

No.14/09/2008-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAVAN

NOTIFICATION

New Delhi- 29th Sep., 2009

Final Findings

Subject:- Anti-Dumping Investigations involving imports of Nylon Tyre Cord Fabric originating in or exported from Belarus.

No. 14/09/2008-DGAD:- Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules, (hereinafter referred as Rules) 1995 thereof;

PROCEDURE

2. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigations by the Authority: -

(i) The Designated Authority (hereinafter referred to as Authority), under the above Rules, received a written application from Association of Synthetic Fibre Industry, New Delhi on behalf of the domestic industry, alleging dumping of NTCF originating in or exported from Belarus (hereinafter also referred to as subject country).

(ii) The Authority notified the Embassy/Representative of Belarus in India about the receipt of dumping application made by the petitioner before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.

(iii) The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, issued a public notice dated 30th September, 2008 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of NTCF originating in or exported from Belarus, in accordance with the sub-Rule 6(1) of the Rules to determine the existence, degree and effect of 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.

(iv) The Designated Authority sent copies of initiation notification dated 30.09.2008 to the Embassy/representative of the subject country in India, known exporters from the subject country, importers and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

(v) Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.

(vi) The Authority provided copies of the non-confidential version of the application to the known exporters and to the Embassy/representative of subject country in accordance with Rule 6(3) supra.

(vii) The Embassy/representative of the subject country in India was informed about the initiation of the investigation in accordance with Rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters were also sent to them, along with the names and addresses of the exporters.

(viii) The Authority sent questionnaires, to elicit relevant information to the known exporters in the subject country in accordance with Rule 6(4);

(ix) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and the period of investigation. Imports data procured from DGCI&S has also been gone through in this findings;

(x) 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 in accordance with Rule 6(7);

(xi) In response to the above said notification one of the exporters, M/s JSC Grodno Khimvolokno, from the subject country filed their responses to questionnaire. The Embassy made submissions concerning dumping and injury to the domestic industry, the same has been taken into consideration in this findings.

(xii) In response to above notification one of the importers, M/s. Apollo Tyres Ltd. filed response to questionnaire.

(xiii) The exporters/importers who have not filed the information have been treated as non-cooperating exporters/importers.

(xiv) The Authority held a Public Hearing on 29.06.2009 to hear the interested parties. The parties attending the Public Hearing were requested to file written submissions of the views expressed orally. The Designated Authority considered the submissions as received from the interested parties in the findings.

(xv) The Authority issued Disclosure statement on 4th September 2009, thereby giving the essential facts under consideration which form the basis of its decision in the final findings. The replies received thereto have been taken into consideration, without repetition in the present findings.

(xvi) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;

(xvii) Investigation was carried out for the period starting from 1.4.2007 to 31.3.2008. However, injury analysis has been carried out for the years 2004-05, 2005-06, 2006-07 and the period of investigation.

(xviii) *** in this Notification represents information furnished by the applicant on confidential basis and so considered by the Authority under the Rules.

PRODUCT UNDER CONSIDERATION

3. The product under consideration in the present case is Nylon Tyre Cord Fabric (NTCF) originating in or exported from Belarus. The subject goods is a fabric of nylon, meant largely for tyre cord. NTCF finds application in different kinds of automotive tyres such as bus & truck tyres, two wheeler tyres, cycle tyres, Light commercial Vehicles tyres, Animals Driven vehicles etc.

4. Nylon Tyre Cord fabric is produced using different deniers of yarn. The fabric is used for reinforcement of tyres. The product is sold as " Grey fabric " and also "Dipped fabric". These are only different forms of the product under consideration. The Indian Tyre Industry is buying both grey and dipped fabric. All types of NTCF are within the scope of the product under consideration and are classified under Chapter 59, Custom subheading no. 5902.10.00 of the Customs Tariff Act. The classification is however indicative only and in no way binding on the scope of the present investigations.

5. With regard to like article, Rule 2(d) provides as under: -

"like article " means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;"

6. The Authority notes that there is no known difference in subject goods (NTCF) exported from Belarus and that produced by the petitioner companies. Subject goods (in various grades) produced by the domestic industry and imported from Belarus are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable. Thus, the subject goods produced by the petitioners are being treated as like article to the subject goods imported from the subject country in accordance with anti dumping rules.

STANDING OF THE DOMESTIC INDUSTRY

7. The Association of Synthetic Fibre Industries (ASFI) New Delhi has filed the application on behalf of M/s SRF Limited and M/s. Century Enka Limited. Authority notes that there was one more producer M/s. NRC Limited, which was in the production of the subject goods in the POI. The producer has, however, suspended production of product concerned and not responded to the Authority's request for information. On the basis of the information received, the Authority notes that the

applicant companies constitute a major proportion in Indian production. Therefore, the Authority holds that for the purpose of this investigation the petitioners command the standing in terms of Rule 5(3) and constitute the domestic industry in terms of Rule 2(b).

Import Volumes and De-Minimis Limits

8. The Authority has examined the volume of imports of the subject goods as provided by (a) the petitioner (which is based on secondary source import data), (b) information procured by the Authority from the DGCI&S and (c) the responding exporter. It is noted that the volume of imports reported by the responding exporter is higher than the volume of imports reported in the DGCI&S and secondary source data. On the basis of various import data on record, the import volumes from the Belarus are found to be above the de-minimis levels.

9. M/s Apollo Tyres, Gurgaon have responded as an importer and provided the information in respect of imports (duty paid and duty free) made during the POI. The Authority notes that in the information provided by M/s Apollo Tyres in respect of the imports from Belarus, the CIF price matches with the response of the exporter.

Arguments raised by the domestic industry

10. Domestic Industry has made following submissions

- a. The product under consideration in the present petition is Nylon Tyre Cord fabric (NTCF), hereinafter also referred to as "subject product or subject goods" originating in or exported from Belarus.
- b. The product is a fabric of nylon, meant largely for tyre cord. NTCF finds application in different kinds of automotive tyres.
- c. Nylon Tyre Cord Fabric is used as reinforcement fabric in various kinds of tyres.
- d. Most of the producers produce their own chips and thereafter yarn to produce fabric. In fact, the producers consider these as integrated production activities. Nylon chips and nylon yarn, produced as intermediates in the production process, are normally produced only for consumption in NTCF production.
- e. The subject goods are categorized under Chapter 59 of the Customs Tariff Act, which covers "Impregnated, Coated, Covered or Laminated Textile Fabric". Subject goods are categorized under heading 5902, which cover "tyre cord

fabric of high tenacity yarn of nylon or other polyesters or viscose rayon". Nylon Tyre Cord Fabric is classified under subheading 59021000.

