

Ministry of Commerce and Industry  
Department of Commerce  
Directorate General of Anti-Dumping & Allied Duties  
**Notification**

New Delhi the 31<sup>st</sup> July, 2006

PRELIMINARY FINDINGS

**Subject: Antidumping investigation involving import of Bias Tyres exported from or originating in China PR and Thailand**

1. NO.14/9/2005-DGAD: - Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof.
2. WHEREAS Automotive Tyre Manufacturers Association (ATMA), (hereinafter referred to as the applicant) filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), alleging dumping of Bias Tyres for bus and lorries/trucks (hereinafter referred to as subject goods or Bias Tyres), originating in or exported from the People's Republic of China and Thailand (hereinafter referred to as "subject countries" or China and Thailand), and requested for initiation of Anti Dumping investigations for levy of anti dumping duties on the subject goods.
3. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry, after examination of the same with regard to adequacy and accuracy, issued a public notice dated 30<sup>th</sup> December 2005 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the sub-Rule 6(1) of the Rules to determine existence, degree and effect of alleged dumping and the need to recommend the amount of antidumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

**A. PROCEDURE**

4. Procedure described below has been followed with regard to this investigation by the Authority.
  - (i) The Authority notified the Embassy of subject country in India about the receipt of dumping application made by the Applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;
  - (ii) The Designated Authority sent copies of initiation notification dated 30<sup>th</sup> December 2005 to the Embassy of the subject countries in India, known exporters from the subject countries, importers and the domestic industry as per the addresses made available by the applicants and requested them to make their views known in writing within 40 days of the initiation notification.

- (iii) The Authority provided copies of the non-confidential version of the application to the known exporters and to the embassies of China PR and Thailand in accordance with Rule 6 supra.
- (iv) The embassies of the People's Republic of China and Thailand in India, were informed about the initiation of the investigation in accordance with Rule 6 with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letters and questionnaire sent to the exporters/producers was also sent to them, alongwith the names and addresses of the exporters.
- (v) The applicant requested the Authority to treat China as a non-market economy country for the purpose of present investigations. For the purpose of initiation, the normal value in China PR was considered based on the price of the subject goods in Sri Lanka after treating Sri Lanka as an appropriate third market economy country as per the information submitted by applicant. The Authority informed the known exporters from China that it proposed to examine the claim of the applicant in the light of para (7) & (8) of Annexure-I of the Anti-Dumping Rules as amended. The concerned exporters / producers of the subject goods from China PR were therefore advised to furnish necessary information/sufficient evidence, as mentioned in sub-paragraph (3) of paragraph 8 to enable the Designated Authority to consider whether market economy treatment should be granted to cooperating exporters/producers who could demonstrate that they satisfy the criteria stipulated in the said paragraph. A questionnaire for according market economy treatment was forwarded to all the known exporters/producers in China and the Embassy of the Peoples' Republic of China.
- (vi) The Authority sent questionnaire, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4);

China:

1. Yellow Sea Tyres  
Dong Hai Road, Qingdao, China
2. Shangdong Hongsheng Rubber Co., Ltd  
Dawang Industry Zone, Guangrao,  
Shandong, China P.C 257 335
3. Qingdao Doublestar Tire Industrial Co.,  
No, 95 Qingdao Road, Jiaonan Development Area,  
China
4. Qingdao Tengjiang Tyre co., Ltd  
No 425 Building C, Qingdao World Trade Center,  
H. K Middle Road, Qingdao, China 266 071
5. Shandong Chengshan Tire Co.,  
11, Rong' an Rongcheng City, Shandong Province,  
China
6. Chaoyang Long March Tyre Co., Ltd  
No 1, Xiangyang Road, Longcheng District,  
Chaoyang City, Liaoning Province, China

7. Triangle Tyre Co., Ltd  
No 56, Qingdao Middle Road, Weihai, Shangdong,  
China
8. Shandong Jinyu Tyre Co., Ltd  
1504 Qilimansion, No 2 Nanjing Road, Qingdao,  
Shandong, China
9. Qingdao Yellow Sea Rubber Group co.,  
Qingdao Rubber Industry Park, Hong Tan,  
Cheng Yang Distt, Qingdao, China
10. Shandong Yongtai Chemical Group Co., Ltd  
Dawang Rubber Industry Area, Guangrao, Dongying,  
Shandong, P.R. China
11. Shandong Linglong Rubber Ltd  
No 170 Jincheng Road , Zhaoyuan, City , Shandong,  
China- 265400
12. Guangzhou Pearl River Rubber Tyre Ltd  
Tanbu, Huadu, Guangzhou 510828, China
13. Henan Tyre Co Ltd  
48 Jiaodong South Road, Jiaozuo, Henan,  
China

#### Thailand

1. Hihero Co., Ltd.  
408/63-64 Phaholyothin Road,  
Samsennai, Phayathai, District, BKK 10400  
Thailand
2. Thai Bridgestone Co., Ltd.  
14/3 Phaholyothin Rd., T. Klongnueng,  
A. Klong Luang, Pathumthani  
Thailand12120
3. Otani Tire Co.,Ltd.  
55 Mu 7, Petchkasem KM.37 Rd.,  
T. Klongmai, A. Sampran, Nakornpathom  
Thailand

- (vii) In response to the above notification none of the subject exporters responded to the questionnaire within the prescribed time limits. M/s. Shandong Jinyu Tyre Co. Ltd. filed its first response on 21<sup>st</sup> June, 2006, which was grossly deficient. Additional information was provided on 21<sup>st</sup> July, 2006, which is also incomplete. Even though the response was significantly after the time limits, the Authority considered it appropriate to examine the same.
- (viii) Questionnaires were sent to following known importers and users of subject goods in India calling for necessary information in accordance with Rule 6(4).

Importers:

- a) M/s Chadha Tyre Traders
- b) M/s Kaks & Bills Pvt Ltd
- c) M/s Anirudha Industries
- d) M/s Vikas Road Carriers
- e) M/s International Trader
- f) M/s AAA Impex
- g) M/s Jamnadas and Brothers

Users:

- a) M/s Tata Motors Ltd
- b) M/s Volvo India Pvt Ltd
- c) M/s Ashok Leyland Ltd
- d) M/s Eicher Motors Ltd

- (ix) In response to the above notification, only M/s Tata Motors, one of the users of subject product, has responded. But the company has not filed any questionnaire response, nor have they imported the subject product from subject countries. In addition to Tata Motors, Automotive Tyre Importers Association (ATIA), All India Tyre Dealers Federation (AITDA), All India Confederation of Good Vehicle Owner's Association (ACOGOA) have filed their submissions. None of the importers have filed response to the questionnaire. ATIA, AITDA and ACOGOA or their members have also not filed any information in questionnaire, but has advanced its argument against imposition of anti dumping duties, which have been addressed in these findings.
- (x) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years and for the period of investigations;
- (xi) The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties;
- (xii) Optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry. For the purpose, domestic industry was directed to provide its cost of production duly certified by a practicing cost accountant .
- (xiii) \*\*\* in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;
- (xiv) Investigation was carried out for the period starting from 1<sup>st</sup> April 2004 to 30<sup>th</sup> June 2005 (POI). The examination of trends in the context of injury analysis covered the period from April 2001-March 2002, April 2002-March 2003, April 2003-March 2004 and the POI.
- (xv) The Authority provided opportunity to the industrial users of the product under consideration, and to the known representative consumer organizations, to furnish

information considered relevant to the investigation regarding dumping, injury and causality.

