

MINISTRY OF COMMERCE
(Directorate General of Anti Dumping-and Allied Duties)

NOTIFICATION

New Delhi, the 21st January, 1999

PRELIMINARY FINDINGS

Subject: Anti-Dumping investigation concerning imports of Styrene Butadiene Rubber (SBR) from Japan, Korea, Turkey, Taiwan, USA, Germany and France.

30/1 /97-ADD.- Having regard to the Customs Tariff Act 1975 as amended in 1995 are- 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 with regard to the investigation:

- i. The Designated Authority (hereinafter also referred to as Authority), under the above Rules, received a written application from Synthetics and Chemicals Ltd., Oriental House, 7, J Tata Road, Churchgate, Bombay-400020 (also referred to SCI hereinafter) on behalf of the domestic industry, alleging dumping of Styrene Butadiene Rubber (SBR) (hereinafter also referred to as subject goods) originating in or exported from Japan, Korea, Turkey, Taiwan, USA, Germany and France.
- ii. Preliminary scrutiny of the application filed by petitioner revealed certain deficiencies, which were subsequently rectified by the petitioner. The petition was, therefore, considered as properly documented.
- iii. The Authority, on the basis of sufficient evidence submitted by the petitioner decided to initiate the investigation against imports of SBR from Japan, Korea, Turkey, Taiwan, USA, Germany and France. The Authority notified the Embassy of Japan, Korea, Turkey, Taiwan, USA, Germany and France about the receipt of dumping allegation before proceeding to initiate the investigation in accordance with sub-rule 5(5) of the Rule.
- iv. The Authority issued a public noticed dated 7th April, 1998 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning Imports of SBR classified under custom code 4002.19 of Schedule 1 of the Customs Tariff Act, 1975 originating in or exported from Japan, Korea,

Turkey, Taiwan, USA, Germany and France (hereinafter also referred to as the subject countries).

- v. The Authority forwarded a copy of the public notice to all the known exporters (whose details were made available by petitioner) and industry associations and gave them an opportunity to make their views known in writing in accordance with the rule 6(2):
- vi. The Authority forwarded a copy of the public notice to all the known importers (whose details were made available by petitioner) of SBR in India and advised them to make their views known in writing within forty days from the date of issue of the letter;
- vii. Request was made to the Central Board of Excise and Customs (CBEC) to arrange details of imports of SBR made in India during the past three year, including the period of investigation.
- viii. The Authority provided a copy of the petition to the known exporters and the Embassy of the subject countries in accordance with rules 6(3) supra. A copy of the petition was also provided to other interested parties, wherever requested;
- ix. The Authority sent a questionnaire to elicit relevant information to the following known exporters, in accordance with the rule 6(4):

a. **JAPAN**

- Asahi Chemical Industry Co,
- Japan Elastomer Co. Ltd.
- Japan Synthetic Rubber Co.
- Mitsubishi Kasei Corporation
- Nippon Zeon Co. Ltd,
- Sumitomo Chemical Co.

b. **KOREA**

- Korea Kumho Petrochemical

c. **TAIWAN**

- Taiwan Synthetic Rubber Corpn.

d. **FRANCE**

- Bayer AG
- Goodyear Chemical Europe
- Michelinet Cie
- Shell Chimie SSA.

e. **GERMANY**

- Kombinal VEB Chemische Work

f. **TURKEY**

- Petkim Petrokimya AS

g. **USA**

- Ameripol Synpol Corpn.
- DSM Copolymers Inc.
- Firestone Synthetic Rubber & Ltx Co.
- General Tire Inc.
- Goodyear Tire and Rubber Co.

A number of parties requested for extension of time, which was allowed by the Authority by two weeks.

The following exporters responded:

a. **Japan**

- Mitsubishi Chemical
- JSR Corpn
- JTC Corpn
- Mitsui & Co.
- Fuji Chemical Development Co.

b. **Korea**

- Korea Kumho Petrochemical Co. Ltd.

c. **Taiwan**

- Taiwan Synthetic Rubber Corpn.

d. **France**

- Michelin
- Bayer

e. **Germany**

- Buna Sow Leuna Olefinverbund Gmbh (BSL) Germany

f. **Turkey**

- Petkim Petrokimya Holdings

g. **USA**

- The Goodyear Tire and Rubber Co.
- Ameripol Synpol Corpn.

x. The Embassy of the subject countries in New Delhi was informed about the initiation of the investigation in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter, petition and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.

xi. A questionnaire was sent to the following known importers of SBR calling for necessary information in accordance with rule 6(4):

- Apollo Tyre Ltd, Kochi
- Modistone Ltd. New Delhi
- Birla Tyres Ltd., Calcutta
- Ceat Ltd., Mumbai
- Govind Rubber Ltd., Alwar
- J K Industries Ltd., New Delhi
- Modi Rubber Ltd.; New Delhi
- MRF Ltd., Madras,

A number of parties requested for extension of time, which was allowed by the Authority by two weeks. Response to the questionnaire was filed by the following;

- Automotive Tyre Manufacture Association, New Delhi (ATMA).
- All India Rubber Industries Association, New Delhi
- Vimsons Rubber (P) Ltd., Kerala
- South Asia Tyres Ltd., Aurangabad
- Thejo Engineering Services (P) Ltd., Madras
- NARCO Ltd, Thane
- Birla Tyres, Calcutta
- MRF Ltd., Chennai
- Ceat Ltd, Mumbai
- Rishiroop Polymers (P) Ltd., Mumbai

- Apollo Tyres Ltd., New Delhi
 - Dow Chemical International Ltd., Mumbai.
 - J K Industries Ltd., New Delhi
 - Vamshi Rubber Ltd., Hyderabad Chemical & Allied Products Exports Promotion Council, Calcutta
 - All India Federation of Rubber Footwear Manufacturers.
 - Kanara Small Industries Association, Mangalore
- xii. Additional information regarding injury was sought from the petitioner, which was also furnished;
- xiii. The Authority conducted on-the-spot investigation at the premises of petitioner to the extent considered necessary;
- xiv. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties;
- xv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles (GAAP) and the information furnished by the petitioners also as to ascertain if anti-dumping duty lower than dumping margin would be sufficient to remove injury to the domestic industry.
- xvi. ****in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules;
- xvii. Investigation was carried out for the period starting from 1 st April 1996 to 31st August 1997.
- xviii. The Authority provided an opportunity to all interested parties to present their views orally on 10th November 1998. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any.

B. Petitioner's Views

2. The petitioner has raised the following major issues in their petition and subsequent submissions.

- a. Voluminous imports of SBR, which is showing an upward trend, are entering into India at a low price. Exporters/producers from the subject countries are dumping SBR into India at a price lower than their normal value. In spite of increase in cost, these exporters have reduced their prices. Due to this, it is claimed that petitioner is forced to reduce their prices besides providing heavy discounts and enhanced credit facilities. It is further stated all these factors are

causing heavy losses to petitioner and they are not able to recover even the cash cost. In spite of reduction in price, their market share has gone down by 11%.

