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**Government of India
Ministry of Commerce & Industry
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan, New Delhi**

Notification

2nd August 2012.

Subject: - Sunset Review of anti-dumping duty imposed concerning imports of 'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks' originating in or exported from China PR and Thailand - Final Findings.

A. BACKGROUND

- No.15/35/2010-DGAD:** –Whereas 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 Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), the definitive anti-dumping duty was originally recommended vide notification No. File No. 14/09/2005-DGAD dated 29th June 2007 on import of 'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks' (hereinafter referred to as the subject goods) originating in or exported from China PR and Thailand (hereinafter referred to as the subject countries).
2. And whereas upon a Mid-term Review undertaken by the Designated Authority (hereinafter referred to as the Authority), the Authority recommended continuation and modification of definitive Anti-dumping duty vide its notification No. 15/1/2009 - DGAD dated 26th August 2010 and whereas the Central Government issued its Notification No.117/2010 – Customs dated 18th November 2010.
 3. Whereas Automotive Tyre Manufacturers Association (ATMA) on behalf of the domestic industry represented by M/s Apollo Tyre Ltd., M/s J.K. Tyres & Industries Ltd., CEAT Ltd. and M/s MRF Ld. have filed a duly substantiated application in accordance with the Act and the AD Rules before the Authority alleging dumping of the subject goods originating in or exported from the subject countries and requested for review and continuation of the anti-dumping duties.
 4. In view of the duly substantiated application filed on behalf of the domestic industry and in accordance with Section 9 A (5) of the Act, read with Rule 23 of the AD Rules, the Authority initiated a Sunset review investigation dated 3rd August 2011 to review the need for continued imposition of the duties in force in respect of the subject goods

originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

B. PROCEDURE

5. In this proceeding, the procedure described herein-below has been followed:
 - i. The Embassies of the subject countries in India were informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
 - ii. The Authority sent copies of initiation notification dated 3rd August 2011 to the Embassies of the subject countries, known exporters/producers from the subject countries, known importers and other interested parties, and the domestic producers, as per the information available with it. Parties to this investigation were requested to file the questionnaires' responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters/producers were also sent to the Embassies of the subject countries along with a list of known exporters / producers with a request to advise the exporters/ producers from the subject countries to respond to the questionnaires within the prescribed time.
 - iii. Questionnaires were sent to the following known exporters/producers from the subject countries in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

S.N.	Company's Name
1.	M/s Qingdao Rubber (Group) Co. Ltd.
2.	M/s Shanghai Tyre & Rubber Co.
3.	M/s Aeolus Tyre Co. Ltd.
4.	M/s Quingdao Monolith OTR Tire Co. Ltd.
5.	M/s Yokohama Tire Manufacturing (Thailand) Company,
6.	M/s Thai Bridgestone Co. Ltd.,
7.	M/s Otani Tire Co. Ltd
8.	M/s Michelin Siam Co, Ltd

In response thereto, M/s Hangzhou Zhongce Rubber Co., Ltd. an exporter/producer from China PR has filed the questionnaires' response.

M/s. Yokohama Tire Manufacturing (Thailand). Co. Ltd, Thailand has stated that they have not exported the subject goods during the POI.

- iv. Questionnaires were sent to the following known domestic producers, importers, users and associations of the subject goods in India seeking necessary information:

S.N.	Company's Name
1.	M/s Radials International,
2.	M/s Kartar Tyre House
3.	M/s Kaks & Bills Pvt. Ltd.
4.	M/s Rana Tyres
5.	M/s Sunny International
6.	M/s Aman International
7.	M/s Vikas Road Carriers Ltd
8.	M/s AAA Impex,
9.	M/s Apollo Tyres Ltd.
10.	M/s MRF Ltd.,
11.	CEAT Ltd
12.	M/s JK Tyres & Industries,
13.	M/s Balkrishna Industries Ltd.
14.	M/s Malhotra Rubbers Limited
15.	M/s Tyre Corporation of India Ltd.
16.	M/s Dunlop Tyres
17.	M/s Wearwell Tyres & Tubes Pvt. Ltd.
18.	M/s Modi Tyres Co. Pvt. Ltd.
19.	M/s Birla Tyres Shivam Chambers,
20.	M/s Bridgestone India Private Limited
21.	M/s Goodyear India Ltd
22.	M/s Falcon Tyres Ltd.

S.N.	Association's/Other's Name
1.	All India Motor Transport Congress,
2	Society of Indian Automobiles Manufacturers

- v. In response to the initiation notification, the following interested parties have filed responses:

1. All India Confederation of Goods, Vehicle Owners' Association, New Delhi-110005
 2. All India Tyre Dealers' Federation, Delhi.
 3. Automotive Tyre Manufacturers' Association represented by Apollo Tyres, JK Tyres & Industries Ltd., CEAT Ltd, and MRF Ltd.
 4. Falcon Tyres Ltd, Mysore.
- vi. The imports data for the period of investigation and preceding three years was called from Directorate General of Commercial Intelligence and Statistics (DGCI&S).
- vii. The Authority made available non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- viii. The Authority has examined the information furnished by the domestic producers to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to analyze the likelihood of continuation/recurrence of injury and to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- ix. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in a public hearing held on 16th May 2012. The parties which presented their views in the public hearing were requested to file written submissions of the views expressed orally. The arguments made in the written submissions received from the interested parties have been considered, wherever found relevant, in these final findings.
- x. The Period of Investigation (POI) for the purpose of the present review is 1st April 2010 to 31st March 2011 (12 months). However, injury analysis shall cover the years 2007-08, 2008-09, 2009-10 & POI.
- xi. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic producers and the co-operative exporter/producer from China PR.
- xii. In accordance with the Rule 16 of the AD Rules, the essential facts under consideration before the Authority in the instant investigation have been disclosed to the known interested parties. The comments received on the disclosure statement, to the extent considered relevant, have been considered in these findings.

xiii. 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 as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

xiv. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has recorded these findings on the basis of the 'facts available'.

xv. *** in these findings represents information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.

C. Post-Disclosure statement submissions made by interested parties and the Examination thereof

M/s Hangzhou Zhongce Rubber Co., Ltd

6. The following submissions, in brief, have been made by M/s Hangzhou Zhongce Rubber Co., Ltd China PR, in response to the Disclosure statement:

- The Authority has not undertaken objective determination of the exporter's submissions' pertaining to injury.
- It has referred to the financial performance of the domestic industry and stated that the revenue from truck and bus tyre aggregates 60-70% of the total sales turnover. JK tyres has a revenue contribution more than average from the truck and bus tyre segment. More than 50% of the revenues of the domestic industry come from Truck/ Bus Bias Tyres segment only.
- In the normal value calculation, the Authority has not mentioned about which prices, average prices taken during POI or the prices prevailing during the period of exports.
- The domestic industry has sought 22% returns on investments for the calculations of NIP. But the industry is highly competitive and the rates of return of top German Tyres manufacturer and world's fourth largest tyre manufacturing company is around 11%.
- The Authority has admitted that imports from China PR have come down from 10770 during 2007-08 to 2171 during the POI but the domestic industry has been able to increase its production and sales from 558836 MT during 2007-08 to

571051 MT during the POI and Sales from 499477 MT during 2007-08 to 526854 during the POI. As such it is clear that imports are going down and the domestic industry has been able increase its production and sales and having no adverse volume effect.

- The price underselling is on account of excessive rate of return on investments assumed by the Authority.
- The Authority has accepted the change in the capacity utilization because of change in product mix on one hand, on the other hand it stated that for continued dumping has prevented growth in production, capacity utilization and sales volume”, as such examination in this regard is incorrect.
- The Authority has not examined the reasons of such sharp decline profitability parameters. It has also not been mentioned that such a sharp decline is on account of alleged dumping.
- There exist no causal relationship between the profitability of the domestic industry and the import of the subject goods. Injury to the domestic industry, whatsoever is on account of factors other than dumping.
- The Authority has not examined as to why the domestic industry failed to increase its prices consequent on the increase in the prices of raw material. As stated above, we have already submitted the reasons of the same. But, the same have not examined by the authority. Domestic industry has failed to increase its sales prices because highly competitive domestic market and not because of alleged dumping.
- The Authority has not examined the reasons for change in the inventories. Inventories should and be compared in relation to the sales only
- The Authority has held that productivity of the domestic industry has declined; on the contrary the productivity per day of the domestic industry has increased during the POI as compared to the base year.

Likelihood of continuation or recurrence of dumping:

- Evidence on surplus capacities i.e. the Global Tyre Report from European Rubber Journal has not been filed in the NCV version; therefore, it needs to be disregarded.
- The contention of the domestic industry that Government in China has imposed restriction on the manufacturing of the subject goods in domestic market is without any basis
- Significant imports as mentioned by the Authority needs to be needs to be determined in relation to the volume of production/ sales and demand of the subject goods.
- The imports from China have no relationship whatsoever with the profitability of the domestic industry.
- The domestic industry has itself admitted that the fluctuations in the profitability has been on account of the fluctuations in the raw material prices and the decline in the profits has been on account of the too steep increase in natural rubber and other input prices. And the increase in the input prices was too steep and could not be fully passed onto the consumers. Therefore, examination of the Authority in this regard that the domestic industry has continued to suffer material injury due to the presence of dumped imports of the subject goods from the subject countries despite anti dumping duty in force is incorrect.

- Existence of dumping is not the sufficient condition for recommendation of continuation of the anti dumping duty, dumping is not actionable per se unless it causes injury to the domestic industry. Objective examination of the factors as discussed above is required to be undertaken together with likelihood analysis by DGAD.
- In the case of Acrylic Fibre from Italy, DGAD recommended discontinuation of anti dumping duties inspite of finding that there was intensifying dumping from Italy. Similar situation exist in the present case also, where all parameter show significant improvement in performance. The domestic industry has not been able to support their claim that subject countries have excess capacities.

