NOTIFICATION 

Initiation 

(Sunset Review) 

Subject: Initiation of Sunset Review Investigation of Anti-dumping duty on import of Cold Rolled Flat Products of Stainless Steel from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA 

Whereas having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 as amended, the Designated Authority (hereinafter referred to as Authority) recommended imposition of Anti-dumping Duty on imports of Cold-rolled Flat products of stainless steel of the width of 600 mm upto 1250mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm originating in or exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA (hereinafter also referred to as Subject Countries) vide Final Findings Notification No. 14/06/2008-DGAD dated 24.11.2009. On the basis of the said findings, the Central Government imposed definitive anti-dumping duties on the subject goods imported from subject countries vide Notification No. 14/2010–Customs dated 20.2.2010. Earlier, the Authority vide its Preliminary findings No.14/06/2008-DGAD dated 27th March, 2009 and corrigendum dated 22nd April 2009 recommended imposition of anti-dumping duties against dumped imports of the subject goods from the subject countries and provisional anti dumping duties were imposed by the Central Government vide custom notification No. 38/2009- Customs dated 22nd April, 2009, further amended by Notification No. 56/2009- Customs dated 30th May, 2009. The Authority carried out a mid-term review of the anti dumping duty imposed on subject countries and final findings was issued vide notification no 15/16/2010-DGAD dated 8.6.2011 and on the basis of the said findings, the Central Government imposed anti- dumping duties on the subject goods imported from subject countries vide Custom Notification No. 86/2011 dated 6.9.2011. Following the orders of the Hon’ble Punjab & Haryana High Court, the Designated Authority issued an order by the way of corrigendum notification whereby certain amendments were made in the products earlier excluded from the purview of the anti-dumping duties vide Corrigendum dated 5.12.2011. The Central Government vide
corrigendum notification dated 7.2.2012 notified the revised Final Findings of the Authority.

Request for Review

2. WHEREAS in terms of Section 9A(5) the Customs Tariff (Amendment) Act 1995 the antidumping duty 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, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

3. And, whereas, in terms of the above provisions, M/s Jindal Stainless Limited, a major manufacturer of subject goods in India, approached the Authority with a duly substantiated application requesting for sunset review of the anti-dumping duties earlier imposed on the imports of the subject goods originating in or exported from the subject countries vide Ministry of Finance Notification No 14/2010-Customs dated 20.2.2010 (as amended) and sought the continuation of anti-dumping duty on the imports of the subject goods originating in or exported from the subject countries. The request is based on the grounds that dumping of the subject goods originating in or exported from the subject countries has continued in spite of the imposition of anti-dumping duties on the import of the subject goods from the subject countries and the domestic industry continues to suffer injury on account of dumping from the subject countries. The applicant has further argued that the expiry of the measure against the subject countries would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.

4. And, the Authority on the basis of prime facie evidence given by the applicant considers that initiation of sunset review proceedings for the anti-dumping duties in force would be appropriate to examine the need for continuation of such duties to offset dumping from the subject countries and to examine as to whether the injury to the domestic industry is likely to continue or recur if the duties were removed or varied.

Domestic Industry and Standing

5. The application has been filed by M/s Jindal Stainless Limited (hereinafter referred to as the domestic industry or the applicant), major producer of the subject goods. There are three other companies producing the subject goods namely M/s BRG, M/s Shah Alloys and M/s Salem Steel Plant. As per the information available on record, the applicant accounts for a major proportion of the total domestic production and also satisfies the requirement of standing to file the present sunset review application. The applicant also constitutes the domestic industry within the meaning of the term in Rule 2(b).

Product under Consideration and Like articles

6. In the original investigations, the Designated Authority in its final recommendations restricted the scope of duty on widths upto and inclusive of 1250mm only. The product under consideration was defined as follow:

“Cold Rolled flat products of stainless steel the width of 600 mm upto 1250 mm of all series further worked than Cold rolled (cold reduced) with a thickness of up to 4 mm.”
The subject goods will have the following exclusions from the scope of the product:

i. Grade AISI 420 High carbon (0.28%-0.40%), Grade 420, Grade 430 BA supplied by M/s Thyssenkrupp Stainless International, Germany, Grade AISI 441 and Grade AISI 443.

ii. Duplex Stainless Steel grades 2205 (S31803), 2304 (S32304), EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318 and 1.4833 and Ferritic Grades EN 1.4509 and 1.4512.

iii. Product supplied under Indian Patent no. 223848 in respect of goods comprising Low Nickel containing chromium Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).”

