

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

**F. No. 7/31/2021 - DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
Jeevan Tara Building, Parliament Street, New Delhi-110001**

**NOTIFICATION**

**FINAL FINDING**

**(Case No. ADD(SSR) 25/2021)**

Dated: 29 July, 2022

**Subject: Sunset Review Investigation concerning imports of “Styrene Butadiene Rubber” originating in or exported from European Union, Korea RP and Thailand.**

**F. No. 7/31/2021-DGTR:** - Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the ‘Act’) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as ‘the Rules’ or ‘AD Rules’) thereof-

1. M/s Reliance Industries Limited (hereinafter referred to as the "applicant" or “domestic industry”) filed an application before the Designated Authority (hereinafter also referred to as the "Authority") in accordance with Act and Rules for sunset review investigation of antidumping duty on imports of “Styrene Butadiene Rubber" (hereinafter referred to as the "subject goods" or "product under consideration") originating in or exported from European Union, Korea RP and Thailand (hereinafter referred to as the "subject countries").

**A. BACKGROUND OF THE CASE**

2. The original anti-dumping investigation concerning the imports of the subject goods from the subject countries was initiated by the Authority vide notification No. 14/10/2015-

DGAD on 14<sup>th</sup> January 2016. In the same matter, the final finding was issued vide notification No. 14/10/2015-DGAD dated 12<sup>th</sup> July 2017 confirming imposition of definitive Anti-Dumping duties on imports of the subject goods from the subject countries, which were implemented vide Notification No. 43/2017-Customs (ADD) dated 30<sup>th</sup> August 2017. The said duties were levied for a period of 5 years.

3. In terms of Section 9A(5) of the Act read, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition. The Authority is required to review whether the expiry of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.

4. Further, Rule 23(1B) of the Rules provides as follows:

*"any definitive antidumping duty levied under the Act, shall be effective for a period not exceeding five years from the date of its imposition, unless the designated authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry"*

5. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury.

6. In view of the duly substantiated application by the domestic industry with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Rules, the Authority initiated a sunset review investigation vide Notification No. F. No. 7/31/2021-DGTR dated 10<sup>th</sup> February 2022 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

7. The scope of the present review covers all aspects of the previous investigations concerning the subject goods issued vide Final Finding No. 14/10/2015-DGAD dated 12<sup>th</sup> July 2017, which were implemented vide Notification No. 43/2017-Customs (ADD) dated 30<sup>th</sup> August 2017.

8. Pending the outcome of the current investigation, Ministry of Finance vide Notification No. 17/2022-Customs (ADD) dated 30th May, 2022 extended the duties upto 31st October, 2022.

**B. PROCEDURE**

9. The procedure described below has been followed in this investigation:
  - i. The Authority notified to the Governments of the subject countries through its Embassies in India about receipt of the anti-dumping application before proceeding to initiate the present investigation, in accordance with rule 5(5) of the Rules.
  - ii. The Authority issued a notification dated 10<sup>th</sup> February 2022, published in the Gazette of India, Extraordinary, initiating the sunset review of antidumping duties imposed on the imports of the subject goods, originating in or exported from the subject countries.
  - iii. The Authority sent a copy of the initiation notification dated 10<sup>th</sup> February 2022 to the Embassies of the subject countries in India, known producers and exporters from the subject countries, known importers/users and the other interested parties, as per the addresses made available by the domestic industry and requested them to make their submissions available within the prescribed time-limit in accordance with Rule 6(2) of the Rules.
  - iv. A copy of the letter and questionnaire sent to the producers/exporters was also sent along with the names and addresses of the known producers/exporters from the subject countries. Embassies of the subject countries in India were also requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time limit.
  - v. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules supra.
  - vi. The Authority sent exporters' questionnaires to the following known exporters in the subject countries in accordance with the Rule 6(4) of the Rules to elicit relevant information:
    - a. Versalis SPA, European Union
    - b. HIP-Petrohemija a.d. Pancevo European Union
    - c. Trinseo Europe GmbH, European Union
    - d. Synthos SA, European Union
    - e. Lanxess AG, European Union
    - f. Gum Base Co. S.p.A., European Union
    - g. Ravago Distribution Center, European Union
    - h. Kumho Petrochemical Co., Ltd., Korea RP

- i. LG Chem Ltd., Korea RP
  - j. Wonchem, Ltd., Korea RP
  - k. Hansuk Chemicals Co Ltd., Korea RP
  - l. Everlite Korea Co Ltd., Korea RP
  - m. Heartychem Corp., Korea RP
  - n. Bangkok Synthetics Co. Ltd, Thailand
  - o. JSR BST Elastomer Co. Ltd., Thailand.
- vii. Following companies have filed the exporter questionnaire responses as producers/exporters of the product under consideration:
- a. POSCO International, European Union.
  - b. POSCO International Corporation, Korea RP
  - c. Kumho Petrochemical Co., Ltd., Korea RP
- viii. The Authority notes that the Bangkok Synthetics Co., Ltd had replied to the initiation notification confirming their participation, however they did not file any questionnaire response.
- ix. The Authority forwarded a copy of the notification to the following known importers/ users of the subject goods in India and advised them to make their views known in writing within the prescribed time limit in accordance with the Rule 6(4) of Rules:
- a. JK Tyre & Industries Limited
  - b. Birla Tyre Limited
  - c. Apollo Tyres Limited
  - d. CEAT Limited
  - e. MRF Limited
  - f. Ralson (India) Limited
  - g. Poddar Tyres Limited
  - h. Oriental Rubber Industries
  - i. Hindustan Rubber Industries
  - j. Agarwal Rubber (ARL Tyres)
  - k. Phoenix Conveyor Belt India Private Limited
  - l. Tega Industries Limited
  - m. Exel Rubber Limited
  - n. Forech India Limited
  - o. Garware Fulflex India Private Limited
  - p. Paragon Polymer Product Private Limited
  - q. Midas Rubber (P) Limited
  - r. Sempertrans India Private Limited
  - s. Metro Tyres Limited
  - t. Balakrishna Industries Limited
  - u. ATC Tires Private Limited

