

No.14/17/2008-DGAD
GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES
UDYOG BHAVAN

NOTIFICATION

New Delhi- 1st January 2010

Final Findings

Subject: Antidumping investigation involving import of Bus and Truck Radial Tyres, originating in or exported from China PR and Thailand.

No. 14/17/2008-DGAD:- Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti- Dumping Duty on Dumped Articles and for Determination of Injury) Rules, (hereinafter referred as Rules) 1995 thereof;

Procedure

2. 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 Radial Tyres for buses and lorries / trucks (hereinafter referred to as subject goods or Radial 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. 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 21st October, 2008 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. Thereafter following action was taken:

- a. The Authority notified the Embassy of subject country in India about the receipt of anti-dumping application made by the Applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

- b. The Designated Authority sent copies of initiation notification dated 21st October, 2008 to the Embassy of the subject countries in India, known exporters from the subject countries, known 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.
- c. 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.
- d. 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.
- e. 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 cost of production in India duly adjusted for selling and general administration and profit. 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.
- f. The Authority sent questionnaire, to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4);

China PR

Qingdao Zhongce Rubber Co. No-1, Cangan Road, Qingdao, Shandong, China PR	Shanghai Tyre & Rubber Co. 63-Sichuan Central Road Shanghai, China PR
Aeolus Tyre Co. Ltd. No-48, Dognan Road Jiaozuo, Henan, China PR	Qingdao Monolith OTR Tire Co. Ltd. Mingcun Industry Park, Qingdao, China PR

Thailand

Yokohama Tire Manufacturing (Thailand) Company, Limited 7/216 Moo.6, Amata City Industrial Estate, Tambol Mapyangporn, Jmphur Pluakdang, Rayong Province 21140, Thailand	Thai Bridgestone Co. Ltd., 14/3 Phaholyothin Rd., T. klongnueng, A. Klong Luang, Pathumthani, Thailand 12120
Otani Tire Co. Ltd., 55 Mu 7, Petchkasem KM. 37 Rd., T. Klongmai, A. Sampran, Nakornpathom, Thailand	Michelin Siam Co, Ltd. Laem Chabang Industrial Estate 87/11 Moo 2 Tungsukla Sri Racha, Chonburi, 20230 Thailand

- g. In response to the above notification the following exporters responded to the questionnaire within the prescribed time limits.

China PR

M/s Quingdao Double Star Tire Industrial Co. Ltd.	M/s. Hangzhou Zhongce Rubber Co. Ltd. & M/s. Hangzhou Sunrise Rubber Co. Ltd
M/s. Shandong Wanda Boto Tyre Co. Ltd.	M/s. Zhaoyuan Leo Rubber Co. Ltd.
M/s. Aeolus Tyre Co. Ltd.	M/s. Tringle Tyre Co. Ltd.
M/s. Shandong Yinbao Tyre Group Co. Ltd	M/s. Shangdong Jinyu Tyre Co. Ltd.
M/s. Shangdong Hengfeng Rubber & Plastic Co. Ltd.	M/s. Double Coin Holding Ltd.
M/s. Copper Chengshan (Shandong) Tire Co. Ltd.	M/s. Xingyuan Tire Group Co. Ltd.
M/S Michelin Shenyang Tire Co. Ltd	

Thailand

M/s. Michelin Siam Co. Ltd.	M/s. Bridgestone Tire Manufacturing (Thailand) Co. Ltd.
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- h. Questionnaires were sent to following known importers or users of subject goods in India calling for necessary information in accordance with Rule 6(4)

Importers

M/s Radials International	M/s Kartar Tyre House
M/s Kaks & Bills Pvt. Ltd	M/s Rana Tyres
M/s Sunny International	M/s Aman International
M/s Vikas Road Carriers Ltd	M/s AAA Impex,

- i. The response was received from the following associations / importers / users :

All India Tyre Importers and Traders Association	All India Tyre Dealers Federation
Tata Motors Limited, Mumbai	Bridgestone India Pvt. Ltd.

- j. 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;
- k. 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;
- l. 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.

- m. *** in this Notification represents information furnished by the applicant on confidential basis and so considered by Authority under the Rules;
- n. Investigation was carried out for the period starting from 1st April 2007 to 31st March, 2008 (POI). The examination of trends in the context of injury analysis covered the period from October-2004 to September-2005, October-2005 to September-2006, October-2006 to September-2007 and the POI.
- o. 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.
- p. The Authority satisfied itself with regard to accuracy of the information provided by the interested parties to the extent considered necessary at this stage.

Product Under Consideration and Like Article

4. The product under consideration in the present investigations is new / unused pneumatic radial tyres, with or without tubes and flaps of rubber used in buses and lorries / trucks, originating in or exported from China PR and Thailand. In tube type product, tyre is used along with one tube and one flap in a vehicle. One tyre, one tube and one flap are 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. Radial 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. Tubeless radial tyres, where tube and flap are not required, are also within the scope of this investigation.

5. The scope of the product includes only Radial tyres used in buses and Lorries / trucks. Tyres are produced for use in vehicles like trucks, buses, Lorries, light commercial vehicles, passenger car, jeep, tractor, twowheeler, threewheeler, animal pulled vehicles, earthmover, industrial tyres, aircrafts 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.

6. 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. 40112010 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

7. All India Confederation of Goods Vehicle Owners Association has submitted that ATMA has filed the petition in order to perpetrate denial of modern tyre technology to the domestic users. It has been alleged that domestic tyre manufacturers were never enthusiastic to manufacture radial bus and truck tyres even though they concede that these are road friendly, fuel savers and give higher mileage. And it is a misfortune for the Indian consumers that these radial tyres are not being produced by domestic tyre makers in noteworthy quantity. They have concluded by stating that the request of the domestic industry be rejected.

8. All India Tyre Importers and Traders Association has submitted that there is no injury to the domestic industry and the domestic industry fails to cater to the demand of the country. It has been alleged that all 3 manufacturers are either producing very small volumes or their expansion of the plant capacity is under stabilization. Under the circumstances, the cost affiliated to the subject material is bound to be high and by seeking remedy for the inefficiency the hardship is passed on the users and small operators of buses and trucks. They have further submitted that although ATMA has eight members only three have participated as domestic industry which implies that majority of the members of ATMA are not manufacturing the PUC and therefore, cannot be an interest party and no jurisdiction to file the petition. It has further been alleged that the scope of PUC could be read as including LCV tyres.

9. All India Tyres Dealers Federation claiming to represent the interest of tyre dealers in the country have submitted that J.K. Tyre has been dependent on trial error method at the cost of ultimate consumer. It has been stated that domestic truck / bus radials have been a technological disaster and have been receiving an overwhelming rejection from truck/bus operators of the country. They have alleged indiscriminate hike in last 3 to 4 years even though the raw material prices have been dropping. They have alleged that comparison between the imported radials and the domestic radials is that of apples and oranges in terms of technology, economies of sales in production, performance results and independent testing. It has further been alleged that Indian radials do not carry any mandatory product quality and safety marking while imported radials from China, Thailand in other countries come with safety and performance standard marking.

10. Some of the interested parties have claimed that quality supplied to OEM's and Replacement market is different and hence not comparable.

Views of domestic industry

11. The domestic industry has pleaded that 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 along with other parameters in order to ensure that unintended product does not get covered within the scope of the duties.

12. Applicant 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 for supply 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.

13. 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 Radial 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 cannot be used in HCVs and similarly nominal rim dia code of 20" tyre cannot be used in LCV.

14. Having regard to the arguments by the interested parties, the Authority considers it appropriate to include size of the tyres also within the description of the product under consideration. Accordingly, the product under consideration is defined as *"New/Unused pneumatic Radial tyres with or without tubes and/or flap of rubber, having nominal rim dia. code above 16" used in buses and lorries/trucks"*.

15. 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 aftermarket 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. On the contrary, verification of records of responding exporters from subject countries also revealed that product meant for OEM and aftermarket is the same.

16. 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.”

17. 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 has claimed that goods imported are of inferior quality whereas some others have claimed these imported radial tyres from subject countries to be of superior 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. Therefore, the Authority holds that mere possible difference in quality cannot render 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.

18. After examining the above claims, Authority holds 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 cannot render the imported and domestic product different product within the meaning of the Rule 2(d). On the issue of quality, the Authority notes that a mere statement on this score without substantiating the same cannot be taken on its face value. Further, during the course of investigation, none of the responding exporters or any other interested party has been able to establish the difference in quality.

Domestic Industry

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

“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:

20. The application was filed by Automotive Tyre Manufacturers Association (ATMA) on behalf of the domestic industry using the information provided by M/s JK Tyre & Industries Ltd., M/S.Apollo Tyres Ltd and M/s MRF Ltd.

21. The associations who responded to the Authority have disputed that since ATMA has eight members whereas only three from amongst these eight have filed a petition as domestic industry. However they 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. In fact, the domestic industry before the Authority represents the domestic producers as a whole engaged in the manufacture of “Like Article”.

22. After detailed investigations, the Authority notes that

- (a) production of the three manufacturers i.e. JK Tyre & Industries Ltd., Apollo Tyres Ltd. and MRF Ltd. constitute a major proportion in Indian production and,
- (b) Imports made by JK Tyre Industries Ltd. during POI constitute 0.48% of its total production and just 0.36% production of the Domestic Industry as a whole, which is just nominal.
- (c) The application was made by or on behalf of the domestic industry.

23. The Authority after careful examination holds that JK Tyre & Industries Ltd., Apollo Tyres Ltd. and MRF Ltd. constitute domestic industry within the meaning of the rule 2(b) read with 2(d) for the purpose of the present investigation.

Submissions made by Interested parties post-public hearing
Michelin SIAM Co. Ltd. Thailand

24. Submissions made by Michelin Siam Co Ltd Thailand are summed up as follows

- i. Imports are the only solution to bridge the huge gap between Indian demand and domestic industry's poor capacity.
- ii. Michelin's latest technology investment plans have approved by FIPB.
- iii. Michelin follows OECD guidelines for determining arm's length price for sale transaction to related entities worldwide.
- iv. Customs Authority has approved Michelin India's Imports.
- v. Michelin tyres are world class & superior products and therefore their prices are higher than domestic industry's prices.
- vi. Domestic industry has *mala-fide* intentions of eliminating competition from the market. Anti-competitive proceedings already going on against South Africa & Australian DIs for such moving such measures.
- vii. Michelin operates at high end of the Market, which can never cause threat to domestic industry.

All India Motor Transport Congress

25. All India Motor Transport Congress has stated as under

- i. Despite of Increasing Demand domestic industry achieved merely 70% Capacity Utilization, in order to create scarcity situation to earn extra premiums.

- ii. Domestic industry also imports TBR from china and sell it under their brands.
- iii. Domestic industry should be penalized for under utilizing the capacity. More the capacity utilization, lesser should be the excise duty.
- iv. The benefit of fall in excise duty has not been passed on to the consumers.
- v. The imports are inevitable as the domestic production is much below the demand.
- vi. China & Thailand also buy natural rubber from International Market.
- vii. Imports facilitate better quality at cheaper prices.
- viii. Instead of demanding ADD, domestic industry should work on cost reduction.

Cooper Chengshan China PR

26. Their submissions are summed up as under.

- i. The landed value as well as export prices has been computed as a hypothetical average price of 66kg per tyre.
- ii. The losses suffered by domestic industry on account of poor export sales, have been made good by the increasing domestic sales.
- iii. Apollo had a JV with Michelin, for making exports to other countries. This means
 - a. Either, Apollo was also engaged in dumping earlier,
 - b. Or, it was not competitive to export its products in International market.
- iv. Domestic industry's production capacity increased but the capacity utilization remain at almost same.
- v. Proportionate increase in selling price has been higher than the proportionate increase in Cost of Sales.
- vi. The fact that there was a lock-out at MRF's Pondicherry plant at the start of POI, has not been disclosed in petition.
- vii. Cooper Chengshan is owned and managed by the Cooper Tyres Group and thus merits Met as per established precedents. (Webpage annexed for showing that it is a part of cooper group.)
- viii. Related-party transactions have not been disputed.
- ix. The Chinese producers also import natural rubber, which is the major raw material, at world market prices are. Thus, the cost of major raw material reflects market values.
- x. South Africa's tyre industry is under an anti-monopoly investigation by the Competition Commission of South Africa since 2007, since there are only four tyre producers which reflect monopolistic practices.
- xi. South Africa's prices are four times the Chinese tyre prices.
- xii. South Africa's tyre not only have advanced technologies, and high costs (labour, management etc), but also have high-end products. The Chinese costs and products are low vis-à-vis that of South Africa.
- xiii. South Africa is distant from the Natural Rubber producing countries(Thailand, Indonesia & Malaysia). This makes NR expensive in South Africa as compared to NR for China.