- f. The subject goods are in fabric form. Commercially manufactured Nylon Tyre Cord Fabric is available in two forms (a) Grey Fabric; and (b) Dipped Fabric .
- g. There are no restrictions on imports of subject product. The product can be imported freely from any country in any quantity.
- h. The producers/exporters from Belarus have recently started exporting NTCF in the Indian market. Significant increase in dumped imports from Belarus occurred over the injury period.
- i. Production of the participating companies constitutes total Indian Production. The petition is being made by the Association of the subject goods. It may kindly be considered that the petition is being made on behalf of the domestic industry.
- j. There is one more producer of the product in India, However, NRC Limited has stopped production in the period of investigation.
- k. M/s. Century Enka Limited is a B K Birla Group Company. M/s. Birla Tyres (A unit of Kesoram Industries Limited) is also a B K Birla Group Co. Birla Tyres and Century Enka are related companies. M/s. Birla Tyres is importing NTCF regularly.
- l. Petitioner companies do not have significant export activities with regard to the product under consideration.
- m. There is no known difference in subject goods (NTCF) exported from Belarus and that produced by the petitioner companies.
- n. Subject goods (in various grades) produced by the domestic industry and imported from Belarus are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable.
- o. There is no known difference in the technology adopted by the petitioner companies and by the producer in the subject country.

Submissions by ATMA

- 11. The user association has made the following submissions: -

- (a) Period of Investigation - Due to volatility of Costs and Prices of the Product during POI, the same can be refined to look at them from different time periods.
- (b) WTO MEMBERS AND NON-MEMBERS TREATED AT PAR - According to Para 11 of Rules, injury and causal link analysis is mandatory in the case of Specified Countries and not excluded or prohibited in the case of other countries. Again, as per the Rule 2 (f), specified country includes a country, which is a WTO member and also country or territory with which the Government of India has an agreement for giving it the most favored nation treatment. In the instant case, the supporting exporter is from Singapore, which is a WTO member.
- (c) As per the Agreement on Trade and Economic Cooperation between India and Belarus, India has granted MFN status to Belarus.
- (d) Further, Authority has treated non-member countries of WTO at same level to those who are members of WTO and has conducted injury analysis in all such cases. Even in the absence of MFN treatment the well-established practice and precedents would apply. (A list of cases is provided wherein authority has given an equal status to these countries). The argument that since Belarus is a non-member of WTO, injury/causal link determination need not be done is not tenable.

12. The arguments raised by various interested parties have been appropriately dealt in the present final findings.

Normal value, export price and Dumping Margin.

Submissions by the domestic industry

13. Domestic Industry has submitted as under:

- (a) Belarus is a non-market economy. Onus to prove the market economy status of the company and its entitlement for market economy treatment is not on Designated Authority or domestic industry but on the concerned company.
- (b) There is only one producer of product concerned in Belarus i.e. also state owned company, the company therefore is not eligible for market economy treatment.
- (c) The exporter has to satisfy 15 conditions prescribed under the Rules. Even if anyone of these conditions is not satisfied, the exporter cannot be

granted MES. Petitioners here submit that out of the 15 conditions provided under the Rules, the exporter's claim on MES should fail, even if one of the 15 parameters is not satisfied. It would be relevant to refer here that the injury Rules provides for 15 parameters and material injury to the domestic industry may exist even if one single parameter is satisfied. However, with regard to MES, the claim must be rejected even if only one condition is not satisfied.

(d) Taiwan or Thailand may be considered as appropriate surrogate country for Belarus and cost of production including SGA in these countries may be considered as normal value.

(e) Domestic industry has requested normal value to be determined based on constructed cost of production in India.

Submissions by ATMA

14. ATMA in their submissions stated as under:

- a) ATMA opposes Thailand as surrogate economy. Reliance Judgment mandates single country normal value and countrywide injury. Authority is presently bound by Reliance Judgment and not by the ADA or Rules in these respects, pending any amendment of the statute. Normal Value should be based on verified Caprolactam price of the exporter or of Century Enka and verified conversion ratio.
- b) It is not dumping but due to differences in accepted accounting norms and profit expectations, it is possible there may be a small dumping margin even if MET were granted and in case MET is denied the dumping margin may be based on constructed normal value in India.
- c) The export price of the cooperating trader/exporter may be considered for the respective dumping and injury margins.
- d) Disclosure : Since there is a single producer in Belarus there is no issue of breach of confidentiality in fully disclosing to JSC Grodno Khimvolokno its dumping margin calculation, including its normal value determination or construction.

Submissions by JSC Grodno Khimvolokno

15. The only responding exporter has stated as under
- a) Grodno functions as a private entity. Also, imports constitute 65% of its GDP. Therefore, it should be granted a market economy status.
 - b) Belarus does not subsidize costs of production as its resources are its location, educated labour, water (none of which are actionable) and forests (this is not a forest product).
 - c) Further, Belarus government does not have any control over prices. Price trends are same as that of market economies. Thus there is no significant distortion in prices.
 - d) There should be intergovernmental resolution of the issue of market economy treatment of the Belarus.
 - e) The information regarding the form of JSC Grodno was wrongly interpreted. Grodno asserts that it is a commercial organization with main objective of profit earning.
 - f) Denationalization has already taken place in Belarus.
 - g) Authority has wrongly considered state as a main shareholder of Grodno.

Examination by the Designated Authority.

16. The Authority sent a copy of exporter's questionnaire and market economy questionnaire to the known producers in Belarus. The sole producer of subject goods, M/s. JSC Grodno Khimvolokno has responded to the initiation notification and provided relevant information. The questionnaire response filed by M/s Grodno Khimvolokno has been examined. The Authority verified the information provided at the premises of the exporter on 8-9 July 2009 and issued a detailed tour report in this regard.

17. The authority noted that the plant was established in 1978. The reorganization of the enterprise into a joint stock company took place in 2002 vide order No.127 dated 10.9.2002 of the Ministry of Economy of the Republic of Belarus. The reorganization was done of the Republican Unitary Enterprise "Grodno Production Association Khimvolokno". As per para 4.3 titled Audit of Statutory fund from the audit report no 3/1 dated 05.02.2009 of LLC " Auditing and Consulting services " Audiks" in respect of JSC " Grodno Khimvolokno", the statutory fund of JSC " Grodno Khimvolokno" amounts to *** roubles. The statutory fund is divided into *** ordinary nominative shares with the share denomination of *** roubles each. The company was made JSC in 2002. The contributors to the company after the aforesaid reorganization continue to be as follows:

- State committee for Property of the republic of Belarus- *** shares to the total sum of *** roubles, which makes up 99.9744%.
- Physical bodies- *** shares to the total sum of **** roubles, which makes up 0.0256%.

(The denomination Roubles means Belarusian Roubles in this report.)

18. Belarusian State concern for oil and Chemistry (Belneftekhim) was placed in charge in the first general meeting of shareholders in 2002 to supervise the registration and regulatory compliances of the JSC “ Grodno Khimvolokno”. The main shareholder of M/s JSC Grodno is the State committee on property of the Republic of Belarus under the Ministry of Economy of Republic of Belarus which possesses 99.9744% of the shares. Thus, the ownership of the JSC vests in the state.

