

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES

NOTIFICATION

NEW DELHI
Dated the 25th July, 2011

FINAL FINDINGS

Subject: - Final Findings of Sunset Review Investigation of Anti-dumping duty imposed on imports of Certain Rubber Chemicals namely 'MBTS' originating in or exported from China PR.

15/9/2010-DGAD – Having regard to Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred to as the AD rules).

A. BACKGROUND

Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act), and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules), definitive anti-dumping duty was originally imposed vide notification No. 87/2005-Customs dated 27th September, 2005, in pursuance of Designated Authority's Final findings No.14/09/2004-DGAD dated 6th July, 2005, on import of Certain Rubber Chemicals (MBTS) (hereinafter referred to as the subject goods) originating in or exported from China PR, (hereinafter referred to as the subject country/territory).

2. And whereas, in view of the order of the Hon'ble Delhi High court in the matter of Indian Metal and Ferro Alloys Ltd v/s Designated Authority, Writ Petition (Civil) No. 16893 of 2006 and in accordance with Section 9 A (5) of the Act, read with Rule 23 of AD Rules, the Authority issued a public notice dated 26th July, 2010, published in the Gazette of India, Extraordinary, initiating the sunset review investigation to review the need for continued imposition of duty in force and to examine whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.

B. PROCEDURE

3. The following procedure has been followed in the present investigation:

- i. The Embassy of the subject country in India was informed about the initiation of the investigation, in accordance with Rule 6(2) of the AD Rules.
- ii. The Authority sent copies of initiation notification dated 26th July, 2010 to the Embassy of the subject country and the domestic industry, known exporters from the subject country, known importers and other interested parties, as per the information available with it. Parties to this investigation were requested to file the questionnaires' responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to the Embassy of the subject country along with a list of known exporters / producers with a request to advise the exporters/ producers from the subject country to respond to the questionnaires within the prescribed time.
- iii. Questionnaires were sent to the following known exporters from the subject country in accordance with Rule 6(4) of the AD Rules to elicit relevant information:

S.N.	Company's Name
1.	China Sunsin Chemical Holdings Ltd., China PR
2.	Rongcheng Chemical General Factory Co., Ltd., China PR
3.	Shenyang Northeast Auxiliary Chemical Industry Co., Ltd, China PR
4.	Meyors Chemical Inc Limited, China PR
5.	Linkwell Rubber Chemicals Co.,Ltd., China PR
6.	Puyang Willing Chemical Co., Ltd.

None of the Exporters/producers from the subject country filed the questionnaire response.

- iv. Questionnaires were sent to the following known importers, users and the associations of the subject goods in India for providing necessary information in accordance with Rule 6(4) of the AD Rules:

S.N.	Company's Name
1.	J.K. Industries Ltd. Kolkata
2.	CEAT Limited, Mumbai
3.	Apollo Tyres Ltd., Kochi
4.	Birla Tyre, Kolkata
5.	MRF Limited, Chennai
6.	Metro Tyres Ltd., Ludhiana
7.	Poddar Tyres Ltd., Ludhiana
8.	Raison Ind. Ltd., New Delhi
9.	Rubber Products Ltd., Thane

S.N.	Association's Name
1.	Automotive Tyre Manufacturers Association (ATMA)

- v. Importers questionnaire response has been submitted by CEAT Limited and Apollo Tyres Limited.
- vi. The imports data for the period of investigation and preceding three years was called from Directorate General of Commercial Intelligence and Statistics (DGCI&S), which was received by the Authority.
- vii. In response to the notification issued by the Authority dated 26th July 2010, the Authority received an application from M/s National Organic Chemicals Industries Ltd (NOCIL) requesting for the review, continuance and enhancement of anti-dumping duty in force against the dumping of Rubber Chemical (MBTS) in the Indian market by the producers and/or exporters from the subject country. Besides, M/s Automotive Tyres Manufacturers Association (ATMA) filed their submissions in this regard. However, none of the producers/exporters from the subject country has responded to the initiation notification.
- viii. The Authority made available the non-confidential version of the evidence presented by the interested parties in the form of a public file kept open for inspection by the interested parties.
- ix. As stated, the application for continuation of the anti-dumping duty was received from M/s NOCIL, which is a major producer of the subject goods in India. It has submitted the information/data for undertaking the injury analysis. The Authority has examined the information furnished by the company to the extent possible on the basis of Generally Accepted Accounting Principles (GAAP) to analyze the injury suffered and to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if the anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- x. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all interested parties to present their views orally in public hearing held on 2nd May 2011. The parties who presented their views in the public hearing were requested to file written submissions of the views expressed orally. The arguments made in the written submissions/rejoinders received from the interested parties have been considered, to the extent relevant, in these findings.
- xi. The period of investigation for the purpose of the present review is 1st April 2009 – 31st March 2010 (POI). However, injury analysis covers the periods April 2006-March 2007, April 2007-March 2008, April 2008-March 2009 and the POI.
- xii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xiii. In accordance with the Rule 16 of the AD Rules, the essential facts under consideration before the Authority in the instant investigation were disclosed to the concerned interested parties. The comments received on the disclosure statement,

to the extent considered relevant, have been duly examined in the Authority's findings.

- xiv. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xv. Wherever an interested party has refused access to, or has otherwise not provided the necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority recorded the findings on the basis of the information and facts available.
- xvi. *** In these findings represents the information furnished by the interested parties on confidential basis and so considered by the Authority under the AD Rules.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions made by NOCIL

- 4. The domestic industry made the following submissions:
 - (i) The product under investigation in the original investigation and present review is Rubber Chemical (MBTS). MBTS is extensively used in the manufacture of various rubber products. It is an accelerator and is also used in manufacturing of automotive tyres, conveyor belts and footwear industry.
 - (ii) The Authority in the original investigation noted that there is no dedicated ITC HS Classification for the subject goods and product under consideration is classified under various subheadings of customs classification heads 38.12.10, 38.12.20 and 38.12.30 as well as under 29.34.20 and 29.25.20 (at six digit levels) of the Customs Tariff Act and ITC HS classification. However, the Authority also noted that the product is known by its respective trade name and the chemical description as indicated above.
 - (iii) The goods produced by the domestic industry are like article to the imported product. There is no known difference in the product under consideration produced by the Indian industry and subject goods exported from the subject country. The issue of product under consideration and like article was examined in detail by the Designated Authority in the original investigation and it has been held that the imported and domestic products are like article.
 - (iv) Present review investigation being a sunset review investigation, product under consideration remains the same as has been defined in the original investigation.