Michelin Shenyang Tyre Co. Ltd. China

27. In their submissions, Michelin Shenyang Tyre Co. Ltd. China has stated as under
- i. There is a huge demand and supply gap in the Indian market and Michelin Group has made huge investments into India to provide a solution to this gap.
 - ii. The pricing policy adopted by the Michelin India is competitive at an arm's length price by following the methods prescribed in the OECD guidelines.
 - iii. Michelin China sells its tyres in India at higher prices than the petitioners.
 - iv. The proceedings in terms of Section 9A of the Customs Tariff's Act should be based on value of the subject goods and not on the country of origin.
 - v. Apparent injury does not appear from the financial data available on the websites of the key complainants.

Shandong Yinbao Tyre Group Company and Double Coin Holdings,

28. They have made following comments
- i. The allegation of dumping is notional and not supported by facts.
 - ii. Data of injury provided in the petition does not show any material injury.
 - iii. There are anomalies in the data provided in the petition.
 - iv. Domestic Industry has itself imported goods.
 - v. Domestic industry has not suffered any injury in terms of volume as sales have increased threefold.
 - vi. Domestic industry increased its capacity and capacity utilization remained the same, which resulted the current injury.
 - vii. Net sales realization has increased at a higher pace than the non-injurious price.
 - viii. Injury is due to the changing pattern of the demand, slow pace of radialization, inability to meet the domestic demand, MRF plant lock out at Pondichery, declining export performance and economic slowdown & price volatility.
 - ix. Double coin should be given MET.
 - x. China imports rubber at world prices. No surrogate rubber price is required to be considered.
 - xi. The ply ratings not sold in Indian market should be kept outside the scope of PUC and Dumping margin should be calculated separately for each ply/rating and then averaged for all PUC.

Shandong Jinyu Tyre Co. Ltd. and Xingyuan Tyre Co. Ltd.

29. In their submissions, Shandong Jinyu Tyre Co. Ltd. and Xingyuan Tyre Co. Ltd. have stated as under
- i. The domestic industry has provided misleading and incomplete information.
 - ii. Input price of raw material ie., rubber reflects the world prices.
 - iii. When the product is in restricted list now there is no justification of present investigation.

- iv. Imposition of duty will force the buyers to switch over to Bias tyres that will create inefficiency.
- v. ATMA, which has in total 8 members, has brought the petition wherein the subject goods are prepared by only three members and the petition is not backed by all its members.
- vi. Thailand and South Africa cannot be termed as surrogate country.
- vii. Consideration of 22% of return on capital is inappropriate and contrary to the proposal made by the government of India before WTO.
- viii. Injury parameters show a positive growth leading to no injury.

Hangzhou Zhongce Rubber Co Ltd

30. Lakshmi Kumaran and Sridharan making submissions on behalf of Hangzhou Zhongce Rubber Co Ltd and Tata Motors Ltd have stated as under

- i. MET claim: receives no subsidy from Government, despite some of the shares under govt control, no significant govt interference.
- ii. domestic industry had sought for 18 months POI whereas DA has considered only 12 months as POI.
- iii. Imported goods fall under the category of restricted goods.
- iv. Domestic capacity is less than its demand, thus essentializing the imports.
- v. Even when there was no dumping in the period of 2004-2007, fall in capacity utilization was a regular phenomenon.
- vi. Sales volume & price has increased.
- vii. Export sales volume has been constantly falling and fell by 16% during POI.
- viii. Imports did not cause adverse price effect on domestic industry. Hence, no price undercutting or price suppression can be attributed to imports.
- ix. Even if the duties are imposed, then radial tyres imported by OEM's for fitment in new commercial vehicles should be exempted. Reference to selective imposition of duty in metallurgical coke case.

Aeolus Tyre Co Ltd

31. Aeolus Tyre Co Ltd has submitted as under

- i. There is more demand of Chinese tyres in the Indian market, then the Indian tyres, because of superior technology and quality of tyres made in China.
- ii. There is an increase in sales and thus the profits, Profit/Loss indexed value. Thus no causal link between imports from China and the injury.
- iii. Decline in exports is the key reason for injury.
- iv. Despite of decrease in raw material prices , prices continued to be high for domestic tyres.
- v. Domestic industry has submitted mixed facts relating to radial tyre and other kind of tyres thus submitting misleading statistics.
- vi. Pricing of OEM and spare parts can't be clubbed together.

- vii. References as to investigations pending or concluded against China are irrelevant as they are in connection with other kinds of tyres.
- viii. It causes no difference that Aeolus has no land of its own but on lease, as land in China is state property.
- ix. Asks for due opportunity of hearing and submit supporting documents in the subsequent stages of the present investigation.
- x. If the DA is of the opinion that MET should not be granted, it is submitted that South Africa may not be the right surrogate market economy.

Examination By The Authority

Product under consideration

32. Authority notes that depending upon end application, different sizes and types of tyres are produced by different producers. While they may vary significantly in terms of associated price per tyre, all follow the basic production process, raw materials and functions & uses. Further, even when the price of the tyres may vary significantly for a variety of reasons, the cost of production generally tends to move in tandem with weight. Further, it is found that weight of tyre is one of the critical factors both in cost and pricing.

Quality

33. Some of the interested parties have raised arguments on quality. Domestic industry refuted such comments. Further, domestic industry provided a detailed report showing that reasons for adverse performance of the Indian tyres could be traced to tyre maintenance. Domestic industry also referred to binding decision of the CESTAT that quality was not a relevant consideration to like product determination, particularly when the claim of poor quality was not quantified. The Authority notes that even when the interested parties have disputed the quality of Indian tyres, the very same parties have repeatedly purchased tyres from domestic industry. It is also noted that the domestic industry was exporting the product to various countries globally and provided evidence to show acceptability of its tyres even in developed economies.

Demand-supply gap or inability to supply goods

34. It has been argued by a large number of interested parties that anti dumping duty should not be recommended since the Indian industry cannot meet the demand. The domestic industry argued that its capacities initially set up remained grossly under-utilized and even now the plant utilizations are sub-optimal and therefore, the Indian Producers have been planning and then withholding expansion plans. Petitioner further submitted that at present the Indian Producers have plans for further expansion of capacities, viability of which depends on fair market conditions. The Authority notes that the purpose of imposition of anti dumping duties is not to restrict imports. The purpose is only to remove the unfair practice of dumping and provide fair market conditions to all parties. Imposition of anti dumping duty shall not lead to any restrictions – either from subject countries or third countries. Further, Indian Producers would continue to face import conditions from the subject countries as also other countries. It is an established position that inability of the Indian Producers to meet the demand for the product in

the Country cannot be held against them and the domestic industry cannot be denied anti dumping duties on the grounds of its inability to meet the demand.

35. Tata Motors has strongly argued and provided documents to support their claim that the domestic industry has not been able to supply the goods in a timely manner. Domestic industry rebutted by arguing that Tata Motors procurement system should be blamed for any alleged delays in supplies. The Authority notes that the issue is not relevant to the present proceedings. The Authority is not required to examine or determine reasons for dumping. The Authority is required to determine only the fact of dumping. The issues and counter issues raised in this regard concerns procurement or supply-chain management issues, which is best decided/addressed by the parties concerned. However, it is noted that the issue raised by Tata Motors might be relevant for causal link analysis. In this context, it is noted that Tata Motors is not a majority importer of the product under consideration. Even if imports made by Tata Motors are excluded from injury analysis (considering that these were necessitated due to inability of the domestic industry to timely supply the product), it is still found that there was substantial increase in the import volumes. Further, the domestic industry in fact alleged that majority of the imports were in the aftermarket. Given that after market imports compete with the domestic industry product in the market place, supply-chain management issues cannot be relevant in that segment. Both products compete on the basis of ready stock in that segment.

Treatment as Market economy

36. Issues raised on this score by individual responding companies have been addressed based upon the spot verification and necessary verification reports were issued to all concerned. The details were also brought out in the disclosure statement in the appropriate section individually apart from a separate communication to this effect at verification stage by way of an issue of verification report to each exporter whose records were verified.

Misc Issues

37. Some other issues raised by interested parties have been examined and the details are as under.

- a. As regards Michelin's investment plans in India, the Authority notes that the same in any case is not relevant to the present case.
- b. The fact that follows OECD guidelines for determining arm's length price or that their price has been accepted by Indian customs at best establishes that its export price should be accepted on the basis of price charged by the exporter to the importer. The Authority has accepted the price, as claimed.
- c. With regard to allegations that the domestic industry intends to eliminate competition, it is noted that imposition of anti dumping duty removes unfair competition and restores fair competition. It does not eliminate fair competition.
- d. Michelin argument on high end market segment is wholly unsubstantiated. The verified information on record does not show that there is different price or quality segments in the product.
- e. Since the product has been temporarily transferred to "restricted list" under Exim Policy, some interested parties argued that the same has addressed injury to the

domestic industry. The Authority observes that transfer of a product to restricted list subsequent to initiation is not relevant to the present proceedings. The relevant fact for the present investigation is whether the goods were exported above normal value and whether such dumping caused injury to the domestic industry.

- f. Some interested parties have disputed consideration of investigation period different from the period considered in the petition. The Authority holds that there is no prescription under the Rules that the period considered by the Authority for detailed investigations under rule 6 should be the same as the period considered in the petition to establish a case in terms of requirements laid down under rule 5.

Standing

38. There is no evidence justifying that the petitioner companies have imported the product under consideration, that too in so significant volumes that the same disentitles them to bring the present petition. In any case, the Designated Authority has discretion to consider a company eligible company in a situation where a company has imported the product under consideration in small/ insignificant volumes and the thrust of the company is on imports.

39. Since some of ATMA members do not produce the product under consideration and have not participated in the present proceedings, it has been alleged that petition lacks standing. The Authority notes that the present petition is supported by all producers of the product under consideration. In case a company is not producing the product under consideration, its support or opposition is not relevant. Further, in case the members of the association are engaged in production of other products, the same does not debar the association from filing the petition for the product under consideration.

Dumping

40. The issues raised in respect of Dumping have been examined as under:

- a. As regards weight of tyre considered in the petition for assessment of volume, value and price of imports for the purpose of determination of dumping margin and injury, the Authority notes that whereas the petitioner adopted weighted average weight of tyres produced by them as the benchmark for assessment of weight of imports (the imports are generally reported in numbers), the Authority has for the purpose of the proposed determination adopted actual weight as given in the B/L of the responding exporters as per verified records.
- b. A number of interested parties have disputed the claim of the domestic industry to consider South Africa as an appropriate surrogate country. Some interested parties disputed consideration of Thailand also as an appropriate market economy country. Even though the domestic industry rebutted the claims of other interested parties on these account, it has been considered appropriate to determine normal value on the basis of facts available, having regard to information provided by various interested parties and information on record.

Injury

41. On injury, the issues raised have been examined as under:

- a. The argument that Michelin prices are higher than domestic industry prices is found factually incorrect. Landed price of Michelin imports is lower than the domestic industry prices.
- b. The allegations of All India Motor Transport Congress are unsubstantiated, and appear to be more in the nature of personal opinion. The Authority notes that only information supported by positive evidence can be considered for the present purpose. The investigation has not shown that the domestic industry has deliberately withheld production.
- c. As regards reduction in excise duty and its impact on the industry, the Authority has considered actual profitability of the domestic industry.
- d. It has been argued that China and Thailand are also buying natural rubber from global markets. It is noted in this regard that China is a net importer of natural rubber. The import price of rubber in China compares well with the price of natural rubber and this aspect has been considered.
- e. All India Motor Transport Congress argued that imports are of better quality and low prices. The Authority however observes that a better quality product would have been at best at higher prices. Complaint of the domestic industry is however that the imports are priced much lower than the selling price of the domestic industry and reasonable cost of production.
- f. Some interested parties have claimed that the losses to the domestic industry are on account of exports. The Authority observes that domestic industry claimed that the exports were made in view of its inability to sell the product in the domestic market. Further, the Authority has considered profit/loss only in domestic operations.
- g. As regards the argument concerning Apollo JV with Michelin, the Authority observes that the same is not relevant for the present purpose.
- h. Some interested parties have disputed the claim of the domestic industry with regard to adverse price effect. The Authority notes that the domestic industry has suffered injury throughout the injury period, of course for different reasons. While the injury in earlier years was primarily due to lack of demand for the product in the Country, the injury in the most recent period considered was primarily due to presence of dumped imports.
- i. With regard to the argument that the net selling price increased more than the non injurious price, the Authority notes that the same only implies some reduction in price underselling and does not establish no injury.
- j. A number of interested parties have disputed claim of the domestic industry with regard to existence of injury to the domestic industry. Reference has been made to improvements in some of the parameters relating to the domestic industry. The Authority notes a number of parameters have been listed under the Rules and that the Rules do not provide that the performance of the domestic industry should have deteriorated in respect of all the listed injury parameters. The Authority is required to evaluate all listed injury parameters and any other such parameter as brought before the Authority and thereafter assess whether the performance of the domestic industry has deteriorated.