- b. It is claimed that petitioner is suffering injury on account of the fact that their production as well as capacity utilisation has affected adversely, stocks of SBR has increased and man power is reduced by more than 5%. The petitioner has also claimed threat of material injury, if dumped imports are not checked. Probability of further steep increase in imports and permanent injury to the domestic industry can not be ruled out. Dumped imports have retarded the growth of SBR industry and expansion. Financial constraint due to dumping has delayed the commencement of the projects.
- c. International Institute of Synthetic Rubber Producers adopts the following numbering system for various grades of styrene-butadiene rubber produced by emulsion polymerization system:

1000 series - Hot non-pigmented rubbers

1500 series - Cold non-pigmented rubbers

1600 series - cold black masterbatch with 14 or less parts oil per 100 parts SBR

1700 series - cold oil masterbatch

1800 series - cold oil black masterbatch with more than 14 parts oil per 100 parts SBR

1900 series - Emulsion Resin Rubber Masterbatch

In each of the above series various grades of SBR are characterised by level of copolymer (%styrene), emulsifier type, nominal Mooney Viscosity, Coagulation, specific gravity and product stain. Thus each grade of SBR differs from the other due to variation in one or more of these parameters. However, under each series the basic polymerisation technology remains the same and as such, the basic physical nature of the rubber also remains the same. In view of this various grades of SBR under each series barring few specific grades meant for specialized applications are interchangeable and can be substituted with each other in most of the applications by making suitable modifications in the compounding recipe. In this-connection, a careful look of the various tables given in the Synthetic Rubber Manual corroborates this fact. For example, various related polymers listed under Table 3-2 under 1500 grade has varying parameters such as emulsifier type, nominal Mooney Viscosity, coagulation system etc.

Further the interchangeability of various grades of SBR is possible even between grades falling under two different series. For example, 1712 grade of SBR can be substituted with 1500 grade and many other grades of rubber falling under 1500 & 1700 series even in Tyre tread application. Similarly, 1502 grade of SBR can be substituted with 1500 grade and many other grades of rubber falling under 1500 and 1700 series in various applications.

- d. Synthetic rubber has been meeting the increasing demand arising due to gap between demand and supply of natural rubber. Since the rubber plantation area is limited, the natural rubber is being supplemented by synthetic rubber consistently. SBR is a type of synthetic rubber and is produced in different grades keeping in view the specific needs of customers.
- e. The petitioner has expressed their opinion that there may not be any major difference in the manufacturing process of SBR being produced by them and produced by other Indian producers or foreign producers who are dumping goods to India.
- f. The petitioner has claimed the normal value on the basis of inquiries made by them from the Embassy of India in the case of Japan, Turkey and Korea. In the case of Germany and France, it is claimed on the basis of quotation from Spain. In the case of USA and China Taipei, it is arrived at on the basis of export to third country. The petitioner has claimed export price on the basis of DGCIS statistics. While arriving at export price to India, they have shown adjustment on account of ocean freight, insurance, dealer's commission and terms of sales.
- g. EU is a trade/customs union and there is free movement -of commodities among its member nation. EU countries are collectively invoking anti-dumping action under the WTO rules. Therefore anti-dumping action should be taken against all the member countries of EU for dumping in India. Else, on the event of anti-dumping measures on a particular nation of EU, it is very likely that the material shall be dumped through other member nations of EU. This is apprehended more so because some of the multi-national manufactures have their plants spread over different EU countries.
- h. Production Process as well as the production capacities overlap in producing different grades of SBR. The petitioner has claimed injury to domestic industry due to dumping for the SBR, which includes S 1502, S 1712 and S 1958. Wherever necessary/feasible, separate information on the specific grades are provided.
- i. The petitioner has requested to assess injury cumulatively from all the countries found dumping the product. The impact of dumping started more severe from January 1997 onward.
- j. The petitioner has claimed that the injury suffered by them is due to dumping and thus causal link between dumping and injury is established.

C3. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES

1. Importer view

- a. There is a severe recession and inflation in the industry, which caused crisis particularly in the rubber industry, which cannot sustain burden of any unjustified antidumping duty.
- b. The supply from the petitioner (SCI) is irregular and quality is not satisfactory. They are not in a position to cater the full requirements of their consumers. They are misusing the monopoly in the manufacturing by exploiting the consumers. The import of SBR is under compulsion, otherwise due to non-availability of SBR, the consumer units are to be closed.
- c. The petitioner is having erratic supplies and frequent price increases. The petitioner shut down their plant without prior intimation to end user which results in their severe production loss.
- d. The quality of product of the petitioner is slightly inferior, compared to the imported products, landed cost of which is cheaper than that of indigenous product from petitioner. The dislocation in their production operation is another factor contributing not to rely on this source. The imposition of anti-dumping duty will not only make import of SBR more costly and to a certain extent prohibitive, but also paralyse the industry for want of quality product in the required volumes to meet the projected demand from the rubber based industry. The claim of the petitioner that they have sufficient capacity to cater to the complete requirement both in quality and quantity to the consumers is contrary to the fact. Anti dumping on SBR should never be imposed in the interest of rubber based industry.
- e. Tyre companies are forced to depend more and more on imports largely on account- of petitioner's mismanagement in vendor relations. Many of the tyre companies had resorted to imports due to erratic supplies, not adhering to delivery schedules, frequent quality complaints and price increases unrelated to cost increases. Even those companies, which still lift large quantities of SBR from petitioner, are unhappy with their dealings with them.
- f. Increase in imports cannot be looked at in isolation but has to be examined in relations to growth in exports. Some tyre companies have increased their level of exports significantly and, therefore, when increase in imports are commented upon, imports, "net of duty free imports against advance licenses" must be examined.
- g. The petitioner has themselves admitted in their published accounts that their performance is affected by raw material constraint due to congestion at Kandla Port, credit squeeze imposed by banking system and delayed payment by

customers. In spite of this, their sales were higher and, therefore, there does not seem to be any impact of imports of SBR on petitioner. Commencing from December 1997, the petitioner has already announced four price increases.

- h. Radialisation of passenger tyres has resulted in a fairly large shift from SBR to Natural Rubber (NR). Also the increase in imports is due to that new generation vehicle manufacturers require "solution based" SBIZ tyre whereas the petitioner is manufacturing SBR based on 'emulsion based' technology.
- i. The petitioner has not been operating efficiently and has not made efforts to improve their internal and external performance. In an environment where the tyre industry is exposed to international competition, if inefficiency on part of raw material supplier get passed on to it as costs, it will indeed be a sad commentary on the future prospects of tyre industry. If anti-dumping duty is imposed, it will contribute in raising the local price further by petitioner and this will be a convenient way of passing on their systems/operational inefficiencies to the user industry.
- j. The petitioner is offering much lower credit as compared to credit given by international vendors. The tyre industry is in serious liquidity crisis, and the request for longer credit has not got any favourable response from petitioner.
- k. For a manufacturer from South East Asia, the fall in currency value in relation to US dollar has been unprecedented. The effect of this fall was that to get the same domestic currency realisation from exports of this product as from a domestic sale, the exporter needed to quote a dollar price that reflected the percentage depreciation of his currency. This did not reflect an "intent to dump" which would have been an unfair practice. There must be a "normalisation" process of comparing domestic price and export price from that country for establishing dumping. If so, the margin will then be seen to be lower than de minimus.
- l. There is no causal link between the import and the alleged erosion to petitioner's health. The petitioner had raised an application for imposing anti-dumping duty in 1993 even when the duty levels were high and it was summarily rejected by the Govt. The current application is raised on similar flimsy grounds.
- m. Certain relevant data/inputs have been withheld by the petitioner and marked as confidential and have not been disclosed. Thus the proceedings are not transparent. Petition is defective to this extent and the same may be dismissed forthwith.
- n. The pattern of consumption NR: SR: RECLAIM in India is 73:18:9 as compared to 35:65:0 in Western world. The reason for this consumption pattern is *high* prices of SBR over NR in India.