Submissions made by other interested parties

5. None of the other interested parties has filed any comment or submissions with regard to product under consideration, like articles and scope of the present investigation.

Examination by the Authority

6. The Authority notes that since the present investigation is a Sunset review investigation, the product under consideration remains the same as has been defined in the original investigation. The Authority in its final finding vide Notification No. 14/09/2004-DGAD dated 6th July, 2005, inter-alia, held that the product under consideration is certain specific rubber chemical, namely, MBTS, used in manufacture of rubber products. The chemical name of MBTS is Dibenzothiazole disulphide and its other trade name is Accelerator DM. MBTS is manufactured by oxidation of sodium salt of MBT using suitable oxidizing agents. It is mainly used in automotive tyre and tubes industry and also in conveyor belting and footwear industry amongst others.

D. Scope of the Domestic Industry

Submissions made by the domestic industry

7. The present investigation has been undertaken *suo motu* by the Authority. NOCIL is a major producer of the subject goods in the Country. As regards the production of the subject good by other producers, no published information is available. The applicant satisfies the requirement of standing within the meaning of the AD Rules.

Submissions made by other interested parties

8. None of the interested parties has made any submission in respect of the standing of the "domestic industry".

Examination by the authority

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

"domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves the importers thereof in such case the term 'Domestic Industry' may be construed as referring to the rest of the producers only.

10. In the present review investigation, M/s NOCIL Ltd. has responded to the initiation notification. As per the information on record, M/s NOCIL Ltd. is a major producer of the subject goods in India. Therefore, M/s NOCIL Ltd satisfies the requirement of 'domestic industry' within the meaning of the AD Rules for the subject goods.

E. Dumping Determination

Normal Value

Submissions made by the Domestic Industry

11. The domestic industry has contended as follows:

- (i) The preferred methodology for the determination of Normal Value is the selling price of the exporter concerned for sale in the domestic market. However, such information is available with the exporters concerned only. There is no public information available in this regard. It is not the argument of any interested party that such selling price of the foreign producers in their domestic market was readily available and the petitioner chose to ignore the same. It is also relevant to point out that the petitioner can be expected to provide such information as is reasonably available to the petitioner. In fact, in a large number of cases, the Designated Authority has considered the prices published in trade journals. Such prices need not be the prices of the domestic producers. Such prices generally are the prices at which the product has been purchased for consumption in the exporting country.
- (ii) It would thus be seen that the Rules emphasis on 'the price when meant for consumption' and the same must be distinguished with 'the price at which goods has been sold'. "In the original investigations, the Designated Authority has not granted market economy treatment to the responding exporter from China PR and determined the normal value of the subject goods in the China PR on the basis of the constructed normal value based on the 'price paid or payable in India' duly adjusted for the reasonable profit margin". Since the present application is for the review of the existing measures, petitioner requests the Authority to consider the same methodology to calculate the normal value for the purposes of the non-market economy.
- (iii) The petitioner has adopted its export price to Europe to determine the price at which Rubber Chemicals are being sold for consumption in European market.
- (iv) Petitioner submits that the Rubber Chemicals constitutes specialty chemicals and have extremely limited market globally. These are neither widely traded commodity, nor are the prices of these products published/tracked by trade journals. In fact, globally there are very few producers (probably below 10), who sell the product directly to the customers (at least tyre segments). Therefore, the price at which the European producers have sold the product in the domestic market is not at all publicly available.
- (v) In view of the above, and considering that the actual information is in possession of the foreign producers, the Authority should consider the evidence of the price at which goods have been sold for consumption in the domestic market of Europe for

the determination of normal value. Such a methodology is not only legally permissible, but is also appropriate.

- (vi) It was suggested by ATMA that the prices from Trade Journal could have been adopted. The petitioner submitted that there is no Trade Journal which reports prices of these products. If such prices were indeed available; nothing prevents ATMA from providing this information to the Designated Authority. Anti-dumping investigations cannot be seen as an investigation where only the domestic industry would provide information and evidence and all other parties' role would be restricted to mere rejoinder. Nothing preventing ATMA from providing relevant information, if ATMA considers that such information is readily available.
- (vii) The Authority in the original investigation provided a detailed reasoning for discarding the market economy treatment to the exporters/producers from China PR. Since, none of the exporters/ producers has filed any questionnaire response to rebut the claim of non-market economy, the status as accorded in the original investigation should be considered for the exporters / producers from the subject country.

Submissions made by other interested parties

- 12. The Automotive Tyre Manufacturer's Association on behalf of importers and users have, *inter alia*, contended as follows:
 - (i) The procedure adopted for the Normal Value and export price determination for the subject country is WTO incompatible and not in accordance with the Indian Rules.
 - (ii) The interpretation of Section 9A of the Act is highly misleading. It is Para 7 of Annexure I, which needs to be applied for the determination of normal value for a non-market economy country. In the matter of *Shenyang Mastushita S. Battery Co. Ltd v. Exide Industries Ltd. & Others*, the CESTAT has provided a hierarchy in Para 7 for the determination of Normal Value for a NME country. The same needs to be followed in the present matter.
 - (iii) The normal value in case of the non-market economy shall be determined on the basis of the price or cost of production in an appropriate third country and only if this is not possible, then the Authority can resort to any other reasonable methodology.
 - (iv) In the original Investigation as well, the normal value was based on "any other reasonable basis, including the price actually paid or payable in India for the like product duly adjusted if necessary." The same methodology should be adopted in the present case as well.

- (v) NOCIL's export price to EU is not a reasonable basis in as much as the same bears no connection with the costs and prices in China PR.
- (vi) There is inconsistency in the deductions made while calculating the export price for the subject country as claimed by the domestic industry in the petition and the annexure attached thereto. Authority is requested to analyze the same in detail.
- (vii) The domestic industry has not provided any basis for the deductions claimed in the calculation of the export price.