19. During verification of information, it was claimed that there is a Law of Republic of Belarus of May 10, 1999, N 255-3 about Pricing which states that the organizations cannot sell their products below costs. The copy of the law was provided. It was seen that Chapter 3 is regarding Pricing Control. As per Article 7 of this Chapter, there is an application of controlled prices (tariffs) in respect of goods of subjects of economic management having the leading position on the merchandize market of Belarus and included in the state register. It was stated that NTCF is not covered in this law of pricing, however, the company provided that as per resolution of Ministry of Economics of the Republic of Belarus dated April, 22, 1999, and 43, the Regulation on Procedure of Price Formation is as follows:

20. Para 2.1 Sales prices of goods for industrial and further production purposes, consumer goods and tariffs for services (works) are formed on the basis of planned self-cost, all types of established taxes and non-tax payments in accordance with tax and budget legislation, profit necessary for reproduction which is determined taken into account quality of product (goods, works, services) and market situation.

21. The authority notes that the law merely indicates guidelines for formation of selling price on the basis of planned costs and does not specifically regulate the selling price/ coverage of costs etc.

Raw Material Procurement

22. In respect of the basic raw materials, it was provided by the company that the company has purchased Capro Lactam, the main raw material, from M/s J.S.C. Grodno Azot (other state-owned enterprises) on a long term contract basis. The company provided a statement showing month wise

average procurement price and the conversion rate of roubles vs US \$ on monthly basis. Procurement vouchers on random basis and as detailed below were seen from the books of accounts.

Rate in Roubles per MT

Voucher No.	Date	Rate
0594269	11.10.07	***
	05.10.07	***
0543328	11.04.07	***
0543373,74	11.04..07	***
0304863	05.06.07	***
0419061	27.11.07	***
0587212	30.12.07	***
0394186	10.03.08	***

23. It was stated by the company that they have entered into a long term contract with JSC Grodno Azot. To ascertain whether the prices are on arms length principal to principal basis and comparable to the ex factory prices at which caprolactam is sold to other (more distant) customers, the company expressed its inability to produce evidence in this regard. It was stated that this information is confidential to M/s JSC Grodno Azot. It is understood that M/s JSC Grodno Azot is also a state owned enterprises converted on almost similar lines as that of M/s JSC "Grodno Khimvolokno". In their case, the allocation/ allotment of Benzene, the basic raw material for production of Caprolactam is under the control of Belarusian State concern of Oil and Chemistry. The authority notes that the same concern was placed in charge in the first general meeting of shareholders in 2002 to supervise the registration and regulatory compliances of the JSC " Grodno Khimvolokno".

24. It was further stated by the company that the Caprolactam price paid by JSC " Grodno Khimvolokno" during POI is also not lower than the prices of caprolactam from Russia, the closest market economy country producing caprolactam from where JSC " Grodno Khimvolokno" would have brought caprolactam in case it was not locally available. Russia is in any case the most appropriate market economy for comparison to Belarus in case MET is not granted.

25. The company provided comparable prices of caprolactam for each month of POI, as procured from M/s JSC Grodno Azot and as prevalent in Russia. Month wise exchange rate for rouble / US \$ has also been provided in the same table. The details are as follows:

Price in US\$ per MT

Month	Procurement Price by JSC Grodno in Belarus	Prices prevalent in Russia
April, 2007	***	***
May, 2007	***	***
June, 2007	***	***
July, 2007	***	***
August, 2007	***	***
September, 2007	***	***
October, 2007	***	***
November, 2007	***	***
December, 2007	***	***
January, 2008	***	***
February, 2008	***	***
March, 2008	***	***
April, 2008	***	***

26. The Authority notes that there is substantial difference in the price paid by Company for Caprolactam to another state owned company vis a vis that prevailing in the suggested Russian market.

27. The company has purchased Natural Gas from Production Republican Unitary enterprises "Grodnooblgaz". The procurement is in the range of US\$ ***. The copy of purchase price of natural gas for different months namely April 07 (**US\$), May07 (**US\$), August, 2007(**US\$) and February, 2008 (**US \$) were provided. It was claimed by the company that the natural gas is available to all customers at the same price; however the price prevalent in the market for common user could not be provided.

28. The company provided list of types of cord fabrics produced/sold by them. The types exported to India were *** and **.These grades have not been sold in the domestic market or exported to third country (Russia).

Exports to India.

29. During the POI, the company has exported through trader M/s Kapsco, Singapore a quantity of *** (for Birla tyres) and ***MT (for Apollo tyres). The company also provided the break-up as follows:

Quantity in Kgs

Period	Belarus	Russia	India	Others
01.04.07 to 31.12.07	***	***	***	***
01.01.08 to 31.03.08	***	***	***	***
Total	***	***	***	***

30. This totals up to ***kg sales during the POI. The company was asked to provide the details of domestic sales made in Belarus for comparison with the exports made to India. Total sales figure of *** MT was only provided without any other details in respect of customers, sales prices, adjustments etc. In respect of the exports made to Russia, the company provided the details of invoice no, date sales price per ton in US\$, quantity, gross/ net invoice value in US\$ without type of fabric.

31. In respect of the exports made to India, the export invoices including the Performa invoice, bank transfer amount documents, invoice copy, packing list, certificate of origin, copy of way bill for transportation and customs declaration at Grodno were verified.

32. The company has been exporting through its trader M/s Kapsco Singapore. All the forwarding expenses relating to export are made by JSC Grodno. The adjustments claimed on such account matches with the contracted amount in the sample invoices checked and compared.

33. The company has admitted that the ownership/ principal shareholder in the company is the State Committee on property of Republic of Belarus, which is a state entity at the Republican (National) level. The company was created on the basis of order no.127 dated 10.09.2002 of the Ministry of Economic Affairs of the Republic by reorganization of Republican Unitary Enterprise "Production Association Khimvolokno Grodno". Such being the situation, possibility of significant state interference

cannot be denied. The significant difference at which the basic raw material Caprolactam has been supplied to this company by another state owned company and at which it is available in international market and even in suggested market that is Russia indicates possibility of subsidization. This possibility is more prominent in view of the fact that the supplier company is also state owned and had been entrusted with the task of reorganization of JSC Grodno Khimvolokno. In view of the above, the authority has treated the company to be operating under non- economy market conditions for the final determination.

Normal Value for Belarus

34. As noted above, the cooperating producer/exporter has not been granted market economy treatment. Therefore, the normal value for Belarus will be determined in accordance to para 7 of Annexure-1 of the rules.

35. Para 7 of the Annexure-1 with regard to determination of normal value provides as follows–

7. In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner [keeping in view the level of development of the country concerned and the product in question] and due account shall be taken of any reliable information made available at the time of the selection. Account shall also be taken within time limits; where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

36. The domestic industry suggested consideration of Thailand or Chinese Taipei as appropriate market economy third country. The applicant however estimated normal value based on cost of production in India. Subsequently, the domestic industry submitted information on normal value from a producer in Thailand, M/s. Thai Baroda Industries Ltd – Thailand.