- o. The petition first started manufacture of SBR with a second hand plant imported from USA in 1963. Such plant has lost past its prime. In every sense it *has* outlined its utility. The present expansion is a replacement of old plant.
- p. The main types of SBR are as specific, not "like articles" and not interchangeable. These are :
 - i. Emulsion Polymerised SBR (ESBR)
 - ii. Hot Emulsified
 - iii. Cold Emulsified
 - iv. Solution SBR
 - v. Thermo Plastic SBR

It is pointed out that all the above types are covered in customs heading 4002.19. Amongst the four different types, India produces only 2nd types. The 2nd type can be further classified into the following grades:--

- i. Oil extended grades: 1712, 1778
- ii. Pure SBR: Grades 1500, 1502
- iii. High styrene SBR: Grades 1958 with styrene contents upto 50%.

Thus in view of above, it is stated, that SBR is a general term and cover a very wide spectrum of polymers most of which are neither manufactured by petitioner nor they have the capacity to do so. The inquiry is initiated for a general family of polymers known as SBR having various grades and types most of them not being manufactured by petitioner nor they have the capability or capacity to manufacture.

- q. The petitioner has admitted that their plant is a multipurpose plant capable of producing SBR, NBR etc. Even after such enlightened realisation and also having the necessary technology to produce NBR, the petitioner did not initiate steps to produce NBR, which would give better realisation, attracts anti-dumping duty and for which India is facing a shortfall.
- r. The claim of the petitioner that they are capable of producing total requirement of SBR in India is far from the truth. It is claimed that the production of petitioner alongwith other producers have been much lower than the required consumption. It is further stated that though the consumption of SBR has shown a steady growth, the petitioner production has stagnated from 1988. Thus on the one hand, the petitioner is not capable of producing the requirements of industry and on the other hand they want to block the necessary import of deficit quantity as well even in the liberalised trade regime.
- s. In the petition, the alleged importer of dumped imports, are eight tyre companies. This implies that the entire non-tyre sector remains outside the ambit of anti-dumping investigation. The anti-dumping investigation shows

each grade/commodity under investigation and the matter can not be generalised.

- t. The imports in 96-97 as compared to 95-96 have increased but as compared to 94-95 it has gone down. In 95-96, there was a worldwide shortage of SBR.
- u. The rupee dollar conversion during 1996-97 was US\$ 1=Rs.35.50 which now stands at US\$ 1=Rs.42.76. Hence rupee has depreciated by Rs.7.26 per dollar which is 20.4%. Therefore, the value of imports has gone up by over 20% which is more than or substantially offset the incidence of injury in terms of loss of Rs.5 to Rs.20/- as stated by petitioner. Hence there is no injury to the petitioner.
- v. The onus of evidence of normal price in the exporting countries has not been satisfied by the petitioner and no proper procedure followed. The normal prices submitted are unsubstantiated, unauthentic and irrelevant.
- w. The causal link between injury and dumping is not properly established by the petitioner. The alleged case of injury can not be perceived to have been caused by imports.
- x. It is claimed that import price of SBR has been increased substantially at present due to changes in rate of duty and exchange rate. The landed price of imports have gone up by about 33% in June 98 as compared to May 97.
- y. The single factor for reduction in the international price of SBR is the reduction in the prices of raw material for SBR, which are styrene and butadiene. The petitioner has not passed the benefit of reduction in cost of input to consumers and the petitioner had earned profit.
- z. It is stated that no causal link between the alleged dumped imports and injury as the company has attributed reasons to other factors in their published accounts of 1995-96 and 1996-97. Also there is no injury due to the followings
 - The production of domestic industry has increased
 - sales have increased
 - capacity utilisation has increased
 - there is a total loss of 7% market share by the petitioner out of which 5% is taken by other than dumped imports and 2% loss of market share due to alleged dumping cannot be considered material.

II. Exporter's View

- a. The Designated Authority has no jurisdiction in the matter as the condition of serious injury to domestic industry is missing. There is no causal relationship between the dumped goods and injury, which is a pre-requisite for imposing anti-dumping duty. Lack of profitability to petitioner is due to uneconomic size and certain managerial deficiencies.' By imposing anti-dumping duties, no public interest will be served. Levy of anti-dumping duty would be contrary to

the provisions of MRTP Act 1969 as it would tantamount to encouraging monopolist who would then exploit his dominant position.

- b. Levy of anti-dumping duty will be against the interest of tyre industry, which employ more than 7.5 lacs people with an annual sales turnover of US\$ 2250 million. The total exports are 30% of annual turnover. As against this the petitioner is employing not more than 300 persons in business and export sales is virtually zero.
- c. SBR is having various grades. Some of the grades fall under custom tariff entry no. 4002.19 and some other fall under custom tariff entry no. 3903.90 which are copolymers of styrene and butadiene but are neither 'like articles' to the grades of SBR produced by the petitioner nor are such type of co-polymers of styrene and butadiene produced by the petitioner in India. There are some types of SBR, which are not capable of being produced in the same plant such as that of petitioner and any or all of them are not substitutable with one another for the end use. It would therefore, be incorrect and vague to undertake to conduct an investigation against a class of product from one domestic source with another class of product from international source wherein the products grouped together may have different physical forms or technical characteristics and which are used in entirely different end use applications. It is the duty of Authority to identify the article liable for anti-dumping duty which has not been carried out since the term SBR is a broad generic term and it represents a class of products or articles.
- d. ESBR grades of 1502, 1712 and HSR grade 1958 are neither like articles nor interchangeable. It is contended that investigation for anti-dumping has been initiated for a wide class of articles rather than a singular product or articles and as such no clear and proper comparison of statistical data can be done to evaluate whether there is any increased quantity of import necessitating any action for imposition of anti-dumping measures:
- e. Investigation does not cover several countries which individually accounts for more than 3% of imports or if individually accounts for less than 3% collectively accounts for more than 7% and thus it is discriminatory. The Authority should act in non-discriminatory manner and also investigate import from countries such as Belgium, Brazil, Italy, Switzerland etc. .
- f. The current rules framed for the investigation are unlawful and liable to be struck down. The exporter has objected to the proceedings conducted without full transparency.
- g. There is another producer of solution type of co-polymers of styrene and butadiene commonly known as SBS type of synthetic rubber and falls under custom tariff heading 4002.19. This producer has not been named in the petition.