Examination by the Authority

- 13. As regards Normal Value, the Authority has examined the matter as under:
 - (i) The Authority notes that this investigation was initiated on *suo motu* basis.
 - (ii) However, as regards the ATMA's contention that refers to the submissions of the domestic industry, the Authority notes that the domestic industry is required to provide information, *inter alia*, on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries, or on the constructed value of the product) and information on export prices or, where appropriate, on the prices at which the product is first resold to an independent buyer in the territory of the importing Member.
 - (iii) Besides, the other interested parties are expected to file their questionnaire responses and thereby assist the Authority to reach an impartial and objective finding. The Authority addressed all known interested parties to make available the relevant information. Since none of the producer/exporter from China PR has co-operated in this investigation and provided any information for rebutting the non-market economy treatment as per para 8(2) of Annexure 1 of the AD Rules, the presumption of non-market economy as per para 8(2) of Annexure 1 of the AD Rules remains un-rebutted. The Authority, therefore, determines the Normal value in accordance with para 7 Annexure I of the AD Rules. In the absence of sufficient information on record regarding the other methods as are enshrined in para 7 of Annexure I of the AD Rules, the Authority has determined the Normal value by adopting the method of "any other reasonable basis".
- 14. The Authority, in the absence of sufficient information on record regarding other alternative methods as provided in para 7 of Annexure 1 to the AD Rules, has constructed the Normal value for all producers/exporters of China PR considering the international prices of major raw materials, optimum consumption norms and conversion cost as available on record and a reasonable profit. The Normal value so determined works out as US\$ ***/Kg.

Export Price

15. In relation to export price, the Authority has examined the matter as under:

- i. The Authority notes that no exporter/producer from the subject country has responded to the initiation notification nor provided information in the form and manner prescribed for the purpose. In view of the non-cooperation by the exporters/producers, the Authority proceeds to determine the 'Export price' on the basis of information available on record.
- ii. In this regard, the Authority examined as to whether the import statistics provided by IBIS and DGCI&S could be used to determine the Export price of the subject goods from the subject country during the relevant period. It is seen that the domestic industry has claimed volume, value and import price on the basis of information provided by IBIS. The Authority has adopted the import data from IBIS source, which has reported a higher volume of imports than DGCI&S, in order to determine volume and value of imports for the purpose of present investigation.
- iii. Thus, the Authority has determined the weighted average import price for the product under consideration on the basis of information provided by IBIS. It is seen that the import prices as reported in the IBIS are on CIF basis. In view of the non-cooperation by the exporters/producers from the subject country, the Authority has determined the 'Export Price' on the basis of information available on record.
- iv. Accordingly export price has been calculated on weighted average CIF basis. To arrive at the net export price, expenses on inland freight, ocean freight and insurance, port charges and commission have been deducted. By this method, the net export price has been determined as under:

Particulars	Unit	China PR
Import volume	MT	444
Import value	Rs. Lacs	491.89
CIF import price	Rs./Kg	109.67
Exchange rate	Rs./US\$	48.30
CIF export price	US\$/Kg	2.27
Price adjustments (total)	US\$/Kg	***
Ex-factory export price	US\$/Kg	***

Dumping Margin

16. On the basis of comparison of the Normal value and Export price (both at Ex-factory

level) so determined, the dumping margin during the POI for all exporters/producers from the subject country has been worked out as follows:

	Unit	Amount
Constructed Normal Value	US\$/Kg	***
Net Export price	US\$/Kg	***
Dumping Margin	US\$/Kg	***
Dumping Margin	% range	10-20

F. Continuation or recurrence of dumping:

17. The domestic industry has, *inter alia*, contended as follows:

- i. In the present case, the exports from the subject country continued to be made at dumped prices, establishing that the exporters would continue to export the subject goods at dumped prices in case of cessation or revocation of anti-dumping duty.
- ii. Dumping margin determined in the present investigation is above *de minimis* as well as significant. This is the situation when the anti-dumping duty was in existence.
- iii. In the previously concluded investigation also, the Authority had found significant dumping margin and concluded the investigation with the imposition of the antidumping duty on the imports of the subject good from the subject country. Inspite of the Anti-dumping duty in existence, the dumping from the subject country has continued to be significant.
- iv. The exports of the subject goods by the exporter/producer from the subject country to third countries are also at dumped prices.
- v. The prices prevailing in the Indian market are quite attractive for the foreign producers to export the significant volumes, in case the anti-dumping duty is revoked. The price-undercutting is significantly positive even at the current level of anti-dumping duty. The petitioner has calculated price undercutting without anti-dumping duty which comes out to be significantly positive clearly showing that should the present anti-dumping duty is revoked or allowed to cease, the price attractiveness of Indian market would further increase for the foreign producers which would result in further increase in imports at dumped prices.
- vi. Considering the demand with the capacity in China PR, it is obvious that there is huge surplus capacity in China PR over demand. In the event of revocation of anti-dumping duty, these exporters are likely to divert huge volume of dumped exports to large and growing market in India thereby leading to continuation of dumping. The evidences as to the excess capacities have been provided along with the submissions filed.
- vii. Domestic industry will suffer significant financial losses, if the duty is revoked or allowed to cease and the domestic industry is forced to match the prices.

viii. The foreign producers have preferred non-cooperation and therefore the Authority should apply best available information.

Submissions made by ATMA

18. ATMA has contended that there is no case for recurrence of dumping and injury and hence the SSR investigation should be terminated. It has further contended that:

- i. The claim of confidentiality by domestic industry is unwarranted.
- ii. The use of word “likely” as provided under Article 11.3 of the AD Agreement suggests that an affirmative likelihood determination may be made only if the evidence demonstrates that the dumping would be probable if the duty were terminated and not simply if the evidence suggests that such a result might be possible or plausible. In the matter of *Vinati Organics Ltd v. Designated Authority*, it has been held by the CESTAT that the point required to be taken into consideration by the Authority should be based on some positive evidence and not on mere surmises and conjectures.
- iii. Even in sunset review investigation, the designated authority is required to analyse the domestic industry performance based on the parameters laid down in Annexure II. If the domestic industry's performance has improved on account of various injury parameters, the Authority may withdraw the duty.
- iv. The domestic industry has made unsubstantiated claims for likelihood of continuation or recurrence of dumping in the petition.
- v. In the light of improved performance of the domestic industry, the argument of likelihood of dumping is unwarranted.
- vi. Recurrence of dumping and injury has to be based upon imports coming into India and it cannot be based upon the exports to third countries. Authority cannot base the normal value in subject country upon the export price of subject goods by NOCIL to EU.
- vii. Baseless claims are made by the domestic industry with respect to the excess capacities in the subject country. The claim of surplus capacities is unsubstantiated. Mere surplus capacity does not provide for threat of material injury. Indian Spinner Association v. Designated Authority clearly held that the existence of surplus production capacity cannot be taken as posing a clearly foreseen and imminent threat of injury.