Causal Link:

- Variation in the prices of subject goods from other countries is primarily on account the superior quality being imported from European suppliers.
- There is very significant shift of demand from Bias tyres to Radialisation and it is also beyond the anticipation of the domestic industry.
- As regard the issue of change in pattern of consumption, it was contended that in the reports of domestic companies it has been clearly mentioned that radialisation is catching fast and as such bias tyres capacities have started getting surplus in India.
- The domestic industry wishes to create a oligopolistic situation by eliminating international competition. Once, anti dumping duties are continued again, the customer will have no option, but to buy the subject goods at the price dictated by the cartel of the domestic producers.
- Tyres are shifting fast to radial technology from Bias Tyres. All companies heavily investing in radial tyres only. Growth in radial tyres is much more than in Bias tyres. The submissions of the interested party in this regard have not been considered by the Authority.

Domestic industry

7. The following submissions, in brief, have been made by Domestic industry in response to the Disclosure statement:
 - AITDF does not fall within the definition of interested party under rule 2(d). AITDF has not provided sufficient evidence with respect to their representativity.
 - It submits that the antidumping duty may be imposed only as fixed quantum of anti dumping duty (fixed form of duty).
 - Domestic industry submits that the duty should be imposed in terms of US\$ only.
 - Imports of product under consideration have declined after imposition of antidumping duties. However, volume of imports is still quite significant to establish the likely prices and to show the likelihood of dumping and injury in the event of cessation of anti dumping duties.
 - Imports are causing significant price undercutting without addition of prevailing anti dumping duty. The volume of imports is therefore like to surge with cessation of anti dumping duty.

- The industry and thereafter come to a conclusion based on such verified information. There is no contradiction between the claims made in the petition and public statements. However, annual report concerns business operations of the companies for (a) all the products (b) all the markets (c) for the accounting year. By the contrast, the information provided to the Authority concerns (a) Designated Authority has verified the information filed by the domestic industry in respect of Product under consideration (b) for the domestic market alone, (c) for the investigation period and preceding years. Therefore, the allegation is devoid of facts.

Reference duty

- It has also been contended that a reference price duty may be levied as it would assuage the domestic industry's injury, if any.

Examination by the Authority

8. The submissions made by the interested parties post-Disclosure statement have been examined as follows and in the relevant sections of these findings:
 - As regards the contention that the Authority has not undertaken objective determination of the exporter's submissions' pertaining to injury; the Authority notes that all issues raised by the exporter that were considered pertinent to this investigation have been adequately examined and addressed by the Authority.
 - The Authority notes that none of the exporters/producers from the subject countries have cooperated in this investigation. It was therefore constrained to construct the Normal value considering the international prices of major raw materials such as natural rubber and carbon black for the POI as per the data available in the World Trade Atlas. As regards other materials, since the average international prices were noted to be abnormally high, hence the rate of efficient domestic industry has been adopted. Besides, the consumption factor and conversion cost of most efficient domestic industry have been adopted and a reasonable profit margin of 5% has been considered.
 - As regards the contention that imports are going down and the domestic industry has been able increase its production and sales and having no adverse volume effect; the Authority notes that the present investigation is Sunset review investigation and therefore the Authority is required to consider likelihood of continuation and recurrence of dumping and injury. The volume of dumped imports during the POI were relatively less but significant enough. These also indicate the trend in which the imports are likely to be reported in the event of cessation of the antidumping duty. The investigation has established that the import price from the subject countries were significantly below the selling price, cost of production and non injurious price of the domestic industry. Thus, cessation of anti dumping duty is likely to lead to 'injury' to the domestic industry. The domestic industry has claimed that it would be forced to sell the product much below its cost of production in case it was to matching the dumped imports prices. Besides, considering significant disposal production capacities, it

is likely that significant imports of the subject goods are likely to come into India at dumped prices in the event of cessation of antidumping duty.

- It is noted that the Landed prices of the subject goods into India from China PR and Thailand has been lower than the NIP determined for the domestic industry resulting in price underselling.
- With regard to decline in the capacity utilisation; the Authority notes that while some change in the capacity utilisation could be due to product mix, the capacity utilisation of the domestic industry shows a decline.
- As regards reasons for decline in the profits; the Authority notes that while some decline in profits is apparently due to increase in the raw materials prices, but it is also seen that the landed price of imports have been significantly below the selling price of the domestic industry, which would also not allow it to increase the prices of the subject goods. Thus, it cannot be stated that the presence of dumped imports have not had any impact on the selling price of the domestic industry.
- It is further noted that the landed price of imports is significantly below the cost of production of the domestic industry. Thus, the performance of the domestic industry is likely to worsen in the event of cessation of anti dumping duty.
- As regards the contention that there is no causal relationship between the profitability of the domestic industry and the import of the subject goods; the Authority notes that the present investigation is a Sunset review investigation and the Authority is required to assess likelihood of continuation or recurrence of dumping and injury to the domestic industry. The investigation has shown that the performance of the domestic industry would worsen in case the present anti dumping duties cease, as significant price undercutting and price underselling has been noted on one hand and significant freely disposable production capacities with in the subject countries on the other hand.
- As regards the contention that the domestic industry has not been able to increase its prices in view of domestic competition, the Authority notes that existence of domestic competition is a normal business phenomenon and has existed throughout the injury period. Further, the landed price of imports was significantly lower than selling price of the domestic industry. In any case, the profitability of the domestic industry is likely to further deteriorate should the domestic industry be forced to reduce its prices in competition to the dumped imports prices, in the event of cessation of anti dumping duty.
- It is noted that the Authority has not held that the productivity of the domestic industry has declined. The submission of the interested parties, therefore, is without any basis.
- As regards placing evidence on surplus capacities in public domain, the Authority notes that the evidence in fact has been disclosed by the domestic industry on non confidential basis and a copy thereof is kept in the public file.

- It is noted that the subject countries have significant capacities for producing the subject goods. Besides, in case of China PR, radialisation is in rapid progress and the Government has apparently imposed restriction on the manufacturing of the subject goods for domestic market (as per the Annexure 2B and 3B of the Accession treaty).
- The Authority agrees with the views of the exporter that dumping per se is not actionable. The Authority, however, notes that the cessation of anti dumping duty is likely to lead to continuation of 'injury' to the domestic industry.
- With regard to reference to other investigations, the Authority notes that each case has a particular set of facts. The factual matrix of the present case establishes likelihood of continuation of dumping and injury in the event of cessation of anti dumping duty. Besides, it has not been shown by the interested parties that the factual matrix in the present case is similar to those cases where the anti dumping duty has been discontinued.
- With regard to difference in quality of product being imported from China PR and third countries: the Authority observes that there is no quantified claim that the quality of tyres supplied from third countries and China is so different as to justify the price difference. In any case, an adjustment on that account could have been sought by the interested party after having demonstrated the quality difference.
- As regards increase in radialisation; the Authority notes that while radialisation is increasing, the evidence on record shows that the demand for the product under consideration has not suffered a significant deterioration.
- The Authority notes that the interested parties have made self-contradictory submissions. As they have stated on one hand that the domestic industry is creating oligopoly; while at the same time they have argued that the domestic industry profitability has suffered due to internal competition. In any case, the Authority notes that the purpose of antidumping duty is to eliminate dumping practices and create fair market situation.
- As regards the form of duty is concerned, the Authority notes that the form of duty was recommended as the reference duty in the original investigation vide final findings of 29th June 2007. However, in a midterm review examination, the form of duty, considering the facts & merits of the case, was modified to fixed form vide findings of 26th August, 2010. The Authority has taken note of the facts of the case and finds no merit on record, to modify the fixed form of duty as was recommended in the mid-term review investigation and considers that the fixed form of duty would be appropriate in the instant matter as well.

D. Misc. submissions made by interested parties and the Examination thereof

Submissions made by AITDF

- AITDF is registered as a life member with Confederation of All India Traders (CIAT). CIAT is the largest and single body enrolling trading community. AITDF is headquartered in Delhi and its working is divided into five zones. The office of convenor, AITDF only works as Secretariat located in the premises of Delhi Tyre Dealers and its financing and other support at Head Quarter level is borne by the Delhi Tyre Dealers Association, while Zonal chapters meet their expenses at their own accord.
- The Authority may depute its officials to visit the market to gather Sunset case related information and AITDF and its constituents shall fully assist the Anti-Dumping Authority.
- Director General -Investigation, Competition Commission of India (CCI) has held Automotive Tyre Manufacturers Association (ATMA) guilty of forming cartel by acting in concert in violation of section 3 (3) (a) and 3(3)(b) of the Competition Act 2002 vide DG-CCI report dated May 25, 2011.
- The Appellate Tribunal on Import of radial truck bus tyres has set-aside the findings of DA, subsequently Ministry of Finance issued Notification 2010/ 10 dated 19.02.2010. It augments the view of AITDF that unfair restriction having been imposed on import of truck bus tyres by the DA. This also applies to Sunset review of import of non radial truck and bus tyres from China PR and Thailand. AITDF challenged that the demand of ATMA and its members wanting levy of Safeguard duty on import of passenger car tyres for China PR was unfair, unreasonable and untenable as it was no way causing any injury whatsoever, in whatsoever form to the domestic industry. The Director General, Safeguards duties on 25th Sept. 2009 has terminated the plea of domestic tyre industry and has not imposed Safeguard duties. Hence, it proves that ATMA and its members are in habit of seeking tariff and non-tariff restrictions on import of tyres.
- The Tariff Commission, Ministry of Commerce and Industry, which investigated the pricing structure and behaviour of domestic tyre industry, by the AITDF dated 19.11.2011 confirms that AITDF has always assisted orally and in writing to all the agencies / departments / forum in their effort regarding any proceedings and examination of domestic tyre industry. The tariff commission has submitted its Report on tyre pricing investigation in January 2012 to the department of industrial policy and promotion (DIPP) and understood to have stated that price hikes indulged into by domestic tyre majors till 2011-12 from 2005-06 were "*abnormal*".
- AITDF had complained that investigating officials in 2006 and 2007 at the outset of the investigation stated that tyre dealers had no stake in this case of imposition of anti-dumping duty. Although, AITDF invited the investigating officials to the market and displayed that the difference existed between the truck / bus bias ply tyres imported from China PR in terms of tread depth, design over all dia, minimum overall dia and maximum overall dia along with overall width in comparison to domestic tyres of same size predominantly 10.00 -20 16 PR . Both the types of tyres were displayed to them but they failed to register our views in the final report which seems deliberate. The imported tyres and domestic tyres were practically and provably 'Apple &

Oranges', import quantity was minuscule in comparison to domestic sales, yet the anti-dumping duty was recommended.