- h. Since the petitioner's facility and that of Gujarat Apar Polymers Ltd. is a multipurpose plant, the combined output of all grades of ESBR, NBR and SBR lattices should be considered if at all, for the purpose of combined investigation of the antidumping measures for SBR and NBR. If the investigation pertaining to a class of unlike articles or elastomers is proceeded, then it is appropriate to club the production of SBR latexes of M/s Aptotex Latices Ltd. (APL) and that of Thermoplastic rubbers by Ws ATV Projects Ltd. since the import statistical data is mixed up for these type of copolymers of styrene and butadiene and since the existing production facility of the petitioner was and can also be utilised for the production of NBR grades for which antidumping duty protection has already been given by the Govt.
- i. The petitioner is charging different rates for different grades. In order to undertake an objective analysis of the petition, the Authority must have grade wise data of production, sales, raw material consumption, cost of production, import volume and price and type of SBR, which is not possible in the present case.
- j. Korean exporter has represented that there is no basis whatsoever produced by the petitioner to consider export price to Mexico of unknown type of grades of SBR as the normal value for Korea RP for all grades of SBR.
- k. The Petitioner has not submitted the data on normal value from all countries correctly. There is no consistent trend in prices. In respect of adjustments in normal value and export price, no evidence has been submitted. At some places, the price of SBR 1712 has been shown higher as compared to SBR 1502, which is not possible. It is stated that data presented by petitioner is fabricated and misleading and, therefore, should not be relied upon.
- l. It is evident that there is no injury caused to the petitioner by the import of SBR during the POI if volume effect and price effect is taken into account. The import data of DGCI&S should not be relied upon, as they are inaccurate and unreliable. The reliable data can be procured from Rubber Board.
- m. The petitioner has not suffered injury as
 - The volume of import has not increased.
 - There is no decline in production if all grades of ESBR are combined and data are corrected though there is a decline in the production of SBR grade 1502 and 1712.
 - There is a gap in the demand and supply position and petitioner has failed to meet the demand since long time.
 - The market share of petitioner has been stable between 56-61% over the years.
 - The increase in imports if any is due to increase in exports which necessitates the imports under advance licensing scheme.

- Fiscal year 1995-96 should not be considered to assess injury in Period of investigation, as this year was an abnormal year in SBR case:
 - The landed prices of imports are higher as compared to the domestic prices charged by the petitioner.
 - There is no evidence of price undercutting or suppression. Price changes if any is due to lower price of raw material i. e. styrene and butadiene.
 - The inventory represents equivalent to 15 days production, which is normal.
 - Though the production capacity of petitioner is 41000 tonnes p.a. they have never achieved this in last 5-6 years even when the SBR demand was on peak. The petitioner can not produce SBR equal to its installed capacity, as the plant is old and obsolete.
 - Reduction of work force by 5% is normal.
 - The reason for delay in expansion of project is not dumping.
 - There is no threat of injury.
- n. The petitioner is losing its share in domestic market to other producers of SBR who are operating smaller capacity plants more efficiently and profitability.
- o. There are certain other factors which are causing injury to petitioner these are:
- Improper location of plant site at Bareilly, which is far from the source of raw material.
 - Long time taken to complete the expansion project of ESBR.
 - Improper arrangement for procurement of raw material and inventory management as evident from their published accounts.
 - Unexplained delay in the commencement of production of NBR.
 - there is a reduced profitability, but the SBR business continues to earn profit.

In view of above, there is no causal link between dumping and injury if any.

Some of the submissions of importers and exporters overlap and hence not repeated for the sake of brevity.

(D) EXAMINATION OF THE ISSUES RAISED

4. The submissions made by exporters, importers, petitioner and other interested parties have been examined and considered and have been dealt at appropriate places in these findings.

(E) PRODUCT UNDER CONSIDERATION

5. The product involved in the present investigation is Styrene Butadiene Rubber (SBR) originating in or exported from the said countries classified under custom subheading 4002.19 of the customs Tariff Act. The classification is, however, indicative only and in no way binding on the scope of the present investigation. SBR is a type of synthetic rubber. SBR is one of the major elastomers and is mixed with natural rubber for manufacture of Auto tyres and tubes, bicycle tyres and tubes, footwear, belts and hoses etc. Styrene and butadiene are the main raw material to manufacture SBR.

Some variation/type of SBR exists depending upon the extent of Styrene content and the other physical/chemical properties. Content of Styrene in SBR may vary depending upon the application for which it is used. SBR Polymers may be hot type (have code in 1000 series), cold type SBR (have code in 1500 series), cold type oil extended SBR (have code in 1700 series) and high Styrene resin master batches (have code in 1900 series) etc. It is claimed by petitioner that they are manufacturing and marketing SBR grades S 1502, S 1712 and S 1958 and these grades are mostly being imported. It is further claimed that these grades have specific application but these are produced with common equipment, facilities and production process.

It is brought to the notice of Authority that there are various type of SBR. Some types of SBR fall under custom Tariff No. 3903.90 and there are certain types of solution polymerised SBR termed as SSBR which fall under custom Tariff Heading No. 4002.19. There are some emulsion polymerised SBR which are graded in 1000 series, 1500 series, 1700 series and 1900 series.

The Authority observes that items falling under 3903.90 are not the product under consideration and SBR in 1000 series is not produced by petitioner and thus are not product under consideration.

The petitioner is producing SBR grade 1502, 1712 and 1958. Though there are different grade in 1500, 1700 and 1900 series, they can be produced in the same plant and process of manufacturing is same. The Authority therefore, hold that product under consideration is SBR of 1500 series, 1700 series and 1900 series under customs sub heading 4002.19 of the customs Tariff Act. .

(F) LIKE ARTICLES

Petitioner has claimed that products being imported and produced by domestic industry are of similar quality and all tyre companies and other major non-tyre companies who have foreign technical collaboration have their name in their approved list of suppliers of SBR. It is further claimed that in view of this fact and the fact that

the same end users of SBR are using petitioner's product and imported product interchangeably, the product being imported and produced by the domestic industry are similar and thus like products under the anti-dumping rules. It is observed by the Authority that all SBR are copolymers of Styrene and Butadiene and serve the same general purpose though the same have different specific application. The Authority finds that the manufacturing process, equipment and other facilities needed for producing different grades of SBR are common and does not involve any special equipment to produce different grade of SBR. The various grades merely depict the level of co-polymers and other parameters. The Authority observe that the each type/grade of SBR produced by the domestic industry has a characteristics closely resembling to each respective type/grade of SBR imported from the subject countries and these are technically and commercially substitutable and, therefore, are like Articles within the said rules. For instance; S 1502 produced by domestic industry has characteristics closely resembling to S 1502 imported from subject countries and therefore is a like article.

(G) DOMESTIC INDUSTRY

7. The petitioner has been filed by M/s Synthetic and Chemicals Ltd. Oriental House, 7 J, Tata Road, Churchgate, Mumbai-400020. Ws Apar, M/s Gujrat Apar and M/s Apcotex Lattices are stated to be other producer of SBR. According to the statistics published by "Rubber Statistical news" of Rubber Board, India, the total production of SBR during the POI was 56980 MT. The petitioner produced 43861 tonnes of all grades of SBR. Thus the petitioner accounts for more than 25% of domestic production of SBR and therefore, has a standing to file a petition on behalf of domestic industry under the rules.

H. DUMPING

8. Under Section 9A(1)(c), normal value in relation to an article means:

- i. the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal' value shall be either-

- a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
- b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

9. The Authority sent questionnaire to the exporters from the subject countries in terms of the section cited above. The claims made by exporters with regard to normal value and export price are as under.