Examination by the Authority

19. The Authority notes that the information provided by both parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. The Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing the information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.

20. The Authority notes that none of the exporters/producers of MBTS from China PR has responded to the initiation notification and provided information in the form and manner

prescribed. However, the Authority notes that the information made available by IBIS shows the imports of MBTS as 444 MT from China PR during POI. It is further noted that there is a positive dumping margin in respect of imports of the subject good from China PR despite the anti-dumping duty in force. Thus the Authority is of the view that there is likelihood of continuance of dumping of MBTS from China PR if the anti-dumping duty is allowed to be withdrawn, given the fact that the subject country has a high level of surplus capacities for production of the subject goods, as per evidence which is dealt later in this disclosure statement.

G. Injury

Views of Domestic Industry

21. The submissions made by the domestic industry with regard to injury and causal link, in brief, are as follows:

- i. Imports of the product under consideration have continued. In fact, the volumes have increased in absolute terms over the years. The imports volume has remained quite significant, despite the existing anti dumping duty. Further, the volume of imports is far higher than the volume of imports established during the previous investigations. The volumes are higher than the volumes prior to the imposition of anti-dumping duty. This clearly establishes likelihood.
- ii. The market share of the dumped imports continued to increase and that of the domestic industry declined. Since imports are cheaper even after adding the anti-dumping duty, the consumers have resorted to imports. There is no other reason for these imports.
- iii. The claim of the importers that the imports from Belgium have increased, it is submitted that the import price from Belgium are much higher when compared with the import prices from China PR.
- iv. The import price represents the prices at which goods have been imported in India, but does not represent the price at which consumers are getting the product. Since these goods are being imported by rubber chemical manufactures, the resale price is significantly higher than the price at which goods have been imported. The competition to the domestic industry in these imports is from the resale price of the imported product. Such resale price being significantly higher, imports from third countries are not a principal cause of injury to the domestic industry.
- v. Landed price of imports are below the non-injurious price of the product under consideration. The landed price declined steeply in 2007-08, even when the cost had increased. Resultantly, the domestic industry was forced to reduce the prices even when the costs were rising. Despite this reduction in the prices by the domestic industry, the import volumes increased.
- vi. In 2008-09, the market was hit by recession. In 2009-10, as the markets recovered from recession and the costs of inputs declined, the cost of production of the domestic industry

declined. The domestic industry also reduced its prices. However, the import prices declined too significantly. Thus, even when the domestic industry reduced its prices, the decline in the import prices was more than the decline in the selling prices. Resultantly, the volume of imports increased significantly.

- vii. Petitioner has provided sufficient evidence to prove that the confidentiality claims are warranted both in the light of facts and law. In all the ongoing investigations wherein the rubber chemicals are considered, petitioner has not disclosed any of information claimed confidential. Such is the practice of the industry wherein no player discloses any information in the market and treat it as business sensitive information as the industry is a closed business industry. Disclosure of such information would jeopardise its market as customer will then take advantage of the means and force the company to reduce its prices.
- viii. Imports of the product under consideration are undercutting the prices of the domestic industry in the market.
- ix. The capacity of the producers and exporters to maintain a significant market share inspite of anti-dumping duty in existence clearly suggests that revocation of the present duty would lead to consumers increasingly shifting to the subject country.
- x. The significant positive undercutting, follows that the market share of the subject country would increase on cessation of anti-dumping duty. The price undercutting without anti-dumping duty is significantly high. The domestic industry will be forced to reduce the prices to significant extent in the event of cessation of anti-dumping duty.
- xi. Chinese producers have intensified dumping by absorbing the applicable duty. The consumers have been able to import these products without the payment of anti-dumping duty in view of the exemption from the payment of anti-dumping duty exemption schemes.
- xii. The production of the domestic industry declined in the period of investigation inspite of increase in demand. The domestic industry enhanced its capacities in view of current and potential demand; the domestic industry was unable to fully utilize its capacity.
- xiii. The profits of the domestic industry improved with the imposition of duty, which declined again with the decline in sale volume. The profit before interest & depreciation also declined in the current injury period.
- xiv. Even when the performance of the domestic industry has not deteriorated, the same is due to imposition of anti-dumping duty. The performance of the domestic industry could improve further, but for dumped imports in the market. Further, performance has remained sub-optimal in view of continued presence of dumped imports.
- xv. With regard to the argument of the association regarding the extension of the investigation period, it is submitted that the Petitioner has not sought the extension of the investigation period. The petitioner has simply considered the performance of the domestic industry in the current injury period with the previous years, as the Designated Authority is required to assess both actual performance and likelihood at the time of the sunset review. The

performance for the four years period is relevant for assessment of injury to the domestic industry, whereas the assessment of injury for the longer period is necessary to determine likelihood of injury.

xvi. The present investigations are sunset review investigations. In the event of the Designated Authority holding that the domestic industry has not suffered continued injury, the Designated Authority may kindly examine the likelihood of injury.