- (xvi) The Authority satisfied itself with regard to accuracy of the information provided by the interested parties to the extent considered necessary at this stage

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

5. The product under consideration is new/unused pneumatic non radial bias tyres, tubes and flaps of rubber used in buses and lorries/trucks originating in or exported from China PR and Thailand. Bias tyres are technically known as diagonal ply or cross ply tyres. Tyre is used along with one tube and one flap in a vehicle. One tyre, one tube and one flap is together sold as a "tyre set". The term "TTF" is prevalent in the industry to denote a "tyre set". Tyre, tube and flap jointly render the function of "tyre" in a vehicle. Air is filled in the tube inside the tyres and a flap is used in between wheel and tube to avoid tube burst due to its cohesion with the wheels. Tyre, tube and flap are produced separately by the producers. Sale of tyre, tube and flap are primarily on "TTF" or "tyre set" basis. However, they are sold individually also. Import of the product is also both on TTF basis and as individual units and can be in any combination. Bias tyre, tube and flap used in bus and lorries/trucks constitutes the product under consideration irrespective of whether they are in TTF form or individually as tyre, tube and flap.
6. The scope of the product includes only bias tyres used in buses and lorries/ trucks. Tyres are produced for use in vehicles like truck, bus, lorries, light commercial vehicles, passenger car, jeep, tractor, two wheeler, three wheeler, animal pulled vehicles, earthmover, industrial tyres, air crafts etc. However, the product under consideration is the type that is used only in buses & lorries/trucks. All other types of tyres are beyond the scope of the product under consideration and present investigations.
7. There are two categories of tyres, namely radial and non-radial. The non-radial category is known as bias or diagonal ply tyres. The categorization is based on the load-inflation pressure relationship prescribed by Indian standards. The scope of the product includes only non-radial or bias tyres used in buses and lorries/ trucks.
8. Tyres, Tubes and Flaps are produced separately. However, they are invariably used together in automotive applications. Tyres are classified in Chapter 40 under customs subheading no. 40112090 and tubes and flaps are under 40131020 and 40129049 respectively. However Customs classifications are indicative only and in no way binding on the scope of investigation.

### Comments from the Association of users and importers

9. Responding associations have filed their comments in respect of product under consideration. They have submitted that the product scope has been left very wide as the same includes very distinct size. The description of the product is not in conformity with the product being imported. The product includes different types like lug, semi rib, rib etc. and tyres are normally identifiable in terms of its size. The information provided by domestic industry does not distinguish between Heavy Commercial Vehicles (HCV) and Light Commercial Vehicles (LCV) though truck and bus tyres include both HCVs and LCVs. The imported tyres are inferior in quality and primarily substitute the retreaded tyres. The description of product needs to be modified according to sizes. There is significant difference between tyres catered to the OEMs and that to the retail market. The segmentation is required to be done while examining the injury to the domestic industry.

### Views of domestic industry

10. The scope of the product under consideration is well defined in the petition and notice of initiation and there can be no confusion in this regard. While it is true that there are different types of tyres, the same is at best relevant for the purpose of price comparison. In so far as the scope of the product under consideration is concerned, all these different types of tyres are very much within the scope of the product under consideration. There is no basis for the argument that the scope could be read so as to include even LCV tyres. However, considering the arguments of these parties, the Authority can also specify the size of the tyre alongwith other parameters in order to ensure that unintended product does not get covered within the scope of the duties.
11. Applicant has claimed that there is no significant difference between the subject product produced by the domestic producers and the products imported from subject countries. They are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, quality, product specifications, pricing, distribution & marketing and tariff classification of the goods. Applicant claimed that the two are technically and commercially substitutable. The consumers are using the two interchangeably. Domestic industry caters to two market segments i.e. domestic after market and domestic original equipment manufacturers. Applicants submitted that the imports are taking place in the domestic after market which holds almost 77% of tyre sale. Hence, there is a direct competition between imported material and domestic product. Indian Producers either directly or through its dealers competes with these traders/resellers for the same general category of consumers. Significant volume of sales by the applicant companies is also through resellers (almost 77%). All resellers, whether dealing in the domestic or import product are supplying the product to the same general category of customers. There is no difference in the quality of tyres supplied to OEMs or after market. BIS Certification of tyres is voluntary in nature and hence tyres with or without BIS Certification are being supplied to both OEMs and after market.

### Examination by the Authority

12. As regards scope of the product under consideration, the Authority notes that the petition and notice of initiation very clearly specify the scope of the product under consideration. The product under consideration includes different types of Bias Tyres, known as lugs, semi rib, rib, etc. However, these are merely different types of the product under consideration. It is clarified that tyres for LCV are beyond the scope of the product under consideration. Having regard to the arguments of the interested parties, it however appears relevant and necessary to specify the size of tyres also for the purpose of defining scope of the product under consideration. The Authority notes in this regard that tyres of specified size only can be used for a particular application. For instance, nominal rim dia code of 16" tyre can not be used in HCVs and similarly nominal rim dia code of 20" tyre can not be used in LCV.
13. Having regard to the arguments by the interested parties, the Authority considers it appropriate to include size of the tyres also within the scope of the product under consideration. Accordingly, the product under consideration is defined as "*new/unused pneumatic non radial bias tyres with or without tubes and/or flap of rubber, having nominal rim dia code above 16" used in buses and lorries/trucks*".
14. As regards the argument that the product meant for OEM and replacement market is different, the Authority notes that there is no evidence provided in support of this claim. Verification at the premises of the domestic industry on the contrary showed that the product meant for OEM and after market is the same. It is also noted that no evidence was made available that the imported product was eventually consumed only in replacement market and was not used in OEM.