Other factors of injury

42. Interested parties have identified some other factors, which according to them have caused injury to the domestic industry. The Authority has examined the claims of the interested parties in this regard as follows:

- a. It is noted that the mere fact that some other factor has also caused injury to the domestic industry does not imply that the domestic industry has not suffered injury due to dumped imports. The Rules provide that so long as dumping is one of the predominant causes of injury, a positive conclusion with regard to dumping causing injury must be reached. It is further noted that in a situation where an interested party identifies some other factor as a cause of injury, the interested party must also quantify the impact of the same. While the interested parties have identified other factors of injury, none of these interested parties have attempted to quantify the impact of the same. At the same time, the domestic industry has strongly objected to the claim that other factors are the principal cause of injury.
- b. Consumption pattern – It has been argued by some interested parties that the consumption pattern has undergone change. It is however noted that the consumption pattern has undergone change more in favour of the product under consideration. Changes in the consumption pattern could not have caused injury to the domestic industry in a situation where the demand for the product under consideration has substantially increased.
- c. Slow pace of Radialisation – The Authority notes that the impact of radialisation is onto demand. As the investigation has shown, demand for the product under consideration has shown an increase. Further, the capacity utilisation of the domestic industry is sub-optimal. Thus, slow pace of radialisation could not have been a cause of injury to the domestic industry.
- d. Inability to meet the domestic demand – the Authority observes that inability of the domestic industry to meet the demand cannot lead to sub-optimal capacity utilization and financial losses. On the contrary, this factor would have led to higher utilization of capacities and profitable position of the domestic industry.
- e. Export performance – While it is established based upon records available with the Authority that the export volumes of the domestic industry have declined, the investigation has shown that the domestic industry was suffering financial losses in exports as well. Further, the domestic industry claimed that the exports were being made in higher volumes earlier due to lack of demand in the Country. They have further claimed that as the product saw demand in the Country, the domestic industry has reduced exports. It is also noted that the Authority has not considered domestic and export combined performance with regard to parameters such as sales, profits, return on investment, etc.
- f. Economic slowdown – The Authority observes that the impact of economic slowdown will be in terms of decline in demand. However, in the instant case, the demand for the product has shown significant increase. The injury to the domestic industry therefore does not appear to be because of economic slowdown.

Non injurious price

43. Some interested parties submitted that considering 22% return on capital employed was incorrect, particularly given the proposal made by the Govt. of India before the WTO as part of the ongoing negotiation by WTO members. The Authority holds that it is not inappropriate to consider 22% return on capital employ

Normal Value, Export Price and Dumping Margin

Normal Value

Claims made by the Domestic Industry

44. 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 31st May, 2002. Even after the amendment dated 4th Jan., 2003, the Designated Authority has treated China as a non-market economy.

45. 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. Embassy of India from Bangkok had provided some information regarding the prevailing market price of tyres in Thailand which has been used by the applicant for calculating normal value.

46. Responding Exporters/ associations have advanced arguments disputing treatment of South Africa 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 that South Africa cannot be treated as appropriate surrogate country for the reasons that there is absence of enough competition in South Africa market and South Africa producer is related to one of the Indian producers.

Examination by the Authority

China PR

Examination of Market economy claims

47. The Authority notes that in the past three years, China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of para 8 (2) of the annexure 1 of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.

48. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) from China provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and prove to the contrary. The cooperating 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 Designated Authority to consider the following criteria as to whether:-

- a. 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;
- b. 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;
- c) Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
- d) The exchange rate conversions are carried out at the market rate

49. The Authority notes that several producers and exporters from China PR have responded to the questionnaire pertaining to market economy status and to the exporters' questionnaire, consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. Verification of records of these responding exporters was carried out and during verification following emerged.

M/S Michelin Shenyang Tire Co. Ltd

50. The status of producer as a Market Economy Company was not verified but their claim on Normal Value has been accepted as detailed here in after.

M/S Cooper Chengshan (Shandong) Tire Company Ltd

51. Cooper Chengsahn (Shandong) Tire Company Ltd was established on *** as Chinese-foreign equity joint –venture by three shareholders viz. Shandong Chengshan Tire Co Ltd.(***%), Cooper, The investment Holding Company(Barbados) Ltd.(***%) and Joy Thrive Investment Ltd.(***%)

52. The paid up capital of the company was US\$ *** Million. M/s. Shandong Chengshan Tire Co.Ltd. Contributed all of the land using rights and buildings free of all liens & encumbrances to the company valued at US\$ *** Million. The Cooper Tire Investments Holding (Barbados) Ltd. was incorporated in Barbados while Joy Thrive Investment Ltd. was incorporated in British Virgin Islands. Themajority shareholding of ***% is held by the Cooper Tire Investments Holding (Barbados) Ltd. which is a Subsidiary of American Company “Cooper Tire and Rubber Company”

Aeolus Tyre Co Ltd

53. The company was established as a Joint-Stock Limited Company on ***. As per Asset Valuation Report dated ***, Henan Tyre (Group) Co Ltd. was solely owned by the state and was established in *** as Henan Tyre Factory. The Registered Capital of this Company was RMB *** Million and the Book Value of Assets was RMB *** Million.

54. As per the Asset Valuation Report, the aggregated value of Assets (as assessed by the valuation agency) was RMB *** Million which were transferred for RMB *** Million against the paid-up capital of RMB *** Million. During ***, the Company increased its share capital from RMB *** Million to RMB *** Million for which the Company issued capital stock of RMB *** Million. The Company could not provide a copy of the prospectus which would have been prepared for public offerings.

55. On ***, Henan Tyre (Group) Co. Ltd. transferred *** Million Shares in favour of China Haohua Chemicals (Group) Corporation which is also a state owned company.

Double Coin Holdings Ltd

56. The present Radial Tyre started construction in *** and commenced commercial production in ***. At that time, the plant belonged to Greater China Rubber Factory. On ***, Shanghai Tyre & Rubber Co.Ltd. was established in the form of consolidation of Shanghai Greater China Rubber Factory and Shanghai Zhengtai Rubber Factory. Both Shanghai Greater China Rubber Factory and Shanghai Zhengtai Rubber Factory were state-owned enterprises ***% owned by Shanghai Chemical Industry Bureau of Shanghai Government. After the consolidation, Greater China Rubber Factory and Zhengtai Rubber Factory became to be two plants of Shanghai Tyre & Rubber Co.Ltd. Shanghai Tyre & Rubber Co. Ltd. was a state-owned company (limited liability company) ***% owned by Shanghai Chemical Industry Bureau. The company failed to produce the Assets-Evaluation Report, Capital Verification Report and other reports/approvals which would have been prepared at the time of consolidation as well as establishment of Shanghai Tyre & Rubber Co.Ltd. .

57. On *** Shanghai Economic Commission of Shanghai Government approved that Shanghai Tyre & Rubber Co., Ltd. be restructured (re-organised) from a ***% state-owned company (limited liability Company) into a stock limited company.

58. On *** Shanghai Tyre & Rubber Co.,Ltd. was incorporated and listed. A new business license was issued to Shanghai Tyre & Rubber Co.Ltd., which indicated *** as the new establishing date of Shanghai Tyre & Rubber Co.Ltd. After restructuring, Shanghai Chemical Industry Bureau held ***% shares of Shanghai Tyre & Rubber Co.,Ltd.

59. On *** all of the shares held by Shanghai Chemical Industry Bureau were transferred without compensation to Shanghai Huayi (Group) Co.Ltd., which was a state-owned company. No assets evaluation report or transfer agreement was made during the transfer. The company failed to produce a copy of prospectus prepared before offering the shares and listing with stock exchange.

60. Till date, Shanghai Huayi (Group) Co., Ltd. a state owned company is still the *** shareholder holding ****% of shares and controller of Double Coin. In other words, Double Coin Holding Co.Ltd. acquired the existing plant in the form of capital contribution by the state during the reorganisation in *** when Shanguai Tyre & Rubber Co.Ltd. was restructured from ****% state owned company into a stock limited company but there was no asset appraisal report made during the restructuring. The company failed to produce the documents/reports pertaining to the transfer of shares to Shanghai Huayi (Group)Co.Ltd. who holds ****% of shares.

61. As per the Business Licence dated ***, the Double Coin Holding Ltd. has registered and paid up capital of RMB *** Million. The shareholders are state-owned shares, domestic legal persons and individuals. Presently, there are *** members in the Board of Directors as under:*** – Chairman of the Board, represents Shanghai Huayi Group Company_Chenyao, *** and ***, represents Shanghai Hyayi Group Co.***, *** and *** are independent directors. The details/background of these independent directors were sought. It was informed that all these three independent directors are the Board Chairman or General Manager of other state-owned companies.

Qingdao Doublestar Tire Industrial Co Ltd.

62. While responding to the initiation of Anti dumping investigation, the Company had claimed to be operating as a Market Economy. However during verification the company failed to provide any of the documents sought at the pre-verification stage for actual verification. At the time of verification, the Company gave a written undertaking that the documents relating to MET claim are almost not available and therefore the same cannot be provided to the verification team. Therefore, to that extent, their claim on MET treatment as deemed to have been withdrawn and it can be concluded that the company is a Non-market economy Company.

Shandong Hengfeng Rubber and Plastic Co. Ltd.

63. Shandong Hengfeng Rubber and Plastic Co Ltd was formerly Shandong Don Ying Guangrao County Dewang Hengfeng Rubber and Plastic Co Ltd which was established in *** by *** Natural Persons with a Registered Capital of RMB *** Million. In March ***, three new Shareholders joined the Company and Registered Capital was increased from RMB *** Million to RMB **** Million. As per Capital Verification Report, during ***, the Capital was increased from RMB *** Million to RMB *** Million, i.e an increase of RMB *** Million out of which RMB *** Million were invested by a new investor, viz. *** and *** and other investors contributed RMB **** Million towards purchase of equipment.

64. As per Capital Verification Report of the year ***, the list of Shareholders (and their respective contribution) indicated the number of such Shareholders as ***, though as per Capital Verification Report of ***, *** and ***, the number of Shareholders was only ***. No explanation could be provided on this issue. Up to ***, the total Assets (Fixed and Current

Assets) were only RMB *** Million which were funded through debts of RMB *** Million and the rest through Equity.

65. As per the Capital Verification Report of ***, it is seen that the Registered Capital was increased from RMB *** Million to RMB *** Million, out of which a new Shareholder viz*** contributed RMB *** Million as cash and balance RMB *** Million were transferred from retained earnings. During verification it was informed that during the year ***, Shandong Hengfeng Rubber and Plastic Co Ltd invested RMB ***Million in Bias Tyre Production Plant which was commissioned in ***, but the Company could not furnish copy of the Business License effecting change in the scope of their business.

66. During verification, the investigating team was informed that the company started its Radial Tyre Plant in ***, which was commissioned in ***, with a capacity of ***units. As per the list of fixed assets of Radial Plant as on ***, as supplied and collected during verification, it is seen that investments in Radial Plant were RMB *** Million. The company was asked to provide details of source of financing this capital investment in Radial Plant, but the officials present during verification failed to do so. During the Year ***, the Company also invested RMB *** Million in Thermal Power Plant as an Infrastructure Project to the Tyre Plant but as to how the investment was financed could not be explained.

67. The Company was asked to provide documents showing the legal status of Shandong Chenfeng Tyre Co and the evidence of valuation of Fixed Assets contributed by them. The Company was also asked to furnish the evidence / documents showing the source of funding by *** (Legal Representative) and others, who have till *** made investments of over RMB *** Million. However nothing on this score was provided to the investigating team.

68. The Company could not explain and furnish necessary details as to how and wherefrom the Technology for Radial Plant was obtained and payments made for the said acquisition, though in the balance Sheet for the year ***, intangible assets were shown at RMB *** Million, which is the fee for transfer of Radial Tyre Technology. Interestingly, till the year ***, nothing was included and shown in the intangible assets towards Land Use rights. The Company could not provide the documents relating to land use rights

Hangzhou Zhongce Rubber Co Ltd

69. The company was formed as a Chinese foreign joint venture with a registered and paid up capital of *** Million RMB by Hangzhou Rubber General Factory and Hong Kong Zhongce Investment Co Ltd. Out of the total paid capital, Hangzhou Rubber General Factory contributed in the form of capital assets and the other partner brought in cash in the ratio of ***:***. The brief history of the company is as follows:

70. Hangzhou Rubber General Factory was established on ***. The, assets held by the Hangzhou Rubber General factory valued at RMB *** Million as on ***were revalued at RMB *** Million as per the report of Asset Assessment Centre, Hangzhou ***. As of ***, the fixed assets of the rubber factory constituted RMB.*** and the total net assets (including net current assets) constituted RMB.***. Out of the assets held by the Rubber General Factory, assets

worth RMB.*** (as on ***) were transferred to a new joint venture entity by name Hangzhou Zhongce Rubber Co Ltd. The other joint venture partner was Hong Kong Zhongce Investment Co Ltd. The initial shareholding was as follows:

- a) Hangzhou Rubber General Factory contributed RMB *** or USD *** by way of assets. Out of the said contribution, RMB *** or USD *** (***) % was treated as capital.
- b) Hongkong Zhongce Investment Co Ltd contributed USD *** in cash (***)%.

