

To be published in Part-I Section I of the Gazette of India Extraordinary

**File No7/5/2020-DGTR
Government of India Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated 24th November, 2020

NOTIFICATION

FINAL FINDINGS

Case No. SSR 04/2020

Sub: - Sunset Review of Anti-Dumping Duty imposed on imports of Acrylonitrile Butadiene Rubber from Korea RP – Final findings

1. **File No7/5/2020-DGTR** - Having regard to the Customs Tariff Act 1975 as amended (hereinafter referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules”) thereof.
2. M/s Apcotex Industries Limited (hereinafter also referred to as the “Applicant”) has filed an application, through TPM Consultants, before the Designated Authority in accordance with the Customs Tariff Act 1975 as amended from time to time (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter also referred as the Anti-Dumping Rules or Rules) for initiation of sunset review investigation concerning imports of “Acrylonitrile Butadiene Rubber (NBR)” (hereinafter also referred to as the “product under consideration” or the “subject goods”) from Korea RP (hereinafter referred to as the “subject country”).
3. The Authority, on the basis of prima facie evidence submitted by the Applicant, issued a public notice vide Notification No. 7/5/2020-DGTR dated 7th February, 2020, published in the Gazette of India, initiating the subject investigation in accordance with Section 9A(5) of the Act read with Rule 23 of the Anti-Dumping Rules to review the need for continued imposition of the anti-dumping duty in respect of the subject goods, originating in or exported from Korea RP, and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

A. BACKGROUND OF THE CASE

4. The original investigation concerning imports of the subject goods from Korea RP and Germany was initiated by Authority vide Notification No. 9/1/95- ADD dated 15th March 1996. The Preliminary finding was issued by the Authority on 30th December 1996, recommending provisional antidumping duty on the imports of Acrylonitrile Butadiene Rubber (NBR) originating in or exported from Korea RP and Germany. The Authority notified its final findings on 17th July 1997 recommending definitive antidumping duty on the imports of NBR originating in or exported from Korea RP and Germany. The definitive antidumping duty (ADD) was imposed on the subject goods vide Customs Notification No. 62/1997-Customs, dated 30th July 1997
5. The Authority had initiated a sunset review in the matter of continuation of final anti-dumping duty on acrylonitrile butadiene rubber originating in, or exported from Korea RP and Germany, and recommended continued imposition of definitive antidumping duty on imports of the subject good vide notification No. 50/1/2000 dated 21st September 2002. The definitive antidumping duty was imposed vide notification No. 111/2002-Customs, dated 10th October, 2002.
6. The Authority initiated mid-term review investigations on import of subject goods exported from Korea RP and Germany on 29th March, 2004 and recommended continued imposition of definitive antidumping duty on imports of the subject goods from Korea RP and Germany vide notification No. 15/5/2004 dated 6th June 2005. The definitive antidumping duty was imposed vide Custom Notification No.78/2005-Customs dated 1st September, 2005.
7. The second sunset review investigation was initiated by the Authority on 8th October 2007 and the Authority recommended continued imposition of anti-dumping duty on imports of the subject goods from Korea RP vide Notification No. 15/6/2007 dated 4th October 2008. The definitive antidumping duty was imposed vide Custom Notification No. 01/2009-Customs dated 2nd January 2009.
8. The Authority vide Notification No. 15/29/2013-DGAD Dated the 31st December 2013, initiated the third Sunset Review investigation. The Final Finding Notification was issued vide Notification No. 15/29/2013-DGAD dated 30th June 2015, recommending imposition of definitive duty against imports from Korea RP. On the basis of recommendations made by the Authority, definitive anti-dumping duty was imposed vide Notification No. 46/2015-Customs (ADD), 4th September 2015.
9. In exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act and in pursuance of Rule 23 of the Anti-dumping Rules, the Central Government vide Notification No. 27/2020-Customs (ADD) dated 21st August, 2020 extended the Anti-dumping duties till 3rd December, 2020

B. PROCEDURE

10. The procedure described below has been followed with regard to the subject investigation:

- a. The Authority notified the Embassy of the subject country in India about the receipt of the present sunset review application before proceeding to initiate the investigation in accordance with Sub-Rule (5) of Rule 5 supra.
- b. The Authority issued a public notice dated 7th February, 2020 published in the Gazette of India Extraordinary, initiating sunset review investigation concerning import of subject goods from the subject country.
- c. The Authority sent a copy of the initiation notification dated 7th February, 2020, to the Embassy of the subject country in India, the known producers and exporters from the subject country, known importers, importer/user Associations and other interested parties, as per the addresses made available by the Applicant. The interested parties were advised to provide relevant information in the form and manner prescribed and make their submissions known in writing within the prescribed time-limit.
- d. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Anti-Dumping Rules.
- e. The Embassy of the subject country in India was also requested to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to it along with the names and addresses of the known producers/exporters from the subject country.
- f. The Authority, upon request made by the interested parties, granted extension of time to the interested parties to file their Questionnaire Responses vide communication dated 9th March, 2020. Additional time was extended up to 3rd April, 2020. Further, additional time for filing responses were granted till 22nd April 2020 vide communication dated 4th April 2020.
- g. The Authority sent questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules:
 - i. M/s Kumho Petrochemical Co. Ltd.
 - ii. M/s LG Chem.
- h. In response to the above, following exporters/ producers have responded and submitted exporter's questionnaire responses:
 - i. M/s Kumho Petrochemical Co. Ltd.
- i. The Authority sent questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
 - i. M/s Nu-Cork Products Pvt. Ltd.
 - ii. M/s Shaktiman Rub Rolls Pvt. Ltd.
 - iii. M/s Bony Polymers Ltd.
 - iv. M/s Unique Rubber Udyog.
 - v. M/s Lakhani Rubber Udyog Ltd.
 - vi. M/s Alaska Tyres Pvt. Ltd.

- vii. M/s Super Seals (India) Ltd.
 - viii. M/s Roop Rubber.
 - ix. M/s Layallpur Rubber Mills.
 - x. M/s Ferolite Jointings Ltd.
 - xi. M/s Gates India Pvt. Ltd.
 - xii. M/s Banco Products (India) Ltd.
 - xiii. M/s Bharat Corrub Industries.
 - xiv. M/s Champion Jointings Ltd.
 - xv. M/s Favorite Safety Products.
 - xvi. M/s Grindback.
 - xvii. M/s Industrial Roller Corporation.
 - xviii. M/s Lathia Inl Suppliers Co. Pvt. Ltd.
 - xix. M/s Polyrub Extraction (India).
 - xx. M/s Precitex Rubber Ind. P. Ltd.
 - xxi. M/s Andhra Polymers (P) Ltd.
 - xxii. M/s Godavari Petro Products (P) Ltd.
 - xxiii. M/s Galaxy Rubber Products
 - xxiv. M/s Sundaram Industries Ltd.
 - xxv. M/s Sundaram Breaklining Ltd.
 - xxvi. M/s Sundaram Auto Components Ltd.
 - xxvii. M/s Suja Rubber Industries Pvt. Ltd.
 - xxviii. M/s Rane Breaklining Ltd.
 - xxix. M/s MRF Ltd.
 - xxx. M/s Lakshmi Machine Works Ltd.
 - xxxi. M/s Industrial Rubber Products.
 - xxxii. M/s Habasit Iakola Pvt. Ltd.
 - xxxiii. M/s Elgi Ultra Industries Ltd.
 - xxxiv. M/s Imperial Rubber Products.
 - xxxv. M/s Jayashree Polymer Pvt. Ltd.
 - xxxvi. M/s K.D. Joshi.
 - xxxvii. M/s Perfect Oil Seals & I.R.P.
 - xxxviii. M/s Hindustan Composites Ltd.
 - xxxix. M/s Inarco Ltd.
 - xl. M/s Imperial Waterproofing Industries Ltd.
 - xli. M/s Parker Markwell Inds. P. Ltd.
- j. None of the importers or users have responded or submitted importer/user questionnaire responses.
- k. In response to the above initiation, legal submissions were filed by the following interested parties:
- i. Kumho Petrochemical Co. Ltd.
 - ii. Rishirop Limited and
 - iii. Rishirop Polymers Private Ltd.
- l. The Authority sent a copy of the initiation notification dated 7th February, 2020 to the following known Associations of the subject goods in India:
- i. All India Rubber Industries Association,
 - ii. Indian Footwear Components Manufacturers Association (IFCOMA).

