

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

Final Findings

New Delhi, the 27th July , 2004

Subject: Sunset Review of Anti-Dumping imposed on import of Styrene Butadiene Rubber (SBR) 1900 series originating in or exported from Japan, Korea RP and USA.

F. No. 15/5/2003-DGAD - Having regard to the Customs Tariff Act, 1975, as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof:

A. PROCEDURE

1. The procedure described below has been followed subsequent to the initiation of sunset review investigations:

- a. The Designated Authority (hereinafter also referred to as the Authority) initiated the Sunset Review investigation of Anti Dumping Duty imposed on imports of Styrene Butadiene Rubber (SBR) 1900 series originating in or exported from Japan, Korea RP and USA pursuant to the final findings of the mid-term review investigations notified vide notification No. 34/1/2000-DGAD dated 3rd July 2001. The review covers all aspects of Final Findings (review) notification no. 34/1/2000-DGAD dated 3rd July 2001.
- b. The Designated Authority notified the initiation of this Sunset Review vide notification no. No. 15/5/2003-DGAD dated 30th July, 2003 with regard to anti-dumping investigations concerning imports of Styrene Butadiene Rubber (SBR) 1900 series originating in or exported from Japan, Korea RP and USA and forwarded a copy of the Initiation Notification to the known interested parties, who were requested to furnish their views , if any, on the said findings within forty days from the date of the letter;
- c. The Authority forwarded a copy of the public notice to all the known exporters and industry associations (whose details were made available by the applicants) and gave them an opportunity to make their views known in writing in according with the rule 6(2);
- d. The Authority forwarded a copy of the public notice to all the known importers and consumers of SBR in India (whose details were made available by the

applicants) and advised them an opportunity to make their views known in writing within forty days from the date of the letter.

- e. The Authority sent a questionnaire, to the following manufacturers of SBR in the subject countries, in accordance with the rule 6(4). These companies, however, have not filed any response to the exporters questionnaire:-

- Ameripol Synpol Company,
146, High Stgreet,
Akron, Ohio 44308
USA.
- Korea Kumho Petrochemical Co. Ltd.
Kumho Building # 57 Slumunnol-Ga,
Jongro Gu,
Seoul Korea.
- M/S Nippon Zeon Company Ltd.,
Furukawa Sogo Building,
6-1 Marunouchi 2-chome,
Chiyoda-ku,
Tokyo 100
Japan.
- M/S JSR Corporation,
2-11-24-Tsukji,
Chuo-ku,
Tokyo 104, Japan.

- f. The Embassies of Japan, Korea RP and USA in New Delhi were informed about the initiation of the review in accordance with rule 6(2) with a request to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters was also sent to the Embassies, alongwith a list of known exporters/producers. None of the exporters/producers, however, filed any response to the exporters questionnaire.

Vide letter dated 9th / 10th December, 2003, the Authority requested M/s. Rishirop Polymers Pvt. Ltd., an importer of the subject goods who were authorised by M/s. Korea Kumho Petrochemical Company Ltd. (KKPC) to represent them in all matters pertaining to this investigation, to file a complete non-confidential version of the exporters response. Vide letter dated 22nd March, 2004, it was reiterated by the Authority that under the WTO ADA, M/s. KKPC is required to furnish a complete response to the exporters questionnaire with a non-confidential summary thereof which had not been submitted by

them. They were also requested to provide all export invoices relating to KKPC's exports of KOSYN KHS - 68 during the period of investigation. M/s. KKPC was advised to furnish a complete response to the exporters questionnaire with a non-confidential summary thereof by 5th April, 2004.

The Authority notes that M/s. KKPC did not file a response to the exporters questionnaire with a non-confidential version thereof. M/s. Rishiroop Polymers Pvt. Ltd., Mumbai did not file a response to the importers questionnaire.

g. A questionnaire was sent to the following importers and/or consumers of SBR in India calling for necessary information in accordance with rule 6(4);

- Paragon Rubber Industries,
P.B.No. 61, Matteethra Building,
Baker Junction, Kottayam,
Kerala
- Texim International,
1-3 A, Talco Indl. Estate,
Madhavaram,
Madras 600 060
- Bykoff Rubber Inds,
Chelembra P.O.,
Malapuram Dist.,
Kerala - 673 634
Tele: 0494-401163
- Malaya Trade Impex P.Ltd.,
' Rubber Bhavan' , Malaya Corner,
M.C.Road, Kodimatha,
Kottayam, Kerala
- Jossco Rubbers,
8/50, Moonalingal,
Calicut 673 032
- Paragon Polymer Products P. Ltd.,
Kanakagiri Village,
Kakkapalayam PO,
Salem 637 504
- Leader Rubber Inds,
Industries Development Pot,
West Hill (Koxikode),
Calicut, Kerala
- Veeksay Rubber Inds,
VII/248, NH-17, Nallalam,

Panchayat, Kolathara P.O.,
Kozithode, Kerala

- Safar Rubbers,
B.No. VI/37, Aykkarappadi,
P.O. Mallappuram,
Kerala
- Kerala Footwear Products,
Calicut Times Xomplex,
Railway Station Link Road,
Calicut, Kerala
- Arihant Rubber & Chemicals,
159, Rabindra Sarani,
Calcutta 700 007
- Chemi Colour Agency,
12, Bonfield Lane,
Calcutta 700 001
- Viking Rubbers P Ltd.,
VII/612, Matha Shopping Arcade,
Thodupuzha,
Kerala
- Bombay Pigments & Allied Products,
Palathinal Building, M.C. Road,
Kottayam, Kerala
- Neo Rubber Foot Crafts P Ltd.,
Matha Shopping Arcade,
Thodupuzha Idukki District,
Kerala
- Footcare Rubber Inds,
VIII/5749(B), P.B. No. 3,
Parathode, Kanjirapa,
Kottayam Distt., Kerala
- Preston India P. Ltd.,
45-A1, 2nd Phase,
Peenya Indl. Area,
Bangalore - 560 058
- Maharastra Trading Corporation,
137, Raudat Tahera Marg,
Mumbai -3
- All India Rubber Industries Association,
Northern Region,
New-Delhi- 110 008