15. Rule 2(d) of AD Rules defines Like Article as

*“an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.”*

16. The applicants have claimed that goods produced by them are like article to the goods originating or exported from China PR and Thailand. The importers' association in their submissions have claimed that goods imported are of inferior quality. However, difference in quality does not render the product as different from the above description. The imported product is also used by same category of consumers. The product contains the same basic physical and chemical characteristics and has the same functions and uses. Such being the case, it can not be said that mere possible difference in quality renders the product imported by the importer as different from the subject product produced by the domestic industry. Further, none of the exporters/importers have provided relevant information to the Authority in this respect.

After examining the above claims, it is provisionally concluded that there is no difference in the subject product imported from China and Thailand and produced by the domestic industry. Even if it is assumed that the imported product is of lower quality, this difference in quality can not render the imported and domestic product different product within the meaning of the Rule 2(d).

### **C. DOMESTIC INDUSTRY**

17. Rule 2(b) defines domestic industry as under:-

*(b) “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry:*

18. The application was filed by Automotive Tyre Manufacturers Association (ATMA) on behalf of the domestic industry using the information provided by M/s Apollo Tyres Ltd and M/s Ceat Ltd. Application has been supported by M/s JK Tyres (JK Industries Ltd.), M/s Birla Tyres (Kesoram Industries Ltd) and M/s MRF Ltd. Following the initiation, the Authority sought injury information from supporting companies also. In response to the same, JK Tyres and Birla Tyres showed their willingness to participate in the investigations and provided information required by the Designated Authority in the form and manner prescribed.
19. The associations who responded to the Authority have not disputed the fact that the application was filed on behalf of the domestic industry representing a major proportion of domestic producers, nor have they disputed that the participating companies constitute domestic industry. Association of tyre importers, however, claimed that some of the domestic producers are related to producers/exporters/traders in China, which is existing for long time. The Authority sought clarifications in this respect from the applicants, who certified that none of the participating companies are related to any parties in the exporting countries. M/s. Apollo International Ltd. also certified that the Company has no business alliance with any manufacturer/exporter of the product under consideration in China or Thailand for export or import of the product under consideration to the Indian market and that the Company has not imported/ exported the product under consideration either from China or from Thailand under any such possible business alliance

during the investigation period. Moreover, declarations in this respect were also provided by applicants in respective part of the application itself. It has not been established that those declarations are incorrect.

20. After detailed preliminary investigations, the Authority notes that (a) production of the four manufacturers i.e. Apollo Tyres Ltd, Ceat Ltd. JK Tyres (JK Industries Ltd.) and Birla Tyres (Kesoram Industries Ltd) constitute a major proportion in Indian production (b) domestic producers expressly supporting the application accounted for more than 50 per cent of the total production of the like product produced by the domestic industry; and (c) the application was made by or on behalf of the domestic industry.
21. The Authority after careful examination holds that Apollo Tyres, Ceat Tyres, JK Tyres and Birla Tyres constitute domestic industry within the meaning of the rule 2(b) read with 2(d) for the purpose of the present findings.

**D. NORMAL VALUE**  
**Claims of Applicants**

22. Applicants claimed that China is a non-market economy. No country has granted market economy country status to China after following detailed evaluation procedure, examination and evaluation. They have further claimed that even China agreed in the accession treaty that WTO Members could use an NME antidumping methodology through December 11, 2016. China has been treated as non-market economy by European Commission and United States in the past three years. European Union and United States are members of World Trade Organization. In India also, the Designated Authority has treated China as non-market economy. The Designated Authority has treated China as non-market economy in practically all the investigations initiated against China after the amendment dated 31<sup>st</sup> May, 2002. Even after the amendment dated 4<sup>th</sup> Jan., 2003, the Designated Authority has treated China as a non-market economy.
23. Applicants proposed consideration of Sri Lanka as an appropriate surrogate country for determination of normal value in China and provided information on price of subject product in the domestic market of Sri Lanka. Applicants argued that consideration of Sri Lanka would enable the Authority to procure all relevant information for the purpose of selling price in Sri Lanka. It was argued that bias tyre industry in Sri Lanka is competitive. Applicants supplemented their claim of normal value based on price in Sri Lanka with the cost of production in Sri Lanka and cost of production in India.
24. Applicants claimed that producers from Thailand are dumping subject goods in India. Efforts were made to obtain information about the prices of subject product prevailing in the domestic market in Thailand. However, no reasonable, authentic and accurate information could be obtained about the actual transaction-selling price of subject product (between a producer and wholesaler dealer/distributor) in their domestic market. In view of the same, applicants used estimates of cost of production to determine normal value in Thailand.

**Comments by associations of users and importers**

25. Responding associations have advanced arguments disputing treatment of Sri Lanka as an appropriate surrogate country for the purpose of normal value. They have not provided any material evidence against the applicant's request to accord Non Market Economy treatment to China. It is claimed by the Association that Sri Lanka can not be treated as appropriate surrogate country for the reasons that there is absence of enough competition in Sri Lankan market and Sri Lankan producer is related to one of the Indian producers. There is a difference in tyres supplied by the domestic industry to OEMs and retail segments. The tyres supplied to OEMs are not

comparable to tyres imported from China. It is further claimed that cost of domestic industry in OEM segment need to be taken out while using the data for construction of normal value in case of Thailand.

#### Examination by the Authority

26. In anti dumping investigations concerning imports from non-market economy countries, normal value has to be determined in accordance with paragraphs 7 & 8 of the Annexure-I of the AD Rules.
27. The Authority notes that except Shandong Jinyu Tyre Co. Ltd., none of the Chinese and Thai producers have responded to the Authority. Except Shandong Jinyu Tyre Co. Ltd., none of the Chinese producers have claimed that they should be granted market economy status nor filed their responses in the prescribed questionnaires. Shandong Jinyu Tyre Co. Ltd. claimed that the Company should be granted market economy status, which was examined and found inadequate and insufficient to determine whether the company could be provided market economy treatment.
28. Examination of claims of Shandong Jinyu Tyre Co. Ltd. - M/s. Shandong Jinyu Tyre Co. Ltd. filed its first response on 21<sup>st</sup> June, 2006, which was grossly deficient. No reasons for significant delay in filing questionnaire response beyond time limits allowed were given by the company. Further, it was found that the response filed was without any appendices forming part of the questionnaire and it was stated that the same were being filed separately. Additional information was provided on 21<sup>st</sup> July, 2006, which is also incomplete. Even though the response was significantly after the time limits, the Authority considered it appropriate to examine the same. Examination of the response shows that the same is inadequate and insufficient to allow market economy treatment. Following observations are made in respect of the response filed:-
  - a) The company stated that it has no affiliated company involved with the product concerned, whereas the product brochure of the company lists a number of companies which are apparently related to the company and are involved with the product concerned.
  - b) Annual reports provided is only for 2005 and does not contain any information other than auditor's report, balance sheet and income statement. Information such as director's report, notes to accounts and other information forming part of the annual report has not been provided.
  - c) No evidence has been provided with regard to a number of claims made by the company. For instance, no evidence has been provided in respect of claims with regard to raw materials purchase. Furthermore, it is not even the claim of the company that the prices of major inputs substantially reflect market values, nor any evidence has been presented in this regard.
  - d) Whereas the response to the questionnaire stated that the audit of their accounts was not mandatory, the annual report for the year 2005 contains audit report. The company stated that the company being a private company closely held by the private family members, there is no such provision or legal requirement for auditing form an independent certified public accountant. The Authority notes that in a situation where the financial statements of the company have not been audited by an independent certified public accountant, authenticity, accuracy and reliability of the financial statements is not guaranteed. Therefore, it can not be said that the company has one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes.
  - e) Transaction wise information with regard to sales in home market is not provided. In the absence of this, correctness of information provided in appendix-3A could not be ascertained.