- v. Goodyear India Limited
- w. Bridgestone India Private Limited
- x. Avery Dennison (India) Private Limited
- y. Bostik India Private Limited
- z. Globus Rubchem Private Limited
- aa. Hind Elastomers Private Limited
- bb. KLJ Polymers and Chemicals Limited
- cc. MRL Tyres Limited
- dd. Perfetti Van Melle India Private Limited
- ee. Flexilis Private Limited
- ff. Chowdhary Rubber & Chemical Private Limited
- gg. Tulsiram Hanumanbagas Gilada
- hh. TVS Srichakra Tyres Limited
- ii. Maxxis Rubber India Private Limited
- x. The following importers/users have responded by filing questionnaire response
  - a. JK Tyre & Industries Limited
  - b. Apollo Tyres Limited
  - c. CEAT Limited
  - d. MRF Limited
  - e. Brigstone India Private Limited
  - f. Rishiroop Polymers Private Limited
- xi. Legal submissions have been filed by the responding interested parties. Further, legal submissions have also been filed by Automotive Tyre Manufacturers' Association ("ATMA") on behalf of the participating users, and European Commission.
- xii. A list of all the interested parties was uploaded on DGTR's website along with the request therein to email the non-confidential version (NCV) of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
- xiii. The Authority called upon DG Systems to provide transaction-wise details of the imports of the subject goods for the past three years and the period of investigation, which has been received by the Authority. The Authority has relied upon DG Systems data for computation of the volume and value of imports and its analysis after due examination of the transactions.
- xiv. Verification of the information and data submitted by the domestic industry and the responding producer was carried out to the extent deemed necessary. Only such verified information, wherever applicable, has been relied upon for the purpose of this final finding. Additional/supplementary information was sought from the domestic industry and other interested parties to the extent deemed necessary.

- xv. Non-Injurious Price (hereinafter referred to as 'NIP') based on the optimum cost of production and the cost to make & sell the subject goods in India based on the information furnished by the domestic industry and in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules. Such non-injurious price has been worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to address injury to the domestic industry.
- xvi. The Authority held an oral hearing on 5<sup>th</sup> May, 2022 to provide an opportunity to the interested parties to present information orally in accordance with Rule 6(6). Oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID-19 pandemic. All the parties who presented their views in the oral hearing were requested to file written submissions in order to enable the opposing interested parties to file rejoinders thereafter.
- xvii. The period of investigation ("POI") for the purpose of the present review is from October 2020 to September 2021 (12 months). The injury analysis period includes the period of investigation and the preceding three years of 2018-19, 2019-20 and 2020-21.
- xviii. The submissions made by the interested parties during the course of the investigation, have been addressed in this final finding, to the extent considered relevant by the Authority.
- xix. The Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information have been considered as confidential and not disclosed to the 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.
- xx. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the interested parties on 19.07.2022 and the interested parties were allowed time up to 25.07.2022 to comment on the same. The comments on Disclosure Statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.
- xxi. 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 treated such parties as non-cooperative and recorded its finding on the basis of 'facts available'.
- xxii. The exchange rate for the period of investigation has been taken by the Authority is USD = Rs 74.53.
- xxiii. '\*\*\*' in this final finding represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

## **C. PRODUCT UNDER CONSIDERATION (“PUC”) AND LIKE ARTICLE**

### **C.1 Submissions made by the other interested parties**

10. The other interested parties have contended that solution SBR (S-SBR) must be explicitly excluded from the scope of the sunset review investigation.

### **C.2 Submissions made by the domestic industry**

11. The following submissions have been made by the domestic industry during the course of the investigation: -
  - a. Present application being an application for sunset review, the scope of the product under consideration remains the same as was defined by the Authority in its previous finding.
  - b. The Authority in the original investigation concluded that goods produced by the domestic industry is a like article to the goods that is imported into the domestic market.
  - c. There has been no development in the technology and the product produced by the domestic industry continues to remain like article.

### **C.3 Examination by the Authority**

12. On the submission regarding the exclusion of solution SBR from the scope of the product under consideration, the Authority notes that there is no ambiguity on the scope of product under consideration. It has been clearly defined in the initiation notification that solution SBR grades are outside the scope of the investigation.
13. The present investigation is a sunset review investigation and the scope of the product under consideration remains the same as defined in the original investigation. The product under consideration determined in the original anti-dumping investigation is reproduced hereunder –

*a) The product under consideration in the present investigation is Styrene Butadiene Rubber, (SBR) of 1500 and 1700 series only of synthetic rubbers derived from two monomers styrene and butadiene. These materials have good abrasion resistance and aging stability when protected by additives. Solution SBR grades are outside the scope of investigation.*

*b) Compared to natural rubber, SBR has better process ability, homogeneity, heat aging and abrasion resistance, but is inferior in terms of elongation, hot tear*

*strength, hysteresis, resilience and tensile strength. The major demand of SBR is in the automotive sector in manufacture of tyres.*

*c) The product is classified under Customs Tariff heading No. 400219. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.*

14. The Authority, therefore, holds that the PUC in the present investigation shall be the same as in the original investigation.
15. The Authority notes that the subject goods produced by the domestic industry are comparable to the imported goods from the subject countries in terms of chemical characteristics, product specifications, technical specifications, manufacturing process & technology, functions & uses, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially interchangeable. Accordingly, the Authority holds that the subject goods produced by the domestic industry are 'like article' to the subject goods being imported from the subject countries.

