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F. No.14/40/2016-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated: 11th December, 2017

**Notification
Final Finding**

Subject: Anti-dumping investigation concerning imports of Polybutadiene Rubber originating in or exported from Korea PR, Russia, South Africa, Singapore & Iran.

F.No. 14/40/2016 DGAD: Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

2. Whereas Reliance Industries Ltd. (hereinafter also referred to as the petitioner or the applicant or domestic industry) has filed an application before the Designated Authority (hereinafter also referred to as the Authority) in accordance with the Act and the Rules, for initiation of Anti-dumping investigation concerning imports of “Polybutadiene Rubber” (hereinafter also referred to as the subject goods), originating in or exported from Korea RP Russia, South Africa, Singapore and Iran (hereinafter also referred to as the Subject Countries), alleging dumping and consequent injury and requested for levy of anti-dumping duty on the imports of the subject goods from the Subject Countries.

3. And whereas, the Authority on the basis of sufficient evidence, submitted by the applicant issued a public notice vide Notification No. 14/40/2016-DGAD dated 16th September, 2016, published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the sub Rule 5 of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

A. PROCEDURE

4. The procedure followed in the present investigation is as described below:-

a. The Designated Authority (hereinafter referred to as the “Authority”), under the above Rules, received a written application from Reliance Industries Ltd. (‘Reliance Industries’), (hereinafter referred to as the “Petitioner”) as domestic industry of the subject goods, alleging dumping of Polybutadiene Rubber (hereinafter also referred to as the “subject goods” or “PBR”) originating in or exported from Korea PR, Russia,

- South Africa, Singapore and Iran (hereinafter referred to as the “subject countries”) and resulting in injury to Domestic Industry.
- b. Preliminary scrutiny of the application filed revealed certain deficiencies, which were subsequently rectified by the Petitioner. The Petitioner updated the petition, which was considered by the Authority for initiation of investigations. The application was, therefore, considered as duly documented.
 - c. The Authority on the basis of sufficient evidence submitted by the Petitioner to justify the initiation of the investigation, decided to initiate the investigation against imports of the subject goods from the subject countries.
 - d. The Authority notified the Embassies of Korea PR, Russia, South Africa, Singapore & Iran in India about the receipt of the application before proceeding to initiate the investigation in accordance with Sub-Rule 5(5) of the AD rules.
 - e. The Authority issued a public notice dated September 16th, 2016 published in the Gazette of India, Extraordinary, and initiating anti-dumping investigations concerning imports of the subject goods from the subject countries.
 - f. The Authority forwarded a copy of the public notice to all known exporters (whose details were made available by the Petitioner) and industry association and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
 - g. The Authority also forwarded a copy of the public notice to all known importers of the subject goods in India and advised them to make their views in writing within forty days from the date of the letter.
 - h. The Authority provided a copy of the non-confidential version of application to the known exporters and the Embassies of Korea PR, Russia, South Africa, Singapore and Iran in India in accordance with Rule 6(3) of the AD Rules. A copy of the Application was also provided to other interested parties, wherever requested.
 - i. The Authority sent questionnaires to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the AD Rules:
 - i. Michelin
 - ii. Lanxess AG
 - iii. Versalis
 - iv. Synthos Kralupy
 - v. Trinseo/Styron
 - vi. Lanxess Elastomeres
 - vii. Kumho Petrochemicals
 - viii. LG Chem
 - ix. Nizhnekamskneftekhim
 - x. Sibur
 - xi. Efremov Synthetic Rubber
 - xii. Firestone Polymers
 - xiii. American Synthetic Rubber Co.
 - xiv. Lanxess Corporation
 - xv. Goodyear Tyre & Rubber Co.
 - xvi. Dynasol Elastomers
 - xvii. Karbochem
 - xviii. Arak Petrochemicals Company
 - xix. Lanxess Pte Ltd
 - j. In response to the initiation notification, the following exporters/producers have responded:
 - a. PJSC “SIBUR Holding”Russia

- b. SIBUR International GmbH, Austria
 - c. LG Chem Ltd. Korea RP
 - d. Wonchem Ltd. Korea RP
 - e. Hansuk Chemicals Co. Ltd. Korea RP
 - f. Kumho Petrochemical Co. Ltd. Korea RP
 - g. POSCO Daewoo Singapore.
 - h. POSCO Daewoo Korea RP.
- k. Questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:
- a. J K Tyres industries Ltd.
 - b. Apollo Tyres Ltd.
 - c. MRF Ltd
 - d. CEAT Limited
 - e. Birla Tyres
 - f. Balkrishna Industries Ltd.
 - g. Goodyear India Limited
 - h. Continental India Ltd.
 - i. Yokohama
 - j. Metro Tires
 - k. Ralson Tires
 - l. Treadsdirect Limited
 - m. Indag Limited.
- l. In response to the initiation notification, the following importers/users have responded:
- a. CEAT limited
 - b. JK Tyre & Industries Limited
 - c. MRF Limited
 - d. Apollo tyres Limited
- m. Copy of initiation was also sent to following known associations of the consumers of the product under consideration in India:
- a. Automotive Tyre Manufacturers' Association
 - b. All India Rubber Industries Association
- n. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties. Submissions made by all interested parties have been taken into account in present disclosure.
- o. Information provided by interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non confidential version of the information filed on confidential basis.
- p. Further information was sought from the Petitioner and other interested parties to the extent deemed necessary.
- q. Verification of domestic industry was conducted to the extent considered necessary for the purpose of the present investigations.
- r. The Non-injurious Price (hereinafter referred to as 'NIP') based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) has been worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury

to the Domestic Industry.

- s. Spot verification was carried out at the premises of the following exporters:
- t. PJSC “SIBUR Holding” Russia
- u. SIBUR International GmbH, Austria
- v. LG Chem Ltd., Korea RP
- w. Wonchem Ltd., Korea RP
- x. Hansuk Chemicals Co. Ltd., Korea RP
- y. Kumho Petrochemical Co. Ltd., Korea RP
- z. POSCO Daewoo Korea RP.
- aa. Investigation was carried out for the period starting from 1st April 2015 to 31st March 2016 (12 months) (hereinafter referred to as the ‘period of investigation’ or the ‘POI’). The examination of trends, in the context of injury analysis, covered the period from 2012-13, 2013-14, 2014-15 and the POI.
- bb. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in an oral hearing held on 13th June 2017 and on 17th October 2017. Subsequently all the parties who had attended the oral hearing were advised to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were advised to offer their rebuttals. A number of interested parties attended the hearing.
- cc. Request was made to the Director General of Commercial Intelligence and Statistics (DGCI&S) to provide the details of imports of subject goods for the past three years, including period of investigation, which was received by the Authority. The Authority has referenced the DGCI&S imports data for computation of the volume and value of imports and injury analysis.
- dd. Since the evidences with regard to the transshipment of subject goods from UAE submitted by petitioners could not establish that the goods coming from UAE are being produced in Iran. Therefore, the Authority has excluded the volume of imports from UAE while calculating the share of Iran in total imports. The share of Iran excluding UAE transshipment are below 3%, therefore, the Authority terminates the investigation against Iran. In view of this, the volume of imports from Iran and UAE has not been taken for the purpose of dumping and injury analysis.
- ee. In accordance with Rule 16 of the Rules Supra, the essential facts were disclosed by the Authority on 28th November 2017 to the concerned interested parties. Comments were requested by 6th December 2017. Comments received on the disclosure statement to the extent considered relevant by the Authority are considered in this final finding.
- ff. Based on the examination of comments on disclosure statement by Kumho, Korean exporters, it was found that its dumping margin is less than 2%. In view of the de-minimus dumping margin, AD investigation against them has been terminated and it was also found the entire imports from Korea is undumped, thereby the investigation has also been terminated against Korea RP. Therefore, the subject countries in this investigation constitute only South Africa, Russia and Singapore.
- gg. Exchange rate for conversion of US\$ to RS is considered for the POI as Rs 65.91 as per customs data.
- hh. *** In this disclosure represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

- 5. The product under consideration in the present investigation is Polybutadiene Rubber originating from or exported from Korea RP, Russia, South Africa, Singapore and

Iran.

Views of the Domestic Industry:-

6. The domestic industry has made the following submissions with regard to the issue of the product under consideration and like article:
 - a. The product under consideration in the present petition filed is defined as “Polybutadiene Rubber”, “PBR” or “Butadiene Rubber”. Polybutadiene rubber is a synthetic rubber that is a polymer formed from the polymerization of the monomer 1, 3-butadiene. Polybutadiene has a high resistance to wear and tear and it is used in the manufacture of tyres, which consumes about 70%-80% of the PBR produced in India. About 20% is used as an additive to improve the mechanical strength of plastics such as polystyrene and acrylonitrile butadiene styrene (ABS). It is used to manufacture golf balls, various elastic objects and to coat or encapsulate electronic assemblies, offering high electrical resistivity.
 - b. “BR” or “PBR” can be classified in terms of grades and quality. There are five types of grades. Grades of PBR are based on the type of catalyst used during the polymerization process. Based on the catalyst used in the process, the polymerization will result in the stereo-regularity of the chain (measured by the Cis-content) or linearity of the chain. Generally grades of PBR are differentiated based on the Cis-content. In this sense titanium grade of PBR is obsolete due to inferior properties, whereas Lithium grade of PBR is used in plastic modification. Petitioner neither produce Titanium and Lithium grades, nor does the data adopted in the petition include these grades. All other grades of PBR [Cobalt, Nickel and Neodymium] are technically and commercially substitutable. The imports of the product under consideration includes all these three grades.
 - c. 1, 3-Butadiene is an organic compound that is a simple conjugated diene hydrocarbon (dienes have two carbon-carbon double bonds). Polybutadiene forms by linking many 1,3-butadiene monomers to make a much longer polymer chain molecule. In terms of the connectivity of the polymer chain, butadiene can polymerize in three different ways, called cis, Trans and vinyl. The cis and trans forms arise by connecting the butadiene molecules end-to-end, so-called 1,4-polymerisation.
 - d. Polybutadiene is largely used in various parts of automobile tires; the manufacture of tires consumes about 70% of the world production of polybutadiene with a majority of it being high cis. Other uses of Polybutadiene rubber are in tread rubber, conveyor belts, footwear, sports goods, automotive components, rollers, mechanical goods & dock, and fenders.
 - e. Subject goods are classified under Chapter 40 of Customs Tariff Act, 1975 under the subheading 40022000. The customs classification is indicative only and is in no way binding on the scope of the proposed investigations.
 - f. The Authority has never excluded off specs materials from scope of duty on the ground that the domestic industry is not producing and selling the same.
 - g. It has been established that the three grades of PBR forming part of the PUC, i.e., Cobalt grade, nickel grade and neodymium grade are all technically and commercially substitutable. Therefore they form like articles. Therefore none of the three grades can be subject to exclusion. Such exclusion will give producers of such excluded goods to freely dump goods in India which will be utilized by all the consumers who are using other grades of PBR as well and this will further aggravate the injury suffered by the Petitioner. The Petitioner has produced and sold significant quantities of neodymium

grade PBR.

