asked to demonstrate that it had not availed any benefit under the schemes based on its financial statements. However, the representatives of the exporter company failed to provide substantial evidence to support their claim that the company did not continue to avail benefits. As the investigation team was also not able to find any evidence concerning an increase in the amount of benefits conferred under the countervailed schemes the Authority has continued with the subsidy margins as determined in the original investigation.

**New Programs alleged by the domestic industry in the present investigation**

50. Additionally, the domestic industry has contended that there are three countervailable programs providing benefits thereby allowing producers in Vietnam to sell at a lower price. The list of such new programs is provided below:
- a. Exemption on Import for Exported Goods
  - b. Enterprise Income Tax Exemption under Chapter III of the Law on Enterprise Income Tax
  - c. Assistance to Small- Medium Enterprises
51. The Authority notes that while the domestic industry has alleged the existence of new programs as mentioned above, the allegations have not been substantiated by relevant and material evidences. Hence, the Authority is not in a position to examine the countervailability of the newly alleged programs.

P. No.	Name of the Program	Son Ha SSP Vietnam	Steel 568 Co.Ltd	Residual



P.1	Income Tax Preferences under Chapter V of Decree 24 (Implementation of the Law on Enterprise Income Tax)	NIL	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
P.5	Preferential lending to exporters	NIL	NIL	0-5%
P.6	Export Promotion Program	NIL	NIL	0-5%
P.7	Export credits from the Vietnam Development Bank	NIL	NIL	0-5%
P.8	Export Support Credit	NIL	NIL	0-5%
P.9	Preferential Lending for investors	NIL	NIL	0-5%
P.10	Interest rate of the investment credit loans	NIL	NIL	0-5%
P.11	On investment support on foreign investors who invested on establishing small and medium scale enterprises.	NIL	NIL	0-5%
P.13	Financial Guarantees by Vietin Bank	NIL	NIL	0-5%
P.14	Land Preferences for Enterprises in Encouraged Industries or Industrial Zones under Decree 142	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	NIL	0-5%
<b>Total Subsidy Margin %</b>		***	***	***
<b>Total Subsidy Margin (Range %)</b>		<i>De-minimis</i>	<i>De-minimis</i>	10-20%

## **G. ASSESSMENT OF INJURY AND CAUSAL LINK AND LIKELIHOOD OF CONTINUATION OR RECURRENCE OF SUBSIDIZATION AND INJURY**

### **G1. Submissions by other interested parties**

52. The following submissions have been made by the other interested parties with regard to the injury, causal link and likelihood of subsidization and injury:
- a. The domestic industry has neither suffered injury nor there is any likelihood of continuation or recurrence of injury. This is evident from the fact that the capacities, production, domestic sales, domestic selling price, PBIT, cash profits and return on investment of the domestic industry have increased.
  - b. There is no injury or likelihood of continuation or recurrence of injury to the domestic industry due to imports from the respondents as the import price of the respondents has increased and was the highest during the period of investigation. Since no duty was imposed on the respondents, there will be no change in pricing behaviour even in case of no anti-subsidy duty in force.
  - c. While major imports from Vietnam are from sources exempt from duty, the economic parameters of domestic industry including domestic sales, selling price and profits have improved. Since the domestic industry has not suffered injury due to such imports, there is no likelihood of injury in case of cessation of anti-subsidy duty in force.
  - d. The injury suffered by the domestic industry, if any, is only due to imports from China. This is due to the fact that the Chinese imports are undercutting the prices of the domestic industry by 30-40%.
  - e. It is apprehended that the selling price of the domestic industry is higher than the non-injurious price and due to this, the applicants have not submitted non-injurious price in the application. In case, non-injurious price is higher than net selling price, the investigation should be terminated as per consistent practice of the Authority.
  - f. The applicants have not provided any concrete evidence of likelihood of recurrence or continuation of injury.
  - g. The import price from Vietnam has increased and is much higher than import price from other countries which indicates that exporters are selling at fair prices even in the absence of customs duty.

### **G2. Submissions by the domestic industry**

53. The following submissions have been made by the domestic industry with regard to the injury, causal link and likelihood of subsidization and injury:
- a. There is no requirement of cumulative assessment of injury in the present investigation as imports from China are negligible and not causing injury to the domestic industry. Imports from Vietnam and especially due to producers not subject to anti subsidy duty have caused injury to the domestic industry.

- b. The Governments of the subject countries have continued providing subsidies to the producers of the subject goods in the subject countries.
- c. The imports from Vietnam have increased in absolute terms. The increase is from importers not subject to anti-subsidy duty.
- d. Imports from exempted producers in Vietnam have increased much more than the increase in demand.
- e. Imports from producers subject to anti-subsidy duty have declined which demonstrates the inability of the foreign producers to sell at fair prices in India.
- f. The market share of imports from exempted producers in Vietnam has increased. Such imports have taken away the potential and existing market share of the domestic industry.
- g. The market share of the Indian industry is much lower to the market share held by the Indian industry prior to the original period of investigation.
- h. The domestic industry has enough capacity to cater to the entire demand in India. Hence, reliance on imports is totally unnecessary.
- i. The imports from Vietnam are undercutting the prices of the domestic industry on average basis. The price undercutting on PCN wise basis is higher.
- j. The capacity utilization of the domestic industry has declined over the injury period and was the lowest during the period of investigation.
- k. The landed price of imports from Vietnam was below the cost of sales of the domestic industry.
- l. The domestic industry has been forced to compromise on margins due to low-priced imports from Vietnam. The profitability and return on investment of the domestic industry have declined.
- m. The imports are likely to increase in the absence of anti-subsidy duty. The raw material is being transferred from China to Vietnam especially after imposition of anti-subsidy duty and anti-dumping duty in India on imports of raw material from China.
- n. The Authority, in Hot Rolled and Cold Rolled Stainless Steel Flat Products held that there are significant subsidies being provided to the raw material manufacturers in China. The benefits of such subsidies have been passed through to producers in Vietnam.
- o. There are significant and excess capacities of stainless steel in China, as held by the Authority in the final findings on imports of Hot Rolled and Cold Rolled Stainless Steel Flat Products from China. Since the subject goods are downstream products of stainless steel with minimal value addition, such exportable capacities are likely to be used for exports to India, in the absence of anti-subsidy duty.
- p. Sohna SSP and Steel 568 have reported increase in production quantity and capacity utilization. Sohna SSP has also reported increase in capacities.
- q. While producers in China PR have excess capacities, there has been decline in demand of steel in China. The Chinese producers are in need for alternate markets to absorb the excess volumes.
- r. A number of countries such as Türkiye, Eurasian Economic Union, USA and Brazil have imposed trade remedial measures on imports of subject goods.
- s. Imports are likely to depress the prices of the domestic industry and cause material injury to the domestic industry in the absence of the anti-subsidy duty.