#### **D. SCOPE OF DOMESTIC INDUSTRY AND STANDING**

##### **D.1 Submissions made by the other interested parties**

16. The following submissions have been made by the other interested parties during the course of the investigation: -
  - a. There has been a change in the constitution of the domestic industry in the present investigation as Indian Synthetic Rubber Private Limited has refrained from participating as a domestic industry.
  - b. Rule 5 is not applicable in a sunset review investigation and domestic producers have to become domestic industry to support the application.
  - c. Indian Synthetic Rubber Private Limited should have participated in the present investigation as the injury analysis in the original case was done on the basis of their data.
  - d. Anti-dumping investigation on imports of Seamless tubes, pipes & hollow profiles from China PR initiated in January 2010 was terminated because complete costing and injury information was not submitted by the major domestic producers in India. The present application should be terminated on similar grounds.
  - e. Investigation concerning imports of Polyester Staple Fibre from China PR, Indonesia, Malaysia and Thailand was terminated as other producers of the subject goods in India were doing well. The present case should be terminated on the same

grounds.

## **D.2 Submissions made by the domestic industry**

17. The following submissions have been made by the domestic industry during the course of the investigation: -
- a. The domestic industry has not imported the subject goods from the subject countries.
  - b. The domestic industry is neither related to the exporter of the subject goods from the subject countries nor the importers of the subject goods in India.
  - c. Present application is filed under Rule 23 and meets all statutory criteria laid down. Reliance Industries Limited accounts for around 50% of the production in India and thus it constitutes domestic industry under Rule 2(b).
  - d. There is no obligation that the domestic producer that participated in the original investigation should file the SSR application.
  - e. Facts of the present investigation are completely different from the facts of the investigation of imports of Seamless tubes, pipes & hollow profiles from China PR. In that case, the domestic industry was not the major producer and the partial data filed by the major producer showed that it was not suffering injury. In the present investigation, the domestic industry is the major producer.

## **D.3 Examination by the Authority**

18. Rule 2(b) of the 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 present application has been filed by M/s Reliance Industries Limited (RIL). The domestic industry has not imported the subject goods from the subject countries, and is not related to any exporter in the subject countries or importer in India. The application has been supported by M/s Indian Synthetic Rubber Private Limited, which has also provided information regarding its capacity, production and domestic sales.

20. The other interested parties have contended that M/s Indian Synthetic Rubber Private Limited which participated in the original investigation and supported the present investigation, should have filed its data as a domestic industry. The Authority notes that Rules do not mandate that the domestic industry in the original investigation should participate in the review investigation as well. In any case it is seen that the domestic industry accounts for a major proportion of the total domestic production. The applicant is an eligible domestic industry within the meaning of the Rule2(b) of the Rules and the application satisfies the criteria of standing in terms of Rule5(3) of the Rules, even though standing within the meaning of Rule5(3) is not required to be established in a sunset review initiated under Rule 23.
21. The Authority, therefore, holds that the applicant constitutes domestic industry under Rules 2(b) of the Rules.

## **E. MISCELLEANOUS SUBMISSIONS**

### **E.1 Submissions made by other interested parties**

22. The following submissions have been made by the other interested parties during the course of the investigation:
  - a. Updated information filed by the domestic industry is incomplete as it does not contain information on market share of the domestic industry, volume of imports, demand, NIP range, sales of other producers and price underselling range.
  - b. The domestic industry had, in the oral hearing stated that the interested parties would come to know about the increase in import volume when the disclosure statement is issued. This shows it has the information on import volumes but is withholding the same from the interested parties.
  - c. There is a lack of revised data on critical parameters, such as price undercutting, price underselling, price depression/ suppression, import statements, import prices of the PUC from the subject countries.
  - d. As per Trade Notice No. 1/2013, any information available on payment of a fee cannot be claimed to be confidential. Accordingly, domestic industry must disclose all the contents of the ICIS Report and the IISR Report.
  - e. The domestic industry has failed to disclose complete contents of Trade map and Eurostat data which raises a reasonable doubt that it has selectively put forth data that favors its position.
  - f. The domestic industry has claimed confidentiality over details of the volume losses during the injury period due to the shutdown of their plants.
  - g. The domestic industry has failed to provide the revised application as per the period of investigation determined by the Authority.

- h. Product quality offered by the domestic industry is inferior quality in comparison to imports from the subject countries and it does not manufacture as per specifications required.

## **E.2 Submissions by the domestic industry**

- 23. The following submissions have been made by the domestic industry during the course of the investigation.
  - a. On the submission that the domestic industry is withholding information regarding import data, the domestic industry submits that it has full information about the market on the basis of its market intelligence. There are very limited consumers and the domestic industry tracks requirements of each consumer and is well aware of how these are being met.
  - b. On the submission that all the contents of the ICIS Report and the IISR Report must be disclosed, the domestic industry submits that there is an express prohibition in sharing this information. The confidentiality rules clearly provide that if the information provided by third party with the clear condition that the same shall not be disclosed further, the Authority shall consider the same as confidential.
  - c. The submission that the Trade map and Eurostat data has not been provided, it is submitted that the data has been provided in the non-confidential version of the application.
  - d. Information on loss of production due to plant shutdown is a business sensitive information which cannot be disclosed.
  - e. There is no legal requirement to submit a revised application for the revised period of investigation. The application recedes in the background once the DGTR initiates the investigation and the determination is made by DGTR based on information received from various parties, and not based on the application.
  - f. Producers who participated in the original investigation but did not participate in the present investigation should be considered non-cooperative and residual category of duties should be recommended.
  - g. Transaction wise import data is not being provided by the DGCI&S. The Authority is requested to kindly disclose the volume and value of imports to enable the domestic industry to offer meaningful submissions.

## **E.3 Examination by the Authority**

- 24. The Authority notes that the Authority has initiated the sunset review investigation after prima facie satisfaction that there is sufficient evidence of likelihood of continuation or recurrence of dumping and injury to the domestic industry.