- h. The Authority provided an opportunity to all interested parties to present their views orally on 7th June, 2004. All parties presenting views orally were requested to file written submissions of the views expressed orally at the time of the public hearing. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
- i. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- j. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in these findings; the written submissions and rejoinders submitted by the domestic industry, exporters and importers in the oral hearing held by the Authority on 7th June 2004 have been considered by the Designated Authority on merits in order to arrive at a final determination.
- k. Request was made to the Central Board of Excise and Customs (CBEC) to provide details of imports of the subject goods. Request was also made to DGCIS, Kolkata to provide details of transaction-wise imports made in India of the said article during the period of investigation alongwith Bills of Entry numbers and dates, country of origin, description of the imported subject goods, volume and value of import and the names and addresses of the importers.
- l. The investigation of dumping and injury covered the period from 1st April, 2002 to 31st March, 2003 (12 months) which is referred to as the 'period of investigation' or the 'POI'. The examination of trends relevant for the analysis of injury covered the years from 1999-2000 to the period of investigation (injury analysis period).
- m. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings. Comments from M/s Rishiroop Polymers representing M/s Korea Kumho, the exporter from Korea RP have been considered in these findings. The Authority notes that the domestic industry have not offered their comments on the disclosure statement as they have informed the Authority vide letter dated 26th July, 2004 that they have preferred a writ petition before the Hon'ble High Court at New-Delhi which was filed on 26th July 2004.
- n. *** In this notification represents information furnished by an interested party on confidential basis and so considered by the Authority upon being satisfied as to its confidentiality, under the Rules.

B. PRODUCT UNDER CONSIDERATION

2. The product under investigation is all grades of Styrene Butadiene Rubber (SBR) 1900 series classified under customs heading nos. 3903.90 and 4002.19 of the Customs Tariff Act, 1975 originating in or exported from Japan, Korea RP and USA. The original investigation concluded vide notification dated 2/6/99 recommended duty on SBR 1500, 1700 & 1900 series. However, scope of duty was restricted to SBR 1900 series vide mid term review notification dated 3rd July 2001.
3. The classification is, however, indicative only and in no way binding on the scope of the present sunset review investigations.

Views expressed by Exporter on Product Under Consideration:

4. M/s. Rishiroop Polymers Pvt. Ltd. (an importer representing the exporter of the product under consideration from Korea RP) vide their letter dated 7th October, 2003 made certain confidential submissions regarding the subject investigations including the export of KHS-68 during the review POI. The Authority had requested for a non-confidential version of the exporter's response and of the letter dated 7th October, 2003 which was submitted on 17th May, 2004. Vide this response, the exporter enclosed copies of non-confidential version of their confidential letter dated 7th October, 2003. They have also stated therein that the Annexures submitted to the letter dated 7th October, 2003 are not amenable to summarisation as they are confidential in nature.

5. As regards the product under consideration, the importer, M/s. Rishiroop Polymers has submitted that KKPC, the exporter from Korea RP did not export any Styrene Butadiene Rubber 1900 series to India during the POI. Consequently, KKPC did not dump any SBR 1900 series in India during the review POI and no dumping margin exists for it.

6. It has been additionally submitted that KKPC did export 410 MT of Styrene Butadiene Co-Polymer Resin under their brand name KOSYN KHS-68 having styrene content of 68% during the review POI. In this regard, the Designated Authority has already held in the original investigation that the product KOSYN KHS-68 is a synthetic resin falling under Customs sub-heading no. 3903.90 and was not the product under consideration. Since this product does not fall under SBR 1900 series, KKPC has not submitted any details in this behalf.

7. In view of the foregoing, it has been submitted that since KKPC did not export the product under investigation during the sunset review POI, it does not consider it necessary or relevant to submit any of the responses to the exporters questionnaire excepting Appendix 7 to show the state of affairs of KKPC during the review POI.

Thus the data as per Appendix 7 of the exporters questionnaire has been enclosed in confidential form.

Examination by Authority

8. The Authority has taken note of all material on its records as regards KHS-68 being a member of SBR 1900 series, known in popular parlance as High Styrene Rubber or HSR. The Authority has also noted the submissions of the exporter in its response to the disclosure statement, as regards the product under consideration. In this connection, the Authority recalls its views on product under consideration in the final findings dated 2nd June, 1999 and final findings of the mid-term review dated 3rd July, 2001. The contention of the exporter that KHS-68, is not the product under consideration and therefore, not the subject matter of this investigation has been dealt with in detail in the earlier mid-term review findings

9. The Hon'ble CEGAT noted in its decision dated 2.2.2000 that antidumping duty is on all grades of SBR, whether falling under sub-heading 4002 or 3903. Customs authorities have to impose duty on all types of SBR, irrespective of their classification.

10. Since the purpose of a sunset review, as set out in the aforesaid provisions, is limited to the requirement to examine if the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, the Authority confirms the findings on product under consideration as considered in the earlier final and review findings.

C. LIKE ARTICLE

11. Rule 2(d) of the anti-dumping rules specifies that "Like Article" means an article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another Article, having characteristics closely resembling those of the articles under examinations.

12. There is no argument disputing that SBR 1900 produced by the domestic industry has characteristics closely resembling the imported product and is substitutable by the SBR imported from the subject countries both commercially and technically.

13. SBR 1900 series produced by the domestic industry has been treated as Like Article to the product exported from Japan, Korea RP and USA, within the meaning of Rule 2(d).

14. The Authority confirms the earlier final and review investigations findings on Like Article.

D. Domestic Industry

15. M/s Apar Industries Ltd. Apar House, Corporate Park, Sion-Trombay Road, Chembur, Mumbai- 400 071 and M/s Apcotex Lattices, Ltd. Mumbai, were considered the Domestic Industry in the earlier notification. The Authority has considered these companies as constituting the domestic industry in accordance with the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury), Rules 1995.

E. Period of Investigation:-

16. The period of investigation for the purpose of the present sunset review is 1st April 2002 to 31st March 2003 (12 months).