- f) Information in appendix-3A is only in respect of "1000-20 grade-1 trailer" and "1000-20 super-1". It is not clear whether the company has not produced and sold other types of subject goods or the information is not provided to the Authority.
- g) Cost of production statement is not in the form and manner prescribed.
29. In view of the above, the Authority holds that the claims of the exporter are not fully substantiated and the Authority is unable to grant market economy treatment to the company at this stage. Also, the response to the Exporter's Questionnaire is not complete. Therefore, for the purpose of the preliminary findings, the Authority is unable to use the response filed. However, the Authority would consider the response of the company, if the deficiencies pointed out are rectified and complete information is provided.
30. Under the circumstances, the Authority is not in a position to apply para 8 of Annexure 1 to the Rules to any of the Chinese companies and has to proceed in accordance with para 7 of Annexure-I to the Rules. According to these Rules, the normal value in China can be determined on any of the following basis:
- a) on the basis of the price in a market economy third country, or
  - b) the constructed value in a market economy third country, or
  - c) the price from such a third country to other countries, including India.
  - d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.
31. Applicant's proposal for consideration of Sri Lanka as an appropriate surrogate country for determination of normal value in China was examined by the Authority. The applicant has provided relevant information on price of subject product in the domestic market of Sri Lanka. The applicants have also provided information with regard to cost of production in India. One of the major producer of subject product producer in Sri Lanka, M/s Ceat Kelani Associated Holding Pvt. Ltd. is a joint venture with Indian producer M/s Ceat Ltd. However, Ceat Kelani Associated Holding Pvt. Ltd. operates freely under the market situations in Sri Lanka and its relation with Indian producer in no way restrict it from its operations as per economic conditions in Sri Lanka, nor it causes any distortions in consideration of Sri Lanka as a surrogate country. The price in Sri Lanka is determined by the market forces existing in Sri Lanka and reflects the cost and price situations existing under Sri Lankan economy. Applicants supplemented its claim of normal value based on price in Sri Lanka with the actual cost of production in Sri Lanka. Further, the applicants provided evidence of normal value on the basis of price payable in India, duly adjusted to include a reasonable profit margin, by considering cost of production in India. There is not sufficient evidence to reject the claim of applicants that Sri Lanka is an appropriate third country to determine the normal value in case of China. In fact, it is noted that the consideration of price payable in India, duly adjusted to include a profit margin would have resulted in determination of higher normal value. Having considered the evidence on record, the Authority considers it appropriate to determine normal value for the purpose of these preliminary findings on the basis of constructed value in Sri Lanka as submitted by applicant (which is the lowest among the alternatives given), pending further investigations.
32. Applicants claimed efforts were made to obtain information about the prices of subject product prevailing in the domestic market in Thailand. However, no reasonable, authentic and accurate information could be obtained about the actual transaction-selling price of subject product (between a producer and wholesaler dealer/distributor) in their domestic market. None of the

producers in Thailand have responded to the Authority, nor any other information is made available to the Authority with regard to costs or prices in Thailand. Under the circumstances, the Authority has determined normal value in Thailand on the basis of estimates of constructed cost of production, duly adjusted to include a profit margin.

33. The Authority examined the claims of association of importers that the normal value need to be constructed after excluding costs applicable to tyres for OEM segment. However, it is to found that there is no difference in the cost of production for OEM or for after market. In fact, difference can only come in terms of selling and distribution expenditures and that remains higher for the after market. Thus, should the Authority segregate OEM and after market cost of production, the same would at best increase the after market cost of production and consequently the normal value, as the imported tyres are being sold in the after market only.

#### **E. EXPORT PRICE**

34. Association of users and importers argued that the Authority should not have accepted the import information as per IBIS for the quarter April 05-June 05. It was claimed that the imports under the heading 40112090 include certain other tyres also which should also be excluded.
35. The applicants in their application stated that the transaction wise imports information provided by DGCI&S was not available for the period April 05 to June 05 at the time of application and therefore, the applicants had relied upon IBIS data for this period. Applicants further argued that the Authority had in a number of investigations considered information provided by IBIS for the purpose of determination of volume and value of imported material, nor any reason have been advanced by the responding parties why the information provided by IBIS may be incorrect and unreliable. The Authority notes that when DGCI&S data is not available for the complete period, it does not appear inappropriate to use IBIS information.
36. Subsequent to initiation, imports information on transaction by transaction basis was made available by the DGCI&S for the complete period of investigation. Accordingly, the import volumes and export prices have been determined on this basis. The Authority notes that barring response by Shandong Jinyu Tyre Co. Ltd., there is no cooperation from any of the subject exporters nor any other information has been filed before the Authority in this regard. Response filed by Shandong Jinyu Tyre Co. Ltd. is also not complete and can not be adopted at this stage. Therefore, the Authority has determined export price on the basis of transaction wise imports information provided by the DGCI&S. The CIF export price has been adjusted for ocean freight, marine insurance, inland freight, port expenses and bank charges. The applicants claimed price adjustments on account of commission, indirect taxes and credit costs which have not been allowed at this stage.