Submissions made by other interested parties

22. Following submissions have been made by ATMA on behalf of consumers and users of the subject goods. There is no response from any other interested party in the instant matter:

- (i) Domestic Industry's claim to extend the injury period is not permitted as the extended period is against the law and regular practice of Designated Authority. In several past cases only four years have been considered. When initiation notification deals only with four years, no further examination can be carried out in this regard.
- (ii) The imports from other countries are much higher than the imports from subject country. Therefore, any decrease in the production, sales or market share of the domestic industry cannot be attributed to the import from the subject country. The imports from other countries especially Belgium have gained market share to the considerable level.
- (iii) There has been an increase in Capacity utilization, Capacity and Production of the Domestic Industry for the subject product.
- (iv) The profitability of the domestic industry has increased. It has even made fresh investments. It is therefore imperative that the profits of the domestic industry would be low as part of the profits has been diverted to recover the running cost of the new investments.
- (v) The employment and salary figures also support other data on profits which has shown steady and healthy increases during the period of levy of anti-dumping duty.
- (vi) Domestic industry has admitted itself that the inventory level has declined. Also, a low level of inventory does not support the case of the domestic industry for the continuation of duty.
- (vii) Further, ROCE has also increased considerably. The domestic industry has been able to achieve better returns on investment during the POI.

- (viii) There is no price undercutting to the domestic industry as the CIF value of the imports have either increased or remained constant during the period of levy of anti-dumping duty.
- (ix) There is no price suppression and depression to the domestic industry as the domestic industry is able to increase its selling price and also the landed price and CIF value of imports have increased during the period of investigation.
- (x) In the view of the improvement in the performance of the domestic industry in various parameters, Authority should reject the claims of the domestic industry with respect to the injury.
- (xi) The demand for the subject product declined over the injury period except for the period of investigation. Stagnated demand is the result of injury to the domestic industry.
- (xii) There has been significant decline in the export sales for the subject product of the domestic industry.
- (xiii) There exists no causal link between the injury to the domestic industry and imports of the subject goods from the subject country.
- (xiv) The change of base year by DI is misleading:- Notification no. 15/14/2009-DGAD issued by the DGAD for initiating Sunset Review very clearly provides that injury analysis would cover the years 2006-07, 2007-08, 2008-09 and 2009-10 and wherein year 2006-07 has been considered as a base year. However the DI in their submissions has argued that a longer injury period should be taken into consideration by the Hon'ble DA for assessing injury to the Domestic Industry. In view of the fact that Hon'ble DA as a practice has never allowed a longer injury period than provided for in the notification and the same was also not opposed by the DI at the time of initiation, the argument of DI should be rejected.

Post Disclosure submissions of interested parties:

23. The following submissions are made by the interested parties post-disclosure:

- i) Domestic industry's performance has been significantly positive during POI and the imports from China PR has not led to any volume or price effect on the domestic industry.
- ii) Decline in market share of DI is a result of the increase in the market share of imports from other countries and increase in sales of other domestic producers. This along with market share of imports from China PR severs the causal link between imports from China PR and decline in imports of DI.

- iii) Volume effect on the domestic industry is not due to import of subject goods from China PR, but due to increase in imports from third countries.
- iv) Although there is price undercutting and price underselling effects of subject imports, there is no price suppression/depression effect on the domestic industry during POI as observed by Authority itself.
- v) Both profits as well as NSR of the domestic industry have increased in the POI. This proves that alleged price undercutting and underselling had no effect on the ability of DI to increase its NSR and increase its domestic profits.
- vi) There is significant increase in imports from Belgium and the landed price from Belgium is undercutting the prices of DI.
- vii) In view of significant undercutting by imports from Belgium, Authority should make analysis of injury suffered by DI due to imports from Belgium and the same should not be attributed to imports from China PR.
- viii) DGAD has observed that there has been a decline in cash flow of the DI. However, the same can be due to the investments made for increasing the installed capacity. DGAD should ascertain the correct picture.
- ix) Excess capacity figures provided by DI are irrelevant as the same doesn't have any bearing on the state of domestic industry. There is no certainty that these products will be exported to India.
- x) As regards non-injurious price it is stated that a reasonable return of 22% (pre-tax) on capital employed was allowed by the Authority. Such an assumption that the DI should have a fixed return on capital every year is erroneous.
- xi) The data considered for constructed Normal Value has not been provided.
- xii) Domestic Industry has stated that it would have been appropriate to adopt domestic industry's export price to Europe to determine the normal value i.e. price at which Rubber Chemicals are being sold for consumption in European market as was done in case of PX-13.
- xiii) As regards likelihood of dumping and injury, domestic industry has submitted that imports from subject country continued to enter the Indian market at dumped prices, which establishes that the exporters would continue dumping of subject goods in case of revocation of AD duty.
- xiv) Further, given the significant dumping margin during POI established by the Authority and huge surplus capacities in China over demand, there is likely diversion of large volumes of dumped exports into India.
- xv) If the current Anti-dumping duty is withdrawn and DI is forced to sell at prices matching the landed prices of imports then significant financial losses will be incurred by the DA.
- xvi) The Domestic industry has substantiated the likelihood of dumping and injury by providing sufficient evidence in the written submissions and rejoinders.
- xvii) Improvements in certain injury parameters of DI are bound to result in the advent of applicable anti-dumping duty. However, subject imports are undercutting the prices of DI and landed price of subject imports is below the non-injurious price of the domestic industry.

- xviii) Imports from Belgium are high priced and these imports are being made by producers of other Rubber chemicals in India who are reselling the same in the market. The resale prices of these producers are much higher than the import prices. The level of trade being different. The CIF or landed price is not directly comparable.
- xix) The non-injurious price determined for DI is grossly low and may be reviewed.
- xx) Domestic industry has submitted sufficient evidence to prove absorption of applicable anti-dumping duty by the exporters from subject country. If anti-dumping duty is allowed to cease, the exporters would resort to intensified dumping.
- xxi) Further there are significant excess capacities with exporters which will be diverted to Indian market in the event of cessation of present anti-dumping duty.

Examination by the Authority

24. The Authority has examined the issue relating to injury as under:

- (i) The Authority notes that AD Rules do not require that the domestic industry must meet the demand of the user industry for getting redressal to its injury on account of dumping.
- (ii) The Authority notes that it has consistently adopted the practice to examine and evaluate the injury data over the injury period. However, in an SSR investigation, the Authority assesses whether the cessation of the duties is likely to lead to continuation or recurrence of dumping and consequential injury.
- (iii) The Authority has found that the dumped imports from subject country have significant price undercutting and price underselling effects on the domestic industry. The Domestic industry has also suffered injury on certain parameters, though it has registered positive performance on certain other parameters like profitability and net selling price.
- (iv) The above scenario obtains when anti-dumping duty on subject imports is in place. Therefore, the Authority has considered a scenario about the state of domestic industry in case of revocation of anti-dumping duty. The likelihood analysis in respect of dumping and injury has been carried out by the Authority for the purpose as mandated under law in case of Sun-Set Review.
- (v) The Authority notes that in case of Sun-Set Review the appropriate parameter to be adopted by the Authority, as laid down in law, is whether the cessation of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury. Therefore, the Authority, in the present case, has considered the aspect of likelihood of dumping and injury.