- m. In response to the initiation notification, All India Rubber Industries Association registered itself as an interested party, and they have filed legal submissions.
- n. Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- o. The period of investigation for the purpose of present investigation is 1st April, 2019 to 31st December, 2019 (9 months). The injury examination period has however been considered as the period from 1st April 2016-31st March 2017, 1st April 2017-31st March 2018, 1st April 2018-31st March, 2019 and the period of investigation. Further, the Authority has also examined the trends in post POI from 1st January, 2020-30th June, 2020 for likelihood analysis.
- p. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide transaction-wise details of imports of subject goods for the past three years, including the period of investigation, and post POI which has been received by the Authority. The Authority has relied upon DGCI&S data for computation of the volume of imports and required analysis after due examination of the transactions.
- q. The non-injurious price (hereinafter referred to as 'NIP') based on the cost of production and reasonable profits the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Anti-Dumping Rules, has been worked out so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- r. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- s. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the final findings on the basis of the facts available.
- t. The Authority has considered all the arguments raised and information provided by all the interested parties at this stage, to the extent the same are supported with evidence and considered relevant to the present investigation.
- u. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 13th November, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings

- v. ‘***’ in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- w. The exchange rate adopted by the Authority for the subject investigation is 1 US \$= Rs. 71.34.

C. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE

C.1. Submissions of the domestic industry

- 11. The submissions made by the domestic industry with regard to product under consideration and like article and considered relevant by the Authority are as follows:
 - a. NBR is a synthetic copolymer of acrylonitrile (ACN) and butadiene. NBR is used in the manufacture of various rubber articles where resistance to oil, abrasion and heat applications are involved, such as oil seals, hoses, automotive products, gaskets, rice dehusking rolls, printers, fabrics, oilfield products, etc. The major raw materials required for NBR are Acrylonitrile and Butadiene. Different grades of NBR are produced in terms of mooney viscosity and acrylonitrile content.
 - b. This product is classified under Customs Tariff heading no. 40025900.
 - c. Specifically excluded from the scope of the product under consideration are (i) Latex NBR, (ii) Power NBR, and (iii) Carboxylate NBR.
 - d. The Applicant has produced like article to the imported products.

C.2. Submissions of other interested parties

- 12. No submissions were made by the exporter/ producer/ other interested parties with regard to product under consideration and like article.

C.3 Examination by the Authority

- 13. The product under consideration (PUC) in the earlier investigations as well as the present SSR investigation is Acrylonitrile Butadiene Rubber (NBR), originating in or exported from Korea RP. The Applicant has requested for exclusion of Latex NBR, Powder NBR and Carboxylated NBR. As none of the other interested parties have opposed these exclusions, accordingly, the Latex NBR, Powder NBR and Carboxylated NBR are excluded from the scope of the product under consideration. NBR is a synthetic rubber copolymer of acrylonitrile (ACN) and butadiene. NBR is used in the manufacture of various rubber articles where resistance to oil, abrasion and heat applications are involved, such as oil seals, hoses, automotive products, gaskets, rice dehusking rolls, printers, fabrics, oilfield products, etc.
- 14. The major raw materials required for NBR are Acrylonitrile and Butadiene. Different grades of NBR are defined in terms of mooney viscosity and acrylonitrile content.
- 15. The subject goods produced by the domestic industry and that imported from the subject country are comparable in terms of characteristics such as physical & chemical

characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the product produced by the domestic industry were treated as like article to the product under consideration imported from subject country.

D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING

D.1 Submissions of the domestic industry

16. The domestic industry has made the following submissions with regard to the scope of domestic industry and standing:
 - a. The Applicant, namely Apcotex Industries Limited, constitute 100% of the domestic production for the subject goods in India.
 - b. The Applicant has not imported the subject goods in the period of investigation from the subject country.
 - c. The Applicant is not related to any exporters in the subject country or importers of the subject goods in India.

D.2. Submissions of other interested parties

17. No submissions have been made by the exporter/ producer/ other interested parties regarding scope and standing of domestic industry.

D.3.Examination by the Authority

18. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

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

19. The Application has been filed by Apcotex Industries Limited. The Applicant accounts for 100% of the Indian production. The Applicant has certified that neither they have imported the PUC from the subject country in the period of investigation nor they are related to any exporter or producer of PUC in the subject country or any importer of the PUC in India.
20. The Authority holds that the Applicant constitutes domestic industry under Rule 2(b) of the Anti-Dumping Rules and considers that the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.

E. CONFIDENTIALITY

E.1. Submissions by the domestic industry

21. Following are the submissions made by the domestic industry in this regard.
- a. The responding producer/exporter has claimed excessive confidentiality in blatant disregard of the guidelines issued by the Designated Authority vide trade notice 10/2018 dated 7th September 2018. The information kept confidential by the interested party form an essential part of the questionnaire response. Due to lack of such vital information, the domestic industry is unable to offer any comment to protect their interests.

E.2. Submissions of other interested parties

22. Details regarding actual cost of production, cost of procurement of inputs, conversion costs etc. are considered as confidential by the domestic industry as well as producers/exporters.

E.3 Examination by the Authority

23. With regard to confidentiality of information, Rule 7 of the AD Rules provides as follows:

“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorization of the party providing such information.

(2) The designated authority may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.”

24. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential versions of the evidence submitted by various interested parties in the form of public file.

F. MISCELLANEOUS SUBMISSIONS

F.1. Submissions by the domestic industry

25. Following are the submissions made by the domestic industry.

- a) On sufficient protection already given, (i) ADD is not protection, (ii) there is no unfair advantage to DI and ADD is a trade remedy, (iii) the quantum of ADD is not excessive and is as per law, (iv) ADD was extended when required by law, (v) ADD prevents unfair trade, (vi) case initiated on prima facie case, (vii) exporters have a history of dumping, (viii) it is not on DI to justify need for protection but exporter to justify dumping, (ix) the Authority found there is no bar on number of SSRs that may be initiated, (x) the period for which ADD was in force has no relevance, and (xi) DA as well as other investigative agencies have in the past imposed ADD for periods longer than 10 or even 20 years.
- b) LG Chem Ltd. has not responded to the questionnaire and therefore be considered non-cooperative. They should not be allowed to provide any information on DM calculation at a belated stage.
- c) The DI has filed application for imposition of ADD on imports of PUC from China, EU, Japan and Russia. The significant decline in import prices has caused decline in domestic prices. This resulted in decline in profits, cash profits, and ROI. It is necessary to invoke interim measures.
- d) On illegality of existing ADD, the matter is sub-judice

F.2. Submissions of other interested parties

26. Following submission was made by Kumho Petrochemical Co. Ltd.:
- a. The Delhi HC in *Kesoram Rayon v. DA* held that the DA should be satisfied of the need for initiation of SSR. The practice of the DA also shows the same. The DA has refused to initiate SSR and let ADD lapse in several cases. The petition filed by DI should have positive evidence showing need for initiation.
 - b. Present SSR proceedings are illegal and no extension of ADD can be made. Extension of ADD for one year pending third SSR was found illegal by the SC in *UoI v. Kumho*. Therefore, subsequent extension is illegal which also means extension

- after current SSR will also be illegal. The same is supported by Delhi HC decision in *Forech India Ltd. v. DA*.
- c. Sufficient trade remedy protection was given to NBR for 25 years. Any injury suffered by DI has already been remedied in the last 23 years. Information in petition and subsequent submissions show DI has also not met legal requirement of likelihood of continuation of material injury. In SSR investigation of 'Dry Cell Batteries', the DA stated it is its endeavor not to continue ADD for more than 10 years. The instant case does not have any special/exceptional circumstances calling for continuation of ADD. DM from Korea has been extremely low in the past decade. It is appropriate for the DA to conclude no further protection is warranted.
 - d. The other interested parties were not granted sufficient time to submit written submissions and rejoinders after the oral hearing.