Views of Exporters, Importers, Consumers and other Interested Parties:-

7. The views of the exporters, importers, consumers and other interested parties are as follows:
 - a. The majority of sales from Russia were of off spec quality of Nd PBR and comparison of such grades must be made with the same grades manufactured by the Petitioner. If the domestic industry does not manufacture such grades, then these off spec grades should be excluded or the export price of SIBUR should not be taken for the determination of dumping margin or injury margin of SIBUR.
 - b. The claim made by the Petitioner that Neodymium grade of Butadiene Rubber is produced by the Petitioner under the trade name “Reflex Cisamer PBR 51” and “Reflex Cisamer PBR 700” is not true as per available market information. Neodymium grade of Butadiene Rubber has only been produced as a testing batch and never commercially produced by the domestic Industry and therefore must be excluded from the scope of the product under consideration in the present investigation.
 - c. If grade wise analysis of PUC is to be conducted, Petitioner must segregate demand, production, capacities, capacity utilization, selling price, profitability, etc. on a grade wise basis. Thereafter the Petitioner must also establish that each grade that it manufactures is of acceptable quality to the consumers in the Indian market to ensure marketability of the grades produced by the Petitioner.
 - d. As per market information, RIL’s plan is to produce an equivalent of BUNA CB24, using the catalyst Neodymium but even this product would have a different molecular distribution as compared to NdBR being purchased by the Respondents.

Examination by the Authority:-

8. The product under consideration in the present investigation is Polybutadiene Rubber, also known as “Butadiene Rubber” (referred to as “subject goods” or “product under consideration” or “BR” or “PBR”). Polybutadiene Rubber is a synthetic rubber that is a polymer formed from the polymerization of the monomer 1, 3-butadiene. The petitioner has claimed that there is no known difference between the products manufactured by them and the subject goods imported from the subject countries. The petitioner also claimed that the technology and production process employed by them and the foreign producers are also comparable.
9. With regard to the claim that NdBr should be excluded from this investigation, the Authority finds no merit in such claims of interested parties since the domestic industry has produced and sold NdBr during the POI. It is further noted that it is one of the grades of product under consideration and it has been treated as like article of the goods imported to the goods produced by the domestic industry. However, it is noted that the produced volume of NdBr is less than 2% of the total production, the authority found appropriate to compute weighted average NIP for the PUC based on

the verified information of the other grades of the product under consideration.

10. As regards off spec grades imported from Russia, the Authority notes that off spec PBR and normal grade PBR do not constitute different products. Off spec and normal grade PBR bear the same general technical & commercial properties. Since, off spec grade product is used in substitution to the goods produced by the domestic industry, therefore, Authority did not find appropriate to exclude off specs grade PBR.
11. Interested parties have raised concerns about production and sale of NdBr by the domestic industry. It has also been contended by interested parties that NdBr produced and supplied by RIL is not in effect the product NdBr. The Authority notes that the production record of the company shows that there are both production and sales during POI.
12. On examination of the PBR produced by the domestic industry and imported PBR, the Authority did not find any material difference between the subject goods produced by the Domestic Industry and imported from the subject countries. It is also noted that the interested parties could not establish any material difference between the subject goods produced by the Domestic Industry and imported from the subject countries. In view of the similarity in manufacturing process and substitutability, the Authority holds that the subject goods produced by the Domestic Industry are like article to the goods imported from the subject countries.

C. SCOPE OF DOMESTIC INDUSTRY AND STANDING

13. Rule 2 (b) of the AD rules defines domestic industry as under:

“(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”

14. The application was filed by Reliance Industries Limited (RIL) who is the sole producer of the subject goods in the Country.

Views of the Domestic Industry:-

15. The domestic industry has made the following submissions with regard to the issue of standing:
 - a. The petition has been filed by Reliance Industries Limited as a domestic producer of the product under consideration.
 - b. The petitioner is the sole producer of the subject goods in the country. The Petitioner is not related to any importer or exporter of the product under consideration from the subject countries.

Views of Exporters, Importers, Consumers and other Interested Parties:-

16. Interested parties have not raised any issues pertaining to issue concerning the domestic industry and its scope.

Examination by the Authority

17. The application has been filed by Reliance Industries Limited as the sole domestic producer of the product under consideration. None of the interested parties have disputed the claim of petitioner and the standing of the domestic industry.
18. In view of the above and after due examination of information on record, the Authority holds that the Petitioner satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Petitioner satisfies the requirement of standing under the Rules. Further, Petitioner constitutes domestic industry within the meaning of Rule 2(b).

D. OTHER/Misc. ISSUES

Views of the Domestic Industry:-

19. The domestic industry has made the following submissions on misc. issues:-
 - a. The existence of a demand supply gap does not entitle exporters to resort to dumping. Imports can continue to enter the Indian market consequent to imposition of anti-dumping duty in order to take care of the demand supply gap.
 - b. The protection granted by imposition of anti-dumping duty will be in the long term interests of the producers, consumers, public at large and the Country. In any case, the impact of proposed duty on to the consumers cannot be termed as an unbearable burden.
 - c. There is no case of over protection. The domestic industry has suffered financial losses in the investigation period and the quantum of anti-dumping duty shall be lower of margin of dumping and margin of injury.
 - d. All the non-confidential data has been disclosed by the Petitioner and disclosure of only the confidential data has been withheld by the Petitioner owing to the sensitive nature of such information. This is in line with established law and practice pertaining to confidentiality. The Opposite parties themselves have barely divulged any information during the course of their exporter questionnaire responses.
 - e. The Petitioner has not abused its position despite being the sole producer of the subject goods. Consumers are free to procure the subject goods from the petitioner or from the exporters. Exporters on the other hand have misused their right to sell in the Indian market by resorting to unfair trade practices which have impacted the Petitioner adversely.
 - f. The imposition of anti-dumping duty will not have any impact on the trade balance and, on the contrary, it will aid in restricting the unwanted outgo of foreign exchange.
 - g. Captively produced raw material has been considered at market price in the books of

accounts which truly reflects the trend present in international prices, which were volatile during the Period of investigation.

- h. The petitioner expanded the capacity of the plant keeping in view the demand and supply gap in the subject goods. While it may be true that the fixed cost of new plant may be higher in the initial period, the losses suffered by the Petitioner was much more than the increased fixed cost on account of expansion. The Petitioner has worked out the profitability statement based on the fixed cost of the old plant for the new plant also and submitted the same to the Authority. The statement clearly showed that the Petitioner had suffered losses during 2014-15 and 2015-16.

Views of Exporters, Importers, Consumers and other Interested Parties

20. The interested parties have contended as follows:-

- a. The petitioner itself recognizes that fact that the Indian demand for the product under consideration is more than what the petitioner can produce and supply.
- b. The imposition of anti-dumping duties implies that an additional tariff burden would be placed on Indian users for almost half of their needs.
- c. The imposition of anti-dumping duties would lead to over protection of Petitioner which would benefit from a closure of the markets to the only suppliers who can effectively satisfy the demand-supply gap for the product under consideration.
- d. The filed petition covers 2 more countries (EU & USA) compared to the initiation notice. Analysis is therefore misleading and should have been updated before circulation as it prejudices Respondent's interests.
- e. A Prima facie examination and initiation of investigation by the Authority fails the set standards in Article 5.3 of ADA read with Rule 5(3) of AD Rules.
- f. Initiation notification issued by the Authority makes it clear that initiation took place without any scrutiny and application of mind.
- g. No attempts have been made by the Petitioner in order to adduce evidence of prices of exporting countries, normal value projections and export price deductions.
- h. Excessive confidentiality has been claimed by the Petitioner in terms of Proforma IV A, Costing information, international prices of butadiene, IBIS transaction-wise raw import data, annual report, balance sheet and financial statement of Petitioner, non-injurious price and constructed normal value.
- i. Petitioner is attempting to create a monopolistic, anti-competitive market. The exporters find it hard to believe that injury is being suffered despite Petitioner controlling the entire value chain.
- j. The Imposition of duties on the product under consideration will upset delicate trade balance and spur the growth of the Indian economy.
- k. The Rubber industry in India is already burdened with heavy import duties and anti-dumping duty on crucial raw material already and imposition of anti-dumping duty in the instant case would deteriorate the situation even further for the industry.
- l. Decline in prices during POI was due to a depressed market.
- m. The prices by ARLANXEO to India were higher or in line with export prices to neighboring countries, the ASEAN region.
- n. Sales in India during POI is due to superior quality of ARLANXEO Nd-PBR.

- o. DI cannot meet fast growing local demand for performance products like Nd-PBR.
- p. ADD on Nd-PBR would deprive domestic consumers of superior next generation product for improved performance.
- q. Raw Materials, loan servicing and investment in new capacities caused injury. Volume and price effects have not caused injury
- r. Present investigation is not one for estimation of subsidies being granted and it is not possible to determinatively make any findings regarding the same in this investigation.
- s. LG Petrochemical India Pvt Ltd is not involved in the sale of the product concerned and therefore there is no need to mention it as a subsidiary involved with the product under consideration.
- t. Domestic industry has claimed excessive confidentiality in Section VI relating to costing information where all the information has been claimed as confidential. It is unrealistic to expect exporters to disclose more information when the domestic industry itself has not disclosed any such information.
- u. Import data provided by the Petitioner is misleading as it covers certain low priced import entries as PUC and higher priced ones are treated as NPUC.

Examination by the Authority:-

21. The various submissions made by the interested parties with regard to miscellaneous issues and considered relevant by the Authority have been examined and addressed below:-
 - a. With regard to the issue of the existence of demand supply gap in India, it is noted that existence of such gap does not justify dumping practices. The supply gap chain can be filled up at the price which is not injurious. With regard to the issue of over-burdening the consumer and over protection to the Petitioner, it is noted that anti-dumping duties are imposed in order to address the injury suffered by the domestic industry due to dumped imports.
 - b. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.
 - c. The submissions made by Arlanxeo have not been accepted in this investigation as they have failed to submit an exporter's questionnaire response and consequently made their first submissions subsequent to the oral hearing. Accordingly, they are treated as being non-cooperative for the purpose of this investigation. However, issues raised by them have been dealt at relevant places.
 - d. With regard to the valuation of captively produced raw material, Butadiene, it is noted that the Authority has considered the verified information of butadiene as per the books of account maintained by the domestic industry.
 - e. With regard to the issue raised by the opposing interested parties that the setting up of

a new plant was the reason behind the losses suffered by the domestic industry, it is noted that the capacity utilization of the new plant is operating at 115% which is reasonably good and therefore the losses suffered by the domestic industry are not due to the setting up of the new plant by the domestic industry.