- (vi) In this regard, the Authority has found that dumped imports of subject goods from the subject country continued during POI despite anti-dumping duty in place. Therefore, the same is likely to be intensified in case of cessation of duty along with consequential injury to domestic industry. Further, the Authority notes the significant price undercutting and price underselling effects of subject imports inspite of the anti-dumping duty. Furthermore, it is noted that there are large surplus capacities with the producers/exporters of the subject country so far as the subject goods are concerned, which are likely to be find a way in to India in the event of cessation of anti-dumping duty.
- (vii) On the basis of aforesaid analysis, the Authority is of the view that cessation of anti-dumping duty on the subject goods is likely to lead to continuation or recurrence of dumping and injury to domestic industry.
- (viii) As regards issues raised on non-injurious price for the domestic industry, the Authority notes that the same has been determined in accordance with the principles laid down in Annexure-III to the Anti-Dumping Rules.
- (ix) The Authority has examined the injury parameters objectively taking into account the facts and the submissions made by the interested parties.
- (x) As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states as follows.

"The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments."
- (xi) Annexure-II of the AD Rules provide for an objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
- (xii) For the purpose of current injury analysis the Authority has examined the volume and prices effects of imports of the subject goods from subject country on the

domestic industry and its effect on the prices and profitability to examine the existence of injury and causal link between dumping and injury, if any.

Volume effect

Assessment of Demand

25. For the purpose of the assessment of the domestic consumption/demand of the subject goods, the sales volume of the domestic industry and other Indian producer have been added to the total imports into India, which has been summarized as under:

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject country	MT	438	498	314	444
Trend	Indexed	100	114	72	101
Imports from Other countries	MT	15	15	214	373
Trend	Indexed	100	101	1445	2514
Total Imports	MT	453	513	529	817
Trend	Indexed	100	113	117	180
Sales of Domestic Industry	MT	870	761	704	809
Trend	Indexed	100	88	81	93
Sale of other Indian Producers	MT	406	375	374	438
Trend	Indexed	100	92	92	108
Total Demand	MT	1,729	1,650	1,607	2,065
Trend	Indexed	100	95	93	119

26. The Authority notes that the demand for subject goods has shown a positive trend and increased significantly in the period of investigation as compared to the base year. The growth in demand during period of investigation over base year was about 19%.

Import volumes and market share

27. Annexure-II (ii) of the AD Rules provides that “while examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports either in absolute term or relative to production or consumption in India”. Thus, with regard to the volume of the dumped imports, it has been examined whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

28. The table below indicates the position with regard to import volumes and market share -

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Imports from Subject country	MT	438	498	314	444
Trend	Indexed	100	114	72	101
Imports from Other countries	MT	15	15	214	373
Trend	Indexed	100	101	1445	2514

Total Imports	MT	453	513	529	817
Trend	Indexed	100	113	117	180
Sale of domestic industry	MT	870	781	704	809
Trend	Indexed	100	88	81	93
Sale of other Indian Producers	MT	406	375	374	438
Trend	Indexed	100	92	92	108
Total Demand	MT	1,729	1,650	1,607	2,065
Trend	Indexed	100	95	93	119
Market Share in Demand					
Domestic Industry	%	50.30	47.33	43.80	39.18
Other Producers	%	23.48	22.73	23.28	21.21
Subject Country-China PR	%	25.36	30.20	19.57	21.51
Other Countries	%	0.86	0.91	13.35	18.07
Subject Imports in relation to					
Total Imports	%	96.69	97.08	59.36	54.34
Production of domestic industry	%	36.20	41.75	29.51	37.34
Consumption	%	25.36	30.20	19.57	21.51

From the above, the Authority notes that:

- a) The volume of imports from the subject country has marginally increased in the period of investigation as compared to base year.
- b) The increase in volume of imports from the subject country has taken place in spite of anti-dumping duty in place on the subject goods.
- c) The market share of subject imports have declined during the POI in comparison with base year in relation to total demand..
- d) The market share of imports from other countries has increased significantly during POI.
- e) The market share of domestic industry in relation to demand has also declined significantly during POI as compared to base year.

Price effect of the subject imports on the Domestic Industry

29. In order to ascertain the price effect of the imports of the subject goods from subject country on the domestic industry, the Authority has examined whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. In order to assess the extent of price undercutting, the Authority has compared net sales realization of the domestic industry with the landed price of imports. The net sales realization was arrived, after deducting all rebates and taxes. The landed value of imports was compared with net sales realization of the domestic industry, even after considering the anti-dumping measure in force.

Price Undercutting

Particulars	Unit	2006-07	2007-08	2008-09	2009-10
Price Undercutting					
Ass. Price - China PR	Rs. Kg	103.55	100.32	150.82	110.76
CIF Price - China PR	Rs. Kg	102.53	99.33	149.32	109.67
Landed Price of Imports	Rs. Kg	115.73	107.00	160.85	118.14
Landed Price of Imports with duty	Rs. Kg	136.89	125.91	182.11	140.55
Net Sales Realization	Rs. Kg	***	***	***	***
Undercutting without duty	Rs. Kg	***	***	***	***
Undercutting (%)	% range	20-30	20-30	10-20	20-30
Undercutting with ADD	Rs. Kg	***	***	***	***
Undercutting (%)	% range	1-10	10-20	1-10	1-10

30. From the above, the Authority notes that the landed price of imports of MBTS from the subject country is below the net selling price of the domestic industry even with the existing anti dumping duty. Thus, the imports from China PR are significantly undercutting the selling prices of domestic industry even after levy of existing anti dumping duty.