37. ATMA and the cooperating producer/ exporter from Belarus disputed consideration of Thailand as appropriate market economy third country and stated that ‘Thailand is not an appropriate surrogate country for Belarus as it is a high income country comparable to Belarus and India. Further, it is not

comparable to either and since it is only information from a single related producer and does not represent Thai NTCF industry as a whole and since its just one prouder (Unlike Reliance judgment which contemplates wider consideration)'. It has also been stated that the option contemplated in para 7 of Annexure I of Rules are not applicable.

38. The Authority notes that para 7 of the Annexure-1 of rules specifically provide for consideration of third country as the first option for determination of normal value. Therefore, the argument extended by interested parties is legally untenable, however, the Authority made a comparison of the data on normal value provided from a producer in Thailand and constructed normal value based on cost of production in India and noted that the constructed value based on cost of production of the domestic industry is lesser than that of producer in Thailand whose data has been submitted by the domestic industry. The authority, therefore, has determined normal value on the basis of method 'on any other reasonable basis'.

Constructed Normal value for Belarus

39. The normal value has been constructed on the basis of raw material (caprolactum) at international prices to India, consumption norm of the cooperating exporter, conversion cost of the domestic industry. To this, profit @ 5% has been added to determine normal value. By this methodology the normal value has been constructed as US\$ *** per kg for Grey fabric only, as imports from Belarus have been reported under this grade only.

Export Price for Grodno

40. M/s. Grodno has provided information relating to export to India in Appendix 2. It has been stated that for Indian market the product is shipped to India but sold on a principal to principal basis to unaffiliated trader firm M/s Kapsco Private Ltd. (Kapsco) Singapore which pays to Grodno Khimvolokno in advance. During the POI, the company has exported *** MT of grey fabric to India. The authority has verified the adjustments claimed from the export price at Grodno. The verification has also been done at the trader M/s Kapsco at Singapore. The adjustments as claimed have been allowed after the verification. The authority, has allowed the net export price as claimed by the company at Grodno. The net export price comes to US \$ *** per kg for Grey Fabric.

Dumping Margin in case of responding exporter

41. Considering the normal value and export price determined, as explained above, the Authority has determined the dumping margin.

Dumping Margin

42 The Authority notes that only Grodno Khimvolokno has responded to the Authority and has provided questionnaire response. No other exporter from Belarus has responded to the Authority. In case of non-cooperative exporters from Belarus, export price is taken considering lowest export price of Grodno Khimvolokno of reasonable commercial quantity. Accordingly dumping margin determined comes to as under: -

Exporter/Producer	Normal Value US\$/KG	Export Price US\$/KG	Dumping Margin US\$/KG	Dumping Margin %
Grodno	***	***	***	25.08
Residual	***	***	***	31.50

43. It is noted that the dumping margins are significantly beyond de-minimus limits.

INJURY DETERMINATION AND EXAMINATION OF CAUSAL LINK

44. Present investigation is for imposition of anti dumping duty against imports of product concerned from Belarus. The product under consideration also attracts anti dumping duty on imports from China under Rule 22 of AD Rules of anti-dumping duty via notification dated 31st March, 2009.

Submissions of domestic industry

45. Domestic industry submits that:

- a. the imports from Belarus increased during the injury period. In the base year, the imports were negligible, which increased very significantly thereafter. After imposition of anti dumping duty against China, the imports have started entering from a new source, i.e., Belarus.
- b. The Market share of Belarus in demand of product in India has increased significantly from negligible.
- c. The dumped imports from subject country have increased in relation to the production of the domestic industry.

- d. There is significant price difference between CIF price of imports from Belarus and selling price in India. Imports are undercutting the Indian prices.
- e. The imports from Belarus coupled with China are forcing the domestic industry to restrict the production. Even on increase in demand of the product under consideration, domestic industry is left with unutilized capacity.
- f. There is price underselling to the extent of 30-35%.
- g. Between 2005-06 and POI, whereas both cost of production and selling price declined, the decline in the selling price was far more pronounced than decline in the cost of production. The imports are thus depressing the prices of the domestic industry in the market.
- h. Profits of the domestic industry declined significantly over the injury period to such an extent that the domestic industry suffered significant financial losses in the investigation period. It is further submitted that cash profit has also declined significantly. The return on capital employed has declined to the extent that the return was negative in the POI.
- i. The inventory level with the domestic industry increased significantly.
- j. However, in spite of increase in capacity, the profitability of the domestic industry suffered.
- k. Continued long-term dumping is bound to adversely affect the employment and wages.

Submissions by ATMA

46. ATMA has made following submissions:

- a. Petition filed by the domestic industry failed to provide sufficient and accurate data to substantiate the injury to the domestic industry.
- b. Many non-confidential data has been claimed as confidential.
- c. There are a number of discrepancies in the data filed by the domestic industry.
- d. The affected sales during the POI would be due to this strategic business decision and not due to any injury from NTCF imports. This is substantiated from the data in the annual reports of SRF. There is a major growth in intermediate products of Nylon yarns. In the previous year it has established an R&D centre for such yarns and other diversified products.
- e. An error in the NTCF production quantity is reported in view of the non-clarification of such discrepancy in the Annual Report of SRF for the POI. This discrepancy has distorted the injury claim of the DI especially in

respect of volume effect and the alleged NIP by over 35% and is to be corrected.

- f. There was an increase in demand for the PUC in POI. Also, the market share of DI has increased from 48% to 56%, thereby leading to no injury from the imports.
- g. The termination of TP SSG petition for the imports of NTCF from China PR shows that the injury to the domestic industry is due to some other reason and not due to the imports.
- h. The burden of proof is on the Domestic Industry and Authority to establish that there is a causal link to quantify and distinguish the injury caused by the imports from Belarus.
- i. Total capacity claimed by the Domestic Industry is 61,789 MT as opposed to the actual capacity of 68,000 MT as provided in the annual report of both the companies. Further, the production data is understated in Annual reports when compared to the Proforma IV A by 10,916 MT. This has resulted in inflated cost of production, Price underselling and price undercutting and wrong NIP, profitability and cash flow.
- j. With understated production, the analysis of unutilized capacity becomes wrong. It also had a negative impact on determination of productivity per employee and inflated capital employed per unit of output requiring higher return on capital employed. The volume effect also gets distorted and inflated as a consequence of the erroneous production data.
- k. Wrong sales volumes are provided by the domestic industry. This becomes evident when compared with the opening and closing stocks of the product. Further, in Proforma IVA of the petition, sales quantity for the domestic industry has been considered to be 58,984 MT as compared to the 68,424 MT of the Annual Report.
- l. There is discrepancy in data for the previous three years. There is possibility of understatement of data in Annual reports by SRF. If such is the case, it should be discarded from being a constituent of DI.
- m. Domestic industry was not capable to meet the increasing demand. Further, total demand is also understated.
- n. There is a need of revised public hearing on the submission of correct data by the DI for all injury parameters.
- o. No explanation is given in the said SRF POI Annual Report of the sudden decrease in Caprolactam conversion or of how the sales figures are higher than production and where the additional sales were being sourced, or are the proceedings actually aimed by SRF at facilitating off-shoring to