- f. With regard to the allegation that there are inconsistencies in the import data, the Authority notes that DGCIS import data has been relied upon for the purpose of this AD investigation and which has been duly disclosed.

E. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

E.1 Views of the Domestic Industry:-

22. The domestic industry has made the following submissions on other issues:
 - a. There are no evidence of actual transaction prices concerning sales of the product. Efforts were made to get information/evidence of price of subject goods in the domestic market of exporting countries as well as the price lists or quotations of producers of subject goods in subject countries. There are very limited number of producers and consumers of the subject goods in the subject countries. Therefore business happens directly between the producers and exporters.
 - b. The raw material utilized in the manufacture of the product under consideration accounts for 65 – 75% of the total cost of production and the prices of butadiene are well established internationally. In fact, Butadiene prices are declared on a periodic basis by a number of trade journals and therefore are fairly known to all producers and consumers and consequently significant business happens at the prices declared in the trade journals. Thus it can be concluded that the producers in the subject countries in the present investigation are procuring Butadiene at these international prices.
 - c. As regards other conversion cost, which forms about 25-35% of full cost of production, petitioner has considered its own conversion costs and submits that the conversion cost of the exporter would at least be comparable or higher than this conversion cost.
 - d. The dumping margin, price undercutting and injury margin in the present investigation must be determined by considering the prices of both the parties at the time when parties have signed the contract and that data should be considered as the date of sale.
 - e. The price undercutting and injury margin in the present investigation should be determined after making appropriate adjustment for long term credit being offered by the foreign exporters which is making imports significantly cheaper in price.
 - f. Foreign producers have been giving post invoicing discounts for the subject goods by invoicing at higher prices and subsequently giving discounts.
 - g. In order to establish and allocate a reasonable return to the domestic industry, net present value of old investments should be considered for this purpose.
 - h. The cost of production for off specs grades of the product under consideration cannot be materially different than those of the other grades of the product under consideration. Determination of NIP maybe separately considered for Nd-PBR and comparison of the same can be done with the landed price of import.
 - i. Information pertaining to the product under consideration has been provided without segregating the same in terms of different specs. A separate cost of production may be

determined depending upon the catalyst used in the manufacture of the product under consideration.

- j. Relevant evidence has been provided to show that UAE has no capacities of its own to manufacture the product under consideration which leads to the conclusion that the subject goods shipped from UAE are nothing but the subject goods being transshipped from another country to India through the UAE.
- k. The information which formed the basis of the long term credit and post invoicing discount claims made by the Petitioner came to the knowledge of the Petitioner through information obtained from sources in the market.
- l. Petitioner has adhered to its requirements completely and constructed normal value.
- m. Captively produced raw material has been considered by the Petitioner at market price available in the books of accounts truly reflecting the trend in international prices, which were volatile in the POI.
- n. The cost of production of PBR has decreased by 16% over the course of the injury period while the landed price of imports has declined by 49% during the corresponding period thereby showing that there is no direct correlation. The domestic industry had benchmarked its selling price with the import prices and accordingly the selling prices had declined by 51%

E.2 Views of Exporters, Importers, Consumers and other Interested Parties

23. Other interested parties have raised following major contentions :-

- a. The injury margin for SIBUR should be calculated by comparison of the like products and grades and this should be applied for the calculation of injury margin for off spec grades.
- b. The Normal Value of off-spec grade should be adjusted. Cost of production of PBR solely for prime grade B should be recorded and no separate costs for off spec grades A, C, and D have been recorded, which were assigned prior to export. To ensure fair comparability, CNV for grades A, C and D should be adjusted downwards by 5-15% which constitutes a difference between the home market sales of prime grade B and off spec grades.
- c. No attempt was made to provide data regarding prices in subject countries nor made any effort to gather such information.
- d. Petitioner cannot devise its own methodology for determination of normal value. All the subject countries are market economy countries for whom normal value must be based solely on Explanation (c) to Section 9A(1) of the Customs Tariff Act, 1975.
- e. The Petitioner cannot refrain from providing any evidence at all with regard to data utilized by it in the calculation of normal value.
- f. Certain data concerning butadiene prices have been given by the Petitioner but prices used for the construction of normal value and prices for the previous years which reflect global trends have not been provided by the Petitioner.
- g. The global chemical industry is being faced by challenges which has resulted in the trend of depreciation of chemical products and their raw materials. The universality of this effect is backed by the fact that all of the exporters of PBR reduced their prices, and not only those subject to the anti-dumping proceeding.

- h. Presuming acceptability of Petitioner's methodology, butadiene prices, other raw material prices, conversion costs and justification for consideration of profits, at 5% across the board has not been given.
- i. With regard to date of sale claims made by the Petitioner, there is no evidence that prices have changed considerably during POI with non-attributability to market situations. The purpose of an invoice is as a document that confirms sales made and not just an agreement to sell. It is an incorrect presumption being made that prices agreed at time of contract is not a projection of price at future date.
- j. With regard to the claims of the Petitioner concerning the impact of long term credit, the landed value does not include cost of credit and addition of 22% return on NIP, and if such adjustment is made to the landed value also, it is case of double jeopardy being faced by the Exporters.
- k. There is no evidence provided to back up the claims of post invoicing discount made by the domestic industry.
- l. The Korean Government strongly urges the Authority to make a determination on dumping and injury margin based on correct data submitted by the exporters from Korea RP.
- m. Dumping Margin calculated to the tune of 10% for Russia is not of a representative nature, the Authority should utilize the data provided by cooperating Russian producers for the purposes of such calculation.
- n. Dumping margin methodology fails to meet Indian legal standards and is not in keeping with Annexure I of Rule 7 of the Anti-dumping Rules. Construction of normal value without resorting to other methods prescribed by law violates requirements of Article. 2.2 of Anti-dumping agreement.
- o. The Petitioner has utilized erroneous factors to calculate dumping margin. The prices of butadiene imported from Korea along with other factors adopted from the Indian market have been utilized. The Export price has been subject to adjustment without considering differences in factors such as marine insurance, commission, bank charge, port expenses and freight fee.
- p. The Authority should consider the actual cost of Butadiene and not market price as the actual costs have been reported in the records and verified by the Authority and cannot be rejected on the basis of reasonableness. This is consistent with the WTO panel and Appellate Body reports in *EU – Biodiesel*.
- q. PAO Sibur Holding provided detailed data on the monthly cost of production of Butadiene as well as the relevant details of on related companies involved in the production and sales of PBR, which has been verified by the Authority.
- r. Injury margin for SIBUR must be solely calculated by reference to Petitioner's sales of Nd PBR. If Petitioner do not have sales of off spec grades of Nd PBR, Sibur's sales of prime PBR grade SKD-ND B(LP) mk must be solely considered and sales of all other grades that were of off spec quality should be discarded.
- s. Authority cannot disregard available, actual costs of raw materials in lieu of international prices of raw material.
- t. Petitioner's estimate regarding Kumho's butadiene requirement is highly exaggerated because the Petitioner appears to assume 100% capacity utilization for Kumho's plants producing various products.

- u. Petitioner assumes that Kumho sources Butadiene either locally or through imports at USD 1028/MT, based on weighted average import prices calculated by Korean Customs Authority – KITA’s data which is incorrect because a perusal of the data shows significant variation in prices ranging from 791/MT to USD 1831/MT. The weighted average price has been determined on a weighted average of prices for various months and do not adequately represent the price variation within a month or on a month to month basis.
- v. For a cooperating exporter, there is no basis for construction of normal value.
- w. Petitioner’s concerns that exporters have withheld information pertaining to costing of raw material are widely misplaced. If the Authority was to issue a deficiency letter against any EQR, interested parties would provide the information duly sought.
- x. No grounds for rejection of export price provided by cooperating exporter. Adjustments to the export price proposed by the Petitioner are meritless and should be rejected. NCV Petition does not contain any evidence with regard to these adjustments. Inland freight and port handling charges have no relationship to the price of the product. Marine insurance and bank charges have been overstated.
- y. Absolute reliance on import statistics to calculate export price is not acceptable as import statistics suffer from various flaws such as aggregation of transactions, recording of different units of measurement, failure to perfectly identify the producer by name, brand use etc. Relying on exporter’s own data ensures that such errors do not enter into export price calculation.
- z. Purchase price of raw material cannot be called unreliable owing to the fact that the same is lower than others. The difference in prices is due to a locational advantage. In case adjustment is made on account of transportation cost, prices of butadiene from Lotte Chemical will be almost similar to other companies in Korea RP.
- aa. The Authority should consider the actual cost of Butadiene and not market price as the actual costs have been reported in the records and verified by the Authority and cannot be rejected on the basis of reasonableness. Reasonableness does not require examination when actual costs in the records of the producer are found to be accurate and faithful. This is consistent with the WTO panel and Appellate Body reports in *EU – Biodiesel*.
- bb. LG Chem and its traders deny that they provide any kind of out-of-ordinary discounts to any of its clients. The prices are competitive and decided on the basis of negotiations between the client and LG Chem/Traders.
- cc. While computing normal value, interest is allowed as an item of cost of sales and after deducting interest, the balance amount of return to be allowed as pre-tax profit to arrive at the non-injurious price. Reasonableness of interest cost maybe examined to ensure that no abnormal expenditure on account of interest has been incurred. Adoption of 22% Return on Capital employed is hypothetical and not reasonable.
- dd. Butadiene prices move in tandem with crude oil prices which dropped from 86.13 US\$ in Oct, 2014 to 46.29 US\$ in Sept, 2015. The reduction is around 50% whereas during the same period, landed price of imports declined by 24% and domestic selling price declined by 18%.
- ee. Date of sale argument is merely an unsubstantiated request without any evidence or

basis. Petitioner has raised such an argument in other investigations and they have been duly rejected, most recently in the SBR investigation. Article 2.4 of the Anti-Dumping Agreement talks about ‘sales made’ and not agreement to sell.

- ff. Petitioners have not given any evidence to substantiate the claim of long-term credit being offered by foreign exporters. Landed value is calculated by adding customs duty and education cess to the assessable value. Petitioner’s proposal for determining landed value by adjusting credit cost does not have any legal basis.

E.3 Examination by the Authority

1. Normal Value

24. Under Section 9A(1)(c), normal value in relation to an article means:-

- (i) *The comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
 - (a) *Comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *The cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Determination of Normal Value

25. The Authority sent questionnaires to the known exporters/producers from the subject countries, advising them to provide information in the form and manner prescribed. The following parties have filed exporter questionnaire responses:

- I. PJSC “SIBUR Holding” Russia
- II. SIBUR International GmbH, Austria
- III. LG Chem Ltd., Korea RP
- IV. Wonchem Ltd., Korea RP

- V. Hansuk Chemicals Co. Ltd., Korea RP
- VI. Kumho Petrochemical Co. Ltd., Korea RP
- VII. POSCO Daewoo Korea RP
- VIII. POSCO Daewoo Singapore

26. None of the producers of subject goods in South Africa and Singapore have cooperated and filed exporter's questionnaire responses.