Price underselling

31. The Authority has assessed the extent of price underselling by comparing non-injurious price of the domestic industry with the landed price of imports, as shown below:

Particulars	Unit	2009-10
Price Underselling		
Non-Injurious Price	Rs. Kg	***
Landed Price of Imports	Rs. Kg	***
Underselling (Rs. Kg)	Rs. Kg	***

32. From the above, the Authority notes that the landed price of imports of MBTS from the subject country is below the non-injurious price (NIP) of the domestic industry. Thus, the imports from the subject country have a price underselling effect on the domestic industry.

Price suppression/depression

33. In order to assess whether the imports from the subject country were suppressing/ depressing the prices of the domestic industry, the Authority has compared the cost of production and net selling price of the domestic industry along with the landed price of imports over the injury period, which is given in the following table:

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Cost of sales	Rs./Kg	***	***	***	***
Trend	Indexed	100	107	136	103
Net Selling price	Rs./Kg	***	***	***	***
Trend	Indexed	100	98	129	104

The Authority notes that both the cost of sales and net selling price of MBTS increased during POI as compared to base year. Thus, price suppression/ depression does not appear to have taken place for the domestic industry during the POI.

H. Economic Parameters relating to the Domestic Industry

34. Annexure II to the Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of the subject goods. With regard to the determination of consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow inventories, employment, wages, growth, ability to raise capital investments.

Production, sales, capacity and capacity utilization

35. Production, sales, capacity & capacity utilization of the domestic industry moved as shown below:

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Capacity	MT	1550	1820	1820	2250
Trend	Indexed	100	117	117	145
Production	MT	1211	1193	1066	1189
Trend	Indexed	100	99	88	98
Capacity Utilization	%	78.13	66	59	53
Trend	Indexed	100	84	75	68
Domestic Sales	MT	870	761	704	809
Trend	Indexed	100	88	81	93
Demand	MT	1,729	1650	1607	2065
Sales in % of	%	50.30	46	44	39

demand					
Trend	Indexed	100	92	87	78

36. It is noted from above that the installed capacity and production of the domestic industry of MBTS have gone up in absolute terms. However, there is a decline in the capacity utilization and consequently sales of the domestic industry, which is despite the increasing demand for the subject good in the country.

Profitability

37. Cost of production, net sales realization & profit/loss of the domestic industry is shown below.

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Cost of Sales	Rs/Kg	***	***	***	***
Trend	Indexed	100	107	136	103
Net Selling Price	Rs/Kg	***	***	***	***
Trend	Indexed	100.00	97.98	128.86	104.07
Profit/Loss	Rs/Kg	***	***	***	***
Trend	Indexed	100.00	32.16	75.10	112.29
PBT on domestic sales	Rs.Lacs	***	***	***	***
Trend	Indexed	100	43	65	96
PBIT on domestic sales	Rs.Lacs	***	***	***	***
Trend	Indexed	100	44	72	96

38. The Authority notes that performance of the domestic industry for MBTS has improved over the injury period and the domestic industry is in profits. The Authority examined profitability by considering the trends in the cost of sales and selling prices over the injury period. It is found that both the cost of sales and the selling prices increased throughout the injury period. Consequently, profitability of the domestic industry improved during the POI.

Employment, Productivity and Wages

39. Position with regard to employment, wages and productivity as follows:

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Employees	No.	8	8	8	6
Trend	Indexed	100	100	100	75
Wages	Rs.Lacs	47	56	30	29
Trend	Indexed	100	120	65	63
Productivity per day	MT/day	3	3	3	3

Trend	Indexed	100	99	88	98
Productivity per employee	MT	151	149	133	198
Trend	Indexed	100	99	88	131

40. The Authority notes that the productivity of the domestic industry for MBTS improved with the improvement in production. The Authority, however, notes that the domestic industry is a multi-product company and hence the employment by the domestic industry and wages paid may not be an appropriate parameter to evaluate the injury in the instant matter.

Return on investments and cash flow

41. Position with regards to cash profits and return on investments are as follows:

Particular	Unit	2006-07	2007-08	2008-09	2009-10
ROI - NFA basis	%	***	***	***	***
Trend	Indexed	100	60	88	110
Cash Profit	Rs. Lacs	***	***	***	***
Trend	Indexed	100	49	69	96

42. The Authority notes that return on investment made by the domestic industry for MBTS improved over the injury period. The domestic industry could not achieve the level of cash profit in comparison with the base year.

Inventories

Particular	Unit	2006-07	2007-08	2008-09	2009-10
Average Inventory	MT	242	127	92	67
Trend	Indexed	100	52	38	28

43. The inventories of MBTS have declined significantly over the injury period as compared to the base year.

Magnitude of Margin of Dumping

44. The Authority notes that the dumping margin from the subject country is significant and above *de-minimis* level. In view of large volume of exports from the subject country during the period of investigation, the Authority notes that there is a likelihood of continuation of dumping of MBTS from the subject country, if the applicable anti-dumping duty is allowed to cease.

Growth

45. The Authority notes that while there has been a marginal growth in the import volume from the subject country, the growth of domestic industry in terms of production, profitability and return on investment has been positive over the injury period whereas

with respect to capacity utilization, domestic sales, cash profits and market share has been negative.

Likelihood of continuation or recurrence of injury

46. The domestic industry, *inter alia*, has contended as follows on Likelihood of continuation or recurrence of injury:

1. Producers/exporters in the subject country are having large production capacities of the subject goods. In case of cessation of the present duty, dumping from the subject country would definitely increase and ultimately cause injury to the Domestic Industry.
2. The subject country is causing severe price undercutting to the prices of the Domestic Industry. Should the present anti dumping duty is revoked, there is a clear likelihood that price undercutting would deepen further. In the event of revocation of anti-dumping duty and owing to significant price undercutting, the domestic industry would be compelled to match its price to that of imports in order to sustain in the market which will lead to company suffering losses.
3. The imports from subject country have remained significant despite anti-dumping duty in force. The price undercutting and price underselling is significant at the landed price without ADD, signifying the likelihood of injury to the domestic industry, should the present duty in force be allowed to cease.
4. The domestic industry has provided the following table with regard to surplus capacities of the subject goods in the subject country. The figures have been substantiated by information available in the web site of respective companies of the subject country.