1.10 CLAIMS OF EXPORTERS

Country USA

Exporter - Ameripol Synpol Corpn. (ASC)

They have claimed-that there is no basis for including ASC in dumping allegation due to the reasons that the product they export to India are unavailable locally. The numbers of grades manufactured in India are limited and it is further claimed that they are the sole producer in the world for one of the grades sold into India. It is further claimed that there is no big difference between export price to India, their domestic price and price of export to third countries. The sales volumes of India have been quite steady for, years and the volumes on a percentage of total imports, into India are miniscule. It is further claimed that on these accounts they should be excluded from the dumping allegations. They have. stated that no incentive is offered by Govt. of USA to them on export to India.

It is further claimed that during the POI they exported SBR grade 8401 and plant cleans up (PCU). Grade 8401 is a special grade and they are only producer in the world of this material. 8401 is a special TRAXOL(R) oil extended (37.5 phr), SBR polymer in the 39.5% bound styrene. It features high damping characteristics and low air permissibility. It finds application in tire liners, tire treads, automotive mounts, racing tires and heaving extended good where it provides improved noise damping plus better traction and faster stopping than conventional SBR. PCU is a term used to denote plant cleans up which is comprised of scraps of all kind of SBR grades

collected from equipment cleans up floor sweeping etc. and it as not even an off specification of SBR material.

The exporter has submitted the information in respect of grade 8401 and PCU in relation to domestic price and export price to India. It is claimed that export price were either FOB factory or FOB ports of Houston. The exporter has claimed adjustment on account of inland freight when prices were quoted FOB port. In respect of domestic sales, it is claimed that list price are ex-works. They have claimed adjustment on account of discount/commission. Thus no dumping margin has been claimed in respect of above grades. No costing information submitted.

Exporter - The Good Year Tire & Rubber company

It is claimed by the exporter that after reviewing their, records and discussion with the sales and marketing people, they have not participated actively in the Indian market for SBR during the relevant period of inquiry. Instead they had made a series of transfer to Goodyear's affiliated company in India, when the petitioner failed to meet certain supply commitments made to Goodyear India. It is also claimed that they have not sold any

SBR to any other customer in India during the relevant period nor have any plans to do so.

They have not submitted any other information.

Country France

Exporter - Bayer

It is claimed that they structure their business into sales to dealers in Europe and India and to end users in Europe. This price structure is very similar for dealers in both India and Europe. A system of rebates exist within Europe especially for large quantity contracts which is equivalent to effective price reduction of between 3% to 7%. This system does not exist for them to India, as it is large quantity net prices. It is further claimed that they sold SBR to India at prices equivalent to European price during the period of investigation. They have submitted information in respect of Krylene HS 260 grade. It is stated that selling prices are negotiated case by case. No list prices exist for they serve no useful purpose in highly competitive market.

They have claimed adjustments on account of Inland freight, handling, overseas freight, overseas insurance while calculating export price to India. The ex-factory price claimed for export is *** US\$ per kg.

They have claimed price adjustment on account of Inland freight in their domestic sales. They have not submitted the data on domestic sales at ex-factory level. They have also not submitted average domestic price and cost data. It is stated that raw material cost and direct labour cost are identical for all product sold. Overhead costs are allocated equally on all the production volume of krylene HS 260. It is also claimed that they do not benefit from subsidies by regional or national govt. or authorities.

ii) **Exporter - Michelin, France**

It is claimed by the exporter that they had not exported SBR into India and, therefore, zero anti-dumping be levied. It is further stated that if they receive any orders for supply of SBR to India in future, they reserve their right to make a request for a new shipper review.

Country- Germany

Exporter - Bung Sow Leuna Olefinvefbund Gmbh (BSL) . Germanx through Dow Chemicals International Ltd., ,Mumbai.

It is claimed that the name of the company is changed from Kombinat VEB Chemische Worke Bune to Buna Sow Leuna Olefinverbund Gmbh. It is claimed that during the period of investigation, they exported one consignment to India of ***MT in July, 1997. This consignment is negligible in view of total consumption of SBR in India. Further this was the very first trial order which usually incurs additional expenses for the customer for testing. Thus they are justified in charging a price slightly below market price level in order to share these testing expenses with the customer. It is further claimed that the export price charged was higher as compared to domestic price and hence no dumping has been admitted. It is further stated that as they have exported one single consignment of small quantity, they are not desirous of submitting a detailed report on the questionnaire sent by Authority.

Country - Taiwan

Exporter- Taiwan Synthetic Rubber Corpn (TSRC)

The exporter has submitted information in relation to grade 1502 and grade 1712 of SBR.

Normal value: In respect of normal value they have submitted the domestic price structure. They have claimed the price adjustment on account of commission (which is ***% average of selling price) and inland freight..

Export Price- They have claimed the price per unit on the basis of weighted average price. They have claimed the price adjustments on account of discount/commission, inland freight, handling, harbor construction fee and promotion charges, overseas freight (including shipping charges) and overseas insurance.

The dumping margin is thus claimed as under: -

Grade margin as % of export price

SBR 1502 7.14%

SBR 1712 6.57%

Country-Turkey

Exporter - Petkim Petrtokimya Holding AS

They have claimed that their annual production and sales has been to the extent of 14,00,000 MT and they export about 20% of their production. Their export to "the European communities" is over 50% of their export sales and till date they have not faced any investigation of anti-dumping, safeguard etc. It is further claimed that they produce SBR 1502 and SBR 1712 type and they do not produce S 1958 type. It is further stated that in no way their export threaten Indian domestic producer and they do not foresee any rise in their exports to India.

Normal value- They have claimed weighted average domestic price of US\$ *** PMT in respect of SBR 1502 and US\$ * * * PMT in respect of SBR 1712 at ex-factory level. They have not claimed any adjustments in respect of domestic prices.

Export price- They have claimed price adjustments on account of interest, commission, ocean freight and ocean insurance. The ex-factory price in respect of export to India is US# * * * for SBR 1502 and SBR 1712 grades. The dumping margins are thus claimed as under

Grade Dumping margin

as % of Export price

SBR 1502 28.82%

SBR 1712 13.66%

They have claimed to earn profit on both grade of SBR during the period of investigation..

Country-Korea

M/s Korea Kumho Petrochemicals Co. Korea

They have submitted information in respect of grades 1502, 1712, 1778 and KHS 58. It is stated that in Korea, there are two SBR makers and other producer is M/s Hyundai Petrochemical Co and they are not aware of their exports to India.

Normal value- They have claimed the normal value on the basis of prices prevailing in the domestic prices which are based on weighted average: They have claimed price adjustments on account of discounts/credit interest, packing, inland freight, storage, handling, taxes, technical services, promotion travelling expenses, bad debts expenses and advertising expenses. It is claimed that domestic packing is different from export packing because it is designed to fit for robot and average circulating is 1.3 times. Regarding tax it is claimed that import duty for raw material on export sales is to be refunded whereas for domestic sales, it is to be absorbed by the company.

Export Price

They have claimed the CIF export price on the basis of weighted average during the period of investigation: They have claimed the price adjustment on account of discount/commission, packing, inland freight, inspection fee, overseas freight and overseas insurance. It is further stated that other adjustments on account of rebate; in custom duty on raw material used for export production, donation, R &D work etc. are not yet ascertained and they will submit relevant data during verification.