25. The Authority notes that the domestic industry had provided DGCI&S transaction wise import data for the period upto June 2021 along with the application. Thereafter, the DGCI&S data was not being provided to any authorised party. The domestic industry claimed that it was unable to provide the import data and related information such as market share, export price, landed price etc. for the updated period of investigation. The Authority called for DG systems data and has considered the same for the purpose of this analysis.
26. It has been contended that the product quality offered by the domestic industry is inferior. The Authority notes that the other interested parties have not provided any evidence in support of their submission. The domestic industry has been in operation for a substantial time now and has also undertaken significant exports. Therefore, the contention that the product supplied is of inferior quality cannot be accepted. The fact that the qualities may be different does not imply that the imported product and the domestic product are not like articles.
27. The other interested parties have contended that the domestic industry has not submitted any application for the revised period of investigation. It is noted that the domestic industry had initially filed the application based on July 2020 to June 2021 as the period. However, in keeping with the amended finance notification 10/2021 dated 1<sup>st</sup> February 2021 on the POI, the Authority considered POI from October 2020 to September 2021. It is also noted that the domestic industry was thereafter required to submit its own data for the revised period, which it has duly provided, and the non-confidential version of the same was circulated to all the interested parties. There is no statutory requirement of filing the application post initiation of investigation in case the Authority has modified the period of investigation.
28. The Authority made available non-confidential version of the information provided by various interested parties to all interested parties as per Rule 6(7) and Trade Notice No. 10/2018 dated 7<sup>th</sup> September 2018 read with Trade Notice 01/2020 (as extended by the Authority till further notice).
29. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provide 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.”*

30. Submissions made by the domestic industry and other opposing interested parties with regards to confidentiality, to the extent considered relevant, were examined by the Authority and addressed accordingly. 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 also notes that all interested parties have claimed their business-related sensitive information as confidential.

**F. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

31. According to Section 9A (1)(c) of the Customs Tariff Act, 1975, ‘Normal value’ in relation to an article means:
- (i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
  - (ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*

*(a) comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

### **F.1 Submissions made by the domestic industry**

32. The following submissions have been made by the domestic industry during the course of the investigation:

- a. Dumping from the subject countries has intensified in the current investigation.
- b. Continued and intensified dumping itself establishes that producers will dump their goods with the expiry of duties.
- c. Producers in the subject countries are not only dumping in the Indian market, but also other countries.
- d. Kumho's butadiene capacity is sufficient only to the extent of 30% of its requirement for various product and balance 70% is purchased from the market.
- e. Value reported by Kumho should be examined if it appropriately reflects market values.
- f. Dumping margins determined by the Authority in previous investigations were too low and the Indian industry has remained handicapped in defending its interest in view of confidentiality claims by the exporter.
- g. Adequate disclosures should be made by the exporter regarding consumption prices, norms and costs of raw material, basis of power and steam costs and its appropriateness, research & developments costs, SGA costs, conversion costs and allocation and apportionment of expenses, in order to enable the domestic industry to defend its interests.
- h. Mere claim by Kumho that such costs reported are as per records maintained by the company does not suffice.
- i. Kumho has a related party Korea Energy Power Plant which is engaged in business of power generation, which has not been disclosed in questionnaire response.

- j. In case a producer has procured raw material or utilities from a related party, the transfer price must conform to the market price. Kumho petrochemicals have not provided any information in this regard and chose to remain completely silent.
- k. Dumping margin determined by USDOC in anti-dumping investigation of SBR for LG Chem Ltd was around 9.66% and for residual category was ~~for~~ 44.30%. By comparison, dumping margin determined for LG Chem and Kumho as well as residual category was miniscule in the original investigation conducted in India.
- l. There appears to be no reason for such a significant difference in the margins when the export prices to India were in fact higher than the export price to USA.
- m. The domestic industry had in original investigation, submitted that adjustment of duty drawback should not be allowed for responding producers from Korea but it was allowed. USDOC in its determination did not allow such adjustment as it lacked sufficient information to determine eligibility.

## **F.2 Submissions made by the other interested parties**

- 33. The following submissions have been made by other interested parties during the course of the investigation:
  - a. The domestic industry has claimed exaggerated adjustments in the export price.
  - b. All elements of cost involved in the production and sales of the subject goods have been disclosed by the respondent in its questionnaire response.
  - c. Price difference between purchased and produced butadiene is around 5% only and it clear that the cost of captively consumed butadiene is reflective of the market price.
  - d. Out of total butadiene consumption in the Ulsan Synthetic Rubber Plant only 39% is used in the production of SBR.
  - e. Respondent has disclosed about the relationship status of Korea Energy Power Plant in its response.
  - f. As can be seen from the annual report of the respondent, it has not purchased from Korea Energy Power Plant.
  - g. The respondent had not participated in the US DOC investigation and the margins determined were not on the basis of its data.
  - h. Respondent had not claimed duty drawback in the current investigation and therefore claims on duty drawback of the domestic industry must be rejected.
  - i. Share of exports to India of Apollo Tyres Holding Pte Ltd. is insignificant in total volume of exports to India.

## **F.3 Examination by the Authority**

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

*i. The comparable price, in the ordinary course of trade, for the like article, when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6), or*

*ii. When there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:*

*a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*

*b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);*

35. The Authority sent questionnaires to the known producers/exporters from the subject countries, advising them to provide information in the form and manner prescribed by the Authority. The following producers from the subject countries and their importers have filed exporter's questionnaire response along with their related exporters or importers:

- a. POSCO International Corporation, Korea RP
- b. Kumho Petrochemical Co., Ltd., Korea RP
- c. POSCO International, European Union.