- Thailand? Neither has been disclosed by SRF in the Petition. Capacity utilization figure will be distorted.
- p. There is no volume effect made out, also the COP/NIP is inflated being based on the incorrect production quantity apart from the other distortions listed above.
 - q. There is inaccurate cost of Caprolactam reported in the annual reports of the SRF. There is difference in prices of SRF and Century Enka thereby indicating that SRF has not made MODVAT adjustments.
 - r. With an understated production, the capacity utilization has also been understated in the injury determination. It has also resulted in a determination of inflated capital employed per unit of output requiring higher return on capital employed
 - s. There is no mention of injury being caused by dumping in the annual reports of the company, which cannot be done as the company is public listed company.
 - t. There are trade restrictive market policies by the DI to consolidate the domestic production by encouraging exit of other domestic producers. This is reflected in the SRF's POI Annual Report.
 - u.
 - i. Depressed tyre prices in India have been adversely affecting the value chain.
 - AD Duty on imports of Bias Tyres
 - MTR Initiation for enhancement of ADD on imports of bias tyres
 - Request for TPS SG China in respect of imports of passenger car tyres
 - Initiation of AD Investigations in respect of imports of certain radial tyres.
 - ii. Initiation of TPS SG Investigations of imports of NTCF from China indicating prima facie other sources of injury (other than dumping).
 - v.
 - a. Due to the economic slowdown there is decline in imports post POI.
 - b. The currency dynamics have played a significant role –there is substantial appreciation of Indian Rupee during the POI and subsequent to POI considerable decline in Rupee.
 - w. SSR for enhancement of ADD on imports of NTCF from PR China.
 - x. ATMA opposes Thailand as surrogate economy. Reliance Judgment mandates single country NV and countrywide injury. Authority is

presently bound by Reliance Judgment and not by the ADA or Rules in these respects, pending any amendment of the statute. NV should be based on verified Caprolactam price of the exporter or of Century Enka and verified conversion ratio.

- y. It is not dumping but due to differences in accepted accounting norms and profit expectations its possible there may be a small dumping margin even if MET were granted and in case MET is denied the dumping margin may be based on constructed Normal Value in India.
- z. The export price of the cooperating trader exporter may be considered for the respective dumping and injury margins.

Submissions by Grodno Khimvolokno

47. In their submissions they have stated as under
- i. Market segments and no causal link
 - ii. Injury caused to DI could not be attributed to imports. The prices fell in India due to poor performance first of Bias Tyres industry then radial tyres.
 - iii. Moreover, the imports compete in different market segments and should be separately assessed:
 - a. The duty paid (including but not limited to any ad duties) market segment;
 - b. The duty exempt (including also but not limited to AD duties) segment due to priority for exports in established Public Policy.
 - iv. No AD duties will be levied, on imports by the duty exempt market segment. And therefore, the Authority should not consider the imports by such segment for the purposes of AD Investigations and Reviews.
 - v. Once market segmentation is done then the market share of Belarus is not significant and that not only the landed value but also the export price of sales to the duty payable market segment in India are higher and that any injury by imports would be attributable to exports from other countries.
 - vi. Majority exports by Grodno in the Investigations have been to the duty exempt market segment and there would be no anti dumping duty in any case on sales to the duty exempt segment. Further, the imports from Belarus by the duty payable market segment would not exceed the de-minimus thresholds.

Examination by the Authority

48. Article 3.1 of the ADA and Annexure II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products, with regard to the volume effect of the dumped imports. The authorities are required to examine whether there has been a significant increase in imports, either in absolute term or relative to production or consumption in the importing member. With regard to the price effect of the dumped imports, the authorities are required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in the importing country, or whether the effect of such imports is otherwise to depress prices to a significant degree, or prevent price increase, which would have otherwise occurred to a significant degree.

Assessment of demand

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

Demand	Unit	2004-05	2005-06	2006-07	POI
Sales of Domestic industry	MT	46,117	46,897	54,273	58,984
Sales of other Producers	MT	7,592	6,050	7,037	3,530
Subject Country imports	MT	18	1,707	3,208	4,273
Other Country imports	MT	41,427	46,312	42,571	37,751
Demand	MT	95,154	100,966	107,089	104,538

50. It is seen that the demand for the product under consideration has shown an increase. The authority notes that as per the submissions of the exporters the exports during the POI from Belarus was 4,273 Mt as against 3,923 MT reported by DGC&IS, which shows even higher exports than as reported by DGC&IS.

51. For the purpose of assessing present state of injury, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between the dumping and injury, if any.

VOLUME EFFECT: Volume effect of dumped imports and impact on domestic industry:

52. The effects of volume of dumped imports from subject country has been examined as follows:

Volume and market share in dumped imports

53. Authority examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

	2004-05	2005-06	2006-07	POI
Imports (in MT)				
Belarus – Subject country	18	1,707	3,208	4,273
China-PR – attracting ADD	21,594	28,021	23,339	17,204
Other countries	19,833	18,292	19,232	20,547
Total imports	41,445	48,019	45,779	42,024
Market share in imports %				
Belarus	0.04	3.55	7.01	10.17
China	52.10	58.35	50.98	40.94
Other countries	47.85	38.09	42.01	48.89

54. The Authority notes that

- a. After the imposition of anti dumping duty against China, the imports have started from a new avenue Belarus;
- b. Imports from Belarus increased significantly in absolute terms;

- c. Market share of Belarus was negligible in the base year and increased up to nearly 10% of total imports in the country;
- d. Imports from Belarus are significant in absolute terms as also relative to production and consumption in India;
- e. The product is imported in India from different sources in dipped and grey form, however, mainly grey is being imported from Belarus.

Market share in demand

55. Considering imports from various sources and sales of the Indian Producers, market share of subject country in demand in India is as shown in table below.

		2004-05	2005-06	2006-07	POI
Demand	MT	95,154	100,966	107,089	104,538
Market Share in Demand					
Domestic industry	%	48.47	46.45	50.68	56.42
Other Indian Producers	%	7.98	5.99	6.57	3.38
Indian Industry	%	56.44	52.44	57.25	59.80
Belarus	%	0.02	1.69	3.00	4.09
Other Countries	%	43.54	45.87	39.75	36.11

56. It is observed that the market share of dumped imports in demand from Belarus increased from negligible during base year to 4.09% during the POI.