Submissions made by M/s Hangzhou Zhongce Rubber Co., Ltd China PR

9. M/s Hangzhou Zhongce Rubber Co., Ltd. China PR, in brief, has submitted as follows:
 - a. In India, the level of radialisation is between 10-20% and is growing rapidly. The radial tyre market is expected to touch the 35% mark and in the process acquire a substantial share of the bias tyre market.
 - b. In various sunset review investigations, the Authority has discontinued the duties on various grounds.

Submissions made by the Domestic industry

10. The domestic industry, in brief, has contended as follows:
 - a. The domestic industry has strongly objected to the participation of AITDF. It has argued that AITDF does not fall in the definition of interested party under rule 2(d) and has further contended that AITDF should be directed to give evidence of its representativity in detail before their submissions are considered. It has further stated that any party other than a *bona fide* interested party should not be allowed to participate in the present investigations, without establishing their credentials as an interested party. The domestic industry has also referred to orders of the CESTAT arising out of original investigations relating to this case and has submitted that no party other than interested party should be allowed to participate in the present investigations.
 - b. Responding to the submissions of other interested parties with regard to disclosure of information, it has submitted that it has disclosed all relevant information to the extent the same is publicly disclosed by them and is not commercially sensitive.

It has further contended that:

- a. The submissions of AITDF with regard to enquiry by Competition Commission of India is irrelevant to the present investigation.
- b. ATMA has been repeatedly taking objections regarding participation of AITDF.
- c. The argument regarding termination of Safeguard duties on passenger car tyres by the Director General, Safeguards is wholly irrelevant to the present investigation.
- d. There are number of final findings issued by the Designated Authority in Sunset reviews, wherein the Designated Authority has extended anti dumping duty on

the grounds of (a) significant price undercutting, (b) significant injury margin in respect of imports during the investigation period, (c) significant surplus capacities, (d) significant exports from China to global countries.

- e. The law and the facts are materially different in the present case and TBR cases and thus the two cases cannot be compared. The decision of CESTAT in TBR case is wholly irrelevant to the present case.
- f. The claims of AITDF with regard to report of Tariff Commission is also factually incorrect. Tariff Commission has in fact concluded that the tyre price increases were in response to increase in the cost of production.

Examination by the Authority

11. The misc. issues raised by the interested parties have been examined as follows:

- As regards the issue of level of radialisation is concerned; the Authority notes that while radialisation is gradually taking place but there remains a significant demand for the subject goods and is likely to remain in the near future as well.
- The Authority further notes that the recommendations as regards the continuation or otherwise of the anti-dumping duties in force are made on merits of each case.
- As regards the issue that the Authority may depute its officials to visit the market to gather related information; the Authority notes that all interested parties are expected to file case-pertinent information in a given case with appropriate evidence to substantiate their submissions. AITDF has not substantiated its contentions except that its views have been taken on board by many Govt. agencies. /organisations. The Authority further notes that the definition of 'interested party' is an inclusive definition and thus views of any interested party are to be considered provided these are germane to the issues involved in an anti-dumping investigation. AITDF has referred to the report of Competition Commission; findings of Hon'ble Tribunal (CESTAT) and the DG (Safeguards) action. However, the Authority notes that there are competent bodies set up to address the issues of cartelisation, injury on account of surge in imports etc. Besides, the Authority acts in terms of the AD rules & regulations on the subject and takes into cognizance all pertinent issues made before it by the interested parties and based on facts available on record makes its appropriate determination and recommendations.

E. Product under consideration and Like article

Submissions made by the Domestic industry

12. The domestic industry, in brief, has contended as follows:

- a. The product under consideration is "new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia. code above 16" used in buses and lorries/trucks"

- b. The scope of investigation includes such non-radial bias tyres, tubes and flaps used in buses and lorries (including trucks) whether imported individually and/or in any combination thereof.
- c. There is no difference in the product under consideration produced by the domestic industry and imported from the subject countries.
- d. In the previous investigation, the Authority adopted weight of tyres as an appropriate parameter for the purpose of anti-dumping investigations and the same should be followed in the present case as well.

Submissions made by AITDF

- 13. AITDF has contended that the imported subject goods are not comparable to the goods being manufactured by the domestic industry and that the Authority may depute its officials to visit the market to gather Sunset case related information and AITDF and its constituents shall fully assist the Anti-Dumping Authority.

Examination by the Authority

Product under consideration and Like Article

- 14. The product involved in the original investigation and mid-term review investigation was 'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks' originating in or exported from China PR and Thailand. It is further noted that the scope of investigation included such non-radial bias tyres, tubes and flaps used in buses and lorries (including trucks) whether imported individually and/or in any combination thereof.
- 15. Tyres are broadly produced in two types, namely radial and non-radial. Radial Tyres used in buses and lorries with or without tubes and flaps are beyond the scope of the present investigation. The tyres, the tubes and the flaps are produced separately; however, they are invariably used together in automotive applications. The tyres are classified in Chapter 40 under Customs sub-heading no. 40112090 and the tubes and the flaps are classified under sub-heading nos. 40131020 and 40129049 respectively. However, Customs classifications are indicative only and are in no way binding on the scope of investigation.
- 16. Present review investigation being a Sunset review investigation, product under consideration remains the same as has been defined in the previous investigations.
- 17. As regards the contention of AITDF that the imported subject goods are not comparable to the goods being manufactured by the domestic industry; the Authority notes that the contention has not been substantiated. Besides, it is not the practice of the Authority to go out in the market for collecting evidences. In any case, as the analysis on the present case has been undertaken on weight of the subject goods; differences, if any, on account of dia, width etc, would automatically be taken care of in such an analysis.

18. The Applicant has claimed that there is no known difference in the goods produced by the Indian industry and the subject goods exported from the subject countries to India and that the goods produced by the Indian industry and the subject goods imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers have used the two interchangeably. Thus, the goods produced by the domestic industry and the subject goods imported from the subject countries are being treated as like articles in accordance with the AD Rules.

F. Scope of the Domestic Industry

Submissions made by the Domestic industry

19. The domestic industry, in brief, has contended as follows:

- a. The present review petition has been filed by the Automotive Tyres Manufacturers Association on behalf of M/s Apollo Tyres Ltd., M/s J.K Tyre & Industries Ltd., CEAT Ltd. and M/s MRF Ltd. and supported by M/s Birla Tyres.
- b. Production by these four ATMA members is above 50% of total Indian production of the subject product. M/s Birla Tyres have specifically supported the petition. Further, in case of sunset review, standing is not mandatory.
- c. The participating companies constitute domestic industry within the meaning of the Rules.

Examination by the authority

20. Rule 2(b) under the AD Rules provides as follows:-

“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.

21. The application seeking review and continuation of the anti-dumping duties has been filed by Automotive Tyre Manufacturers Association (ATMA) on behalf of the domestic industry represented by M/s Apollo Tyre Ltd., M/s J.K. Tyres & Industries Ltd., CEAT Ltd. and M/s MRF Ltd. The application is supported by M/s Birla Tyres. The Applicant has claimed that production by the participating domestic producers of the subject goods represent over 50% of the total production of the subject goods in India. As per information available on record, the participating domestic producers along with the supporter account for a major proportion of the total Indian production of the subject goods.

22. It is further noted that M/s. CEAT Limited has itself imported *** MT of the subject goods from Sri Lanka during the POI viz. 1st April 2010 till 31st March 2011. It has been contended by them that imports of only a few models as they have limited production capacities in India. Besides, these imports have been made at relatively higher prices. It is noted that M/s CEAT Limited has not abdicated its role of a domestic producer of the subject goods. Thus, M/s. CEAT Limited is not required to be excluded from the ambit and scope of the domestic industry in terms of the AD Rules. Thus, M/s Apollo Tyre Ltd., M/s J.K. Tyres & Industries Ltd., CEAT Ltd. and M/s MRF Ltd. constitute domestic industry in terms of the AD Rules.
23. Notwithstanding the above, even if M/s. CEAT Limited were to be excluded from the ambit and scope of the domestic industry in terms of Rule 2(b) of the AD Rules because of the imports effected by it; M/s Apollo Tyre Ltd., M/s J.K. Tyres & Industries Ltd. and M/s MRF Ltd. account for a major proportion of the total domestic production and thus would constitute as the domestic industry in terms of the AD Rules.