F. Submissions made by Exporters:

M/s. Korea Kumho Petrochemical Ltd. (KKPC) / M/s. Rishiroop Polymers Pvt. Ltd.

1. KKPC is a multi-product, multi-locational manufacturing company producing styrene butadiene rubber, acrylonitrile rubbers, butadiene rubbers, solution SBR, thermoplastic rubbers, synthetic resins, rubber chemicals, SB resins and electronic materials etc.
2. SBR, NBR and SB resins are produced by KKPC at their Ulsan facilities whereas the polybutadiene rubber, solution SBR, thermoplastic rubber, butadiene and steam are produced at their Yaesu plant facility. Additionally KKPC produces synthetic resin such as polystyrene, SBS, etc. at an independent location and also produces rubber chemicals at a separate location.
3. The data submitted by KKPC for the period of investigation of April 2002 to March 2003 in Appendix 7 clearly shows no production or sales of SBR 1900 series. The data shown therein concerns the production and sales of SBR falling under 1500 and 1700 only. Furthermore in the said Appendix 6, the data is submitted for Styrene Butadiene Co-Polymer Resin "SB-Resin".
4. Since KKPC did not export any 1900 series during the review POI, the Authority has to examine the future likelihood of dumping and consequential likelihood injury, if any, to the domestic industry in the event the anti-dumping measures in force are revoked. The analysis of this future likelihood of dumping has to be seen in the light of various factors concerning KKPC alone for which we make the following submissions hereunder:

- a. KKPC has not exported any SBR 1900 series to India for more than two years and has no intention to do so and could not cause or threaten any injury to the domestic industry in any foreseeable future.
- b. KKPC has no plan for expansion of its existing facilities at Ulsan for SBR production and as submitted in Appendix 7 attached hereto the total polymer production (SBR, NBR and SB Resin) capacity at Ulsan plant is *** MT against which the total polymer production has been of the order of *** MT during the review POI which translate into an operating ratio of *** of the installed capacity. It is submitted that this being the case it is evident that KKPC has sufficient orders and market for other grades of SBR, NBR and SB Resins all of which are produced at the Ulsan facility in different production lines. Thus KKPC does not have any surplus capacity or inventory for production of SBR 1900 series in the foreseeable future so as to cause or threaten to cause any large scale exports to India consequential likelihood of any potential injury or threat of injury to the domestic industry.
- c. At Annexure C to this KKPC submit the audited statement of income and balance sheet for the calendar year 2002 which constitute its fiscal year. The statement of income clearly show that KKPC is a profitable company and did not incur any losses during the calendar year 2002. Furthermore, it is submitted that all operations of KKPC during the quarter during January 2003 to March 2003 were profitable.
- d. At Annexure D the basis for determination of the Exchange Rate of USD vs. Korean Won for POI has been enclosed.

G. Submissions made by Importers:

(I) All India Rubber Industries Association

1. In the mid-term review Final Findings the Designated Authority has enlarged the scope of the product under consideration so as to read "all grades of SBR 1900 series viz., High Styrene Resin Masterbatch..." which is objectionable.
2. High Styrene Resin Masterbatch is a very wide term which includes not only Styrene Butadiene Rubber of Chapter 40 but also High Styrene Resins of Chapter 39.
3. The domestic industry has not disclosed essential facts in their application to the Designated Authority. They have kept most of the vital information like import figures, production volume of SBR as 'Confidential'.
4. Both Apar and Apcotex have a very high operating rate for their plant capacity utilisation and did not have any drop in production or sales during the period of investigation as compared with the earlier period.

5. On the one hand the footwear industry under the present melt down conditions is facing future challenge from China and other South Asian countries and on the other hand its basic raw material has been subjected to anti-dumping duty.
6. The product under investigation is used mainly in the footwear industry, which is used by the common masses. Footwear caters to the weaker sections of society. 98% of its units are in the small-scale sector.

(II) Paragon Rubber Industries

1. The company is a manufacturing unit located in Kottayam. It is engaged in the manufacture of Rubber Hawaii Chappals.
2. The synthetic rubber SBR HS-860 imported by them is manufactured by M/s. Zeon Corporation, Japan and they deal through M/s. Mitsubishi Corporation who is the sole selling agent for them in the Asia Pacific region.
3. The details regarding imports have been furnished. The Company has imported a quantity of *** kg for a cif value of Rs. *** during the POI. The unit cif price is Rs. ***/kg and the landed value works out to Rs. ***/kg.
4. The Company has also procured a quantity of *** kg. from indigenous manufacturers. The unit price works out to Rs. ***/kg.

(III) Viking Rubbers Pvt. Ltd.

1. The company is an importer of SBR 1900 series.
2. The quantities imported by them from Japan have been furnished by them. The Company has imported a quantity of *** kg for a cif value of Rs. *** during the POI. The unit cif price is Rs. ***/kg and the landed value works out to Rs. ***/kg. The imported product has been used for manufacturing Rubber Hawaii Chappals.
3. The Company has also procured a quantity of *** kg of a value of Rs *** from Apcotex Lattices in 2000-01. The unit price works out to Rs. ***/kg. In 2001-02 a quantity of *** kg was procured from Apcotex Lattices for a value of *** . The unit price works out to Rs ***/kg. A quantity of *** kg of a value of Rs *** was procured from M/s Apar Industries. The unit price works out to Rs ***/kg.

H. DUMPING:-

Exporters and Producers of the Subject Goods in the Countries of Origin:-

17. The Authority sent questionnaires to the known exporters from the subject countries in terms of section 9 A (1). Exporters have not responded by way of furnishing information in response to the exporters questionnaire forwarded to them

by the Authority. There are therefore no claims made by the exporters in the subject countries with regard to Normal Value and Export Price. The Authority has therefore been constrained to rely upon 'facts available' with regard to Normal Value and Export Price respectively.

18. M/s Korea Kumho (through M/s Rishirop Polymers) has submitted that the Designated Authority did not make any request for verification of data submitted by KKPC in the confidential form and it is understood that the Designated Authority has accepted data to the extent submitted by KKPC as accurate and appropriate.