As per the costing information, they are making profit on 1502 and 1712 grades.

The comparison of normal price and export prices shows the dumping margin as under: -

Grade, Dumping margin as

% of export price

SBR 1502 . 9.43%

SBR 1712 2.85%

Country - Japan

Exporter Mitsubishi Chemical

They have claimed that they had not made exports to India during POI and they do not intend to initiate any export of SBR into the Indian market under the current circumstances. Thus, it is stated that they do need recognize a necessity to respond to the questionnaire.

Exporter - SHIPPER - Fuji Chemical Development Co. Ltd.

Fuji Chemical Development Co. Ltd. has claimed that they are the Shipper of Mitsui & Co. and the data given by Mitsui & Co. will apply mutatis Mutandis to them and therefore no separate response to the questionnaire is being filed.

Exporter - Mitsui & Co.

It is claimed by them that they are one of the authorised trading houses of JSR company and Fuji Development Co. Ltd., is their shipper. It is further claimed that the CIF or CFR price offered by JSR is submitted to Mitsui from JSR. The price is calculated by JSR using the certain freight rates, commission rates etc that is given to JSR. For shipment, Mitsui shall instruct Fuji to ship JSR material on a certain vessel. Regarding normal value, they have not submitted separate data and stated that it is as per JSR rate.

Exporter - JTC Corpn.

It is stated that M/s. JTC Corpn. Japan is an exporter _of SBR bought from JSR. They have not claimed separate normal value.

JSR Corpn. (formerly known as Japan Synthetic Rubber Co. Ltd.)

It is claimed by the exporter that they have exported three grades of SBR during the POI to India. These grades are S 1500, S 1712, and S 1502. It is also stated that JSR also sells within its domestic market these 3 grades of SBR, apart from other grades. The grades sold in Japan are similar to the respective grades exported to India.

Normal value

They have claimed the normal value on the basis of weighted average price. They have claimed adjustment on account of inland freight, Insurance, interest and storage while arriving at the ex-factory price. They have also claimed deduction of US\$ **** PMT on account of extra grades produced for the domestic market which results in

lower production and capacity utilisation and consequently the fixed cost per unit are higher for SBR produced and sold in domestic market.

Export Price

It is claimed that no list price exists. They have claimed deduction on account of commission to Japanese trading house, Indian trading house, Inland freight, Insurance, overseas freight, overseas insurance, interest and commission while arriving at the export price to India.

The dumping margin thus claimed is as under: -

Dumping margin as

Grade % of Export price

S 1502 10.32

S 1712 No Dumping

S 1500 No Dumping

J. 11. Examination of the claims of the exporters by the Authority

As indicated earlier the Authority is considering the product under consideration as SBR 1500 series, SBR 1700 series and SBR 1900. series. The Authority also notes that the some grade may be numbered differently in various countries. Wherever the information are made available grade-wise, the Authority has calculated separate dumping margin as the end uses and prices varies in different grades of SBR.

The claims of various exporters are examined as under: -

Country: USA

Exporter: Ameripol Synpol Corpn (ASC)

The Authority notes that the exporter has not submitted information in respect of SBR 1500 series, SBR 1700 series and SBR 1900 series. They have submitted information in respect of SBR grade 8401 grade and PCU. No costing information has been

submitted. It is not explained that whether grade 8401 and PCU are like article to SBR 1500 series, SBR 1700 series and SBR 1900 series. SBR 8401 is claimed to be different grade of SBR altogether. Since no information has been provided by the exporter in respect of product under consideration, the Authority considers the information provided by petitioner as best available information and determines the normal value and export price as claimed by the petitioner at U\$ 1286 PMT and at U\$ 985 PMT respectively. The dumping margin is calculated as U\$ 301 PMT which is 30.55% of export price.

Country: France

Exporter: Bayer

The Authorities notes that the exporter has not submitted information in respect of SBR 1500 series, SBR 1700 series and SBR 1900 series. They have submitted some information in respect of Krylene HS 260 grade. No costing information has been submitted. It is not substantiated that grade Krylene HS 260 are like article to SBR 1500 series, SBR 1700 series and SBR 1900 series. Since no information is provided by the exporter, the Authority considers the information provided by the petitioner as the best available information and determines the normal value and export price as claimed by the petitioner at U\$ 1100 PMT and at U\$ 858 PMT respectively. The dumping margin is calculated as U\$ 242 PMT which is 28.20% of export price.

Country, Germany

Exporter - BSL

The Authority notes that the exporter has not submitted information in respect of their exports to India. In view of this, the Authority considers the information provided by the Petitioner as the best available information and determines the normal value and export price as claimed by the petitioner at U\$ 1100 MT and at U\$ 881 PMT respectively. The dumping margin is calculated at U\$ 219 PMT which is 24.86% of export price.

Country- Taiwan

Exporter - Taiwan synthetic Rubber Corpn.

Normal value

The Authority notes that the normal value is claimed on the basis of weighted average domestic price and adjustment on account of commission and inland freight has been

claimed. The Authority determines the normal value as claimed at U\$ ***in respect of SBR 1502 and at U\$ ***in respect of SBR 1712 for the purpose of preliminary determination subject of verification.

Export Price -

The export price is on the basis of weighted average export price to India. They have claimed the adjustment on account of discount and commission, inland freight, handling, harbour construction fee and promotion charges, overseas freight (including shipping charges) and overseas insurance. These expenses as claimed except harbour construction fee & promotion charges are allowed for preliminary determination subject to verification. Harbour construction fee and promotion charges are not allowed, as its nature is not clear. The export price is thus determined at U\$ *** PMT in respect of SBR 1502 grade and are U\$ *** PMT in respect of SBR 1712 grade subject to verification. The dumping margin is calculated at U\$ *** PMT in respect of SBR 1502 grade which is 6.68 % of export price and at U\$ *** PMT in respect of SBR 1712 grade which is 6.07 % of export price.

Country - Turkey

Exporter: Petkin Petrokinys holding AS

Normal value -

The Authority notes that the normal value is on weighted average of domestic price and no adjustment is, claimed. It is allowed subject to verification and is determined at U\$ ***PMT in respect of SBR 1502 grade and at U\$ ***PMT in respect of SBR 1712 grade.

Export Price --

The export price is calculated on the basis of weighted average of export price. The claim on account of interest, commission, ' ocean freight and ocean insurance are allowed for preliminary determination subject to verification. The export price is determined at U\$ *** PMT in respect of SBR 1502 grade and at U\$ *** in respect of SBR,1712 grade. The dumping margin is arrived at U\$ *** PMT in respect of SBR 1502 grade which is 28.82% of export price and at U\$ *** PMT in respect of SBR 1712 grade which is 13.66% of export price.

Country - Korea

Exporter - Korea Kumho Petrochemicals Company Korea.

Normal value : The normal value is calculated on the basis of weighted average of domestic price. The Authority allows the adjustments on account of discount/credit interest, packing, inland freight, handling and taxes as claimed for the purpose of preliminary determination subject to verification. The adjustments on account of storage ,technical services, promotional travelling expenses, bad debts expenses and advertisement expenses are not allowed. Thus the normal value is determined at U\$ *** PMT in respect of SBR 1502 grade and at U\$ *** in respect of SBR 1712 grade.