### **G3. Examination by the Authority**

54. The Authority has examined the arguments and counter arguments of the interested parties with regard to injury to the domestic industry. The injury analysis made by the Authority hereunder addresses the various submissions made by the interested parties.
55. Rule 13 of the Countervailing Duty Rules, 1995 read with *Annexure I* provides that an injury determination involves examination of factors that may indicate injury to the domestic industry, taking into account all relevant facts, including the volume of subsidised imports, their effect on prices in the domestic market for like article and the consequent effect of such imports on domestic producers of such articles.
56. The Authority has considered submissions made by various interested parties and relevant legal provisions. The examination hereinbelow *ipso facto* deals with the submissions made by the domestic industry and interested parties concerning injury to the domestic industry.
57. The Authority has examined the various injury parameters on account of imports from the subject countries before proceeding to examine the likelihood aspects of subsidy and injury. It has been examined as to whether there is an increase in imports, in absolute terms or in relation to production or consumption. In considering the effect of the subsidised imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the subsidised imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. For the examination of the impact of the subsidised imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude, and margin of subsidy, etc. have been considered in accordance with Annexure-I of the Rules.
58. Para 4 of Annexure I of the Rules provides that in case where imports of a product from more than one country are being simultaneously subjected to anti-subsidy investigation, the Authority may cumulatively assess the effect of such imports in case it determines that:
  - a. The margin of subsidization established in relation to the imports from each country is more than one percent and the volume of imports from each country is not negligible, and
  - b. A cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the like domestic products.
59. With regard to the submissions by the domestic industry that there is no need for cumulative analysis, the Authority notes that the imports from China have declined and are negligible. Further, the domestic industry has stated that such imports are not causing any injury to the domestic industry. Thus, the Authority assessed the injury due to imports from Vietnam.

### G.3.1. Assessment of demand / apparent consumption

60. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product under consideration in India as the sum of domestic sales of the domestic industry and other Indian producers and imports from all sources. The demand so assessed is given in the table below.

Particulars	Unit	2019-20	2020-21	2021-22	POI
Sales of domestic industry	MT	***	***	***	***
Trend	Index	100	111	117	124
Sales of other producers	MT	***	***	***	***
Trend	Index	100	101	107	91
Imports from Vietnam	MT	42,013	33,474	46,626	46,310
Trend	Index	100	80	111	110
Imports from China	MT	36,584	408	616	129
Trend	Index	100	1	2	0
Other imports	MT	31,387	26,532	15,637	14,408
Trend	Index	100	85	50	46
Demand	MT	***	***	***	***
Trend	Index	100	91	96	90

61. It is seen that the demand for the subject goods declined in 2020-21 as compared to 2019-20 but increased thereafter in 2021-22 and has again declined in the period of investigation. However, the demand has largely remained stable throughout the investigation period.

### G.3.2. Volume effect of the subsidized imports

62. With regard to the volume of the subsidized imports, the Authority is required to consider whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DG systems. The import volumes of the subject goods from the subject countries and share of the subsidized imports during the injury period and the period of investigation are as follows:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Imports from Vietnam	MT	42,013	33,474	46,626	46,310
Imports from China	MT	36,584	408	616	129
Other imports	MT	31,387	26,532	15,637	14,408
Total	MT	1,09,983	60,414	62,880	60,847
Imports from Vietnam in relation to					
Domestic production	%	10-20	10-20	10-20	10-20
Consumption	%	10-20	0-10	10-20	10-20

63. It is seen that:
- The volume of imports from Vietnam declined in the year 2020-2021 as compared to the base year of the injury investigation period. However, there has been significant increase in import volume post 2020-2021.
  - The imports from Vietnam in relation to domestic production has increased from \*\*\*% to \*\*\*%.
  - The imports from Vietnam in relation to domestic consumption has increased from - \*\*\*% to \*\*\*%.

### G.3.3. Price effect of the subsidized imports

64. With regard to the effect of the subsidized imports on prices, it is required to be analysed whether there has been a significant price undercutting by the alleged imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of imports has been examined with reference to price undercutting, price suppression and price depression, if any.

#### a. Price undercutting

65. To determine price undercutting, a comparison has been made between the landed value of the product and average selling price of the domestic industry, net of all rebates and taxes, at the same level of trade. The prices of the domestic industry were determined at the ex-factory level.

SN	Particulars	UOM	200 series	300 series
1	Landed Price of imports from Vietnam	₹/MT	1,51,493	2,50,993
2	Net selling price	₹/MT	***	***
3	Price undercutting	₹/MT	(***)	***
4	Price undercutting	%	(***)	***
5	Price undercutting	Range	(0-10)	0-10

66. It is seen that though there has been negative price undercutting in case of 200 series, however, there is a positive price undercutting in the case of 300 series ranging from \*\*\*%.