G. Dumping Determination

Submissions made by the Domestic Industry

24. The domestic industry, in brief, has contended as follows:
- Normal value in case of China must be determined in accordance with para-7 of Annexure-I. None of the Chinese producers have claimed with verifiable evidence that they are entitled to market economy treatment. Costs on account of raw materials constitute majority proportion in the total cost of production. Approximately 70% of the costs is on account of the raw materials, which is pertinent in determining the market economy status of the Chinese companies. In various anti dumping cases concerning these raw materials, MET treatment has not been granted to the Chinese companies. This reflects that the raw material prices in China do not reflect the market values. The Chinese tyre industry was substantially State owned/controlled. Rubber is a major input in the production of the product under consideration. There are a number of restrictions on the Chinese producers so far as rubber is concerned. Such being the case, no Chinese company can establish that it is entitled for the market economy status. There is a restriction on the imports of various types of tyres in China. This indicates that there is State interference in setting up the prices of the inputs or the prices of the product itself. Market economy status should not be granted to any Chinese producers of the subject goods. The domestic industry has provided information with regard to cost of production and selling price of the subject goods in Sri Lanka and the same can be adopted for determination of normal value. Further, the domestic industry has provided information with regard to the cost of production in India and the same can be adopted for determination of normal value.
 - Domestic Industry could not procure any information/evidence of the price of subject goods in the domestic market of Thailand and therefore has requested to

calculate normal value in Thailand based on estimates of cost of production, duly adjusted to include a profit margin.

- The export prices being CIF prices, while the normal values being at ex-factory level; the export prices should be adjusted for Ocean Freight, Marine Insurance, Commission, Inland Transportation in the country of export, Port handling and port charges expenses, Bank charges, etc.
- Dumping margin established at the time of previous investigations was significant. Even dumping margin during the present period of investigation remains significant. The dumping margin is not only more than de-minimis but is substantial.
- With regard to the argument that the import price has increased, an increase in CIF export price per se is insufficient to conclude that the present anti dumping duty can be allowed to cease.

Submissions made by other interested parties

25. None of the other interest parties have made any submission in respect of “dumping determination”.

Normal value

26. The Authority sent questionnaires to the known exporters/ producers from the subject countries, advising them to provide information in the form and manner prescribed. In response thereto, only M/s Hangzhou Zhongce Rubber Co., Ltd, a producer & exporter from China PR has co-operated in this investigation by filing their questionnaires’ response.

Normal value –China PR

27. The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. However, China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters/producers in terms of the AD Rules.
28. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/producers of the subject goods from People’s Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Authority to consider the following criteria as to whether:
- the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;

- the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - the exchange rate conversions are carried out at the market rate.
29. The Authority notes that consequent upon the initiation notice issued by the Authority; M/s Hangzhou Zhongce Rubber Co., Ltd, a Chinese producer/exporter has submitted the questionnaires' response but it has not filed its market economy questionnaire's response and thus has chosen not to rebut the non-market economy presumption. The questionnaires' response was perused, wherein it has been, *inter alia*, stated that the product under investigation produced by Zhongce was not sold in the home market but only for export.

Determination of Normal value in respect of Exporters / Producers from China PR

30. As the only co-operative exporter/producer from China PR has chosen not to rebut the non-market economy presumption and no other Chinese producer/exporter has submitted the questionnaires' responses and sought to rebut the MET presumption; the Authority has determined the Normal value in China PR on the basis of Para-7 to Annexure-I to the AD Rules.
31. Para 7 of Annexure I of the AD Rules provides that

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or 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 selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments”.

32. As the presumption of non-market economy as enshrined in para 8(2) of Annexure 1 of the AD Rules remains un-rebutted; the Authority has, therefore, determined the Normal value in accordance with para 7 Annexure I of the AD Rules. In absence of sufficient information on record regarding the other methods as are stipulated in para

7 of Annexure I of the AD Rules, the Authority has determined the Normal value by adopting the method “any other reasonable basis”.

33. The Authority has therefore constructed the Normal value for China PR considering the international prices of major raw materials such as natural rubber and carbon black, consumption factor of most efficient domestic industry and conversion cost of most efficient domestic industry. Besides a reasonable profit margin of 5% has been adopted. The Normal value so determined works out as *** US\$/Kg.

Determination of Normal value in respect of Non-Co-operative Exporters / Producers from subject countries

34. The Authority notes that none of the exporters/producers from Thailand has responded to the exporter’ questionnaire. Therefore, the Authority is constrained to construct their Normal values on the basis of ‘facts available’ in terms of Rule 6(8) of the AD Rules. For this purpose, the Normal value has been, *inter alia*, determined considering international prices of raw material from Thailand i.e. such as natural rubber and carbon black, consumption factor of most efficient domestic industry and conversion cost of most efficient domestic industry.

Export Price

M/s Hangzhou Zhongce Rubber Co., Ltd.

35. The Authority notes that only one Chinese producer/exporter, namely M/s Hangzhou Zhongce Rubber Co., Ltd, has submitted the questionnaires’ response. On a perusal of the response, it has been noted that the company has exported 575.9673 MT of the subject goods to India during the POI. The adjustments have been claimed on account of inland freight, port handling charges, credit costs, warranty claim and VAT. During the course of on-the-spot verification, it was noted that credits costs were slightly different that what was claimed. Hence, the adjustment on account of credit costs as noted during the on-the-spot verification has been adopted. As regards other adjustments, the same as verified have been accepted and are being allowed. The net export price so worked out has been determined as US\$ *** per/MT.

Non-co-operative exporters/producers

36. As no other exporter / producer from China PR and no exporter / producer from Thailand has provided any information that can be used for determination of the export price, the Authority has determined the ‘Export Price’ on the basis of ‘facts available’ on record.

H. Dumping Margin

37. On the basis of the Normal value and Export price so determined at ex-factory level; the dumping margin during the POI for all exporters/producers from China PR has been determined as follows:

SN	Countries	Normal Value	Net Export Price	Dumping Margin	
				USD/Kg	(%) Range
1	China PR				
	M/s Hangzhou Zhongce Rubber Co.Ltd.,	***	***	***	25-35
	Others	***	***	***	30-40
2	Thailand	***	***	***	25-35

I. Likelihood of continuation or recurrence of dumping:

Submissions made by the domestic industry:

38. The domestic industry, in brief, has contended as follows:

- The exporters and producers from the subject countries have continued to export the material at the dumped prices even after the imposition of the anti-dumping duty. Given the dumping has consistently continued from the subject countries in the past, there is a reasonable apprehension that the revocation of duties in the present case would definitely result in intensified dumping from China PR and Thailand.
- In case of no exports of the subject goods from the subject countries in the relevant period, the Authority is required to examine whether the cessation of the anti-dumping duty in force would result in recurrence of dumping in the Indian domestic market. In the instant case, there are significant volumes of imports were reported from the China PR.
- Volume of imports between original period and subsequent periods has declined, but is still in significant volume to establish likelihood of dumping. Besides there are excess production capacities in the subject countries. In case of China, the fact that the radialisation is in rapid progress and the Government has imposed restriction on the manufacturing of subject goods for domestic market, there is excessive capacities lying with the producers of the China and Thailand. The tables below indicate the excessive capacities maintained by producers in China and Thailand.

Capacity Table –China PR

S No	Name of Company	Annual Capacity* (million)
1	Aeolus Tyre Co. Ltd. (China Haohua Chemical (Group) Corp. and Henan Tyre Corp. Ltd. joint venture)	6
2	Anhui Kaiyuan Tire Co. Ltd.	0.1
3	Beijing Capital Tyre Co. Ltd.	2

4	Cheng Shin Rubber (Xiamen) Ind. Ltd.	95
5	China Enterprises Ltd Yinechuan CSI, Yinechuan	2
6	Cooper Chengshan (Shandong) Tire Co. Ltd.	10.9
7	Cooper Kenda Tire (Kunshan) Co. Ltd. (Cooper Tire & Rubber Co. and Kenda Rubber Industrial Co. ltd. joint venture)	5.4
8	Dong Feng Lion Tyre Co. Ltd.	3
9	GITI Tire (China) Investment Co., Ltd. Chongqing, Sichuan	63.8
10	Good Friend Tyre Co. Ltd.	1
11	Guangzhou Pearl River Rubber Tyre Ltd.	1
12	Guilin Tire Co.	1
13	Guizhou Tyre Co. Ltd.	3
14	Hangzhou Zhongce Rubber Co. Ltd.	30
15	Hebei Starbright Co. Ltd. (Maine Industrial Tire L.L.C.)	0.047
16	Hwa Fong Rubber (China) Co. Ltd. (Hwa Fong Rubber Industry Co. Ltd.)	54.75
17	Kenda Rubber (China) Co. Ltd. (Kenda Rubber Industrial Co. Ltd.)	70
18	Longkou Xinglong Tire Co. Ltd.	0.5
19	Qingdao Doublestar Tire Industrial Co. Ltd.	6
20	Qingdao Hengda Tire Co. Ltd.	0.6
21	Qingdao Qizhou Rubber Co. Ltd.	0.3
22	Qingdao Tengjiang Tyre Co. Ltd.	1
23	Shandong Linglong Rubber Co. Ltd.	21
24	Shandong LuHe Group General Co.	9
25	Shandong Shengtai Tyre Co. Ltd.	3
26	Shandong Zhongce Tyre Co. Ltd.	1
27	Triangle Group Co. Ltd.	4
28	Wendeng SanfengTyreCo. Ltd.	1
29	Xiamen Rubber Factory	0.8
30	Xinjiang Kunlun Tire Co. Ltd.	1
31	Xuzhou Xugong Tyre Co. Ltd.	3.5
32	Yunnan Tire Co.	0.73
33	Total Capacity	402.427

*Source Global Tyre Report from European Rubber Journal produced in December 2011

Capacity Table -Thailand

S No	Name of Company	Annual Capacity* (million)
1	Deestone Ltd.	0.02
2	Goodyear Thailand Ltd. (Goodyear)	2.50
3	Michelin Siam Group Co. Ltd. (Group Michelin)	

4	Nongkhae, Saraburi	1.60
5	Phrapadaeng, Samuthprakarn	5.40
6	Otani Tire Co. Ltd	0.50
7	Siam Rubber Ltd.	5.40
8	Thai Bridgestone Co. Ltd. (Bridgestone Corp.)	
9	Ransit, Pathumthani	1.70
10	Vee Rubber Corp. Ltd. & Subsidiary Co.	17.00
11	Total Capacity	34.12

*Source Global Tyre Report from European Rubber Journal produced in December 2011

- Considering the known capacities available, the Indian demand can be easily met entirely by dumped imports. Once the anti dumping duty is revoked there is a strong likelihood that the entire Indian demand may be catered by the producers of the subject countries. There is continued dumping from the producers and exporters from subject countries, which would become more aggressive once the duty in force expires. The intensity of dumping is likely to at best increase in the event of revocation of anti dumping duties. Thus, dumping is likely to continue at increased level in the event of revocation of anti dumping duties.