(B) Price effect of imports

57. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the weighted average cost of production (COP), weighted average Net Sales Realization (NSR) and the Non-Injurious Price (NIP) of the domestic industry have been compared with the landed cost of imports from the subject country.

58. The product under consideration is sold in India in two grades - grey and dipped. However, it is consumed in dipped form only. When, customer purchases grey fabric, consumer dips it. It is seen that the product imported from Belarus is mainly in

grey form. In view of cost and price difference between grey and dipped form of the product and because the imports from subject country are mainly in grey, comparison of the domestic selling price with the landed value of imports for the grey form has been done. The net sales realization was arrived after deducting all rebates and taxes. Landed value of imports has been calculated by adding 1% handling charge and applicable basic customs duty to the CIF value of subject imports. The landed value of imports was compared with net sales realization of the domestic industry and it was found that the dumped imports are undercutting the prices of the domestic industry.

Grey		
Import volumes	MT	4,273
Import Price	Rs./KG	131.38
Landed Price	Rs./KG	145.96
Selling price of Domestic industry	Rs./KG	***
Price Undercutting	Rs./KG	***
Price Undercutting	%	***
Price Undercutting range	%	15-20

59. It is observed that the subject exporters have exported the product at prices significantly lower than selling price of domestic industry.

Price Underselling

60. The Authority notes that the price underselling is an important indicator of assessment of injury. Non-injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic producers by appropriately considering the cost of production for the product under consideration during the POI in accordance with the practice of the Authority and also by taking into account the decision of Hon'ble Supreme Court. Non-injurious price has been determined separately for the Grey form of the product.

61. The analysis shows that the landed value of Grey form of subject imports were significantly below the non-injurious price determined.

Grey		
Import volumes	MT	4,273
Landed Price	Rs./KG	145.96

Non-injurious price	Rs./KG	***
Price underselling	Rs./KG	***
Price underselling	%	***
Price underselling range	%	30-35

Price suppression/depression

62. The Authority examined whether the effect of the dumped imports was to depress the prices of the like article in India, or prevent price increases, which would have otherwise occurred. For the purpose, the Authority examined the trends in cost to make & sell and compared the same with selling price & landed price of imports.

Unit		2004-05	2005-06	2006-07	POI
Landed price of imports	Rs./KG	169.24	179.56	170.78	145.96
Selling price of the domestic industry (Grey)	Rs./KG	***	***	***	***
Trend		100	109	101	96
Cost of production of the domestic industry	Rs./KG	***	***	***	***
Trend		100	112	110	108
Profit/loss	Rs.Lacs/KG	***	***	***	***
Trend		100	83	16	(9)

63. It is noted that whereas the cost of production increased between 2004-05 and 2005-06, the same declined thereafter. Selling prices of the domestic industry also have shown same trend of increasing in 2005-06 and declining thereafter. Thus, between 2005-06 and POI, whereas both cost of production and selling price declined, However the decline in the selling price was far more pronounced than decline in the cost of production. The imports were thus depressing the prices of the domestic industry in the market.

Economic parameters of the domestic industry

64. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having

a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Examination of performance of the domestic industry is as under:

Capacity & Capacity utilization

65. Capacity and capacity utilization of the domestic industry over the injury period is given in the following table: -

Unit		2004-05	2005-06	2006-07	2007-08
Capacity MT	MT	44,650	45,289	51,008	61,789
Capacity Utilization %	%	105.17	107.39	110.26	98.08
Demand	MT	95,154	100,966	107,089	104,538

66. It is observed that domestic industry has enhanced capacities over a period of time to be in line with the increasing demand of the product. The domestic industry has even utilized its capacity more than the installed level; however, imports from Belarus coupled with China forced the domestic industry to restrict the production. It is noted that the Capacity utilization in 2007-08 remained at levels below 2004-05.

Production

67. Production of the domestic industry is given in the following table: -

Unit		2004-05	2005-06	2006-07	2007-08
Production MT	MT	46,958	48,637	56,240	60,605
Demand	MT	95,154	100,966	107,089	104,538
Production in relation to Demand	%	49.35	48.17	52.52	57.97

68. It is observed that the production of the domestic industry shows a positive trend. However, in spite of increased production, profitability suffered heavily due to dumping into the Country.

Sales

69. Sales volume of the domestic industry is given in the following table:

Unit		2004-05	2005-06	2006-07	2007-08
Sales	MT	46,117	46,897	54,273	58,984
Trend	Indexed	100	102	118	128
Demand	MT	95,154	100,966	107,089	104,538
Trend	Indexed	100	106	113	110
Market Share of domestic industry in demand	%	48.46	46.44	50.68	56.42
Market Share of Indian industry in demand	%	56.44	52.44	57.25	59.80

70. It is observed that sales of the domestic industry increased in absolute term. It is however noted that in spite of increase in sales volumes, profitability suffered heavily due to dumping in the Country.

Profit/Loss, Cash Profit and Return on Investment

71. The profitability of the domestic industry is given in the following table:

Profitability	Unit	2004-05	2005-06	2006-07	2007-08
Profit/Loss (Grey)	Rs./Kg	***	***	***	(***)
Trend		100	83	16	(9)
Profit before tax in NTCF	Rs. Lacs	***	***	***	(***)
Trend		100	75	9	(39)
Profit before interest and tax in NTCF	Rs. Lacs	***	***	***	(***)
Trend		100	82	33	(10)
Cash Profit	Rs. Lacs	***	***	***	***
Trend		100	85	55	37
Return on Capital employed	%	***	***	***	(***)
Trend		100	63	18	(6)

72. It is noted by the Authority that the profits of the domestic industry declined significantly over the injury period. Such has been the extent of decline that the domestic industry suffered significant financial losses in the investigation period. Further, this decline in profits is in spite of continued significant increase in the sales volumes. It is further noted that cash profit has also declined significantly. The Authority notes that the return on capital employed became negative in the POI.

Inventories

73. Inventories with the domestic industry moved as follows –

Unit		2004-05	2005-06	2006-07	POI
Inventories	MT	774	938	1,303	1,299
Trend	Indexed	100	121	168	168

74. It is noted that the inventory level with the domestic industry increased significantly.

Productivity

75. The Authority notes that productivity of the domestic industry has increased with the increase in capacity and production in absolute term. However, in spite of increase in capacity, the profitability of the domestic industry suffered.

	Unit	2004-05	2005-06	2006-07	POI
Productivity per employee	MT	29	29	30	31
Trend	Indexed	100	100	103	109

Employment and Wages

76. The Authority notes that employment and wages have not been affected so far in view of the fact that the petitioners are multi product companies. However, continued long term dumping is bound to adversely affect the employment and wages. It is noted that in case of NRC and Nirlon dumping has led to plant closures and total loss of employment.