#### b. Price suppression/depression

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

Particulars	Unit	2019-20	2020-21	2021-22	POI
Cost of sales	₹/MT	***	***	***	***
Trend	Indexed	100	95	130	137

Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	98	138	141
Landed price from Vietnam	₹/MT	1,56,842	1,71,120	2,02,932	2,43,168
Trend	Indexed	100	109	129	155
Landed price from China	₹/MT	1,08,347	1,33,597	2,39,300	1,83,228
Trend	Indexed	100	123	221	169

68. The Authority notes that, during the base year, the domestic industry experienced some price pressure from imports, as evidenced by the selling price falling below the cost of sales. However, post the base year of the injury investigation period, the domestic industry has been able to sell the subject goods at prices above the cost of sales, indicating an absence of price pressure—be it suppression or depression—resulting from imports on domestic prices.
69. However, based on PCN wise comparison, the Authority notes that the landed price of Vietnam for 300 series is below the selling price of the domestic industry. The domestic industry has submitted that it has been forced to compromise on margins due to the low-priced imports from Vietnam.

Particulars	Unit	200 S	300 S
Domestic Industry Selling price (Sampled)	₹/MT	***	***
Range	₹/MT	1,50,000-2,00,000	2,50,000-3,00,000
Landed price from Vietnam	₹/MT	1,51,493	2,50,993
Landed price from China	₹/MT	1,01,052	2,32,182

70. Some of the interested parties have contended that the injury to the domestic industry is due to imports from China as the landed price of imports from China is lower than that from Vietnam. The Authority notes that while the landed price of imports from China is lower than landed price from Vietnam, the volume of imports from China is negligible. Such miniscule volume cannot be considered to be a cause of injury to the domestic industry.

#### **G.3.4. Economic parameters of the domestic industry**

71. The Rules require that the determination of the injury shall involve an objective examination of the consequent injury of the subject imports on the domestic producers. With regard to the consequent impact of these imports on the domestic producers of such products, the Rules further provide that the examination of the impact of the subsidized imports on the domestic industry would include an objective unbiased evaluation of all relevant economic factors and indices having a bearing on the state of 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 volumes**

72. The performance of the domestic industry with regard to capacity, production, sales and capacity utilization over the injury period was as below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Capacity	MT	***	***	***	***
Trend	Index	100	104	109	131
Total Production	MT	***	***	***	***
Trend	Index	100	112	119	130
Capacity Utilization	%	***	***	***	***
Range	%	50-60	60-70	60-70	50-60
Domestic Sales	MT	***	***	***	***
Trend	Index	100	111	117	124

73. The Authority observes that, despite the increases in capacity, production, and sales of the domestic industry over the injury period, the industry has not been able to operate at its optimum level or fully utilize its capacity.

**b. Market share**

74. Market share of the subsidized imports and domestic industry have been examined as below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Domestic industry	%	20-30	30-40	30-40	30-40
Other Indian producers	%	40-50	40-50	40-50	40-50
Imports from Vietnam	%	10-20	0-10	10-20	10-20
Imports from China PR	%	0-10	0-10	0-10	0-10
Other imports	%	0-10	0-10	0-10	0-10

75. The Authority notes that the imposition of anti-subsidy duties has provided significant relief to the domestic industry, enabling it to increase its market share from \*\*\*% in the base year of the injury investigation period to \*\*\*% in the period of investigation. However, it is also observed that the trend of imports from Vietnam has experienced an upward trajectory, rising from \*\*\*% in the base year to \*\*\*% during the period of investigation.

76. Further, the applicants have submitted that the market share held by the Indian industry during the period of investigation is much lower than the market share held by the Indian industry prior to the original period of investigation. The Authority notes that the lowest market share held by the Indian industry during the injury period of the original investigation was \*\*\*% while the highest market share held by the Indian industry during the current period of investigation was \*\*\*%. Thus, the Indian industry holds market share less than it held previously.



**c. Inventories**

77. Inventory position of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Average stock	MT	***	***	***	***
Trend	Index	100	130	141	166

78. It is noted that the inventories of the domestic industry have increased over the injury period.

**d. Profitability, cash profits and return on capital employed**

79. Profits, cash profits and return on capital employed of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Cost of sales	₹/MT	***	***	***	***
Trend	Indexed	100	95	130	137
Selling price	₹/MT	***	***	***	***
Trend	Indexed	100	98	138	141
Profit / (loss)	₹/MT	(***)	***	***	***
Trend	Indexed	(100)	686	2,267	976
Profit / (loss)	₹ Lacs	(***)	***	***	***
Trend	Indexed	100	761	2,652	1,234
Cash profits	₹ Lacs	***	***	***	***
Trend	Indexed	100	448	1,129	609
Return on capital employed	%	***	***	***	***
Trend	Indexed	0-10	10-20	20-30	10-20

80. The Authority notes that:

- The profitability of the domestic industry did increase till 2021-2022, however, it has declined by \*\*\*% in the period of investigation as compared to the previous year.
- The return on capital employed also showed the same trend as it increased till the year 2021-2022 but thereafter has declined in the period of investigation by \*\*\*% as compared to the previous year.
- The domestic industry has stated that it has been forced to compromise on margins due to imports from Vietnam at prices below the cost of sales of the domestic industry.

**e. Employment, wages and productivity**

81. The Authority has examined the information relating to employment, wages and productivity, as given below:

Particulars	Unit	2019-20	2020-21	2021-22	POI
Employees	Nos.	***	***	***	***
Trend	Index	100	105	116	137
Productivity per day	MT/Day	***	***	***	***
Trend	Index	100	112	119	130
Productivity per employee	MT/Nos	***	***	***	***
Trend	Index	100	106	103	95

82. It is noted that the number of employees increased over the injury period. The productivity per day has also increased over the injury, however, the productivity per employee started declining since 2020-2021 and has experienced a further decline in the period of investigation.