MBTS Producers	Capacities (in MTA)
Rongcheng Chemical General Factory Co. Ltd.	2400
Ka Shing Chemical Co., Ltd., Shenyang	1000
Tianjin Eastrichon Rubber Additives Co., Ltd.	12000
Nanjing Union Rubber & Chemical Co., Ltd	2400
China Sunsine Chemical Holdings Ltd	7000
Zhengzhou Double Vigour Chemical Product Co. Ltd.	3600
Henan Kailun Chemical Co., Ltd.	3000
Meyors Inc.	1200
Zhenjiang Zhebang Chemical Industry Co. Ltd.	2000
Hebei Smart Chemicals Co., Ltd.	1200
Xinxiang Huarui Fine Chemical Co., Ltd.	10000
Linkwell Rubber Chemical (Hebi) Co., Ltd	1440

Henan Kingway Chemicals	3600
Dalian Richon Chem Co., Ltd.	2400
Qingdao Zhongjian Rubber Chemical Co. Ltd.	15600
Ningbo Actmix Polymer Co., Ltd.	10000
Total known capacities	78840
Consumption	20766
Surplus capacities	58074

(v) The test of injury in a sunset and fresh investigation is different. The legal standards themselves are different. In a fresh investigation, the Designated Authority is required to assess the performance in terms of material injury, threat of material injury or material retardation to the establishment of the domestic industry whereas in a sunset review, the Designated Authority is required to consider the continuation or likelihood of injury. The two are not the same. Likelihood of injury cannot be equated with threat of injury.

Submissions made by ATMA

47. It has contended that based on the facts, there is no case for recurrence of dumping and injury and hence the SSR investigation should be terminated.

Examination by the Authority

48. The Authority notes that none of the exporters / producers of the subject good from the subject country responded to the initiation notification and provided information in the form and manner prescribed. The Authority further notes that the information from IBIS source shows significant price undercutting and price underselling effects of imports of subject goods from the subject country despite the anti dumping duty in place. The Authority notes that there is continued injury from the imports of the product from the subject country during the POI on account of dumping. Thus, there is likelihood of continuation of injury if the anti-dumping duty is allowed to cease, particularly considering the significant dumping margin during POI despite anti-dumping duty in place and given the huge surplus capacities available with the producers/exporters of the subject country.

i. Magnitude of Injury and Injury margin

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

Particulars	Unit	China PR
NIP	Rs./Kg	***
Landed Price	Rs./Kg	***
Injury Margin	Rs./Kg	***
Injury Margin	US\$/Kg	***

Causal Link

50. The Authority has examined the submissions with regard to the significance and relevance of causal link in a sunset review investigation. It is important to note under Section 9A(5), the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duty irrespective of whether there have been any imports of the product under consideration during the review investigation period or not. It was examined whether the other parameters listed under the AD Rules could have contributed to injury to the domestic industry. It is noted as follows:

Volume and Prices from Other Countries

51. The other country from where the subject goods were substantially imported during the POI is Belgium, as seen from the import statistics. However, it is noted that import price from Belgium is higher than that of the subject country.

Contraction in Demand and / or Change in Pattern of Consumption

52. It is noted that there is no contraction in demand for the subject product in India. Possible decline in the demand has not, therefore, caused material injury to the domestic industry. Demand of the product in India marked significant increases over the years. There is also no indication of any change in the consumption pattern.

Trade Restrictive Practices of and Competition between the Foreign and Domestic producers

53. The import of the subject product is not restricted in any manner and the same are freely importable in the country. The domestic producers compete among one another and at the same time compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party even to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change.

Development of Technology

54. The Authority notes that the technology as also production process for producing the subject product is fairly stabilized with little technical or technological developments. There is no known difference between the technology employed by the petitioner and producers in subject country.

Export Performance

55. The Authority notes that the aforesaid injury analysis has been carried out only in respect of domestic operations of the petitioner and the export performance has not been considered for the purpose.

56. The aforesaid non-attribution analysis indicates that injury to the domestic industry during the POI has not been caused by any other known factor.

Indian industry's interest & other issues

57. 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.

L. Conclusion

58. The Authority has, after considering the foregoing, comes to the conclusion that:

- (i) The subject goods have been exported to India from the subject country below the normal value despite the anti-dumping duty in place.
- (ii) The domestic industry has suffered material injury;
- (iii) The material injury has been caused by the dumped imports from the subject country and is likely to be caused by continued dumping of subject goods from China PR in case of revocation of duty.
- (iv) The dumped imports and the consequential injury are likely to continue in case of withdrawal of anti-dumping duty, given the significant dumping margin during POI despite the anti-dumping duty in place and given the large volume of surplus capacities available with the subject country.

M. Recommendation

59. Having initiated and conducted an investigation into dumping, injury and causal link between dumping and injury to the domestic industry, in terms of the Rules laid down, and having established positive dumping margin in respect of the subject country and a positive determination of likelihood of dumping and injury on account of imports from subject country, and having concluded that the domestic industry suffered material injury, the Authority holds that imposition of definitive anti dumping measure is required in respect of the subject country to prevent injury to the domestic industry. Therefore, Authority considers it necessary to recommend continued imposition of definitive anti-dumping duty on imports of subject goods from the subject country, in the form and manner described hereunder.

60. Having regard to the lesser duty rule followed by the authority, the Authority recommends imposition of definitive anti-dumping duty equal to the margin of dumping or margin of injury whichever is lesser, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount indicated in Col.8 of the table below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods originating in or exported from the subject country.

Duty Table

S. No	Sub-Heading	Description of Goods	Country of Origin	Country of Export	Producer	Exporter	Duty Amount (US\$/kg)
1	2	3	4	5	6	7	8

1.	381210 381220 381230 293420 292520	Certain Rubber Chemicals (MBTS) Dibenzothiazole disulphide	China PR	China PR	Any	Any	0.23
2.	- do -	- do -	China PR	Any	Any	Any	0.23
3.	- do -	- do -	Any other than China PR	China PR	Any	Any	0.23

61. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the relevant provisions of the Act.

**(Vijaylaxmi Joshi)
Designated Authority**