## **Determination of Normal Value and Export Price for cooperating producers and exporters**

### **Korea RP**

#### **A) Kumho Petrochemical Co., Ltd**

### **Determination of normal value**

36. Kumho Petrochemical Co., Ltd. ('KKPC') is a producer of the subject goods in Korea RP. It has been noted by the Authority that KKPC has sold the subject goods directly to unrelated customers in the domestic market during the POI. The Authority further notes that the domestic sales are in sufficient volume when compared with exports to India.

The Authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to the cost of sales of the subject goods. The Authority examined whether the profit-making transactions are more than 80% or not. In the present case, more than 80% of the domestic sales are profitable and hence all the domestic sales have been considered to determine the normal value.

37. KKPC has claimed adjustments for inland transportation, credit cost and bank charges and same have been allowed by the Authority. Accordingly, normal value at ex-factory level has been determined and the same is shown in the dumping margin table below

#### **Determination of net export price**

38. During the period of investigation, KKPC has exported the subject goods to India directly and also through unrelated traders, POSCO International Corporation and Apollo Tyres Holdings Pte. Ltd. POSCO International Corporation has resold the subject goods directly to unrelated Indian customers. POSCO International Corporation has also sold some small quantities to its related company, POSCO International Italy S.R.L, who in-turn has sold the subject goods to unrelated Indian customers. KKPC, POSCO International Corporation and POSCO International Italy S.R.L. have provided relevant information in the requisite Exporters questionnaire formats. Apollo Tyres Holdings Pte. Ltd. has not participated in the subject investigation.
39. During the period of investigation, KKPC has exported \*\*\*MT of the subject goods to India directly, \*\*\*MT of the subject goods through POSCO International Corporation and \*\*\*MT of the subject goods through Apollo Tyres Holdings Pte. Ltd.
40. KKPC has claimed adjustments on account of inland freight, ocean freight, port & other related expenses, overseas insurance, customs broker fees, sales commission, fumigation expenses, export insurance, packaging expense, credit cost and bank charge and the same have been allowed by the Authority. The Authority has also examined the profitability of POSCO International Corporation & POSCO International Italy S.R.L and noted that both the traders have earned profit on export of the subject goods to India. Since Apollo Tyres Holdings Pte. Ltd. has not provided the relevant information, the Authority has considered facts available for the calculation of ex-factory price for the export transactions made through Apollo Tyres Holdings Pte. Ltd. Accordingly, the export price for KKPC has been determined based on the weighted average export price to India price of the all channels of exports to India i.e. cooperative as well as non-cooperative, and the same is shown in the dumping margin table below.

#### **B) Other producers from Korea RP**

### **Determination of normal value**

41. Normal value for non-cooperative producers/exporters from Korea RP has been determined based on facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table.

### **Determination of net export price**

42. In the absence of cooperation from any other producers/exporters from Korea RP, the Authority has determined the net export price on the basis of facts available in terms of Rule 6(8) of the Rules. and is shown in the dumping margin table below.

### **European Union**

#### **Determination of normal value**

43. The Authority notes that none of the producers/exporters from European Union has participated in the present investigation. Thus, for all producers/exporters, the Authority has determined normal value at ex-factory level on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority has considered prices of product under consideration as published by IHS Markit. These prices are at delivered basis and adequate adjustments have been made in order to arrive at ex-factory level. Separate normal value has been calculated for 1500 and 1700 series. The weighted average normal value so determined is mentioned in the dumping margin table.

#### **Determination of net export price**

44. In the absence of cooperation from any producers/exporters from European Union the Authority has determined the net export price from the DG systems data. Since this data is on CIF basis, adequate adjustments have been made to arrive at Ex-factory level. Separate export price has been determined for 1500 and 1700 series. The weighted average ex-factory export price as determined, is shown in the dumping margin table below.

### **Thailand**

#### **Determination of normal value**

45. The Authority notes that none of the producers/exporters from Thailand has participated in the present investigation. Thus, for all producers/exporters, the Authority has determined normal value at ex-factory level on the basis of facts available in terms of Rule 6(8) of the Rules. The Authority has considered prices of product under consideration as published by Independent Commodity Intelligence Services. These prices are at CFR basis and adequate adjustments have been made in order to arrive at ex-factory level. Separate normal value has been calculated for 1500 and 1700 series. The weighted average normal value so determined is mentioned in the dumping margin table.

**Determination of net export price**

46. Since there are no exports from Thailand to India in the period of investigation, the net export price has not been determined.

**G. Dumping Margin**

47. Considering the normal value and export price determined as explained above, the dumping margin is calculated and shown below. It is seen that the dumping margin is positive in respect of the responding producer from Korea RP and for exports from EU.

SN	Particulars	Normal value	Net export price	Dumping margin		
		USD/KG	USD/KG	USD/KG	%	Range%
<b>A</b>	<b>Korea RP</b>					
1	Kumho Petrochemical Co., Ltd	***	***	***	***	0-10
2	Any other producer	***	***	***	***	0-10
<b>B</b>	<b>European Union</b>					
1	Any producer	***	***	***	***	20-30