#### **F. DUMPING MARGIN**

37. Authority notes that the comparison made must be a fair comparison. Authority has determined both the normal value and export price at ex-factory level. It is noted that the product is imported as set of tyre, tube & flap (TTF), or as a set of tyre & tube (TT), or only as tyre. Authority has determined separate normal value and export price in respect of different product combinations in which imports have been made and compared the same. Both the normal value and export price pertains to the same period. There are no known differences in the conditions and terms of sale. Both the prices are free of taxes. Thus, the Authority considers that the comparison made constitutes a fair comparison. Considering the normal value and export price determined as detailed above, dumping margin has been determined provisionally, which comes as under:-

	Dumping margin %
China	131
Thailand	229

## G. INJURY TO THE DOMESTIC INDUSTRY

### Cumulative Assessment

38. Annexure II (iii) to the Anti Dumping Rules provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the designated authority will cumulatively assess the effect of such imports, in case it determines that:

*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 of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and;*

- (b) *cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.*

39. The Authority considered whether it would be appropriate to cumulatively assess injury to the domestic industry. As stated below, it would be appropriate to assess injury to the domestic industry cumulatively from China and Thailand:-

- i) The margins of dumping from each of the subject countries are more than the limits prescribed,
- ii) The volume of imports from each of the subject countries is more than the limits prescribed,
- iii) Cumulative assessment is appropriate in view of the following factors :-
  - a) The goods involved are like articles and are competing in the same market;
  - b) The imported products are being sold through the same channel of distribution and to comparable category of customers;
  - c) Products from both the countries are undercutting the prices of the domestic industry in the market.
  - d) Imports from both the countries are increasing.

### Market Segmentation

- 40 The domestic tyre market is divided in a number of segments vis OEM market (Original Equipment Manufacturers), replacement market or after market and other which consists of supplies to the government sector. Applicants argued that there was significant boom in the automobile market, leading to significant increase in the demand for the product under consideration in the OEM market and consequently sales of the domestic industry in the OEM segment, as would be seen from the following consolidated position with regard to Indian industry:-

		2001-02	2002-03	2003-04	POI Annualized
OEM	Nos	632763	823756	1457545	1790062
	Indexed	100	130.18	230.35	282.90
Replacement Market	Nos	5823153	6567005	6741534	6518483
	Indexed	100	112.77	115.77	111.94
Others	Nos	179100	176400	175500	174600
	Indexed	100	98.49	97.99	97.49

Domestic industry has argued that there is a decline in their sales in the replacement market during POI as compared with previous year entirely because of dumped imports. The representative importers associations have also argued that it is the replacement market that they are supplying their product and they are not competing in the OEM market. In view of above the assessment of demand and volume effect has been considered only for the replacement market segment.

#### Assessment of demand

- 41 Authority has defined, for the purpose of the present application, demand or consumption of the product in the Country as the sum of domestic sales of the Indian Producers in the replacement market and imports from all sources. The demand so assessed is given in the table below:-

Source	Units	2001-02	2002-03	2003-04	POI Annualized
Imports					
Imports (Subject Countries )	Nos	3589	16755	77538	173481
Imports (others)	Nos	8	14378	8697	10056
Sales by Indian producers in the Replacement market	Nos	5823153	6567005	6741534	6518483
Total Demand in the Replacement market	Nos	5826750	6598138	6827769	6702020

#### Import volumes and market share

- 42 The volume of dumped imports of subject product from subject countries and the share of the same in relation to replacement market sales in India is given in the table below.

Source	Units	2001-02	2002-03	2003-04	POI Annualized
Imports					
China	Nos	3589	16509	72474	161991
Thailand	Nos		246	5064	11490
Total	Nos	3589	16755	77538	173481
Market Share					
Domestic producers	%	99.94	99.53	98.74	97.26
Subject Countries	%	0.06	0.25	1.14	2.59
Other Countries	%	0.00	0.22	0.13	0.15

Total	%	100	100	100	100
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- 43 The Authority notes that imports from subject countries increased over the period in absolute terms and also in relation to imports into India and sales in the replacement market in India and consumption in India.
44. From the above, it is evident that imports from subject countries have shown an increase during the injury period, resulting in increase in market share of dumped imports and decline in the market share of the domestic industry during POI as compared with base year 2001-02. The Authority provisionally concludes that the dumped imports show adverse volume effect.

#### Price effect of imports

45. Net sales realization of the domestic industry has been arrived at by considering selling price, excluding taxes & duties. Landed price of imports has been determined considering weighted average CIF import price, with 1% landing charges and applicable basic customs duty. The trend of various prices is as given in the table below:-

Source	Unit	2001-02	2002-03	2003-04	POI Annualized
CIF export price					
China	Rs/Sets	2413.97	1758.65	1723.07	2000.39
Thailand	Rs/Sets	1707.40	1671.75	1591.33	1849.99
Subject Countries	Rs/Sets	2413.97	1757.47	1719.19	1992.18
Landed Value					
China	Rs/Sets	3145.40	2291.52	2071.14	2364.06
Thailand	Rs/Sets		2224.75	2009.45	2186.32
Subject Countries	Rs/Sets	3145.40	2289.98	2066.47	2354.36
Cost of Production	Indexed	100	99.53	105.27	112.26
Selling Price of Domestic industry	Indexed	100	101.19	104.80	111.56
Price Undercutting					
China	% range	40-50	50-60	60-70	60-70
Thailand	% range		50-60	60-70	60-70
Subject Countries	% range	40-50	50-60	60-70	60-70

46. It is noted that
- CIF export price from China showed declines over the base year i.e. 2001-02. However, there was an increase in price during the POI as compared to preceding years. Thailand has showed an increase in price but remained even below the prices offered by China.
  - Landed price of imports from China and Thailand have been significantly below the selling price of the domestic industry and non injurious price of domestic industry, resulting in significant price undercutting and price underselling.
  - Imports are suppressing the prices of the domestic industry in the market and are preventing the price increases that would have otherwise occurred in the absence of imports.

47. Considering the above, the Authority provisionally concludes that the effect of dumped imports on the domestic industry has been adverse in terms of volume and price.

Economic Parameters of the Domestic Industry

- 48 The dumping of subject product from subject countries became significant in the year 2003-04 and during the POI. Comparison of different parameters in the base year i.e. 2001-02 with the POI alone wouldn't reflect the actual impact of dumped imports on the domestic industry. Given significant surge in automobile production and consequent positive impact on the domestic industry, applicants claimed that certain parameters relating to the performance of the domestic industry would show improvements over this period, to reflect the market growth. It is pointed out by the applicants that increase in automobile production by one unit increases sales of the subject goods between 7 to 23 units. Therefore, it is considered appropriate to examine the performance of the domestic industry on year to year basis, having regard to the significant surge in demand of the product.
- 49 Evaluation of all relevant economic factors to assess the situation of the industry in terms of actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity, factors affecting domestic prices, the magnitude of the margin of dumping, actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments are discussed herein below.