F.3. Examination by the Authority

27. The Authority has noted all the arguments and counter-arguments of the interested parties and has examined all aspects of the submissions made.
 - a) With regard to the issue of continued duty raised by the interested parties, the Authority notes that there is no bar on the number of times a sunset review can be conducted, and antidumping duty extended. The rules require the Authority to determine whether cessation of ADD is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. It is further noted that the recommendation for extension of anti-dumping duty is made only when the requisite legal requirements are met.
 - b) With regard to the argument regarding legality of the present investigation, it is noted that the present investigation was initiated as per the AD Rules for extension of anti-dumping duty imposed under Customs Notification No. 27/2020-Customs (ADD) dated 21st August, 2020.
 - c) With regard to the decision of Hon'ble Delhi HC in *Kesoram Rayon vs. DA*, the Authority notes that the present investigation has been initiated after due examination of the application and satisfaction of the Authority that review of existing ADD is warranted.
 - d) With regard to the decision of Hon'ble Delhi Supreme Court in *UoI vs. Kumho*, the Authority notes that the said decision concerns extension of ADD for one year, pending outcome of the present review. The ADD in the present case has not been extended after expiry of the existing ADD.
 - e) As regards arguments concerning low quantum of dumping margin from Korea RP and therefore no further need for antidumping duty, the Authority notes that the quantum of duty imposed or extended does not exceed the dumping margin and the rules do not provide for considering extension on the basis of quantum of dumping margin.
 - f) With regard to non-filing of application by other interested parties including producer from exporting countries, it is noted that where ever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered

such parties as non-cooperative and recorded the findings on the basis of the facts available.

- g) The claims with regard to continuation and recurrence of dumping and injury in the event of cessation of anti-dumping duty have been examined under appropriate headings in this findings.
- h) With regard to application of imposition of ADD from other countries, it is noted that the Authority has initiated an AD investigations concerning import of this product from China PR, EU, Japan and Russia on 26th May, 2020, on the basis of the duly substantiated written application by or on behalf of the domestic industry. The investigation is currently in progress.
- i) With regard to ADD extending for more than 10 or even 20 years by Designated Authority or by other Authorities, it is noted that the Authority recommends ADD after examining the continuation or recurrence of dumping and injury in the event of cessation of ADD.

G. NORMAL VALUE, EXPORT PRICE AND DETERMINATION OF DUMPING MARGIN

G.1. Submissions of the domestic industry

28. The following submissions have been made by the Domestic Industry with regard to the normal value, export price and dumping margin:
- a. Efforts were made to get information regarding the price at which subject goods are traded in the domestic market of South Korea. Efforts were also made to get any other reasonable evidence of price prevailing in Korea.
 - b. However, normal value could not be determined on the basis of price prevailing in Korea. Hence, normal value has been determined on the basis of export price of subject goods from Korea to third country. The Petitioner has considered the FOB export price from Korea to Vietnam.
 - c. It is vital that all captive inputs consumed by the company are adequately and appropriately valued for determination of dumping margin. Kumho sources its entire requirement of Acrylonitrile and almost half requirement of Butadiene from the market. The company had earlier reported interest expense after reducing the same for interest income.
 - d. The Applicants have taken the CIF price and adjusted the same for ocean freight, and marine insurance to determine the export price.
 - e. The dumping margin is positive and significant for the subject country.
 - f. The Respondent has been suppressing the information. In every investigation, some new information is discovered by the Authority.
 - g. China PR had also initiated anti-dumping investigation concerning imports of NBR from Korea RP. The dumping margin determined for the Respondent by

China PR in the said investigation is ***%. Apart from the investigation conducted by China PR, in various investigations initiated by other countries, the dumping margin determined for the Respondent was quite high. As opposed to such high dumping margin and anti-dumping duty imposed by other countries, the duty determined by the Indian Authority is always quite lower. A comparison of the export price of NBR from Korea to China and Korea to India reveals that the dumping margin determined by Indian Authority should be higher than what has been determined by China.

- h. It is unclear how the Respondent has been claiming that consumption of Butadiene Monomer is captive since it purchases more than half of its requirement from external sources. It is also unclear as to how the Respondent captively consumes the Butadiene Monomer since the plants are located far away from each other.
- i. The domestic industry also understands that an affiliate company of the Respondent owns solar power plant and supply the solar power to the Respondent. The cost of solar power so procured by the Respondent should be verified by the Authority. The domestic industry also understands that the Respondent purchases coal at a price lower than the international prices.
- j. Ulsan Synthetic Rubber plant produces PUC as well as NPUC. Therefore, the cost of steam attributable to the production of PUC should be verified by the Authority.
- k. The domestic industry also has concerns regarding SGA costs apportionment, adjustment of interest expenses from interest income and level of trade adjustment claimed by the company in the previous investigations. Domestic industry has claimed that since there were issues in the previous investigations, the same will be continuing in the present investigation as well.
- l. Neither Kumho nor LG Chem have butadiene for their entire requirements. Kumho captively produces certain RM and used steam captively produced. All captive inputs should be adequately and appropriately valued.
- m. In previous investigations, the exporter has neither provided full cost of production of all the captive inputs nor information to substantiate market value of captive inputs.
- n. Kumho produces butadiene only for 30% of their requirement yet they have claimed captive production in various previous investigations. The exporter has claimed confidentiality in the relevant parts in the EQR. It is requested such information is sought and disclosed to the DI.
- o. It should also be ascertained whether the value reported by Kumho for acrylonitrile reasonably and appropriately reflect market values. They could be at price below market values due to peculiar reason. Previous investigations have shown suppression of information on cost of production. Dispute remains in calculation of interest cost and SGA costs.
- p. On the level of trade adjustment claim, (i) it is not established how having a selling agent changes the level of trade, and (ii) no past practice of the DA allows such adjustment. No reasoning has been provided by Kumho in the EQR and no further reasoning without knowledge of DI should be allowed.

- q. Excessive confidentiality has been claimed by Kumho on source of RM, valuation of RM and utility. The costs, though based on records by company, should reasonably reflect costs associated with production and sales. The information on dumping margin determined Chinese authorities should be disclosed.
- r. Kumho has intentionally claimed confidentiality on pricing of utilities procured from related parties. The EQR should be held excessively confidential, incomplete, and insufficient. Kumho has captive and affiliate sources of power and the same should be examined. The appropriateness and reasonableness of coal procurement prices should be ascertained.
- s. On power consumption, the claim that power is purchased from market and not affiliated party needs to be examined.
- t. On the level of trade adjustment claim, (i) it is not established how having a selling agent changes the level of trade, and (ii) no past practice of the DA allows such adjustment. No reasoning has been provided by Kumho in the EQR and no further reasoning without knowledge of DI should be allowed.
- u. On cost of steam and SGA apportionment, the issue is the valuation of steam. The same needs to be examined.