Normal value for M/s Kumho Petrochemical Co. Ltd., Korea

27. Kumho Petrochemical, during the POI, has sold **54467.04 MT** of the subject goods having invoice value *** **KRW** in the domestic market. All sales in the domestic market were made to non-affiliated parties during the POI. To determine the normal value, the authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. If profit making transactions are more than **80%**, then the authority has considered all the transactions in the domestic market for the determination of the normal value and in cases, where profitable transactions are less than **80%**, only profitable domestic sales have been taken into consideration for the determination of the normal value.
28. As regards consumption price of Butadiene adopted by Kumho Petrochemicals, the authority has considered verified figures and has adopted consumption value of PBR as recorded by Kumho Petrochemicals in its books of accounts.
29. KKPC has claimed adjustments on account of inland freight, packing, differential selling expenses and credit expense from the domestic selling price. The authority has allowed the adjustments for inland freight and packing expense. However, the adjustments on account of differential selling expense and credit expense had not been allowed by the authority, since could not justify two different rate of interest in domestic and export sales. On examination on comments of disclosure statement regarding their claim on credit expenses, the authority has considered the lower rate of interest for both and domestic and export sales, instead of different rates claimed for domestic and export sales, and allowed the credit expenses adjustment in both normal value and export price. Accordingly, weighted average normal value for Kumho Petrochemical Co. Ltd has been determined as *** **US\$/MT**.

Normal Value for M/s LG Chem Ltd., Korea

30. M/s LG Chem, during the POI, has sold **26,160.42 MT** of the subject goods having invoice value *** **KRW** in the domestic market. Sales in the domestic market were made to non-affiliated parties during the POI. To determine the normal value, the authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. If profit making transactions are more than **80%** then the authority has considered all the transactions in the domestic market for the determination of the normal value and in cases, where profitable transactions are less than **80%**, only profitable domestic sales are taken into consideration for the determination of normal value. In this case based on the ordinary course of trade test, only profitable sales have been taken for determination of normal value.

31. LG Chem has claimed adjustments on account of packing expenses, credit expense and inland freight which has been duly verified and considered by the Authority. Accordingly, weighted average normal value for LG Chem Ltd. has been determined as *** US\$/MT.

Normal Value for non-cooperating producers and exporters from Korea RP

32. The Authority notes that no other producer/exporter from Korea RP has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea RP, the Authority has determined normal value as *** US\$/MT as determined for the cooperative exporter.

Normal value for PJSC ‘SIBUR Holding’, Russia

33. PJSC ‘SIBUR Holding’ during the POI, has sold **2226.96 MT** of the subject goods having invoice value *** RUB in the domestic market. All sales in the domestic market during the POI were made to unaffiliated parties. In order to determine the normal value, the domestic sales of the exporters was not considered since the domestic sales of off spec were not available, therefore, normal value was determined as per cost of production and the reasonable profit of the producer. Accordingly, normal value for PJSC ‘SIBUR Holding’ has been determined as *** US\$/MT

Normal Value for non-cooperating producers and exporters from Russia

34. The Authority notes that no other producer/exporter from Russia has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Russia, the Authority has determined normal value as *** US\$/MT as determined for the cooperative exporter.

Normal Value for producers and exporters in South Africa

35. The Authority notes that no producers/exporters from South Africa have responded to the Authority in the present investigation. For all the producers/exporters in South Africa, the Authority has determined normal value as *** US\$/MT based on international price of raw material, conversion cost of domestic industry and reasonable profit.

Normal Value for producers and exporters in Singapore

36. The Authority notes that no producers/exporters from Singapore have responded to the Authority in the present investigation. For all the producers/exporters in Singapore, the Authority has determined normal value as *** US\$/MT based on international price of raw material, conversion cost of domestic industry and reasonable profit.

2. EXPORT PRICE

Export Price for M/s Kumho Petrochemicals along with M/s POSCO Daewoo Singapore and M/s POSCO Daewoo Korea RP

37. M/s Kumho Petrochemicals has filed questionnaire response along with its unrelated trading companies, namely, M/s POSCO Daewoo Singapore and M/s POSCO Daewoo Korea RP. Kumho has made direct exports of **8398 MT** of subject goods to unrelated parties in India and also exported 1375 MT of subject goods to India through Posco Daewoo International Corporation, Korea and M/s Posco Daewoo International, Singapore. M/s Kumho Petrochemicals has claimed adjustments on account of Inland freight, overseas freight, overseas insurance, bank charges, packing expenses, port expenses and sales commission and the same have been allowed, after due verification, however, credit expenses were not allowed. On examination on comments of disclosure statement regarding their claim on credit expenses, the authority has considered the lower rate of interest for both and domestic and export sales, instead of different rates claimed for domestic and export sales, and allowed the credit expenses adjustment in both normal value and export price. In order to arrive at ex-factory export price, expenses of Posco Daewoo has also been considered. Accordingly, the weighted average export price has been determined for M/s Kumho Petrochemicals – Posco Daewoo as *** **US\$/MT**

Export Price for M/s LG Chem Ltd along with M/s Wonchem Ltd. and, M/s Hansuk Chemicals Co. Ltd.,

38. M/s LG Chem Ltd has filed the questionnaire response along with its unrelated trading companies, namely, M/s Wonchem Ltd, and M/s Hansuk Chemicals Co. Ltd. These companies exported the subject goods which were manufactured by M/s LG Chem during the POI. M/s LG Chem has directly exported **13,650.84 MT** of PUC and exported **133.30 MT** through M/s Wonchem Ltd., & **133.30 MT** through M/s Hansuk Chemicals Co. Since, trader of M/s Hansuk, based in China, PR did not file the EQR, thereby, Authority did not find appropriate to determine the net export price and the dumping margin in respect of sales made through Hansuk.

39. M/s LG Chem has claimed adjustment on account of inland freight, ocean freight, credit expense, bank charge, overseas insurance, custom agent fee, and packing expenses and the same have been allowed, after due verification and making necessary modifications wherever necessary. Further, the Authority has made appropriate adjustment on account of services rendered by LG Chemical India Pvt. Ltd. In order to arrive at ex-factory export price, expenses of Wonchem has also been considered. Accordingly, the weighted average export price has been determined for LG Chem- Wonchem as *** **US\$/MT**.

Export Price for non-cooperating producers and exporters from Korea,RP

40. The Authority notes that no other producer/exporter from Korea has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Korea, the Authority has determined weighted average export price as *** US\$/MT based on the response of the cooperative exporter.

Export Price for M/s PJSC ‘SIBUR Holding’ along with M/s SIBUR International GmbH

41. M/s PJSC ‘SIBUR Holding’, a producer of the subject goods in Russia, has filed the questionnaire response along with its related trading company, namely, M/s SIBUR International GmbH. M/s Sibur International has exported during the POI, has sold **184.68 MT** of the subject goods (off spec material) having invoice value *** **RUR** during the POI in India. They have claimed adjustment on account of inland and overseas freight, ocean insurance, and the same have been allowed. Accordingly, the weighted average export price has been determined as *** **US\$/MT**

Export Price for non-cooperating producers and exporters from Russia

42. The Authority notes that no other producer/exporter from Russia has responded to the Authority in the present investigation. For all the non-cooperative producers/exporters in Russia, the Authority has determined weighted average export price as *** US\$/MT based on the response of the cooperative exporter.

Export Price for producers and exporters in South Africa

43. None of the producer/exporter from South Africa has responded to the Authority in the present investigation. For all the producers/exporters in South Africa, the Authority has determined the weighted average export price as *** US\$/MT on the basis of DGCIS input data and the other expenses claimed by the petitioner.

Export Price for producers and exporters in Singapore

44. None of the producer/exporter from Singapore has responded to the Authority in the present investigation. For all the producers/exporters in Singapore, the Authority has determined the weighted average export price as *** US\$/MT on the basis of DGCIS data and the other expenses claimed by the petitioner.

3. DUMPING MARGIN

45. The export price to India has been compared with the normal value to determine the dumping margin. The dumping margin during the POI for all the exporters/producers from the subject countries has been determined as shown in the Dumping margin table below:-

SN	Country	Producer	Exporter	Normal Value (US \$/MT)	Net Export Price (US \$/MT)	Dumping Margin (US \$/MT)	Dumping Margin %	Range
1	Korea RP	Kumho Petrochemical Co. Ltd.	Kumho Petrochemical Co. Ltd.	***	***	***	***	0-5
			M/s POSCO Daewoo Korea RP					
			M/s POSCO Daewoo Singapore					
2	Korea RP	LG Chem ltd	LG Chem Ltd	***	***	***	***	(0-5)
			Wonchem Ltd.					
3	Korea RP	other Producers/exporters	Other Producers/Exporters	***	***	***	***	15-20
4	Russia	PJSC "SIBUR Holding"	SIBUR International GmbH	***	***	***	***	30-35
5	Russia	other Producers/exporters	Other Producers/Exporters	***	***	***	***	45-50
6	South Africa	All	All	***	***	***	***	0-10
7	Singapore	All	All	***	***	***	***	30-40

F. Injury Determination

Views of Domestic Industry

46. The domestic industry has submitted that:-

- a. The volume of imports from the subject countries increased in 2013-14, declined in 2014-15 and then increased in the POI. The decrease in 2014-15 is only due to the commencement of production in a new plant by the petitioner which resulted in the decline of import volumes during that time period..
- b. The petitioner has been forced to realign its prices to the prices of the imports and these imports are severely suppressing the prices of the domestic industry.
- c. The performance of the domestic industry has deteriorated significantly in terms of profits, return on investments and cash flow.
- d. Domestic industry is able to sell whatever volumes Petitioner wishes to sell in the market for the reasons that (a) the demand for the product under consideration in the Country is higher than what can be produced and sold by the Petitioner, (b) the pricing policy being followed by the domestic industry is to link its own prices to the import prices. The domestic industry sells the product at a price comparable to the import prices. Since the Petitioner is benchmarking its prices to the imported product prices, the consumers are buying from the domestic industry. There is therefore no adverse volume effect of the imports on the domestic industry. However, the injury to domestic industry is in the price at which it is forced to sell the product in the Country.
- e. The pattern of imports from an individual country is entirely immaterial where cumulative assessment of injury to the domestic industry has been established. With regard to the market share of the subject countries, while there was a decline in view of fresh capacities commercialized by the domestic industry, profitability, return on investment and cash flow of the domestic industry declined very steeply and the domestic industry suffered financial losses and negative return on investment.
- f. While claims have never been made by the domestic industry that it is able to meet the entire requirement of the domestic market, in a situation where it can meet 58.36% of Indian requirement, there was no need to reduce the prices by 63% over the injury period. While raw material prices have declined, there is no compulsion for a supplier to reduce prices beyond this decline.
- g. Imports of the product have increased till 2013-14 and declined thereafter once domestic industry commenced commercial production at the new plant. Thereafter, imports have increased again in the POI.
- h. The Petitioner has computed the Non-injurious price in accordance with the principles laid down in Annexure III to the antidumping rules and in view of the fact that the prices of Butadiene were volatile, month-wise non-injurious price has been computed for the purposes of this investigation.
- i. The landed value of imports has been worked out on the assessable value reported in the customs data as per the established practice followed by the Authority.