**f. Growth**

Particulars	Unit	2019-20	2020-21	2021-22	POI
Capacity	%	-	***	***	***
Production	%	-	***	***	***
Domestic sales	%	-	***	***	***
Profit/(loss) per unit	%	-	(***)	***	(***)
Cash profits	%	-	***	***	(***)
Return on capital employed	%	-	***	***	(***)

83. It is noted that the capacity has demonstrated positive growth, reaching \*\*\* % in the period of investigation compared to \*\*\* % in the base year. However, the domestic industry's production has decreased from \*\*\* % in the base year to \*\*\* % in the period of investigation. The domestic industry has also faced a decline in domestic sales, which fell from \*\*\* % in the base year to \*\*\* % during the period of investigation. Furthermore, cash profits and return on capital both turned negative during the period of investigation, despite exhibiting a positive growth rate during the injury investigation period.

**g. Ability to raise capital investment**

84. The Authority notes that although the capacity of the domestic industry has increased during the injury period, the profitability of the domestic industry has declined in the period of investigation and recorded a decline in return on capital employed.

**h. Magnitude of subsidy margin**

85. The subsidy margin determined by the Authority is positive and significant in the present investigation.

## **H. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF SUBSIDIZATION AND INJURY**

86. Since, the present investigation is a sunset review investigation, the fact that whether domestic industry is currently not suffering injury does not impact the determination of whether the duties shall be continued or not. In a sunset review investigation, the Authority is required to analyze whether revocation of a measure is likely to result in continuation or recurrence of injury to the domestic industry, contrary to the determination made in an original investigation.
87. All factors brought to the notice of the Authority have been examined to determine as to whether there is a likelihood of continuation of subsidisation or injury in the event of cessation of the duties. The Authority has considered various information, as made available by the domestic industry, in order to evaluate the likelihood of continuation of subsidisation or injury.
88. Further, the Authority has also examined other relevant factors having a bearing on the likelihood of continuation of subsidisation and consequent injury to the domestic industry. The examination of the parameters of likelihood is as follows.

### **H1. Continued subsidization despite existence of anti-subsidy duty**

89. The Authority notes that there is a continued subsidisation of the subject goods from the subject countries inspite of the duties in force. Continued subsidisation during the existence of duties indicates the likelihood of continuation of subsidies.
90. While the volume of imports from China was negligible due to anti-subsidy duty in force, the imports of 300 series from both the subject countries are below the selling price of the domestic industry.

Particulars	Unit	200 S	300 S
Domestic Industry Selling price	₹/MT	***	***
Range	₹/MT	1,50,000- 2,00,000	2,50,000- 3,00,000
Landed price from Vietnam	₹/MT	1,51,493	2,50,993
Landed price from China	₹/MT	1,01,052	2,32,182

91. The Authority notes that in case of cessation of anti-subsidy duty, the imports from all sources are likely to increase. Further, such imports are likely to be at prices below the cost of sales of the domestic industry and is likely to cause injury to the domestic industry.

### **H2. Decline in imports from China PR and producers subject to anti-subsidy duty**

92. The Authority notes that the volume of subject imports has declined over the injury period from sources subject to anti-subsidy duty.

Particulars	Unit	2019-20	2020-21	2021-22	POI
Imports from China	MT	36,584	408	616	129
Imports from Vietnam	MT	42,013	33,474	46,626	46,310
Imports from exempted producers	MT	25,098	31,602	43,671	42,992
Imports from other producers	MT	16,915	1,872	2,955	3,318

93. The Authority notes that the imports from producers subject to anti-subsidy duty have declined. In the event of expiry of anti-subsidy duty, the imports are likely to follow the trend of imports from sources exempted from anti-subsidy duty. Thus, such imports are likely to increase in India and cause material injury to the domestic industry.

### H3. Significant idle capacities held by producers in China PR

94. The applicants have submitted that there are significant excess capacities of stainless steel in China PR. The Authority notes, that as per the evidence on record, the demand for stainless steel has declined in China PR. Since the subject goods are downstream products of stainless steel with minimal value additions, the additional capacities of the Chinese producers are likely to be used for exporting the subject goods to India.

### H4. Measures imposed by other countries

95. The applicants have claimed that the producers in the subject countries face trade remedial measures in Türkiye, Eurasian Economic Union, USA and Brazil. The Authority notes due to imposition of trade remedial measures on imports of subject goods from the subject countries, the producers are likely to shift to Indian market in case of cessation of anti-subsidy duty. Further, since there are excess capacities in China PR, the producers in China PR are likely to export the subject goods to India in large quantities in case of expiry of anti-subsidy duty.

Date	Country imposing measure	Type of measure imposed
10-07-2021	Türkiye	Anti-dumping duty on imports from Vietnam
14-03-2021	Eurasian Economic Union	Anti-dumping duty on imports from China
03-12-2019	United States of America	Anti-dumping duty on imports from China and Vietnam
06-03-2019	United States of America	Anti-subsidy duty on imports from China
13-06-2018	Brazil	Anti-dumping duty on imports from Vietnam

### H5. Imports entering India below the selling price

96. The applicants have claimed that the imports are entering the country at prices lower than the selling price of the domestic industry.

Particulars	Unit	200 S	300 S
Domestic Industry Selling price	₹/MT	***	***

	₹/MT	1,50,000- 2,00,000	2,50,000- 3,00,000
Landed price from Vietnam	₹/MT	1,51,493	2,50,993
Landed price from China	₹/MT	1,01,052	2,32,182

97. The Authority notes that the landed price of subject imports was below the selling price of the sampled producers during the period of investigation.