G.2. Submissions of other interested parties

29. The following submissions have been made by the by the exporter/ producer/ other interested parties in response to the arguments of the domestic industry:
- a. DM should be based on questionnaire response filed.
 - b. No claim is made that the requirement of Butadiene is entirely or majorly met captively.
 - c. Kumho does not consume solar power or coal for production of PUC. All utilities are purchased at arm's length price from unrelated parties. The cost of steam for PUC and NPUC has been separately provided.
 - d. The details regarding the apportionment of SGA, details have been provided to the Authority.
 - e. The claims on the costs disputed by the Domestic Industry were addressed by the DA in Final Findings of 2nd SSR. The Domestic Industry has not submitted any new evidence or information.
 - f. The information request by the DI for disclosed are rightfully kept confidential by the respondent as per the law. There is obligation to disclose.
 - g. Though DI claims respondent has suppressed information in the past, no observation of the Authority was relied on. In all previous SSR, cost provided by respondent was accepted.
 - h. On claims of low DM, the allegation of DI is baseless as respondent did not participate in investigation on PVC Paste Resin and PVC Suspension Grade Resin. On MTR in Phenol, the ADD on other countries was terminated. On comparison to Chinese investigation, DM will differ with different EP for the two countries and different POI.

- i. As already stated, NBR has been subject to ADD since 1996. KKPC has cooperated from then on till the present SSR, to the best of its ability and has also permitted verification of the information submitted by them. If Adjustments or disallowances are made by the DGTR that does not mean that KKPC had not cooperated or that it had made false claims or suppressed any information. Merely because the Authority has issued deficiency letter, or it does not accept any explanation offered, it cannot be said that the Respondent has suppressed such information. In each investigation whenever any deficiency was pointed out by the Authority, the Respondent had responded to such communication promptly and cooperated with the Authority.
- j. The findings of investigations conducted by other countries may be comparable only if the period of investigation is the same. Even here the export price to those countries and India could have been different in that POI. The investigation conducted by China PR was for a different period. The submission of the DI is without any logic or even has prima facie value.
- k. KKPC had not claimed that butadiene monomer is either entirely captive or majority is captive. As indicated in our narration, [76%] more than three-fourths of BD consumed is purchased from unrelated sellers and only ** of BD is from captive sources. The balance ** is from reclaimed or reprocessed BD. The BD is captively produced at its Ulsan Synthetic Rubber plant where NBR is also produced. We, therefore, request the Authority to kindly rely on the data provided by the Respondent pertaining to the captive consumption of Butadiene.
- l. It is evident that the Respondent does not consume solar power or coal in the production of PUC. Further, all the utilities consumed for the production of PUC are purchased by the Respondent from unrelated parties at arm's length prices. Thus, the allegations of domestic industry are baseless without any evidence.
- m. The consumption of steam for production of PUC and Non-PUC has been mentioned separately. For each cost centre, utilities are identified on actual basis. It is further allocated to PUC and non-PUC based on the usage.

G.3. Examination by the Authority

30. 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*

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);

(b) 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.

31. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. Only M/s Kumho Petrochemical Co. Ltd have co-operated in this investigation by filing the prescribed questionnaire responses.
32. The normal value and export price for all producers/exporters from the subject country have been determined as below:

G.4 Determination of normal value

Kumho Petrochemical Co. Ltd.

33. M/s Kumho Petrochemical Co. Ltd. (“KKPC”) is a limited liability company established under the Korean Commercial Law. The company has filed Exporter’s Questionnaire response furnishing the requisite information.
34. It is noted from the response that M/s KKPC has sold the subject goods directly to unrelated customers in the domestic market. It is also noted that KKPC has exported the subject goods directly to India. It is noted from the response that M/s KKPC, during the POI, has sold *** MT of subject goods at average invoice price of KRW ***per kg (USD ***per kg) in the domestic market.
35. In its questionnaire response, the Company has declared that they have one channel of domestic sale and sold the subject goods in the domestic market directly to unrelated end users or unrelated distributors in the domestic market. In order to determine the normal value, the Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. In case profit-making transactions are more than 80% then the Authority considers all the transactions in the domestic market for the determination of the normal value. Where the profitable transactions are less than 80%, only profitable domestic sales are taken into consideration for the determination of normal value.
36. The Authority has taken note of various arguments raised by the interested parties. In view of concerns raised by the domestic industry, the cost of production of the company was examined in detail. The Authority has appropriately modified cost of production claimed by the exporter, wherever the claims are found unacceptable. The modified cost of production has been adopted to conduct the ordinary course of trade test and to determine whether profit making domestic sales are more than 80% of gross domestic sales. It is

found that the profitable domestic sales of the company were below 80%. Therefore, only profitable domestic sales have been taken into consideration for determination of normal value.

37. M/s KKPC has claimed adjustments on account of inland transportation, credit cost, packing cost and level of trade. The Authority notes that KKPC has not provided reasonable evidences to substantiate level of trade adjustment in the EQR submitted. Therefore, level of trade adjustment has not been considered for the normal value determination. Other adjustments claimed by M/s KKPC have been accepted for determining the normal value at ex-factory level. The ex-factory normal value so determined has been mentioned in the dumping margin table below.

Normal Value for Non-Cooperative Exporters

38. The Authority notes that no other exporter/producer from Korea RP has responded to the Authority in present investigation. For all the non-cooperative exporters/producers Korea RP, the Authority has determined the normal value on the basis of facts information, and the normal value so determined has been mentioned in the dumping margin table below.

G.5. Determination of export price

Kumho Petrochemical Co. Ltd.

39. During the POI, M/s KKPC has exported the subject goods directly to India. M/s KKPC has provided all the relevant information in the requisite formats. It is noted from the response that during the POI, M/s KKPC has exported *** MT of subject goods to India at an average invoice price of KRW *** per kg (USD ***per kg).
40. M/s KKPC has claimed adjustments on account of inland freight, ocean freight, port and other related expenses, overseas insurance, custom broker fees, sales commission, packing expenses, credit cost and bank charges and the same have been allowed by the Authority. The ex-factory export price as determined is given in the dumping margin table.

Export Price for Non-cooperative Exporters

41. Export price in respect of any other exporters from Korea RP has been determined as per facts available in terms of Rule 6(8) of the Rules. For the purpose, the Authority has considered imports as reported in the DGCI&S and the questionnaire response of the producer and exporters. The ex-factory export price as determined is given in the dumping margin table.

G.6 Determination of dumping margin

42. Considering the normal value and export price for subject goods, the dumping margins for the subject goods from the subject country have been determined as follows:

Dumping Margin Table

S.NO	Country	Producer	Normal Value (USD/MT)	Net Exp. Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin %	Dumping Margin Range
1	Korea RP	Kumho Petrochemicals Co Ltd	***	***	***	***	0-10%
2	Korea RP	Other	***	***	***	***	20-30

Assessment of injury and causal link

H. EXAMINATION OF INJURY

43. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate 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 article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree
44. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.
45. The Authority notes that the application for imposition of antidumping duty has been filed by M/s Apcotex Industries Limited. In terms of Rule 2(b) of the Rules, the Applicant has been treated as the domestic industry for the purpose of this investigation. Therefore, the injury information of the Applicant, constituting the domestic industry as defined in Rule 2(b), have been examined.