Submissions made by M/s Hangzhou Zhongce Rubber Co., Ltd

39. M/s Hangzhou Zhongce Rubber Co., Ltd, in brief, has contended as follows:

- The claim of the domestic industry regarding the unutilized capacities is not substantiated by the domestic industry. There are no surplus capacities with the exporter.

Examination by the Authority

40. In terms of relevant provisions, the following aspects need to be examined in a Sunset review investigation:

- Whether the dumping is continuing; and if so, whether it is likely to continue in the event of cessation of anti dumping duties;
- In case where dumping did not continue, whether the dumping would recur in the event of cessation of anti dumping duties;

41. The AD Rules do not prescribe any specific methodology to examine the likelihood of dumping in a Sunset review investigation. However, in case there is a significantly positive dumping margin in respect of exports of the subject goods during the POI; then it is likely that dumping would continue in case of cessation of anti-dumping duty in force, unless the facts state otherwise. However, in case there have been no exports of the subject goods during the POI; then it would not mean that there is no likelihood of recurrence of dumping in case of cessation of anti-dumping duty in force. In such cases, other relevant factors are required to be examined, for instance, evidence, if any, regarding propensity for dumping, that may be determined by considering the exports of the subject goods in third country markets.

42. In the instant matter, the subject goods have been imported from the subject countries during the period of investigation albeit in lower volumes but the imports are significant. It is further noted that the subject goods have been exported at dumped prices and are significantly undercutting and underselling the prices of the domestic industry. In case, the anti-dumping duties are allowed to expire, the volume of the subject goods at dumped prices is likely to increase. This view is further buttressed, considering the un-utilized capacities to produce the subject goods in the subject countries.
43. In view of the above, the Authority notes that the subject goods are likely to continue to be dumped, if the present anti dumping duties is allowed to cease. Besides, cessation of the anti-dumping duty is likely to lead to increased volumes of imports of the subject goods from the subject countries at dumped prices.

J. Injury

Submissions made by interested parties and the Examination thereof

M/s Hangzhou Zhongce Rubber Co.Ltd., China PR

44. M/s Hangzhou Zhongce Rubber Co. Ltd., China PR, in brief, has submitted as follows:
- There has been increase in the cost of sales due to the unprecedented increase in the prices of the raw material prices.
 - There has been consistent increase in the Indian production as also the sales during the period 2007-08 to POI with most manufacturer having a capacity utilisation in excess of 92% during the POI is conclusively evidentiary that there is no causal link between the imports from China with the injury.
 - The domestic industry has sought for returns on investments to the tune of 22% for the calculations of NIP. The industry is highly competitive and the rate of return of top German Tyres manufacturer and world's fourth largest tyre manufacturing company is around 11%. Therefore a comparable rate of return of not more than 10% - 11% should be considered while calculating NIP for the domestic industry
 - Reduction in profits and excess earnings which is termed as injury by the domestic industry may have been caused on account of the following factors:
 - Fluctuations in the raw material prices
 - Inability of the industry to pass on the increase in raw material prices to the consumer due to stiff competition.
 - Creation of excess capacities in bias segment (due to shift to radialisation) leading to low efficiency among the domestic industry.
 - Causal Link: The behaviour of the profitability of the domestic industry is independent of the volume/price of imports. The profitability of the imports has gone down even though; the volume of the imports has gone down.

Submissions made by AITDF

- The Indian Rupee in comparison to Dollar currency has been getting depreciated to the extent of 25% and has further put restriction on import of truck / bus bias ply nylon fabric tyres and the rate of return on capital by the domestic tyre majors involved in the case is much healthier in comparison to global standards, therefore, the Authority should review its earlier decision and abolish anti-dumping duty on import of said product. There is urgent need to check inflation in the economy by reducing the road transport cost wherein the tyres cost 35% of the variable cost of a truck owner. In last one year, the natural rubber price has come down to Rs. 192/- per kg from the peak of Rs. 240/- per kg i.e. a decline of over 20% and the raw material prices of petro product based inputs, which go into the manufacture of tyre, are prevailing below the average of year 2008. These inputs include synthetic rubber, nylon tyre cord fabric, carbon black, rubber chemicals etc.

Submissions made on behalf of the domestic industry

45. The domestic industry, in brief, has submitted as follows:

- The two elaborate investigations conducted by the Designated Authority clearly establish that the domestic industry has suffered material injury as a result of dumping. These previous findings should be considered with regard to injury to the domestic industry in the current period.
- The demand of bias tyres in India has not diminished due to radialisation. The level of radialisation in India and China are at different levels. There is significant demand of bias tyres in India.
- Imports of product under consideration have declined after imposition of anti dumping duties. However, volume of imports is still quite significant to establish the likely prices and to show the likelihood of dumping and injury in the event of cessation of anti dumping duties. Volume of imports is low but it is significant for likelihood analysis.
- Weighted average import prices (after including basic customs duties) are significantly below the net sales realization of the domestic industry, thus resulting in significant price undercutting.
- Landed price of Chinese import is well below cost of production and non injurious price of the domestic industry.
- The price at which the domestic industry is selling the product in the market is below the non injurious price of the domestic industry. The domestic industry is therefore already underselling the product. Should the present duties be revoked, the domestic industry would be faced with further underselling the product.
- With regard to performance of the domestic industry in terms of the economic parameters, while production and domestic sales have slightly declined in the current year as compared to the previous year.
- The increase in cost of sales is due to the universal increase in prices of the raw materials.
- Profits of the domestic industry improved till 2009-10. The same however declined in current year. Return on investment and cash profits have followed the same trend as that of profitability.
- Inventories with the domestic industry have increased.

- The participating companies are a multi-product company and therefore employment level and wages may not depict a clear impact (adverse impact) of dumping of subject goods on domestic industry.
- Productivity of the domestic industry improved. However, considering the rate of present situation and latest performance of the domestic industry, domestic industry would not be able to maintain its productivity, should the dumped imports be allowed to continue at the current prices.
- The improvement in the injury parameters is a result of imposition of anti-dumping duty. However, if the duty is revoked the volume of imports is likely to once again increase
- The rate of return on investment earned by foreign producers cannot and should not be compared with return on investment required by domestic industry in view of vastly different level of economic development.
- The circumstances prevailing in the year 2008-2009 were affected by the global recession. The automobiles market saw an unprecedented and unexpected growth in 2009-10.
- The dollar appreciation is not selectively impacting the imports of tyres in India. The same is impacting the raw materials and other costs as well. Thus, changes in the exchange rates are impacting both the domestic industry and the imports in the same direction.
- Imports from the subject countries are likely to cause significant price undercutting in the event of expiry of anti dumping duties.
- Existence of significant price undercutting in the event of expiry of anti dumping duty is likely to result in consumers switching over to the imported material, given that the product is highly price competitive.
- The duty paid import price from the subject countries would be much lower as compared with the prices of the domestic industry. Since the imports would undercut the prices of the domestic industry, there would be likely demand for the imported product.
- In case the duty is allowed to cease and consequently the imports from the subject countries increase, the Domestic Industry would be forced to reduce the prices of the product concerned significantly. Should the Domestic Industry be forced to reduce the prices, its natural impact would be on the profitability of the Domestic Industry. Decline in profits would lead to decline in cash flow and return on investment. In a situation where the exporters in the subject countries maintain significant excess capacities, it follows that the volumes would at best increase with the cessation of the anti-dumping duty. Should the Domestic Industry prefer to lose sales volumes, it would spell much bigger injury, as decline in sales volume would result in increase in inventories level; decline in production, capacity utilization, and productivity.
- With regard to the argument that the petition does not contain information on cash profits, the domestic industry submits that relevant information to determine cash profits is contained in the petition.
- The exporters and producers from the subject countries have continued to export the material at the dumped prices even after the imposition of the anti-dumping duty. There is a reasonable apprehension that the revocation of duties in the present case would definitely result in intensified dumping from China PR and Thailand.