98. The domestic industry has not suffered injury due to anti-subsidy duty in force and negligible volume of imports from China and exporters subject to duty in Vietnam. In case of cessation of anti-subsidy duty and increase in volume of imports, the domestic industry will be forced to compete with the import price. Such prices are likely to cause injury to the domestic industry.

#### **H6. Likely performance of the domestic industry in case of cessation of anti-subsidy duty**

99. In the event of expiry of anti-subsidy duty, the domestic industry is likely to be forced to compete with imports from the subject countries. At the present imports prices, the domestic industry is likely to suffer injury in terms of financial losses, decline in cash profits and negative return on capital employed.

100. The likely analysis of domestic industry in the absence of anti-subsidy duty.

Particulars	Unit	Actual	Likely	Change
Cost of sales	₹/MT	***	***	-
Selling price	₹/MT	***	***	(***)%
Profit / loss	₹/MT	***	(***)	(***)%
Profit / loss	₹/MT	***	(***)	(***)%
Cash profits	₹/MT	***	(***)	(***)%
Return on investment	%	***	(***)	(***)%

#### **H7. Revival of domestic industry only due to imposition of anti-subsidy duty.**

101. The Authority notes that the performance of the domestic industry has increased significantly in the current period of investigation as compared to the original period of investigation due to imposition of anti-subsidy duty. The improvement between the two periods is as a result of decline in volume of imports.

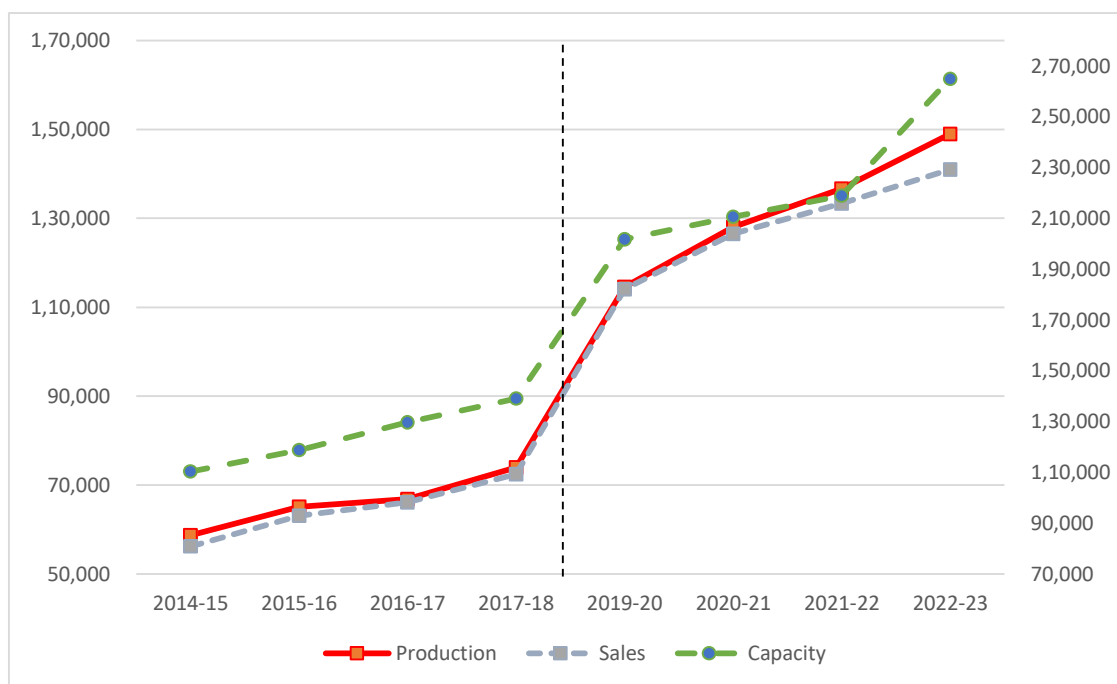
Particulars	Unit	Original POI	Current POI	Change
Volume of subject imports	MT	71,593	46,439	-35%
Imports from China	MT	43,059	129	-99.7%
Imports from Vietnam	MT	28,535	46,310	62%
Demand	MT	***	***	***

Capacity	MT	***	***	***
Production	MT	***	***	***
Capacity utilization	%	***	***	***
Domestic Sales	MT	***	***	***
Market share of imports	%	20-30%	10-20%	(50)-(60)%
Market share of Indian Industry	%	60-70%	80-90%	20-30%
Profit/Loss	₹/MT	Losses	***	

102. The capacity, production, domestic sales, market sales of the domestic industry have improved as compared to the period of investigation of the original investigation. While the domestic industry was incurring losses in the original period of investigation, it is now earning profits.

#### H8. Improvement in performance due to anti-subsidy duty in force

103. The Authority notes that the performance of the domestic industry in terms of capacity, production and domestic sales has improved drastically post imposition and during the tenure of the anti-subsidy duty.



104. Since in the absence of anti-subsidy duty in force, the subject imports are likely to enter India at low-prices and increased quantities, there is likelihood of injury to the domestic industry in case of cessation of anti-subsidy duty.

## **H9. Imports at injurious prices**

105. The Authority notes that the subject imports have entered the Indian market at injurious prices and below the cost of sales and selling price of the domestic industry despite duties in force.

