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F. No. 07/07/2024 - DGTR

Government of India

Ministry of Commerce & Industry

Department of Commerce

Directorate General of Trade Remedies

4th Floor, Jeevan Tara Building,

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Date: 04 April 2025

FINAL FINDINGS

Case No –CVD (SSR)- 01/2024

Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the ‘Act’), and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, as amended from time to time, (hereinafter referred to as the ‘Rules’ or the ‘CVD Rules’) thereof.

A. BACKGROUND OF THE CASE

1. Indian Primary Copper Producers’ Association (hereinafter referred to as ‘IPCPA’), filed an application before the Designated Authority (hereinafter referred to as the ‘Authority’) on behalf of the domestic industry for initiation of a sunset review for continuation and enhancement of the countervailing duties imposed on imports of ‘Continuous Cast Copper Wire Rods’ (hereinafter referred to as the ‘product under consideration’ or ‘PUC’) from Indonesia, Malaysia, Thailand and Vietnam (hereinafter referred to as the ‘subject countries’), with imports of the product under consideration from the subject countries referred to as ‘subject goods’. Hindalco Industries Limited and Vedanta Limited have provided the costing data and are herein after referred to as ‘domestic industry’.
2. The original anti-subsidy investigation into imports of the subject goods was initiated vide Notification No. 06/17/2018-DGAD dated 10th September 2018. Following a detailed investigation, the Authority concluded that (i) the governments of the subject countries were providing various subsidies to the producers of subject goods; (ii) the subsidies were countervailable in nature under CVD Rules; and (iii) imports of the subsidised subject goods were causing injury to the domestic industry. Therefore, the Authority recommended imposition of countervailing duties on the imports of subject goods vide Notification No. 06/17/2018 dated 5 November 2019. Definitive measures were imposed by the Ministry of Finance vide Notification No. 1 /2020-Customs (CVD) dated 8 January 2020. The countervailing duties were imposed for a period of 5 years. Vide notification No. 06/2024 dated 4th October, 2024, the Ministry of Finance extended the measures till 7th July, 2025.

3. In terms of Section 9(6) of the Customs Tariff Act, 1975 and Rule 24(3) of the Customs Tariff Rules, 1995 countervailing duties imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of countervailing duties is likely to lead to continuation or recurrence of subsidized imports.
4. The applicant filed an application on behalf of the domestic industry, in accordance with the Act and the Rules, requesting a sunset review of the countervailing duties on imports of Continuous Cast Copper Wire Rod originating in and exported from Indonesia, Malaysia, Thailand and Vietnam. The applicant has sought continuation of the countervailing duties levied on imports of the subject goods on the grounds that expiry of the duties is likely to result in continuation of subsidised subject imports and consequent injury to the domestic industry. Further, the applicant has sought enhancement of duties.
5. The Authority examined the application filed on behalf of the domestic industry and found *prima facie* evidence of likelihood of continuation/recurrence of subsidization and consequent injury to the domestic industry. Consequently, in accordance with the Rules, the Authority initiated the subject investigation vide Notification No. 07/07/2024-DGTR, dated 29 June 2024, published in the Gazette of India (Extraordinary), to review the need for continued imposition and enhancement of the countervailing duties in respect of the subject goods, and to examine whether the expiry of the said duties is likely to lead to continuation of subsidisation and injury to the domestic industry.
6. The scope of the present review covers all aspects of the final findings issued in the original investigation vide Notification No. 06/17/2018-DGAD dated 5 November 2019.

B. PROCEDURE

7. The procedure followed by the Authority in conducting the present review is as follows:
 - a. In accordance with Rule 6A of the Rules, prior to initiation of the investigation, the Authority notified the governments of the subject countries, that is, the Government of Indonesia, the Government of Malaysia, the Government of Thailand and the Government of Vietnam, of the receipt of the application for initiation of the sunset review and matters therein.
 - b. In accordance with Article 13 of the WTO Agreement on Subsidies and Countervailing Measures ('ASCM'), the Authority invited the government of each subject country for consultations in order to provide them an opportunity for clarifying the situation as to the matters referred to in the application.
 - c. Consultation meetings were held on 13 June 2024 with the representatives of the Government of Indonesia and of the Government of Malaysia, on 14 June 2024 with the representatives of the Government of Thailand. The Government of Vietnam did not participate in pre-initiation consultation. A mutually agreed solution could not be arrived at during the consultations.

- d. Therefore, in accordance with Rule 7(1) of the Rules, the Authority, vide Notification No. 07/07/2024 dated 29 June 2024 published in the Gazette of India (Extraordinary), initiated the present sunset review of the countervailing duties on the imports of ‘Continuous Cast Copper Wire Rod’ from Indonesia, Malaysia, Thailand and Vietnam (‘Initiation Notification’).
- e. The period of investigation (POI) of the present sunset review is January 2023 – December 2023 (12 months). The injury period will cover the periods 2020-21, 2021-22, 2022-23 and the period of investigation.
- f. In accordance with Rules 7(2) of the Rules, the Authority informed interested parties of the initiation of the investigation by sharing a copy of the Initiation Notification with the embassies of the subject countries in India, known producers and exporters of the PUC in the subject countries, known importers of the subject goods in India and other interested parties.
- g. In accordance with Rule 7(3) of the Rules, the Authority provided a copy of the non-confidential version of the application to the governments of the subject countries through their embassies in India and to other interested parties who requested in writing for a copy of the application. The Authority also made available a copy of the application on its website.
- h. In accordance with Rule 7(4) of the Rules, the Authority issued questionnaires to seek information regarding various schemes and programmes under which countervailable benefits may have been received by producers of the subject goods.
- i. The Authority sent questionnaires to the governments of the subject countries through their embassies in India. The governments of the subject countries were requested to forward the Initiation Notification and the questionnaires to the producers of the subject goods in their respective countries and advise them to respond to the questionnaire within the prescribed time limit.
- j. The Authority received questionnaire responses and other legal submissions from the following governments:
 - i. Government of Indonesia
 - ii. Government of Malaysia
 - iii. Royal Thai Government
- k. The Authority sent copies of the Initiation Notification and the questionnaire to the following known producers and exporters:

SN	County	Name of producer and exporters of the product under consideration in the subject countries.
1	Indonesia	PT Snolictian Technolca
2	Indonesia	PT Karya Sumiden
3	Malaysia	Alpha Industries
4	Malaysia	Metrod Sdn. Bhd.
5	Malaysia	Mettube Sdn. Bhd.
6	Malaysia	PM Copper Wire & Cable Sdn. Bhd.

7	Malaysia	Luvata Malasia Sdn. Bhd.
8	Thailand	Cosco Yu Metal. Ltd
9	Thailand	Siam Pacific Electric Wire & Cableco,
10	Thailand	Sei Thai Electric Conductor Co. Ltd.
11	Vietnam	Muon Anh Trading Company Limited
12	Vietnam	SNC Vietnam JSC,
13	Vietnam	SNC Joint Stock Co.,
14	Vietnam	Dong Viet Non Ferrous Metal Joint Stock Company,
15	Vietnam	Ngohan Joint Stock Company

1. The following producers/exporters from the subject countries filed a response to the exporters' questionnaire:

SN	County	Name of producer and exporters of the product under consideration in the subject countries.
1	Indonesia	PT Karya Sumiden
2	Indonesia	PT Tembaga Mulia Semanan
3	Malaysia	Metrod Malaysia Sdn Bhd and its affiliates Metrod Copper Products Sdn Bhd, Metrod (OFHC) Sdn Bhd, Panasonic Procurement Malaysia Sdn Bhd
4	Thailand	SEI Thai Electric Company

- m. In accordance with Rule 6(4) of the Rules, the Authority sent the Initiation Notification and copies of the importers' questionnaire to the following known importers/ users of the subject goods in India calling for necessary information:

SN	Name of importers and users of the product under consideration in the subject countries.
1	Polycab Wire
2	Trafigura India Pvt Ltd
3	Precision Wires India Limited
4	Havells India Pvt. Ltd.
5	ASTA India Private Limited
6	Crompton Greaves Consumer
7	Motherson Group
8	KEC International Limited
9	Duplex Wire
10	Apar Industries Limited
11	G.K. Winding Wires Limited
12	Great White Global Pvt. Ltd.
13	Savli Copper Products Private Limited
14	Anchor Electricals Pvt. Ltd

- n. The following importers/users of the subject goods in India filed a response to the importers' questionnaire:
 - i. Savli Copper Products Private Limited
- o. The Authority issued an Economic Interest Questionnaire (EIQ) to assess public interest and impact of the duties on the wider economy. A copy of the EIQ was sent to the embassy of each subject country, all the known exporters, importers and users and the domestic industry. The EIQ was also shared with the administrative line ministry. A response to the EIQ has been filed by the Royal Thai Government, SEI Thai Electric Company and the domestic industry.
- p. A request was made to the Directorate General for Systems and Data Management ('DG Systems') for transaction-wise import data of the subject goods for the injury period. The Authority received the data and has relied upon this data for the necessary analysis after due examination of the transactions.
- q. In view of the comments filed by the interested parties on the product scope and the PCN methodology, the Authority held a meeting on 5 August 2024 with the interested parties to discuss the issues raised. Pursuant to the discussions held with the interested parties and the submissions filed, the Authority notified the final product scope and PCN methodology for these proceedings vide Notification No 07/07/2024 dated 28 August 2024. The notification was published on the website of the DGTR.
- r. A list of all interested parties that registered themselves within the prescribed timeline was uploaded to the website of the Authority on 23 October 2024. All registered interested parties were directed to circulate the non-confidential version of all their submissions in the present proceedings with all other interested parties.
- s. In accordance with Rule 7(6), the Authority provided an opportunity to the interested parties to present their views orally in a hearing held on 16 January 2025. The parties presenting their views in the oral hearing were directed to make written submissions of the views expressed orally, followed by rejoinder submissions.
- t. The Authority circulated the disclosure statement containing all essential facts under consideration for making the final recommendations to the Central Government to all interested parties on 23 March 2025. The Authority has examined all the post-disclosure comments made by the interested parties in these final findings to the extent deemed relevant. Any submission which was merely a reproduction of the previous submission and which had been adequately examined by the Authority has not been repeated for the sake of brevity.
- u. In accordance with Rule 7(8), wherever an interested party has refused access to or has otherwise not provided necessary information in a timely manner during the course of the present proceedings, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- v. In accordance with Rule 8, information provided by the interested parties on confidential basis was examined by the Authority with regard to the sufficiency of the confidentiality claimed. On being satisfied, the Authority has accepted the

confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

- w. In accordance with Rule 9, the Authority conducted verification of the data provided by the domestic industry and other interested parties to the extent considered necessary for the present proceedings. The Authority has considered the verified data of the interested parties for its analysis in the present case.
- x. The Authority calculated the non-injurious price (NIP) for the product under consideration so as to ascertain whether countervailing duties lower than the subsidy margin would be sufficient to remedy the injury being suffered by the domestic industry. The NIP has been calculated based on the optimum cost of production and cost to produce & sell the domestic like article in India, based on the information furnished by the domestic industry and having regard to the Generally Accepted Accounting Principles (GAAP).
- y. The Authority examined the issues raised, information provided, and submissions made by the interested parties during the course of the proceedings, to the extent they were supported by evidence and considered relevant to the present purposes, in making the final findings.
- z. *** represents information furnished by a party on confidential basis and so considered by the Authority under the Rules.
- aa. The exchange rate adopted by the Authority for the subject investigation is 1 USD = ₹ 83.52.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

8. The initiation notification defined the product under consideration as follows:

"7(a) The product under consideration in the present investigation is "Continuous Cast Copper Wire falling under tariff heading 7408 of the Customs Tariff". The product under consideration includes Copper Wire of which the maximum cross-sectional dimension exceeds 6 mm as well 6 mm and below. As per Chapter note (I) to Chapter 74, Wire means "Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width". The following are excluded from the scope of the PUC:

- i. Rods made of copper-zinc base alloys (brass) or bronze (and similar alloys);*
- ii. Copper weld wires;*
- iii. Wires made of copper- zinc based alloys (brass) or copper- nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver) or bronze (and similar alloys);*
- iv. Silver plated copper wires;*
- v. Tinsel wires;*
- vi. Enameled copper wires;*
- vii. Metal coated copper wires;*
- viii. Insulated copper wires cables.*

C.1 Views of the other interested parties

9. The submissions made by other interested parties regarding the product under consideration and like article are as follows:
 - i. In industry parlance, copper wire with a diameter exceeding 6mm is referred to as 'copper wire rod' or 'copper rod'; copper wire with a diameter of 6mm or below is referred to as 'copper wire'.
 - ii. Copper wire >6mm and copper wire ≤6mm are dissimilar articles and are not substitutable. While copper wires >6mm are used for production of copper wire ≤6mm, copper wires ≤6mm are used for production of end-use wires.
 - iii. Section 9 of the Customs Tariff Act provides for imposition of countervailing duties on subsidised articles being imported into India. As there are almost no imports of copper wire >6mm into India from the subject countries, it should be excluded from the product scope.
 - iv. Copper wire >6mm is produced by continuous casting and rolling of a copper cathode. Thereafter, copper wire >6mm is drawn and annealed to produce copper wire ≤6mm. Copper wires >6mm are the upstream raw material or the intermediate good, whereas copper wires ≤6mm are the further processed form.
 - v. The product scope specifically covers products manufactured through the 'continuous casting' process. However, only copper wires >6mm are produced using the continuous cast process. Copper wires ≤6mm are produced by drawing and annealing of copper wires >6mm.
 - vi. Drawing of wires is neither a part of nor an extension of the casting process. As a consequence of this difference in production process, the two goods pertain to two different industries altogether.
 - vii. Drawing and annealing of copper wires ≤6mm from copper wires >6mm requires significant investment in land and machinery. Setting up a facility to draw copper wires ≤6mm would require investment in machinery of about INR 10 Cr/10,000 MT. Investments in land and building would be over and above this investment in machinery.
 - viii. Hindalco Industries Limited has an estimated production capacity of 5,50,000 MT for copper wire >6mm and only 25,000 MT for copper wire ≤6mm. For setting up an equivalent production capacity of 5,50,000 MT for copper wire ≤6mm, investment of about INR 550 Cr would be required for machinery alone.

- ix. For drawing 5,50,000 MT of copper wire, at least 55 drawing machines would have to be set up, which would require very significant land holdings, translating into significant additional costs.
- x. The total production of copper wire in India is about 9,00,000 MT and the total investment for setting up these capacities in India is about INR 900 Cr.
- xi. In the discussion on product scope ('Scope Meeting'), the applicants relied on the findings of the Authority in the *Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products from China*. However, such reliance is misplaced. In the said case, one of the most relevant factors that had weighed in the Authority's mind for inclusion of both hot rolled and cold rolled products was that both domestic industry and foreign producers "tend to produce both hot rolled and cold rolled products and offer them in a wide range of shape, size, and metallurgical composition to suit specific end consumer requirements". In the present facts, however, there is no Indian producer (other than Hindalco) which has capacity to produce both copper wire rods and copper wire. Thus, there is practically no overlap between the copper wire >6mm and copper wire ≤6mm industry.
- xii. While hot rolled steel products have several diverse usages (other than production of cold rolled products), copper rods are only used by the wire drawing industry for producing "copper wire".
- xiii. Reliance by the applicant on previous findings to justify inclusion of both copper wire >6mm and copper wire ≤6mm is misplaced. In all previous findings cited by the applicant, the Authority had clearly defined the product scope to include both the intermediate and the further processed form at the stage of initiation. In contrast to the same, in the present case, the Authority in the initiation notification of the original investigation identified the scope as "Continuous Cast Copper Wire Rods" classifiable under custom sub headings 7407.1010, 7407.1020, 7408.1190, 7408.1920, 7408.1990, 7409.11, 7409.19. There was no reference to inclusions such as "copper wires whether casted or drawn" or "copper wires drawn from continuous cast copper wire rods".
- xiv. Oxygen-Free Copper (OFC) wire, whether >6mm or ≤6mm, is a superior kind of copper wire made with advanced technology. The domestic industry does not produce OFC wire and therefore it should be excluded from the product scope.
- xv. OFC wires should be made a separate PCN as there is a cost difference of 10-20%, excluding the LME price, between OFC and ETP wires.

C.2 Views of the applicant

10. The submissions made by the applicant with regard to the product under consideration and like article are as follows:
 - i. In industry parlance, copper wire with a diameter exceeding 6mm is referred to as 'copper wire rod' or 'copper rod'; copper wire with a diameter of 6mm or below is referred to as 'copper wire'.
 - ii. The issue of product scope is already well-settled, having been examined twice by the Authority. The Authority conducted detailed examination of the issue in the

- original investigation and concluded that copper wire $>6\text{mm}$ and copper wire $\leq 6\text{mm}$ constitute a single product.
- iii. The issue was agitated again in the present sunset review at the product scope stage. The Authority considered afresh the arguments raised by interested parties and affirmed its conclusion that copper wire $>6\text{mm}$ and copper wire $\leq 6\text{mm}$ constitute a single product. The notification explicitly stated that it was *'the final notification regarding the PUC/PCN. No further requests for modifications or comments will be entertained by the Authority.'*
 - iv. The product scope covers both of the above kinds of wires, that is, those with a diameter exceeding 6mm and those with a diameter of 6mm and below.
 - v. 'Wire rods' classifiable under Chapter 7408 may be distinguished from 'rods' classifiable under Chapter 7407 based on their physical form; while 'wire rods' classified under 7408 are in coil form, 'rods' classifiable under Chapter 7407 are in bar form. Copper rod in any form other than coils are imported under 7407 and are outside the scope of the product under consideration.
 - vi. Subject wire $\leq 6\text{mm}$ is typically in the range of 1.3-6mm. Wire $>6\text{mm}$ and wire $\leq 6\text{mm}$ are directly competing articles. Both wire $>6\text{mm}$ and wire $\leq 6\text{mm}$ compete in the same market, with the same customers and the same end-use. Both wire $>6\text{mm}$ and wire $\leq 6\text{mm}$ serve as an input for production of end-use wires, which involves further drawing to a diameter of 0.5-0.75mm.
 - vii. Wires $>6\text{mm}$ are produced by continuous casting of cathodes, which is the stage involving major value addition. Wires $\leq 6\text{mm}$ are produced by drawing of wires $>6\text{mm}$, which is a mere incremental step and is technically uncomplicated and entails minimal value addition.
 - viii. The continuous casting process, through which copper cathode is cast into copper wire $>6\text{mm}$, accounts for the major investment and costs. Further, the cast product is only an intermediate and semi-finished product. It is processed further into finished product. The Authority has also categorically noted in the original investigation that 'different cross-sectional dimensions of Continuous Cast Copper Wire do not result in different products.'
 - ix. Casting of wires $>6\text{mm}$ from cathodes requires an investment of about INR 10,000/MT. In contrast, drawing of wires $>6\text{mm}$ to $\leq 6\text{mm}$ requires an investment of only INR 1,000/MT. Drawing wires $>6\text{mm}$ to $\leq 6\text{mm}$ entails a value addition of merely 10%.
 - x. It has been the consistent practice of the Authority to consider the intermediate form and the further processed form of a good as a single product. An illustrative list of 22 cases is relied upon, where the intermediate form and the further processed form were said to constitute a single product. This includes, among others, *Glusfosinate and its Salts from China PR* and *Thiram in any form from European Union*, where both technical grade (intermediate) and formulations (further processed form) have been included in the product scope, and *Hot Rolled and Cold Rolled Flat Products of Stainless Steel from China* ('HR-CR Steel'), where both hot rolled steel (precursor) and cold rolled steel (further processed form) were included in the product scope.