- There is likelihood of recurrence of dumping (a) in a situation where exports to third countries are at dumping prices, (b) such export prices are comparable to the export price to India; (c) landed price of imports considering such prices are significantly below the (i) selling price, (ii) non injurious price, (iii) cost of production of the Domestic Industry, it must be held that the producers in these countries would resort to dumping the material in Indian market and the same would cause injury to the domestic industry, should the present anti dumping duties be revoked.
- The situation of the Domestic Industry is already fragile. It is expected that the condition of the Domestic Industry would improve under the discipline of the anti-dumping duty imposed.
- In a situation where there is no continued injury to the Domestic Industry, it is mandatory for the Designated Authority to examine the likelihood of injury to the Domestic Industry in the event of expiry of the anti-dumping duty in force.
- Domestic Industry has provided the information relating to exports of the subject goods from the subject countries to various other countries. The producers and exporters from the subject countries are exporting the subject goods at dumping prices in other countries' markets.
- The price at which the subject goods are being sold by the Domestic Industry is higher than the price at which material is being exported from the subject countries to a number of other countries
- Excessive Production Capacities and export orientation maintained by the Subject Countries:- In case of China, the fact that the radialisation is in rapid progress and the Government has imposed restriction on the manufacturing of subject goods for domestic market, there is excessive capacities lying with the producers of the China. The producers have annual capacities ranging from 1-6.5 million. The export orientation of Chinese producers ranges from 30-100%.

Examination by the Authority

46. The submissions made by the interested parties have been examined as follows:

- The Authority notes that the costs of sales due to the increase in the prices of the raw material prices have been duly considered while undertaking the injury analysis.
- As regards increase in the Indian production as also the sales and better capacity utilisation of most domestic producers is concerned; the Authority notes that the same is expected to improve due to the imposition of the anti-dumping duty. It is further noted that anti-dumping duty was suitably modified to redress injury caused to the domestic industry on the account of dumping.
- As regards the issue of return on investments to the tune of 22% is concerned; the Authority has determined the same in terms of the relevant rules & regulations and as per its consistent practice.
- As regards the issue that injury by the domestic industry may have been caused on account of fluctuations in the raw material prices; inability of the industry to pass

on the increase in raw material prices to the consumer due to stiff competition and creation of excess capacities in the bias segment (due to shift to radialisation) leading to low efficiency among the domestic industry etc; the Authority notes that there is a significant price undercutting and price underselling and the presence of dumped imports has apparently not allowed the domestic producers to realise a better selling price despite increase in the input prices.

- As regards the contention that the behaviour of the profitability of the domestic industry is independent of the volume/price of imports and that the profitability of the domestic industry has gone down even though the volume of the imports has gone down; the Authority concurs with the facts stated by the interested party but differs from the analysis thereof as the domestic producers have suffered injury on account of price factors, which in turn has been impacted by the presence of dumped imports in the Indian market. As long as there are significant volumes of dumped imports present in the market, the same are likely to adversely impact the domestic industry.
- As regards the issue that the Indian Rupee's depreciating *vis a vis* US \$; it has been a general practice of the Authority to consider the relevant data of the POI.
- As regards the issue of the prices of natural rubber having come down; the Authority has taken into cognizance the relevant factors while undertaking its analysis.

47. The Authority has examined the injury parameters objectively taking into account the facts and the submissions made by the interested parties as follows:

48. 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 articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like article in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

49. For the purpose of current injury analysis the Authority has examined the volume and prices effects of imports of the subject goods from the subject countries on the domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any.

Cumulative assessment

50. Annexure II para (iii) of the AD Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti-dumping investigations,

the 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 is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent (or more) of the import of like article or where the export of individual countries is less than three percent, the imports collectively accounts for more than seven percent of the import 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.

51. The Authority notes that:-

- The subject goods are being dumped into India from China PR and Thailand.
- The margins of dumping from each of the subject countries are more than the *de-minimis* limits prescribed;
- The volume of imports from each of the subject countries is more than the negligible limits prescribed;
- Cumulative assessment of the effects of imports is appropriate as the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market, which is evident from the following:-
 - a. The products manufactured by the producers from the subject countries and the products manufactured by the Applicant have comparable properties. In other words, goods supplied by various subject countries and by the domestic industry are *inter-se* like articles.
 - b. There are common parties who are resorting to use of the imported subject goods from various sources and the goods produced by the domestic industry. Both, the imported and the domestic subject goods, are being used interchangeably and there is direct competition between the domestic product & imported products and *inter-se* amongst imported products.
 - c. The exporters from the subject countries and domestic industry have sold the product in the same periods to the same set of customers. The sales channels are comparable.
 - d. The volume of imports from each of the subject countries is significant.

52. In view of the above, the Authority considers that it would be appropriate to assess injury to the domestic industry cumulatively from exports of the subject goods from the subject countries.

Volume Effect

Assessment of Demand

53. The consumption of the subject goods in India may be defined as the sum of domestic sales of Indian producers and imports from all countries. The details in this regard are as follows:

SN	Particulars	Units	2007-08	2008-09	2009-10	POI
1	Assessed Demand	MT	604,619	598,820	705,625	659,114
2	China PR	MT	10,770	7,644	4,232	2,171
3	Thailand	MT	36	11	15	220
4	Subject Countries	MT	10,805	7,656	4,248	2,391
5	Other Countries	MT	1,962	871	1,003	1,168
6	Sales of Domestic Industry	MT	499,477	486,036	549,634	526,854
7	Sales of supporting domestic producer	MT	67,356	86,158	132,583	86,907
8	Other Indian Producers	MT	25,018	18,101	18,157	41,794

The Authority notes that the demand of the product in the country has shown positive trend throughout the injury period except during 2008-09 as compared to the base financial year. The sales of the domestic industry have increased during the POI as compared to the base year but have declined as compared to the previous year. The growth in demand during period of investigation over the base year was about 9.01 %.

Import Volume and Market Share

54. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. In this regard, Annexure II (ii) of the AD Rules provides as under:

“While examining the volume of dumped imports the said authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative to production or consumption in India”

55. The details regarding imports and market share is indicated in the table given below.

Sr. No	Particulars	Units	2007-08	2008-09	2009-10	POI
1	Imports	MT	12,767	8,526	5,250	3,559
2	China PR	MT	10,770	7,644	4,232	2,171
3	Thailand	MT	36	11	15	220
4	Subject Countries	MT	10,805	7,656	4,248	2,391
5	Other Countries	MT	1,962	871	1,003	1,168

Sr. No.	Market share in Imports	Unit	2007-08	2008-09	2009-10	POI
1.	China PR	%	84.35	89.66	80.61	60.99
2.	Thailand	%	0.28	0.13	0.29	6.18
3.	Other Countries	%	15.37	10.21	19.10	32.83

The Authority notes that the volume of imports of product under consideration from China PR have declined throughout the injury period; whereas the same have increased from Thailand during the POI as compared to the base year. It is noted that while the volume of imports of the subject goods have declined during the injury period, the same is at dumped prices and remains significant enough to impact the prices of the domestic industry.

Price Effect

Price Undercutting

56. 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 when 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. The following table below indicates the Net Selling price of the domestic industry, Landed price of the imports and the price undercutting.

China PR

Sl. No	Particulars	Unit	2007-08	2008-09	2009-10	POI
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1	Volume	MT	10,770	7,644	4,232	2,171
2	Value	Rs. Lacs	9,243	7,600	4,531	2,386
3	Export Price	Rs./ Kg	85.82	99.42	107.06	109.89
4	Landing Charges	Rs/Kg	0.86	0.99	1.07	1.10
5	Assessable Value	Rs/Kg	86.68	100.42	108.13	110.99
6	Customs Duty %	%	12.5	10	10	10
7	Customs Duty Amount	Rs/Kg	10.84	10.04	10.81	11.10
8	Cess @ 3 %	Rs/Kg	0.33	0.30	0.32	0.33
9	Landed Value	Rs/Kg	97.84	110.76	119.27	122.43
10	NSR of the Domestic industry	Rs/Kg	***	***	***	***
11	Price Undercutting	Rs/Kg	***	***	***	***
12	Price Undercutting %	% Range	20-30	20-30	15-25	25-35

Thailand

S No	Particulars	Unit	2007-08	2008-09	2009-10	POI
1	Volume	MT	36	11	15	220
2	Value	Rs. Lacs	33	18	20	277

3	Export Price	Rs. Kg	91.14	156.26	131.74	125.96
4	Landing Charges	Rs/Kg	0.91	1.56	1.32	1.26
5	Assessable Value	Rs/Kg	92.05	157.83	133.06	127.22
6	Customs Duty %	%	12.5	10	10	10
7	Customs Duty Amount	Rs/Kg	11.51	15.78	13.31	12.72
8	Cess @ 3 %	Rs/Kg	0.35	0.47	0.40	0.38
9	Landed Value	Rs/Kg	103.91	174.08	146.76	140.33
10	NSR of the Domestic industry	Rs/Kg	***	***	***	***
11	Price Undercutting	Rs/Kg	***	***	***	***
12	Price Undercutting %	% Range	15-25	(15-25)	0-10	15-25

Subject countries

S No	Particulars	Unit	POI
1	Volume	MT	2391
2	Value	Rs. Lacs	2663
3	Export Price	Rs. Kg	111.37
4	Landing Charges	Rs/Kg	1.11
5	Assessable Value	Rs/Kg	112.49
6	Customs Duty %	%	10

7	Customs Duty Amount	Rs/Kg	11.25
8	Cess @ 3 %	Rs/Kg	0.34
9	Landed Value	Rs/Kg	124.07
10	NSR of the Domestic industry	Rs/Kg	***
11	Price Undercutting	Rs/Kg	***
12	Price Undercutting %	% Range	25-35

The Authority notes from the above tables that the landed value of the import from the subject countries have been significantly below the net sales realization of the domestic industry resulting in significant price undercutting.

Price Underselling

57. The following table below indicates the Non Injury price of the domestic industry, Landed price of the imports and the price underselling.