7. Subsequently, the Domestic Industry filed an application for mid-term review. Based on the application and after following due process of law, the Designated Authority recommended its Final Findings (Mid-term Review) vide notification No. 15/16/2009-DGAD dated 8.6.2011 whereby the following amendments to the product under consideration was made.

“(a): Width tolerance of (+) 30mm shall apply to Mill edged, Cold-rolled flat products of stainless steel of specified width of 1000mm or more but not exceeding 1250 mm.

(b): Width tolerance of (+) 4mm shall apply to Trim edged Cold rolled flat products of stainless steel of specified width exceeding 1000mm but not exceeding 1250mm.”

8. Further, the Designated Authority carried out a review in terms of the orders of the Hon’ble Punjab & Haryana High Court as a consequence of which certain amendments were made in the products earlier excluded from the purview of the anti-dumping duties vide Corrigendum dated 5.12.2011. In view of the aforesaid, the product under consideration for the purpose of this review stands defined as follows:

“Cold-rolled Flat products of stainless steel of width of 600 mm upto1250mm of all series not further worked than Cold rolled (cold reduced) with a thickness of up to 4mm (width tolerance of +30 mm for Mill Edged and +4mm for Trimmed Edged)”, excluding the following:

i. The subject goods of width beyond 1250 mm (plus tolerances).

ii. Grades AISI 420 high carbon, 443, 441, EN 1.4835, 1.4547, 1.4539, 1.4438, 1.4318, 1.4833 and EN 1.4509

iii. Product supplied under Indian Patent No. 223848 in respect of goods comprising Low Nickel containing Chromium-Nickel Manganese-Copper Austenitic Stainless steel and representing Grades YU 1 and YU 4, produced and supplied by M/s Yieh United Steel Corp (Yusco) of Chinese Taipei (Taiwan).

The said products fall under Heading 7219.00 of the Customs Tariff Act, 1975. It is used for manufacture of White Goods, Process Equipment, Dairy Equipment, Automotive Components, Rail Cars, Metro Coaches, Architecture, Building, kitchen products & Construction etc.”
9. The scope of the product under consideration in the investigation shall remain the same as the scope of the product under consideration in the original final findings as amended during the mid-term review, and as per orders passed by Designated Authority in pursuance with the order passed by Hon’ble Punjab & Haryana High Court.

10. Further, the applicant submitted that the product manufactured by the domestic industry and the subject goods imported into India from the subject countries are like articles within the meaning of the Anti-dumping Rules; that there is no known difference between the subject goods imported from the subject countries and that produced by the domestic industry; that the subject goods produced by the domestic industry and imported from the subject countries are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods; that the consumers can use and are using the two interchangeably and that the two are technically and commercially substitutable. After examination, the Authority concludes that the subject goods produced by the domestic industry are like article to that imported from the subject countries.

Subject Countries

11. The present application has been filed in respect of alleged continued dumping of the product under consideration from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA (hereinafter also referred to as Subject Countries)

Normal value

12. It has been claimed by the petitioner that China PR being a non-market economy country under the Indian Anti-dumping Rules, the normal value for China PR is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules. It has been claimed that for the purpose of determination of normal value in case of a non-market economy country, an appropriate third market economy country is required to be selected as the first alternative. The petitioner has proposed that South Korea be taken as an appropriate market economy third country. The domestic industry has claimed that the average capacity of plants, the cost structure, the production process and the technology are reasonably and fairly close to that found in China and also the fact that the fact that South Korea is a market economy country with considerable competition within the local producers as well as from imported goods. The normal value for China PR has been claimed on the basis of the prices quoted for South Korea in the MEPS Stainless Steel review (Monthly metal bulletin) for 300 and 400 series along with adjustments. However, for the purpose of initiation, the normal value for subject goods for China PR has been determined by constructing normal value based on the available information i.e on the basis of the information made available by the domestic industry.