H.1. Submissions of the domestic industry

46. The following submissions have been made by the domestic industry with regard to the injury and causal link:
- a. Demand for the PUC increased throughout the injury period.
 - b. The imports from the subject country declined in 2018-19 and increased thereafter in the POI. Subject imports constitute 51% of total imports of the subject goods into India. The subject imports have remained significant in relation to demand in India.
 - c. Significant volumes of subject imports are below the selling price of the Domestic Industry. The subject imports are, hence, undercutting and depressing the prices of the Domestic Industry.
 - d. The capacity of the Domestic Industry increased in 2017-18. Production, capacity utilization, and sales of the Domestic Industry increased till 2018-19 but declined in the POI.
 - e. The Domestic Industry was making reasonable profits till 2018-19 but suffered huge financial losses in the POI. Same trend is seen for cash profits, PBIT and return on capital employed. The Domestic Industry is suffering cash losses and negative return on capital employed in the POI.
 - f. The market share of the domestic industry declined in the POI while that of subject imports have remained significant.
 - g. The inventories of the domestic industry have increased significantly in the POI compared to the base year as well as the previous year.
 - h. Growth of the domestic industry has been negative in the POI in almost all macro injury parameters. On decline in subject imports in the POI (A), there is no requirement of increase in imports in SSR. The subject imports in POI (A) increased compared to base year and slightly declined compared to previous year. The subject imports continue to remain the largest source.
 - i. On declining and negligible price undercutting, the price undercutting of Korean imports is not negligible.
 - j. On methodology for price undercutting and injury margin, (i) Other interested parties have admitted the methodology of the DI is one of the methods, (ii) no establishment of difference of facts from Kothari Sugars, (iii) zeroing in DM is inconsistent with WTO law but there is no legal basis to argue zeroing per se is inconsistent.
 - k. On performance parameters, no injury has been claimed on productivity and employment.
 - l. On examination of profitability, the same is business sensitive and trends have been provided.
 - m. On calculation of NIP and ROCE, the same should be as per established practice.
 - n. On low priced Chinese imports, a separate petition has been filed against China. Dumped Chinese imports do not show lack of causal link from Korea. Continued dumping and injury is sufficient to extend ADD.
 - o. On rationale of export performance, DI has not claimed injury on export performance.
 - p. On slowdown in auto industry, the dumped imports aggravated the injury on an industry already vulnerable due to slowdown in auto industry.

- q. On structural problems of DI, the DI earned reasonable profits till 2018-19 hence baseless. There is also no location disadvantage for RM.

H.2. Submissions of other interested parties

47. The following submissions have been made by the producer/ exporter/ other interested parties with regard to Injury and causal link:
- a. In *Anti-dumping Investigation on Malleable Cast Iron Tube or Pipe Fittings*, EU only stated calculating PU excluding non-injurious transactions is “one of the methodologies” and not “end in itself”.
 - b. The Tribunal in *Kothari Sugars & Chemicals Ltd v. DA*, did not lay down rule for exclusion of non-injurious transactions for IM calculation. The facts of that case are critical too.
 - c. Zeroing is inconsistent with WTO law. Several WTO decisions held so. It would artificially inflate IM.
 - d. No increase relative to consumption or production in India. In relation of consumption, it remained stagnant in injury period and declined in POI (A).
 - e. Increase in absolute terms in 2017-18 is due to increase in demand.
 - f. No price suppression or depression. The rate of increase of import price has been much higher than that of the domestic sales realization throughout the injury period, including the POI.
 - g. Sales realization from domestic sales increased at higher rate than that for export sales. Even if Petitioner argument is accepted, there is no rationale why export prices reduced despite increase in cost of sales for export.
 - h. DI faced sharp increase in capacity, production and sales. Capacity utilization increased too.
 - i. Imports have not taken away market share of DI. DI’s market share has been increasing even more than increase in demand. Decline in market share in POI is due to increase in market share of other countries.
 - j. No injury on productivity per day. Employment has been stable.
 - k. The law and practice of DGTR shows causal link analysis is essential in SSR too.
 - l. If subject imports are responsible for decline in profit/loss, there would be some co-relation to PU, which is absent. There should also be some co-relation between increase in import volume and injury but absent. In SG investigation on Uncoated Copy Paper, the DA stated lack of co-relation between increase in import volume and profitability shows lack of causal link.
 - m. Slowdown in auto industry caused injury to DI. An Earnings Presentation made by Apcotex Industries Limited also says slowdown in NBR business is due to slump in auto industry. Data in petition reflects the same.
 - n. DI is suffering from structural problems. The business of DI was restructured 5 times in 24 years. Acquisition in 2016 was at lower price than last acquisition in

2007. This shows unstable NBR business by DI and structural issues. The Authority should examine factors impacting DI since 1996 like location disadvantage and high cost of transportation of RM. Also, expansion plan of DI has not been getting environment clearance and other approvals.

- o. The ROCE and consequent NIP should be calculated based on fresh value of investment made by Apcotex. This would lower NIP and eliminate IM.

H.3. Examination by the Authority

48. The Authority has taken note of the submissions made by the interested parties. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
49. According to Section 9(A)(5) of the Customs Tariff Act, 1975, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time-to-time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of the order of such extension.
50. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject country.
51. The Authority has examined the injury parameters objectively taking into account the facts and arguments submitted by the domestic industry and other interested parties.

H.3.1 Volume effect of dumped imports on domestic industry

a. **Assessment of demand / apparent consumption**

52. The Authority has taken into consideration, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of Indian Producers and imports from all sources.

Demand in India	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Sales of Domestic Industry	MT	***	***	***	***	***
	Index	100	129	158	135	135
Subject Country Korea RP	MT	15,288	18,427	17,916	12,997	17,330
	Index	100	121	117	113	113
Imports from Other Countries	MT	16,216	16,367	15,578	13,464	17,952

	Index	100	101	96	111	111
Total Indian Demand	MT	***	***	***	***	***
	Index	100	114	116	116	116

53. It is seen that the demand for the subject good has increased over the injury period

B. Import Volumes from the subject countries

54. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the transaction wise import data procured from DGCI&S. Factual position is as follows-

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Korea RP	MT	15,288	18,427	17,916	12,997	17,330
	Index	100	121	117	113	113
Others	MT	16,216	16,367	15,578	13,464	17,952
	Index	100	101	96	111	111
Total	MT	31,504	34,794	33,494	26,462	35,282
	Index	100	110	106	112	112
Subject Country Imports in relation to						
Total Imports	%	48.53	52.96	53.49	49.12	
Production	%	***	***	***	***	
Consumption	%	***	***	***	***	

55. The is seen that:

- i. The volume of imports from the subject country increased in 2017-18 but declined thereafter in 2018-19 and in POI . The volume of imports from the subject country has increased in period of investigation as compared to the base year.
- ii. The imports from the subject country constitute 49% of the total imports into India.
- iii. The imports from subject country in relation to Indian production had declined in 2018-19 but increased thereafter during period of investigation.
- iv. The imports from the subject country in relation to consumption in India had increased in 2017-18 and declined thereafter in 2018-19 and POI.

H.3.2 Price effect of the dumped imports

56. With regard to the effect of the dumped imports on prices, it is required to be analyzed whether there has been a significant price undercutting by the alleged dumped imports as

compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress prices or prevent price increases, which otherwise would have occurred in the normal course. The impact on the prices of the domestic industry on account of the dumped imports from the subject country has been examined with reference to price undercutting, price underselling, price suppression and price depression, if any. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed price of imports of the subject goods from the subject countries.

a. Price undercutting

57. For the purpose of price undercutting analysis, the selling price of the domestic industry has been compared with the weighted average import price from the subject country. Accordingly, the undercutting effects of the dumped imports from the subject country work out as follows-

Particular	Unit	Korea RP
Landed Price	₹/MT	1,44,794
Selling Price	₹/MT	***
Price undercutting	₹/MT	***
Price undercutting	%	***
Price undercutting	% Range	0-10

58. It is seen that the imports from the subject country are entering at a price below the domestic selling price of the domestic industry, resulting in price undercutting.

b. Price suppression and depression

59. In order to determine whether the dumped imports are depressing or suppressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period is examined. Table below shows factual position:

Particulars	Unit	2016-17	2017-18	2018-19	POI
Cost of sales	₹/MT	***	***	***	***
	Index	100	120	136	117
Selling price	₹/MT	***	***	***	***
	Index	100	119	132	104
Landed Price	₹/MT	122991	152998	188263	144794
	Index	100	124	153	118

60. It is seen that

- i. Whereas the cost of production & selling price of the domestic industry has increased over the injury period, the landed price of imports has declined.