SN	Particulars	Unit	China PR	Thailand	Subject countries
1	Volume	MT	2,171	220	2391
2	Value	Rs. Lacs	2,386	277	2663
3	Export Price	Rs. Kg	109.89	125.96	111.37
4	Landing Charges	Rs/Kg	1.10	1.26	1.11
5	Assessable Value	Rs/Kg	110.99	127.22	112.49
6	Customs Duty %	%	10	10	10
7	Customs Duty Amount	Rs/Kg	11.10	12.72	11.25
8	Cess @ 3 %	Rs/Kg	0.33	0.38	0.34
9	Landed Value	Rs/Kg	122.43	140.33	124.07
10	NIP of the Domestic industry	Rs/Kg	***	***	***
11	Price Underselling	Rs/Kg	***	***	***

12	Price Underselling %	% Range	25-35	15-25	25-35
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58. From the above tables, it is seen that the Landed price of the subject goods into India from China PR and Thailand has been lower than the NIP determined for the domestic industry resulting in price underselling.

Economic Parameters affecting Domestic Industry

59. As per Annexure II to the AD Rules, the Authority is required to examine the impact of the dumped imports on the domestic industry concerned, which includes 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. Accordingly, various economic parameters of the domestic industry have been analyzed as follows:

Capacity, Production, Capacity Utilization and Sales

60. The performance of the domestic industry in respect of capacity, production, capacity utilization and sales has been stated in the table below:

SN	Particulars	Unit	2007-08	2008-09	2009-10	POI
1	Capacity	MT	594,086	616,481	640,573	642,764
2	Production	MT	558,836	527,355	574,754	571,051
3	Capacity Utilization	%	94.07	85.54	89.72	88.84
4	Domestic sales	MT	499,477	486,036	549,634	526,854

The Authority notes that-

- i. Production of domestic industry during the POI has increased as compared to the base year and has marginally decreased as compared to the previous year.
- ii. Capacity utilization during the POI has declined as compared to the base year as well as the previous year but this is apparently due to shift in the usage of the capacity due to changes in the product mix.
- iii. Domestic sales have shown the same trend as production. The domestic industry has been able to improve its sales volumes after imposition of anti dumping duties. The domestic industry has, *inter alia*, contended that the sales could have increased further, but for continued dumping has prevented growth in production, capacity utilisation and sales volumes.

Profit/Loss, Cash Flow, Return on Capital Employed

61. Information with regards to profits, selling price, return on capital employed of the domestic industry is as follows:

Indexed Figures

SN	Particulars	Unit	2007-08	2008-09	2009-10	POI
1	Profit/Loss	Rs lacs	100	26	126	(10)
2	Cash Profit	Rs lacs	100	37	125	9
3	Return on Capital Employed	%	100	43	115	13

62. The Authority notes that the profitability of the domestic industry dipped in 2008-09, as the anti-dumping duty apparently was not effective. It improved significantly in 2009-10, but declined sharply and became negative in the POI. The Return on Capital employed and Cash profits show the same trend as that of profits.

63. The Authority has examined profitability by considering the trends in the cost of sales and selling prices over the injury period as per the table below. It is seen that while the cost of sales and the selling prices have increased over the injury period. The increase in the selling prices till 2009-10 as compared to the base year was somewhat similar on prorata basis as the increase in the cost of sales. However, the increase in the cost of sales during the POI was far higher than the increase in the selling prices during the POI as compared to the base year. Consequently, profitability of the domestic industry suffered during the POI.

Indexed Figures

S No	Particulars	Unit	2007-08	2008-09	2009-10	POI
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1	Cost of sales	Rs/Kg	100	119	113	147
2	Sales Value	Rs/Kg	100	111	113	134
3	Profit/Loss	Rs/Kg	100	26	115	(10)

Inventories

64. The following table below gives the details of inventory of the domestic industry during the injury period.

SN	Particulars	Unit	2007-08	2008-09	2009-10	POI
1	Opening Stock	MT	28,758	33,731	34,590	25,071
2	Closing stock	MT	33,731	34,590	25,071	41,297
3	Average Stock	MT	31,244	34,160	29,831	33,184

The Authority notes that though the inventories of the domestic industry were expected to decline with the imposition of anti dumping duties but the inventories have increased during the POI as compared to the base year.

Employment and Wages

65. The following table shows the details of employment and wages of the domestic industry during the injury period.

Indexed Figures

SN	Particulars	Unit	2007-08	2008-09	2009-10	POI
1	Employment	No	100	98	101	103
2	Wages	Rs lacs	100	107	119	131

66. The Authority notes that the employment and wages have shown positive trends. The Authority further notes that since the participating companies are multi-product

companies, these parameters may not depict a clear impact of imports of the subject goods on employment and wages.

Productivity

67. The Authority notes that productivity per day of the domestic industry has increased during the POI as compared to the base year as well as the previous year. However, productivity per employee remains almost same through the injury period.

	SN	Particulars	Unit	2007-08	2008-09	2009-10	POI
<u>G</u> <u>ro</u> <u>w</u> <u>th</u>	1	Productivity per day	MT	1,705	1,591	1,723	1,737
	2	Productivity per Employee	MT (Indexed)	100	95	100	99

68. The Authority notes that the growth of the domestic industry was positive till 2009-10. However, growth became negative in the POI in terms of profits, cash profits and return on investment show adverse trend during the POI.

Magnitude of Dumping Margin

69. The Authority notes that dumping margins during the period of investigation remain significant. Dumping margins are not only more than *de-minimis* but are significant.

Conclusion on Injury

70. Thus, the Authority notes that the various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury. While volume parameters like capacity, production and sales have decreased in comparison to immediate previous year and increased in absolute terms in comparison to base year, but the same have not increased corresponding to the increase in demand of the subject goods in India. More importantly, profitability of the domestic industry has deteriorated in the POI, apparently due to continued dumped imports. It can thus be concluded that the domestic suffered material injury.

Likelihood of Continuation or Recurrence of Injury

71. M/s Hangzhou Zhongce Rubber Co. Ltd, in brief, has contended that:

- Coupled with the growing trends in the profitability of the domestic industry, the insignificant imports do neither cause any material injury or even have any likelihood of causing any material injury in the future to the domestic industry and Indian producers.

- A factual determination of NIP would lead to the fact that there exists no injury to the domestic industry and a negligible import volume cannot cause any likely injury to the domestic industry.
- The claim of the domestic industry regarding the unutilized capacities is not substantiated by the domestic industry. There are no surplus capacities with the exporter.
- In the anti dumping investigation concerning imports of Acrylic Fiber, the duty was discontinued because the Authority did not find any likelihood of recurrence of injury to the domestic industry.

Submissions made by the domestic industry

72. The domestic industry, in brief, has contended as follows:

The likelihood of continuation or recurrence of dumping and consequent injury can be examined by considering the following parameters.

- a) Likelihood of continuation of dumping: The exporters and producers from the subject countries have continued to export the material at the dumped prices even after the imposition of the anti-dumping duty. Given the dumping has consistently continued from the subject countries in the past, there is a reasonable apprehension that the revocation of duties in the present case would definitely result in intensified dumping from China PR and Thailand.
- b) Likelihood of recurrence of dumping: An examination of the possibility of dumping in respect of third country exports particularly when there have been no exports or low volume of exports to India in the current period is also practiced by other investigating authorities. The domestic industry has contended that (a) in a situation where exports to third countries are at dumped prices, (b) such export prices are comparable to the export price to India; (c) landed price of imports considering such prices are significantly below the (i) selling price, (ii) non injurious price, (iii) cost of production of the domestic industry, it must be held that the producers in these countries would resort to dumping the material in Indian market and the same would cause injury to the domestic industry, should the present anti dumping duties be revoked.
- c) Likelihood of continuation of Injury: Situation of the domestic industry is already fragile. It is expected that the condition of the domestic industry would improve under the discipline of the anti-dumping duty imposed.
- d) Likelihood of recurrence of injury: In a situation where there is no continued injury to the domestic industry, it is mandatory for the Authority to examine the likelihood of injury to the domestic industry in the event of expiry of the anti-dumping duty in force.
- e) Level of current dumping margin: Dumping margin continues to be significant. In the previously concluded investigations also, the Authority found significant dumping margins and concluded the investigation with the continued imposition of anti-dumping duty on the imports of the subject goods from the subject countries.

- f) The producers and exporters from the subject countries are exporting the subject goods at dumping prices in other countries' markets.
- g) The price at which the subject goods are being sold by the domestic industry is higher than the price at which material is being exported from the subject countries to a number of other countries.
- h) The subject countries hold excessive capacities for producing the subject goods. The same can be marked on the basis of the volume of exports maintained by the subject countries. In case of China PR, the fact that the radialisation is in rapid progress and the Government has imposed restriction on the manufacturing of the subject goods for domestic market, there are excessive capacities lying with the producers of the China PR and Thailand.

Sl. No.	Total Capacity	Annual Capacity (million in Pieces)
1.	China PR	402.43
2.	Thailand	34.12

- i) The export orientation of Chinese producers ranges from 30% to 100%.
- j) Given the performance of the domestic industry during the current period (the situation of the domestic industry is already fragile), it is evident that any low priced significant imports shall lead to significant injury to the domestic industry. The likely profitability, return on investment and cash flow situation of the domestic industry in the event of revocation of anti dumping duties is referred to and relied upon, which clearly shows that the domestic industry shall suffer significant financial losses, negative return on investment and negative cash flow.
- k) Imports from the subject countries are significantly undercutting the prices of the domestic industry. Should the present anti-dumping duties be withdrawn, the imports would become extremely lucrative and would increase the demand for imports.
- l) It has been further contended that now with significant demand and imports, the domestic industry is left with the following option which is as follows:

If the domestic industry matches NSR with landed price: the analysis below shows the impact on domestic industry if it sells at a price equal to landed price:

* Indexed Figure

S No.	Particulars	Unit	POI(Current)	POI
1	Landed Price of Imports	Rs/Kg	124	124

2	Cost of Sales	Rs/Kg	***	***
3	Selling Price	Rs/Kg	***	124
4	Current profit/loss	Rs/Kg*	(100)	(5,061)
5	Profit before interest and tax on domestic sales	Rs Lacs*	100	(2,324)
6	Return on capital employed on domestic sales	%*	100	(2,324)
7	Cash profit on domestic sales	Rs/MT*	100	(5,033)

It has been contended by the domestic industry that if it matches its prices with that of landed price; its profitability would reduce significantly. Besides, there would be significant decline in its cash profits and return on investment.