Production, capacity and capacity utilization

- 50 Actual production, capacity and capacity utilization of the domestic industry over the years was as shown in the table below. The Authority notes that the capacity for production of the subject goods can be utilized to produce other types of tyres also. Therefore, it would not be appropriate to determine capacity and capacity utilization considering only the product under consideration. The Authority has determined capacity and capacity utilization considering different types of tyres produced and sold by the domestic industry for which the capacity has been interchangeably used, having regard to the provisions of Annexure-II to the Rules.

Trend	Unit	2001-02	2002-03	2003-04	POI Annualized
Plant Capacity	Nos	12554305	13133648	14078159	16802293
	Indexed	100	104.61	112.14	135.80
Production all types of tyres, including non subject goods	Nos	9239853	11871471	13431187	15005212
	Indexed	100	128.48	145.36	162.40
Plant Utilization	%	78.60	90.39	95.40	89.30
	Indexed	100.00	115.00	121.38	113.62
Production of subject goods of Domestic Industry	Nos	6242468	7218501	7987559	8171154
	Indexed	100	115.64	127.96	130.90
Sales of the Domestic Industry	Nos	5065878	5757989	6272224	6447173
	Indexed	100	113.66	123.81	127.27
Inventories	Nos	213309	203028	318699	343584
	Indexed	100	95.18	149.41	161.07

The Authority note that;

- a) Plant Capacity, production, sale and plant utilization showed a growth of 35.80%, 30.90%, 27.27% and 13.62% respectively over the period.
- b) Production and sale of domestic industry increased over the injury period. However, capacity utilization declined after increasing.
- c) Even though production and sales in POI shows increase as compared to preceding year, the same is less than market growth, resulting in increase in inventories and decline in capacity utilization. It is also noted that the domestic industry lost market share in the investigation period.
- d) Increase in production of other types of tyres is more than increase in production of the subject goods. This shows that the domestic industry utilized the capacities more for non subject goods.

Profits and return on investment

51. Profits and return on investment of the domestic industry over the years are given below.

	Unit	2001-02	2002-03	2003-04	POI Annualized
Selling Price	Indexed	100	101.19	104.80	111.56
Cost of Production	Indexed	100	99.53	105.27	112.26
Profit/loss per unit	Indexed	100	140.88	93.52	94.72
Return on capital employed	%	15.63	15.08	10.49	11.45
	Indexed	100	96	67	73.29

It is observed that:-

- a) Selling price and cost of production of the domestic industry increased by the POI. Whereas the domestic industry was able to in fact increase its prices more than the cost increases in 2002-03, the domestic industry was faced with a situation where the cost increases were more than the price increases thereafter.
- b) Whereas profitability of the domestic industry improved between 2001-02 and 2002-03, the same declined thereafter. Profitability per unit of the domestic industry in the investigation period were significantly below 2002-03 levels, inspite of significant increase in the sales volumes.
- c) Return on capital employed declined over the injury period. Thus, higher production and sales volumes resulted only in decline in returns to the domestic industry.

Changes in market share of Indian Industry

52. Market share of Indian industry in the replacement sale and that of imports is given in the table below;

Market Share in Replacement sales in India of subject goods					
	Unit	2001-02	2002-03	2003-04	POI Annualized
Domestic producers	%	99.94	99.53	98.74	97.26
Subject Countries	%	0.06	0.25	1.14	2.59

Other Countries	%	0.00	0.22	0.13	0.15
Total	%	100	100	100	100

It is observed from the above that;

- The share of domestic industry in the domestic replacement market sales declined.
- The market share of dumped imports which was negligible at 0.06% during the period 2001-02 reached to a significant level of 2.59% by the POI.
- There is a co-relation between increase in share of dumped imports and loss of market share by domestic industry.

### Employment

53. Employment situation of the domestic industry is given in the table given below:

	Unit	2001-02	2002-03	2003-04	POI Annualized
No. of employees	Nos	15521	17839	18232	18274
	Indexed	100	115	117	118
Number of persons per one lac nos. capacity	Nos.	123.63	135.83	129.51	108.76

It is observed that:

- The number of employees with the domestic industry showed increases over the injury period.
- The increase in number of employees is the result of increase in capacity and production.
- Number of persons employed by the industry per one lac nos. of tyre capacity declined over the injury period. Thus, the increase in employment is not in proportion to the increase in capacity.

### Wages

54. Wages and impact of the same on cost of production are given in the table below.

	Unit	2001-02	2002-03	2003-04	POI Annualized
Wages	Rs Lacs	9140	13189	14424	14743
	Indexed	100	144	157	161
Wages per unit of production	Rs/Set	200	230	231	229
	Indexed	100	115	115	114

- It is observed that wages increased over the injury period.
- Wage cost increases reflect normal wage increase and increases due to increase in employment level.

### Productivity

55. Productivity of the domestic industry over the periods is given in the below given table.

	Unit	2001-02	2002-03	2003-04	POI Annualized
Productivity	Nos	351	404	438	447
	Indexed	100	114.98	124.49	127.06
No. of employees	Indexed	100	114.93	117.47	118
Production	Indexed	100	115.64	127.96	130.90

56. The Authority notes that productivity of the domestic industry shows improvements. However, in spite of increase in productivity, the profits of the domestic industry have declined after showing improvements.

### Factors affecting domestic prices

57. The imports from subject countries are resulting in significant price undercutting and price underselling in the Indian market. The landed price of imports is significantly below the selling price and non injurious price of the domestic industry. The situation in this respect is given in the table below:

Source	Unit	2001-02	2002-03	2003-04	POI Annualized
Price Undercutting					
China	% range	40-50	50-60	60-70	60-70
Thailand	% range		50-60	60-70	60-70
Subject Countries	% range	40-50	50-60	60-70	60-70

58. The Authority determined the extent of price underselling by comparing the non injurious price with the landed price of imports. The comparison shows as follows:-

	Range during POI
China	60-70
Thailand	60-70
Subject Countries	60-70

It is noted that

- a) Landed price of imports from China and Thailand has been significantly below the selling price of the domestic industry, resulting in significant price undercutting.
- b) Landed price of imports from China and Thailand has been significantly below the non injurious price of the domestic industry, resulting in significant price underselling.
- d) Imports are suppressing the prices in the market, as the imports are preventing the price increases commensurate with cost increases.

### Inventories

59. Inventories of finished goods with the domestic industry have shown the following trend.

Trend	Unit	2001-02	2002-03	2003-04	POI Annualized
Inventories	Nos	213309	203028	318699	343584
	Indexed	100	95.18	149.41	161.07

60. It is noted that Inventories with the domestic industry increased over the period. This increase in inventories is in spite of decline in capacity utilization.

### Ability to raise investments

62. The domestic industry claimed that should the dumping continue persistently, they would have difficulty in raising capital, which is quite important particularly in a situation where the constituents of the domestic industry are planning significant investments.