13. The petitioners for the purpose of determining normal value of product under consideration in Taiwan, Korea RP, USA, and EU have referred to the prices quoted in the MEPS Stainless Steel review (Monthly metal bulletin) for 300 and 400 series along with adjustments. It has also been claimed by the petitioners that they were not able to get the published prices for Thailand and South Africa so they have claimed normal value in these
two subject countries by taking MEPS Stainless Steel review (Monthly metal bulletin) for 300 and 400 series along with adjustments for Taiwan and EU respectively.

14. It is noted that the applicant has not able to obtain the prices of 200 series and Duplex from any reliable source. Therefore, the applicant has constructed the normal value of 200 Series and Duplex for all the subject countries by constructing normal value based on the available information.

15. The Authority, after examination, considers that there is sufficient prima facie evidence of normal value of the subject goods in the subject countries.

**Export Price**

16. Petitioners have determined the export price by using information from Cybex Exim, to assess the volume and value of imports in India. Price adjustments have been made on account of Ocean Freight, Marine insurance, Inland transportation and sales commission. The Authority, after examination, considers that there is sufficient prima facie evidence of export price of the subject goods in the subject countries.

**Dumping Margin**

17. Petitioner has provided sufficient evidence that the normal values of the subject goods in the subject countries are significantly higher than the net export prices, prima-facie, indicating that the subject goods originating in or exported from the subject countries continue to be dumped, to justify initiation of a review investigation.

**Continuation or Recurrence of Dumping and Injury.**

18. The petitioners have claimed that domestic industry continues to suffer material injury by way of adverse price effects as evidenced by price undercutting and price suppression leading to deterioration in profits, decline in return on capital employed and cash profits, etc. The petitioner has claimed that capacities in subject countries for subject goods are substantially huge in comparison of the demand in India and accordingly there is likelihood of continuance or recurrence of dumping and injury to the Domestic Industry once the anti-dumping duties levied by the Authority are withdrawn. The Authority considers that there is sufficient prima facie evidence of continued injury caused to the domestic industry by dumped imports from subject countries to justify initiation of a review investigation.

**Initiation**

19. Having satisfied itself on the basis of the positive prima facie evidence submitted by the domestic industry substantiating the need for a review, the Authority hereby initiates a Sunset Review in accordance with Section 9 A (5) of the Act, read with Rule 23 of Antidumping
Rules, to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

Procedure

20. The following procedure has been followed.

i. The review will cover all aspects of the final findings of the original investigations published vide Notification No. 14/06/2008-DGAD dated 24.11.2009 as amended.

1. The period of investigation (POI) for the purpose of the present review is from 1st January, 2013 to 31st December, 2013 (12 months). The injury investigation period has however, been considered as the period from 1st April 2009 to the end of the POI, that is, 2010-11, 2011-12, 2012-13 and POI.

ii. The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rules shall be mutatis mutandis applicable in this review.

Submission of Information:

21. The exporters in subject country, their government through their Embassy in India, the importers and users in India known to be concerned would be addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority in the following address:

The Designated Authority
Directorate General of Anti-Dumping & Allied Duties
Ministry of Commerce & Industry
Department of Commerce
Room No.240, Udyog Bhawan
New Delhi -110011

22. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limit:

23. On receipt of information from domestic industry, all interested parties, whose addresses are available, would be advised through a letter to offer their comments in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of issuance of such letter. Any other interested party, whose address is not available, may also submit comments/ information within 40 days from date of publication of this notification. The information must be submitted in hard copies as well as soft copies. With regard to sending the comments on the appropriateness of Korea RP as surrogate country for China PR as mentioned in this notification, the interested parties are required to send the comments within 14 days from the date of notification.
Submission of information on confidential basis

24. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:-

(a) One set marked as Confidential (with title, number of pages, index, etc.), and

(b) The other set marked as Non-Confidential (with title, number of pages, index, etc.).

25. The “confidential” or “non-confidential” submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority and the Authority shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in five (5) sets of each.

26. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information can not be disclosed.

27. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

28. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

29. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority.

30. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

Inspection of Public File:
31. In terms of Rule 6(7), any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

**Non-cooperation**

32. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

J S Deepak
Designated Authority