- xi. Inclusion of finished product and intermediate product is consistent with the practice of investigating authorities globally. An illustrative list of 11 cases is relied upon, where the intermediate form and the further processed form were said to constitute a single product. This includes, among others, US ITC – *2,4-D from India and China*, where 2,4-D acid (precursor) as well as 2,4-D esters and salts (further processed forms) were included in the product scope, and China – *Phthalocyanine Pigments from India*, where both crude and finished forms of the pigment were included in the product scope.
- xii. As regards the submission on the investigation pertaining to imports of *HR-CR Steel*, the Authority had considered that the major proportion of the expenses is incurred up to the stage of melting, and that the expenses involved in rolling, whether hot or cold, are not significant. Therefore, the effect of subsidisation would come at the basic stage of hot rolling. The Authority further held that hot and cold rolled steel differ only in terms of shape, size, rolling conditions etc. The two are not fundamentally different products. In furtherance of this, the Authority observed that domestic and foreign producers tend to produce both hot and cold rolled steel. Therefore, the Authority's observation was made in the context that hot and cold rolled steel are not fundamentally different. The Authority's underlying intent was that the two products are not unlike as producers tend to manufacture both. In other words, if a producer is making hot rolled steel, producing or setting up production facilities for cold rolled steel did not appear to be a significant step.
- xiii. Contrary to the submission of the respondents, the major producer of the product in India, Hindalco Industries Limited, is engaged in the production and sale of both copper wire >6mm and copper wire ≤6mm. Both Metrod and SEI Thailand are also producing both copper wire >6mm and copper wire ≤6mm. Metrod has identified copper cathode as input and wire below 6mm as the output. It has shown production process wherein it has shown production of both wires above and below 6mm. The only reason they have not exported wire >6mm is because imports of wire >6mm attract 5% basic customs duty whereas the imports of copper wire ≤6mm are subject to nil duty.
- xiv. The production processes for wire >6mm and wire ≤6mm are not different. Further, just because wire of >6mm is drawn and annealed further to make wire of ≤6mm, this does not mean that wire of ≤6mm is no longer a continuous cast product. There is no difference in the goods produced by the domestic industry and the subject goods exported from the subject countries.
- xv. The goods produced by the domestic industry are like article to the goods being exported by the producers in the subject country.
- xvi. Customers of Hindalco Industries Limited are buying both copper wire and copper rod from the subject countries.
- xvii. Wire below 6mm purchased from either Hindalco or from foreign producers and wire above 6mm purchased from either Hindalco or Vedanta or from foreign producers is drawn further and coated/processed by the consumers and thereafter sold as eventual finished products.

C.3 Examination of the Authority

11. The Authority notes that the instant proceedings are a sunset review. In the original investigation, the Authority defined the scope of the product under consideration as follows:

"7(a) The product under consideration in the present investigation is "Continuous Cast Copper Wire falling under tariff heading 7408 of the Customs Tariff". The product under consideration includes Copper Wire of which the maximum cross-sectional dimension exceeds 6 mm as well 6 mm and below. As per Chapter note (I) to Chapter 7 4, Wire means "Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width". The following are excluded from the scope of the PUC:

- i. Rods made of copper-zinc base alloys (brass) or bronze (and similar alloys);*
- ii. Copper weld wires;*
- iii. Wires made of copper- zinc based alloys (brass) or copper- nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver) or bronze (and similar alloys);*
- iv. Silver plated copper wires;*
- v. Tinsel wires;*
- vi. Enameled copper wires;*
- vii. Metal coated copper wires;*
- viii. Insulated copper wires cables.*

12. Pursuant to the discussions held with other interested parties on 5 August 2024 on product scope ('Scope Meeting') and submissions filed, the Authority, in the product scope notice dated 28 August 2024, uploaded on the website of the DGTR, held as follows:

2. The Directorate had received comments on the scope of PUC/PCN methodology and therefore, the Authority held a meeting on 05.08.2024 inviting the concerned parties along with the domestic industry to discuss the issues related to the scope of PUC/PCN methodology. The submissions of the parties are summarized as under:

- i. Exclusion of copper wires having cross-sectional dimensional below 6mm from the scope of PUC due to limited capability of the domestic industry to produce the same.*

ii. *Exclusion of Oxygen Free Copper (OFC) based copper wires/rod as the domestic industry is not producing OFC wires and price/cost difference in the OFC and non-OFC wires/wire rods.*

iii. *Clarity on the scope of PUC*

3. *After due examination of the submissions made by the parties, relying on the final finding F.No.6/17/2018-DGAD dated 05.11.2019 in the original investigation and considering the facts and circumstances of the present sunset review investigation, the Authority observes that all the issues related to the scope of PUC have already been dealt in the said findings. The PUC as confirmed in Para 556 (examination by the Authority on post-disclosure comments) of the findings is reproduced as under: “Upon examination of the claims made by the interested parties and the import data obtained from DGCI&S, the Authority determined that the product under consideration in the present investigation is “Continuous Cast Copper Wire” falling under tariff heading 7408 of the Customs Tariff. The product under consideration includes Copper Wire of which the maximum cross-sectional dimension exceeds 6 mm as well as 6 mm and below.”*

4. *Regarding the exclusion of OFC-based copper wires, the Authority holds the view that the domestic industry is indeed producing OFC-based copper wires. Additionally, given that the price difference between OFC copper wires and Electrolytic Tough Pitch (ETP) copper wires is negligible, the Authority deems that a separate Product Control Number (PCN) for OFC/ETP-based copper wires is not necessary.*

5. *In view of above, the Authority has decided the PUC and its scope remains same as stated in the initiation notification and PCN methodology adopted in the present investigation is mentioned in the table below*

<i>Product</i>	<i>PCN</i>
<i>copper wire of which the maximum cross-sectional dimension exceeds 6 mm</i>	<i>CWR</i>
<i>copper wire with cross-sectional dimension of 6 mm and below</i>	<i>CW</i>

13. The Authority notes that it is uncontested amongst the parties that copper wire >6mm is, in industry parlance, referred to as ‘copper rod’ or ‘copper wire rod’. An analysis of the transaction-wise data also shows that a large number of transactions carry this description. It is also uncontested that copper wire ≤6mm is, in industry parlance, referred to as ‘copper wire’. However, for the sake of complete clarity, the Authority is referring to them as ‘copper wire/wire with a diameter exceeding 6mm (>6mm)’ and ‘copper wire/wire with a diameter of 6mm or below (≤6mm)’.
14. The Authority notes that it is undisputed amongst the interested parties that copper wire >6mm is produced by casting and rolling of copper cathode, and copper wire ≤6mm is produced by drawing and annealing of copper wire >6mm. Further the interested parties

do not disagree that the stage of production of copper wire from copper cathode is significantly more capital and technologically intensive vis-à-vis production of copper wire < 6mm through drawing process.

15. The Authority notes that both are used for the production of end-use wires. The information on record shows that the producers of end-use wires purchase either wire >6mm or wire ≤6mm and draw it further (typically to dimensions of <1mm) to produce end-use wire. These may be further processed to produce enamelled or insulated copper wires. A producer of end-use wires may use either wire >6mm or wire ≤6mm as input. Therefore, the Authority considers that copper wire >6mm and copper wire ≤6mm are comparable in technical characteristics and uses.
16. The Authority notes that the customers are the same for both types of wires. Both types of wires are used as input by the downstream industry, and both are drawn further to achieve wires of required dimensions. As both wire >6mm and wire ≤6mm are purchased by the same kind of customers, subject to the same processes (further drawing) and put to the same end use, the Authority considers that the goods produced by the domestic industry compete directly with the subject imports.
17. Authority holds that copper wire >6mm as well as copper wire ≤6mm were both clearly included in the product scope from the time of initiation of the original investigation.
18. Interested parties opposing duties have sought to distinguish facts of *HR-CR Steel* from the facts of the present case. They have argued that there is ‘practically no overlap’ between Indian producers of copper wire >6mm and copper wire ≤6mm, as out of the three producers of copper wire >6mm in India, only Hindalco manufactures both wire >6mm and wire ≤6mm. Interested parties have further argued that the applicant companies produce only about *** MT of copper wire ≤6mm when the total production of wire ≤6mm in India is estimated at 9,00,000 MT.
19. An examination of *HR-CR Steel* shows that the relevant factor for consideration is whether producers tend to be engaged in production of both forms of products, not the relative quantity of production of each form. The Authority notes that all the participating producers from the subject countries as well as one of the two applicant companies, are engaged in the production of both wire >6mm and wire ≤6mm. Therefore, the Authority notes that there is a clear overlap between the two industries. Further, as the interested parties opposing duties state, while hot rolled steel products have several diverse usages (other than the production of cold rolled products), copper wires >6mm are used only for drawing copper wires ≤6mm. This fact underscores the interconnected nature of the casting and drawing industries and further supports the inclusion of both forms within the product scope. The Authority considers that the mere fact that copper wire >6mm is processed further into copper wire ≤6mm before the eventual end use of the product does not preclude the inclusion of both in one product scope.

20. The Authority considers that both wires $>6\text{mm}$ and wires $\leq 6\text{mm}$ are directly competing, and therefore an effective remedy requires inclusion of both in the product scope. It is also noted that interested parties have brought no new facts or legal position that justifies reversal of the determination made earlier by the Authority in this regard. The Authority notes that the issue of product scope has already been considered at length previously at the time of the original investigation.
21. The Authority notes that when more than one form or grade of a product is included in the product scope, the law does not require that every such grade or form be imported during the POI to justify its inclusion in the product scope. In *Huawei v DA* (2016), CESTAT held:
- “There may be many types/sizes/ dimensions, which may be manufactured in China and not exported to India. As long as such types form part of PUC are in commercial competition with like article and can cause injury to the domestic producer they can be covered by the scope of levy.”*
22. Similarly, in *Glufosinate and its Salt from China PR* (2025), the Authority included both the technical grade and the formulation grade in the product scope. The inclusion was despite the fact that there were no imports of the formulation grade during the period of investigation. The Authority considered that imports of the technical grade had an adverse impact on both technical and formulation produced and sold by the domestic industry, thus establishing that the two forms constituted one article.
23. Therefore, the Authority is of the view that the mere fact that copper wire $>6\text{mm}$ has been imported in very low volumes during the period of investigation does not warrant its exclusion from the product scope.
24. The interested parties have requested for exclusion of Oxygen Free Copper (OFC) wires (whether $>6\text{mm}$ or $\leq 6\text{mm}$) on the ground that the domestic industry is not producing OFC wires. The domestic industry has provided copies of sales invoices of Oxygen Free Copper wire sold by them. Therefore, the submission of the interested parties that the domestic industry is not producing them cannot be accepted.
25. In view of the foregoing, on the issue of product scope, the Authority concludes as follows:
- i) The scope of the product under consideration, as determined in the original investigation, does not warrant revision. The product under consideration includes copper wire $>6\text{mm}$ as well as copper wire $\leq 6\text{mm}$.
 - ii) The goods produced by the domestic industry are like article to the imported products under consideration.

26. Regarding the designation of separate PCNs for OFC and ETP wires, the Authority examined the price quotes of Hindalco Industries Limited. The Authority notes that Hindalco has offered the same price for ETP and OFC products.
27. The Authority holds that PCN methodology, as notified on 28 August 2024, designating two PCNs, i.e., copper wire >6mm (CWR) and copper wire ≤6mm (CW), is appropriate and allows for a fair comparison of pricing and injury. Accordingly, following PCNs have been adopted for the purpose of the determination:

Product	PCN
Copper wire of which the maximum cross-sectional dimension exceeds 6 mm	CWR
Copper wire with cross-sectional dimension of 6 mm and below	CW

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1 Views of other interested parties

28. The other interested parties have made the following submissions regarding the scope of the domestic industry and standing.
- i. Rule 24(3) requires that an application for a sunset review must be made by or on behalf of the domestic industry.
 - ii. Rule 2(b) defines domestic industry to be such producers whose collective output accounts for the major proportion of the total production of the domestic like article.
 - iii. Rule 2(ca) defines like article as an article identical or alike in all respects to the article under investigation. However, this provision was added to the rules with effect from 2 February 2020, that is, after the original investigation. Therefore, the issue of standing and domestic industry requires re-examination in light of the new regulatory definition.
 - iv. As there are negligible imports of copper wire >6mm from the subject countries, the interested parties have sought the exclusion of copper wire >6mm from the product scope. As a consequence, the product scope gets limited to copper wire ≤6mm. Therefore, standing of the applicants must be assessed for copper wire ≤6mm.
 - v. Of the applicants, Hindalco has an estimated production capacity of *** MT for copper wire ≤6mm, while Vedanta does not produce copper wire ≤6mm at all. Therefore, the applicant companies have a total production capacity of *** MT for copper wire ≤6mm, against total Indian production of 9,00,000 MT.
 - vi. The applicant companies do not constitute a *major proportion* of the total Indian production of wire ≤6mm. As the major proportion test is required to be carried out at the stage of initiation, the initiation of the present sunset review is void *ab initio*.
 - vii. The Initiation Notification identifies only four producers of the like article in India, namely, Hindalco, Vedanta, Kutch Copper Limited and Hindustan Copper Limited.

- viii. The applicant deliberately omitted other producers of copper wire ≤ 6 mm, such as Polycab India Ltd, RR Kabel Ltd, Havells India Ltd etc in calculation of standing. The interested parties provided a list of 14 such producers.
- ix. There is no evidence on record disqualifying these producers from being considered as part of the total eligible Indian production. The burden was on the applicant to prove that they satisfy the test of major proportion.
- x. In the original investigation, the production of these entities was not taken into consideration as they were either i) importing copper wire > 6 mm, in which case they were deemed ineligible for importing PUC, or ii) they were purchasing copper wire > 6 mm from the applicants and then drawing it further, in which case taking their production into account would have led to double counting. However, in the present sunset review, if the product scope is corrected to exclude copper wire > 6 mm, neither of the above disqualifications would apply.
- xi. During the course of oral hearing the applicants accepted that Vedanta Limited's related party has exported the subject goods to India. However, the information regarding the quantum as well as value was deliberately withheld by the applicants in their application on the ground that such imports were from a non-subject country. Since despite these imports, Vedanta has been considered as part of the domestic industry, therefore, there is no reason to not accord similar treatment to other copper wire manufacturers.
- xii. Production of those producers importing wire > 6 mm from non-subject countries must be taken into account for computation of total eligible production unless the Authority had concluded at the stage of initiation that by reason of such imports, such other domestic producers have become ineligible to be treated as domestic producers.

D.2 Views of the applicant

29. The submissions made by the applicant during the course of the investigation with regard to the scope of domestic industry and standing are as follows:
 - i. As with product scope, the issue of standing of the applicant companies was heavily disputed during the original investigation and was settled by the Authority. Absent any new factual or legal submissions in the present sunset review, the Authority should hold that the issue is not open for redetermination.
 - ii. In cases where the upstream and further processed form are both included in the product scope, standing must be determined at the stage representing the major value addition. An illustrative list of 11 such cases is relied upon, including *Glufosinate and its Salt from China PR*, *HR-CR Steel from China PR*, *Ofloxacin and its Intermediates from China PR* among others.
 - iii. In the original investigation, the Authority held that there were only three producers of the like article in India eligible to be treated as domestic producers for the purposes of standing, namely, Hindalco Industries Limited, Vedanta Limited and Hindustan Copper Limited.

- iv. As the Authority found in the original investigation, all other producers are engaged in the production of copper wire ≤ 6 mm from copper wire > 6 mm. This is simply conversion of one form of PUC into another and was not considered by the Authority to amount to 'production' for the purposes of standing. Such producers either: i) import copper wire > 6 mm, which makes them ineligible to be treated as domestic producers, or ii) purchase copper wire > 6 mm from the applicant companies and draw it further, in which case their inclusion would lead to double counting.
- v. As entities purchasing wire > 6 mm and drawing it into wire ≤ 6 mm have already been considered ineligible to be treated as domestic producers in the original investigation, it is not incumbent upon the applicant to prove their ineligibility.
- vi. Applicant has identified only three domestic producers as these are the only companies in India engaged in the production of the domestic like article from the basic raw material, that is, copper cathode. Goods supplied by these companies and imports are the only sources of supply of product under consideration in India. All other producers purchase one form of the product under consideration, either domestically or from abroad, and convert it into another form.
- vii. Other producers, who purchase wire > 6 mm and draw it to ≤ 6 mm, do not sell wire ≤ 6 mm in the merchant market. They produce wire ≤ 6 mm for their captive use, for production of end use wires. Goods produced by captive producers do not directly compete with the subject goods and therefore cannot be considered for determination of standing. In *Met Coke from Australia and China PR (2016)*, solely or predominantly captive producers were excluded from the scope of the domestic industry.
- viii. Standing must be determined at the stage representing the major production process and not incremental production process.

D.3 Examination of the Authority

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

“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 subsidised 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

31. The Authority, on the issue of domestic industry and standing, held as follows in the original investigation:

13. There are certain producers of copper wire in India who import copper wire of higher dia and draw it into copper wire of lower required dia. The Authority has

not considered the production of such producers of copper wire in India because they are importing one form of the PUC and converting it into other form of PUC. With respect to those producers who do not import but procure copper wire of higher dia from domestic producers, taking their production into account would lead to a situation of double counting.

32. The Authority notes that the issue of domestic industry and standing has already been considered at length previously at the time of original investigation. Further, the re-assessment of standing is not required in a sunset review. However, given the centrality of this issue to the subject proceedings, the contentions of the interested parties are examined herein below.
33. The application for the present sunset review has been filed by Indian Primary Copper Producers' Association. Hindalco Industries Limited and Vedanta Limited have provided the relevant data. Kutch Copper Limited (Adani Metals) has supported the application. Apart from these companies, there is one other producer in India whose eligibility as a domestic producer is undisputed, Hindustan Copper Limited.
34. The Authority notes that there are broadly two contentions of interested parties regarding standing. First, that standing must be determined for copper wire ≤ 6 mm, as there are no imports of copper wire > 6 mm from the subject countries during the period of investigation. Second, that there are several eligible producers of copper wire ≤ 6 mm in India that have not been considered, and if the production of these entities is included, the applicant companies do not meet the requirement of standing.
35. Regarding the first contention, the Authority has already examined the issue of product scope in detail in the preceding section. The Authority has concludes that both wire > 6 mm and wire ≤ 6 mm form part of the product scope. The Authority considers that the mere fact that a particular form of the product was not imported does not warrant its exclusion from the product scope. Further, the mere fact that the product is produced and sold in two forms does not imply that the Authority should determine separate standing for the two forms. The Authority disagrees with the contention that standing should be assessed only for copper wire ≤ 6 mm.
36. The practice of the Authority is to evaluate standing for production of the domestic like article as a whole. Further, when the product scope includes an upstream precursor as well as its processed form, producers engaged in converting one form of product into another are not considered for determining standing to avoid double counting.
37. In the facts of the present case, the domestic like article includes both copper wire > 6 mm as well as copper wire ≤ 6 mm. Therefore, the Authority is required to assess whether the applicant companies satisfy the requirement of standing for copper wire > 6 mm and copper wire ≤ 6 mm taken together.