**H. EXAMINATION OF INJURY AND CAUSAL LINK**

**H.1 Submissions made by other interested parties**

48. The submissions of the interested parties with regard to injury and causal link are as under:

- a. Regardless of the adverse impact of Covid-19, the domestic industry has recorded improvements in its production quantity, domestic sales, average selling price and other economic parameters.
- b. In spite of operating in start-up conditions, the domestic industry has made significant improvements in majority of the economic parameters.
- c. As reported in the Annual Report of 2020-21, there has been an increase of 77.28% in margins for SBR in FY 2020-21 since the previous financial year.
- d. For the purpose of injury analysis, the Authority is bound to take into consideration economic parameters and performance of both RIL and ISRPL, as both the entities are domestic producers.
- e. In the anti-subsidy investigation, the Authority found a positive subsidy margin which shows that injury is not on account of dumped imports but on account of subsidies.
- f. Analysis of the performance parameters do not make out a case for any material injury to the domestic industry.
- g. Injury caused due to imports from the other non-subject countries should be examined.
- h. There has been a consistent improvement in capacity utilization, production and sales of the Indian industry producers.
- i. Capacity utilization, production and domestic sales of the domestic industry have more than doubled in the period of investigation as compared to 2015-16.
- j. The domestic industry has earned profits in the period of investigation. Any injury that may have been caused to it during the original investigation period has now been remedied.
- k. Updated application does not contain the data for injury indicators separately for 1500 and 1700 series.
- l. The domestic industry has a pricing policy for the product under consideration in which it adds the applicable anti-dumping duty to the quoted prices as 'Cost to Serve' component. This means that the domestic selling price (NSR) of the domestic industry includes the component of duty which is why price undercutting is positive.
- m. The domestic industry's claim of increase in imports is not supported by any evidence.
- n. Landed value claimed by the domestic industry in written submission is lower than actual landed value of the exports made by the respondent during the period of investigation.
- o. ISRPL has not participated in the investigation which shows that it is doing well and they do not desire continuation of duty.
- p. The Authority had considered ISRPL's data for the purpose of injury analysis in the original case and must consider their data in the present case as well.

- q. There is only a minuscule increase of 2% in imports from the subject countries, whereas there has been a substantial increase of 210% in imports from the non-subject countries.
- r. The domestic industry has admitted that the imports have not had any suppressing or depressing effect on its prices.
- s. The domestic industry has admitted that it has seen a growth in majority of the factors.
- t. Consideration of a 22% Return on Capital Employed for NIP is not in line with the returns as per industry norms. Returns in capital intensive industry like synthetic rubber cannot be so unusually high.
- u. The domestic industry is unable to meet the demand and the imports are inevitable.
- v. Another producer ISRPL who started commercial production in February 2014 also took few initial years to achieve break-even point and only after that it started earning profits.
- w. The domestic industry was in the phase of establishing itself during 2017-18 to 2018-19 in the PUC market. It has now got established in the market and is earning profits from 2020-21 onwards.
- x. The imports were not undercutting the prices of the domestic industry in the period 2017-18, 2018-19 and 2019-20.

## **H.2 Submissions made by the domestic industry.**

49. The submissions of the domestic industry with regard to injury and causal link are as under:
- a. The domestic industry's performance has improved in the period of investigation due to a number of factors, including Covid effects.
  - b. Landed prices of the imports has shot up which has allowed the domestic industry to increase its prices once disruptions settle down landed price is expected to decline once again which will push down the prices of the domestic industry.
  - c. The domestic industry was exporting around 15-20% of the production as it was unable to get orders nor able to fetch remunerative prices in the domestic market.
  - d. The domestic industry has been able to sell more in the domestic market now with an increase in the import price and resultantly its domestic sales, market share, production and capacity utilization improved.
  - e. Imports from the subject countries have increased in absolute terms as well as relative terms in the period of investigation.
  - f. Imports are undercutting the prices of the domestic industry.
  - g. Imports have not had any suppressing or depressing effect on the prices of the domestic industry.

- h. Production and capacity utilization of the domestic industry has increased over the injury period with a marginal decline in the period of investigation.
- i. The domestic sales of the domestic industry have increased over the injury period.
- j. The domestic industry has made profits in the period of investigation which is a temporary situation due to the effect of Covid. Covid has impacted the industry differently in different periods within the present period of investigation.
- k. The domestic industry has earned cash profits and a positive return on capital employed in the period of investigation.
- l. The domestic industry has witnessed a growth in majority of the economic factors in the period of investigation.
- m. Despite antidumping duty, the volume of imports from the subject countries is far higher than the volume of imports from the non-subject countries.
- n. On the submission that the domestic industry charges duty in its prices, the Authority in the original investigation had found that the domestic industry had suffered losses due to dumped imports. Therefore, it was imperative that the industry recovers from the adverse effects of dumping.
- o. On the submission of return on NIP, the Authority cannot and should not discriminate capital intensive and non-capital-intensive industries. The interested parties wish India out of the map of capital goods intensive industries.
- p. The yearly profitability of the domestic industry since the imposition of duties is on record. It can be seen that despite adding duties to quoted prices, the domestic industry had suffered losses.
- q. On the submission that the plant of the domestic industry was stopped due to Covid, the domestic industry has not claimed any injury due to fall in production.
- r. On reference to annual report stating that demand is directly linked to the product under consideration, statements made in the annual report are in comparison with the estimates and projections of the company. It can be seen that the demand of the subject goods has continuously increased. Further, the increase in demand in the period of investigation was far steeper.
- s. The low import price is partly due to dumped imports and partly due to subsidized imports.

### **H.3 Examination by the Authority**

- 50. The Authority notes that cumulative assessment of injury to the domestic industry on account of dumping from the subject countries was already examined in the original investigation wherein it was examined that the conditions specified in the Rules for cumulative assessment were satisfied. Therefore, the Authority proceeded to the cumulatively examine injury due to dumped imports from the subject countries. The present investigation being a sunset review investigation with anti-dumping measures

already in force, it is not necessary that all the conditions required for cumulative assessment may be satisfied. In line with the consistent practice of the Authority and the fact that cumulative examination was undertaken in the original case, the Authority has undertaken cumulative assessment in the present investigation as well.

51. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve an examination of factors that may indicate injury to the domestic industry, “... taking into account all the 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 the 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
52. The Authority has taken note of the various submissions made by the domestic industry and the other interested parties on injury and causal link and has analyzed the same considering the facts available on record. The injury analysis made by the Authority ipso facto addresses submissions made by the domestic industry and the other interested parties.
53. The Authority, after initiation of the investigation, had sent letters to all the domestic producers requiring them to provide their production and sales data. M/s. ISRPL had provided the required data and stated that they are currently not suffering injury from subject imports in view of the anti-dumping duty in place.
54. The other interested parties have submitted that the data of ISRPL is also required to be examined. The Authority notes that as per Rule 11(2) of the Rules, the Authority is required to determine injury to the domestic industry, threat of injury to the domestic industry, material retardation to the establishment of the domestic industry. Therefore, the evaluation of injury is required to be restricted to the defined domestic industry. This is also consistent with the findings of the WTO Panel in EC-Bed Linen. The domestic industry in the present investigation is M/s. Reliance Industries Limited, which satisfies the requirement of Rule 2(b). Therefore, there is no merit in the argument that the data of ISRPL is also required to be examined.

55. On the submissions of the domestic industry and the other interested parties regarding return on capital employed, the Authority as per its consistent practice has allowed 22% as return on capital employed for the purpose of determination on non-injurious price.
56. In consideration of the various submissions made by the interested parties in this regard, the Authority has examined the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury.

### H.3.1 Assessment of Demand

57. The Authority has determined the demand or the apparent consumption of the product in India, as the sum of domestic sales of the sole Indian Producer, and imports from all sources. The demand so assessed is given in the table below.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Sales of domestic industry	MT	***	***	***	***
	Trend	Indexed	100	109	109	121
2	Sales of other producers	MT	***	***	***	***
	Trend	Indexed	100	99	96	113
3	Imports from subject countries	MT	69,838	57,910	73,002	85,755
4	Import from other countries	MT	4,566	2,478	13,829	22,217
5	Total demand	MT	***	***	***	***
	Trend	Indexed	100	97	106	125

58. It is seen that the demand for the subject goods declined in the year 2019-20 but has increased thereafter. The demand has increased over the injury period.

### H.3.2 Volume effect of dumped imports

#### Import volume and share of subject countries

59. The effects of the volume of dumped imports from the subject countries as well as imports from other countries have been examined by the Authority as follows.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Subject countries	MT	69,838	57,910	73,002	85,755
a	European Union	MT	22,991	15,241	19,518	26,628
b	Korea RP	MT	45,875	42,651	53,467	59,127

c	Thailand	MT	972	17	17	-
2	Other countries	MT	4,566	2,478	13,829	22,217
3	Total	MT	74,404	60,387	86,832	1,07,973
4	Subject countries imports in relation to -					
a	Indian production	%	***	***	***	***
	Trend	Indexed	100	83	112	115
b	Demand	%	***	***	***	***
	Trend	Indexed	100	85	98	98
c	Total imports	%	93.86%	95.90%	84.07%	79.42%

60. It is seen that: -

- a. Imports from the subject countries have declined in 2019-20 but increased in 2020-21 and further in period of investigation. The imports from subject countries have increased from base year as well as previous year.
- b. Imports have also increased in relation to production and total imports. Imports in relation to consumption has declined marginally as compared to base year but has remained at same levels in 2020-21 and period of investigation.
- c. Imports from the subject countries constitute 79% of the total imports into India

### H.3.3 Price effect of dumped imports

61. With regard to the effect of the dumped imports on prices, it is required to be analysed 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 normal course.

62. Accordingly, the impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject countries has been examined with reference to price undercutting and price suppression/depression, if any. For the purpose of this analysis the cost of sales and Net Sales Realization (NSR) of the domestic industry have been compared with the landed price of imports from the subject countries.

#### a. Price undercutting

63. In order to determine, whether the imports are undercutting the prices of the domestic industry in the market, the price undercutting has been worked out by comparing the landed price of imports with the selling price of the domestic industry during the injury period. The price undercutting has been determined separately for each grade produced by the domestic industry and thereafter for the product under consideration as a whole.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
<b>A</b>	<b>Subject countries as a whole - Total-SBR</b>					
1	Net Sales Realisation	₹/MT	***	***	***	***
2	Landed Price	₹/MT	1,19,711	98,288	97,914	1,28,132
3	Price Undercutting	₹/MT	***	***	***	***
4	Price Undercutting	%	(0-10)%	(0-10)%	0-10%	0-10%
5	Landed Price with ADD	Rs/MT	1,26,123	1,03,720	1,03,671	1,34,408
6	Price Undercutting with ADD	Rs/MT	***	***	***	***
7	Price Undercutting with ADD	%	(10-20) %	(5-15%)	(5)-5%	0-10%
<b>B</b>	<b>Subject Countries as a whole – SBR 1500</b>					
8	Net Sales Realisation	₹/MT	***	***	***	***
9	Landed Price	₹/MT	1,22,044	98,440	99,968	1,33,407
10	Price Undercutting	₹/MT	***	***	***	***
11	Price Undercutting	%	(0-10)%	(0-10)%	0-10%	0-10%
12	Landed Price with ADD	Rs/MT	1,28,640	1,03,788	1,04,883	1,39,013
13	Price Undercutting with ADD	Rs/MT	***	***	***	***
14	Price Undercutting with ADD	%	(5-15%)	(5-15%)	(0-10)%	0-10%
<b>C</b>	<b>Subject Countries as a whole – SBR 1700</b>					
15	Net Sales Realisation	₹/MT	***	***	***	***
16	Landed Price	₹/MT	1,16,322	98,059	93,266	1,17,241
17	Price Undercutting	₹/MT	***	***	***	***
18	Price Undercutting	%	(10-20) %	(5-15%)	10-20 %	15-25%
19	Landed Price with ADD	Rs/MT	1,22,466	1,03,618	1,00,929	1,24,900
20	Price Undercutting with ADD	Rs/MT	***	***	***	***
21	Price Undercutting with ADD	%	(10-20) %	(10-20) %	0-10%	5-15%

64. It is seen that the landed price of imports from the subject countries was below the selling price of the domestic industry and price undercutting is positive.