71. During verification following came to the fore:

- i. In ***, Hong Kong Zhongce Investment Co Ltd transferred its shares to China Tire Holdings Ltd, Bermuda. The company failed to produce details i.e. certificate of incorporation, promoters, paid up capital, etc about the Hong Kong Zhongce Investment Co Ltd / China Tire Holdings Ltd.
- ii. In ***, the capital was increased from USD *** to RMB ***. The Assets of over RMB *** Million were transferred for RMB *** Million as capital contribution.
- iii. In ***, the capital was increased from RMB *** to RMB.*** by converting the accumulated profits up to *** into capital. Further, part of the shares held by China Tire Holdings Ltd was sold to Hangzhou Industrial & Commercial Trust Co Ltd., a Chinese public financial institution.
- iv. During POI, Hangzhou Rubber (State Owned) held ***% of shares while China Tire and Hangzhou Industrial and Commercial trust held ***% and ***% equity respectively.

Shandong Jinyu Tyre Co Ltd

72. While responding to the initiation of Anti dumping investigation, the Company had claimed to be operating as a Market Economy. However during verification the company failed to provide any of the documents sought at the pre-verification stage for actual verification. At the time of verification, the Company gave a written undertaking that the documents relating to MET claim are almost not available and therefore the same cannot be provided to the verification team. Therefore, to that extent, their claim on MET treatment as deemed to have been withdrawn and it can be concluded that the company is a Non-market economy Company.

Triangle Tyre Co., Ltd. (“Triangle”)

73. Triangle Tyre Co Ltd was incorporated on *** as Joint Stock Limited Company. The main initiator of Triangle Tyre Co Ltd was Triangle Group Co Ltd which invested its assets related with all steel radial tyres and bias tyres as capital contribution. The other promoters were *** other state owned companies and *** natural persons, who including *** (Legal representative), invested in the form of assets or cash as capital contribution. The Company is subject to supervision by Shandong Province Finance Bureau. As per Capital Verification

Report it is seen that the Company received net assets amounting to RMB *** Million against paid-up Capital of RMB *** Million.

74. *** was legal representative of both Triangle Group Co Ltd since *** and Triangle Tyre Co Ltd, had made investment of over RMB ***Million in both Triangle Group and Trinagle Tyre Co, they failed to furnish details about *** (Born ***) and his source of finance.

75. Since Triangle Group promoted Triangle Tyre Co Ltd and invested Capital Assets as Share Capital. The assets worth RMB *** Million were transferred towards share capital amounting to RMB *** Million. The Asset Appraisal Report was confirmed by Shandong province State-Owned Asset Administration Office on ***. As per this document, no value was attached for Intangible Assets in the form of Land Use Rights valuing over RMB *** Million.

76. During ***, all the State-Owned shares of the Group have been purchased by its employees and therefore, stock equity is an amount of RMB *** shares it holds on Triangle Tyre Co Ltd i.e ****% has changed to privately owned shares. They could not produce necessary evidence in support of this statement. It was stated that employees purchased shares through trust but could not furnish any evidence in this regard.

Shandong Wanda Boto Tyre Co. Ltd.

77. The Company was established on *** as Limited Liability Company with Registered and Paid up Capital of RMB *** Million. Dong Ying City Wanda Group Co. Ltd. (formerly known as Dong Ying Wanda Holding Co. Ltd.), holding ****% of the shareholding was promoted by Shandong Dong Ying City Kenli County Shangtoo Village People's Government (****%) and Dong Ying Lutai Chemical Industry Co. Ltd. (****%), with Registered & Paid up Capital of RMB *** Million. Similarly, Beijing Research & Design Institute of Rubber Industry having ****% shareholding is also a state-owned organization.

78. On ***, Dong Ying City Wanda Group Co Ltd transferred all its shares worth RMB *** Million in favour of Wanda Group Company. As per the Articles of Association of Wanda Group Company Ltd. (***), read with Capital Verification Report of ***, Wanda Group Company was in fact established during *** and its shares were held by Shentuo Village people's Govt (****%), Collective (****%) and Employees (****%). The Wanda Group Co.Ltd. held the first General Shareholders meeting on ***. As per the Articles of Association dated ***, the shares of Wanda Group Co Ltd were held by Wanda Holding Group Co Ltd. On ***, the name of Dong Ying City Wanda Group Co Ltd was changed to Wanda Holding Group Co Ltd. On ***, Wanda Group Company transferred *** Shares in favour of Wanda Holding Group Co Ltd. The Company failed to produce the necessary documents effecting transfer of shares consideration amount and methods of payment. On ***, the share capital was increased from RMB *** Million to RMB *** Million which was invested by Wanda Group Company.

79. The Company was asked to produce the technology agreement, if any, entered into for the supply of technology. The company stated that no such agreement was prepared and technology for radial tyre was supplied by ***, who was earlier employed by Wanda Group

Co.Ltd., was also a share holder of Shandong Wanda Boto Tyre Co.Ltd. and his capital contribution was funded by Wanda Group Co.Ltd.

80. The company uses land measuring *** sqm., the land use rights of which are with Wanda Group Co.Ltd. The company was not in possession of the Land use Right Agreements. No rent is paid for the land by the company.

Xingyuan Tire Group Co Ltd

81. While responding to the initiation of Anti dumping investigation, the Company had claimed to be operating as a Market Economy. However during verification the company failed to provide any of the documents sought at the pre-verification stage for actual verification. At the time of verification, the Company gave a written undertaking that the documents relating to MET claim are almost not available and therefore the same cannot be provided to the verification team. Therefore, to that extent, their claim on MET treatment as deemed to have been withdrawn and it can be concluded that the company is a Non-market economy Company.

Shandong Yinbao Tyre Group Co. Ltd.

82. The Company named Shandong Province Shouguang City Yinbao Rubber Industry Co Ltd was stated to have been established in ***. This was stated to be into manufacturing of Bias Tyres and Carbon Black. Shandong Yinbao Tyre Group Co Ltd was stated to have been set up in the Year *** for manufacture of Radial Tyres and was claimed to have no relationship with originally set up Company in the name and style of Shandong Province Shouguang City Yinbao Rubber Industry Co Ltd for manufacture of Bias Tyres.

83. As per the Business License dated ***, the name of the Company was Shandong Province Shangan City Yinbao Rubber Industry Co Ltd., which was established during ***. *** was the Legal Representative of the Company and its Registered Capital was RMB *** Million. During ***, the name of the Company changed to Shandong Yinbao Tyre Group Co Ltd with Paid-up Capital of RMB ***Million. *** was the Legal Representative. As per Articles of Association dated ***, the Company was formed by *** persons including ***, who held ***% of the Shares and contributed RMB *** Million. As per Article *** of Articles of Association, the Company has Board of Supervisors, comprising of *** members elected by the shareholders. As per the response filed by the company, claiming Market Economy Status, *** and *** are the Directors of the Company and they represent the labour in Yinbao. The company was asked to clarify the reasons for labour representation in the Board. This was important because Law of China empowered the board of Supervisors through Article *** to Article ***. However, the company could not clarify the matter.

84. The Radial Plant was commissioned during ***, with the installed capacity of *** Tyres per year. During ***, the Capacity was expanded to *** Tyres which was further expanded to *** Tyres during ***. During ***, the installed capacity was expanded to *** Tyres. The company was asked to furnish necessary details regarding technology for the radial

tyre production. The company could not explain as to how the technology for radial tyre production was obtained and whether any fee was paid for technology.

85. It was observed that on ***, the Company applied for change of name from Shandong Gold Tyre Co Ltd to Shandong Yinbao Tyre Group Co Ltd. It also came to notice that on ***, *** transferred his shares worth *** Million in favour of other shareholders as well as two new shareholders. During ***, as per the Capital Verification Report, the Company increased its Capital from RMB *** Million to RMB ***Million which was contributed by the shareholders.

86. Since ***, *** was the major Shareholder (***)%, who contributed RMB *** Million and was the Legal Representative, the Company could not furnish the source of financing of *** and other shareholders. From the perusal of Business license of Shandong Province Shouguang City Yinbao Rubber Industry Co Ltd, it was seen that *** was the legal representative of this company too which was producing Bia Tyres and is associated with the Company since ***. They could not furnish the details of financing by *** who contributed RMB *** Million in ***.

87. The Company could not furnish source of financing the capacity additions since ***. The Company could also not produce complete documents relating to land use rights.

Zhaoyuan Leo Rubber Co Ltd. Now Renamed as Shandong Linglong Tyre Co Ltd

88. Shandong Yantai Tyre Co Ltd was incorporated in *** as a Group Corporation at the bureau level. The economic nature of the company was collective –owned. The Company was asked to provide a copy of the financial statements including Balance Sheet for *** but the same was not available. Interestingly, the Asset Evaluation Report normally contains the Balance Sheet for the bench mark date but it was not prepared for this evaluation. The Asset valuation report also states that dormitory for employee facilities and land use rights are not included within the scope of evaluation. In other words, against the assessed replacement value of Assets amounting to RMB *** Million, the value taken as Capital Contribution for the Joint Venture was only RMB *** Million

89. The Company was asked to provide the complete details about Leo Limited with regard to its Authorised and Paid-Up Capital, details of shareholders, Articles of Association, Object of the Company, Promoter etc., but the Company could provide only an incomplete copy of the certificate of incorporation which indicates that the Company was incorporated on ***. No further details were available.

90. In ***, Leo Ltd transferred its share to New Energy Chemical Group Ltd. In ***, New Energy Chemical Group Ltd transferred its share to China South Trading Company which in turn transferred its share to Elite Faith Trading Company during ***. A study of share transfer agreement between Leo Ltd and New Energy Chemical Group Ltd (Office address of both parties at the same place) reveals that legal representative (Chairman of Board) of both these companies is ***. Likewise, the share transfer agreement between New Energy Chemical Group Ltd and China South Trading Company shows that *** is also the Chairman of the Board of Zhaoyuan Leo Rubber Co Ltd. The nationality of ***is Chinese. The share transfer

agreement between China South Trading Company and Elite Faith Trading Company was formulated according to Law of Hong Kong special administration, Region China. The legal representative is *** and his nationality is Chinese. It is interesting to note that share transfer between *** to *** took place at the same price i.e US \$ *** though as per receipt dated ***, New Energy contributed US \$ *** Million. During *** alone, the Capital Contribution by New Energy was US \$ *** Million but its shares were transferred at US \$ *** Million. The Company could not explain and furnish necessary details as to how and wherefrom the Technology for Radial Plant was obtained.

M/s. Shandong Achi Tyre Co. Ltd.

91. Although Shandong Achi Tyre Co. Ltd has also responded to the initiation notification, the said responding exporter has provided a totally incomplete and inadequate response without supporting documents relied upon. Moreover information in prescribed appendices has not been furnished and therefore the said exporter has been treated as non-cooperative.

Normal Value

China PR

Responding Exporters

M/S Michelin Shenyang Tire Co. Ltd

92. As per response submitted to the Authority, during period of investigation the weighted average Normal Value claimed and subsequently accepted and endorsed by the trading company MAPIMEX, based in Singapore, through whom all the exports were made, during verification of other details relating to Landed Price etc. is US\$ *** per KG TTF.

M/S Cooper Chengshan (Shandong) Tire Company Ltd

93. Having concluded that the subject producer / exporter is operating under market economy conditions, the domestic sales of the subject exporter in respect of variants comparable to the variants exported to India during POI have been considered for determination of Normal Value. As per verified records of the company, they had sold a total of *** Tyre sets relating to *** variants i.e *** and ***, in the domestic market during POI, comparable to the export sales to India during POI. Individual Invoices and related documents were verified in respect of all the *** Invoices. Adjustments had been claimed on account of Inland Transportation alone which was verified and found to be in order. No adjustments were either claimed or required to be made on account of Credit Cost as all the payments were received in advance. Verification of records further revealed that all the domestic sales were profitable ones and comprise of much more than 5% of the total exports to India during POI. Normal value based upon these domestic sales works out to US\$ *** per KG of TTF on a weighted average basis. The requirement of Raw Material cost being in line with the cost in a market economy country was also gone into and it is concluded that the RM cost of the subject producer is more or less in tandem with the cost of DI with just a marginal acceptable difference.