38. The Authority notes that for copper wire >6mm, the total production in India was *** MT. The applicant companies account for production of *** MT, which is almost 99% of the total Indian production. Therefore, the applicant companies inarguably represent a major proportion of the collective output for copper wire >6mm.
39. The Authority notes that for copper wire ≤6mm, exact figures of total Indian production are not available. Interested parties have estimated the total production in India to be 9,00,000 MT. The applicant companies produced *** in the POI. The rest is purported to be produced by other entities, which are engaged in drawing copper wire ≤6mm from copper wire >6mm. The eligibility of these entities to qualify as ‘domestic producers’ is disputed between the applicant companies and the other interested parties.
40. The Authority considers that companies who do not have the manufacturing facilities for production of copper wire of more than >6mm, and who are engaged in merely drawing it into less than <6mm cannot be considered to be domestic producers within the meaning of Rule 2(b) for the reason that the scope of the product includes both forms of the product and converting one form of the product into another form of the product implies that production of producers undertaking later activities is already included in the production of the producers undertaking earlier activities. It is essential to avoid double accounting of one product – once as above 6mm wire (produced in India or imported into India) and then as below 6mm wire (drawn from above 6mm product).
41. As regards relationship of Vedanta with the exporter of the product from United Arab Emirates, the Authority holds that since United Arab Emirates is not a subject country, the relationship of Vedanta with the producer in United Arab Emirates holds no relevance to eligibility of Vedanta as a domestic industry. Further, the Authority examined the data and found that while Fujairah Gold FZC, the affiliated entity of Vedanta, has exported the product to India, Vedanta has not imported the product under consideration from any country, including United Arab Emirates.
42. In view of the foregoing, the Authority concludes the following with regard to scope of the domestic industry and standing of the applicants to bring the present application:
 - i. Production of the applicant companies represent majority proportion of the eligible domestic production of the like article.
 - ii. The applicant companies are not disqualified from being considered as ‘eligible domestic producer’ within the meaning of Rule 2(b).
 - iii. The applicant companies constitute ‘domestic industry’.
43. The Authority therefore holds that the applicants satisfied standing under the rules and the applicant companies constitute domestic industry within the meaning of the Rules.

E. CONFIDENTIALITY

E.1 Views of other interested parties

44. The other interested parties have not made any submissions with regard to confidentiality issues.

E.1 Views of the domestic industry

45. The domestic industry has not made any submissions with regard to confidentiality issues.

E.3 Examination of the Authority

46. With regard to confidentiality of information, Rule 8 of Anti-Subsidy Rules provides as follows:

Rule 8: Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

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

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

47. Information provided by the interested parties on confidential basis was examined with regard to the 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 the 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 a confidential basis.

F. MISCELLANEOUS ISSUES

F.1 Views of other interested parties

48. The other interested parties have made the following submissions with regard to miscellaneous issues:
- i. *De minimis* subsidy margins were determined for Metrod and SEI Thai in the original investigation. Therefore, the investigation stands terminated against them and they cannot be included in the present sunset review.
 - ii. Even if continuation of duties is recommended in the present sunset review on account of likelihood, duties cannot be imposed of Metrod and SEI Thai as the investigation stands terminated against them.
 - iii. Section 9(6) of the Act and Rule 24(3) of the Rules permit only *extension* of duties. Since no duties exist against Metrod and SEI Thai, duties cannot be imposed on them pursuant to a sunset review. Reliance has been placed on the report of the WTO Appellate Body in *Mexico – Beef and Rice (United States)*.
 - iv. The domestic industry has admitted in its application that it has not suffered injury during the current period. Therefore, even if duties are extended on account of likelihood, duties cannot be modified or enhanced.
 - v. Value addition criteria under the ASEAN-India FTA ('AIFTA') has been met for subject exports to India and has been duly proved to the satisfaction of the relevant customs authorities.

F.2 Views of the domestic industry

49. The domestic industry has made the following submissions with regard to miscellaneous issues:
- i. The Authority awards 'nil' duties to exporters determined to have *de minimis* margins. However, the investigation does not stand terminated against them.
 - ii. In previous investigations, the Authority investigated in the sunset review exporters that had *de minimis* margins in the original investigation and found above *de minimis* margins in the sunset review. Reliance is placed on *Phthalic Anhydride from Korea RP, Taiwan and Israel SSR (2018)*.
 - iii. The domestic industry has suffered injury during the current period. Section IV of the application and various pre-initiation letters filed by the domestic industry clearly substantiate claims of injury. The admission of no injury being relied upon by other interested parties is an inadvertent error.
 - iv. The Authority also routinely modifies quantum of duties in a sunset review, even when the case is of likelihood. Reliance is placed on *Atrazine CVD SSR (2024)*, where duties were enhanced pursuant to the sunset review.
 - v. Under the ASEAN-India FTA ('AIFTA'), the preferential tariff rate for copper wire is 0%. To qualify for the preferential tariff, a minimum value addition of 35% is required within the AIFTA area. The major input for the product under consideration is copper cathode, which constitutes nearly 90% of the total cost of production. The

domestic industry has alleged that producers in subject countries have received copper cathode at LTAR from Indonesia. Participating exporters have stated that share of imports from Indonesia amounts to a small share of their total imports of raw materials. If this is true, then subject exporters would not be able to meet the value addition criteria under AIFTA. Therefore, there is an inconsistency in claims of the exporters.

F.3 Examination by the Authority

50. The Authority examined whether duties may be imposed pursuant to a sunset review on an exporter awarded *de minimis* margins in the original investigation. The Authority notes that this question was considered by CESTAT in *Robin Resources v Union of India* (2016). The relevant extract is produced below:

2. The main challenge in the present appeal is that the appellant should have been excluded from the sunset review as in the initial final finding it was recorded that the dumping margin was less than 2% and as such in the sunset review imposition of AD duty on the appellant was not legally tenable.

7. The appellant is challenging the imposition of AD duty on the goods exported by them only on the ground that the initial finding of de-minimis should have resulted in termination of investigation and there is no justification and imposition of AD duty in sunset review.

9. We note that the DA can consider where an exporter was awarded zero duty in the original investigation and has now found to be dumping which is likely the cause injury to DI, then AD duty can be considered for imposition with reference to dumping margin and injury margin established during the review. [...] As already noted that this is like a fresh investigation in so far as appellant is concerned and we find no legal infirmity in such action by the DA.

51. The Authority notes that CESTAT has explicitly affirmed that exporters given *de minimis* margins in the original investigation remain subject to reviews, and duties may be imposed on them pursuant to such reviews if in the course of investigation pursuant to a review existence of dumping or subsidy beyond *de minimis* levels is established. Further, the Authority notes that an appeal against this decision was dismissed by the Supreme Court in 2022. Therefore, the decision of CESTAT is the prevailing interpretation of the law.
52. The Authority notes that it has been the consistent position of the Authority in anti-dumping matters that an investigation does not stand terminated against an exporter if *de minimis* margins are determined for it. On account of *de minimis* margins, such an exporter is given 'nil' duties, but the exporter remains subject to reviews.

53. In *Plain MDF Board produced by Kim Tin MDF JSC, Vietnam* (2021), the Authority held as follows:

D.

iii. It is noted that the Designated Authority has been consistently following the practice of giving zero duty to exporters with individual dumping margin of less than 2%, without terminating the investigation against them. The Authority has therefore consistently in the past conducted sunset review investigations against such exporter(s) having zero duty on account of de-minimis dumping margin(s) at the stage of original anti-dumping investigation(s).

ix. In view of the above, it is considered appropriate not to undertake an investigation under Rule 5 and instead undertake review investigation under Rule 23 in such situations where exporter is not subjected to antidumping duty because of de-minimis dumping margin. Accordingly, the Authority terminates the present investigation while granting liberty to the domestic industry to seek appropriate remedy under Rule 23.

54. Regarding modification of duties in a sunset review, the Authority draws references to *Phthalic Anhydride from Korea RP, Taiwan and Israel SSR* (2018):

40. With regard to the claim of Aekyung that the Authority recommended NIL duty in the original investigations on the imports of the product from Aekyung Petrochemical Co. Ltd. and the present sunset review investigation against them should be terminated, it is noted that NIL duty awarded to an exporter at the time of original investigations was based on facts relevant at that time. While conducting the present sunset review, the Authority will base its determination on examination of the facts in the present review period of investigation. The determinations made in the sunset review investigation are based on the actual dumping margin and actual material injury established in the review period. The Authority has undertaken full investigation in respect of the all aspects of dumping and injury consistent with requirements of Article 2 & 3 of the Agreement. Thus, the present sunset review includes complete de novo determination of the dumping margin and injury margin.

55. As noted above, the Authority conducts a *de novo* analysis of dumping and injury margin in a sunset review because the purpose of a sunset review is not only to determine whether the term of the duty should be further extended but also to determine whether the quantum of duty should be revised, considering the dumping/subsidy margin and injury margin in the sunset review, the volume of imports in the sunset review period and other facts of the case. The Authority notes that it would not be appropriate to hold that duties cannot be modified in a sunset review if the investigation shows increased levels of subsidisation and injury.

56. The Authority considers that since the present question is a matter of procedure, a departure from the practice in anti-dumping matters is unwarranted and unjustified.

Therefore, the Authority considers that the reasoning and principles adopted in anti-dumping matters on this question apply to countervailing duty matters also.

57. In the same vein, in *Atrazine CVD SSR (2024)*, the Authority enhanced the quantum of the countervailing duty in the sunset review. Pertinently, both *Atrazine (2024)* and *Phthalic (2018)* were initiated on grounds of the likelihood of continuation or recurrence of subsidisation and injury.
58. Therefore, the Authority holds that enhancement of duties is permissible in a sunset review.

G. DETERMINATION OF SUBSIDY AND SUBSIDY MARGIN

G.1. General issues relating to determination of subsidy and subsidy margin

G.1.1 Views of the other interested parties

59. The other interested parties have made the following submissions with regard to determination of subsidy and subsidy margin:
- i. The domestic industry has alleged existence and requested examination of ‘new subsidies’, that is, subsidies that were not previously examined in the original investigation. However, this is impermissible in a sunset review.
 - ii. As per the report of the WTO Appellate Body in *US – Carbon Steel (India)*, new subsidies may be examined in a review only if:
 - A new subsidy is introduced after the original investigation, or a subsidy examined in the original investigation is thereafter changed.
 - There is a close link between the originally countervailed subsidies and the new subsidies.
 - There is a close link or similarity between the injury resulting from the originally countervailed subsidies and the new subsidies.
 - iii. The domestic industry has not provided any evidence on record establishing fulfilment of the above criteria for any of the new schemes alleged.
 - iv. The new subsidies alleged by the domestic industry are schemes pertaining to provision of goods and services for less than adequate remuneration (LTAR). In the original investigation, no LTAR schemes were countervailed against exporters from Malaysia and Thailand. Therefore, there cannot be any nexus between the originally countervailed schemes and the new schemes being alleged.
 - v. The domestic industry has itself claimed absence of injury during the present period of investigation. Therefore, where there is no injury, there can be no question of a link between the injury resulting from the new schemes being alleged and the originally countervailed schemes.
 - vi. SEI Thailand has claimed that the company is in losses and has not availed any tax benefit program.

G.1.2 Views of the domestic industry

60. The domestic industry has made the following submissions with regard to the subsidy and subsidy margin:
- i. The evidence of record establishes that the producers of the subject goods in the subject countries have benefitted from various countervailable subsidies administered by the respective governments, which are not available generally and are actionable under the WTO Agreement on Subsidies and Countervailing Measures ('ASCM') and the CVD Rules.
 - ii. Examination of new schemes not previously examined is permissible in a sunset review. The opposing interested parties have not rightly placed reliance on the report of the WTO Appellate Body in *US – Carbon Steel (India)* in this regard. The only requirement to establish a 'close link' between new subsidies and originally countervailed subsidies is that they pertain to the same product or industry. This requirement is met in the present case, as the new subsidies being alleged pertain to the same product as the originally countervailed schemes, that is, the PUC.
 - iii. The Exporters' Questionnaire issued by the Authority requires participating exporters to report any and all benefits they may be receiving that may potentially be considered to be subsidies. Therefore, it was incumbent upon the exporters to report all subsidies they were receiving at the time of the original investigation. A deliberate omission to do so by the exporters cannot restrain the Authority from examining any schemes that may come to light at a later point.
 - iv. Other jurisdictions routinely examine new subsidies in sunset reviews, even when the subsidies existed at the time of the original investigation. Pertinently, this has continued well after the report was issued in *US – Carbon Steel (India)*. This establishes that the report does not restrict examination of new schemes in a sunset review if they existed at the time of the original investigation.
 - v. The Authority has also considered new schemes in sunset reviews of *Saccharin from China* CVD SSR (2024) and *HR-CR Steel* CVD SSR (2023). While the new schemes were not quantified, owing to principles of judicial economy and the specific facts of the cases, the Authority did not dismiss the new schemes as *ultra vires*.
 - vi. The Government of Vietnam has opted not to participate in the proceedings at all, despite clear intimation by the Authority. Therefore, the Authority must treat it as non-cooperative and proceed based on facts available.
 - vii. The Government of Malaysia ('GoM') has filed significantly belated submissions in the present sunset review. The deadline for filing questionnaire responses was 18 September 2024. The list of registered interested parties was published on 23 October 2024. However, GoM only circulated the non-confidential version of its questionnaire response on 28 January 2025, a delay of more than three months. In fact, the domestic industry was not even aware that GoM was participating in the present proceedings till 28 January 2025.
 - viii. Pertinently, all interested parties had circulated the non-confidential version of their submissions with all other parties, including GoM. Therefore, GoM was well aware of the requirement to circulate their response, yet opted not to do so. The Initiation

- Notice requires that confidential and non-confidential versions must be filed *simultaneously*. Such wilful non-compliance must be treated as non-cooperation.
- ix. Further, the post-hearing written submissions of the GoM are dated 28 January 2025. The deadline for filing these submissions was 23 January 2025. Therefore, regarding these submissions, there can be no doubt they are out of time and are thus liable for rejection.
 - x. Without prejudice to the contention that the submissions ought to be rejected for being significantly out of time, the submissions filed by GoM are also patently deficient in terms of substance. GoM has not responded to schemes pertaining to provision of cathode for LTAR, natural gas for LTAR and electricity for LTAR. GoM has simply sought to argue on law that new schemes cannot be considered in a sunset review.
 - xi. The investigation was initiated by the Authority on these schemes after due examination and with due regard to law and practice. Therefore, even if GoM wished to contest examination of new schemes in a sunset review, the proper approach was to respond to the questionnaire as per instructions and present its arguments in addition to the factual response. However, by not providing a complete factual response, GoM has opted not to cooperate to the best of its ability with the Authority and must therefore be treated as non-cooperative.

G.1.3 Examination by the Authority

G.1.3.1 Examination of new schemes in a sunset review

61. The Authority notes that in the present sunset review, the domestic industry has contended existence of subsidy programmes that were not examined by the Authority in the original investigation. These subsidy schemes have been referred to as ‘new subsidies’. The interested parties contended that the Authority is barred from investigating such subsidies programs in a sunset review. The contention has been examined by the Authority.
62. In this regard, the WTO Appellate Body, in *US – Carbon Steel (India)* observed as under:

*4.543. Therefore, in our view, Article 21 requires an investigating authority to establish that there is a sufficiently close nexus between the subsidies that are the subject of the original investigation and the new subsidy allegations that the investigating authority proposes to examine as part of its administrative review. **There are several factors that could potentially be taken into consideration on a case-by-case basis in determining whether subsidy allegations that were not at issue in the original investigation or in previous administrative reviews may properly be examined in administrative reviews.**¹²⁵⁶ However, India's appeal does not call upon us to determine which of these factors are applicable or ought to have been taken into account in the case before us.*

¹²⁵⁶ *We note that, in the instant dispute, the Panel took into account the fact that the specific new subsidy allegations involved the same product at issue in the original investigation. (See Panel Report, paras. 7.500 and 7.506) We further note that, in*

response to questioning at the oral hearing, the United States and the European Union suggested that, in their view, for new subsidy allegations to be considered in an administrative review, they should share the following elements with the original subsidies subject of the countervailing duty: (i) the same Member; (ii) the same responding companies (beneficiaries of the subsidies); and (iii) the same products. In addition, the European Union referred to other potential considerations such as the nature of a subsidy, whether the same or a different granting authority or the same or a different subsidy programme is involved, or whether a subsidy has been replaced by another subsidy. (European Union's third participant's submission, paras. 70 and 71)

63. The Authority notes that the above report of the WTO Appellate Body permits consideration of new subsidies in a sunset review, if they pertain to the same product as was originally investigated. Further, the Authority notes that other investigating authorities examine new schemes in sunset reviews. The European Commission, in *Coated Fine Paper from China CVD SSR (2017)* and *Hot-rolled Steel Flat Products from China CVD SSR (2023)*, investigated in the sunset review schemes that were not investigated in the original investigation, even when the benefit was received at the time of the original investigation.
64. Further, the Authority notes that the domestic industry has submitted that the Authority has also considered new schemes in sunset reviews of *Saccharin from China CVD SSR (2024)* and *HR-CR Steel CVD SSR (2023)*. While the new schemes were not quantified, owing to principles of judicial economy and the specific facts of the cases, the Authority did not dismiss the new schemes as *ultra vires*.
65. In the facts of the present case, the new subsidies pertain to the same product as the originally countervailed subsidies, that is, the product under consideration. Therefore, the threshold requirement prescribed by the WTO Appellate Body in *US – Carbon Steel (India)* is met in the present case. Accordingly, the Authority considers that the new subsidies alleged by the domestic industry are required to be examined by the Authority in the present sunset review.

G.1.3.2 Cooperation by the Government of Malaysia ('GoM') and the Government of Vietnam ('GoV')

66. The Authority considers that framing and implementing policies is a sovereign government function. Therefore, information about the alleged subsidy programmes under examination are sought from the government, as the kind of information required to establish non-countervailability is normally only expected to be available with the government. An exporter can only give information with regard to the benefits received by it under a scheme, not the overarching policy governing the operation of the scheme.
67. In *HR-CR Steel CVD SSR (2023)* and *Atrazine CVD SSR (2024)*, the government of the subject country had not participated in the proceedings. Therefore, in determining the

countervailability of the programmes, the Authority proceeded based on facts available, despite participation by exporters.

68. The Authority notes that GoV has not participated in the present case. GoV did not participate in the pre-initiation consultations, nor did it file a questionnaire response. Therefore, the Authority considers that GoV has not cooperated in this investigation to the best of its ability and accordingly, the Authority has proceeded based on facts available.
69. The Authority notes that GoM has filed various submissions in the present sunset review, including a questionnaire response. However, in its submissions, GoM did not provide a factual response to ‘new subsidies’ being examined in the present sunset review. In its submissions, GoM only put forward legal contentions regarding the impermissibility of examination of new schemes in a sunset review. On 13 March 2025, GoM filed additional comments on the new subsidies. However, even these comments did not contain a complete factual questionnaire response for the new subsidy programmes.
70. The Authority’s questionnaire has been designed to collect the information the Authority deems relevant for the purposes of determining countervailability of a programme. As part of the questionnaire, respondents are required to respond to the ‘Standard Questions’ as well as all relevant appendices. These questions are wide-ranging and offer a comprehensive overview of the scheme, allowing a reasoned examination of the essential elements of a subsidy, that is, public body, financial contribution, benefit and specificity (both *de jure* and *de facto*). GoM was obliged to furnish a complete questionnaire response for all subsidy programmes for which investigation was initiated, regardless of its legal arguments relating to the permissibility of examination of new schemes in a sunset review. The Authority considers that the submissions filed by GoM do not suffice for the purposes of the present proceedings. Therefore, for those subsidy programmes for which GoM has not filed a questionnaire response, the Authority has proceeded based on facts available.