Export Price : The export price is on the basis of weighted average of export sales to India. The adjustments as claimed on account of discount/commission, packing, inland freight, inspection fee, overseas freight and overseas insurance are allowed for the preliminary determination subject to verification. The export price is determined at U\$ *** PMT in respect of SBR 1502 grade and at U\$ *** PMT in respect of SBR 1712 grade. The dumping margin is calculated at U\$ *** PMT in respect of SBR 1502 grade which is 11.66% of export price and at U\$ ***PMT in respect of SBR 1712 grade which is 5.29 % of export price.

Country - Japan

Normal value

The normal price is calculated on the weighted average price. The adjustment on account of inland freight, insurance and interest are allowed as claimed subject to verification for preliminary determination. The claim on account of storage cost is not allowed. The claim on account of extra grade produced for the domestic market is based on estimates and is not actually incurred by the exporter and hence not allowed.

Export price

The export price is calculated on the basis of weighted average price. The claim on account of commission to Japanese Trading house, Indian Trading house, Inland freight, insurance, overseas freight, overseas insurance, interest and commission are allowed subject to verification for the purpose of preliminary determination -

The dumping margins are calculated as under: -

Grade Dumping margin

as % of export price

S 1502 17.32%

S 1712 7.64%

S 1500 3.36%

In respect of non-co-operating exporters from subject countries who has not responded to questionnaire the Authority determine the dumping margin at the highest dumping margin determined for the co-operating exporters from each country. Thus the dumping margin as percentage of ex factory export price for non-cooperating exporter from Taiwan is ***PMT 6.68 %, from Turkey is *** PMT 28.82 % from Korea is US\$ ***PMT 11.66 % and from Japan is US\$ ***PMT 17.32%.

The dumping marsin in resneet of subject countries & exporters are determined as under:

Country Exporter Grade Dumping

Margin as %

of export price

1. USA All exporter All grade 30.55%

2. France All exporter All grade 28.20%

3. Germany All exporter All grade 24.86%

4. Taiwan Taiwan synthetic S 1502 6.68%

Rubber Corpn. S 1712 6.07%

other exporters All grade 6.68%

5. Turkey Petkin Petrokinya S 1502 28.82%

Holding AS S 1712 13.66%

Other exporter All grades 28.82%

6. Korea Korea Kumho

Petrochemical Co. S 1502 11.66%

` S 1712 5.29%

Other exporters All grade 11.66%

7. Japan JSR Corpn. S 1502 17.32%

S 1712 7.64%

S 1712 3.36%

Other exporters All grades 17.32%

K. 12. INJURY

Under Rule 11 Supra, Annexure-II when a finding of injury is arrived at, such findings 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 articles...". 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 product 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.

Annexure II (iii) under rule 11 supra further provides that in case where imports of a product from more than one country are being simultaneously subjected to Anti dumping investigation, 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 percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries less than three percent, the imports cumulatively accounts for more than seven percent of the imports of like article, and cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.

The Authority notes that the margin of dumping and quantum of imports from subject country are more than the limits prescribed above. Cumulative assessment of the effects of imports is appropriate since the export prices from the subject country were directly competing with the prices offered by the domestic industry in the Indian market.

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

- i. The effect of the dumped imports shall be assessed, in accordance with para (vi) of the Annexure II to the Rules, in relation to the domestic production of the like article when available data permit separate identification of that product on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of that product is not possible, the effect of the dumped imports shall be assessed by the examination of the product of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.
- ii. It is observed that though the different types of SBR have different characteristics, usage etc., there are a number of processes which use common equipment and facilities. In view of the fact that the production processes as well as the production capacities overlap each other in varying proportions, it would not be appropriate nor feasible to assess the injury to the domestic industry for each individual type of SBR. The Authority therefore, in accordance with the para 6 of Annexure II to these Rules, considers it appropriate to assess the injury for all types of SBR cumulatively.

(a) Quantum of Import

To analyse the trend of quantum of import from the subject countries over the years, the Authority observed the statistics published by DGCIS, Calcutta. However, the petitioner and some of the exporters had pointed over some factual errors in the data published by DGCIS and pleaded not to rely upon the data of DGCIS. It is also observed that the petitioner is producing 1502, 1712 and 1958 grades of SBR whereas as per DGCIS statistics the import data are classified as under: -

Code

40021901 Oil Extended SBR

40021902 SBR with Styrene contents of over 50%

400021909 Others

The petitioner has represented that under code 40021901, the imports are mainly of SBR 1712 grade, under code no. 40021902 the imports are mainly of SBR 1958 grade

and under 40021909, the imports are mainly of SBR 1502 grade. The Authority enquired from Rubber Board regarding the availability of statistics of SBR grade-wise. It was stated by Rubber Board that it is collecting details of SBR from the publication 'foreign trade statistics of India' published by DGCI&S Calcutta. The publication does not contain details of break up of import of SBR under different grades. None of the importers/exporters/petitioner has submitted statistics relating to imports of SBR grade-wise which can be relied upon. Therefore, the Authority considers the statistics published by DGCIS as 'best available information' to analyse the injury and other parameters.

As per the information published by DGCI&S, the quantum of imports is as under: -

94-95 95-96 POI Annualised

From subject countries 12602 9593 17206 12145

Others 2572 1795 6305 4450

Total 15174 11388 23511 16595

It is observed that the total imports of SBR was 15174 MT, 11388 MT and 23511 tonnes (16595 MT on annualised basis) in 1994-95, 95-96 and in POI. Thus there was a decrease of 24.94% in imports in 95-96 over 1994-95 and increase of 45.71% in POI (on annualised basis) over 95-96. The volume of imports from the subject countries was 12602 MT, 9593 mt and 12145 tonnes in 94-95, 95-96 and in POI (on annualised basis). Thus the volume of imports from subject countries was 83%, 84% and 73% in total imports. The volume of imports from other countries from which dumping is not alleged was 2572 MT, 1795 MT, and 6305 MT in POI (on annualised basis) which were 17%, 16% and 27% of total imports. In absolute terms, the quantum of imports from subject countries decreased by 23.86% in 95-96 over 94-95 and increased by 26.60% in POI (on annualised basis) over 95-96. The share of other countries shows a decrease of 30.2% in 95-96 and shows an increase of 147.91% in POI (on annualised basis) over 95-96. The volume of imports from subject countries were lower by 3.62% in POI (on annualised basis) over 1994-95 and from other countries it was higher by 73.02% in POI over 94-95, Thus it is observed that: -

- Quantum of total imports were lower in 95-96 over 94-95, but higher in POI (on annualised basis) significantly when compared to 95-96.
- The share of imports from the subject countries were lower in total imports in POI (On annualised basis) when compared to 94-95 and 95-96 and the share of other countries in total imports were higher in POI when compared: to 94-95 and 95-96.

- In absolute terms, there was increase in imports from the subject countries in POI (on annualised basis) when compared to 95-96 but there was a marginal decrease when compared to 94-95.