### Cash flow

63. Cash flow and cash profit situation of the domestic industry showed the following trend:

	Unit	2001-02	2002-03	2003-04	POI
Cash profit per unit of sales	Trend	100.00	130.05	95.93	95.29

64. Cash profits per unit of sales increased upto 2002-03 and thereafter declined even below the levels achieved in 2001-02.

### Growth

65. Growth of domestic industry considering various parameters were analyzed and the trends were found as under:

Source	Unit	2002-03	2003-04	POI Annualized
Growth in sales volume	%	13.66	8.93	2.79
Growth in unit selling price	%	1.19	3.57	6.45
Growth in cost of production	%	-0.47	5.77	6.64
Growth in production	%	15.64	10.65	2.30
Growth in profit (PBT Per Unit)	%	40.88	-33.61	1.28

66. The domestic industry is facing negative growth in terms of price parameters. Even though volume parameters such as production & sales volumes show positive growth, it is found that the rate of growth is declining.

### Assessment on injury

67. After examination of various injury parameters, the Authority provisionally concludes that

- a) There has been increase in the volume of dumped imports from the subject countries in absolute terms as also in relation to total imports and replacement market demand of the subject goods in India. As a result, market share of the domestic industry has declined.
  - b) The imports are causing significant price undercutting resulting in price suppressing effect on the domestic industry.
  - c) Even though production and sales volumes of the domestic industry increased, the capacity utilization has shown a decline after improvement, whereas market share of the domestic industry has declined.
  - d) In spite of increase in production and sales, profits of the domestic industry per unit of sales declined after increasing in 2002-03. As a result of deterioration in profits, cash profits and return on capital employed declined.
  - e) Decline in the market share resulted in increase in inventories with the domestic industry in spite of lower capacity utilization.
68. The Authority provisionally concludes that the various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

**Arguments against injury to the domestic industry**

69. Following arguments have been advanced by the responding associations of users and importers stating that the domestic industry has not suffered injury:-
- a) It has been submitted that the domestic industry has not suffered any material injury. It has also been argued that the adequacy and accuracy of the various information provided by the applicant were not seen and the Authority violated Rule 5 while initiating the investigation. The domestic industry showed improvements in almost all the parameters. The imports from subject countries remained very insignificant over the years.
  - b) Applicant deliberately took 15 months POI in which two peak seasons are involved. It was submitted by the domestic industry itself that the period between February and June marks maximum consumption of the product. Situation during such season are factored in and then annualized to give totally incorrect projections.
  - c) Differentiation needs to be done for products for OEM segment and after market as the product for OEM segment is totally different from that to the after market. Such difference in product perhaps prevented the applicant from inclusion of JK Tyres data from the petition as the company is primarily selling in OEM segment.
  - d) Tyre imported from subject countries can not be compared to domestic products in terms of quality as the imported products are inferior in quality and they are in no way competing with the domestic product. Hence, there is no causal link between injury suffered by the industry, if any, and imports from subject countries.
  - e) There is cut throat competition between domestic producers.
  - f) Radicalization in other countries provided good export opportunities for the domestic producers of bias tyres. The growth in the output of the Tyre industry has not kept pace with the growth in the bus and truck segment. The growth rate of tyre export has been sustained in 2004-05 and is

increasing. Growth in exports is reducing the availability of tyres for domestic OEM and replacement markets.

- g) Tyre manufacturers have resorted to five price increases with Tata Motors in the last two years. Large portion of the increase can be attributed to opportunistic pricing. Further M/s TATA Motors faced erratic supplies by domestic industry.
- h) Truck tyre price has an impact on the movement of goods in the country. As truck transport is the major transport system it is important to keep it cheaper to keep the price of the goods affordable. After diesel, cost of tyres constitutes the major cost for transporters.
- i) The applicants claimed confidentiality to all the information without any reasoning. Applicant has not provided the indexed version of costing information. Certain critical questions like purchase policy, sales policy, store accountings, quality control and testing conveniently neglected by domestic industry in their application.
- j) No threat of material injury visible to the Indian producers.
- k) There is no discriminatory price for India as Foreign Producers are exporting at the same price to other third countries.
- l) Segment results of Apollo is in clear contradiction with the proforma IV-A. The Apollo annual report for 2004-05 mentioned declines in demand for the product whereas proforma showed increase in demand.
- m) There is no price suppression for Apollo. Cost increases are passed on to the customers by the domestic industry.
- n) Injury information of supporters must also be seen by the Authority.

#### Examination by the Authority

70. The Authority examined these submissions of the interested parties and holds that
- a) The petition was examined for accuracy and adequacy prior to initiation. The investigations were initiated only after such an examination which showed that the domestic industry has prima facie suffered injury.
  - b) The various injury parameters relating to injury to the domestic industry in the subject product clearly shows that the domestic industry has suffered injury as a result of dumping from subject countries.
  - c) It is true that the imports are primarily taking place in the after market segment. However, this has not distorted the injury analysis. On the contrary, should the volumes of the domestic industry be taken only for after market, it will be showing higher extent of injury suffered by domestic industry both in terms of volume and price.
  - d) It has not been established that the quality of imported product and that of the domestic product are so significantly different that the domestic products is not a like product to the imported product. Evidence shows that whereas sales of the domestic industry have declined, imports have increased.

- e) The POI considered is not inconsistent with the legal provisions. In any case, inclusion of two seasons at best has shown lower extent of injury to the domestic industry.
- f) There is no difference either in the product or in the factory cost of production for OEM segment and after market segment.
- g) Existence of competition amongst the Indian producers does not mean no injury from dumped imports. In spite of internal competition, the domestic industry was able to improve between 2001-02 and 2002-03. Situation started deteriorating from 2003-04, when imports started hitting the market. Profitability deteriorated further in the POI when dumped imports increased.
- h) It is found that export volumes of the domestic industry have shown an increase. However, given that the capacity utilization of the domestic industry declined, in the absence of any evidence, it could not be established that domestic industry was not able to increase its production in spite of increase in demand (in fact, it is found that the imports are primarily in after market and entire OEM demand was met by the Indian Producers) or availability of the product in the market got reduced (inventories with the domestic industry have in fact increased).
- i) It is found that the domestic industry has increased its prices. However, it is found that the profits of the domestic industry have declined in spite of increase in selling prices, which clearly establishes that the cost increases were more than the price increase.
- j) The argument of erratic supplies has not been established with evidence .
- k) The imports of the product were negligible earlier. Further, the Authority is recommending benchmark form of anti dumping duties, which would ensure that the prices of the product would not be unreasonable.
- l) The applicant have given justification for claiming confidentiality, which was examined by the Authority and it was found that the applicant has claimed confidentiality in accordance with the Rules.
- m) Even if the tyre companies have purchased the goods from the market. However, it is not established that these purchases were of the imported goods.
- n) Injury to the domestic industry is required to be seen "for domestic industry as a whole" and not for individual companies. Analysis of data of domestic industry as a whole shows that the domestic industry has suffered injury from dumped imports.