G.1.3.3 Examination of subsidisation in subject countries

71. In the original investigation, the Authority found a number of subsidy programmes countervailable. However, to the extent that there was an overlap in the benefit conferred under two or more schemes, the Authority quantified a common subsidy margin for those schemes.
72. The present proceedings are a sunset review. In a sunset review, the Authority is not required to re-examine the countervailability of a programme already found countervailable unless an interested party claims material changes in the program since its last investigation. In the present case, none of the interested parties from any of the subject countries have provided any information and evidence showing material changes in the countervailed programmes since these were last investigated.

73. In respect of those schemes which have already been found to be countervailable in the original investigation, the Authority is only required to examine the continuation of such schemes. Since direct, positive evidence of continuation may not always be available, in determining continuation, the Authority has considered whether there is any evidence of termination of the scheme earlier investigated, or whether there have been subsequent investigations where the scheme was found to continue to exist, or any other evidence which shows discontinuation of a scheme

G.2 Subsidisation in Indonesia

G.2.1 New subsidy programmes

i. Programme No. 23: Super Normal Deductions on Research and Development Expenditure

a) Views of the domestic industry

74. The programme allows companies undertaking eligible research and development activities to claim deductions of up to 300% of the qualifying expenditure.

b) Views of Government of Indonesia and other interested parties

75. According to Government Regulation (GR) No. 45 of 2019 concerning Calculation of Taxable Income and Payment of Income Tax for the Current Year, the government provides gross income reduction facilities of up to three hundred percent (300%) for research and development (R&D). This facility is usually called super-deduction tax.

76. With this facility, parties carrying out R&D activities will be able to charge costs incurred (tax deduction) up to 3 (three) times greater, so that the tax they will pay will be smaller and they will not even need to pay tax if the tax calculation results become a loss.

c) Examination by the Authority

77. The Authority considers that since there are no imports from Indonesia during the present sunset review, examination of this programme is not required.

G.2.2 Subsidy programmes previously found to be countervailable

78. The Authority notes that continuation of the subsidy programmes against which margins were determined has not been contested. Further, the Authority notes that these programmes have been found to confer countervailable benefits in subsequent investigations by the Authority in *Fiberboards* and *Flat Products of Stainless Steel*. Further, the Authority notes that these programmes have been countervailed by other investigating authorities in WTO member states in subsequent investigations, including by Brazil in *Cold-rolled Stainless Steel* (2022) and by US DOC in *Utility Scale Wind Towers*.

79. The Authority notes that the Government of Indonesia and participating exporters from Indonesia have contested the countervailability of certain programmes that were found to be countervailable in the original investigation. However, upon examination of the contentions, the Authority considers that the submissions made in the present sunset review are not materially different from the submissions made in the original investigation. The interested parties have not established a material change in facts and circumstances relating to the programmes in question.
80. The Authority notes that a participating exporter, contended that the information sought by the Authority was not relevant in the context of the said respondent since it had not exported the subject goods to India during the period of investigation, noting that the practice of the Authority has been to recommend only continuation of the existing duties in a sunset review investigation in case there are no exports during the period of investigation. It is noted that there were no imports of the subject goods from Indonesia during the present period of investigation. Therefore, the Authority considers that re-examination of countervailability or re-quantification of the margin in respect of exporters from Indonesia is not warranted. Therefore, the Authority has considered the subsidy margins as determined in the original investigation.

G.2.3 Subsidy margins for producers and exporters from Indonesia

i) PT Karya Sumiden Indonesia

81. The Authority has determined subsidy margins for PT Karya Sumiden as determined in the original investigation. The table below provides the calculation of the subsidy margin:

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme No 7: Exemption from Import Duty	Exemption of import duty on capital goods	*** %	0-1%
2	Programme No 13: Exemption of Import Duty on Raw Material	Exemption of import duty on raw materials and components	*** %	0-5%
3	Programme No. 21: Provision of Copper Ore and Concentrate at LTAR	Provision of raw material at LTAR	*** %	0-1%
4	Programme No. 22: VAT Exemption on Electricity	Revenue foregone on payment of electricity	*** %	0-1%
	Total		*** %	0-5%

ii) PT Tembaga Mulia Semanan Tbk

82. The Authority has determined subsidy margins for PT Tembaga Mulia Semanan as determined in the original investigation. The table below provides the calculation of the subsidy margin:

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme No 7: Exemption from Import Duty	Exemption of import duty on capital goods	*** %	0-5%
2	Programme No 13: Exemption of Import Duty on Raw Material	Exemption of import duty on raw materials and components	*** %	0-5%
3	Programme No. 21: Provision of Copper Ore and Concentrate at LTAR	Provision of raw material at LTAR	*** %	0-5%
	Total		*** %	0-10%

iii) Other producers and exporters from Indonesia

83. The Authority has determined subsidy margins for all other producers and exporters from Indonesia as determined in the original investigation. The table below provides the calculation of the subsidy margin:

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme No 2/3/5: Preferential Lending	Loans and financing on preferential terms	*** %	0-1%
2	Programme No 7: Exemption from Import Duty	Exemption of import duty on capital goods	*** %	0-5%
3	Programme No 8/12/13/14: Exemption of Import Duty on Raw Material	Exemption of import duty on raw materials and components	*** %	0-5%
4	Programme No 10/11/15/17/18/19: Income Tax Benefits	Direct tax exemptions amounting to revenue foregone	*** %	0-1%
5	Programme No. 21: Provision of Copper Ore and Concentrate at LTAR	Provision of raw material at LTAR	*** %	0-5%
6	Programme No. 22: VAT Exemption on Electricity	Revenue foregone on payment of electricity	*** %	0-1%
	Total		*** %	0-10%

G.3 Subsidisation in Malaysia

G.3.1 New subsidy programmes

i. Programme No. 37: Procurement of Copper Cathode from Indonesia for LTAR

a) Views of the domestic industry

84. In the value chain for the product under consideration, copper ore is refined into copper concentrate, which is smelted into copper cathode. Copper cathode is the main raw material for the product under consideration and accounts for almost 90% of the total cost of production.
85. It is already established that copper cathode is subsidised in Indonesia. In the original investigation, the Authority determined that Indonesian export restraints confer a countervailable benefit on producers of copper wire and copper cathode.
86. The subject countries are all members of ASEAN. Under the ASEAN Trade in Goods Agreement ('ATIGA'), ASEAN countries have created a common economic union with a free flow of goods, with no tariff or non-tariff barriers. As a result, copper wire producers in Malaysia and Thailand are able to import and benefit from subsidised copper cathode from Indonesia.
87. This amounts to the transnational subsidisation of copper producers in Malaysia and Thailand. Countervailing transnational subsidies is permitted under ASCM. Countervailability of transnational subsidies is recognised by other WTO members, including EU, US and Brazil.

b) Views of GoM/other interested parties

88. The threshold for close cooperation between the Government of Indonesia and GoM is not met in the present case. ATIGA does not amount to close intergovernmental cooperation making Indonesian subsidies attributable to the Malaysian government. India also has many FTAs with other countries with similar language.
89. There is no pass-through of benefit by Indonesian cathode producers to Malaysian wire producers. Malaysian producers have purchased copper cathode from Indonesia at LME + premium basis. The premium paid for cathode from Indonesia and elsewhere has been in similar range for the period of investigation.
90. The customs duty on imports of copper cathode into Malaysia is NIL. Further, tariffs have been eliminated under ATIGA for almost 98% tariff lines. Therefore, the programme lacks specificity.

c) Examination by the Authority

91. The producers in the subject countries have shown that they have procured raw materials from Indonesia and other countries at comparable prices. Therefore, the Authority does not find it appropriate to examine the program in detail.

ii. Programme No. 38: Provision of Natural Gas for LTAR

a) Views of the domestic industry

92. Under Section 13 of the Gas Supply Act, 1993, natural gas prices are regulated by the government. GoM makes natural gas available to the industrial sector at lower than market rates. GoM applies the ‘Incentive Based Regulation’ Framework for setting prices. Under this, it sets a ‘base tariff’ at which natural gas is sold. The base tariff is set for a period of three years. In addition to the base tariff, the GoM also determines the Gas Cost Pass Through (‘GCPT’) charges every six months, which is meant to account for variations in costs. GCPT charges may be credited to consumers as reimbursements or recovered from them as surcharges. This programme has been previously countervailed by the Authority in several other findings, including *Copper Tubes and Pipes* and *Clear Float Glass*.

b) Views of GoM/other interested parties

93. Natural gas prices are determined by the ‘Malaysia Reference Price’ (‘MRP’). The MRP is worked out as the weighted average free on-board price of exports of LNG from Malaysia. MRP is fixed every three months. Thus, pricing of natural gas is linked to market prices and therefore, no benefit is conferred to Malaysian producers. The report of the Appellate Body in *US – Carbon Steel (India)* permits consideration of export prices as the benchmark for determining adequacy of remuneration.

94. Gas Malaysia Berhad, a supplier of natural gas in Malaysia, categorises its customers into two sectors, power sector and non-power sector. Producers of the subject goods fall under the non-power sector. Gas is supplied to all consumers in the non-power sector at the same tariff rate. Therefore, the programme lacks specificity.

95. Reliance on previous findings of countervailability is misplaced as those findings pertain to periods of investigation up to 2019-20, whereas natural gas prices were deregulated starting in January 2022.

c) Examination by the Authority

96. The Authority has earlier found this programme to be countervailable in the investigations relating to *Copper Tubes and Pipes from Malaysia, Thailand and Vietnam* (2022), *Aluminium Primary Foundry Alloy Ingot* (2022), *Clear Float Glass from Malaysia* (2020) and *Textured Tempered Glass from Malaysia* (2020). However, the interested parties have contended that since those investigations, natural gas prices have been deregulated. Therefore, the Authority examined whether there has indeed been a material change in the natural gas pricing policy and whether such change makes the programme non-countervailable.

97. The Authority notes that under Section 13 of the Gas Supply Act, natural gas prices are set by the Energy Commission, GoM. GoM draws the power to regulate energy prices from the statute. The interested parties have not placed any evidence on record establishing whether the statutory provision has been repealed or amended. Therefore, the Authority considers that natural gas prices are still regulated in Malaysia, for both government and private suppliers. Since no guidelines or regulations have been placed on record pursuant to which the tariffs are determined, the Authority considers that the pricing is discretionary.
98. The Authority called for information relating to the operating costs and expenses, revenues and return on capital employed of the providers of natural gas in Malaysia. However, the interested parties were not able to establish that the tariffs set by GoM are market determined.
99. Regarding specificity, in *Copper Pipes and Tubes*, the Authority held:

However, while examining the scheme, the Authority observes that for melting the copper cathode/copper scrap in the furnace, an industry may use either coal or electricity or natural gas. Further, Government of Malaysia's natural gas regulation predominantly benefits the industries who uses gas as major input for manufacturing their product. Therefore, the Authority has determined that this scheme has been granted to a limited number of persons engaged in the manufacture or production of the product under consideration. The inherent characteristics of natural gas limits the possible use of the subsidy to few industries, but this does not mean that, in order to be specific, the subsidy must be further limited to a subset of any industry. It is, therefore, specific under Article 2 of the SCM Agreement.

100. Regarding the appropriate benchmark for quantification of benefit, the Authority notes that due to differences in interpretation by the parties, the report of the Appellate Body in *US – Carbon Steel (India)* was appealed under Article 21.5 of the Dispute Settlement Understanding. It was held that export prices from a country may be treated as a benchmark for determining adequacy of remuneration only if there is clear, positive evidence that the export prices are reliable and market determined. The Authority called for such information. However, the interested parties were not able to establish that export prices are market determined. Further, it has not established how the linking of gas prices to export price makes it non countervailable and how the same no longer leads to a benefit. This is particularly important in a situation where the entire market for the input is distorted.
101. Therefore, in view of the foregoing, the Authority considers that there has been no material change in circumstances warranting a deviation from the Authority's previous findings of countervailability of this programme.

102. The Authority considers that this programme provides a financial contribution in the form of provision of an economic good, which confers a benefit as it has been provided for less than adequate remuneration and is specific. Accordingly, the Authority countervails this programme.
103. In previous investigations, including *Copper Tubes and Pipes* and *Fiberboards*, the Authority has relied on data from the portal www.globalenergyprices.com for information on electricity benchmarks. The Authority considers that the pricing information on this portal for natural gas to be representative of market prices and considers it appropriate to rely on it for the purposes of a benchmark.
104. The Authority has considered the difference between the weighted average rate paid by the exporter and the benchmark rate as the per unit benefit. The Authority has quantified the subsidy margin for this programme as follows:

$$[(\text{Per Unit Benefit} * \text{Total Units Consumed}) / \text{Total Sales Turnover}] * 100$$

iii. Programme No. 39: Provision of Electricity for LTAR

a) Views of the domestic industry

105. Electricity prices are determined by GoM. GoM makes electricity available to the industrial sector at lower than market rates. GoM applies the ‘Incentive Based Regulation’ Framework for setting prices. Under this, it sets a ‘base tariff’ at which electricity is sold. The base tariff is set for a period of three years. In addition to the base tariff, the GoM also determines the Imbalance Cost Pass Through (‘ICPT’) charges every six months, which represent the variation in cost of fuel. ICPT charges may be credited to consumers as reimbursements or recovered from them as surcharges. This programme has been previously countervailed by the Authority and other jurisdictions.
106. *Copper Pipes and Tubes (2022)* is highly relevant to the present case. In that case, one of the participating Malaysian producers was MetTube, which is an affiliated entity of Metrod, and used the same raw material as Metrod. Provision of electricity and natural gas at LTAR was countervailed against MetTube and margins were quantified. Further, the production facilities of MetTube and Metrod are also located in the same geographical region and are just 23 kms apart.

b) Views of GoM/other interested parties

107. Electricity is produced from natural gas in Malaysia. Previous findings of countervailability of this programme were contingent on countervailability of provision of natural gas at LTAR. Due to the deregulation of the natural gas market, gas is no longer being provided at LTAR. Therefore, the previous findings of countervailability do not apply.
108. Metrod did not receive any ICPT reimbursements during the period of investigation. In fact, Metrod paid an ICPT surcharge during the period of investigation.

109. All consumers falling in industrial tariff category are charged the same applicable rate irrespective of type of manufacturing activity undertaken by such consumers. Accordingly, the scheme is not specific to particular producers, group of enterprises or region. Further, the ICPT mechanism is also equally applicable to all consumers and does not provide advantage to any particular enterprise or industry.

c) Examination by the Authority

110. The Authority notes that this programme was earlier found countervailable in previous investigations relating to *Copper Tubes and Pipes from Malaysia, Thailand and Vietnam* (2022), *Primary Foundry Aluminium Ingot* (2022), *Fiberboards* (2021) and *Clear Float Glass from Malaysia* (2020). However, the interested parties have contended that those investigations found electricity to be countervailable on account of natural gas being countervailable. The interested parties contend that natural gas prices have been deregulated since then and therefore the Authority should re-examine this program.

111. The Authority notes that under Section 26 of the Power Supply Act, 1990, electricity prices are set by the Energy Commission, GoM. GoM draws the power to regulate energy prices from the statute. The interested parties have not placed any evidence on record establishing whether the statutory provision has been repealed or amended. Therefore, the Authority considers that electricity prices are still regulated in Malaysia. Since no guidelines or regulations have been placed on record pursuant to which the tariffs are determined, the Authority considers that the pricing is discretionary.

112. The Authority called for information relating to the operating costs and expenses, revenues and return on capital employed of the providers of electricity in Malaysia. However, the interested parties were not able to establish that the tariffs set by GoM are market determined.

113. The Authority also notes that other investigating authorities have consistently found this programme to be countervailable. The US DOC has found this programme countervailable in *PV Cells from Malaysia* (2024), *Utility Scale Wind Towers from Malaysia* (2024) and *Steel Nails from Malaysia* (2015).

114. Further, the Authority notes that the programme is geographically specific, as it is only available within Peninsular Malaysia.

115. Therefore, in view of the foregoing, the Authority countervails this programme.

116. In previous investigations, including *Copper Tubes and Pipes* and *Fiberboards*, the Authority has relied on data from the portal www.globalenergyprices.com for information on electricity benchmarks. The Authority considers that the pricing information on this portal representative of market prices and considers it appropriate to rely on the same for the purposes of a benchmark.