Normal Value in respect of all other exporters from China PR

94. As per Rule 7 of Annexure 1 of Antidumping Rules, the Authority is required to determine normal value in respect of Non-Market economy countries on the basis of price or the constructed value in the market economy third country, or the price from such a third country to other countries including India or any other reasonable basis. The Authority having found that M/S Cooper Chengshan (Shandong) Tire Company Ltd is operating under market economy conditions, considers this as a reasonable basis within the scope of AD Rules and holds that Normal value determined in respect of M/S Cooper Chengshan (Shandong) Tire Company Ltd shall be considered as normal value for all other exporters from China PR, who have responded to the initiation but found to be operating under non-market economy conditions or those who have not responded to the initiation.

Normal Value for responding Exporters from Thailand **M/s. Michelin Siam Co. Ltd.**

95. As per response submitted to the Authority, during period of investigation the weighted average Normal Value claimed and subsequently accepted and endorsed by the trading company MAPIMEX, based in Singapore, through whom all the exports were made, during verification of other details relating to Landed Price etc. is US\$ *** per KG TTF

M/s. Bridgestone Tire Manufacturing (Thailand) Co. Ltd.

96. They had responded to the initiation by submitting an exporter questionnaire along with all the details. They also invited the Authority for verification of the records at their Singapore trading Company office of Bridgestone Asia Pacific Pte Ltd. through whom they have claimed to have made the exports to India during POI. The verification team actually visited their Singapore office but the officials present during verification pleaded that they be allowed to revise their submissions as they have noticed some inconsistencies in the submissions already made. They sought revision in respect of all the appendices submitted earlier. In fact these revised submissions were also not available as they sought time to prepare and submit these revised submissions. On this score they also made a written request to the DA vide their letters dated September 9, 2009 seeking permission to revise the response for appendices 3-A, 3-C, 4, 5, 6, 7, 8A, 8B, 8C and 9. The Authority did not agree to their request as the same was not found feasible at this late stage from their view point of equity. Therefore, for the purpose of present investigation the Authority treats the subject responding producer/exporter as non-cooperative.

All non-cooperating exporters from Thailand

97. The Authority holds that the Normal Value claimed by the responding exporter viz. M/s. Michelin Siam Co. Ltd. be taken as normal value for all other exporters from Thailand.

Export Price**Export Price all responding Exporters from China PR****M/S Michelin Shenyang Tire Co. Ltd**

98. As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** TTF sets of *** different variants / sizes sold to Indian Customers during POI. The weighted average NEP claimed and subsequently accepted and endorsed by the trading company MAPIMEX, based in Singapore, through whom all the exports were made, during verification of other details relating to Landed Price etc. is US\$ *** per KG TTF

M/S Cooper Chengshan (Shandong) Tire Company Ltd

99. As per details provide in Appendix 2, filed with the response to the initiation, the subject producer / exporter had claimed to have exported a total of *** Bus and Truck Tyres comprising of *** different sizes / variants. The requisite documents presented for verification in respect of each invoice were verified. All exports were on FOB basis. Adjustments claimed on account of inland freight, handling charges, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

M/s. Aeolus Tyre Co. Ltd

100. As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** TTF sets sold to Indian Customers. The requisite documents were presented for verification. All transactions were on CNF basis. Adjustments claimed on account of ocean freight, Port charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

M/s. Double Coin Holding Ltd.

101. As per details provided in Appendix 2, filed with the response to the initiation, the subject producer / exporter had claimed to have exported a total of *** Bus and Truck Radial Tyres comprising of *** different sizes / variants. The requisite documents were presented for verification. All the transactions were on FOB basis. Adjustments claimed on account of, inland freight, handling charges, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

M/S Qingdao Doublestar Tire Industrial Co Ltd.

102. During period of investigation there were a total of *** Tyres comprising of a total of *** invoices / transactions of only one variant viz. *** only, exported to India during POI. The requisite documents were presented for verification. Adjustments claimed on account of, Handling forwarding and other charges, inland freight, and Credit Cost, Bank Charges and

VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

M/S Shandong Hengfeng Rubber and Plastic Co. Ltd.

103. During period of investigation there were a total of *** Tyres comprising of a total of *** invoices of one variant viz. *** only, exported to India during POI to a single party viz. ***. The requisite documents were presented for verification. Adjustments claimed on account of Port / Handling Charges, inland freight, and Credit Cost, Bank Charges and VAT loss and packing charges were verified. The wt of packing being insignificant, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

M/S Hangzhou Zhongce Rubber Co Ltd

104. As per Appendix 2 submitted to the Authority, during period of investigation, there were a total of *** Tyres sets sold to Indian Customers, comprising of a total of *** invoices / Transactions, comprising of *** sizes / variant. All the transactions are either on CNF or FOB basis where as *** transactions as reported in Appendix 2 are a CIF transaction. The requisite documents were presented for verification. Adjustments claimed on account of ocean freight, Port / handling charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Shandong Jinyu Tyre Co Ltd

105 As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** Tyres sets sold to Indian Customers, comprising of a total of *** invoices / Transactions, comprising of *** sizes / variant. However during verification it came to notice that total transactions were *** and *** transaction had got erroneously repeated while compiling appendix 2. Similarly the no of Tyre Sets exported were ***. All the transactions were on either CNF or FOB basis. Adjustments claimed on account of ocean freight, Port / handling charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Triangle Tyre Co., Ltd. (“Triangle”)

106. During period of investigation there were a total of *** Tyres comprising of a total of *** invoices. During verification they confirmed to have exported only two variants / sizes to India during POI. The requisite documents were presented for verification. All shipments were on FOB basis. Adjustments claimed on account of Port charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total

weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Shandong Wanda Boto Tyre Co. Ltd.

107. During period of investigation there were a total of *** Tyres comprising of a total of *** invoices. Transactions were on CIF, CNF and FOB basis. The requisite documents were presented for verification. Adjustments claimed on account of ocean freight, Overseas Insurance, Port charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Xingyuan Tire Group Co Ltd

108. As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** Tyres sets sold to Indian Customers, comprising of a total of *** invoices / Transactions, comprising of only one size / variant. The requisite documents were presented for verification. All the transactions were on FOB basis. Adjustments claimed on account of Port charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Shandong Yinbao Tyre Group Co. Ltd

109. As per Appendix 2 filed with the Authority along with the response to the initiation, they had claimed to have exported *** sets of two variants viz. *** and *** Radial Bus and Truck Tyres to India vide *** consignments / invoices during POI. The requisite documents were presented for verification. All the shipments were on FOB basis. Adjustments claimed on account of Port charges, inland freight, and Credit Cost, Bank Charges and VAT loss were verified. Since no packing cost is involved, total weight has been taken from related Bills of Lading. The NEP per KG has been calculated on a weighted average basis and the same works out to US\$ *** per KG TTF.

Zhaoyuan Leo Rubber Co Ltd. Now Renamed as Shandong Linglong Tyre Co Ltd

110. As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** Tyres sold to Indian Customers, comprising of a total of *** invoices of comprising of a number sizes / variants. It was claimed that they had exported the PUC through various traders and out of these, it was claimed that out of all the traders ****. is a direct trader stationed in India to whom the sales of only one variant / size viz. *** were made during POI. During verification of records it was revealed that the said *** is a Dubai based trader on whom the invoices were raised although the shipments had been made direct to India at the instance of the said Dubai based trader. However the Authority did not have access to the documents raised by the said Dubai based trader on Indian customers as neither the said trader had filed the response to the initiation nor were the documents viz. Invoices, realization

certificates of this trader made available for verification. Therefore determination of NEP and consequently the individual DM etc for the subject producer / exporter is not possible. In respect of the verification report issued to them, they filed their comments stating that *** has an office in India and therefore their sales to India made through this trader should be accepted. However as already explained above, all the invoices were addressed to the Dubai Address of the Trader and the Authority not having access to the documents of said Dubai Trader, NEP and other basic details i.e LP etc and consequently the individual DM and IM cannot be determined for this producer.

M/s. Shandong Achi Tyre Co. Ltd. And other non- responding exporters from China PR.

111. Although Shandong Achi Tyre Co. Ltd has also responded to the initiation notification, the said responding exporter has provided a totally incomplete and inadequate response without supporting documents relied upon. Moreover information in prescribed appendices has not been furnished and therefore the said exporter has been treated as non-cooperative.

112. In respect of all other exporters from China PR, for the lowest valued transaction of the responding exporters, has been considered for determination of net export price. The Net export price at ex-factory level works out to US\$ *** per KG/TTF.

Export Price all responding Exporters from Thailand

M/s. Michelin Siam Co. Ltd.

113. As per Appendix 2 submitted to the Authority, during period of investigation there were a total of *** TTF sets of *** different variants / sizes sold to Indian Customers. The weighted average NEP claimed and subsequently accepted and endorsed by the trading company MAPIMEX, based in Singapore, through whom all the exports were made, during verification of other details relating to Landed Price etc., is US\$ *** per KG TTF

M/s. Bridgestone Tire Manufacturing (Thailand) Co. Ltd.

114. They had responded to the initiation by submitting an exporter questionnaire along with all the details. They also invited the Authority for verification of the records at their Singapore trading Company office of Bridgestone Asia Pacific Pte Ltd. through whom they have claimed to have made the exports to India during POI. The verification team actually visited their Singapore office but the officials present during verification pleaded that they be allowed to revise their submissions as they have noticed some inconsistencies in the submissions already made. They sought revision in respect of all the appendices submitted earlier. In fact these revised submissions were also not available as they sought time to prepare and submit these revised submissions. On this score they also made a written request to the Authority vide their letters dated September 9, 2009 seeking permission to revise the response for appendices 3-A, 3-C, 4, 5, 6, 7, 8A, 8B, 8C and 9. The Authority did not agree to their request as the same was not found feasible at this late stage from the view point of equity. Therefore, for the purpose of present investigation the Authority treats the subject responding producer/exporter as non-cooperative.

All non-cooperating exporters from Thailand

115. In respect of all other exporters from China PR, the lowest valued transaction of the responding exporters, has been considered for determination of net export price. The Net export price thus works out to US\$*** /KG TTF.

Dumping Margin

116. 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 for a set of tyre, tube & flap (TTF).

Dumping Margin Table

				US\$ / KG of TTF
Name of The Exporter	Normal Value	Export Price	Dumping Margin	DM %
China PR				
Quingdao Double Star Tire Industrial Co. Ltd.	***	***	***	25-30
Hangzhou Zhongce Rubber Co. Ltd and M/s. Hangzhou Sunrise Rubber Co. Ltd.	***	***	***	10-15
Aeolus Tyre Co. Ltd.	***	***	***	20-25
Shandong Wanda Boto Tyre Co. Ltd	***	***	***	30-35
Tringle Tyre Co. Ltd.	***	***	***	15-20
Shandong Yinbao Tyre Group Co. Ltd	***	***	***	20-25
Shangdong Jinyu Tyre Co. Ltd.	***	***	***	25-30
Shangdong Hengfeng Rubber & Plastic Co. Ltd.	***	***	***	15-20
Double Coin Holding Ltd.	***	***	***	15-20
Copper Chengshan (Shandong) Tire Co. Ltd.	***	***	***	30-35
Xingyuan Tire Group Co.Ltd.	***	***	***	25-30
Michelin Shenyang Tire Co. Ltd. Thru Michelin Asia- Pacific Import-Export (HK) Ltd.	***	***	***	50-55
All other exporters from China PR	***	***	***	90-95
Thailand				
Michelin Siam Co. Ltd. Thru Michelin Asia- Pacific Import-Export (HK) Ltd.	***	***	***	90-95
All Other exporters from Thailand	***	***	***	110-115

Methodology for Injury Determination and Examination Of Causal Link
Injury To Domestic Industry
Cumulative Assessment

117. 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:

- (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 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.*

118. 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.

Assessment of demand

119. Authority has defined, for the purpose of the present investigation, demand or consumption of the product in the Country as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed and given in the table below is based upon DGCIS data source as the exports reported by responding exporters are far less than the exports reported in DGCIS data source:-

	Unit	2004-05	2005-06	2006-07	POI
Imports From Subject Countries	MT	1361	5056	17458	28386
Imports from Other countries	MT	107	616	1099	1106
Sales by domestic Industry	MT	9999	14596	19440	24159
Demand	MT	11467	20268	37997	53651

Import volumes and market share

120. 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.