## **I. MAGNITUDE OF INJURY MARGIN**

106. The non-injurious price of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The non-injurious price has been considered for comparing the landed price from the subject countries for calculating the injury margin. For determining the non-injurious price, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses are charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price.
107. As regards the contention raised by the new participating producer/exporter from Vietnam, TVL, for the grant of an individual rate of duty on the basis that this is its first opportunity to participate in the investigation, the Authority notes that TVL began exporting to India a year before the current investigation period.
108. The data provided by TVL reveals that TVL exported \*\*\* MT in the year 2021-2022 and \*\*\*MT during the period of investigation (POI), constituting \*\*\*% and \*\*\*% of the total imports into India, and \*\*\*% of the total demand in India, respectively. Furthermore, it is noted that the exports to India amount to \*\*\*% of TVL's total production during the specified periods—a figure substantially lower in both number and percentage compared to the exports made by other cooperating producers from the subject country. It is further noted that TVL's third-country exports amounted to \*\*\*MT, representing merely \*\*\*% of its total production, \*\*\*% of its domestic sales, and \*\*\*% of the total imports to India during the POI.
109. Since the quantity exported to India by TVL is very low, this leads to a suspicion that the prices at which TVL has exported to India could be a 'manipulated' price because the current investigation is that of sunset review wherein it is possible to assess the price of the producers/exporters from the subject country. The Authority therefore needs to have a deeper scrutiny of the export price to assure itself that the export price of the limited exports from TVL truly reflects its price and has not been influenced by the prevailing anti-subsidy duties on imports from the subject country. In order to re-assure itself, the Authority has looked at TVL's exports to third countries. The purpose of this inquiry is to ascertain whether the export price of TVL to third countries was comparable to its export price to India and reach to a conclusion that the export price of TVL with such export volume is not

‘coloured’. However, TVL’s exports to third countries is also very low as deliberated in the earlier para.

110. In light of the aforementioned facts and circumstances, the Authority is unable to accept the export prices of TVL to India with such a low volume of exports and hence rejects TVL's claim for the grant of an individual rate of duty.
111. The landed price for the cooperative exporters has been determined on the basis of the data by the exporters. For all the non-cooperative producers/exporters from the subject, the Authority has determined the landed price based on the facts available.
112. Based on the landed price and non-injurious price determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below.

SN	Particular	NIP	Landed price	Injury margin	Injury margin	Injury margin
		USD/MT	USD/MT	USD/MT	%	Range
1	Vietnam					
a	Son Ha SSP Vietnam	***	***	***	***	Negative
b	Steel 568 Co. Ltd	***	***	***	***	0-10
g	Any other	***	***	***	***	10-20
2	China PR					
a	Any Other	***	***	***	***	30-40

## J. NON-ATTRIBUTION ANALYSIS

113. The Authority examined whether other factors listed under the CVD Rules could have caused injury to the domestic industry. As per the Rules, the Authority, *inter alia*, is required to examine any known factors other than subsidized imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the subsidized imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry.

### a. Contraction in demand

114. The demand for the subject goods declined initially but has thereafter increased over the injury period. There is no information on record to suggest a contraction in demand. The domestic industry has not suffered injury due to possible contraction in demand.

### b. Pattern of consumption

115. There has been no material change in the pattern of consumption of the product under consideration, to which the injury suffered can be attributed.



**c. Conditions of competition and trade restrictive practices**

116. There are no trade restrictive practices or conditions of competition, which can cause injury to the domestic industry apart from the low-priced imports from subject countries.

**d. Developments in technology**

117. There has been no change in technology for production of the subject goods, due to which the domestic industry has suffered injury.

**e. Productivity**

118. The productivity of the domestic industry has not decreased and thus, it has not suffered injury on this account.

**f. Export performance of the domestic industry**

119. The domestic industry has segregated the export performance from the domestic performance and thus, no injury has been caused in this account.

**g. Performance of other products**

120. The injury suffered cannot be attributed to the performance of other products of the company, as the domestic industry has segregated and provided information with regard to the product under consideration only.

**K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES**

**K1. Submissions by other interested parties**

121. Other interested parties have not made any submissions with regard to the Indian industry's interest.

**K2. Submissions by the domestic industry**

122. The domestic industry has made the following submissions with regard to the Indian industry's interest:
- a. Importers and Users have not participated or have responded to the economic interest questionnaire.
  - b. The responding producers/exporters have not provided any information that may allow the Authority to determine whether the discontinuation of the duties would be in public interest. The absence of any information in this regard shows that the producers / exporters do not have any evidence or information to prove that the duties have any adverse effect on the users in India.
  - c. The continuation of the duty would create favourable market conditions for the Indian steel sector as it would reduce dependence on steel imports.
  - d. It is in the consumers' interest to have a competitive domestic industry which is capable of supplying the product to the consumers in competition to fair-priced imports.
  - e. The Indian industry has sufficient capacities to meet the growing demand in India.

- f. The Indian industry constitutes more than 100 of producers and imposition of duties will not create any monopoly in the Indian market.
- g. The Indian industry is fragmented and majority of the producers of like article in India are MSMEs and continuation of duties is imperative to provide them with a level playing field.
- h. The subject goods are not raw materials for other industries and thus the impact of duties, which is minimal, would not impact the performance of other industries.
- i. The subject goods are used in residential or commercial construction and the costs on account of this product forms only 0.3% of the overall cost of a construction project. The impact of proposed duty is minimal.
- j. The goods can be imported from various other countries such as Italy, Malaysia, USA and Korea RP.
- k. The duties did not have any adverse effect as the demand has increased since the original investigation.