#### **H. CAUSAL LINK AND ANALYSIS OF OTHER FACTORS**

- 71. Authority examined whether other parameters could have contributed to injury to the domestic industry. Following parameters were analyzed.
  - a) Imports from Third Countries- Imports of subject product from other countries are either negligible (de minimis) or the export price is significantly high. Imports from other countries do not appear to have caused injury to the domestic industry.
  - b) Contraction in Demand- Demand for the subject goods have increased. Possible contraction in demand does not appear to have caused injury to the domestic industry.
  - c) Pattern of consumption: - No significant change in the pattern of consumption has been noticed. The product supplied by the domestic industry is directly competing with that of

imported material from subject countries. Demand for the product under consideration has shown an increase and it does not appear that the pattern of consumption has caused injury to the domestic industry.

- d) Conditions of competition: - No evidence of conditions of competition or trade restrictive practices having caused injury to the domestic industry has been brought to the knowledge of the Authority.
- e) Developments in technology:- There appears no significant change in technology over the injury period which could have caused injury to the domestic industry, nor any evidence of developments in technology having caused injury to the domestic industry have been brought to the notice of the Authority.
- e) Export performance of the domestic industry:- Export performance of the applicant has not deteriorated. In fact, export volumes of the domestic industry shows an increase. With regards to profits, export performance of the domestic industry has been segregated and only domestic performance considered while assessing injury for product concerned in the domestic market.
- f) Productivity: - Productivity of the domestic industry has increased as a result of increase in production. Possible deterioration in productivity is therefore not a possible reason for injury to the domestic industry.

#### Factors establishing causal link

72. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has deteriorated due to dumped imports from subject countries. This is established by the following:-
- a) Landed price of imports from the subject countries were significantly below the selling price and cost of production of domestic industry causing significant price undercutting. As a direct consequence, the domestic industry was unable to achieve sales realization to the extent of cost increases. Resultantly, the domestic industry suffered price suppression.
  - b) Positive price undercutting and consequent price suppression faced by the domestic industry resulted in deterioration in profits, cash flow and return on investments.
  - c) Significant positive price undercutting resulted in increase in market share of imports from the subject countries. As a direct consequence, while the market share of dumped imports in demand in India increased, that of domestic industry declined.
  - d) Existence of significant price undercutting and consequent decline in market share of the domestic industry resulted in a situation where the domestic industry was unable to increase its sales and production volumes in spite of higher market demand. Consequently, capacity utilization also suffered.
73. The Authority thus provisionally holds that dumped imports from subject countries have caused deterioration in performance of domestic industry.

#### **I. Indian industry's interest & other issues**

74. It was argued by users that the truck transport acts as a lifeline of the commerce of the country and logistics and movement goods. Tyre price has an impact on the movement of goods in the country and the price of the goods. Hence, it is important to keep the mode of transportation cheaper to keep the price of goods at affordable limits. For a truck operator tyre prices stands next to diesel in terms of expenditure.
75. The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and, therefore, would not affect the availability of the products to the consumers.

## **J. Conclusions**

76. The Authority has, after considering the foregoing, come to the conclusion that:
- a) The subject goods have been exported to India from the subject countries below its normal value;
  - b) The domestic industry has suffered material injury;
  - c) The injury has been caused by the dumped imports from subject countries.

## **K. Recommendations**

77. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal links. Having initiated and conducted a preliminary investigation into dumping, injury and causal links between dumping and injury to the domestic industry in terms of the Rules laid down and having provisionally established positive dumping margin against the subject countries, as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and consequent injury pending completion of the investigations.
78. Therefore, Authority considers it necessary and recommends provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.
79. Having regard to the lesser duty rule, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty equal to the difference between the amount mentioned in Col. 9 of the table below and landed value of imports be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject countries.
80. For imports made in a combination of tyres, tubes and flaps, the reference price shall be the sum of the reference price of the parts of the combination. For example, reference price in case of imports of a set of tyre, tube & flap (TTF) from China, the reference price shall be the sum of the reference prices of tyre, tube & flap, i.e., sum of 88.82, 6.98 and 3.50, i.e., 99.30 US \$

## **L. Further Procedures**

81. The following procedure would be followed subsequent to notifying the preliminary findings:-

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;
- (b) Exporters, importers, applicants and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would conduct further verification to the extent deemed necessary;
- (d) The Authority would disclose essential facts before announcing final findings.

Christy L. Fernandez  
Designated Authority

Duty Table

Sl. No	Sub-Heading Or Tariff Item	Description Of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Reference price	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	40131020	Inner tubes of rubber for buses and lorries	Any	China PR	Any	Any	Any	6.98	Per piece	US \$
2.	40129049	Tyre flaps of rubber for buses and lorries	Any	China PR	Any	Any	Any	3.50	Per piece	US \$
3.	40112090	New/unused pneumatic non radial bias tyres of rubber, having nominal rim dia code above 16"	Any	China PR	Any	Any	Any	88.82	Per piece	US \$
4.	40131020	Inner tubes of rubber for buses and lorries	Any	Any	China PR	Any	Any	6.98	Per piece	US \$
5.	40129049	Tyre flaps of rubber for buses and lorries	Any	Any	China PR	Any	Any	3.50	Per piece	US \$
6.	40112090	new/unused pneumatic non radial bias tyres of rubber, having nominal rim dia code above 16"	Any	Any	China PR	Any	Any	88.82	Per piece	US \$
7.	40131020	Inner tubes of rubber for buses and lorries	Any	Thailand	Any	Any	Any	8.50	Per piece	US \$
8.	40129049	Tyre flaps of rubber for buses and lorries	Any	Thailand	Any	Any	Any	4.26	Per piece	US \$
9.	40112090	new/unused pneumatic non radial bias tyres of rubber, having nominal rim dia code above 16"	Any	Thailand	Any	Any	Any	108.27	Per piece	US \$
10.	40131020	Inner tubes of rubber for buses and lorries	Any	Any	Thailand	Any	Any	8.50	Per piece	US \$
11.	40129049	Tyre flaps of rubber for buses and lorries	Any	Any	Thailand	Any	Any	4.26	Per piece	US \$
12.	40112090	new/unused pneumatic non radial bias tyres of rubber, having nominal rim dia code above 16"	Any	Any	Thailand	Any	Any	108.27	Per piece	US \$