117. The Authority has considered the difference between the weighted average rate paid by the exporter and the benchmark rate as the per unit benefit. The Authority has quantified the subsidy margin for this programme as follows:

$$[(\text{Per Unit Benefit} * \text{Total Units Consumed}) / \text{Total Sales Turnover}] * 100$$

iv. Programme No. 40: Green Investment Tax Allowance

a) Views of the domestic industry

118. The programme is intended to promote adoption of green technology assets by industries. The assets may be for captive use or for commercial exploitation. The programme allows income tax allowance of up to 100% of the qualifying capital expenditure. The allowance can be set off against a maximum of 70% of the total taxable income in an assessment year. Unutilised allowances can be carried forward until they are fully absorbed.

b) Views of GoM/other interested parties

119. Other interested parties have not made any submissions regarding this programme.

c) Examination by the Authority

120. The Authority notes that the income tax allowance constitutes a financial contribution in the form of revenue foregone, with confers a benefit upon the recipients. Further, the allowance is not generally available and is specific only to enterprises making qualifying capital investments in the eligible assets. Due to the nature of the assets involved, it is expected that only a small number of enterprises would be able to benefit from this programme. No evidence has been placed on record establishing that actual availment of the programme is not restricted to certain enterprises or industries. The programme is *de facto* specific. The Authority countervails this programme.
121. The Authority notes that Metrod, the only participating exporter from Malaysia, has not availed this programme. The domestic industry has not placed any evidence on record to allow quantification of the programme for the all-others rate. Therefore, the Authority has not determined a subsidy margin for this programme.

v. Programme No. 41: Income Tax Exemption under Section 127 (3A) for Producing ETP Copper Rod and ETP Copper Wire

a) Views of the domestic industry

122. This programme was self-reported by the participating exporter. The domestic industry has not made any submissions on the same.

b) Views of GoM/other interested parties

123. The programme provides an income tax exemption of 70% for ten years to approved enterprises. The law prescribes detailed criteria for eligibility. Eligible enterprises may make an application to the concerned authority for receiving benefits under the

programme. Metrod applied for and availed benefits under this programme during the period of investigation.

c) Examination by the Authority

124. The Authority notes that under Section 127 (3A) of the Income Tax Act, 1967, the Minister for Finance is empowered with the discretion to grant exemptions from any provision or provisions of the Act to any person or enterprise.
125. It appears that exemptions granted under Section 127 are for ‘Approved Service Projects’. Further, a variety of exemption packages appear to be available under this scheme. Eligible enterprises may make an application to receive the notified exemptions. No regulations or guidelines have been placed on record by the interested parties relating to the procedures for disbursement of benefits under this programme. From a bare reading of Section 127 (3A), the grant of exemptions appears to be discretionary and is not automatic.
126. The Authority notes that Metrod Group, the participating exporter from Malaysia, applied for and received benefits under this programme during the period of investigation. Based on the information placed on record in its exporter questionnaire response, Metrod had to meet the following criteria to qualify for the exemption:
- i. Certain minimum fixed asset investment within five years starting from assessment year 2017.
 - ii. Certain minimum value added for ETP Copper Rod and ETP Copper Wire.
 - iii. Certain minimum expenditure for local vendor development within five years.
 - iv. Certain minimum annual operating expenses on local services.
 - v. Certain minimum share of employees engaged in management, technical and supervisory levels.
 - vi. Certain minimum share of Malaysian employees in the total employed workforce.
 - vii. Maintenance of separate accounts for ETP Copper Rod and ETP Copper Wire and the finished products without incentive, subject to the terms of these accounts agreed upon by the Inland Revenue Board.
127. The Authority notes that the exemption constitutes a financial contribution in the form of revenue foregone, which confers a benefit on the recipient. Further, the programme is specific as it is discretionary and is targeted towards select enterprises and industries. Therefore, the Authority considers this programme to be countervailable.
128. Accordingly, the Authority considers the entire amount of income tax incentive, as recorded in the income tax return for the period of investigation, to be a subsidy. The subsidy margin for the programme is calculated as:

$$(\text{Amount of Tax Incentive} / \text{Total Sales Turnover}) * 100$$

G.3.2 Subsidy programmes previously found countervailable

129. The Authority notes that continuation of the subsidy programmes against which margins were determined has not been contested. Further, the Authority notes that these programmes have been found to confer countervailable benefits in subsequent investigations by the Authority, including *Copper Pipes and Tubes*, *Primary Foundry Aluminium Ingot*, *Fiberboards* etc. These programmes have also been countervailed in other jurisdictions subsequent to the original investigation.
130. The Authority notes that its findings in the original investigation in respect of countervailability of a programme relating to exemption of import duty on raw materials was appealed to CESTAT. The Authority notes that the participating exporter has reported receiving a similar benefit in the present period of investigation. Therefore, in light of the CESTAT decision, this programme has been examined by the Authority herein below.
- i. Programme No. 24: Exemption of Import Duty on Raw Materials/Components**
- a) Views of the domestic industry**
131. The programme provides for exemption of import duties on imports of raw material that are either not locally available or not of acceptable quality. The programme is available for finished goods meant for exports as well as finished goods meant for domestic consumption.
- b) Views of GoM/other interested parties**
132. The programme provides for exemption of import duty on imports of such raw materials and components that are not locally available. The programme is not contingent on export performance. This program is not countervailable since it conforms with the provisions of Annexes I, II and III of ASCM (exceptions to the definition of subsidy).
- c) Examination by the Authority**
133. The Authority notes that the legal basis for this programme is Section 14(2) of the Customs Act, 1967, which vests the Minister for Finance with the discretionary power to exempt any person or enterprise from payment of customs duties, or direct refund of duties already paid to any person or enterprise.
134. The Authority notes that Section 14(2) is a general provision relating to exemptions and does not relate specifically to the programme under consideration. Question (c) of the Standard Questions Appendix specifically asks for ‘translated copies of the laws and regulations relating to the program and any internal or external reports pertaining to the program’. Further, question (h) asks for ‘relevant notification/regulation applicable to the operation of this program with all subsequent amendments, if any’. However, GoM has not furnished any regulations or other policy documents formulated under Section 14(2) specifically dealing with the programme under consideration.
135. The Authority notes that the programme allows an enterprise to import raw materials or other components duty-free. GoM and Metrod, the participating exporter, have identified the following eligibility criteria for availing benefits under this programme:

- i. The raw material or component sought to be imported is not locally available, and
 - ii. The raw material or component is used directly in the production of the finished product. The specific finished good for production of which imports are being permitted is stated in the licence.
136. GoM has claimed that this programme is non-countervailable as it conforms to Annexes I, II and III of the ASCM. The Authority notes that footnote 1 and Annexes I, II and III of the ASCM pertain to exemption or remission of import duties in respect of goods meant for export. The underlying principle is that indirect taxes are not exported and therefore, exemption or remission of indirect taxes borne on export goods is permitted.
137. In this regard, the Authority notes that Metrod has stated in its questionnaire response that the finished goods manufactured from raw materials imported under this programme can be sold in the domestic market only. However, an examination of the approval letter shows that the 'sales market' for the finished good is both the local and the export market. In any case, it is clear that the licence to import the raw material duty-free is not tied at the point of bestowal to the finished good being exported. Therefore, the Authority considers that exceptions under footnote 1 and Annexes I, II and III of the ASCM are not applicable to this programme.
138. The Authority also notes that Metrod had appealed the findings of the Authority in the original investigation, where it contested the countervailability of another programme relating to exemption of import duties on raw materials. However, in that instance, the exemption related to imports of raw material used for manufacture of goods meant for export only. The approval letter filed at the time of the original investigation noted that the exemption was being permitted for exports. Therefore, the question for determination was whether excess remissions had accrued as a result of this exemption. This is materially different from the facts of the present case, where the approval letter categorically states that the finished good is meant for sale in both the local and the export market, and the exporter claims that the goods were meant for sale in the domestic market only.
139. The Authority finds that the programme constitutes financial contribution in the form of revenue foregone. A benefit is conferred on the recipient as they are able to procure imported raw materials at lower prices. The programme is also specific as it is limited to only those enterprises which are engaged in such activities that require raw materials that are not locally available. Therefore, by its very nature, the potential beneficiaries of the programme are significantly limited. In view of the above, the Authority considers that this programme is countervailable.
140. The Authority notes that Metrod Group has imported 'copper sticks', classifiable under HS Code 7407.10, for production of the product under consideration during the period of investigation.

141. The Authority has considered the entire amount of duty saved as the benefit. The Authority has calculated the subsidy margin as follows:

$$(\text{Benefit/Sales Turnover for the PUC}) \times 100$$

G.3.3 Subsidy margins for producers and exporters from Malaysia

i. Metrod Group

142. Metrod Malaysia Sdn Bhd, a producer of the subject goods in Malaysia, along with its affiliated companies, Metrod Copper Products Sdn Bhd, Metrod (OFHC) Sdn Bhd, Panasonic Procurement Malaysia Sdn Bhd, along with Savli Copper Products Pvt Ltd, their affiliated importer in India, filed questionnaire responses in the present investigation.

143. The Authority has determined the subsidy margin for Metrod Group as follows:

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin – Range
1	Programme No 12: Accelerated Capital Allowance	Accelerated deduction of capital expenditure from taxable income.	*** %	0-1%
2	Programme No 15 – Industrial Building Allowance	Deduction from taxable income amounting to revenue foregone.	*** %	0-1%
3	Programme No 23: Exemption of Import Duty and Sales Tax on Machinery and Equipment	Exemption of import duty on capital goods	*** %	0-1%
4	Programme No. 24: Exemption of Import Duty on Raw Materials and Components	Exemption of import duties on raw materials and components	*** %	0-5%
5	Programme No. 35: International Procurement Centre	Direct tax exemption amounting to revenue foregone (availed by Metrod OFHC)	*** %	0-1%
6	Programme No. 37: Provision of Copper Cathode for LTAR	Provision of raw material for LTAR	Nil	Nil
7	Programme No. 38: Provision of Natural Gas for LTAR	Provision of an economic good for LTAR	*** %	0-1%

8	Programme No. 39: Provision of Electricity for LTAR	Provision of an economic good for LTAR	*** %	0-1%
9	Programme No. 41: Income Tax Exemption under Section 127 (3A) for Producing ETP Copper Rod and ETP Copper Wire	Direct tax exemption amounting to revenue foregone (availed by Metrod Malaysia)	*** %	0-1%
	Total		*** %	<i>De minimis</i>

ii. Other producers and exporters from Malaysia

144. The subsidy margin for all other producers and exporters from Malaysia is depicted below. The subsidy margins for schemes countervailed in the original investigation has been adopted in the present sunset review. The subsidy margin for the new schemes is based on the highest of the subsidy margins for the cooperating party, Metrod Group.

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme Nos 1, 3, 4, 6 and 30	Subsidies in the form of grants	*** %	0-5%
2	Programme Nos 7, 8	Subsidies in the form of loan guarantees	*** %	0-5%
3	Programme No 12: Accelerated Capital Allowance	Accelerated deduction of capital expenditure from taxable income.	*** %	0-1%
4	Programme No. 15: Industrial Building Allowance	Deduction from taxable income amounting to revenue foregone.	*** %	0-1%
5	Programme No 23: Exemption of Import Duty and Sales Tax on Machinery and Equipment	Exemption of import duty on capital goods	*** %	0-1%
6	Programme No. 24: Exemption of Import Duty on Raw Materials and Components	Provision of raw material at LTAR	*** %	0-5%
7	Programme No 34: Loan Programmes	Subsidies in the form of loans	*** %	0-5%

8	Programme N0. 37: Provision of Copper Cathode for LTAR	Provision of raw material for LTAR	Nil	Nil
9	Programme No. 38: Provision of Natural Gas for LTAR	Provision of an economic good for LTAR	*** %	0-1%
10	Programme No. 39: Provision of Electricity for LTAR	Provision of an economic good for LTAR	*** %	0-1%
11	Programme No. 41: Income Tax Exemption under Section 127 (3A) for Producing ETP Copper Rod and ETP Copper Wire	Direct tax exemption amounting to revenue foregone	*** %	0-1%
12	Exemption of Import Duty on Raw Materials and Components	Exemption of import duties on raw materials and components	*** %	0-5%
	Total		*** %	10-15%

G.4 Subsidisation in Thailand

G.4.1 New subsidy programmes

i. Programme No. 21: Provision of Electricity for LTAR

a) Views of the domestic industry

145. The Electricity Regulatory Commission (ERC) sets the electricity prices in Thailand. The ERC adopts a uniform tariff-setting policy for supply of electricity throughout Thailand. In determining tariffs, there are several internal subsidies from the Electricity Generating Authority of Thailand (EGAT) to the Provincial Electricity Authority (PEA). The PEA supplies electricity to consumers outside Bangkok metropolitan region. The tariffs set by the ERC disregard the actual costs of transmission to provincial areas. This programme has been countervailed by the US DOC in a series of cases, including *Steel Nails from Thailand* (2022).

b) Views of other interested parties

146. There are no preferential pricing policies and electricity is supplied to all consumers at uniform rates. The programme lacks specificity and is hence non-countervailable.

c) Examination by the Authority

147. The Authority notes that this programme was previously found countervailable in *Copper Pipes and Tubes* (2022) and *Fiberboards* (2021). In these investigations, the Authority

found that the tariff-setting governance of the ERC, as applied in practice, does not account for the actual cost of transmission of electricity to provincial areas.

148. The Authority notes that pursuant to Section 65 of the Energy Industry Act, 2007, electricity prices are set by the Energy Regulatory Commission ('ERC') of the Royal Thai Government ('RTG'). RTG draws the power to regulate energy prices from the statute. Since no guidelines or regulations have been placed on record pursuant to which the tariffs are determined, the Authority considers that the pricing is discretionary.
149. The Authority called for information relating to the operating costs and expenses, revenues and return on capital employed of the providers of electricity in Thailand. However, the interested parties were not able to establish that the tariffs set by RTG are market determined.
150. Further, the Authority notes that the programme is specific to only to provincial areas, that is, areas serviced by the Provincial Service Authority.
151. Therefore, in view of the foregoing, the Authority countervails this programme.
152. In previous investigations, including *Copper Tubes and Pipes* and *Fiberboards*, the Authority has relied on data from the portal www.globalenergyprices.com for information on electricity benchmarks. The Authority considers that the pricing information on this portal is representative of market prices and found it appropriate to rely on the same for the purposes of a benchmark.
153. The Authority has considered the difference between the benchmark rate and the weighted average rate paid by the exporter as the per unit benefit. The Authority has quantified the subsidy margin for this programme as follows:

$$[(\text{Per Unit Benefit} * \text{Total Units Consumed}) / \text{Total Sales Turnover}] * 100$$

G.4.2 Subsidy programmes previously found countervailable

154. The Authority notes that continuation of the subsidy programmes against which margins were determined has not been contested. No evidence of termination of these schemes has been placed by the interested parties on record. Further, the Authority notes that these programmes have been found to confer countervailable benefits in subsequent investigations by the Authority. Including *Copper Pipes and Tubes* and *Fiberboards* and in other jurisdictions as well. Therefore, the Authority considers that these schemes have continued during the period of investigation. Deferring to the principle of judicial economy, these schemes have not been re-examined.

G.4.3 Subsidy margins for producers and exporters from Thailand

i) SEI Thai Electric Conductor Co., Ltd.

155. SEI Thai Electric Conductor Co., Ltd., a producer and exporter from Thailand, has participated in the present investigation. The subsidy margin for SEI Thai has been determined as depicted below.

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme No 2: Exemption of Import Duty on Machinery	Revenue foregone on import of capital goods	*** %	0-1%
2	Programme No 9: Income Tax Double Deduction of the costs of Transportation, Electricity and Water supply in Promoted Zones	Revenue foregone on direct taxes	*** %	0-1%
3	Programme No 21: Provision of Electricity for LTAR	Provision of an economic good for LTAR	*** %	0-1%
	Total		*** %	<i>De minimis</i>

ii) Other producers and exporters from Thailand

156. The subsidy margin for all other producers and exporters from Thailand is depicted below. The subsidy margins for schemes countervailed in the original investigation have been adopted in the present sunset review. The subsidy margin for the new schemes is based on highest of the subsidy margins for the cooperating party, SEI Thai.

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme No 2: Exemption of Import Duty on Machinery	Revenue foregone on import of capital goods	*** %	0-1%
2	Programme Nos 3, 4, 7, 8, 9, 10, 15	Revenue foregone on direct taxes	*** %	0-5%
3	Programme Nos 4, 5, 6, 11, 12, 18, 19, 20	Revenue foregone on import of materials and components	*** %	0-1%
4	Programme Nos 13, 14	Incentives for promoted activities	*** %	0-1%

5	Programme No. 21: Provision of Electricity for LTAR	Provision of an economic good for LTAR	*** %	0-1%
	Total		*** %	0-5%

G.5 Subsidisation in Vietnam

157. The Authority notes that neither producers in Vietnam, nor the Government of Vietnam has participated in the present proceedings. The domestic industry has provided evidence of the continuation of the schemes that were countervailed in the original investigation. Since the original investigation, the Authority has found and countervailed these schemes in other investigations, including *Welded Stainless Steel Pipes and Tubes (2024)* and *Textured Tempered Glass (2025)*. Therefore, based on facts available, the Authority considers that the schemes countervailed in the original investigation continue to benefit Vietnamese producers.

Subsidy margin for producers and exporters from Vietnam

158. The Authority has determined subsidy margins for all producers and exporters from Vietnam as determined in the original investigation. The table below provides the calculation of the subsidy margin:

S. No.	Programme	Brief Description	Subsidy Margin	Subsidy Margin - Range
1	Programme Nos 1, 3: Income Tax Preferences	Direct tax exemptions amounting to revenue foregone	*** %	0-1%
2	Programme No 2: Exemption of Import Duty on Raw Material	Revenue foregone on import of raw material	*** %	0-5%
3	Programme Nos. 5, 7, 8, 9, 10, 13: Preferential Lending	Subsidies in the form of preferential lending	*** %	0-5%
4	Programme Nos. 6, 11	Subsidies in the form of grants	*** %	0-5%
5	Programme Nos. 14, 15	Provision of land at LTAR	*** %	0-1%
	Total		*** %	5-15%

H. METHODOLOGY FOR DETERMINATION OF INJURY AND EXAMINATION OF INJURY

H.1 Submissions by other interested parties

159. The submissions made by other interested parties regarding injury and causal link are as follows:
- a. The domestic industry has claimed only likelihood of continuation or recurrence of subsidisation and injury, not current injury. The Initiation Notification states that the sunset review was initiated pursuant to *prima facie* evidence of likelihood of continuation or recurrence of subsidisation and injury to the domestic industry. The Initiation Notification makes no reference to current injury being suffered by the domestic industry in the current period of investigation.
 - b. The subsidy margin for Metrod Group is *de minimis*. Therefore, exports by Metrod group cannot be said to be causing injury to the domestic industry. Further, 90-95% of exports from Malaysia during the period of investigation are by Metrod Group. Therefore, exports from Malaysia cannot be said to be causing injury to the domestic industry.
 - c. The subsidy margin for SEI Thai is *de minimis* and its exports are not subject to a countervailing duty. Therefore, exports by SEI Thai cannot be said to be unfairly priced. Performance of the domestic industry has improved over the current injury period, when SEI Thai was subject to nil duties. Therefore, even if duties are extended on grounds of likelihood, duties cannot be imposed on SEI Thai.
 - d. There have been no imports of the subject goods from Indonesia during the period of investigation. Therefore, Indonesian imports have not injured the domestic industry during the period of investigation.
 - e. The application has been filed by the Indian Primary Copper Producers Association. The application states that Hindalco and Vedanta have provided the relevant data as per the prescribed formats. However, the header of the annexures relating to injury mention only Hindalco's name. It is not clear whether the data filed pertains to only Hindalco or to the domestic industry as a whole.
 - f. The base year of the current injury period, 2020-21, was severely impacted by COVID. Therefore, it is incorrect to compare the volume of imports with the base year. Instead, import volumes during the present period of investigation must be compared with the import volume at the time of the original investigation. The volume of imports from the subject countries during the present period of investigation is lower than the volume of imports during the original investigation.
 - g. The domestic industry has retained its market share despite increase in demand in absolute terms. Sales of the domestic industry have surpassed the growth in demand.
 - h. Price undercutting is negative during the period of investigation. It is entirely unclear that as to how in the absence of price effect, the applicants are characterising imports from subject countries as "unfair priced imports".

- i. The landed price of imports from Thailand has increased over the injury period. The increase in the import price from Thailand is higher than the increase in the cost of sales of the domestic industry.
- j. Volume parameters, such as sales, production, capacity utilisation and no. of employees have increased, whereas captive sales and inventory has declined. This establishes that the domestic industry is not facing any volumetric pressures from subject imports.
- k. Financial parameters of the domestic industry such as net sales realisation, PBT, PBIT, PBDIT, Cash Profits and ROCE increased during the injury period and were highest during the period of investigation.
- l. Except for 2021-22, the net sales realisation of the domestic industry has always remained above the cost of sales.
- m. The performance of the domestic industry is required to be considered on 'as is' basis. Performance of the domestic industry on key economic parameters cannot be re-worked by taking alternative values of raw materials, labour cost, overhead cost etc.
- n. The domestic industry has exported the product under consideration at losses. The domestic industry is itself dumping the product in other markets and thus engaging in unfair trade practices.
- o. The performance of the domestic industry would have shown an even greater improvement had it not exported the product at losses.
- p. The domestic industry cannot claim that its own cost of sales is unreliable because domestic industry is not purchasing copper cathode from market at market price but is instead producing copper cathode.
- q. Hindalco and Hindustan Copper Ltd are both vertically integrated. Both companies are performing well on all economic parameters. Only Vedanta is incurring losses as the company is not vertically integrated.
- r. Vedanta is not performing due to intrinsic factors such as its smelting plant in Tuticorin and its refinery in Silvassa being non-operational.
- s. There are significant imports from non-subject countries. Imports from subject countries account for only 45% of the total import volume of the product into India during the period of investigation.
- t. The import price of the goods from Thailand is above the landed value of imports from the non-subject countries. Thus, the injury to the domestic industry cannot be attributable to subject imports from Thailand.
- u. Assertion of the domestic industry that there are significant idle capacities in the subject countries are misleading and misconceived.
- v. For injury on account of absence of custom duties, applicants should approach the appropriate forum. Trade remedial measures should not be used as a cushion mechanism to provide undue protection to applicants.
- w. Since majority of imports from the subject countries during the period of investigation were from producers not attracting duties on account of *de minimis* subsidy margins, injury to the domestic industry, if any, is on account of other factors.