(b) Production capacity and capacity utilisation

It is stated by the petitioner that total installed capacity of domestic industry is 49700 MT p.a. out of which the petitioner is having an installed capacity of 41000 MT. There is no increase in the installed capacity of the petitioner over last 3 years though they have undertaken to expand the capacity from 41000 MT to 70000 MT per annum. Production of SBR by the petitioner was 29132 MT, 29139 MT and 42327 MT (29878 on annualised basis) in 94-95 and 95-96 and in POI. Thus it is observed that there is no significant change in production over the years. The capacity utilisation was 71.05%, 71.07% and 72.87% in 94-95, 95-96 and in POI (on annualised basis).

(c) Closing stock

The closing stock of SBR with the petitioner was 230 MT, 1462 MT and 1348 MT as on 31.3.95, 31.3.96 and 31.8.97 respectively. This shows that closing stock of the petitioner has increased in 95-96 over 94-95 but has marginally decreased as on 31.8.97 over 31.3.96. The stock as on 31.8.97 represents equivalent to 16 days production..

(d) Employment

It is observed that the number of employees with petitioner was 1674, 1607 and 1604 as on 31.3.95, 31.3.96 and on 31.8.97, which does not show any significant change.

(e) Volume of sales and market share

It is observed that the petitioner's volume of turnover of SBR was 32415 MT, 28940 MT and 41906 MT in 94-95, 95-96 and in POI (29581 MT on annualised basis). This shows that there was decline of about 10.72% in 95-96 over 94-95. There was an increase of about 2.21% in sales in POI (on annualised basis) over 95-96. It is thus observed that whereas production increased by about 2.56% in POI over 95-96, sales increased by 2.21%. It is also observed that the total demand of SBR was 48850 MT, 51920 MT and 77994 MT in 94-95, 95-96 and in POI (55055 MT on annualised basis). The share of petitioner in total demand was 66.35%, 55.74% and 53.73% in 94-95, 95-96 and in Period of investigation. Thus the share of the petitioner in total demand is declining over the years.

(f) Average Realisation & Profitability

It is observed that prices of all grades of SBR were lower in 96-97 over 1995-96. They were still lower in the period April 97 to August 1997. The average realisation in respect of S 1502 grade, S 1712 grade and S 1958 grade was Rs. * * * per kg. * * * per kg and * * * per kg in 1995-96 which declined to Rs * * * per kg, * * * per kg and Rs. * * * per kg in 1996-97. From April 97 to August 97, the average sale realisation declined to Rs * * * per kg, Rs. * * * per kg and Rs. * * * per kg in respect of S 1502 grade, S 1712 grade and S 1958 grade .respectively. It is observed that profits were lower in SBR activity in 1996-97 as compared to 1995-96. In April 97 to August 1997, petitioner incurred loss. The domestic industry had to give discounts during period of investigation.

(g) Expansion of Project

The petitioner has claimed that due to dumping by the exporters from the subject countries at lower prices has put pressure on their financial position and the commercialization of the project has been further delayed. It is claimed that they are increasing the capacity from 41000 TPA to 70000 TPA and after the expansion they are capable of meeting the demand of entire country.

I. Conclusion on Iniurv

13 In view of foregoing paragraphs it is observed that:

- a. Quantum of imports from subject countries and total imports have increased in POI as compared to 95-96. The percentage increase was more from countries not allegedly dumping as compared to subject countries. The imports have marginally decreased in POI as compared to 94-95 from subject countries.
- b. The production and capacity utilization have been stable over the years.
- c. The closing stock as on 31.8.97 shows a significant increase as compared to 31.3.95 but shows a decrease as compared to 31.3.96.
- d. The number of employees with the petitioner does not show any significant changes.
- e. The quantum of sales was marginally higher in POI as compared to 1995-96. However the market share of petitioner is declining over the years due to increase in imports.
- f. There is a decline in average selling price of all grade of SBR, period of investigation as compared to 95-96 effecting profits in 1996-97. The petitioner has incurred losses in April 97 to August 97 period.
- g. There is a delay in the commercialization of project which increases the .installed capacity from 41000 TPA to 70000 TPA of the petitioner.

The increase in quantum of imports from subject countries, higher closing stocks, decline in the market share of the petitioner over the years, decline in unit sales realization, decrease in profitability/incurrence of losses shows that domestic industry has suffered material injury.

The Authority holds that domestic industry has suffered material injury.

M. CAUSAL LINK

14. In establishing that the material injury to the domestic industry has been caused by the imports from subject countries, the Authority holds that increase in quantum of imports from subject countries resulted in decline in the market share of petitioner, were undercutting the prices of domestic product forcing the domestic industry to sell below its fair prices. Resultantly the domestic industry was not in a position to recover fair selling price. The material injury to the domestic industry was, therefore, caused by the dumped imports from the subject countries.

N. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

15. The purpose of anti dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

16. It is recognized that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry: On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry' and help maintain availability of wider choice to the consumers of SBR. Imposition of antidumping measures would not restrict imports from the subject countries in any way, and, therefore would not affect the availability of the product to the consumers.

17. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority rely upon reasonable selling price of SBR in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilization for the domestic industry.

O. LANDED-VALUE:

18. The landed value of imports is determined on the basis of export price of SBR, determined as detailed above in the para relating to dumping, after adding the prevailing level of customs duties and one percent landing and two percent handling charges.

P. CONCLUSIONS

19 It is seen after considering the foregoing, that

- a. SBR described under para 5 and originating in or exported from Japan, Taiwan, Turkey, France, USA, Germany & Korea has been exported to India below normal value, resulting in dumping;
- b. The Indian industry has suffered material injury
- c. The injury has been caused cumulatively by the imports from the subject countries.

20 It is considered necessary to impose anti dumping duty, provisionally, pending final determination, on all imports of SBR originating in or exported from the subject countries, pending investigations.

21. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. Landed price of the imports, for the purpose, was compared with the fair selling price of the domestic industry, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional anti dumping duties be imposed, from the date of notification to be issued in this regard by the Central Government, on SBR originating in or exported from Japan, Taiwan, Turkey, USA, & Korea falling under Customs sub-heading 4002.19 of the Customs Tariff Act, pending final determination.

22. The anti-dumping duty shall be the amounts mentioned in column 6, provided that the duty shall be the difference between the amounts mentioned in column 5 and the landed price of imports per Kg. in case such difference is more than the amounts mentioned in column 6:

S1. Country Exporter Grade Amount Amount

No. (Rs per Kg) (Rs per Kg)

1 2 3 4 5 6

a

1. USA All exporter 1700 series 48.20 3.48

1900series 62.16 6.77

2 Taiwan All exporter 1500series 57.33 2.21

1900series 56.90 2.21

3 Turkey All exporter 1500 series 57.50 8.26

1900 series 60.69 8.26

4 Korea All exporter 1500series 54.48 3.38

1700series 48.20 0.98

1900series 55.28 3.38

5 Japan All exporter 1500 series 59.82 3.71

1700 series 48.20 0.92

1900 series 61.78 5.20

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

Q FURTHER PROCEDURE:

24. The following procedure would be followed subsequent to notifying the preliminary findings

- a. The Authority invites comments on these findings from all interested parties and same would be considered in the final findings;
- b. Exporters, importers, petitioners and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days of the despatch of this notifications. Any other interested party may also make known its views within forty days from the date of publication of these findings.

- c. The Authority would disclose essential facts before announcing the final findings.

RATHI VINAY JHA...
Designated Authority