### **K3. Examination by Authority**

- 123. The Authority notes that the purpose of duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of subsidization so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Continuation of anti-subsidy measures does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the continuation of anti-subsidy duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the continuation of anti-subsidy measures. On the contrary, continuation of anti-subsidy measures would ensure that no unfair advantages are gained due to subsidy provided, prevent decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.
- 124. Post initiation of investigation, the Authority issued an economic interest questionnaire to all the interested parties. However, the response to the questionnaire was filed by the domestic industry and two producers from Vietnam namely Sonha SSP Vietnam and Steel 568 Co., Ltd. Apart from the said parties, no producers/exporter, importers or users of the subject goods, have participated in the investigation or filed a response to the Economic Interest Questionnaire. Further, the administrative ministry for the subject goods and the downstream product has also not objected or made any statement regarding the continuation or expiry of duty.
- 125. The Authority notes that no evidence has been provided to show that the duties in force have resulted in a deterioration in the performance of the users, or may lead to such deterioration. As noted above, despite the Authority providing an opportunity to provide structured and substantiated information, in the response to the economic interest questionnaire, the users have abstained from participating in the present investigation. In view of the same, the Authority notes that it cannot be concluded that the continuation of measures would result in an adverse impact on the domestic industry.

126. In this regard, the Authority also notes that the domestic industry had furnished quantified impact of anti-subsidy duty on the users. As per the information shared by the domestic industry, the impact on users was in about 0.03%.

Particulars	Unit	Rate
Cost of Land	₹ Lakhs	***
Cost of Construction of Building	₹ Lakhs	***
Total Cost of Building	₹ Lakhs	***
Cost of WSSTP	₹ Lakhs	***
Highest CVD imposed	%	29.88%
Lowest CVD imposed	%	10.33%
Cost of CVD in total building (Highest)	₹ Lakhs	***
Cost of CVD in total building (Lowest)	₹ Lakhs	***
Impact with Highest CVD	%	0-0.10%
Impact with Lowest CVD	%	0-0.10%

127. With regard to the availability of the like article in the country, the Authority notes that the anti-subsidy duty does not restrict imports from the subject countries, but only provides a level playing field. Such a level playing field shall allow many MSME companies to flourish in the Indian market. The Indian industry has sufficient capacity to cater to the growing demand in India. Since the imposition of duties, the demand has increased. This shows that the duties have reduced the dependency on imports and allowed the Indian industry to grow.
128. As per the information on record there is sufficient capacity in India to cater to domestic demand. This shows that the imposition of countervailing duties has allowed the country to add more capacity.
129. The fragmented nature and presence of multiple producers would also ensure *inter-se* competition between the domestic producers. As a result, the users would be assured of competitive prices in the domestic market, and easy availability of the subject goods. The applicants have also highlighted that the product can also be imported from other countries.
130. In view of the foregoing, the Authority concludes that continuation of duty would not have an adverse impact on the users as well as to the availability of the subject goods in the domestic market.

## **L. POST DISCLOSURE COMMENTS**

### **L1. Submissions by other interested parties**

131. TVL argues that the Customs Tariff Act, 1975 or the Countervailing Rules does not prohibit individual duty grants for low export volumes. The Authority has granted individual duty rates in past cases, such as in 2007 and 2008 for imports of DI Pipes and Ceftriaxone Sodium

Sterile despite having only two export transactions to India. The respondent requests the Authority to be consistent in granting individual duty rates.

132. In addition to the above submission TVL requests the Authority that if its request for individual duty rates gets rejected, it should be allowed to approach the Authority with a New Shipper Review.

## **L2. Submissions by domestic industry**

133. The NIP computed by the investigation team appears to be unduly low. The domestic industry under investigation is classified as MSME, therefore the producer's records may not match the standards of the organized sector in terms of quality and quantity. Therefore, their cost should not be normated and NIP should be calculated on their actual cost basis.

## **L3. Examination by the Authority**

134. Regarding TVL's concern about the individual duties assigned to exporters with only two transactions in the POI, the Authority notes that both the cases cited by TVL, the concerned parties had a history of exporting prior to the POI, and it was during the POI that they had only two transactions of exports to India. However, TVL's export volumes were low both during the POI and the year prior to it. This circumstance does not allow the Authority to be reasonably affirm that TVL's export prices are not manipulative. As mentioned earlier, the Authority tried to have a deeper scrutiny of the export price to assure itself that the export price of the limited exports from TVL truly reflects its price and has not been influenced by the prevailing anti-subsidy duties on imports from the subject country. In order to re-assure itself, the Authority has looked at TVL's exports to third countries. The purpose of this inquiry was to ascertain whether the export price of TVL to third countries was comparable to its export price to India and reach to a conclusion that the export price of TVL with such export volume was not 'coloured'. However, TVL's exports to third countries was also very low and hence the Authority rejected TVL's claim for the grant of an individual rate of duty.
135. Furthermore, in an original investigation, interested parties do not have access to data or information that would enable them to manipulate or influence export prices to their advantage. However, in a sunset review investigation, the duties imposed by the Authority in the original investigation are in public domain. This information could potentially enable new exporters to manipulate their prices. The circumstances of the investigations cited by TVL pertains to original investigations and that cannot be compared with the current investigation which is a sunset review. Had it been the original investigation, the low export volumes may not have needed such a deeper scrutiny to analyse the true reflection of prices but since this case is that of a sunset review where the impact of anti-subsidy duties on prices are already known to the stakeholders, therefore to say that the low export volumes should be considered and the exporter/producer should be granted an individual rate of duty under the straight jacket formula cannot be appreciated.

136. With respect to the contention raised by the domestic industry on non injurious price (NIP), the Authority notes that the non-injurious price of the product under consideration is calculated in accordance with the provisions of Annexure III of the Anti-dumping (AD) Rules 1995 which provides that the best utilization of raw materials, utilities and capacity utilisation by the constituents of the domestic industry, over the past three years period and the POI and at the POI rates may be considered to nullify injury if any, caused to the domestic industry by inefficient utilisation of raw materials, utilities and capacity utilisation. Further, the Authority notes that there is no provision in AD rules 1995 to exempt the methodology of determination of NIP for MSMEs sector.