19. The Authority notes that the main purpose of an on-the-spot investigation is to verify the information provided in response to the exporters' questionnaire and to obtain further details, if necessary. In the present sunset review investigations, M/s Korea Kumho did not file a response to the exporters questionnaire. The Authority therefore considers M/s Korea Kumho to be non-co-operative. M/s KKPC in its submissions stated that since it did not export the product under investigation during the sunset review POI, it did not consider it necessary or relevant to submit any of the responses to the exporters questionnaire excepting Appendix 7 to show the state of affairs of KKPC during the review POI. Thus the data as per Appendix 7 of the exporters questionnaire was enclosed in confidential form. The exporter subsequently clarified that it was not amenable to summarisation. The accuracy and appropriateness of the data could not be ascertained by the Authority as an exporter's verification could not be carried out in the absence of a complete response to the exporters questionnaire in all respects. In the absence of a complete response to the exporters questionnaire as a result of which an on-the-spot verification was not made possible, the Designated Authority was unable to accept data to the extent submitted by KKPC as accurate and appropriate under the WTO ADA and the anti-dumping Rules.

Normal Value:-

Korea RP

20. The Authority notes that M/s Korea Kumho has not participated in this sunset review investigation by way of furnishing a response to the exporters questionnaire as requested by the Designated Authority. M/s. Rishirop Polymers Pvt. Ltd. vide their letter dated 7th October, 2003 made certain confidential submissions regarding the subject investigations including the export of KHS-68 during the review POI. The Authority had requested for a non-confidential version of the exporter's response and of the letter dated 7th October, 2003 which was submitted on 17th May, 2004. Vide this response, the exporter enclosed two copies of non-confidential version of their confidential letter dated 7th October, 2003. They have also stated therein that the

Annexures submitted to the letter dated 7th October, 2003 are not amenable to summarisation as they are confidential in nature.

21. It has been additionally submitted that KKPC did export 410 MT of Styrene Butadiene Co-Polymer Resin under their brand name KOSYN KHS-68 having styrene content of 68% during the review POI. It has been submitted by M/s KKPC that since they did not export the product under investigation during the sunset review POI, it did not consider it necessary or relevant to submit any of the responses to the exporters questionnaire excepting Appendix 7 to show the state of affairs of KKPC during the review POI. Thus the data as per Appendix 7 of the exporters questionnaire has been enclosed in confidential form.

22. In the absence of participation by M/s KKPC by way of furnishing a complete response to the exporters questionnaire the Authority has been constrained to rely on 'facts available' in its determination of normal value of the subject goods in Korea RP. In this connection the Authority notes that, the exporter has, in its written submissions dated 19th June 2004, stated that KKPC has cooperated in several proceedings before the Designated Authority and the data on its cost for SBR and NBR for several years is available in the record of previously concluded investigations including the latest submissions made by KKPC which covers the costs of SBR operation as well. KKPC has stated that the Authority can determine the cost to make and sell SBR 1900 series for KKPC from the confidential submissions made by them before the Authority . In its examination the Authority has constructed the normal value for the subject goods based on information available.

23. In the absence of participation by exporters from Korea RP by way of furnishing a complete response to the exporters questionnaire, the Authority has been constrained to rely on 'facts available' in its determination of normal value of the subject goods in Korea RP.

The domestic industry vide its submissions dated 16th July and 21st July, 2004 has contested the methodology adopted by the Designated Authority in its determination of normal value for the subject goods in Korea RP. The Designated Authority has considered the replies given by the domestic industry on merits in order to construct the normal value in Korea RP.

The raw material costs have been determined as per international prices for styrene and butadiene for the POI. The raw material price works out to USD *** /MT. The consumption norms have been adopted as per domestic industry norms The quantum of SGA and finance cost, as assessed from the Annual Report 2002 of Korea Kumho, works out to USD *** /MT and USD *** /MT respectively. The profit element works out to *** % of sales.

The normal value for the subject goods in Korea RP is, therefore, determined to be USD *** /MT.

Japan

23. The applicants have submitted evidence of normal value in Japan from 'The Japan Chemical Week'. According to the Japan Chemical Week, the price of SBR, high styrene (60%) ranged between Yen ***-*** during the POI. However there is no variation in this price which also appears to be unrealistically high when compared to Korea and USA. The Authority has been therefore constructed the cost of the subject goods in Japan based on 'facts available'.

24. The normal value for the subject goods in Japan is therefore determined to be USD ***/MT.

USA

25. The Authority observes that the exporters from USA have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

26. The applicants have requested that the normal value in USA be accepted on the basis of constructed cost of production of SBR 1900 series. In the circumstances the Authority has been constrained to determine the constructed cost. The Authority has considered the international prices of raw materials during the POI as per available data and normative conversion cost of the most efficient domestic producer. After adding a reasonable profit, the normal value in USA is therefore considered to be USD ***/MT.

Export Price:

Korea RP

27. As per information on imports available with the Authority, the weighted average cif price of the subject goods works out to USD ***/MT. The Authority has considered adjustments as available in its records. After considering ocean freight as USD ***/MT and marine insurance as USD ***/MT the fob price works out to USD ***/MT. Commission is considered as ***% (USD ***/MT), packing as USD ***/MT and inland freight as USD ***/MT. After considering the aforesaid adjustments, the ex-factory export price is considered to be USD ***/MT or Rs ***/MT.

Japan

28. M/s Paragon Rubbers and M/s Viking Rubbers have responded to the importers questionnaire in these proceedings. M/s Paragon Rubber Industries which is engaged in the manufacture of Rubber Hawaii Chappals, has furnished details regarding imports made by them of synthetic rubber SBR HS-860 manufactured by M/s. Zeon Corporation, Japan through M/s. Mitsubishi Corporation. The Company has imported a quantity of ***kg for a cif value of Rs. *** during the POI. The unit cif price is Rs. ***/kg and the landed value works out to Rs. ***/kg.