Factors affecting domestic prices:

77. The Authority notes that the domestic market for the product under consideration is growing. However, the landed price of subject imports is below the selling price of both the constituents of the domestic industry. Therefore, it cannot be concluded that inter-se competition is to such an extent that the same led to decline in the prices by the domestic industry.

78. Comparison of landed price of imports with selling price of the domestic industry over the injury period showed as follows –

	Units	2004-05	2005-06	2006-07	2007-08
Import volumes	MT	18	1,707	3,208	4,273
Landed Price	Rs/KG	169.24	179.56	170.78	145.96
Selling price of Domestic Industry	Rs/KG	***	***	***	***
Index		100	109	101	96

79. It is observed that imports from Belarus have been consistently undercutting the prices of the domestic industry in the market. Resultantly, the domestic industry is unable to adjust its prices to changes in the cost structures of the domestic industry. Selling price of the domestic industry moved in tandem with the landed price of imports. Resultantly, the domestic industry was left to such a situation where the increase in the selling price over the injury period was far lower than increase in the cost of production.

The magnitude of the margin of dumping: -

80. It is seen that the dumping margin in case of Belarus is not only more than de-minimus, but also very substantial. The impact of dumping on the domestic industry is significant. It is noted that the exporter is gradually intensifying dumping.

Growth

81. The Authority notes that though there has been positive growth in respect of volume parameters, such as production and sales; however, growth of the domestic industry was negative in respect of various price parameters. Profitability of the domestic industry has deteriorated drastically to such an extent that the profits have got completely eroded and the domestic industry is faced with financial losses. The return on investments is negative in the POI.

Ability to raise capital investment

82. It is noted that fresh investments were made by the domestic industry up to 2006-07. However, the domestic industry was having better profitability till that stage. Further, both the companies are multi product companies and might be supported by other product activities. However, continued dumping of the product would certainly have adverse impact on the ability of the domestic industry to raise capital investment.

Conclusion on injury

83. It is noted that the domestic industry has suffered material injury in terms of the following parameters: -

- (i) Imports from subject country have increased in absolute terms as also in relation to production and consumption in India.
- (ii) Dumped imports are significantly undercutting the selling prices of the domestic industry.
- (iii) Selling price of the domestic industry declined. Even when there was an increase in the cost of production, the decline in the selling price was far more pronounced than decline in the cost of production. Sales volumes of the domestic industry improved. However, in spite of increase in sales volume, market share of domestic industry declined. The profitability of the domestic industry has deteriorated over the injury period. The decline in the POI led to the domestic industry suffering financial losses. In spite of much higher sales volumes, profits earned by the domestic industry were much lower and reached a stage of significant financial losses. The return on capital employed and cash profits have deteriorated.

84. It is observed that performance of the domestic industry has deteriorated in terms of capacity utilization, sales values, profits, return on investments, cash profit and inventories. Imports are undercutting the prices of the domestic industry and are having significant depressing/suppressing effect on the prices of the domestic industry. After the analysis of various injury parameters, the Authority concludes that the domestic industry has suffered material injury.

Threat of material injury

85. The Domestic industry has submitted that in addition to the material injury already inflicted on the domestic industry, imports from Belarus are posing threat of material injury to the domestic industry in view of the following: -

- i. There has been quite steep increase in imports. Further, rate of increase in imports is also positive, as would be seen from the table below-

(Volume in MT)

Country	2004-05	2005-06	2006-07	2007-08
Belarus	18	1,458	2,717	4,273

- ii. The price undercutting is significant. The imports are entering at such prices that there is strong likelihood of further importation;

Rs. Per KG	2004-05	2005-06	2006-07	2007-08
Price undercutting	***	***	***	***
Price undercutting %	***	***	***	***
Price undercutting Range	0-10%	0-10%	0-10%	15-20%

- iii. As per website information of the foreign producer in Belarus, capacities created by them are more than domestic demand in that country.
- iv. Significant share in the domestic market is already held by the dumped imports and such shares are increasing.

86. The Authority concludes that the various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered injury.

OTHERS KNOWN FACTORS

Volume and prices of imports from other sources

87. It has been seen that significant imports are being reported from China, Taiwan, Thailand, and Indonesia also. Imports from China are attracting anti dumping duty. Imports from Thailand, Taiwan and Indonesia were at prices higher than prices

of imports from Belarus and therefore could not have caused injury to the domestic industry. The imports from China (Sunset review) were in almost similar range (Rs. 147.89 per kg) as that of Belarus.

Contraction in demand and / or change in pattern of consumption

88. Demand of the product under consideration has not registered negative growth. Contraction in demand is not a possible reason, which could have contributed to injury to the domestic industry.

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

89. The subject goods are freely importable and there is no evidence of trade restrictive practices prevailing in the domestic market. This factor could not have been the reason to cause injury to the domestic industry.

Development of technology and export performance

90. Technology for production of the product has not undergone any significant change. Development in technology is not a factor of injury. The domestic industry has negligible export activity.

Productivity of the Domestic Industry

91. Productivity of the domestic industry measured as production per employee has shown that productivity has increased therefore, the same could have been a cause of injury to the domestic industry.

CAUSAL LINK

92. The Authority has considered the following in order to establish causal link between dumped imports and injury to the domestic industry.

- (a) The imports from Belarus have increased steeply in significant volume over the injury period. The volume of imports is likely to increase further in view of available capacities in the exporting country.
- (b) Imports from Belarus are undercutting the prices of the domestic industry. It is seen that during the POI, the landed price from Belarus was Rs 145.96 per kg as against the Domestic selling Price of Rs 172.17 per Kg. Whereas in case of China PR, the landed price was Rs 147.89 per kg (Rs. 169.89 per kg with anti dumping duty) thereby showing higher undercutting in respect of the imports from Belarus. The undercutting was negative in case of dumped imports from China (Rs.177.36 per kg. with anti dumping duty). This shows that though undercutting from China was significant, it was higher from Belarus which establishes likelihood of recurrence of dumping/injury from China PR and injury in case of Belarus.
- (c) Cost adjusted prices of the domestic industry declined, which directly resulted in decline in profitability of the domestic industry.
- (d) As per website information of the foreign producer in Belarus, capacities created by them are more than domestic demand in that country.
- (e) Significant share in the domestic market is already held by the dumped imports and such shares are increasing.

93. In view of the above, the Authority holds that injury suffered by the domestic industry due to other factors is far too insignificant as compared to injury suffered because of price decline resulting from dumped imports. The situation of the domestic industry has shown a material deterioration over the injury period, which was substantially due to dumped imports. The Authority concludes that the domestic industry has suffered material injury due to dumped imports.

Overall assessment

94. The above analysis of various injury and causal link factors show that in spite of improvement in some parameters during the injury period, the performance of the domestic industry has materially deteriorated and the industry suffered injury in terms of sales volumes, capacity utilization, market share, profitability, cash flow and return on investment, while there was a healthy demand for the product in the

domestic market. The injury suffered is material and significant. Therefore, the Authority concludes that the domestic industry has suffered material injury and such injury has been caused significantly by price and volume effects of dumped imports from Belarus. Injury, if any, caused due to other factors is not significant.