## **M. CONCLUSION**

137. 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, and on the basis of above analysis of the likelihood of continuation or recurrence of subsidisation and injury to the domestic industry, the Authority concludes as follows:

- i. The product under consideration in the present investigation is Welded Stainless Steel Tubes and Pipes classified under Chapter 73 of the Customs Tariff Act, 1975 (51 of 1975) under the tariff codes 7306 40 00, 7306 61 00 and 7306 69 00. The domestic industry has submitted that the subject goods are also being imported under the HS Codes 7304 11 10, 7304 11 90, 7304 41 00, 7304 51 10, 7304 90 00, 7305 11 29, 7305 90 99, 7306 11 00, 7306 21 00, 7306 29 19, 7306 30 90, 7306 50 00, 7306 90 11, 7306 90 19 and 7306 90 90. The present investigation being a sunset review investigation, the scope of the product under consideration remains the same as that in the original investigation.
- ii. The Authority notes that the only Chinese producer which participated in the original investigation did not participate in the current review investigation. Similarly, few producers from Vietnam who participated in the original investigation also did not participate in the current investigation. Therefore, they are considered as non-cooperative in the present sunset review investigation. Analysis of import data however shows exports having been made by these exporters attracting specific duty. The Authority therefore in the absence of any cooperation from such participating producers/exporters in the original investigation proceeds to shift their duties from individual to residual category.
- iii. The product produced by the domestic industry is like article to the product imported from China and Vietnam.
- iv. The applicants constitute domestic industry within the meaning of Rule 2(b).
- v. The application contained all the information relevant for the purpose of initiation of the sunset review and the application contained sufficient *prima facie* evidence to justify initiation of the present sunset review. Further, the applicants provided all information considered relevant and necessary by the Authority for the purpose of the present investigation.
- vi. However, there is a likelihood of injury to the domestic industry in the event of cessation of present countervailing duty, as established by the following factors:

- a) There is a decline in demand of the subject goods however the decline in imports has not been in accordance with the decrease in demand. Further, imports from Vietnam increased in relation to domestic production and consumption.
- b) The volume of imports in India have declined from China. This decline in volume of imports is due to the anti-subsidy duty in force. Such limited imports were undercutting the prices of the domestic industry and were priced below the cost of sales of the domestic industry. The domestic industry has not suffered any injury due to such imports as the volume was insignificant but in the event of cessation of the current duties, these low priced imports have a high chance to flood the domestic market with huge quantities injuring the domestic industry.
- c) The volume of imports from Vietnam increased substantially in POI as compared to 2020-21. The landed price of Vietnam for 300 series is below the selling price of the domestic industry. The domestic industry is forced to compromise on margins due to the low-priced imports from Vietnam.
- d) Production, capacity, sales volume and market share in demand of the domestic industry showed positive growth over the injury period due to anti subsidy duty in place. However, capacity utilisation, return on investment, cash profit and PBIT decreased in POI demonstrating need for continuation of countervailing duty.
- e) In case of cessation of anti-subsidy duty, the domestic industry is likely to incur financial losses.
- f) Chinese producers have excess capacities for the product under consideration. The demand for stainless steel has declined in China PR. The additional capacities of the Chinese producers are likely to be used for exporting the subject goods to India once the duties ceased to exist.
- g) Producers in the subject countries are facing trade remedial measures in Türkiye, Eurasian Economic Union, USA and Brazil and have lost export volumes to these countries. Therefore, these producers are likely to shift their exports to Indian market in case of cessation of anti-subsidy duty.
- h) Imports are entering at prices below the selling price of the domestic industry. In case of cessation of anti-subsidy duty, the import price is likely to be lower and there is all the probability that in absence of the current duties, the export volumes will rise with such low priced imports creating a likelihood of injury to the domestic industry.

## **N. RECOMMENDATIONS**

138. The Authority notes that the investigation was initiated and notified to all the interested parties including Government of China PR and Government of Vietnam and adequate opportunity was given to them to provide information on the aspect of subsidies, injury, causal link, likelihood of continuation/recurrence of subsidisation and injury and impact of recommended measures. Having initiated and conducted the investigation in terms of provisions of sunset review investigation as laid down under the Countervailing Duty Rules, the Authority has reached a conclusion that the duty imposed on subject goods is required to be extended further, the Authority recommends extension of countervailing duties on imports of the product under consideration.

139. Accordingly, the Authority recommends continued imposition of definitive anti-subsidy duties on the import of the subject goods, originating in or exported from China PR and Vietnam as indicated in Col 7 of the duty table below, for a period of five years from the date of notification to be issued in this regard by the Central Government.


**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)	(2)	(3)	(4)	(5)	(6)	(7)
1	73064000, 73066100, 73066900, 7304 11 10, 7304 11 90, 7304 41 00, 7304 51 10, 7304 90 00, 7305 11 29, 7305 90 99, 7306 11 00, 7306 21 00, 7306 29 19, 7306 30 90, 7306 50 00, 7306 90 11, 7306 90 19 and 7306 90 90#	Welded stainless steel pipes and tubes	Any country other than China PR	China PR	Any Producer	29.88
2	-do-	-do-	China PR	Any country including China PR	Any Producer	29.88
3	-do-	-do-	Vietnam	Any country including Vietnam	Sonha SSP Vietnam Sole Member Company Limited	NIL
4	-do-	-do-	Vietnam	Any country including Vietnam	Steel 568 Co., Ltd	NIL

5	-do-	-do-	Vietnam	Any country including Vietnam	Gia Anh Hung Yen Co., Ltd.	11.96
6	-do-	-do-	Vietnam	Any country including Vietnam	Any producer other than 2 to 4 above	11.96
7	-do-	-do-	Any country other than Vietnam	Vietnam	Any producer	11.96

*#The customs classification is indicative only and not binding on the scope of the product under consideration.*

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

  
**(Anant Swarup)**  
**Designated Authority**