29. M/s Viking Rubbers Pvt. Ltd., an importer of SBR 1900 series, has imported a quantity of ***kg for a cif value of Rs. *** during the POI from Japan. The unit cif price is Rs. ***/kg and the landed value works out to Rs. ***/kg. The imported product has been used for manufacturing Rubber Hawaii Chappals.

30. Based on the information furnished by these importers, the Authority notes that the weighted average cif import price works out to Rs ***/kg. As per Polymers, Plastics and Rubber Trade Intelligence (PPR) data the cif import price is Rs ***/kg. The Authority has gone by PPR data which is slightly higher and covers the entire POI. The Authority has considered adjustments as available in its records. Adjustments have been made for ocean freight (USD ***/MT), marine insurance at ***% (USD ***/MT) and commission at ***% (USD ***/MT) and inland freight (***/MT). The ex-factory export price therefore works out to USD ***/MT or Rs ***/MT.

USA

31. The Authority notes that as per transaction-wise data from the DGCIS, the cif price of the subject goods is abnormally high and as per PPR data the prices are very low. No importer of the subject goods from the USA has responded to the importers questionnaire and provided information on import prices from the USA in these proceedings. In the absence of cooperation from exporters and importers, the Authority has allowed reasonable adjustments while arriving at the export price.

32. On the basis of available import data, the Authority has considered the weighted average cif import price of the subject goods as USD ***/MT. After considering ocean freight as USD ***/MT, marine insurance at ***% (USD ***/MT), inland freight at ***% (USD ***/MT), and commission at ***% (USD ***/MT), the ex-factory export price works out to USD ***/MT or Rs ***/MT.

Dumping Margin:

33. The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. Based on the ex-factory normal values and export prices as indicated above, the Authority assessed the dumping margins in case of all exporters from Korea RP, Japan and USA as given in the table below:-

Country	Producer/Exporter	Dumping Margin (%)
Korea RP	All exporters/producers	8.55 %
Japan	All exporters/producers	12.94 %
USA	All exporters/producers	49.96 %

Likelihood of continuation or recurrence of dumping

34. In accordance with Section 9 (A) 5 of the Customs Tariff Act, it is necessary to examine whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping and injury. In examining whether there is a likelihood of a continuation or recurrence of dumping, the Authority has verified whether dumping exists at present and if such dumping is likely to continue or recur.

1. Exports of the subject goods to India were found to be made at dumped prices during the POI. The dumping margins determined for this sunset review investigation from Korea RP and Japan were found to be lower than that determined in the previous original and mid-term review investigations.
2. In examining whether dumping was likely to continue in significant quantities, certain information were analysed. In these investigations, exporters/producers from the subject countries have not cooperated by filing response to the exporters questionnaire. In the absence of any cooperating company, the analysis of imports was based on available data.
3. As per available data, it is seen that in the post POI period, a quantity of 720.08 MT, 216.35 MT and 135.39 MT was exported from Korea RP, Japan and USA, respectively.

Projection for Future Imports

1. Korea Kumho Petrochemical Co. Ltd., which is one of the producers of the subject goods in Korea RP has an annual synthetic rubber production capacity of approximately *** tonnes. The dedicated capacity for SBR alone is *** tonnes. This has enabled them to develop into one of the leading companies in the world synthetic rubber industry.
2. Five synthetic rubber producers account for over one third of total world capacity. These include the Goodyear Tire & Rubber Co. & Japan Synthetic

Rubber Corporation (JSR). Other major players include Ameripol Synpol Corporation and Korea Kumho. As per US Industry and Trade Outlook®, many in the Synthetic Rubber Industry believe that capacity in South Korea could be as great as three times domestic demand with more scheduled to come on line. This would mean that there is still significant capacity available for export production which could potentially be used to increase exports to India in the event of expiry of the measures.

3. Having regard to the current price levels in the Indian market and to the fact that imports have continued to come in from the subject countries throughout the injury analysis period, it is likely that exporting producers would continue to sell at dumped prices in order to regain their lost market shares.
4. There is nothing to suggest that dumping margins or dumped exports determined for the POI would disappear or decrease should the measures be allowed to expire. This is likely in view of substantial capacities in the exporting countries and the fact that no producer/exporter has cooperated with the Authority in these investigations.

INJURY:-

35. Under Rule 11, Annexure-II of the Anti-Dumping Rules, when a finding of injury is arrived at, such finding shall involve determination of the injury to the domestic industry, “taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such article...” In considering the effect of the dumped imports on prices, it is considered necessary to examine 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 prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree.

36. Annexure II(iii) under Rule 11 further provides that in case where 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, only when it determines that the margin of dumping established in relation to the imports from each country is more than two per cent expressed as a percentage of export price and the volume of the imports from each country is three per cent of the imports of the like article or where the export of the individual countries is less than three per cent, the imports cumulatively account for more than seven per cent of the imports of the like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic article.

37. The Authority notes that the margin of dumping and quantum of imports from the subject countries are more than the limits prescribed in Rule 11.

38. The Authority notes that imported products from the subject countries concerned are alike in all essential, physical and technical characteristics. Imported products and those produced domestically are interchangeable and were marketed in India during the same period through comparable sales channels and the domestic producers and exporters sell the like product to the same category of customers.

39. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such further indices having a bearing on the state of the industry as production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules.

(a) Quantum of Imports (as per Polymers, Plastics and Rubber Trade Intelligence):

Qty: MT Unit Price: Rs./kg

	1999-2000		2000-01		2001-02		2002-03	
	Qty	cif	Qty	cif	Qty	cif	Qty	cif
Individual Country Imports as per PPR (MT) Chapter 39 & 40								
Korea RP	2277.603	37.12	708.788	39.75	86.5	42.43	258.61	43.17
Japan	2353.392	39.38	2150.434	40.57	2204.78	44.69	2329.78	43.90
USA	181.257	40.85	20.63	38.19	79.27	32.30	159.61	27.60
Total (subject countries)	4812.252	38.36	2879.852	40.35	2370.55	45.87	2748	42.88
Other Countries	136.96	36.17	1147.351	40.86	591.74	41.81	32.32	41.93
Total Imports under Chapters 39 & 40	4949.212	38.30	4027.203	40.50	2962.29	45.03	2780.32	42.87

40. As per Polymers, Plastics and Rubber Trade Intelligence (PPR) data, the total imports of the subject goods as per Chapters 39 and 40 have come down from a level of 4949 MT in 1999-2000 to 2780 MT in 2002-03.