H.2 Submissions by the domestic industry

160. The submissions made by the domestic industry regarding injury and causal link are as follows:

- a. The application has been filed by Indian Primary Copper Producers' Association, with Hindalco and Vedanta supplying the relevant data as per the prescribed formats for costing and injury. The data submitted pertains to the domestic industry as a whole. Mention of only Hindalco's name in the header of the annexures is an inadvertent error.
- b. The domestic industry has sufficient capacity to meet Indian demand. The Indian industry is capable and willing to meet Indian demand. Therefore, the imports are entirely superfluous.
- c. The domestic industry has had positive growth on volume account. However, the growth in sales was much less than growth in production and the growth in market (demand). Growth in market share is negative for last two years.
- d. The volume of imports from the subject countries has increased over the injury period in absolute terms as well as in relation to production and consumption.
- e. The market share of domestic industry declined marginally in 2022-23 and has further declined in the period of investigation. At the same time, the market share of the subject countries has increased.
- f. The decline in the market share may appear low, however, a *** decline in market share implies loss of sale of close to *** MT of sales amounting to Rs *** of revenue to the industry.
- g. Prices of the product under consideration are driven by the prices prevailing at the London Metal Exchange (LME). The LME price sets the base price, over which a markup is charged to account for cost of sales and profit. This markup is referred to as 'premium'. Producers have a small commercial window in which to set the premium. Therefore, even marginal undercutting leads to lost sales.
- h. LME prices are highly volatile. Further, prices offered by different sellers vary only in terms of the premium, which is a small share of the overall price. Therefore, any aggregate level analysis of price trends or price undercutting will not be reflective of commercial realities.
- i. A month-wise analysis of price undercutting shows that price undercutting is positive during the period of investigation.
- j. The domestic industry has two models of production: (i) vertically integrated production of wire from copper concentrate, and (ii) production of wire from purchased copper cathode. Exporters are producing the subject goods from purchased copper cathode only. For an appropriate comparison of injury, production from the same method must be compared.
- k. If production of copper wire from purchased copper cathode is considered, the landed price of imports is below the cost of sales of the domestic industry.
- l. As the product is a commodity product with a high total price, even a marginal percentage difference in price is sufficient for consumers to change vendors.

- Domestic industry has suffered from lost sales during the period of investigation. Customers did not fulfil contracted orders as they resorted to imports instead. Non-fulfilment of contracted orders by customers shows that subject imports are undercutting the prices of the domestic industry.
- m. Due to lost sales opportunities in the domestic market, the domestic industry was forced to resort to exports. The domestic industry has incurred losses on its export sales.
 - n. The average selling price for the product under consideration is Rs 7 Lakh/MT. Given the high value of the product, the cost of carrying inventories is very high. The average inventory of the domestic industry has been high throughout the injury period. This level of inventory is despite forced exports at losses to clear inventories.
 - o. The increase in the profit per unit of the applicant is because of the overall trend of LME prices during the injury period. The prices of LME have fluctuated over the years. The same trend is reflected in the cost of sales of the domestic industry.
 - p. The per unit profit of the domestic industry is significantly lower than the per unit profit considered by the Authority for normal value calculation in anti-dumping investigations.
 - q. A determination of injury can only be made by comparing current performance to a period when the domestic industry was not injured. In the original investigation, the Authority found that the domestic industry was injured. However, due to nil duties imposed on Metrod and SEI Thai, the domestic industry continued to be injured during the injury period for the present sunset review. Therefore, performance of the domestic industry must be compared to its performance during the period of investigation of the original investigation. This is in line with the practice in other jurisdictions, including the US and the EU, where injury examination in all sunset review includes assessment of performance since the original investigation.
 - r. Compared to the performance of the domestic industry during the POI of the original investigation, profits and ROCE have remained consistently and significantly low during the present injury period. The per unit profit and the return on capital employed in the period of investigation are almost half of the level in the original investigation.
 - s. The Authority concluded that the domestic industry was suffering injury during the original investigation. The performance of the domestic industry is even more dire in the present period of investigation.
 - t. The applicant has filed an anti-dumping application against the imports from United Arab Emirates. However, the DGTR did not initiate the investigation, and no reason was provided to the applicants for not considering initiating of the investigation.
 - u. The exporters from subject countries are export oriented and the producers in the subject countries have set up capacities to cater export market.

- v. The producers in the subject countries are operating with significant idle capacities. Cessation of countervailing duties (to the extent of Indonesia and Vietnam) will encourage the producers to utilize these capacities to export to India.
- w. A large share of exports from the subject countries to other countries are priced below the export price to India. This implies that the Indian market will be a highly price attractive market for these producers in the subject countries.
- x. Despite operating with idle capacities, the producers in the subject countries are undertaking further capacity expansions.
- y. Imports from Indonesia and Vietnam ceased upon imposition of countervailing duties. Further, imports from Malaysia and Thailand from producers that are subject to duties also ceased. This shows that exporters in the subject countries are unwilling to compete on fair terms.

H.3 Examination by the Authority

161. Rule 13 of CVD Rules provides for the determination of injury and causal link. It reads as follows:

RULE 13. Determination of injury –

(1) In the case of imports from specified countries, the designated authority shall give a further finding that the import of such article into India causes or threatens material injury to any industry established in India, or materially retards the establishment of an industry in India.

(2) Except when a finding of injury is made under sub-rule (3), the designated authority shall determine the injury, threat of injury, material retardation to the establishment of an industry and the causal link between the subsidised import and the injury, taking into account inter alia, the principle laid down in Annexure I to the rule.

(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured if -

- (i) there is a concentration of subsidised imports into an isolated market, and*
- (ii) the subsidised imports are causing injury to the producers of almost all of the production within such market.*

162. Annexure I to the CVD Rules lays down the principles governing the determination of injury. It provides as follows:

1. (1) A determination of injury for purposes of rule 13 shall be based on positive evidence and involve an objective examination of both (a) the volume of the subsidized imports and the effect of the subsidized imports on prices in the domestic market for

like products and (b) the consequent impact of these imports on the domestic producers of such products.

(2) With regard to the volume of the subsidized imports, the designated authority shall inter alia consider whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption in India.

(3) With regard to the effect of the subsidized import on prices, the designated authority shall, consider whether there has been a significant price undercutting by the subsidized imports as compared with the price of a like article in India, or whether the affect of such imports is otherwise to depress prices to a significant degree or to prevent price increases, which otherwise would have occurred, to a significant degree.

(4) Where imports of a product from more than one country are simultaneously subject to countervailing duty investigations, the designated authority may cumulatively assess the effect of such imports only if it determines that (a) the amount of subsidization established in relation to the imports from each country is more than one per cent ad valorem 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 product.

(5) The designated authority while examining the impact of the subsidized imports on the domestic industry shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in output, sales, market share, profits, 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 and, in the case of agriculture, whether there has been an increased burden on government support programmes.

163. The interested parties have argued that the domestic industry has not claimed current injury in the present case, and therefore, any affirmative determination would rest entirely on the likelihood of continuation or recurrence of injury.

164. Para 1 of Annexure I of the Rules lists the essential injury parameters that the Authority examines in all cases. An examination of the application for initiation of the sunset review shows that the domestic industry contended adverse performance on these essential injury parameters during the present period of investigation. In its application, the domestic industry contended, *inter alia*, an increase in import volumes in absolute and relative terms, positive price undercutting, depression of prices of the domestic industry, decline in market share, unutilised capacities, low profits, high inventories and negative growth.

165. Further, the domestic industry in its application and its written submissions elaborated upon its claims, presenting more detailed calculations of price undercutting, low and declining profitability since the period of investigation of the original investigation, low and declining ROCE since the original investigation, forced exports at losses etc.
166. Therefore, the Authority considers that the domestic industry has claimed current injury during the present sunset review, as it has extended multiple contentions regarding adverse performance on the essential injury parameters provided in the Rules, as well as additional parameters purportedly reflecting injury.
167. On the submission that only Vedanta is suffering losses as it is not vertically integrated, the Authority draws reference to the decision of the Appellate Body in *European Union – Biodiesel (Argentina)*, wherein it was held that an Authority is not required to conduct a non-attribution analysis with respect to features that are inherent to an industry and have remained unchanged over the injury period. Similarly, CESTAT has held in *Nippon Zeon Co. Ltd. vs. Designated Authority* that injury to the domestic industry must be seen as it exists. The Authority notes that the even the participating producers are not backward integrated.
168. The Authority has examined the arguments and counterarguments 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.

H.3.1 Cumulative Assessment of Imports

169. Article 15.3 of ASCM and Para 1(4) of Annexure I of the Rules provide that the Authority *may* conduct cumulative assessment of effects of imports if goods from more than one country are subject to investigation. Cumulative assessment is permitted if the following conditions are met:
- i) The amount of subsidisation established in relation to the imports from each country is more than one per cent ad valorem and the volume of imports from each country is not negligible.
 - ii) 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 product.
170. The Authority notes that the present case is a sunset review. Therefore, due to the imposition of duties, import volumes from two subject countries are below *de minimis* levels. Thus, the Authority has examined the injurious effects of imports from each country individually.

H.3.2 Injury to the Domestic Industry

I. Assessment of demand/apparent consumption

171. The demand or apparent consumption has been determined as the sum of domestic sales of the participating producers, estimated sales of other producer(s) and imports from all sources.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Sales of domestic industry	MT	***	***	***	***
2	Trend	Index	100	108	135	134
3	Sales of other Indian producers	MT	***	***	***	***
4	Trend	Index	100	91	482	224
5	Imports from subject countries	MT	24,363	44,659	47,306	51,402
6	Import from other countries	MT	55,905	43,143	43,163	55,967
7	Total demand	MT	***	***	***	***
8	Trend	Index	100	108	132	134
9	Total capacity	MT	***	***	***	***
10	Trend	Index	100	100	100	100

172. It is seen that the demand for the product under consideration has increased consistently throughout the injury period. Considering installed capacities *** MT in India, the Indian industry was in a position to meet the rising demand in the country.

II. Volume effect of subject imports.

173. With regard to the volume of the subject imports, the Authority is required to consider whether there has been a significant increase in imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction-wise import data procured from DG Systems and Data Management.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Volume of imports from subject countries	MT	24,363	44,659	47,306	51,402
a	Thailand	MT	20,321	24,956	29,824	31,547
b	Malaysia	MT	4,042	19,703	17,458	19,856
c	Indonesia	MT	-	-	-	-
d	Vietnam	MT	-	-	24	0
2	Subject imports in relation to:					
3	In case of Thailand					
a	Indian production	%	***	***	***	***
b	Trend	Index	100	114	102	97
c	Demand	%	***	***	***	***
d	Trend	Index	100	113	111	116
e	Total Imports	%	***	***	***	***

f	Trend	Index	100	174	178	174
4	In case of Malaysia					
a	Indian production	%	***	***	***	***
b	Trend	Index	100	452	301	307
c	Demand	%	***	***	***	***
d	Trend	Index	100	449	326	366
e	Total Imports	%	***	***	***	***
f	Trend	Index	100	446	383	367
5	In case of Indonesia					
a	Indian production	%	0%	0%	0%	0%
b	Trend	Index	-	-	-	-
c	Demand	%	0%	0%	0%	0%
d	Trend	Index	-	-	-	-
e	Total Imports	%	0%	0%	0%	0%
f	Trend	Index	-	-	-	-
6	In case of Vietnam					
a	Indian production	%	0%	0%	***	0%
b	Trend	Index	-	-	100	-
c	Demand	%	0%	0%	***	0%
d	Trend	Index	-	-	100	-
e	Total Imports	%	0%	0%	***	0%
f	Trend	Index	-	-	100	-

174. It is seen that in case of Malaysia and Thailand, imports have increased both in absolute terms as well as in relation to production and consumption in India. This increase in import volumes needs to be seen in light of the fact that there is no supply-demand gap for the product in India, and the Indian industry is fully capable of meeting Indian demand. In the original investigation, the subsidy margin for SEI Thai was at *de minimis* level. The volume of imports from Thailand has increased significantly in the present injury period.
175. Subsequent to the decision of CESTAT, exports by Metrod Malaysia also are not attracting anti-subsidy duty and the appeals filed by the domestic industry are pending decision before the Hon'ble Supreme Court. The CESTAT had modified CVD on Metrod vide final order dated 8 March 2021 and the volume of its exports has increased significantly thereafter. The imports have increased from *** MT to *** MT.
176. It is seen that post imposition of anti-subsidy duty, the import volume from Vietnam and Indonesia have declined significantly both in absolute and relative terms. There are no imports from either Vietnam or Indonesia.
177. It is therefore seen that the imports have declined in the case of countries and companies attracting anti-subsidy duty, whereas the same has increased in respect of countries and companies attracting no CVD.

III. Price effect of the subject imports

178. In terms of Annexure II (ii) of the Rules, with regard to the effect of the subject imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

a. Price undercutting

179. For the purpose of price undercutting analysis, the net sales realization of the domestic industry has been compared with the landed value of imports from the subject country. The primary price of the product under consideration is governed by the copper price at LME. It is seen that the copper price at LME has fluctuated significantly over the period of investigation. The table below shows the copper price at LME over the period of investigation.

SN	Period	Price \$/MT	Trend	SN	Period	Price \$/MT	Trend
1	Jan 2023	9,000	100	7	Jul 2023	8,445	94
2	Feb 2023	8,955	100	8	Aug 2023	8,349	93
3	Mar 2023	8,836	98	9	Sep 2023	8,281	92
4	Apr 2023	8,814	98	10	Oct 2023	7,923	88
5	May 2023	8,234	91	11	Nov 2023	8,174	91
6	Jun 2023	8,386	93	12	Dec 2023	8,394	93

180. Therefore, the Authority has determined the price undercutting on a monthly basis. The table below shows the monthly price undercutting over the period of investigation.

Malaysia

SN	Month	Copper wire ≤6mm				
		Import Volume in MT	Selling price Rs/MT	Landed price Rs/MT	Price undercutting Rs/MT	Price undercutting %
1	Jan-23	1,353	***	741,339	***	***
2	Feb-23	1,402	***	758,110	***	***
3	Mar-23	1,250	***	770,116	***	***
4	Apr-23	1,305	***	745,500	***	***
5	May-23	1,043	***	722,388	***	***
6	Jun-23	2,085	***	735,553	***	***
7	Jul-23	1,631	***	735,331	***	***
8	Aug-23	1,528	***	743,061	***	***
9	Sep-23	2,251	***	729,142	***	***

10	Oct-23	2,205	***	734,378	(***)	(***)
11	Nov-23	2,027	***	730,217	(***)	***
12	Dec-23	1,774	***	735,893	***	***
13	Weighted average				***	0-10

SN	Month	Copper wire >6mm				
		Import Volume in MT	Selling price Rs/MT	Landed price Rs/MT	Price undercutting Rs/MT	Price undercutting %
1	Jan-23	-	-	-	-	0%
2	Feb-23	-	-	-	-	0%
3	Mar-23	-	-	-	-	0%
4	Apr-23	-	-	-	-	0%
5	May-23	-	-	-	-	0%
6	Jun-23	-	-	-	-	0%
7	Jul-23	-	-	-	-	0%
8	Aug-23	-	-	-	-	0%
9	Sep-23	-	-	-	-	0%
10	Oct-23	-	-	-	-	0%
11	Nov-23	-	-	-	-	0%
12	Dec-23	3	***	749,359	(***)	(***)
13	Weighted average				(***)	(0-10)

181. It is seen that the price undercutting is positive for wire ≤ 6 mm and negative for wire > 6 mm. Weighted average price undercutting is given below and it is seen that the price undercutting is positive.

SN	Particulars	UOM	Copper wire ≤ 6 mm	Copper wire > 6 mm	Weighted average
1	Import volume	MT	19,853	3	19,856
2	Selling price	Rs/MT	***	***	***
3	Landed price	Rs/MT	738,866	749,359	738,867
4	Price undercutting	Rs/MT	***	(***)	***
5	Price undercutting	%	***	(***)	***
6	Price undercutting Range	%	0-10	(0-10)	0-10

Thailand

SN	Month	Copper wire				
		Import Volume in MT	Selling price Rs/MT	Landed price Rs/MT	Price undercutting Rs/MT	Price undercutting %
1	Jan-23	1,942	***	732,895	***	***

2	Feb-23	2,422	***	795,636	(***)	(***)
3	Mar-23	3,082	***	782,827	(***)	(***)
4	Apr-23	2,582	***	767,882	***	***
5	May-23	1,681	***	760,849	(***)	(***)
6	Jun-23	2,742	***	725,229	***	***
7	Jul-23	2,421	***	735,244	***	***
8	Aug-23	3,542	***	741,672	***	***
9	Sep-23	2,862	***	735,534	***	***
10	Oct-23	3,045	***	727,390	(***)	(***)
11	Nov-23	2,763	***	710,445	***	***
12	Dec-23	2,464	***	726,627	***	***
13	Weighted average				***	0-10

SN	Month	Copper rod			
		Selling price Rs/MT	Landed price Rs/MT	Price undercutting Rs/MT	Price undercutting %
1	Jan-23	-	-	-	-
2	Feb-23	-	-	-	-
3	Mar-23	-	-	-	-
4	Apr-23	-	-	-	-
5	May-23	-	-	-	-
6	Jun-23	-	-	-	-
7	Jul-23	-	-	-	-
8	Aug-23	-	-	-	-
9	Sep-23	-	-	-	-
10	Oct-23	-	-	-	-
11	Nov-23	-	-	-	-
12	Dec-23	-	-	-	-
13	Weighted average			-	-

182. It is seen that the price undercutting is positive. Weighted average price undercutting is given below and it is seen that the price undercutting is positive.

SN	Particulars	UOM	Copper wire	Copper rod	Weighted average
1	Import volume	MT	31,547	-	31,547
2	Selling price	Rs/MT	***	***	***
3	Landed price	Rs/MT	744,695	-	744,695
4	Price undercutting	Rs/MT	***	***	***
5	Price undercutting	%	***	***	***
6	Price undercutting Range	%	0-10	0-10	0-10

183. Since there are no imports from Indonesia and Vietnam, the price undercutting has not been determined.

b. Price suppression / depression

184. The trend of cost of sales and selling price of the domestic industry.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Cost of sales	₹/MT	***	***	***	***
	Trend	Indexed	100	137	129	133
2	Selling price	₹/MT	***	***	***	***
	Trend	Indexed	100	135	130	134

185. It is seen that when seen on a year-to-year basis, the cost and selling price have moved in tandem.

IV. Economic parameters of the domestic industry

186. The performance of the domestic industry in various economic parameters is shown below.

i. Capacity, production, capacity utilisation and sales

187. Information regarding production, capacity, capacity utilization and sales is given below.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Capacity	MT	***	***	***	***
2	Trend	Index	100	100	100	100
3	Production	MT	***	***	***	***
4	Trend	Index	100	107	138	154
5	Capacity utilization	%	***	***	***	***
6	Trend	Index	100	107	138	154
7	Domestic sales	MT	***	***	***	***
8	Trend	Index	100	108	135	134
9	Export sales	MT	***	***	***	***
10	Trend	Index	100	335	909	3,016
11	Demand	MT	***	***	***	***
12	Trend	MT	100	108	133	134

188. It is seen that

- a. The capacities of the domestic industry remained at the same level over the injury period.
- b. Production and capacity utilization of the domestic industry increased over the injury, showing 54% increase over the injury period.