- ii. The landed price of imports is below the cost of production of the domestic industry throughout the injury period except year 2018-19.
- iii. Whereas the cost has increased over the injury period, the domestic industry is unable to increase its selling price in proportion to cost. Imports from subject country are suppressing the prices of the domestic industry.

61. It is thus noted that domestic industry is facing suppressing effect on the prices in the market.

H.3.3 Economic parameters of the domestic industry

62. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below

63. The Authority has examined the injury parameters objectively taking into account various facts and arguments made by the interested parties.

i. Production, capacity, capacity utilization and sale

64. The Capacity, production, sales and capacity utilization of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Capacity	MT	***	***	***	***	***
	Index	100	114	114	114	114
Production Quantity PUC	MT	***	***	***	***	***
	Index	100	134	163	143	143
Production Quantity NPUC	%	***	***	***	***	***
	Index	100	107	132	115	115
Capacity Utilization	%	***	***	***	***	***
	Index	100	118	142	125	125
Sales - Domestic	MT	***	***	***	***	***
	Index	100	133	163	141	141

65. it is seen that

- a. The installed capacity of the domestic industry increased in 2017-18 and remained the same thereafter.

- b. The production increased till 2018-19 and declined during period of investigation.
- c. The capacity utilization and domestic sales of the domestic industry followed the same trend as that of production. The capacity utilization and domestic sales of the domestic industry increased till 2018-19 and declined thereafter during period of investigation.

ii. Market share in Demand

66. Market share of the domestic industry is shown in table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Share of domestic industry	%	***	***	***	***	***
	Index	100	113	136	116	116
Share from Subject Country	%	39.43	41.71	39.81	38.44	38.44
	Index	100	106	101	98	98
Share from Other Countries	%	41.82	37.05	34.62	39.83	39.83
	Index	100	89	83	95	95

67. It is seen that the market share of the domestic industry increased till 2018-19 and declined thereafter during period of investigation. The market share of the subject country has remained approximately the same throughout the injury period and POI.

iii. Inventories

68. Inventory position with the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Opening	MT	***	***	***	***	***
	Index	100	56	58	50	50
Closing	MT	***	***	***	***	***
	Index	100	104	88	126	126
Average	MT	***	***	***	***	***
	Index	100	73	69	77	77

69. It is seen that the inventories with the domestic industry has declined in 2018-19 and increased during period of investigation.

iv. Profitability, cash profits and return on capital employed

70. Profitability, cash profits and return on investment of the domestic industry over the injury period is given in the table below:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Profit/(Loss) per unit	₹/MT	***	***	***	***	***
	Index	100	112	90	-26	-26
Profit/Loss	₹ Lacs	***	***	***	***	***
	Index	100	149	146	-36	-36
Cash Profit	₹ Lacs	***	***	***	***	***
	Index	100	151	148	-5	-5
Return on Capital Employed	%	***	***	***	***	***
	Index	100	141	125	-22	-22

71. It is seen that –

- The profitability of the domestic industry improved till 2017-18. The same declined thereafter and the domestic industry suffered financial losses in the POI.
- Cash profit, PBIT and return on capital employed followed the same trend as that of profits. Cash profits, PBIT and return of investment increased till 2017-18 and declined to negative levels in the POI.

v. **Employment, wages and productivity**

72. Employment, wages and productivity of the domestic industry over the injury period is given in the table below-

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19- Dec19)	
					Actual	Ann.
Wages	₹ Lacs	***	***	***	***	***
	Index	100	186	235	178	178
Employment	Nos.	***	***	***	***	***
	Index	100	96	98	98	98
Productivity per Employee	MT	***	***	***	***	***
	Index	100	139	166	147	147
Productivity per day	MT	***	***	***	***	***
	Index	100	134	163	143	143

73. It is seen that

- The wages paid has increased over the injury period till 2018-19 and declined thereafter in the POI;
- The number of employees have declined in 2017-18 and thereafter increased in 2018-19 and remained same in period of investigation ;
- The productivity has increased over the injury period.

74. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry.

vi. Growth

75. The growth of the domestic industry in terms of production, capacity utilization domestic sales volume, inventories, profits, cash profits and return on investment is as per given in the table below-

Particulars	Unit	2017-18	2018-19	POI (A)
Production	Y/Y	34.5	21.1	(11.9)
Domestic Sales	Y/Y	32.6	22.6	(13.5)
Cost of Sales	Y/Y	19.7	13.9	(14)
Selling Price	Y/Y	19	11	(21.1)
Profit/Loss per unit	Y/Y	12.2	(19.7)	(128.5)
ROCE %	Y/Y	8	(3.1)	(28.5)

76. It is seen that the growth of the domestic industry was negative in all macro injury parameters.

vii. Magnitude of Dumping Margin

77. Magnitude of dumping is an indicator of the extent to which the imports are being dumped in India. The investigation has shown that dumping margin is positive and significant in the investigation period.

viii. Ability to raise capital investment

78. The domestic industry has submitted that it has planned to further expand capacities. It has also conveyed that the Board of Directors of the company however took note of the adverse performance and has decided to put on hold further capital investment in the product. As per the information on record, it is noted that the operations of the industry have been impacted which has affected its ability to raise capital investment.

ix. Factors affecting domestic prices

79. It is seen that the import prices into India are affecting the prices of the domestic industry in the market. The landed value of the subject goods from Korea and other countries under parallel investigation are below the cost and selling price of the domestic industry. Further, the domestic industry is unable to retain its prices in the market due to presence of dumped imports in the country. The imports have suppressed the prices of the domestic industry to a significant degree.

x. Magnitude of price underselling/injury margin

80. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in Anti-Dumping Rules read with Annexure III, as amended. The NIP of the product under consideration has been determined by adopting the information/data

relating to the cost of production provided by the domestic industry and duly certified by the practicing accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the non-injurious price, the best utilisation of the raw materials and utilities has been considered over the injury period. Best utilisation of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the product under consideration was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.

81. Landed price for the cooperating exporter has been determined from the CIF export price determined for the purpose of dumping margin determination. Applicable customs duties have been added to determine landed price of imports. For all the non-cooperative producers/exporters from the subject countries, the Authority has determined the landed price based on facts available.
82. Based on the landed price and NIP determined as above, the injury margin for producers/exporters has been determined by the Authority and the same is provided in the table below:

S.NO	Country	Producer	NIP (USD/MT)	Landed Price (USD/MT)	Injury Margin (USD/MT)	Injury Margin %	Injury Margin Range
1	Korea RP	Kumho Petrochemicals Co Ltd	***	***	***	***	0-10%
2	Korea RP	Other	***	***	***	***	20-30

H.3.4 Conclusion on continuation of injury

83. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from subject countries has increased in absolute terms in the POI compared to the base year. The imports from the subject country are undercutting the prices of the domestic industry and the price underselling is positive. The imports from the subject countries are suppressing the prices of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry has improved during the injury period but has declined significantly in the period of investigation. The performance of the Domestic Industry has

significantly deteriorated during the POI, and it has suffered financial losses, cash losses and negative return on investments in the period of investigation.

84. On the basis of above analysis, it is concluded that the domestic industry has continued to suffer injury despite ADD in force.

I. CAUSAL LINK

85. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry

a) Volume and value of Imports not sold at dumped prices

86. The Authority is at present conducting antidumping investigations in respect of imports from China, European Union, Japan and Russia. These imports are prima facie at dumped prices. Imports from all other countries are at higher prices or in insignificant volumes. Thus, imports from countries other than China, European Union, Japan and Russia do not appear to have caused injury to the domestic industry.

b) Contraction in demand

87. The demand has increased over the injury period. Thus, the claimed injury to the Domestic Industry is not on account of possible contraction of demand.

c) Changes in Pattern of consumption

88. There have been no material changes in the pattern of consumption of the product under consideration. Hence, changes in the pattern of consumption have not caused injury to the domestic industry.

d) Conditions of competition and trade restrictive practices

89. The Authority notes that the investigation has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

e) Developments in technology

90. No evidence has been brought by any interested parties about existence of significant changes in the technology that could have caused injury to the domestic industry.

f) Export performance of the domestic industry

91. The Authority has considered data for the domestic operations only for the injury analysis. Therefore, export performance is not the cause for the injury to the domestic industry.

g) Performance of other products

92. The domestic industry has provided the injury data of domestic like product's performance and the same has been adopted by the Authority for the purpose of injury analysis. Therefore, performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry.

J. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY

J.1. Submissions of the domestic industry

93. The following submissions have been made by the domestic industry with regard to the likelihood of continuation or recurrence of dumping and injury:
- a. Dumping margin determined in all previous investigations relating to the product has been positive.
 - b. The subject imports have been significant despite ADD in force.
 - c. Excess production capacities held by producers in subject countries are significant.
 - d. The Korean producers have high export orientation.
 - e. Unutilized capacities with the exporters are concerning.
 - f. The Korean producers maintain significant freely disposable capacities.
 - g. Imposition of ADD by China on the imports of PUC from Korea shows the unfair pricing behavior of the Korean producers/exporters as well as resultant diversion to exports of the PUC into India.
 - h. Grossly manipulated questionnaire responses by Kumho Korea.
 - i. The producers from the subject country have been dumping in other countries as well.
 - j. India is a lucrative market for the exporters from the subject country.
 - k. The exporter questionnaire response shows increase in capacities despite already existing surplus capacity, increased in Production, sales and capacity utilization till 2018 and declined POI. Inventories increased significantly over the injury period.
 - l. On diversion of trade from China to India, the same is visible from increase in subject imports in POI. The high plant utilization of Korean producers is due to vast Chinese market. Now with ADD in China, the lost market would be targeted at India. Also mere change in POI in the two investigations is of no relevance. The change in EP can be taken into account while comparing.
 - m. The post POI analysis is as per established practice of DGTR. To eliminate alleged impact of COVID, the DA may consider NIP and changes in RM.
 - n. On increase in depreciation and finance costs, while interest cost declined, there is no alarming increase in depreciation. Decline in profits before and after depreciation and profits before and after interest is far higher.
 - o. On price undercutting and injury margin based on incorrect imports, the same is positive even on actual imports.

- p. On lack of evidence for recurrence of injury in post POI, (i) there is undercutting in post POI, (ii) production and capacity utilization of DI further declined, (iii) DM and IM are positive, (iv) losses and cash losses for DI has increased. DI faces negative PBIT and negative ROCE.

J.2. Submissions of other interested parties

- 94. The following submissions have been made by the producer/ exporter/ other interested parties with regard to likelihood of continuation or recurrence of dumping and injury:
 - a. No data on record shows likelihood of continuation of injury.
 - b. No significant increase in import. Increased only with demand. No increase in relation to consumption.
 - c. No excess capacity in Korea. "Surplus" can only refer to idle capacities left over after meeting domestic demand and global demand.
 - d. No price pressure or depression or suppression. PU is negligible in POI.
 - e. Post POI of 6 months is not reflective of market conditions. National lockdown in place for two and a half months. No industrial activity from 24 March 2020 to 3 May 2020. Even afterwards, many industries chose not to function. Normal activity resumed only in Sept 2020.
 - f. RBI's monetary policy statement shows decline in economic activity and collapse of demand impacted almost all sectors. Same is evident from GDP estimates. Auto industry impacted even more. Hence, not appropriate to rely on post POI 6 months. It is requested that a post POI starting September is considered.
 - g. Post POI does not show likelihood of recurrence of dumping. Commodity prices and prices for RM of NBR has crashed globally. Hence, NBR costs reduced. Export prices also reduced but specific to Korea.
 - h. Post POI does not show likelihood of recurrence or continuation of injury. The reason for decline in production, export and domestic sales is the slump in the market and decline in demand. There is decline in exports by Respondents too. The DI has itself claimed injury due to imports from China PR, Japan, European Union and Russia

J.3. Examination by the Authority

- 95. The Authority has examined the likelihood of continuation or recurrence of injury considering the requirement laid down under Section 9A(5), Rule 23 and parameters relating to the threat of material injury in terms of Annexure - II (vii) of the Anti-Dumping Rules, and other relevant factors brought on record by the interested parties.
- 96. The present investigation is a sunset review of duties imposed on the imports of subject goods from Korea RP. Under the Rules, it is required to be determined whether continued imposition of antidumping duty is warranted.

97. Further, the Authority has also examined other relevant factors which could have a bearing on the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry. The examination of the likelihood of continuation or recurrence of dumping and consequent injury to the domestic industry is as follows:

i. Rate of increase in imports during the period of investigation

98. The import details in the subject investigation are as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI (Apr19-Dec19)		Post POI	
					Actual	Ann.	Actual	Ann.
Subject Country - Korea RP	MT	15,288	18,427	17,916	12,997	17,330	7,593	15,187
	Index	100	121	117	113	113	99	99

99. The Authority notes that the volume of dumped imports of the product under consideration have increased till 2017-18 but declined thereafter in 2018-19, POI, and post POI. The domestic industry contended that India is the second largest export destination for Korea RP despite anti-dumping duty in force. The Authority notes that there are significant imports of the product from Korea RP during the entire injury period.

ii. Export orientation and Surplus capacities in subject country

100. The Authority notes the claim made by domestic industry in the foregoing paragraphs on surplus capacity and high export orientation. As per the data filed by the cooperative producers/exporters, the export orientation of KKPC is 80-90% which is rather high. The Authority also notes that KKPC has a surplus capacity of 0-10%.

iii. Increase in inventories

101. The Authority notes that the response from the exporter shows that the inventories with them have substantially increased.

iv. Likelihood analysis on Dumping and Injury

102. The only responding producer/exporter, i.e. Kumho Petrochemical Co. Ltd. has filed questionnaire response in the form and manner prescribed, including questionnaire

response relevant for sunset review investigation. It is noted that dumping margin and injury margin for the cooperating producer and exporter from Korea RP continue to be positive during the successive reviews including the present sunset review. It is also noted that other major producer and exporter from Korea RP has not cooperated during the present investigations.

~~The Authority would conclude the findings on the basis of comments received from interested parties pursuant to issue of this disclosure statement.~~

K. POST DISCLOSURE COMMENTS

103. Post- disclosure submissions have been received from the interested parties. The Authority has examined the post-disclosure submissions made by the interested parties including reiterations which have already been examined suitably and addressed adequately in the relevant paras of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below

K.1 Submissions made by the domestic industry

- a. Specific issues have been raised by the domestic industry in its written submissions. These issues have not been fully responded by the exporter and therefore the questionnaire response should be rejected.
- b. There is no information provided by Kumho to establish that acrylonitrile cost reported reasonably and appropriately reflect market values. They could be at price below market values due to peculiar reason.
- c. There is no material given by Kumho addressing the key questions listed in the questionnaire with regard to valuation of butadiene. Further, the basis of valuation of butadiene is not clear. If the costs have been reported as per records maintained, it is not established how the same reasonably reflects the costs. There is no information on procurement of butadiene from different sources and how the price has been considered. It is also not answered whether the value considered is only cost of production of captive butadiene or purchase price of butadiene, or an average of the two. If an average of the two, it is not clear whether it is a weighted average of simple average or some other figure has been reported.
- d. Kumho has not identified all other captive inputs consumed. The domestic industry is aware that there are more inputs captively produced by Kumho.
- e. The issue of interest cost and SGA costs remains insufficiently addressed by Kumho.
- f. Kumho has captive and affiliate source of power and the domestic industry raised the issue of power price considered for the product under consideration. There is no response from Kumho on this issue.
- g. Domestic industry raised the issue of appropriateness and reasonableness of coal procurement prices . There is no response from Kumho on this issue.