- j. The calculations done by the Petitioner shows the existence of a significantly positive injury margin.
- k. The demand for the subject goods in India had increased in POI as compared to world market. Therefore, the loss suffered by the Petitioner was on account of dumped imports only and cannot be attributed to any other factors.
- l. The domestic industry has filed a separate application for the investigation and imposition of anti-dumping duties in respect of imports of the subject goods from EU and USA.
- m. The production of the domestic industry was highest in the period of investigation and therefore any allegation of shut down of plant and consequent short supply of the subject goods by the domestic industry is devoid of any merit.
- n. The decline in the prices of domestic industry is more than the decline in cost and the decline in prices are not following the trend of decline in BD prices thereby resulting in price depression.
- o. The capital employed with the Petitioner has increased over 700% in order to increase the capacity by 40,000 MT. The Petitioner has three plants and has claimed that the return on investment should be given on net present value of the investment in the two older plants

Views of Exporters, Importers, Consumers and other Interested Parties

47. Submissions made by the interested parties are summarized below:
- a. The volume of imports of the subject goods from Russia have remained stable following a decrease between 2013-14 and 2104-15, whereas total imports from subject countries were actually decreasing.
 - b. The volume of imports from Russia when taken in comparison to domestic production and consumption of PBR in India are incapable of having negative effect on the domestic industry.
 - c. The evolution of volume of imports of the product under consideration is linked to the inability of the petitioner to cater to the demand of the whole domestic market.
 - d. The Petitioner has expanded its capacities while its production and domestic sales have also increased and the Petitioner is still making an injury claim.
 - e. The subject countries in the present investigation have at no point put any volume pressure on the Petitioner. Market share of the Petitioner has steadily increased starting from 2013-14.
 - f. There has been no significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.
 - g. The import price of the subject goods have roughly been cut in half progressively over the period of investigation. PBR prices are driven mainly by the prices of its main raw material, butadiene.
 - h. Butadiene prices in South East Asia region decreased significantly more than Indian

- import prices.
- i. The evolution of prices of the subject goods from the subject countries does not reflect injurious dumping practices but simply reflects the evolution of raw material costs. This is in line with market prices prevalent worldwide.
 - j. The petitioner claims that the price undercutting of domestic prices by imports as being very substantial but the calculations annexed to the Petition show that undercutting for all subject countries as being between the range of. 0-10%.
 - k. For the purpose of comparison, target price of Petitioner was recalculated on the basis of methodology used by the Petitioner to establish constructed normal value. Petitioner's non injurious price should amount to 1315-1380 USD per tonne.
 - l. The landed price of Russian imports was calculated based on Russian PBR prices procured from EXIM data Bank with Russia's Ministry of Commerce and Industry with adjustments for customs duties, education fees and post importation costs. This would amount to 1,358 USD per tonne. On this basis, the underselling margin would not only be de minimis but would show that Russian import prices would not undercut prices of the Petitioner.
 - m. The cost of production of the petitioner is excessively high and the captive sourcing of butadiene at non-market prices does not allow it to compete with world market prices for PBR which are prevalent. Comparison of petitioner's cost of production with international butadiene costs show that while the latter fell considerably during the period considered, the former remained relatively stable and also at a high level.
 - n. The petitioner has lowered its prices much more than Russia or the other subject countries but such price decrease is still less than decrease in butadiene market prices. This proves that in reality the Petitioner has priced PBR in line with butadiene market prices.
 - o. Allegation that the Petitioner has a pricing policy which is to link its prices to import prices does not stand under scrutiny as an analysis of PBR export statistics available through EXIM data bank of the Indian Ministry of Commerce and Industry reveals that prices offered by the Petitioner on the export market are much lower than prices offered on the domestic market.
 - p. Petitioner's profitability started to collapse following further investments in capacity.
 - q. The profitability of the Petitioner started to collapse following further investments made by them to enhance capacities.
 - r. Petitioner should have been aware that high cost structures linked to inefficient captive sourcing of raw materials would have had a detrimental impact on its ability to align its prices with those of the market butadiene prices to compete with the same.
 - s. The capacity utilization of the Petitioner as given in petition for 2013-14 is 104% whereas Petitioner's annual report states that such capacity utilization was at 72%.
 - t. The material injury claim is solely based on price underselling, which has neither been established nor have any details been provided pertaining to the same.
 - u. The decrease in landed value of goods from Korea RP and Singapore is completely reflective of Free Trade Agreement concessions and not reflective of dumping.
 - v. When the data is based on transfer pricing of captive inputs adopted in the period of investigation, cost of production declined steeply, selling price declined accordingly

- and losses grew by 273 index points, where they should have been more stable and; when data is based on financial records, cost of production decreased marginally, selling price declined steeply and losses grow by a 138 index points. This phenomenon must be explained as it is false and misleading.
- w. Injury is due to imports from other countries including EU and USA as imports from EU and USA are entering India at similar prices. Per unit price of the product from Singapore and South Africa is much higher than the prices from these allegedly non-dumping sources.
 - x. The injury suffered by the domestic industry is due to the shutdown of Petitioner's plant and short supply of the subject goods by the Petitioner, which has happened 8 times based on communications with the Petitioner from time to time.
 - y. The high supply of butadiene available in the market is leading to suppressed profit margins, which is the case with the domestic industry.
 - z. The new capacity enhancement by the Petitioner and Global economic slowdown being experienced, especially in China, is the cause for the poor performance by the Petitioner as stated in Annual Report 2015-16 of the Petitioner.
 - aa. Weak demand from the automobile industry for the product under consideration is another reason for the poor performance of the Petitioner as stated in Annual Report 2015-16 of the Petitioner,
 - bb. Reduced prices of imports that are prevailing are due to a trend of depreciation of chemical products evidenced by prices of all exporters of PBR and not limited to the producers and exporters from the subject countries who are a part of the investigation.
 - cc. Landed price of imports has remained somewhat higher than the selling price of the DI. Therefore the argument of Petitioner of linking of prices to imports falls flat.
 - dd. Price Undercutting is negative.
 - ee. Imports from subject countries in relation to Indian consumption increased by 0% over the injury period.
 - ff. Unclear how average of prices would lead to negative undercutting whereas grade wise comparison would lead to overall positive undercutting. When Petitioner's dominant claim is import parity pricing then it is unclear how even grade wise, the import prices could possibly undercut Petitioner's prices.
 - gg. Petitioner's claim that such massive investment for expanding capacities came at zero cost is hard to accept.
 - hh. Petitioner's claim that capacity utilization has declined must be contextualized as it has remained well above par at 95% and a comparative trend indicates production increased despite increase in capacity year on year.
 - ii. Production and domestic sales moved in tandem with each other. Production remained commensurate with increase in capacities.
 - jj. When imports started declining in 2014-15, Petitioner began incurring losses and thereafter, despite further decline, losses of the Petitioner grew. There is no causation between the two.
 - kk. Petitioner's profit/loss figures have shown substantial changes even though such changes are not reflected by any other parameters claimed by the Petitioner and the entire data of the Petitioners appears highly suspect.

- ll. Petitioner cannot accuse imports of causing injury when they control a meager 30% of demand whereas DI itself controls 60%.
- mm. ROI has decreased from -399% to -5% and same trend is noticeable in recovered losses which shed clarity that the new plant commissioned by the Petitioner in 2014-15 has improved its economic and growth parameters.
- nn. Petitioner's conclusion that majority of imports are from subject countries is irrelevant for injury analysis and is legally untenable.
- oo. Petitioner's conclusion regarding price underselling is misguided as it has relied upon NIP once again to state that landed price of imports remained sub-par. However, injury margin is not a factor for assessing injury.
- pp. Any injury attributable to EU and USA needs to be excluded from the injury determined in the current investigation.
- qq. RIL is a backward-integrated unit and produces many petrochemical products and it is involved in these products right from the stage of crude. It is relevant to see if all intermediate products are profitable or not. Possible that RIL represents high profits in intermediate sectors and projects corresponding losses in downstream units. Transfer pricing of Butadiene feedstock sold by RIL to its manufacturing units forms a factor under this head and merits evaluation.
- rr. Import volumes grew only in 2013-14 and declined in the injury period. Growth is due to inability of producer to cater to domestic demand, which was nearly double the Petitioner's production that year despite performing at 104% capacity utilization and selling more than 90% of production. Thereafter Petitioner expanded capacity, imports declined and demand-supply gap reduced. However demand remained much higher than Petitioner's capacity even in the POI.
- ss. No price suppression as RIL's cost of production only declined by 16% while the cost of raw material declined by 50-60% and the Petitioner's selling price reflects change in cost of raw material.
- tt. Price depression must be analyzed along with global factors such as raw material prices. This shows that selling price of DI declined due to declining raw material costs and global reduction of prices. Therefore imports are not causing price depression.
- uu. Imports from Korea have gone down from 31080 MT during the base year to 25424 MT during the POI.
- vv. Capital employed with the Petitioner has increased by over 700% which is irrational and does not correlate with the injury to the domestic industry and must be examined.

Examination by the Authority:-

48. The Authority has taken note of submissions made by the interested parties. The Authority has examined the material injury to the domestic industry in accordance with the Anti-dumping Rules and considering the submissions made by the interested parties.

49. The AD Rules require the Authority to examine injury by examining both volume and price effect. A determination of injury involves an objective examination of both
- (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for the like article and
 - (b) the consequent impact of these imports on domestic industry. With regard to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree.
50. As regards injury from imports from EU and USA, at the stage of initiation, the Designated Authority came to a conclusion that the dumping margin in case of imports from EU and USA was negative. Therefore, both EU and USA were taken off from the list of subject countries in this AD investigation. However, the domestic industry has filed a separate petition in respect of imports from EU and USA for a different period of investigation which is under examination. Based on the examination of comments on disclosure statement by Kumho, Korean exporters, it was found that its dumping margin is less than 2%. In view of the de-minimis dumping margin, AD investigation against them has been terminated and it was also found the entire imports from Korea is undumped, thereby the investigation has also been terminated against Korea RP. Therefore, the subject countries in this investigation constitute only South Africa, Russia and Singapore

G. Cumulative Assessment:-

51. Annexure II (iii) of the Anti-Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case it determines that :-
- a) The margin of dumping established in relation to the imports from each country/territory is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;
 - b) Cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.
52. In the present case, the margin of dumping from each of the subject countries have been found to be more than the de minimis limit prescribed; the volume of dumped imports from each of the subject countries is more than the limits prescribed; and the exports from the subject countries directly compete inter se and with the like goods offered by the domestic industry in the Indian market. Cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported

products and the like domestic product. The Authority has therefore cumulatively assessed the effect of dumped imports.