	Unit	2004-05	2005-06	2006-07	POI
Imports					
China	MT	1,361	5,046	16,861	27,396
Thailand	MT	-	11	597	990
Subject countries	MT	1,361	5,056	17,458	28,386
Other Countries	MT	107	616	1,099	1,106
Total Imports	MT	1468	5672	18557	29492
Market Share in Imports					
China	%	92.70	88.95	90.86	92.89
Thailand	%	-	0.19	3.21	3.36
Subject countries	%	92.70	89.14	94.08	96.25
Other Countries	%	7.30	10.86	5.92	3.75
Share of imports in Relation to Production in India	%	7.31	23.09	69.27	103.73
Share of import in relation to sales by domestic industry	%	13.61	34.64	89.80	117.50
Share of import in relation to demand in India	%	11.87	24.95	45.95	52.91

121. As per Annexure II of the Antidumping Rules, the Designated Authority, while examining the volume of dumped imports, is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. The Authority notes that imports from subject countries increased over the period, both in absolute terms as well as relative to production and consumption in India.

122. 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 2004-05. The Authority holds that the dumped imports show adverse volume effect.

Price effect of imports

123. Net sales realization of the domestic industry has been arrived at by considering selling price, excluding taxes, duties, discount, commission, freight and insurance. Landed price of

imports has been determined considering weighted average CIF import price, as per DGCI&S data source, with 1% landing charges and applicable basic customs duty. The trend of various prices is as given in the table below:-

	Unit	2004-05	2005-06	2006-07	POI
CIF Export Price					
China	Rs./KG	110.85	92.07	79.60	88.31
Thailand	Rs./KG	-	139.08	105.50	122.79
Subject countries	Rs./KG	110.85	92.17	80.48	89.51
Landed Value as per DGCI&S data source					
China	Rs./KG	130.11	104.07	88.24	95.98
Thailand	Rs./KG	-	157.20	116.96	133.45
Subject countries	Rs./KG	130.11	104.18	89.22	97.28
Net sales realization of domestic industry	Rs./KG	***	***	***	***
Price Undercutting					
China	Rs./KG	(***)	***	***	***
Indexed		(100)	135	280	256
Thailand	Rs./KG	-	(***)	***	***
Indexed		-	(100)	159	120
Subject countries	Rs./KG	(***)	***	***	***
Indexed		(100)	134	277	252

124. It is noted that

- a. CIF export price as well as landed price from China shows a significant decline as compared to the base year i.e. 2004-05. However, there was an increase in price during the POI as compared to the preceding year. Thailand has also shown an increase in the price during POI over preceding year.
- b. Landed price of imports, particularly during 2006-07 and POI, both 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.
- c. 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.

125. Considering the above, the Authority holds that there has been an adverse price effect of dumped imports on the domestic industry.

Economic Parameters of the Domestic Industry

126. As noted above, there has been a significant rise in the dumping of subject product from subject countries since 2006-07 and during the POI. Considering surge in automobile production and consequent positive impact on the domestic industry, applicants have claimed that certain parameters relating to the performance of the domestic industry would show improvements over this period, to reflect the market growth. It has been pointed out by the applicants that increase in automobile production by one unit, consequently resulting in increase in 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.

127. 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

128. Actual production, capacity and capacity utilization of the domestic industry over the years was as shown in the table below.

	Unit	2004-05	2005-06	2006-07	POI
Capacity	MT	26270	32414	37366	37636
Production	MT	18622	21895	25190	27364
Capacity Utilisation	%	70.89	67.55	67.42	72.71
Growth in Production	%		17.58	15.05	8.57
Growth in Demand	%		76.75	87.47	41.20

129. The Authority notes that;

- a. Both Production and Capacity utilisation increased during POI over the base year, the product being a newly developed product the demand for the product kept on increasing and the domestic industry kept on increasing its capacity and production.
- c. There has been a spurt in the Growth of demand for the product, both during 2005-06 (77%) and 2006-07(87%). Even during POI, growth in demand was 41%.
- d. Despite continued growth in demand, growth in production declined from 17.58% in 2005-06 to 8.57% in POI though the domestic industry is left with unutilized capacities.

Profits and return on investment

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

	Unit	2004-05	2005-06	2006-07	POI
Selling Price	Rs.KG	***	***	***	***
Indexed		100.00	111.61	119.30	121.18

Cost of sales	Rs.KG	***	***	***	***
Indexed		100.00	110.85	115.31	118.02
Profit/ loss	Rs.KG	(***)	(***)	(***)	(***)
Indexed		-100.00	-99.07	-55.07	-59.87
Profit/ loss	Rs.Lacs	(***)	(***)	(***)	(***)
Indexed		-100.00	-144.69	-106.56	-144.71
Profit before Interest	Rs.Lacs	(***)	(***)	***	***
Indexed		-100.00	-268.90	325.85	137.21
Capital Employed	Rs.Lacs	***	***	***	***
Indexed		100.00	158.28	185.37	210.16
Return on Investment	%	(***)	(***)	***	***
Indexed		-100.00	-167.74	290.32	64.52

131. It is noted that:-

- a. Both selling price and cost of production of the domestic industry increased during the Injury period. It is noted that the domestic industry was able to increase its prices commensurate with the increase in cost till 2006-07. However, during the POI, the increase in cost of sales could not be fully passed on to the customers.
- b. The per KG profitability of the domestic industry improved between base years to 2006-07, the same declined in POI. Loss in absolute term of the domestic industry in the investigation period was significantly higher than the base year loss, in spite of significant increase in the sales volumes.
- c. Return on capital employed was negative till 2005-06, improved to positive figure in 2006-07 but declined in POI.

Changes in market share of Indian Industry

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

	Unit	2004-05	2005-06	2006-07	POI
Sale of Domestic Industry	MT	9999	14596	19440	24159
Imports From Subject Countries	MT	1361	5056	17458	28386
Imports From Other Countries	MT	107	616	1099	1106
Total Demand	MT	11467	20268	37997	53651
Share Of Domestic Industry	%	87.20	72.01	51.16	45.03
Share Of Imports from Subject Countries	%	11.87	24.95	45.95	52.91

133. It is noted from the above that;

- a. There has been a persistent and significant decline in the share of domestic industry in the domestic market from 87.20% in the base year to 45.03% in POI.
- b. The market share of dumped imports from subject countries, which was only 11.87% during the period 2004-05 reached to a significant level of 52.91% by the POI

Employment

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

	Unit	2004-05	2005-06	2006-07	POI
Employment	Nos.	***	***	***	***
Indexed		100.00	131.72	151.25	157.66
No. of Employee per one lac of tyre production	Nos.	***	***	***	***
Indexed		100.00	112.50	112.50	108.00

135. It is observed that the number of employees with the domestic industry showed increases over the injury period mainly due to commissioning of Radial Tyre Plant by M/S Apollo Tyres, coupled with increase in capacity and production in general. Further the number of persons employed by the industry per one lac nos. of tyre produced declined in POI as compared to previous two years 2005-06 and 2006-07.

Wages

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

	Unit	2004-05	2005-06	2006-07	POI
Wages	Rs. Lacs	***	***	***	***
Indexed		100.00	122.88	158.28	216.07
Wages per unit Production	Rs./KG	***	***	***	***
Indexed		100.00	104.66	117.02	147.09

137. It is noted that wages increased over the Injury period, mainly due to normal wage increase to counter the inflation and increase in employment level as well.

Productivity

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

	Unit	2004-05	2005-06	2006-07	POI
No. of Employees	Nos	***	***	***	***
Indexed		100.00	131.72	151.25	157.66
Production	MT	18622	21895	25204	27364
Productivity	MT	***	***	***	***
Indexed		100.00	89.24	89.48	93.16

139. The Authority notes that productivity of the domestic industry shows declined till 2006-07 and increased in POI compared to the base year.

Factors affecting domestic prices

140. 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:

	Unit	2004-05	2005-06	2006-07	POI
Price Undercutting					
China	%	(10-15)	20-25	50-55	45-50
Thailand	%	-	(15-20)	15-20	2-7
Subject Countries	%	(10-15)	20-25	50-55	40-45

141. From the above, it is noted that while during the base year 2004-05, there was negative price undercutting, the price undercutting, thereafter has intensified from 21.58% in 2005-06 to 51.61% during 2006-07 and 43.39% during POI.

142. In respect of Individual responding exporters, the landed value has been calculated by converting FOB prices into CIF prices, Freight and Insurance component having been taken as the one from such responding exporters who have exported to India on CIF / CNF basis during POI, and adding 1% landing charges to work out assessable value and thereafter adding basic customs duty component to the CIF price for calculation of the landed price. The FOB / CNF / CIF price as claimed by each individual exporter has been considered for calculation of landed value. In respect of Micheline, the landed value has been allowed as claimed and endorsed by the company during spot verification of their trading partner in Singapore. In respect of Non-cooperating exporters, landed price has been determined by adding above components to minimum NEP minimum NEP.

US\$/KG

Name of the Company	Import Volumes (TTF Set) / Tubeless as reported in response	Landed Price	NSR Of DI (US\$)	Price undercutting
China PR				
Quingdao Double Star Tire Industrial Co. Ltd.	***	***	***	(25-30%)
Hangzhou Zhongce Rubber Co. Ltd	***	***	***	(20-25%)
Aeolus Tyre Co. Ltd.	***	***	***	(25-30%)
Shandong Wanda Boto Tyre Co. Ltd	***	***	***	(30-35%)
Tringle Tyre Co. Ltd.	***	***	***	(15-20%)
Shandong Yinbao Tyre Group Co. Ltd	***	***	***	(25-30%)
Shangdong Jinyu Tyre Co. Ltd.	***	***	***	(25-30%)
Shangdong Hengfeng Rubber &	***	***	***	(10-15%)

Plastic Co. Ltd.				
Double Coin Holding Ltd.	***	***	***	(15-20%)
Copper Chengshan (Shandong) Tire Co. Ltd.	***	***	***	(30-35%)
Xingyuan Tire Group Co.Ltd.	***	***	***	(25-30%)
Michelin Shenyang Tire Co. Ltd. Thru Michelin Asia-Pacific Import-Export (HK) Ltd.	***	***	***	(10-15%)
Non-Cooperating Exporters from China PR	***	***	***	(30-35%)
Thailand	***	***	***	
Michelin Siam Co. Ltd.	***	***	***	(40-45%)
Non-Cooperating Exporters from Thailand	***	***	***	(55-60%)

143. 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:-

Price Underselling Table

				US\$/KG
Name of the Company	Import Volumes (TTF Set) / Tubeless as reported in response	Non-Injurious Price	Landed Price	Price Underselling
China PR				
Quingdao Double Star Tire Industrial Co. Ltd.	***	***	***	(35-40%)
Hangzhou Zhongce Rubber Co. Ltd and M/s. Hangzhou Sunrise Rubber Co. Ltd.	***	***	***	(35-40%)
Aeolus Tyre Co. Ltd.	***	***	***	(35-40%)
Shandong Wanda Boto Tyre Co. Ltd	***	***	***	(40-45%)
Tringle Tyre Co. Ltd.	***	***	***	(25-30%)
Shandong Yinbao Tyre Group Co. Ltd	***	***	***	(40-45%)
Shangdong Jinyu Tyre Co. Ltd.	***	***	***	(40-45%)
Shangdong Hengfeng Rubber & Plastic Co. Ltd.	***	***	***	(20-25%)
Double Coin Holding Ltd.	***	***	***	(25-30%)
Copper Chengshan (Shandong) Tire Co. Ltd.	***	***	***	(45-50%)
Xingyuan Tire Group Co.Ltd.	***	***	***	(40-45%)
Michelin Shenyang Tire	***	***	***	(20-25%)

Co. Ltd. Thru Michelin Asia- Pacific Import-Export (HK) Ltd.				
Non-Cooperating Exporters	***	***	***	(95-100%)
Thailand				
Michelin Siam Co. Ltd.thru Michelin Asia- Pacific Import-Export (HK) Ltd.	***	***	***	(50-55%)
Non Cooperating Exporters From Thailand	***	***	***	(70-75%)

144. From the above, 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.
- c. Imports have suppressed the prices in the Indian market, as the imports have prevented the price increases commensurate with cost increases during POI.

Inventories

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

	Unit	2004-05	2005-06	2006-07	POI
Inventories	MT	***	***	***	***
Indexed		100.00	150.39	233.16	245.13

146. It is noted that Inventories with the domestic industry increased over the injury period.

Ability to raise investments

147. The domestic industry has claimed that if the dumping continues, they would have difficulty in raising capital, in a situation of growing demand for the product on one hand and gap between installed capacity and demand on the other.

Cash flow

148. Cash profit situation of the domestic industry showed the following trend:

	Unit	2004-05	2005-06	2006-07	POI
Cash profit	Rs.lakhs	***	***	***	***
Indexed		100.00	127.29	426.22	423.36

149. Cash profits increased up to 2006-07 but declined in POI.

Growth

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

	Unit	2005-06	2006-07	POI
Production	%	17.58	15.11	8.57
Indexed		100.00	85.95	48.75
Domestic Sales Volume	%	45.98	33.19	24.27
Indexed		100.00	72.18	52.78
ROI	%	(***)	***	(***)
Indexed		-100.00	402.56	-189.74

151. 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.