41. From the transaction-wise data made available by DGCIS, it is seen that a quantity of 340,600 kg was imported from Korea RP under Chapters 39 and 40 for a value of Rs 14197522 or Rs 41.68/kg. A quantity of 1585,904 kg was imported from Japan for a value of Rs 68334836 or Rs 43.09/kg. A quantity of 14,718 kg of the subject goods was imported from the USA for a value of Rs 23,43,253 or Rs 159.21/kg which is an abnormal price. The total quantity reported by DGCIS is therefore 1941MT as compared to 2780.32 MT reported by PPR data. The Authority

has, therefore, relied upon PPR import data. Data from secondary sources and from DGCIS was made available in the public file.

(b) Demand :-

Qty:MT

	1999-00	2000-01	2001-02	2002-03
Sales				
Sales of Indian Industry	9060	12832	14031	13960
Total Imports	4949	4027	2875	2780
Imports (Subject Countries)	4812	2879	2370	2748
Imports (Other sources)	137	1148	591	32
Demand	14009	16859	16906	16740
Share of domestic industry (petitioners) in Demand %	64.67%	76.11%	82.99%	83.39%
Share of imports %	35.33%	23.89%	17.00%	16.61%
Share of dumped imports %	34.35%	17.08%	14.02%	16.42%
Share of Korea RP	16.26%	4.20%	1.53%	1.54%
Share of Japan	16.79%	12.75%	13.78%	13.92%
Share of USA	1.29%	0.12%	0.94%	0.95%
Domestic Production	9223.529	12,469.553	14809.23	13642.54
Share of Korea Imports relative to Production	24.69%	5.68%	0.58%	1.90%
Share of Japan Imports relative to Production	25.52%	17.25%	14.89%	17.08%
Share of USA Imports relative to Production	1.97%	0.17%	0.54%	1.17%
Share of Imports from subject countries relative to Production	52.17%	23.10%	16.01%	20.14%
Share of Imports from subject countries relative to Consumption	34.35%	17.08%	13.95%	16.42%

42. There was an increase in demand from 14009 MT in 1999-2000 to 16859 MT in 2000-01. Thereafter there has been no significant change in demand. The domestic industry's share in demand has increased from 64.67% in 1999-2000 to 83.39% in 2002-03 (POI). Share of dumped imports has fallen in demand from 34.35% in 1999-2000 to 16.42% in the POI.

43. Dumped imports have declined by 32.82 percentage points in relation to production and by 17.93 percentage points in relation to consumption in the POI.

(c) Actual and Potential Decline in Market Share:

44. To illustrate the changes in market share the data has been tabulated in the following way:

		1999-2000	2000-2001	2001-2002	2002-2003
Domestic Production	A	9223.529	12,469.553	14809.23	13642.54
Dumped Imports	B	4812.25	2879.852	2370.55	2748

Other Imports	C	136.96	1147.351	591.74	32.32
Total (A+B+C)	D	14173	16497	17772	16423
Change in Market Share					
Change in D			+ 2324	+ 1275	- 1349
Change in A			+ 3246	+ 2340	- 1167
Change in B			- 1932	- 509	+ 377
Change in C			+ 1010	- 556	- 559
%Share held by					
Domestic production		65.08%	75.59%	83.33%	83.07%
Dumped Goods		33.95%	17.46%	13.34%	16.73%
Other Imports		0.97%	6.96%	3.33%	0.20%

45. The above table shows that the domestic availability for the subject goods has increased over the years though it declined by 7.87% in the period of investigation. The domestic industry market share has increased by 17.99 percentage points over the period 1999-2000 till 2002-03. The market share of dumped imports declined by 17.22% over the same period. The market share lost by dumped imports has been gained by domestic industry.

(d) Production and Capacity Utilisation:-

	1999-2000	2000-01	2001-02	2002-03
Installed Capacity (MT)				
Domestic Industry (Total Capacity)	15,550	17,800	18,400	18,400
Production (MT)				
Domestic Industry (Total production)	9223.529	12,469.553	14809.23	13642.54
Capacity utilisation %				
Domestic Industry (Capacity Utilisation)	59.32%	70.05%	80.48%	74.14%

46. Capacity utilisation for the subject goods has improved. The average capacity utilisation of the domestic industry was lowest in 1999-2000 when the volume of dumped goods were at the highest. Capacity utilisation improved thereafter corresponding with the decline in volumes of dumped imports. Level of consumption has also increased over this period leading the domestic industry to invest in new capacity and achieve higher levels of capacity utilisation.

(e) Sales realisation and landed price of imports

Rs/kg (Indexed)

Year	Wt. Avg. Net Sales Realisation of domestic industry (Rs/kg)	Landed Price of Imports			
		Korea RP	Japan	USA	Others
1999-00	100.00	100.00	100.00	100.00	100.00

2000-01	117.12	106.99	103.06	93.39	113.03
2001-02	112.89	111.40	110.62	77.15	112.86
2002-03 (POI) w/o anti-dumping duty	113.88	112.69	108.10	65.44	108.94
2002-03 (POI) with existing anti-dumping duty		132.40	122.41	82.12	—

47. Landed prices from the subject countries, without anti-dumping duty, continue to be significantly below the weighted average net sales realisation of the domestic industry.