Magnitude of injury and injury margin

95. The Authority has determined non-injurious for the domestic industry taking into cost of production of the domestic industry. The non-injurious price has been determined separately for the loose and packed form of the product under consideration. This non-injurious price of the domestic industry has been compared with the weighted average landed values of the subject imports to determine injury margin. The injury margins have been worked out as follows:

	USD/Kg
Non-injurious price	***
Responding Exporter	
Landed price of imports	145.96
Injury margin %	32.50

Comments to Disclosure Statement

Submissions of Domestic Industry

96. The domestic industry comments are largely on dumping margin and that the Normal value determined is grossly understated.

Examination by the Authority

97. The authority notes that consistent practice has been followed in constructing the normal value. The price adjustments have been allowed after due verification of the records.

Submissions On Behalf of Producer JSC Grodno Khimvolokno, Republic of Belarus and Exporter Kapsco Private Limited, Singapore.

98. The responding producer / exporter have made following post-disclosure submissions:

- i. It is stated that Kapsco is a trader on arms length basis with Grodno and as verified is not an agent of Grodno and may not be so described.
- ii. It may be noted that the related company of co-petitioner Century Enka is an importer of the Subject Goods. In terms of the Rules the Hon'ble Authority may terminate the said Investigations due to 'relationship'.
- iii. At various places only grey fabric is mentioned. It may be recalled that in the preliminary findings and in the recent final findings in China NTCF SSR the recommended measures are in respect of NTCF only.
- iv. Grodno merits MET and reiterate its submissions.
- v. The Hon'ble Authority has not noted the Customs Union between the Republic of Belarus, the Russian Federation and the Republic of Kazakhstan within EurAsEC, Russia is treated as a market economy. Also that Belarus is included in the 'Eastern Partnership' by market economy EU.
- vi. The Hon'ble Authority has verified that as per Belarus law Grodno is not permitted to sell below cost. And the Hon'ble Authority has not dealt with the fact that with imports contributing over 65% of GDP (mainly from market economies EU and Russia) it is not possible for there to be any 'significant distortion' in prices. For these reasons too the MET claim of Grodno may be accepted.
- vii. The Hon'ble Authority has correctly rejected Thailand as 'Surrogate country'.
- viii. Kapsco and Grodno reiterate that as per law and practice, injury and causal link analysis is mandatory in this case and they may be granted the benefit of the 'lesser duty' norm. It is not clear whether the verified profitable export price of Kapsco has been considered for the injury margin determination as required.
- ix. Though it is recorded that Grodno and Kapsco sought dis-aggregation of imports for advanced license market segment from total imports there has been no attempt to do so by the Hon'ble Authority. This market segment must be excluded from injury and causal link analysis as there is no applicable measure.
- x. Given that there are only 2 customers there can be no threat of injury. Each new customer takes a year or more to exchange specifications and pass tests etc. The Hon'ble Authority has also verified that Grodno has far greater exports to third countries including Russia. By comparison exports to India are not significant.
- xi. The Hon'ble Authority has not considered the impact of economic slowdown, declining exports, slow radialisation, depressed user bias and radial tyre prices due to alleged dumping, SRF's strategy (as per its Annual Reports) to diversify its product range in industrial fibres beyond NTCF, unusual volatility in costs during the POI, Indian Rupee appreciation during the POI and the NTCF CHINA TP SSG Investigations in its causal link analysis. Such an exercise would establish the absence of any causal link.

Examination by the Authority

99. The Authority has examined the submissions made to the disclosure statement under relevant paras starting from Para 48 onwards also. The imports from Belarus have been examined separately than China and are found to be at dumped prices. Rests of the submissions are general in nature without any substantial evidence.

Submissions on behalf of ATMA

100. It has been stated that there is difference in Domestic sales, Production and Installed Capacity as reported in the annual reports of the companies with that adopted in the disclosure statement.

101. Given that there are only 2 customers there can be no threat of injury. Each new customer takes a year or more to exchange specifications and pass tests etc. The Hon'ble Authority has also verified that Grodno has far greater exports to third countries including Russia. By comparison exports to India are not significant.

102. The Hon'ble Authority has not considered the impact of economic slowdown, declining exports, slow radialisation, depressed user bias and radial tyre prices due to alleged dumping, SRF's strategy (as per its Annual Reports) to diversify its product range in industrial fibres beyond NTCF, unusual volatility in costs during the POI, Indian Rupee appreciation during the POI and the NTCF CHINA TP SSG Investigations in its causal link analysis. Such an exercise would establish the absence of any causal link.

Examination by the Authority

103. The authority notes that the information reported in the Annual report of M/s SRF in respect of Installed capacity, production and turnover etc. covers Nylon Tyre cord Fabric and Industrial yarn fabric. The information in respect of Industrial yarn fabric has not been taken into account not being the product under consideration. Rests of the submissions are general in nature without any substantial evidence.

Conclusions:

104. 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:

- (a) The product under consideration has been exported to India from Belarus below its normal value.
- (b) The domestic industry has suffered material injury.
- (c) The injury has been caused by the dumped imports from Belarus.

Indian industry's interest & other issues

105. 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.

It is recognized that the imposition of anti-dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition in the Indian market will not be reduced by the antidumping measures, particularly if the levy of the anti- dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. 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 product to the consumers.

Recommendations

106. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted an investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of final duty is required to offset dumping and injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of final anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.

107. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount indicated in Col 9 of the table

below to be imposed from the date of this notification on all imports of subject goods originating in or exported from Belarus.

SN	Heading/ subheading	Description of goods	Specification	Country of origin	Country of export	Producer	Exporter	Duty amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10	11
1	5902.10	NTCF	All Grades	Belarus	Singapore	Grodno Khimvo Iokno	Kapsco Private Ltd.	0.77	Kg	USD
2	5902.10	NTCF	All Grades	Belarus	Belarus	Grodno Khimvo Iokno	Grodno Khimvo Iokno	0.77	Kg	USD
3	5902.10	NTCF	All Grades	Belarus	Belarus	Any combination other than at 2 above.		0.92	Kg	USD
4	5902.10	NTCF	All Grades	Belarus	Any country other than Belarus.	Any combination other than at 1 above.		0.92	Kg	USD
5	5902.10	NTCF	All Grades	Any country other than country/ies attracting anti dumping duty.	Belarus	Any	Any	0.92	Kg	USD

108. Subject to above, the Authority confirms the provisional findings Notification No. 14/09/2008-DGAD dated 3rd March, 2009 and corrigendum notification dated 15th April 2009, and recommends imposition of the anti-dumping duty as in Para above and the duty table as above from the date of imposition of provisional anti-dumping duty.

109. An appeal against the orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(R. Gopalan)
Designated Authority