Examination of Injury and Causal Links

53. Annexure II to the Anti-Dumping Rules in its relevant part provides that the examination of the impact of the dumped imports on the domestic industry concerned, 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 sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.
54. In accordance with the Rules all economic parameters affecting the Domestic Industry as indicated above have been examined as under:-

H. Volume Effect of Dumped Imports and Impact on Domestic Industry

Assessment of Demand/Apparent Consumption

55. Demand or apparent consumption of the product in India is the sum of domestic sales and imports from all sources. Exports made by the Indian Producer have been excluded from the computation in order to ascertain apparent consumption.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Sales of Domestic Industry	MT	77,354	77,403	1,00,901	1,09,646
Subject Countries Imports	MT	6,324	12,224	7,874	15,996
Other Countries Imports	MT	54,387	65,080	53,192	47,580
Total Demand/consumption	MT	1,38,065	1,54,736	1,61,966	1,73,224

56. It is seen that there has been consistent increase in demand over the injury period.

Import Volumes from subject countries

57. Table below shows imports from various countries

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports volume from Subject Countries					
RUSSIA	MT	6,017	12,152	6,069	9,105
SOUTH AFRICA	MT	307	101	1,536	3,472
SINGAPORE	MT	-	-	269	3,420
Total Subject Countries	MT	6,324	12,225	7,874	15,998

58. The Authority notes that dumped imports are not in significant quantities and are

significantly lower than the volume of undumped imports. The share in imports from Russia, Singapore and South Africa constitutes 25.16% of total imports. Thus, dumped imports could not be the reason for injury to the domestic industry.

Imports in relation to total imports

59. The Authority notes that dumped imports are significantly lower than the volume of undumped imports. The share in imports from Russia, Singapore and South Africa constitutes only 25.16% of total imports. Since, the share of dumped imports constitute only 9.24% in demand and 14.29% in the production, therefore, such minor volume may not be the cause of injury to the domestic industry.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Import from Subject countries	MT				
Russia	MT	6,017	12,152	6,069	9,105
South Africa	MT	307	101	1,536	3,472
Singapore	MT	-	-	269	3,420
Total imports	MT	6,324	12,225	7,874	15,998
Share of subject countries imports in total imports	%	10.42%	15.85%	12.89%	25.16%
Import from other countries	MT	54,387	65,080	53,192	47,580
Total Imports	MT	60,711	77,333	61,066	63,578

Imports in relation to production & consumption in India

Particulars	Unit	2012-13	2013-14	2014-15	POI
Imports from subject countries in relation to:					
Indian Production	MT	77,070	80,756	1,01,399	1,11,985
Indian Consumption	MT	1,38,065	1,54,736	1,61,966	1,73,224
Imports from Subject Countries	MT	6,324	12,225	7,874	15,998
Total Imports	MT	60,711	77,333	61,066	63,578
Share of Imports in Consumption	%	4.58%	7.92%	4.86%	9.24%
Share of Imports in Production	%	8.21%	15.17%	7.76%	14.29%

60. Share of imports in relation to production and consumption increased in 2013-14 and declined thereafter with the commencement of production in the new plant by the petitioner and again increased during the POI, however, it is insignificant in order to influence pricing in the domestic market.

I. Price Effect of dumped imports and impact on domestic industry

61. With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to 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. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject countries have been examined with reference to price

undercutting, price underselling, price suppression and price depression.

Price undercutting effects of dumped imports

62. For the purpose of price undercutting analysis the net sales realization (NSR) of the domestic industry has been compared with the landed value of imports from the subject countries. While computing the net sales realization of the domestic industry all taxes, rebates, discounts and commissions have been deducted and sales realization at ex works level is determined for comparison with the landed value of the dumped imports. Further, in view of significant difference in the costs and prices of different grades of PBR, the price undercutting has been determined by considering the comparable grade of PBR. Accordingly the undercutting effects of the dumped imports from the subject countries works out as follows:

63. It is seen that the price undercutting is negative in case of South Africa and Russia.

Particulars	Unit	Cobalt	NdBr	Nickle	Average
Net Sales Realisation	Rs/MT	***	***	***	***
Subject Countries as a whole					
Landed Price	Rs/MT	84,307	87,722		87,712
Price undercutting	Rs/MT	***	***	***	***
Price undercutting (Range)	%	0-10	0-10	(0-10)	(0-10)
RUSSIA					
Landed Price	Rs/MT	-	86,104	-	86,104
Price undercutting	Rs/MT		***		***
Price undercutting %	%		(0-10)		(0-10)
SOUTH AFRICA					
Landed Price	Rs/MT	-	96,363	-	96,363
Price undercutting	Rs/MT		***		***
Price undercutting %	%		(0-10)		(0-10)
SINGAPORE					
Landed Price	Rs/MT	84,307	83,196		83,211
Price undercutting	Rs/MT	***	***		***
Price undercutting %	%	0-10	5-15		0-10

Price Underselling

64. The Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price (NIP) has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation as per the laid procedure in Annexure III to the AD Rules. Weighted average NIP has been worked out based on the verified information of the domestic industry and it has been considered for comparing the landed price from each of the subject countries for

calculating injury margin. The analysis shows that during the POI the landed value of subject imports were below the non-injurious price of the domestic industry, as can be seen from the table below, demonstrating positive price underselling effect.

S.No	Producer /Exporter		NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
			US\$/MT	US\$/MT	US\$/MT	%	% Range
Korea RP							
1	Kumho Petrochemical Co. Ltd.	Kumho.Petrochemicals	***	***	***	***	15-25
		M/s Posco Daewoo, Korea RP					
		M/s Posco Daewoo, Singapore					
2	LG Chem Ltd.	M/s LG Chem . Ltd.	***	***	***	***	20-30
		M/s Wonchem Ltd.					
3	All Producers	All Exporters	***	***	***	***	25-35
Russia							
4	PJSC “SIBUR Holding”	SIBUR International GmbH	***	***	***	***	55-65
5.	All Producers	All Exporters	***	***	***	***	145-155
South Africa							
6	All Producers	All Exporters	***	***	***	***	10-20
Singapore							
7	All producers	All Exporters	***	***	***	***	30-40

Price Depression/Suppression

65. Price suppression/depression effects of the dumped imports have also been examined by considering the trend in net sales realization and cost of production of the domestic industry and comparing the same with the landed price of the dumped imports.

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>96</i>	<i>99</i>	<i>84</i>
Selling price	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>76</i>	<i>61</i>	<i>49</i>
Landed Price	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>80</i>	<i>72</i>	<i>49</i>

66. It is seen that the landed price of imports has moved in tandem with the selling price of the domestic industry and in view of the minor share of dumped import in demand, it may not be possible that dumped import will determine the selling price in the domestic market. In view of this the landed value may not be in a position to depress domestic selling price of the industry.

J. Economic Parameters Relating to Domestic Industry

67. Annexure II to the Rules requires that the Authority, in determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. Relevant portion of Annexure II (iv) of the Rules has been produced below:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

i) Production, Capacity, Capacity Utilization and Sales

68. Capacity, production, capacity utilization and sales of the domestic industry over the injury period is given in the following table:-

Particular	Unit	2012-13	2013-14	2014-15	POI
Capacity	MT	78,000	78,000	1,08,000	1,18,000
Production	MT	77,070	80,756	1,01,399	1,11,985
Capacity Utilization	%	99%	104%	94%	95%
Domestic Sales	MT	77,354	77,403	1,00,901	1,09,646
Export Sales	MT	89	159	1,555	6,024

69. It is seen that :-

- a.) The domestic industry has enhanced capacity for the product under consideration. The demand for the product has increased and the capacities with the domestic industry were below the existing demand.
- b.) Production of the domestic industry has increased over the injury period.
- c.) Domestic industry was operating at 95% during the POI.
- d.) Performance of domestic industry both in production and sales have improved.

ii) Profitability, return on investment and cash profits

70. Profitability, return on investment and cash profits of the domestic industry over the injury period is given in the table below:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Cost of Sales	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	100	96	99	84
Selling Price	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	100	76	61	49
Profitability	Rs/MT	***	***	***	***
Trend	<i>Indexed</i>	100	27	(33)	(38)
PBT on Domestic Sales	Rs. Lacs	***	***	***	***
Trend	<i>Indexed</i>	100	27	(43)	(54)
PBIT	Rs. Lacs	***	***	***	***
Trend	<i>Indexed</i>	100	27	(43)	(53)
Cash Profit	Rs. Lacs	***	***	***	***
Trend	<i>Indexed</i>	100	29	(26)	(34)
ROI	%	***	***	***	***
Trend	<i>Indexed</i>	400-500	50-60	(25-35)	(30-40)

71. It is seen that:

- a.) Profitability of the domestic industry with respect to domestic sales deteriorated over the injury period.
- b.) Return on investment and cash profits have followed a trend almost the same as that of profits. Return on investment and cash profits deteriorated over the injury period.

iii) Market Share in Demand

72. Market share of the domestic industry in demand for the product under consideration is given in the table below:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Sales of Domestic Industry	MT	77,354	77,403	1,00,901	1,09,646
Import from Subject Countries	MT	6,324	12,224	7,874	15,996

Import from other Countries	MT	54,387	65,080	53,192	47,580
Total Demand/consumption	MT	1,38,065	1,54,736	1,61,966	1,73,224
Share in Demand					
Domestic Industry	%	56.03%	50.02%	62.30%	63.30%
Subject Countries	%	4.58%	7.92%	4.86%	9.24%
Other Countries	%	39.39%	42.06%	32.84%	27.47%
Total	%	100.00%	100.00%	100.00%	100.00%

73. It is seen that the market share of the domestic industry in demand has improved and commanding 63.30% of share which is sufficient enough to control the market. However the share of dumped import constitute only 9.24% which may not be a reason for causing injury to the domestic industry.