(f) Price undercutting

Rs/kg (Indexed)

Year	Wt. Avg. Net Sales Realisation of domestic industry (Rs/kg)	Landed Price of Imports		
		Korea RP	Japan	USA
1999-00	100.00	100.00	100.00	100.00
2000-01	117.12	106.99	103.06	93.39
2001-02	112.89	111.40	110.62	77.15
2002-03 (POI)	113.88	112.69	108.10	65.44

48. The extent of price undercutting from Korea RP, Japan and the USA is in the range of 5% to 45%.

(g) Price Underselling

Year	SBR 1900 Series	Rs./kg					
		Landed Price of Imports			Price Underselling %		
		Korea	Japan	USA	Korea	Japan	USA
2002-03 (POI)							
Non-injurious price of domestic industry	***	***	***	***	***	***	***

Price underselling was in the range of 12% to 50%.

(h) Profitability:-

(Rs. per kg) Indexed

Petitioner	1999-00	2000-01	2001-02	2002-03 (POI)
Cost of Production				
Domestic Industry	100.00	113.93	88.02	103.66
Selling price				
Wt. Avg. NSR	100.00	117.12	112.89	113.88
Trend Indexed				
Profit & Loss				

Domestic Industry	(100.00)	(93.20)	73.51	(37.30)
Trend Indexed				

49. The above table shows that the cost of production increased in 2000-01 from the level of 1999-2000. The raw material cost increase takes place almost every year due to increase of monomer prices in the international market. Monomer is the key raw material for the subject goods and accounts for about 85% of the total raw material cost. In 2000-01, production costs increased as compared to the previous year and significant price undercutting continued by imports from the subject countries. Therefore, in spite of higher sales realisation, the domestic industry incurred significant losses. In the same year, demand increased as compared to the base year and the domestic industry increased its sales volumes. However, on the price front, it continued to incur losses as in the year 2000, dumping of the subject goods continued from EU and Poland on which anti-dumping duties were recommended in April, 2001.

50. In 2001-02, raw material prices came down significantly from Rs ***/MT to Rs ***/MT. The degree of price undercutting from the subject countries was low as compared to the previous year in the injury analysis band. In the POI this was reversed and the industry again suffered losses which however was lower and improved as compared to losses in 2000-01. Raw material prices went up to Rs ***/MT, an increase of about Rs ***/MT from the level of 1999-2000. The level of price undercutting also increased as compared to the previous year.

51. In the POI, the Domestic industry's share in demand was 83.39%, an increase of 18.72 percentage points as compared to the base year. The share of dumped imports declined from 34.35% in 1999-2000 to 16.42% in 2000-01 i.e., the decline was by 17.93 percentage points as compared to the base year. This shows that in spite of significant price undercutting the domestic industry was able to gain market share and regain the market taken by dumped imports as with anti-dumping duty, price undercutting was offset in the case of Korea RP and Japan. However, in the case of USA, it is seen that significant price undercutting persists even with anti-dumping duty.

(i) Closing Stocks of Domestic Industry:

Qty: MT (Indexed)

	1999-2000	2000-01	2001-02	2002-03
Closing Stocks of domestic industry	100.00	31.20	174.08	113.66

52. The Authority finds no co-relation between the level of stocks held by the domestic industry and their sales volume and profitability position.

53. Closing stocks have been compared with the sales quantum of the domestic industry and indicated as a percentage thereof in the table below:

(j) Sales of Domestic Industry:-

Indexed

	1999-2000	2000-01	2001-02	POI
Sales (MT)				
Total Sales of Domestic Industry	100	141.63	154.87	154.08
Closing Stocks				
Closing Stocks of domestic industry	100	31.20	174.08	113.66
Inventory as a percentage of sales in a range				
Domestic Industry	5-10%	1-6%	5-10%	1-6%

54. It may be seen that though Closing Stocks increased in absolute term, however as a percentage of Sales, closing stocks decreased as compared to the base year.

(k) Return On Investments

Rs. Lacs (Indexed)

	1999-2000	2000-01	2001-02	2002-03 (POI)
Capital Employed (Rs. lacs) considering net block				
Domestic Industry	100.00%	96.62%	100.77%	95.00%
Profit/Loss				
Domestic Industry	-100.00%	-170.14%	447.30%	-45.28%
Return on Capital Employed %				
Domestic Industry	-100.00%	-176.02%	443.90%	-47.56%

55. Since losses have decreased, the negative return on investment has also come down. The domestic industry has not yet reached a situation of positive return on investment.

(l) Cash Flow/Profit

Indexed

	1999-2000	2000-01	2001-02	2002-03 (POI)
Profit/Loss (Rs/Lacs) of Domestic Industry	(100.00)	(129.85)	145.73	(9.72)
Depreciation (Rs/Lacs) of Domestic Industry	61.44	57.68	57.66	56.17

Cash Flow (Rs/Lacs) of Domestic Industry	(38.56)	(72.17)	203.40	46.45
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56. Although losses of domestic industry have come down in the POI as compared to the base year, it is seen that the domestic industry is still incurring losses. Cash flow has improved but has come down in comparison to the previous year.

(m) Employment and Wages

Value: Rs Lacs (Indexed)

	1999-2000	2000-01	2001-02	2002-03 (POI)
Employment (permanent)				
Domestic Industry	100.00	100.00	90.83	92.20
Wages				
Domestic Industry	100.00	101.25	112.29	123.33

57. The level of employment has declined by about 7.79% as compared to 1999-2000. Wages show an increase of about 23.32% in three years (from 1999-2000 to the POI) which means an average increase of less than 10% which is considered as normal wage increase. However, wage per kg of production in the POI declined by Rs *** as compared to 1999-2000.

58. The above information has been depicted as follows:

Indexed

	1999-2000	2000-01	2001-02	2002-03 (POI)
No. of employees	100.00	100.00	90.83	92.20
% Change		0.00%	-9.17%	1.52%
Total Sales (Domestic Industry)	100.00	141.63	154.87	154.08
Volume of sales per Employee (MT)	100.00	141.63	170.50	167.11

59. It is seen from the above that there has been an overall increase in volume of sales per employee.

(n) Productivity

Indexed

	1999-2000	2000-01	2001-02	2002-03 (POI)
Production (MT)				
Domestic Industry	100.00	135.19	160.56	147.91
No. of Employees (Total)	100.00	100.00	90.83	92.20
Production per employee (MT) Domestic industry (total)	100.00	135.19	176.77	160.41

60. This has been projected in the following graph:

61. The above graph indicates that productivity per employee has increased over the years which is indicated in increased production and sales volumes due to the efforts made the domestic industry to optimize production and reduce employment and due to the anti-dumping duty in force. Productivity in the POI has however declined as compared to the previous year. In spite of increased productivity and the imposition of anti-dumping duty, the financial performance of the domestic industry in terms of profits deteriorated in the POI and the industry continued to incur losses.