- c. The domestic sales increased till 2022-23 and then declined slightly in the POI. Domestic sales increased over the injury period.

189. The domestic industry has claimed that the cost of carrying inventories is very high for the product under consideration. Therefore, due to a loss of sales opportunities in the domestic market, to clear some of its inventory, it was forced to resort to exports. The Authority notes that the domestic industry has made export sales of *** MT during the period of investigation. The Authority notes that these sales were made at a loss of Rs *** MT.

ii. Market share

190. The market share of domestic industry and imports over the period is as below.

SN	Particulars	Unit	2020-21	2021-22	2022-23	POI
1	Domestic industry	%	***	***	***	***
2	Trend	Index	100	100	102	100
3	Other producers	%	***	***	***	***
4	Trend	Index	100	84	364	167
5	Subject country imports	%	6%	10%	8%	9%
6	Trend	Index	100	169	147	157
7	Other country imports	%	13%	9%	8%	10%
8	Trend	Index	100	71	58	75

191. It is seen that the market share of the domestic industry increased in 2022-23 and then declined in POI. The market share of the imports from the subject countries has increased over the injury period.

iii. Inventories

192. The inventory position of the domestic industry is as below.

SN	Particulars	Unit	2020-21	2021-22	2022-23	POI
1	Opening Inventory	MT	***	***	***	***
2	Trend	Index	100	123	78	108
3	Closing Inventory trend	MT	***	***	***	***
4	Trend	Index	100	70	63	53
5	Average Inventory	MT	***	***	***	***
6	Trend	Index	100	86	68	69

193. It is seen that average inventory with the domestic industry declined till 2022-23 but has increased thereafter in the period of investigation. It has been submitted that keeping capital locked up in the form of inventory is feasible only to a limited extent. The domestic industry has *** MT of inventory which amounts to Rs *** and the same was despite significant exports undertaken by the domestic industry to dispose of production.

iv. Profits, cash flow and return on investment.

194. The profitability parameters of the domestic industry are given below.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Profit/ (loss)	₹/MT	***	(***)	***	***
2	Trend	Index	100	-72	177	247
3	Profit/ (loss)	₹ Cr	***	(***)	***	***
4	Trend	Index	100	-78	239	330
5	Cash Profit	₹ Cr	***	(***)	***	***
6	Trend	Index	100	-56	222	303
7	Profit before interest & tax	₹ Cr	***	(***)	***	***
8	Trend	Index	100	-28	225	338
9	Return on capital employed	%	***	(***)	***	***
10	Trend	Index	100	-22	193	261

195. It is seen that the domestic industry was profitable in 2020-21, which turned into losses in 2021-22. The performance improved in 2022-23 as the domestic industry made profits. The profits improved in the period of investigation.

196. The domestic industry has submitted that current profitability is low, and it has continued to suffer. The domestic industry submitted that its profitability is still much adverse as compared to the POI of the original investigation.

v. Employment, wages and productivity.

197. The information regarding employment, wages and productivity is given below:

SN	Particulars	Unit	2020-21	2021-22	2022-23	POI
1	Salaries & Wages	Nos.	***	***	***	***
2	Trend	Index	100	100	139	187
3	No. of employees	₹ Cr	***	***	***	***
4	Trend	Index	100	101	109	117
5	Productivity per day	MT/Days	***	***	***	***
6	Trend	Index	100	108	142	160
7	Productivity per employee	MT/Nos	***	***	***	***
8	Trend	Index	100	101	111	114

198. The number of employees and wages paid have increased over the injury period. Further, as production increased, productivity of the domestic industry also increased over the injury period. The domestic industry has not claimed injury in this account.

vi. Growth.

199. Information regarding growth is as follows:

SN	Particulars	UOM	2020-21	2021-22	POI
1	Production	%	7%	30%	11%
2	Sales	%	8%	25%	-1%
3	Profit/(Loss) per unit	%	-172%	145%	40%
4	Inventory	%	-14%	-21%	2%
5	Market share	%	0%	3%	-3%
6	Profit before tax	%	-178%	207%	38%
7	Cash profit	%	-156%	294%	36%
8	Profit before interest and tax	%	-128%	709%	50%
9	Return on Investment (ROI)	%	-122%	777%	54%

200. It is seen that the domestic industry has had positive growth on volume account. However, the growth in sales was much less than growth in production and the growth in the market (demand). Growth in market share is negative for POI.

vii. Ability to raise capital investment.

201. The domestic industry has submitted that their current profits do not justify fresh investment.

H.3.2 Likelihood of continuation or recurrence of subsidization and injury

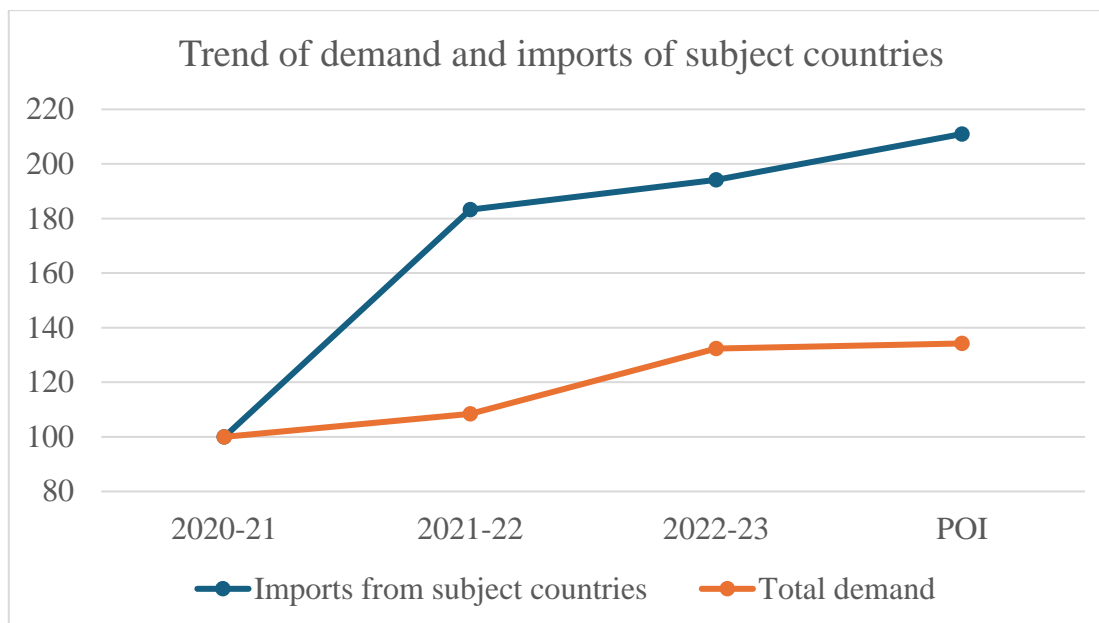
202. In accordance with Rule 24(3), the Authority is required to examine the likelihood of continuation or recurrence of subsidization and injury in the event of expiry of duties. The Authority has examined all material placed on record relating to the likelihood of continuation or recurrence of injury, along with such other factors relevant to and having a bearing on the question of likelihood of continuation or recurrence of injury.

a. Continued subsidisation

203. The Authority notes that subsidization of the subject goods has continued in the period of investigation in the subject countries. Therefore, the Authority considers that subsidization is likely to continue.

b. Imports in relation to demand and supply

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Indonesia	MT	-	-	-	-
2	Malaysia	MT	4,042	19,703	17,458	19,856
3	Thailand	MT	20,321	24,956	29,824	31,547
4	Vietnam	MT	-	-	24	0



204. The Authority notes that imports from Indonesia and Vietnam dried up following the imposition of measures. However, imports from Malaysia and Thailand have increased in the present injury period.

205. The imports from Malaysia and Thailand are only from producers currently attracting nil duties due to de *minimis* margins. However, the Authority notes that there are other producers in these countries that are currently subject to duties. The Authority notes that such producers had also participated in the original investigation. Therefore, the Authority considers that there is the likelihood of resumption of subsidized exports by these producers that are currently subject to duties in the event of cessation of duties.

c. Export orientation of producers in subject countries

206. The Authority has examined the information provided by the domestic industry and the information provided by the responding producers which is shown below.

SN	Particulars	Exports MT	Production MT	Export orientation %	Export orientation Range
1	Information provided by domestic industry				
a	Indonesia	69,453	205,000	34%	30-40%
b	Malaysia	106,610	219,000	49%	45-55%
c	Thailand	91,669	186,000	49%	45-55%
d	Vietnam	29,367	230,000	13%	10-20%
2	Information from the response				
a	SEI Thailand	***	***	***	40-50%
b	Metrod Group	***	***	***	45-55%
c	PT Karya	***	***	***	45-55%

D	PT Tembaga	***	***	***	10-20%
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207. It is seen that a significant share of the production has been exported. It is therefore seen that there is a likelihood of diversion of subsidized exports to India in the event of cessation of duties as far as Indonesia and Vietnam are concerned.

d. Significant unutilised capacities in the subject countries

208. The Authority examined the data filed by the participating exporters. The capacity utilization of the participating exporters during the period of investigation is depicted below:

SN	Particulars	Production MT	Capacity MT	Idle capacity MT	Idle capacity in %	Idle capacity Range
1	Information provided by domestic industry					
a	Indonesia	205,000	298,000	93,000	31%	30-40%
b	Malaysia	219,000	488,000	269,000	55%	50-60%
c	Thailand	186,000	351,000	165,000	47%	40-50%
d	Vietnam	230,000	342,000	112,000	33%	30-40%
2	Information from the response					
a	SEI Thailand	***	***	***	***	0-10%
b	Metrod Group	***	***	***	***	40-50%
c	PT Karya	***	***	***	***	50-60%
d	PT Tembaga	***	***	***	***	40-50%

209. The Authority notes that in the case of Indonesia, Malaysia, Thailand and Vietnam, producers had significant unutilized capacities in the period of investigation. This denotes the likelihood of resumption of production and exports if the measures expire and the Indian market opens up for these exporters. It is also seen that while imports of Metrod Malaysia and SEI Thailand are not subject to duty, there are other producers in the countries whose imports are subject to measures. Based on the information on record, it is seen that the producers in Malaysia and Thailand are also operating with idle capacities.

e. Injurious exports to third countries.

210. Information on third-country exports is given below. PT Tembaga has not provided the relevant information.

SN	Particulars	Exports at injurious price	Total exports	% of exports at injurious price	% of exports at injurious price
1	Information provided by domestic industry				
a	Indonesia	46,714	83,719	56%	90-100%

b	Malaysia	64,282	98,695	65%	90-100%
c	Thailand	4,335	93,234	5%	90-100%
d	Vietnam	4,332	19,512	22%	80-90%
	Total	119,663	295,159	41%	80-90%
2	Information from the response				
a	SEI Thailand	***	***	***	75-85%
b	Metrod Group	***	***	***	15-25%
c	PT Karya	***	***	***	40-50%
	Total	***	***	***	35-45%

f. Price attractiveness of the Indian market

211. Information on third-country exports is given below. PT Tembaga has not provided the relevant information.

SN	Particulars	Exports below price in India	Total exports	% of exports below price in India	% of exports below price in India
1	Information provided by domestic industry				
a	Indonesia	59,280	83,719	71%	65-75%
b	Malaysia	90,202	98,695	91%	85-95%
c	Thailand	63,953	93,234	69%	65-75%
d	Vietnam	13,539	19,512	69%	65-75%
	Total	226,975	295,159	77%	35-45%
2	Information from the response				
a	SEI Thailand	***	***	***	70-80%
b	Metrod Group	***	***	***	55-65%
c	PT Karya	***	***	***	55-65%
	Total	***	***	***	55-65%

212. A large share of exports from the subject countries to other countries are priced below the price in India. This implies that the Indian market will be a highly price attractive market for these producers in the subject countries. Expiry of the duties will encourage these producers to divert their products to the Indian market.

g. Capacity expansion in the subject countries.

213. The domestic industry provided evidence of capacity expansion undertaken by Ta Win Holdings Bhd, a Malaysian producer, during the injury period to cater to growing demand for copper wires.

214. Other interested parties contended that the evidence on record does not establish that Ta Win Holdings is benefiting from subsidization by GoM. However, the Authority considers that in the original investigation, the Authority has already determined that Malaysian

producers of the subject goods are benefitting from countervailable subsidies and accordingly determined an all-others rate for non-participating producers from Malaysia. Other interested parties also contended that the evidence on record does not establish that Ta Win Holdings intends to export to India. However, the Authority considers that there is no evidence that the exporter would be selling in the markets other than India. The company has preferred not to cooperate with the Authority in the present investigation.

215. Therefore, the Authority considers that capacity expansion by producers in Malaysia, despite significant unutilized capacities, denotes the likelihood of increased exports to India.

h. Imposition of ban on export of copper ore and concentrate in Indonesia

216. In the original investigation, it was seen that the Government of Indonesia has placed restrictions on exports of copper ore and concentrate to promote domestic processing and localization of manufacturing of more advance products in the value chain. The Authority had found these restraints to constitute a countervailable subsidy. The Authority notes that since January 2025, the export restraints have been escalated to an export ban. The escalation of a measure that has been found to be countervailable denotes the likelihood of continuation of subsidization.

I. NON-ATTRIBUTION ANALYSIS

217. The Rules require the Authority to examine factors other than the subject imports that are causing or may cause injury to the domestic industry to avoid erroneous attribution of injury caused by such other factors to subsidized imports.

218. The Authority notes that multiple factors may be causing injury to the domestic industry, that is, a domestic industry may be injured by reason of subject imports as well as other factors. However, the question the Authority is required to determine is whether injury to the domestic industry is attributable entirely to such other factors. As held by the WTO Appellate Body in *EU – PET (Pakistan)*, notwithstanding injury due to other factors, the subject imports must qualify as a ‘genuine and substantial source of injury’. It is not necessary that subject imports are the sole cause of injury to the domestic industry.

219. The Authority notes that the present proceedings are a sunset review and the causal link between subsidization and injury has already been established in the original investigation.

220. The Authority has examined whether other known factors, as provided in the Rules, have caused or are likely to cause injury to the domestic industry.

a) Volume and prices of imports from third countries

221. It is seen that import volumes from United Arab Emirates and Japan are above *de minimis* levels. The domestic industry had claimed injury from such imports as well in its

application for initiation of an anti-dumping application concerning imports of the product under consideration from, *inter alia*, the United Arab Emirates. However, the investigation was not initiated on the ground that the injury margin in case of Japan and United Arab Emirates was found to be negative.

b) Contraction in Demand

222. The demand has consistently increased throughout the injury period.

c) Changes in pattern of consumption

223. There are no changes in the pattern of consumption for the product under consideration over the injury period.

d) Conditions of competition and trade restrictive practices

224. The investigation has not shown any change in the conditions of competition or any trade restrictive practices.

e) Developments in Technology

225. No evidence has been brought forward to show that there are significant developments or changes in technology for production of the goods.

f) Export performance of the domestic industry

226. The Authority has considered the injury data for the domestic operations separately for the injury analysis. Therefore, export performance is not the cause of injury to the applicant.

g) Performance of other products

227. The domestic industry has provided the injury data for the product under consideration and the same has been adopted by the Authority for the purpose of injury analysis. The performance of other products produced and sold by the domestic industry have not been considered.

J. MAGNITUDE OF INJURY MARGIN

228. The Authority has determined the non-injurious price for the domestic industry in accordance with its established practice and principles. The non-injurious price for the product under consideration is determined by adopting the information/data relating to the cost of production provided by the domestic industry. The NIP has been considered for comparing the landed price from the subject countries for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials and utilities has been considered over the injury period. Extraordinary or non-recurring expenses have been excluded from 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.

229. It is noted that in the subject investigation, many cooperating producers and exporters are related to each other and form a group of related companies. It has been the consistent practice of the Authority to consider related exporting producers and exporters as one single entity for the determination of injury margin and thus to establish one single injury margin for them.
230. In accordance with the above, related producers and exporters are regarded as one single entity and attributed one single injury margin which is calculated on the basis of the weighted average of the injury margins of the cooperating related producers and exporters.
231. Based on the landed price of the subject imports and the non-injurious price determined above, the injury margin determined by the Authority is provided in the table below. Since there are no imports from Indonesia and Vietnam, the injury margin has not been determined.

SN	Producer	Non-Injurious Price	Landed Price	Injury Margin		
		USD/MT	USD/MT	USD/MT	%	Range
A	Malaysia					
1	Metrod Malaysia Sdn Bhd and Metrod Group	***	***	***	***	0-10%
B	Thailand					
1	SEI Thai Electric Company	***	***	***	***	0-10%

K. INTEREST OF THE INDIAN INDUSTRY

K.1. Submissions by other interested parties

232. The other interested parties have made the following submissions with regard to the interest of the Indian industry:
- i. Imposition of countervailing duties will adversely impact the downstream industries in various sectors such as electronic and automotive.
 - ii. Countervailing duties will impact the efficiency of the downstream industry and their ability to compete in the Indian and international market.

K.2 Submissions by the domestic industry

233. The domestic industry has made the following submissions with regard to the interest of the Indian industry:

- i. Operating margins of producers of downstream products, including enamelled copper wires, insulated copper wires, transmission cables and metal-coated copper wires, are sufficient to absorb the impact of duties.
- ii. Selling prices of downstream articles is inelastic vis-à-vis import price of the product under consideration, that is, selling prices of downstream articles do not vary with changes in import price of the product under consideration.
- iii. The cost of the product under consideration constitutes a small share in the cost of the end products, therefore, the impact would be minimal even if the downstream industry passes costs onward. A typical AC of 1.5 tons requires 5 meters of copper wire for internal wiring. Price of 90-meter copper wire is around Rs 3400 which implies that cost of copper wire in a 1.5 Ton AC is only Rs 190.
- iv. The demand for the product under consideration has consistently increased throughout the term of the duties. This is clear evidence of the fact that the imposition of duties has not affected consumers of the product and there has been no adverse impact.
- v. Indian producers have more than sufficient capacity to cater to the entire Indian demand. India is 100% *atmanirbhar*.
- vi. Kutch Copper Limited has invested close to USD 1.1 billion in the plant for the product under consideration. Continuation of anti-subsidy duty is essential to ensure sustainable profits. This will also allow the industry to boost its exports.
- vii. The product under consideration is highly capital intensive. Subsidised imports are hampering the growth of the industry.
- viii. The import value in the period of investigation alone is more than Rs 2800 Cr. The import value over the injury period is more than Rs 8200 Cr. The Indian industry is fully capable of meeting domestic demand. Therefore, these superfluous imports are only widening the trade deficit.
- ix. Continuation of measures is necessary to provide a level playing field to the Indian industry.