Arguments against injury to the domestic industry

152. All India Tyre Dealers Federation has alleged that financial results of Apollo Tyres and MRF Tyres in a last 3 to 4 fiscals are clear indications that their profit margins have been rising despite the fact that profitability or rate of return on capital in case of tyre industry world over is known to be low as a historical truth. It has further been alleged that despite import of cross-ply, bus / truck tyres, there was no injury or loss of profit or loss of market shares for the domestic tyre measures as they have been operating at 95% to 200% capacity on the back of double digit growth in commercial vehicles in the country. Thus the argument that domestic majors have suffered any loss or injury on account radial imports cannot be accepted, because of domestic players hardly produce such radials and even the quantity is produced are negligible and inconsistent.

153. It has further been alleged that at no point of time has the domestic industry been serious to benefit to domestic market with truck and bus radials and they have always wanted to exploit the captive market by inflicting cross ply technology to make large profits without investing into radial technology for trucks and bus.

154. The antidumping investigation initiated has lost the credibility from the users and dealers because Government of India has imposed total restriction/ban on import of truck and bus truck radials on 24th November, 2008.

155. All India Tyre Importers and Traders Association has submitted that radial tyres cause no injury to domestic industry. They are alleged that domestic industry fails to cater to the demand of the country and further all three manufacturers of subject merchandise are either producing very small volumes or their expansion of plant capacities is under stabilization. It has further been alleged that in such a situation the cost affiliated to the subject material is bound to be high.

156. It has been submitted that analysis of Performa IV-A indicates that the working capital has increased by more than 339% as during the period of investigation as compared to the base

year. This shows an inflated claim by the Domestic Industry. There is no justification for such an increase especially when the Domestic Industry's cash profits have multiplied during the same period. We urge the Authority to examine this aspect thoroughly.

157. It has been observed that the Domestic Industry was incurring losses during 2003-04 when the sales volume of the subject material was almost 30% of the sales during the POI. With an increase in sales volume by more than 300% the Domestic Industry has started earning a positive PBIT. Similarly during 2003-04 imports from subject material were negligible. This shows that the company was incurring losses even when there were no alleged dumped exports of the subject material. Anti Dumping agreement requires the Domestic Industry to prove that it suffered material injury during the POI due to dumped imports. The fact that Domestic Industry was in its worst shape when no dumping was taking place shows that there are certain other reasons for losses to the Domestic Industry and not the alleged dumped goods.

158. They have submitted that the calculation of return by adopting 22% uniformly on both the components of capital employed is totally incorrect and needs to be reviewed.

Examination by the Authority

159. Authority after having examined the submissions on injury made by various interested parties as above notes that most of these including restriction on imports are generic in nature and need not be addressed by the Authority. However on the specific issues raised in the above submissions, the Authority notes that:

- a. After examination of Data, it is observed that Working Capital of the Domestic Industry has increased in tandem with corresponding growth in sales value, and increased inventories.
- b. Injury period for the present investigation is 2004-05 to POI and observations, for pre-injury period and post POI if any are not relevant for the present investigation.

Assessment on injury

160. After examination of various injury parameters, the Authority holds that

- a. There has been increase in the volume of dumped imports from the subject countries, both in absolute terms as also in relation to total production and 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. The injury margins are significant during POI.
- c. Even though production and sales volumes of the domestic industry increased, the profitability has shown a decline after improvement, whereas market share of the domestic industry has declined.
- d. In spite of increase in production and sales, profitability of the domestic industry per unit of sales declined after increasing in 2006-07. 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 higher capacity utilization.

161. The Authority holds that the various parameters relating to domestic industry collectively and cumulatively establish that the domestic industry has suffered material injury.

Causal Link and Analysis of Other Factors

162. 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.
- f. Export performance of the domestic industry:- For assessing the injury and profitability of the domestic industry in the manufacture and sale of the like product in the domestic market, the export performance of the domestic industry has been segregated and only domestic operations's performance has been considered for assessment.
- g. Productivity: - Productivity of the domestic industry has increased in POI 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

163. 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 and unutilized capacities. Consequently, profitability also suffered.

164. The Authority thus holds that dumped imports from subject countries have caused deterioration in performance of domestic industry.

Indian industry's interest & other issues

165. 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.

166. 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.

Comments Received from Various Interested Parties to Disclosure Statement

Domestic Industry

167. Domestic Industry has contested the grant of Market economy Treatment to Cooper Chengshan and has claimed that the injury margins calculated are less than their calculations as per Customs Data based upon the prices declared at the time of importation. Their submissions are summarized as follows:

- i. Market economy status proposed to be granted to Cooper Chengshan (Shandong) Tire Company Ltd. is incorrect on account of ownership and RM supplies / procurement. It has been claimed that one of the shareholders is Chinese company, owned or controlled by Govt. of China and Rongcheng Rubber Factory is the original factory, which was Govt. of China entity. It has been claimed that Leaders in company, past and present are all Communist Party senior persons and mere fact of being JV is insufficient. It has also been claimed that the Company is a part of another group company and this fact appears to have been suppressed from the Designated Authority.
- ii. It has been claimed that on RM front, Bead wire and steel cord are being supplied by related company - Rongchang Steel Cord Co. Ltd., there is no response from related

- company and no evidence provided by the company to establish that the prices of inputs substantially reflect market values
- iii. Other issues highlighted by the domestic industry are that there is no information that that the books are consistent with IAS, Questionnaire response does not include response from Group as a whole. Companies involved in bead wire and steel cord have not responded. Designated Authority consistently held that group as a whole must file questionnaire response (decision in ceramics tiles case), and there is no information on transformation of the company
 - iv. Determination of normal value in case of companies not granted market economy treatment is incorrect. It has been submitted that Proposed determination is contrary to the Hon'ble Supreme Court order wherein it is clearly held that various options given under Para 7 are in an order and that order must be followed. Once the companies have been declared not entitled for MET, costs or prices in China cannot be adopted, even if the same is based on a company granted MET. A large number of EC cases given to establish that normal value in respect of companies not entitled for MET cannot be based on companies granted MET. The reasons given for adopting Cooper normal value is highly inappropriate and biased against Indian Producers. Any other reasonable basis stated in Para 7 cannot be read to mean Chinese costs and prices. It has further been submitted that evidence of price in market economy third countries provided by the petitioner ignored
 - v. Determination of export price in respect of responding companies is incorrect. The export price must be compared with the Chinese customs data, which shows huge variations. The export price claims have not been compared with the information declared to the customs authorities at the time of importing the goods. Resultantly, the dumping margin and injury margin both are grossly understated. The DI has also referred to past decisions of the Designated Authority in the matter of nylon filament yarn, viscose filament yarn; CDR wherein the Designated Authority has rejected the claims made by the exporters and modified the same to the extent of variations with the customs data.
 - vi. The anti dumping duty should be recommended in terms of fixed quantum, expressed as amount of duty per tyre in terms of US\$. Imposition of duty in cross ply tyres case, changes in the input costs, wide range of the product, implementation & enforcement issues and decisions of the CESTAT in the matters of metcoke, NBR and Vitriified Tiles have been raised to justify such form.
 - vii. The scope of the product under consideration should be well clarified to prevent circumvention

Examination by the Authority

168. The Authority has taken note of the submissions of the Domestic Industry and concludes that the MET treatment given the Cooper is in line with the established practice. Records verified by the Authority clearly establish that the Company is operating under Market Economy Conditions. This is supplemented by the fact that RM cost of the subject exporter is more or less the same as that of the domestic industry as already brought out in the disclosure statement. As regards adoption of NV for other exporters operating under NM economy conditions, the Authority concludes that reference to EC cases is not relevant as DA in India

need not necessarily be guided by the procedure followed by EC. Regarding NEP and LP for calculation of Dumping and Injury Margins respectively, the Authority concludes that the same determined in respect of individual responding exporters are based upon verified data and hence correctly been determined. Regarding inconsistency with the Customs data, the Authority notes that there are a number of traders based in Dubai, Hong Kong and Singapore, who also market Chinese Tyres in India. None of these traders have responded to the initiation and therefore all of them fall in the residual category where the duty proposed by the Authority is quite high.

All India Tyre Dealers' Federation

169. Claiming that determination of injury under Rule 16 of the Customs Tariff Rules, 1965 is not fair and balanced, they have urged that the Authority should not levy anti-dumping duty on the basis of frivolous injury claims of domestic industry, claiming the same to be inconsistent with the market realities with inflated and irrelevant data supplied by them to support their contention. In this context their submissions can be summed up as under.

- i. Investigating Authority has taken very lopsided view of the events which give undue favour to the domestic tyre makers involved in this complaint.
- ii. There is a quality certification differences between these radial tyre brands imported from China into India and locally produced by Apollo Tyres, J.K. Tyres and MRF Tyres Ltd. The Chinese brands come with mandatory quality marking on the side walls of the tyres and stand up to product liability norms prevailing in most developed countries like USA and Europe where as the Indian radial tyres in this category do not carry any quality and safety marking on their side walls.
- iii. The tyre dealers in the domestic market all over the country are engaged in sale and service of tyres supplied by domestic Indian tyre manufacturers and supplied by importers from China and other parts of the globe. Hence, the consumer / tyre user is in direct relation with price, warranty and service of these tyres.
- iv. The disclosure statement has not anywhere stated that what has been the failure rate of domestic truck / bus radials and consequent reason for their not being popular with the dealers and truck / bus operators for last more than decade.
- v. The J.K. Tyre (having taken over M/s. Vikrant Tyres, Karnataka, a joint sector company) had acquired maximum production capacity among Indian players long ago and could not create substantial market share even when there were no import of truck / bus radials in India. In fact during that period, the warranty claim of this Tyre Company was as high as 27% of its sales to dealers. This only confirms that the domestic radials did not suffer any injury due to imports and the other two applicants in this case - Apollo Tyre, MRF Ltd. - have been very late entrant in to truck/ bus radial market and MRF have been very erratic and irregular in selling and marketing their radials due to serious quality and performance failures in the replacement market. Similarly, M/s Apollo Tyres like MRF Ltd. had set up truck / bus radial tyre production at their Baroda Plant much later the imports were already on and their facilities are mere small extension of their existing passenger car radial production centres. Hence, these players have been very non serious truck / bus radial producers despite consistent demand dealers and transport operators.

- vi. The anti-dumping investigators, while having not visited the replacement market, to take ground level information from dealers and transporters, have accepted the pricing and production data of these three complainants and that of domestic industry without any proper investigation.
- vii. The several studies conducted by BICP in past on domestic tyre industry severely indicted, on each occasion, these manufacturers for indulging in price rigging, supply strangulation and usurpation of excise duty reductions.
- viii. The Financial Results of domestic tyre majors, before, during & after the period of investigation (POI), clearly display that despite 25% drop (on average) in raw material prices, the tyre prices have not been rolled back accordingly as they were increased during the period when the raw material prices went up. The period 2004-05 to 2009 third quarter fiscal is testimonial that price increases indulged into by these complainant tyre companies were never rolled back on steep drop in raw material prices.
- ix. They have gone ahead with usurping the Excise Duty during this period as Excise Duty on Tyres has been reduced to 8% from 32% in last five years. Hence, the domestic tyre prices, across the board including so called truck/bus radials, are easily overpriced by 25% - 30% as against the foreign brands imported from China PR have been sold in domestic Indian market in relation with to change in raw material prices and hence were bound to be cheaper by 30% - 35% on all counts. Moreover, the economies of scale which Chinese tyre producers have for truck /bus radials are 20-30 times more than that of domestic tyre majors like MRF Ltd. or Apollo Tyres and hence their prices are bound to be low in comparison to domestic Indian brands. Therefore, the anti-dumping margin stated in the 'disclosure statement' is based on incomplete and incorrect information picked up selectively by the investigators. The dumping margin in the statement has to be out rightly rejected by the Designated Authority to arrive at any final determination.
- x. The 'disclosure statement' has failed to give due weight age to the genuine and factually well supported arguments of the interested parties opposing the levy of anti-dumping duty which includes OEMs, tyre dealers and millions of truck/bus operators.
- xi. The designated authority should take larger view and compassionate view of Indian Economy and growing road transport sector, which is the back bone of Country's growth.

All India Confederation of Goods Vehicle Owners' Associations

170. Their submissions are summarised as follows:
- i. They are unable to comprehend the rationale behind the conclusion that after examining various injury parameters and as a result of increase in volume of imports in relation to total production and market demand, the share of the domestic producers has declined. It has also been stated that they are unable to see any relationship of decline in the profitability of DI, despite production and sales volume having increased with import of the subject goods.
 - ii. They have questioned the logic behind drawing a relationship between decline in market share of domestic manufacturers resulting in increased inventories as a consequence of import of Radial truck and bus tyres.