Domestic industry maintain its selling price: Cessation of Anti-dumping duty would likely to lead to further increase in imports with intensified dumping. If domestic industry maintains its prices, the consumers would shift to Chinese goods as they being cheaper. This would lead to deterioration in the market share of the domestic industry and consequently sales, production and capacity utilization would decline leading to injury to the domestic industry.

The likely impact can be seen from below:

S No.	Particulars	Unit	POI(Current)	POI*
1	Market share			
A	Domestic industry	%	79.93	0.00
B	Imports from subject countries	%	0.36	100.00
2	Sales Volume of Domestic industry	MT	526,854	-
3	Production of Domestic industry	MT	571,051	-

It would thus be seen that there is a likelihood of dumping and injury in the event of cessation of Anti-dumping duty in force.

Examination by the Authority

73. As has been noted above, the profitability of the domestic industry has become negative, which is apparently due to the presence of the dumped imports (though in lower volumes but the volumes remain significant) in the Indian market. It has not been able to pass on the increase in the costs to make and sell the subject goods, which it would have been able to do in the absence of dumped imports. Thus, the domestic industry has continued to suffer material injury. Therefore, any cessation of the duty is likely to lead to not only continuation of the 'injury' but to worsening performance of the domestic industry in respect of the subject goods.

K. CAUSAL LINK

Submissions made by the interested parties

74. M/s Hangzhou Zongce Rubber Co. Ltd has contended that the behaviour of the profitability of the domestic industry is independent of the volume/price of imports. The profitability of the imports has gone down even though; the volume of the imports has gone down.

Submissions made by the domestic industry

75. The domestic industry, in brief, has contended as follows:

- The causal link has already been established in the earlier investigations. In the present review investigations, the Authority has to examine whether revocation of anti dumping duty would lead to continuation or recurrence of dumping and injury. Thus, an examination of whether cessation of anti dumping duties would lead to continuation or recurrence of injury involves such an analysis that a positive finding would be recorded only if cessation of anti dumping duties would lead to continuation or recurrence of injury. A positive finding of injury would be recorded only in case there is a relationship between cessation of anti dumping duties and recurrence or continuation of injury. None of the 'other factors' as mentioned in the above referred provision have caused injury to the Domestic Industry.
- The domestic industry has further contended that once it is shown that:
 - a) there is a volume and price effect from dumped imports under paragraph (ii) of Annexure II,
 - b) the effects of injury caused by dumped imports are demonstrated in terms of the parameters set out in paragraph (iv) of Annexure II,

Then, the only basis on which to conclude that the injury is not caused by the dumped imports are through non-attribution analysis, i.e., those other factors have caused the injury. As demonstrated in the preceding paragraphs, listed known other factors do not establish that injury has been caused by these other factors. Such being the case, the only inescapable conclusion is that the injury to the domestic industry has been caused by the dumped imports from the subject country.

- The domestic industry further submitted that the following parameters show causal link: -
 - a. Imports from the subject countries are likely to cause significant price undercutting in the event of expiry of anti dumping duties.
 - b. Existence of significant price undercutting in the event of expiry of anti dumping duty is likely to result in consumers switching over to the imported material, given that the product is highly price competitive.
 - c. The duty paid import price from the subject countries would be much lower as compared with the prices of the domestic industry. Since the imports would undercut the prices of the domestic industry, there would be likely demand for the imported product.
 - d. In case the duty is allowed to ceased and consequently the imports from the subject countries increase, the Domestic Industry would be forced to reduce the prices of the product concerned significantly.
 - e. Should the Domestic Industry be forced to reduce the prices, its natural impact would be on the profitability of the Domestic Industry. Decline in profits would lead to decline in cash flow and return on investment.
 - f. Should the Domestic Industry choose to maintain its normal price levels, it is likely to lose its sales volume, as consumers would increasingly switch over to the imports.
 - g. In a situation where the exporters in the subject countries maintain significant excess capacities, it follows that the volumes would at best increase with the cessation of the anti-dumping duty.
 - h. Should the Domestic Industry prefer to lose sales volumes, it would spell much bigger injury. As decline in sales volume would result in increase in inventories level; decline in production, capacity utilization, and productivity.

Examination by the Authority

76. The Authority has examined the submissions with regard to the significance and relevance of causal link in a Sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. Notwithstanding this, it was examined whether other parameters listed under the AD Rules have caused injury to the Domestic Industry.

A. Volume and value of imports not sold at dumping prices: - It is noted that the imports of the subject goods from other countries are significantly at higher prices *vis a vis* the imports from the subject countries.

B. Contraction in demand: - The Authority notes that the demand of the product in the country has shown positive trend throughout the injury period except during 2008-09 as compared to the base year. Hence, contraction in demand is

not a possible reason, which could have contributed to the ‘injury’ to the domestic industry.

C. Changes in the patterns of consumption: - There is no information available on record to suggest that the pattern of consumption with regard to the product under consideration has not undergone any change.

D. Trade restrictive practices of and competition between the foreign and domestic producers: - There is no information available on record suggesting that trade restrictive practice could have contributed to the injury to the domestic industry.

E. Developments in technology: - As per information available on record, technology for production of the subject goods has not undergone any change. Developments in technology are, therefore, not a factor of ‘injury’.

F. Export performance: - The Applicant companies export the product under consideration. However, information relating to domestic sales only has been taken into consideration for assessment of injury to the extent possible.

G. Productivity: - It is noted that the productivity of the domestic industry has declined.

Magnitude of Injury and Injury margin:-

77. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from for determination of injury margin during the POI. Thus compared, the injury margin is worked out as under:

S No	Countries	NIP	Landed Value	Injury Margin	
				USD/Kg	(%) Range
1	China PR				
	M/s Hangzhou Zhongce Rubber Co.Ltd.,	***	***	***	25-35
	Others	***	***	***	30-40
2	Thailand	***	***	***	15-25

H. CONCLUSIONS

78. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in the above findings and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that: the subject goods are entering the Indian market from the subject countries at dumped prices and dumping margins are significant. It is also seen that the subject goods continue to be exported to India at dumped prices inspite of the existing anti-dumping duty. It is further noted that the price undercutting and price underselling are significant. Should the domestic industry attempt to match the same, it would have a significant adverse impact on the price parameters. Alternatively, it would have injury on volume parameters. Hence, injury to the domestic industry is likely to continue and its situation is likely to worsen in case the present anti-dumping duty is allowed to cease. Therefore, as per information available on record, the anti-dumping duty is required to be extended and modified.

I. RECOMMENDATIONS

79. Having concluded that the subject goods continue to be exported at dumped prices, the current dumping margins and injury margins establish the need for revision in the anti-dumping duty in force, the situation of the domestic industry continues to be vulnerable and there is likelihood of continuation of dumping and injury on account of imports from the subject countries, if the duties are revoked. Therefore, the Authority is of the opinion that the measure is required to be extended and the quantum of Anti-dumping duty is required to be modified in respect of imports of the subject goods originating in or exported from the subject countries as specified in the duty table below. For the purpose of determining injury, the landed value of the imports is compared with the non-injurious price of the domestic industry determined for the period of investigation.

80. Accordingly, the antidumping duty equal to the amount indicated in Col 8 of the table below is recommended to be imposed concerning all imports of the subject goods originating in or exported from the subject countries from the date of notification to be issued in this regard by the Central Government.

Duty Table

Sl. No	Heading / Subheadings	Description of goods	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal	Thailand	Thailand	Any	Any	0.86	Kg	US \$

		rim dia code above 16" used in buses and lorries/trucks'							
2.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	Thailand	Any country other than Thailand	Any	Any	0.86	Kg	US \$
3	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	Any country other than countries attracting Anti-dumping duty	Thailand	Any	Any	0.86	Kg	US \$
4.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	China PR	China PR	M/s Hangzhou Zhongce Rubber Co., Ltd.	M/s Hangzhou Zhongce Rubber Co., Ltd.	1.12	Kg	US \$
5.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or	China PR	China PR	Any, except as in Sr. no 4 above	Any	1.31	Kg	US \$

		flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'							
6.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	China PR	China PR	Any	Any, except as in Sr. no 4 above	1.31	Kg	US \$
7.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	China PR	China PR	Any	Any	1.31	Kg	US \$
6.	40112090 , 40131020 and 40129049	'new/unused pneumatic non radial bias tyres, tubes & flaps with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	China PR	Any country other than China PR	Any	Any	1.31	Kg	US \$
7.	40112090 , 40131020 and	'new/unused pneumatic non radial bias tyres, tubes & flaps	Any country other than	China PR	Any	Any	1.31	Kg	US \$

	40129049	with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks'	countries attracting Anti-dumping duty					
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81. Landed value of imports for the purpose shall be the assessable value as determined by the Customs under the Customs Act, 1962 and all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

82. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

Vijaylaxmi Joshi
The Designated Authority