Employment, productivity and wages

74. Employment, productivity and wages over the injury period is given in the table below:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Number of employees	Nos.	***	***	***	***
Trend	Indexed	100	97	97	97
Wages	Rs.Lacs	***	***	***	***
Trend	Indexed	100	92	107	114
Productivity					
Per Day	MT/Day	***	***	***	***
Trend	Indexed	100	105	132	145
Per Employee	MT	***	***	***	***
Trend	Indexed	100	108	135	150

iv) Inventories

75. Inventory position with the domestic industry over the injury period is given in the table below:-

Particulars	Unit	2012-13	2013-14	2014-15	POI
Average Inventory	MT	***	***	***	***
Trend	<i>Indexed</i>	<i>100</i>	<i>190</i>	<i>375</i>	<i>340</i>

76. It is seen that the inventories with the domestic industry increased during the injury period. The level of inventories is higher since volume of production has gone up during the same period.

v) Growth

77. The growth of the domestic industry was positive in respect of volume parameters. However growth in respect of price parameters mainly profitability and return on

investment have been adverse.

vi) Ability to raise capital investments

78. The Authority notes that given the rising demand of the product in the country, the domestic industry has added capacity. Accordingly, both production and sales volumes have gone up, however, profitability and return on investment have deteriorated.

vii) Factors affecting domestic prices

79. Consideration of the import prices from the subject countries and other countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the factors affecting the domestic prices are the prices of basic raw material, i.e., butadiene and landed price of imports from subject countries. Imports were not causing price undercutting due to the dumped imports in the Indian market. Landed Value from subject countries is lower than the non-injurious price of the domestic industry. Demand for the product has shown significant jump during the injury period. There does not seem to be volume injury since both production and sales have improved with the capacity utilization is around 95%

viii) Level of dumping & dumping margin

80. It is seen that the dumping margins are more than de minimus.

Causal Link

81. The Authority examined whether other factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows:

a.) Volume and value of imports not sold at dumped prices:

82. As regards to imports from subject countries, imports beyond de-minimus limits have been reported from EU and USA. The domestic industry has filed a separate petition in respect of these imports before the Authority which is under examination. Imports from all other sources are either below de-minimus limits or at undumped price. Since the evidences with regard to the transshipment of subject goods from UAE submitted by petitioners could not establish that the goods coming from UAE are being produced in Iran. Therefore, the Authority has excluded the volume of imports from UAE while calculating the share of Iran in total imports. The share of Iran excluding UAE transshipment are below 3%, therefore, the Authority terminates the investigation against Iran. The share of UAE in total imports is more than 3% and are at dumped prices, however, the Authority cannot carry out the investigation against UAE since, the investigation was never initiated against UAE.

83. Based on the examination of comments on disclosure statement by Kumho, Korean exporters, it was found that its dumping margin is less than 2%. In view of the de-

minus dumping margin, AD investigation against them has been terminated and it was also found the entire imports from Korea is undumped, thereby the investigation has also been terminated against Korea RP. Therefore, the subject countries in this investigation constitute only South Africa, Russia and Singapore.

84. The Authority notes that dumped imports are not in significant quantities and are significantly lower than undumped imports only. The share in imports from Russia, Singapore and South Africa constitutes 25.16% of total imports may not be a cause of injury. The price undercutting from these countries are negative which shows that these countries are not the reason for price suppression claimed by the petitioner. On examination of comments to disclosure statement given by the interested parties, the Authority note that there is injury to the domestic industry, however, Authority concludes that these dumped imports are not the reason to cause injury to the domestic industry. The Authority concludes that the causal link is missing in the present investigation as dumped imports are substantially lower than undumped imports.

b.) Contraction in demand

85. Demand for the product under consideration has shown consistent increase over the injury period. Therefore, possible contraction in demand cannot be a factor causing injury to the domestic industry.

c.) Changes in the patterns of consumption

86. There is no allegation of changes in the pattern of consumption. The pattern of consumption with regard to the product has not undergone any change. Possible changes in the pattern of consumption could not have contributed to the injury to the domestic industry.

d.) Trade restrictive practices and completion between the foreign and domestic producers

87. There is no allegation of trade restrictive practices. It is seen that there is no trade restrictive practice which could have contributed to the injury to the domestic industry.

e.) Developments in technology

88. There is no evidence of material changes in the technology for production of the product. Possible developments in technology is, therefore, not a factor of injury.

f.) Export performance

89. It is seen that the petitioner has exported the product under consideration during the injury period. The export volumes have however increased over the injury period. Further, the claimed injury to the domestic industry has been segregated for domestic operations. The claimed injury to domestic sales cannot be attributed to exports.

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

90. It is seen that the injury claimed by the Petitioner is on account of the product under consideration. It is not attributable to any other products produced by the domestic industry. Performance of the domestic industry has been examined only for the product under consideration, which has been dealt in relevant para.

Factors establishing causal link

91. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has deteriorated on some parameters but the same is not due to dumped imports from the subject countries. Causal link between dumped imports and the injury to the domestic industry is not established on the following grounds-
- a.) The prices from the subject countries are higher than the domestic selling prices and not undercutting the prices of domestic industry.
 - b.) Deterioration in profits, return on capital employed and cash profits cannot be attributed to dumped imports.
 - c.) The factors for the domestic industry to fix its prices are the butadiene prices and not the import prices. Had the petitioner fixed the prices on the basis of imports prices, the prices of the petitioner would be much higher than actuals. The minority share in dumped imports cannot determine the pricing policy of the domestic industry.
 - d.) The price suppression suffered by the domestic industry are not due to dumping from subject countries and are not the reason for deterioration in profitability of the domestic industry over the injury period.

K. Magnitude of Injury And Injury Margin

92. The non-injurious price of the subject goods produced by the domestic industry determined has been compared with the landed value of the exports from the subject country for determination of injury margin during POI. The injury margin determined are as under:-

S.No	Producer /Exporter		NIP	Landed Price	Injury Margin	Injury Margin	Injury Margin
			US\$/MT	US\$/MT	US\$/MT	%	% Range
Korea RP							
1	Kumho Petrochemical Co. Ltd.	Kumho.Petrochemicals	***	***	***	***	15-25
		M/s Posco Daewoo, Korea RP					
		M/s Posco Daewoo, Singapore					
2	LG Chem Ltd.	M/s LG Chem . Ltd.	***	***	***	***	20-30
		M/s Wonchem Ltd.					
3	All Producers	All Exporters	***	***	***	***	25-35
Russia							
4	PJSC "SIBUR Holding"	SIBUR International GmbH	***	***	***	***	55-65
5.	All Producers	All Exporters	***	***	***	***	145-155
South Africa							
6	All Producers	All Exporters	***	***	***	***	10-20
Singapore							
7	All producers	All Exporters	***	***	***	***	30-40

L. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

93. The Authority has made appropriate examination of post disclosure comment at relevant paragraph in this findings which have not been repeated in subsequent examination. The other issues raised by the interested parties have been addressed below.

L.1 Submissions by Domestic Industry

- a. Petitioner has requested to disclose normal value, export price, actual dumping margin, and verification reports issued to exporters and NIP which have not been disclosed in the disclosure statement. Amount of actual dumping margin should be disclosed as the duty is on dumping margin. The basis adopted by Authority relating to determination of normal value and export price is not mentioned.
- b. Verification report of the exporters are the documents generated by the Authority and similar to the disclosure statement. Therefore, should be disclosed and confidential information can be marked as ***. Communications with the exporters and replies filed by them should be disclosed.
- c. Basis of Butadiene consumption price in LG Chem and Kumho. Butadiene prices are declared on periodic basis by a number of trade journals and therefore are fairly known to all producers and all consumers. In fact, significant business happens at the prices declared in the trade journals. Thus, it can be concluded that the producers in the subject countries are procuring Butadiene at these international prices only.
- d. LG Chem Butadiene prices had been rejected by the Authority in SBR case. It is not clear from the disclosure statement what the method Authority has applied for LG Butadiene cost in the present investigation.
- e. Dumping margin determined by the petitioner completely ignored. None of the issues raised by the petitioner during the course of investigation relating to the cost of Butadiene have been dealt by the Authority in the disclosure statement.
- f. It is not clear from disclosure statement that Authority has determined grade-wise NIP and CNV or single weighted average NIP and CNV.
- g. Kumho Petrochemicals has invoiced the goods to an exporter who has in turn sold the same in Indian market, the export price is required to be adjusted in respect of expenses incurred by such exporting companies and the profit is required to be reduced. It is however noted direct & indirect selling expenses, SGA, interest and profits of such exporters have not been reduced from the export price determined. The export price determined is therefore overstated to the extent of the expenses and profits of the exporters. This has reduced dumping margin.
- h. LG Chem Ltd has not disclosed that they have a subsidiary company in India, LG

Petrochemical India Pvt. Ltd, which is involved in the marketing of the PUC in India. This concealment of fact by itself renders the response liable to outright rejection.

L.2 Submissions by exporters and other interested parties

- a. NdBr grade should be excluded because it constitutes only 2% of the total production of petitioner. Further, 2% shows that only the testing batch has been produced and not the commercial batch has been produced. NdBR is technically distinct from the Nickel and the Cobalt catalyst grades of PBR. NdBR provides better rolling resistance when used and therefore, is more environment friendly. It allows tyre manufacturers to meet standards, with an outlook towards development of the same. The demand for the product is more than the capacity. The petitioner is able to produce NdBr grade in one of its units. Even if the petitioner product is approved by customers it would be able to produce on high production cost as the Petitioner's productivity suffers when using the swing line in that specific unit. Hence, the gap between domestic demand and indigenous supply would only further widen as a result of this importation of the subject goods to meet the demand.
- b. The Petitioner's production of NdBR is limited to 2% of its production, there can be no reasonable claim that the imports of NdBR from the subject country have caused any material injury to the Petitioner. Inclusion of NdBR within the scope of investigation would unduly burden importers and users, as it is evident that the Petitioner would be unable to supply the market with NdBR in any reasonable manner.
- c. Cumulation of imports from Korea with other subject countries is legally untenable on as the conditions of cumulations are not satisfied in the present investigation. The product is being imported from majorly two companies in Korea and majority of the imports are undumped. Therefore, if the dumping margin is calculated with respect to the average export price of Korea, the dumping margin would be less than 2%. The assessment of injury caused by the imports from Korea RP must be individually assessed.
- d. The allegedly dumped imports account for 41.24% of the total imports while subject goods imported from the undumped sources account for 58.76%. The causal link has been tarnished and broken as it is absolutely inappropriate to attribute injury solely to 40% of imports while completely ignoring any injurious effect of about 60% of the imports. The price from dumped sources are higher than the prices from undumped sources.
- e. The injury should be assessed only after segregating the dumped and undumped imports for all the years and analyze the effect of the dumped imports on the domestic industry's performance. No conclusions in the injury assessment have been given by the Authority.
- f. For the purposes of analyzing injury price underselling is not a relevant criterion. The Authority has assessed the trends of costs of production of the domestic industry in reference to its selling price. However, the Authority's simplistic

assessment of price suppression / depression is completely unfounded. No causal link between the losses incurred by the Petitioner and the volume of imports in absolute or relative terms.