Likelihood of continuation or recurrence of injury

62. In accordance with Section 9 (A) 5 of the Customs Tariff Act, it is necessary to examine whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping and injury. In examining whether there is a likelihood of a continuation or recurrence of injury, the Authority has verified whether injury exists at present and if such injury is likely to continue or recur. With respect to the injury determination, it is seen that the condition of the domestic industry has improved with the imposition of the anti-dumping duty, which has therefore, had the desired effect.

1. Throughout the entire period of the duration of the duty on imports from the subject countries, substantial price undercutting took place. The export prices at duty paid level i.e. including the anti-dumping duty were below the non-injurious price of the domestic industry which was established in the original investigation (***)— Rs. ***/MT) and which determined the level of duty.
2. The situation of the domestic industry following the imposition of the duties in the first year of the application of the measures, deteriorated again, in particular, from 2000-01 due to the injurious dumping from EU and Poland.
3. The importer has claimed that the injury to the domestic industry has been due to factors other than dumping which include (i) decrease in customs duty; (ii) lower demand for SBR 1900 series due to higher NR prices; (iii) shifting of usage pattern for end product to EVA/LDPE based products; and (iv) conditions of competition between domestic producers.
4. Reduction in customs duty would result in changes in the landed price of imports. While customs duty may have decreased over the analysis period, it is noted that the landed prices from the subject countries are in the same range. The Authority has considered the levels of landed price. The landed values from the subject countries increased during the injury analysis period as compared to the base year with exemption of US imports and did not decline as a result of decline in the customs duty. Reduction in customs duty is not a factor of injury that is required to be segregated.

5. Article 3.5 of the WTO ADA provides for "trade restrictive practices of and competition between foreign and domestic producers" as a relevant causal link parameter. It does not provide for competition amongst domestic producers as a causal link parameter. The two constituent units of the domestic industry have been selling at comparable price levels.
6. Shifting usage pattern should affect the domestic industry and foreign producers equally. The data analysed by the Authority does not show that the domestic industry's production capacity has been reduced by an amount which is approximately equal to a reduction in consumption which could have indicated that a change in consumption pattern had been the cause of reduced sales. In the present case, demand, domestic production and sales of Indian industry have all increased.
7. The importers have also raised an issue that Apcotex Lattices has been making profit whereas the other constituent unit of the domestic industry i.e. M/s. Apar Industries has been incurring losses even after imposition of anti-dumping duty. The domestic industry was given protection for increasing prices to the level of Rs. ***/MT but was not able to increase prices beyond Rs. ***/MT due to inter-se competition. The Authority notes that M/s Apcotex Lattices manufactures several grades of lattices for various industries such as tyre industry, paper/board coating industry, textile industry, carpet and construction industry. The profit shown in the annual report is for the company as a whole and not for the subject goods. As far as increasing prices are concerned, Domestic industry has not been able to pass on increased input costs to the consumers in the face of dumped imports. Input costs have increased but exporters have maintained the same level of export prices since 99-00.
8. The net sales realisation of the domestic industry in the POI was Rs ***/kg. If anti-dumping duty is revoked, NSR would decline to the extent of price undercutting i.e., by ***% or to Rs ***/kg. Raw material prices have increased from Rs ***/MT in 99-00 to Rs ***/MT in 2002-03. The Selling price of the domestic industry should therefore be approximately Rs ***/kg keeping raw material prices in view. However if anti-dumping duty is revoked, domestic industry would be forced to sell at Rs ***/kg (assuming no further increase in raw materials). Total losses would therefore amount to Rs *** crores, assuming no decline in volume of sales from the level of POI.
9. In view of the above, it is concluded that should the duty be repealed, injury is likely to continue.

I. CONCLUSION ON INJURY AND CAUSAL LINK

63. The Authority notes that certain economic indices having a bearing on the state of the domestic industry have shown improvement in the period of investigation. However, the domestic industry continues to be in a situation of losses.

64. The improvement in any economic parameter has occurred as a result of the existing anti-dumping duties in force. The Authority notes that it would be inappropriate to hold that if anti-dumping duty is revoked, the imports from the subject countries would cease to cause material injury to the domestic industry. The material injury to the domestic industry is likely to continue as imports of the subject goods continued to enter the domestic market at dumped prices during the injury analysis period and the POI. These dumped imports undercut the domestic industry's net sales realisation and were lower than the non-injurious price of the domestic industry determined for the POI. The Authority concludes that the improvement, if any, in some of the economic parameters affecting the domestic industry does not warrant removal of anti-dumping duty.

J. FINAL FINDINGS:

65. The Authority after considering the foregoing, concludes that:

- a. Styrene Butadiene Rubber (SBR) 1900 series originating in or exported from Korea RP, Japan and USA has been exported to India below normal value, resulting in dumping;
- b. the domestic industry is suffering material injury;
- c. dumping of the subject goods is continuing from the subject countries
- d. the material injury to the domestic industry may continue and intensify if anti-dumping duty is removed.

66. It is therefore considered appropriate to recommend continuation of the anti-dumping duties in force on imports of Styrene Butadiene Rubber (SBR) 1900 series originating in or exported from Korea RP, Japan and USA. The revised duties may come into force from the date of notification to be issued in this regard by the Central Government. The anti-dumping duty shall be the amount mentioned in Col. 3.

1. Country	2. Name of Producer/Exporter	3. Amount (USD/kg)
Korea RP	All producers/exporters	0.0689
Japan	All producers/exporters	0.1045
USA	All producers/exporters	0.197

67. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

68. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975, as amended in 1995.

ABHIJIT SENGUPTA
DESIGNATED AUTHORITY