- iii. According to them, although they note with some comfort that the authority appreciates that the purpose of anti-dumping duty is to eliminate injury caused to the domestic industry by the unfair trade practice of dumping, so as to reestablish a situation of open and fair competition in the Indian market which is in general interest of the country, the conclusion of the authority that the imposition of anti-dumping measures could not restrict the imports from the subject countries in any way, and, therefore, could not affect the availability of the products to the consumer, is surprising and seems to be rather skewed.
- iv. They have alleged that the domestic tyre manufacturers have traditionally been unfriendly to the consumers and insensitive to their needs. For indulging in collusive unfair pricing, they have been commented upon by the Bureau of Industrial Costs and Prices (BICP). Again on the complaint of the consumers that the domestic tyre makers were functioning as a monopoly, the Monopolies and Restricted Trade Practices Commission (MRTPC) had to issue 'Cease and Desist Order'. The consumers have suffered the domestic tyre oligopoly of fixing tyre prices, all of them together, on the same date and by same amount to the last Paisa.
- v. The consumers have been demanding the domestic tyre industry for decades to provide them modern technology Radial tyres for commercial vehicles. They, in unison, have negated this all along and continue to do so.
- vi. According to them Director General of Automotive Tyre Manufacturers Association (ATMA), the petitioner in instant case, has said just a few weeks ago that *"Radialisation of truck and bus tyres is currently approximately 10% against 95% in case of passenger car tyres. According to him, large number of truck / bus operators in India being one or two vehicle owners only, a large percentage of their vehicles being "old and with dated technology", condition of roads being poor and truckers' tendency to overload, have been the reasons why use (read MANUFACTURING) of radial truck and bus tyres has not accelerated so far in India"*. In this back-drop the application by domestic tyre makers to the Authority for levying of anti-dumping duty is yet another facet of their traditional dog-in-the-manger policy i.e. neither produces nor let procure.
- vii. From the goods carriage operator's point of view import of Radial truck / bus tyres has become imperative. Tyres accounting for second major chunk of vehicle operating cost the vehicle operators' principal concern remain both the quality and price of tyres.
- viii. Comparison on both these counts between the imported and domestic products is just illusory, since the tyre being imported are not being produced by domestic manufacturers. Indeed the domestic tyre manufacturers' claiming that goods produced by them are like the goods originating or exported from, China PR and Thailand is sheer travesty of fact.
- ix. Notably the Government's own testing organization the Central Institute of Road Transport (CIRT) has tested and concluded that imported tyres are far superior than those produced by domestic tyre makers. *Significantly the meager quantity of truck / bus radial tyres which the domestic tyre makers are producing is being sold mainly for city bus operations.*
- x. We appreciate that the authority has the mandate only to look into the interests of the domestic tyre manufacturers. Unfortunately the users of the product of these manufacturers are not blessed with similar institutional protection of their right to carry on their business freely, optimally and profitability. None-the-less the Authority would

be better advised to see through the game of domestic tyre manufacturers to outprice the import of tyres through anti-dumping levy / restrictions and thus, by default condemn the domestic commercial vehicle operators to continue to suffer the oligopoly of domestic tyre makers who truly relish their perpetrating of outdated technology at opportunistic price.

- xi. Concluding their submissions it has been stated that by resorting to levy of anti-dumping measures on import of truck / bus radial tyres the injury to the domestic tyre makers may or may not be prevented. But it would surely INJURE LETHALLY the commercial vehicle owners of the country. This they shall not take lying low and resent in every manner, including closing down their operations.

Examination by the Authority

171. The Authority notes that the issues raised by the responding Federation / Associations are a repeat of what has been stated in earlier submissions. The issues relating to quality, demand, injury to the domestic industry, relevant to the investigation have already been addressed in the Disclosure statement. The pricing and production data of Domestic Industry has not been accepted on its face value but after detailed scrutiny, examination and verification to the extent necessary. The Authority has also established relationship between the dumped imports and injury to the Domestic Industry. Other issues raised, apart from not being supported by corroborative evidence, are also not relevant to the investigation. Quality issue and Cestat Judgement on the same has also elaborately been examined and explained in the disclosure statement. The Authority is required to carry out Antidumping Investigations within the scope of AD Rules, notified under the Customs Act. These Rules are consistent with the WTO Agreement on Antidumping and the Authority is required to establish various parameters including Normal Value, Export Price, landed Price, Non-Injurious price, consequential Dumping and Injury Margins, Domestic Industry and Standing, Like Article and above all to establish a relationship between dumping and injury to the Domestic Industry. The Authority has considered all these parameters based upon the verified records, both of the domestic producers and responding exporters. In fact the verification reports have individually been shared with each responding exporter and margins of dumping made known to each of these responding exporters has not been questioned by any one of them. In fact none of the responding exporters has filed any comments to the Disclosure statement which indicates that they are satisfied with the proposed result announced by the Authority through the Disclosure Statement. Therefore the Authority concludes that there is conclusive evidence that the imports of subject goods from subject countries into India are taking place at dumped prices.

Michelin Shenyang Tyre Co. Ltd. China Michelin SIAM Co. Ltd. Thailand

172. Both the companies have made common submissions on injury to DI. That apart, Michelin China has made submissions on NME status to Chinese Companies. The submissions are summarised below:

- i. Non Market economy status cannot be fastened to any country as a general Rule and WTO Guidelines nowhere specifically termed China as a NME country. It has also been alleged that the Company had provided details as to why NME status should not be

given to China in this case which has not been discussed at all in the disclosure statement.

- ii. The petitioners have been contending that there has been huge decline in their production and capacity utilisation due to dumping of subject goods whereas from the disclosure statement the petitioners' claim has been found to be false and baseless. It has also been contended that the supply of goods increased because of increasing demand and inability of DI to fulfil gap between demand and supply. It has also been alleged that the Authority has failed to address the concern on gap between demand and supply without opening up domestic market for subject goods.
- iii. The inventories of DI have been increasing because DI created an artificial shortage in the market by withholding supplies in the market.
- iv. It has been alleged that high cost of production of DI cannot be a reason for levy of ADD.
- v. Michelin sells far superior quality PUC in India and sells them at a much higher price to customers than the DI.
- vi. Return of 22% on capital employed is against the industry norms, particularly in tyre industry where such kind of return is not there.

Examination by the Authority

173. Authority has considered the submissions as above and holds that Michelin Shenyang Tyre Co. Ltd. China has partially gone through the disclosure statement. Authority has individually addressed the issue of Market economy in respect of each responding exporter. The Company has failed to realise that some of the responding exporters have admitted to be operating under NME conditions whereas in respect of others, a reasoned justification has been given as why each one of them should be treated as operating under NME conditions. In fact one of the responding companies has been accorded MET status. Further as far as Michelin Shenyang Tyre Co. Ltd. China is concerned, the claim on NV has been accepted as claimed. The Authority therefore fails to understand the rationale behind this issue being raised.

On the issue of demand and supply gap, the Authority holds that the AD measure is not an instrument to restrict imports but to permit the same by providing a level playing field to both the exporters from subject countries and the Domestic Industry. Regarding quality and high price of the brand of tyres sold by these responding exporters, the Authority holds that the price comparison has been done at the same level i.e. dumping margins (both normal value and export price) at ex-factory level as well as injury margin by comparing landed prices with ex-factory NIP. In the instant case, the both the responding exporters have admitted dumping of subject goods into India and therefore the argument on this score does not hold any validity. Regarding higher cost of the domestic industry, the argument is without any supportive evidence; incidentally the normal value of Michelin Shenyang Tyre Co. Ltd. China, as well as Michelin Siam Thailand is close to or far higher than fair selling price worked out for the domestic industry. Hence there is no weight in this argument. Further India follows the lesser duty rules

and therefore, the higher cost of production of the domestic industry if any, will result higher injury margins as compared to dumping margins, and duty in such a eventuality would be on lesser of the two margins. As regards the allegation of artificial shortage in the market created by the domestic industry by withholding supplies, no evidence to this effect has been provided by the responding exporter.

174. Comments to disclosure statement have also been received from Tata Motors, Ashok Leyland, Hangzhou Zhongce and Sunrise on the issue of Description of PUC, grant of MET to Cooper, grant of NME treatment to Hangzhou, Customs duty to include education Cess for working of LP etc and duty to be imposed on per tyre basis. Further comments were also received from Triangle Tyres on the issue of VAT adjustment and from Wanda Boto on the issue of NEP working and from Zhouyuan Leo with regard to not granting them individual DM. All these issues have been examined and addressed by the Authority before finalizing the Final Findings Document.

Recommendations

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

176. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. Accordingly, antidumping duty equal to the amount indicated in Col 9 of the table below to be imposed from the date of this notification on all imports of subject goods originating in or exported from Thailand and China PR.

Duty Table

S.No.	Sub. Heading	Description	Country Of origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
-1	-2	-3	-5	-6	-7	-8	-9	-10	-11
1	401120 10,4013 1020 and 401290 49	"New/Unused pneumatic Radial tyres(Including Tubeless) 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	Qingdao Double Star Tyre Industrial Co. Ltd.	Qingdao Double Star Tyre Industrial Co. Ltd..	34.81	One set of TTF*	US\$
2	-DO-	-DO-	-DO-	-DO-	Hangzhou Zhongce Rubber Co. Ltd	Hangzhou Zhongce Rubber Co. Ltd	32.74	DO	US\$
3	-DO-	-DO-	-DO-	-DO-	Aeolus Tyre Co. Ltd	Aeolus Tyre Co. Ltd	30.79	DO	US\$
4	-DO-	-DO-	-DO-	-DO-	Shandong Wanda Boto Tyre Co. Ltd	Shandong Wanda Boto Tyre Co. Ltd	40.73	DO	US\$
5	-DO-	-DO-	-DO-	-DO-	Tringle Tyre Co. Ltd.	Tringle Tyre Co. Ltd.	26.01	DO	US\$
6.	-DO-	-DO-	-DO-	-DO-	Shandong Yinbao Tyre Group Co. Ltd	Shandong Yinbao Tyre Group Co. Ltd	35.17	DO	US\$
7.	-DO-	-DO-	-DO-	-DO-	Shangdong Jinyu Tyre Co. Ltd	Shangdong Jinyu Tyre Co. Ltd	39.66	DO	US\$
8.	-DO-	-DO-	-DO-	-DO-	Shangdong Hengfeng Rubber & Plastic Co. Ltd.	Shangdong Hengfeng Rubber & Plastic Co. Ltd.	24.97	DO	US\$
9.	-DO-	-DO-	-DO-	-DO-	Double Coin Holding Ltd.	Double Coin Holding Ltd.	25.68	DO	US\$

10.	-DO-	-DO-	-DO-	-DO-	Copper Chengshan (Shandong) Tire Co. Ltd.	Copper Chengshan (Shandong) Tire Co. Ltd.	42.48	DO	US\$
11.	-DO-	-DO-	-DO-	-DO-	Xingyuan Tire Group Co.Ltd.	Xingyuan Tire Group Co.Ltd.	37.21	DO	US\$
12.	-DO-	-DO-	-DO-	China PR / Singapore	Michelin Shenyang Tire Co. Ltd	Michelin Asia-Pacific Import-Export (HK) Ltd.	37.83	DO	US\$
13.	-DO-	-DO-	-DO-	China PR	Any other than combination at Sl 1 to 12 above	Any other than combination at Sl 1 to 12 above	88.27	DO	US\$
14.	-DO-	-DO-	Thailand	China PR	Any	Any	99.05	DO	US\$
15.	-DO-	-DO-	Any other than China PR and Thailand	China PR	Any	Any	88.27	DO	US\$
16.	-DO-	-DO-	Thailand	Thailand / Singapore	Michelin Siam Co. Ltd.	Michelin Asia-Pacific Import-Export (HK) Ltd.	76.22	DO	US\$
17.	-DO-	-DO-	-DO-	Thailand	Any other than combination at Sl 16 above	Any other than combination at Sl 16 above	99.05	DO	US\$
18.	-DO-	-DO-	China PR	Thailand	Any	Any	99.05	DO	US\$
19.	-DO-	-DO-	Any other than China PR and Thailand	Thailand	Any	Any	99.05	DO	US\$

* Note: i. The duty amount as indicated in Col 9 above shall be applicable on TTF set or Tubeless Tyre.
ii. In case of imports of tyre, tube or flap individually or in any combination thereof, the amounts shall be calculated by applying a percentage as per table given below to the amount mentioned in column 9 above.

SN	Description	% to be applied on the amount mentioned in column ---- above
1.	Tyre	90%
2.	Tube	7%
3.	Flap	3%
4.	Tyre & tube	97%
5.	Tyre & flap	93%
6.	Tube & flap	10%

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

(R. Gopalan)
Designated Authority