- g. The Authority must note that in view of the negative margins of undercutting, the values of the dumped imports from the subject countries also could not have impacted the Petitioner's profitability and related parameters.
- h. With respect market share in demand, the Authority has considered all imports from subject countries rather than just the dumped imports from the subject countries.
- i. The increase in inventories should be in correlation to the increase in sales and production of the Petitioner. The Authority has only provided trend of the actual figures, it is not possible to analyse the same in percentage terms.
- j. The major proportion of the imports are entering India at undumped prices and therefore, any allegation of injury raised by the Petitioner's cannot be simply attributed to the volume of dumped imports.
- k. Raw Material Cost of the Petitioner for the purposes of Annexure 4 of the Disclosure Statement, i.e., Non-Injurious Price, different methods have been noted at different points of the Disclosure Statement.
- l. The Authority has calculated the Dumping Margin with respect to KKPC as USD 25/MT which as per the Authority, amounts to 2.1%. However, inadvertently, the Authority has calculated Dumping Margin as a percentage of ex-factory export price. The global practice and the correct legal position is to calculate Dumping Margin as a percentage of the CIF Export Price. If the dumping margin of USD 25/MT is appropriately calculated, then the same as a percentage of CIF export price amounts to merely **1.8%** and therefore, is less than 2% and is *de minimis*.
- m. The authority has disallowed the deduction on account of credit expense while calculating the normal value and the net export price. The evidence with respect to credit expense have already been submitted to the authority during the on-site verification conducted by the authority on 20th and 21st July 2017 at the premises of KKPC in Korea. The backup documents with respect to credit expense were also submitted during the verification. KKPC has claimed deduction for credit expense @3.23% for domestic sales transactions and @1.43% for export sales transaction based on the documents filed by them. The only possible reason that we could think of for authority's decision of disallowing the credit expense could be that the authority is not convinced with the argument of two separate rates of interest claimed by KKPC [@3.23% for domestic sales and 1.43% for export sales]. If that is the case, the authority should adopt a single rate of interest for both domestic as well as export sale transactions and should calculate the dumping margin accordingly. There is no reason for authority to completely ignore the credit expense which is actually incurred by KKPC as reflected from records kept by KKPC and for which the authority has all the verified information on record.
- n. In the recently concluded, anti-dumping investigation concerning imports of

Styrene Butadiene Rubber (SBR) of 1500 series and 1700 series, originating in or exported from European Union, Korea RP and Thailand, the authority has granted credit cost deduction to KKPC. In the past, KKPC has been regularly participating in various anti-dumping investigations conducted by DGAD and in all the investigations KKPC has been allowed deduction for credit cost. The investigations in which KKP has participated in the past, inter alia, includes Styrene Butadiene Rubber, Acrylonitrile Butadiene Rubber (NBR), 6PPD etc. Therefore, there is no reason for authority to disallow a deduction in this case which has always been allowed to KKPC in the previous investigations.

- o. Calculations given to them does not specify the basis of calculating normal value. Off spec should be excluded or adjusted in DM and IM calculations. Export price should be based on SIBUR International. The average conversion rate for POI has been used by DGAD to convert the prices and as a result ex work prices are significantly higher. DGAD needs to rectify the selling expenses adjustments as the COP+ profits have been used to construct the normal value. COP includes COP. Further ex-factory prices have been arrived after deducting selling expenses.
- p. By captively sourcing butadiene, the petitioner is actually self-inflicting injury. The high cost of butadiene are being recorded in petitioner's books of accounts.
- q. Export prices are lower than domestic prices. This shows as evidence that pricing policy of the petitioner is not linked with import from subject countries.
- r. There is demand and supply gap and by imposing the antidumping duty, the consumers will be overburdened. The petitioner will be given over protection in order to address the injury which is because of captive sourcing of Butadiene.
- s. The petitioner can switch from captive sourcing to sourcing from the free market. It would be undue to make PBR customers pay for the burdensome and cost inefficient supply chain of the domestic producer.
- t. The user industry i.e. the rubber industry is already burdened with heavy import and ADD on raw materials such as natural rubber, nitrite rubber, carbon black and rubber chemicals among others. Despite the imposition of duty on all such raw materials, the DI has now approached the DA for granting them additional protection by imposing ADD even on PBR in the present investigation.
- u. The imports of finished rubber goods are allowed into India at NIL duty. All the raw materials that are critical for the user industry have already been granted the protection of the ADD, the imposition of ADD on the PUC in the present investigation especially when the domestic industry is not even in a position to commercially supply the approved PUC to the user industry commensurate to the Indian demand, is likely to land the user industry in a very difficult situation.
- v. Imposition of further duties on rubber products will lead to an incompetent Indian industry, where imports are unduly priced at high levels and the sole producer has complete monopoly.

L.3 **Examination by the Authority**

94. It is noted that the comments on Disclosure statement filed by the interested parties are primarily reiterations and reproductions of their earlier submissions in the context of Disclosure statement. All relevant submissions are inter alia addressed under the appropriate sections in this final finding which are self-explanatory based on evaluation of the relevant facts and also in view of the relevant rules and jurisprudences to be followed by the Authority. Nevertheless, certain specific comments on the Disclosure statement raised by the parties are addressed as follows;
95. As regards disclosure of various information, documents and figures desired by petitioner, it is noted that all essential facts under consideration, as are being disclosed by authority as a matter of practice, have been disclosed in this case. The petitioner was informed that the confidential information and the actual numbers pertaining to the dumping determination of the concerned exporters is disclosed only to the concerned exporter, in order to keep its confidentiality and this is the practice being followed. However, the non-confidential details have already been disclosed vide the disclosure statement issued on 28th November, 2017. It was also clarified that the procedure related with determination of normal value has also been disclosed and which has been elaborated at appropriate places in the disclosure statement.
96. As regard to the disclosure of non-injurious price (NIP) to the domestic industry, which was provided to petitioner and it is noted that NIP for the Cobalt and Nickle grade of PBR have been worked out plant wise (plant 1,2 & 3) and accordingly weighted average NIP has been determined for the PUC. NIP for NdBR grade has not been considered in view of the fact that production of NdBR grade was about 2059 MT out of total PBR production of 1,11,985 MT during POI which is less than 2%.
97. As regards CNV for non-cooperative exporters, the same has been worked out based on Butadiene import price in the respective country as per International price and weighted average conversion cost of the domestic industry and the reasonable profit during POI.
98. As regards the confidential information sought for other applicant mainly export, it is noted that these information / documents are confidential in nature and such information are not being disclosed by authority to the other interested parties as a matter of practice. However, summarization of such confidential information were disclosed in the disclosure statement.
99. As regards reference to the treatment LG Butadiene price in SBR investigation, the authority notes that every investigation is governed by the facts and circumstances of that particular investigation and the methodology adopted in one particular case may not be appropriate for other case. It would not be appropriate to apply methodology of SBR case to the facts and circumstances of the present case.
100. As regards exports made by exporters and their treatment for determination of dumping margin, the authority has adequately taken care of the fact that significant portion of exports have been made by LG Chem and Kumho Petrochemicals through exporters in Korea or third country. It is noted that export price and dumping margin has been determined based on verified information.

101. With regard to the submissions by KKPC for determination of dumping margin, it is noted that the dumping margin is arrived as a factor of normal value and net export price at an ex-factory level. It is a consistent practice which is in tune with both AD Agreement and Anti-Dumping Rules to determine the dumping margin at the same level of trade and i.e. ex-factory for both normal value and export price and it is a percentage of net export price. In view of the consistent practice being followed, dumping margin has also been determined accordingly in this case.
102. As regards, the concern of KKPC for disallowing credit expense, it is noted that in the disclosure statement as stated that it was not considered due to different bank interest rates were claimed with regard to domestic sales and export sales transactions and they could not provide the justification. However, the authority based on the examination of their request to consider the lower bank interest rate for both the transactions in order to arrive at the credit expense, considered the lower interest rate for determination of credit expense based on the verified documents. Accordingly, dumping margin has been arrived and which is determined as de-minimus. In view of the de-minimus dumping margin, AD investigation against them has been terminated and it was also found the entire imports from Korea is undumped, thereby the investigation has also been terminated against Korea RP.
103. As regard exclusion of NdBr, the authority notes that the petitioner has produced 2059 MT of NdBr and sold during the POI. Further, the scope of PUC is required to be considered having regard to the like article offered by domestic industry. It has not been demonstrated by the interested parties that the domestic industry has not offered like article to the imported product. In this case, the product under consideration is PBR and NdBr is one of the grades of PBR and under section of like article, the authority has appropriately examined this issue.
104. As regard the contention that the disclosure statement does not contain conclusion on injury assessment, it is noted that the scope of disclosure statement is limited to disclosure of essential facts.
105. As regards the contention that price underselling is not a relevant injury criteria, the authority notes that the price underselling is also an important parameter of injury. The list of injury parameters under the law is non-exhaustive. Further, the authority has been repeatedly determining price underselling in various investigations as a parameter of injury.
106. As regards contention about methodology for assessment of price suppression / depression, it is the practice of the authority to compare the trends in cost and prices in order to determine suppressing/depressing effects of prices on the domestic industry. In the present case as well, the authority has considered trends in costs and prices to determine suppressing / depressing effects on the domestic industry.
107. As regards the linkage between losses and volume of imports, the authority has appropriately examined this issue under causal link section.

108. As regards alleged self-implicated injury due to captive sourcing of butadiene, the authority notes that the Butadiene prices has been considered as per the books maintained by the petitioner.
109. As regards the contentions of heavy import duties and its burden on the user industry, the authority notes that the purpose of anti-dumping duty is to provide level playing field to all parties. It is noted that the authority do follow the lesser duty Rule, of lower of either dumping or injury margin, in order to address the injurious effect of imports.
110. As regards the issues concerning impact of ADD on downstream industry, it is noted that even when the association has contended that a number of raw materials are attracting anti-dumping duty, the association has not provided any quantified data to show that the impact of ADD on the PUC is already adversely impacting the user industry. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic industry by the unfair trade practices of dumping, so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

M. Conclusions and Recommendations

111. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority as recorded in this finding, the Authority concludes that:
 - I. The product under consideration has been exported to India from Russia, South Africa and Singapore, below its normal value, resulting in dumping.
 - II. The domestic industry has suffered material injury not due to dumping of the product under consideration from the subject countries.
 - III. Causal link between imports from subject countries and injury to the domestic industry is not conclusively established.
 - IV. The Authority in view of the above does not consider it appropriate to recommend levy of an Antidumping Duty on the subject goods from subject countries and hereby terminates the present investigation in accordance with Rule 14(b), (e) and Rule 17 (1) (iii) read with 11(ii) of AD Rules.

N. Further procedure

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

(Sunil Kumar)
Additional Secretary & Designated Authority