K.3 Examination by the Authority

234. The Authority notes that the purpose of trade remedial measures, in general, is to eliminate injury caused to the domestic industry by unfair trade practices and re-establish open and fair competition in the Indian market, which is in the general interest of the country. The imposition/continuation of anti-subsidy measures does not aim to restrict imports from the subject countries in any way. The Authority recognizes that the imposition/continuation of the countervailing duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition/continuation of anti-subsidy measures. On the contrary, imposition/continuation of anti-subsidy measures would ensure that no unfair advantages are gained, prevent a decline in the performance of the domestic industry and help maintain the availability of wider choice to the consumers of the subject goods

235. The Authority issued initiation notification inviting views from all the interested parties, including importers, consumers and others. The Authority also prescribed a questionnaire for the users/ consumers to provide relevant information about the present investigation including any possible effects of anti- subsidy duty on their operations. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigations, including effect of an anti- subsidy duty on their operations. The Authority sought information on interchangeability of the product supplied by various suppliers from different countries, ability of the domestic industry to switch sources, effect of anti-subsidy duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-subsidy duty.
236. The Authority notes that none of the users have participated in the present investigation claiming adverse impact of measures.
237. The Authority further notes that the continuation of anti-subsidy duty will not lead to scarcity of the product in India. It is noted that anti-subsidy duty does not restrict imports but ensures that imports are available at fair prices. The Indian industry has sufficient capacity to cater to the entire demand in the country. Therefore, the imposition of duty would not affect the availability of the product.

L. POST DISCLOSURE COMMENTS

L.1 Submissions by other interested parties

238. The other interested parties have made the following submissions
- i. The Authority has incorrectly considered RM *** (the audit and secretarial fees) as benefit for Metrod Group under Accelerated Capital Allowance (ACA) (Program No. 12), whereas actual ACA amount is RM ***. Further, benefit under ACA should be computed as difference between ACA rate and standard rate.
 - ii. For Program No.24 (Import Duty Exemption on Raw Materials),the Authority has linearly added subsidy margins for different group companies of Metrod Group which has inflated the actual benefit amount of RM *** (***)% to RM *** (***)%. The Authority should either compute per unit benefit in accordance with Annex IV of CVD Rules, 1995 as per its past practice in *Copper Pipes and Tubes* investigation. Alternatively, the Authority should either compute a weighted average margin for Metrod Group or determine the margin based on actual benefit over total turnover of the group.
 - iii. Industrial Building Allowance should not be countervailed as it allows only standard depreciation. This program was also not countervailed in *Aluminium Wire Rods* case.
 - iv. Mere regulation of price of natural gas does not imply market distortion.
 - v. Singapore electricity and gas prices should not be used as benchmark, as Singapore imports natural gas from Malaysia from which it manufactures electricity.

Additionally, Singapore also purchases electricity from Malaysia. Thus, if the natural gas and electricity prices in Malaysia are distorted, prices prevailing in Singapore are also distorted.

- vi. Art. 2.1 of SCM Agreement requires examination of specificity within the jurisdiction of the granting authority. TNB supplies electricity to all industrial users within peninsular Malaysia at the same rate and therefore, the program lacks specificity. In the previous case of *Aluminium Wire Rod*, electricity program was not considered to be specific for Malaysian producers located in Peninsular Region.
- vii. The landed value for imports of subject goods from UAE is lower than the landed value determined for Metrod Group. Therefore, it cannot be said that injury is not on account of imports from UAE.
- viii. In case of continuation of duties, the existing duties i.e., NIL duties should be extended against Metrod Group.
- ix. The benefit for SEI Thailand for Double Deduction in Promoted Zones (Program 9), should be computed on pre-deduction profits (THB *** crore), not the total additional deduction. The present approach overstates the benefit as taxes are applied on profits, not deductions. The correct benefit is THB *** crore, not *** crore.
- x. SEI requests the Authority to confirm its individual subsidy margin (de minimis) and landed value/injury margin as per the disclosure statement.
- xi. Subsidy Margins from the original investigation should not be applied to other Thai exporters who have cooperated in the present review.
- xii. The PUC should be restricted to Continuous Cast Copper Wire under HS Code 7408, as defined in the original investigation. Inclusion of HS 7407 (Copper Rods) is beyond scope and must be reversed as they differ from copper wire in terms of production process, inputs, machinery, technical specifications, and end-use.
- xiii. Kutch Copper Ltd. should be excluded from DI as it had no commercial production during POI. Conversely, Hindustan Copper Ltd. should have been included.
- xiv. GOI and KSI argued that in terms of *US – Export Restraints (DS194)* and *US – Softwood Lumber* export restrictions cannot be considered as financial contribution as these are government policies. No explain has been provided with respect to countervailability of Program No. 21 (provision of copper ore at LTAR).
- xv. GOI states that PT Smelting is a privately-owned entity, selling copper cathodes at LME-based prices with commercial premiums. No evidence exists that it operates under government influence.
- xvi. KSI uses copper cathode as its input which it procures at international benchmark-linked prices (LME + premium) from its domestic and foreign suppliers. PT Smelting, its domestic supplier, is a private commercial entity that operates independently of any government control.
- xvii. GOI states that electricity is exempted from VAT under general statutory law. Accordingly, VAT Exemption on Electricity (Program 22) is not a countervailable subsidy. It also contended that VAT exemption on electricity is universally applied across most sectors (except high-voltage households), and therefore does not meet the specificity test under the SCM Agreement

- xviii. KSI claims that Bonded Zone is a non-specific customs scheme available to all eligible producers in Indonesia.
- xix. The domestic industry has witnessed a significant improvement in production, capacity utilization, profitability, and ROCE during the injury period. Any decline in financial performance to non-import-related factors such as lower captive consumption, reduced exports, and rising interest and salary costs.
- xx. The continuation of countervailing duty on Indonesian imports will harm India's downstream industries, especially in the electrical and automotive sectors, by restricting access to competitive inputs.

L.2 Submissions by the domestic industry

239. The following submissions have been made by the domestic industry:

- i. Injury persists in the form of low profitability, suppressed prices, and underutilised capacity. Marginal duties remain commercially significant in a commodity like copper, where margins are thin.
- ii. In the context of sunset reviews, there is no requirement to apply the *de-minimis* thresholds for 1% or 2%. The existence of *de-minimis* margin does not preclude recurrence of injury if subsidization continues.
- iii. The use of subsidised Indonesian cathodes by Thailand and Malaysian producers, should be treated as transnational subsidies.
- iv. Electricity prices from Singapore should be used as benchmark. The US DOC has relied on electricity prices from Singapore in CVD cases (e.g., PV Cells, Utility-Scale Wind Towers).
- v. The Authority has not examined whether exporters from Malaysia and Thailand whether meet the 35% value addition requirement under the India-ASEAN FTA. The Authority should scrutinise the Bills of Entry and raw material sourcing patterns of such exporters.

L.3 Examination by the Authority

240. The Authority notes that most of the submissions made by the interested parties in response to the disclosure statement are repetitive in nature and the interested parties have largely reiterated their earlier submissions. The Authority has already examined such submissions in the aforementioned paras and only additional submissions have been examined by the Authority in the following examination to the extent they were found to be relevant.

241. With respect to arguments concerning the scope of the PUC, the Authority notes that it has appropriately addressed the arguments in paras 11-27 of the final findings. The interested parties have not brought forward any new arguments and therefore, further examination is not required. It is also clarified that the copper rod which is classifiable under 7407 is beyond the scope of the product under consideration.

242. With regards to arguments concerning the scope of the domestic industry, the Authority notes that Kutch Copper has supported the present investigation. However, the Authority

- has not considered its data either for determining standing or for the analysis of injury parameters.
243. As regards the claim of computation of subsidy margin for Accelerated Depreciation Allowance Program and subsidy margin for Program No. 23 (Customs Duty Exemption for Raw Materials) for Metrod Group, the comments provided by the producer has been considered and the margin has been revised.
244. With respect to non-countervailability of Program No.15 (Industrial Building Allowance), the Authority notes that the program provides a countervailable benefit as it allows for an additional depreciation deduction beyond the normal depreciation. This is due to the concurrent application of Initial Allowance (IA) and Annual Allowance (AA), which are set at 10% and 3% respectively, unless otherwise prescribed. Unlike the straight-line method, which spreads depreciation evenly over the asset's useful life, this program accelerates depreciation benefits by granting both IA and AA in the first year. As a result, eligible entities receive an additional deduction in the form of IA, reducing its taxable income and ultimately lowering the tax payable. Accordingly, the Authority has maintained its conclusions on countervailability for the program.
245. As regards the issue of LTAR for natural gas, it has been contended that mere regulation of price does not indicate distortion of natural gas prices in domestic market. The Authority notes that it had specifically called information regarding the cost and price of different tariff structures of natural gas sold by Petronas and its affiliates in Malaysia. However, neither Government of Malaysia nor exporters from Malaysia brought forth any evidence in this regard before the Authority. Accordingly, in the absence of any evidence provided by the interested parties, the Authority maintains its conclusions regarding the distorted pricing of natural gas in Malaysia. For the same reason, the Authority considers that mere linking of domestic natural gas prices with export prices cannot lead to a conclusion that domestic natural gas prices are representative of market prices.
246. With regards to arguments concerning geographical non-specificity of electricity at LTAR program in Malaysia, the Authority notes that neither Government of Malaysia nor the participating exporter from Malaysia have provided any evidence regarding the rates of tariff applicable to different categories of consumers, whether industrial or commercial. Accordingly, in the absence of any evidence provided by the interested parties, the Authority could not verify whether electricity prices across different categories of consumers were uniformly applied across the entire Peninsular Malaysia region. Therefore, the Authority has maintained its findings on specificity in relation of availability of electricity at LTAR.
247. With respect to benchmarks adopted for electricity and natural gas at LTAR for Malaysia, participating exporters from Malaysia have argued that electricity and natural gas prices from Singapore should not be adopted as benchmark. Opposed to this, the domestic industry has requested to adopt Singapore electricity prices as benchmark for electricity.

The Authority notes that Singapore imports natural gas from Malaysia and Indonesia. Further, almost 95% of the electricity generated in Singapore is from natural gas. In this regard, the Authority recalls its observations in paras 110-112 above, wherein it has already held that the Malaysian export price of natural gas is distorted. Accordingly, any benchmark based on such prices are likely to be distorted. Thus, as Singapore uses the same distorted natural gas from Malaysia to generate electricity, the Authority could not use such electricity prices as benchmark.

248. It is further noted that the benchmark adopted in case of natural gas for Malaysia and the benchmark adopted in case of electricity for Malaysia and Thailand is appropriate in view of the level of development of the countries and the level of production of the subject goods.
249. The Authority notes that SEI Thai has contested the subsidy margin computation under Program No. 9. The Authority notes the submission and has re-examined the calculation. It is observed that the difference of INR *** crore has no impact on the overall subsidy margin, which remains at ***%. Therefore, the issue raised does not alter the findings of the Authority.
250. With regards to availability of copper cathode at LTAR to producers of subject goods in Malaysia and Thailand, the Authority notes that it had called for origin wise information from the participating exporters. Based on the data, it was found that the participating exporters had indeed purchased copper cathode from Indonesian and non-Indonesian origin at comparable prices.
251. With respect to Government of Indonesia's claims regarding export restrictions not being a financial contribution under Art. 1 of SCM Agreement, the Authority notes that by placing export restrictions on copper ore and concentrate, Government of Indonesia artificially lowers the prices of copper ore and concentrate for downstream producers. Further, other investigating authorities globally have also considered export restrictions by Government of Indonesia as countervailable.
252. As regards Program No. 21 (availability of copper ore and concentrate) at LTAR to producers in Indonesia, the Authority notes that the participating exporters from Indonesia have not provided any evidence for establishing comparability of premium prices of copper cathodes secured from Indonesian and non-Indonesian origin. In fact, the two participating exporters have failed to provide any information in the "Provision of Goods/Services Annexure" of their questionnaire response. In the absence of such information, the Authority notes that there is no information on record which could affect its examination regarding countervailability of the program. Accordingly, the Authority has maintained its conclusions on countervailability of the program from the original investigation.

253. As regard the issue whether exports of subject goods from Malaysia and Thailand met the value content requirement under the India-ASEAN FTA, the issue is beyond the scope of the present investigation. DGTR is required to examine if the product is being imported at dumped or subsidized prices which is causing or likely to cause injury to the domestic industry. Whether the imports satisfy the value content requirement is beyond the jurisdiction of present investigation.
254. With respect to countervailability of Program No. 12 (VAT Exemption on Electricity) and the Bonded Zone (Other Program), it is noted that neither GOI nor the participating exporters from Indonesia have placed any new evidence on record to support their claim of non-specificity. Accordingly, the Authority has maintained its conclusion of the original investigation regarding countervailability of the programs.
255. With regards to submissions regarding segregation of subsidised and non-subsidised imports for injury analysis, the Authority notes even when subsidy rates are below *de minimis* level, such imports continue to remain subsidised imports. The SCM Agreement only prohibits imposition of countervailing duties for exporters with *de minimis* subsidy margins. In the present case, the subsidy margins for participating producers from Malaysia and Thailand were found to be below the *de minimis* although positive. Accordingly, the Authority considers that it has appropriately carried out the injury assessment.
256. As regards the contentions regarding applicability of *de-minimis* threshold of 2% prescribed for developing countries under the CVD Rules, 1995, the Authority notes that it has been consistently treating Malaysia and Thailand as developing nations. It is further noted that under WTO Agreement, members are allowed to self-designate their developing status. Further, the Authority considers that the Customs Notification No 19/2016 – Customs (N.T.). provides appropriate guidance for deciding the status of a developing country. Accordingly, relying on its past practice the Authority has considered Malaysia and Thailand as developing countries.
257. On the basis of evidence on record, the Authority notes that producers in subject countries continue to benefit from countervailable subsidies during the present POI, and that the removal of duties is likely to lead to continuation or recurrence of injury to the domestic industry. Accordingly, the Authority recommends continuation of existing duties against imports of the subject goods from the subject countries.

M. CONCLUSION

258. The Authority, upon examination of the issues raised in the course of the proceedings, arguments advanced by all interested parties and the facts and evidence on record, concludes as follows:
- a. The application for the present sunset review has been filed by the Indian Primary Copper Producers Association ('IPCPA'). The costing and injury data, as per the

prescribed formats, is based on the data of two IPCPA members, Hindalco Industries Limited and Vedanta Industries. The applicants satisfy the requirement of standing and constitute ‘domestic industry’ within the meaning of Rules 5(3) and 2(b) of the CVD Rules, 1995.

- b. The scope of the product under consideration determined at the time of the original investigation does not warrant revision. Therefore, the product under consideration is ‘Continuous Cast Copper Wire’, whether of a maximum diameter exceeding 6mm (referred to in business parlance as ‘copper rod’ or ‘copper wire rod’) or of a diameter of 6mm or below.
- c. The goods manufactured by the domestic industry are like article to the subject goods imported from the subject countries.
- d. The Government of Vietnam has not participated in the present sunset review and has accordingly been considered non-cooperative.
- e. The Government of Malaysia has not filed a questionnaire response for the ‘new subsidies’ investigated in the sunset review. Therefore, determinations in respect of these schemes have been made based on facts available.
- f. In accordance with past countervailing duty proceedings, the Authority has not re-examined the countervailability of programs countervailed in the original investigation, unless there has been a material change in law or in the nature or operation of the programme. In the present case, neither the participating exporters nor the Governments of the subject countries have brought forth any new evidence concerning material change in programs. Accordingly, such schemes have not been re-examined in the present sunset review.
- g. The interested parties have not produced any evidence of termination of previously countervailed schemes. Further, the previously countervailed schemes have been countervailed in subsequent investigations. Therefore, the Authority considers that the schemes countervailed in the original investigation have continued in the present period of investigation.
- h. Producers of the subject goods in the subject countries have continued to benefit from countervailable subsidies. However, the margin of subsidization for Metrod Group (Malaysia) and SEI Thai is below the *de minimis* level.
- i. The position of the domestic industry is vulnerable during the present period of investigation. Further, based on the evidence on record, there is clear indication of likelihood of continuation or recurrence of subsidisation and injury from the subject countries in the event of cessation of duties.
- j. Based on the information on record, it is seen that the producers from the subject countries are export oriented. The producers have set up excessive capacities which far exceed the demand in the country. It is seen that in the period of investigation, imports from the subject countries are only from the two producers which attract nil measures. Therefore, if measures are removed, other producers may utilise their idle capacities and export the product to India in large volume.
- k. The exports from the subject countries to other countries are at injurious prices and there is a likelihood of injury to the domestic industry in event of expiry of measures.

N. RECOMMENDATIONS

259. The Authority notes that the present proceedings were conducted in accordance with the applicable law. All interested parties were duly notified and were afforded adequate opportunity to provide information and present their views on the matters under investigation, including subsidisation, injury, causal link, likelihood of continuation or recurrence of subsidisation and injury and impact of the measures on the Indian industry. Pursuant to the sunset review, the Authority has arrived at the conclusion that continuation of the existing countervailing duties is required in the present case. Further, in view of the decision of CESTAT in the matter of Metrod Malaysia Sdn Bhd. Vs Designated Authority, no duties are recommended on the imports of Metrod Malaysia Sdn Bhd.
260. The Authority, thus, considers it appropriate and necessary to recommend continuation of definitive duties equal to the figure indicated in Column 7 of the duty table below for a period of five (5) years on all imports of the subject goods from the subject countries. Therefore, considering the facts and circumstances of the case, as established hereinabove, countervailing duty equal to the amount indicated in Column 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of the subject goods, originating in or exported from the subject countries.

DUTY TABLE

S. No.	Tariff Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Duty as % of CIF
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	7408	Continuous Cast Copper Wire*	Indonesia	Any country, including Indonesia	PT Karya Sumiden Indonesia	4.98%
2	-do-	-do-	Indonesia	Any country, including Indonesia	PT Tembaga Mulia Semanan Tbk	3.75%
3	-do-	-do-	Indonesia	Any country, including Indonesia	Any producer other than the producers mentioned	7.94%

					at S. Nos. 1 and 2	
4	-do-	-do-	Any country other than Indonesia, Malaysia, Thailand and Vietnam	Indonesia	Any producer	7.94%
5	-do-	-do-	Malaysia	Any country, including Malaysia	Metrod Malaysia Sdn Bhd	<i>Nil</i>
6	-do-	-do-	Malaysia	Any country, including Malaysia	Any producer other than the producer mentioned at S. No. 5	10.27%
7	-do-	-do-	Any country other than Indonesia, Malaysia, Thailand and Vietnam	Malaysia	Any	10.27%
8	-do-	-do-	Thailand	Any country, including Thailand	SEI Thai Electric Conductor Co., Ltd.	<i>Nil</i>
9	-do-	-do-	Thailand	Any country, including Thailand	Any producer other than the producer	3.46%

					mentioned at S. No. 8	
10	-do-	-do-	Any country other than Indonesia, Malaysia, Thailand and Vietnam	Thailand	Any	3.46%
11	-do-	-do-	Vietnam	Any country including Vietnam	Any	7.13%
12	-do-	-do-	Any country other than Indonesia, Malaysia, Thailand and Vietnam	Vietnam	Any	7.13%

* The scope of the product under consideration includes copper wire of more than and less than 6mm. It is further clarified that only copper wire rod in coil form is part of the scope of the product under consideration.

O. FURTHER PROCEDURE

261. An appeal against this determination of the Designated Authority in these final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act/Rules.



Darpan Jain
(Designated Authority)