- h. The exporter stated at the time of hearing that it has adequately reported the costs. However, the disclosure statement shows that the cost of production claimed has not been accepted. There is nothing in the submissions made by the company which can allow the domestic industry to understand how the costs were claimed, what supplementary information was filed and how the exporter satisfied the Authority with regard to appropriateness of the claim. Barring questionnaire response, nothing has been made available by the exporter to the domestic industry. Thus, it is evident that either the exporter has filed some information at the back the domestic industry or the Designated Authority has proceeded based solely on the questionnaire response. Either situation has caused significant prejudice to the domestic industry.
- i. The duty maybe imposed as fixed quantum of ADD in US\$/kg following the failure of benchmark form and the law and practice of DGTR. The same form of duty was imposed in the previous investigation.

K.2 Submissions by other interested parties

104. The following are the submissions of the other interested parties post disclosure

- a) The present sunset review proceedings are illegal and no valid continuation of anti-dumping duty can be made.
- b) The extension of the duties for one year during the pendency of third sunset review on 23 January 2014 was declared illegal.
- c) The dumping margin calculated for the KKPC is in the range of 0-10%. It is submitted that the dumping margin for the KKPC has continued to be extremely low throughout the period of 23 years during which the anti-dumping duty has been in force.
- d) There exists no likelihood of continuation or recurrence of dumping of the subject goods exported by KKPC.
- e) Similarly, the injury margin calculated for KKPC is in the range of 0-10%. It is evident that the exports made by KKPC are not causing any injury to the domestic industry.
- f) The import volumes have remained stagnant throughout the injury period and declined in POI(A) and post POI(A) as compared to previous years. The domestic industry was doing exceptionally well till 2018-19. However, it suffered losses in the POI. In this regard, it is submitted that there is no correlation between the subject imports and the losses suffered by the domestic industry.
- g) There has been a healthy improvement in it's the capacity, production, capacity utilization, domestic sales, market share, employment and wages parameters of the

domestic industry throughout the injury period. These parameters continue to improve in the POI as well, as compared to the base year.

- h) As per the admission of the domestic industry itself, it is suffering injury from other sources. An anti-dumping investigation has been initiated by the Authority vide the Initiation no. 6/18/2020-DGTR dated 26 May 2020 concerning imports of NBR from China PR, European Union, Japan and Russia.
- i) The Authority should take into account and examine the locational disadvantages faced by the domestic industry and high cost involved in transportation of raw material to its factory.
- j) In 24 years, the business of domestic industry was restructured by the way of acquisition and merger 5 times. The last acquisition of the business in 2016 was at a price which was much lower than the price at which it was acquired in 2007. This is reflective of the unstable NBR business of the domestic industry and indicates existence of structural and systemic issues plaguing the domestic industry.
- k) The automotive industry has been facing a slowdown since 2019. NBR is a major raw material for the automotive industry, and the slowdown has affected the business volumes and margins of the domestic industry. The same has been admitted by the domestic industry as well in various hearings, Presentations and Investor Communications made by it.
- l) It is submitted that there is no legal impediment for being export oriented. Further, as can be seen in the questionnaire response filed by KKPC, the sales realization per unit for domestic as well as export sales is approximately the same.

K.3 Examination of the Authority

105. With regard to the issues raised by parties relating to likelihood of continuation or recurrence of dumping and injury, the Authority has duly examined the relevant parameters and has recorded its findings in the relevant paragraphs of the present final findings. The Authority has examined the remaining submissions herein below.
- (a) With regard to KKPC's dumping and injury margin being low in the past investigations, it is noted that the dumping margin and injury margin for KKPC continues to be positive and above de-minimis levels in the present investigation.
 - (b) With regard to the submissions concerning volume effect and improvement in economic parameters, the Authority has addressed these issues in detail relevant headings in these final findings.
 - (c) With regard to the export orientation of KKPC, the Authority notes that while being heavily export oriented is not legally barred, it is noted that the same along with positive

dumping margin for KKPC continues to be factor for the likelihood of dumping of subject goods from subject country.

- (d) With regard to the sunset review proceedings being illegal, the Authority notes that the proceedings initiated and conducted by the Authority in accordance with the rules.
- (e) With regard to the arguments not considered, the same have been included and examined at the relevant paras of these Final Findings
- (f) With regard to the argument on dumping margin of Kumho Petrochemicals, it is noted that the Authority has considered the arguments of all the interested parties and the dumping margin has been determined after due consideration of all the arguments and facts of the case. The Cost of Production of M/s KKPC has been worked out on the basis of desk verification of the data/information provided. The Cost of Production has been duly adjusted for non-operating elements of income/expenditure which are not related to PUC

L. Conclusion on likely hood of dumping and Injury

106. The evidence on record show the volume of dumped imports from subject countries has increased in absolute terms in the POI compared to the base year. The imports from the subject country are undercutting the prices of the domestic industry and the price underselling is positive. The imports from the subject countries are suppressing the prices of the domestic industry. The production, sales, capacity utilization and market share of the domestic industry has improved during the injury period but has declined significantly in the period of investigation. The performance of the Domestic Industry has significantly deteriorated during the POI, and it has suffered financial losses, cash losses and negative return on investments in the period of investigation. The domestic industry has suffered continued injury during the present period. It is seen that there is a clear likelihood of dumping and consequent injury to the domestic industry. The dumping margin and injury margin for the cooperating producer and exporter from Korea RP continue to be positive during the successive reviews including the present sunset review. It is also noted that other major producer and exporter from Korea RP has not cooperated during the present investigations. The information on record shows that there are significant imports of the product from Korea RP during the entire injury period. the export orientation of KKPC is 80-90% which is rather high. The Authority also notes that KKPC has a surplus capacity of 0-10%. The response from the exporter shows that the inventories with them have substantially increased. Thus, all these parameters indicate that in the event of cessation of ADD, the exporters in the subject country are likely to intensify export of the product in India at dumped prices, leading to injury to the Domestic Industry.

M. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

107. The Authority recognizes that the imposition of anti-dumping duties might affect the price levels of the product in India. However, fair competition in the Indian market will not be reduced by the imposition of anti-dumping measures. On the contrary, imposition of anti-

dumping measures would remove the unfair advantages gained by dumping practices, prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The purpose of anti-dumping duties, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping duties, therefore, would not affect the availability of the product to the consumers. The Authority notes that the imposition of the anti-dumping 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.

N. CONCLUSION & RECOMMENDATIONS

108. After examining the submissions made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:
- i. The subject goods continue to be exported to India from the subject country at dumped prices.
 - ii. The domestic industry has suffered continued injury.
 - iii. The information on record shows likelihood of continuation of dumping and likelihood of continuation/recurrence of injury to the domestic industry in case the Anti-dumping duty in force is allowed to cease at this stage
109. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury, causal link, and likelihood of continuation or recurrence of dumping and injury in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that extension of anti-dumping duty is required to offset dumping and injury. Therefore, Authority considers it necessary and recommends the extension of anti-dumping duty as modified on imports of subject goods from the subject country.
110. In terms of provision contained in Rule 4(d) & Rule 17(i) (b) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at column 3 of the duty table below, originating in or exported from subject country.

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	40025900	Acrylonitrile Butadiene	Korea RP	Any country including	Kumho Petrochemical Co. Ltd.	47.43	Per MT	US\$

		Rubber*		Korea RP				
2	-do-	-do-	Korea RP	Any country including Korea RP	Any other than provided in row (1)	327.12	Per MT	US\$
3	-do-	-do-	Any country other than Korea RP	Korea RP	Any	327.12	Per MT	US\$

* Acrylonitrile Butadiene Rubber (NBR) excluding Latex NBR, Power NBR, and Carboxylate NBR

O. FURTHER PROCEDURE

111. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the with the relevant provisions of the Act.



(B. B. Swain)

Special Secretary & Designated Authority