**b. Price suppression/depression**

65. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant

degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and prices over the injury period.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of sales	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>81</i>	<i>67</i>	<i>84</i>
2	Selling price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>85</i>	<i>95</i>	<i>129</i>
3	Landed price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>82</i>	<i>82</i>	<i>107</i>

66. It is seen that the domestic industry has increased its prices more than cost during the period of investigation. The imports are neither suppressing nor depressing the prices of the domestic industry.

#### H.3.4 Impact on economic parameters of the domestic industry

67. Annexure - II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

##### a. Capacity, production, capacity utilization and domestic sales.

68. The Authority has considered capacity, production, capacity utilization and sales volume of the domestic industry over the injury period.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Capacity	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
2	Production	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>106</i>	<i>100</i>	<i>106</i>
3	Capacity Utilisation	%	***	***	***	***

	Trend	Indexed	100	106	100	106
4	Domestic Sales	MT	***	***	***	***
	Trend	Indexed	100	109	109	121
5	Export sales	MT	***	***	***	***
	Trend	Indexed	100	92	83	22

69. It is seen that: -

- a. Capacity of the domestic industry has remained constant over the injury period.
- b. Production and capacity utilization of the domestic industry increased in the year 2019-20, declined thereafter in the period 2019-20 but has increased in the period of investigation.
- c. Domestic sales of the domestic industry increased till the year 2019-20, declined marginally in the year 2020-21 and increased in the period of investigation.

**b. Market share**

70. The effect of the dumped imports on the market share of the domestic industry have been examined.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Market share of the domestic industry	%	***	***	***	***
	Trend	Indexed	100	112	103	97
2	Market share of other producers	%	***	***	***	***
	Trend	Indexed	100	101	90	91
3	Market share of imports from subject countries	%	***	***	***	***
	Trend	Indexed	100	85	98	98
4	Market share of imports from other countries	%	***	***	***	***
	Trend	Indexed	100	56	285	390

71. It is seen that-

- a. Market share of the domestic industry increased in the year 20219-20 but declined thereafter. The market share of other producers has followed a similar trend.
- b. Market share of the subject countries declined in the year 2019-20 but increased thereafter.
- c. Market share of imports from other countries has increased over the period.
- d. The market share of the Indian industry has declined.

**c. Profit or loss, cash profits and return on investment.**

72. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Cost of Sales	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>81</i>	<i>67</i>	<i>84</i>
2	Selling Price	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>85</i>	<i>95</i>	<i>129</i>
3	Profit / Loss	₹/MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>(66)</i>	<i>48</i>	<i>96</i>
4	Profit / Loss	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>(72)</i>	<i>53</i>	<i>117</i>
5	Cash Profit	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>(63)</i>	<i>103</i>	<i>192</i>
6	Profit before interest and tax (PBIT)	₹ Lacs	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>(61)</i>	<i>109</i>	<i>195</i>
7	Return on Investment (ROI)	%	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>(100)</i>	<i>(58)</i>	<i>103</i>	<i>163</i>

73. It is seen that the performance of the domestic industry has improved during 2020-21 and further during period of investigation in terms of profitability, profits, cash profits and return on capital employed.

**d. Inventory**

74. Inventory position of the domestic industry over the injury period is given below: -

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Opening Inventory	MT	***	***	***	***
2	Closing Inventory	MT	***	***	***	***
3	Average Inventory	MT	***	***	***	***
	<i>Trend</i>	<i>Indexed</i>	<i>100</i>	<i>124</i>	<i>98</i>	<i>117</i>

75. It is seen that the inventory with the domestic industry increased over the injury period.

**e. Employment, wages and productivity**

76. The situation of the domestic industry with regard to employment, wages and productivity is as follows:

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	No of employees	Nos	***	***	***	***
	Trend	Indexed	100	95	95	85
2	Salary & wages	₹ Lacs	***	***	***	***
	Trend	Indexed	100	92	69	82
3	Productivity per day	MT/Day	***	***	***	***
	Trend	Indexed	100	106	100	106
4	Productivity per employee	MT/Nos	***	***	***	***
	Trend	Indexed	100	111	106	125

77. It is seen that employment levels of the domestic industry and the wages paid have declined continuously over the injury period. Productivity of the domestic industry has moved in line with the production.

**f. Growth**

78. Examination of growth parameters of the domestic industry during the injury period is shown below.

SN	Particulars	UOM	2019-20	2020-21	POI
1	Production	Y/Y	6%	-5%	6%
2	Sales	Y/Y	9%	0%	11%
3	Profit/(loss) per unit	Y/Y	34%	174%	99%
4	Inventory	Y/Y	24%	-21%	19%
5	Market share	Y/Y	12%	-9%	-5%
6	Profit before tax	Y/Y	28%	173%	121%
7	Cash profit	Y/Y	37%	264%	87%
8	PBIT	Y/Y	39%	279%	80%
9	ROI	Y/Y	42%	279%	58%

79. It is seen that the majority of the parameters show a positive growth in the period of investigation.

**g. Ability to raise fresh capital.**

80. The domestic industry has submitted that it has no plans to raise any fresh capital investment.

**h. Magnitude of dumping.**

81. It can be seen that the dumping margin is positive from both Korea RP and European Union.

**I. CAUSAL LINK**

82. 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 price of imports from third country**

83. It is seen that imports from Russia are above de-minimis limits. The Authority notes that the present investigation is a sunset review investigation and the scope of the subject countries cannot be expanded. It is also seen that the volume of exports from Russia is significantly lower than the volume of exports from the subject countries. Had there been a threat of injury from Russian imports, these volumes would have increased by now due to anti-dumping duty on the subject countries' imports. In any case, the domestic industry has not claimed injury.

**b. Contraction in demand and / or change in the pattern of consumption**

84. The demand of the product under consideration declined in the year 2019-20 but has increased thereafter. The demand of the subject goods has increased over the injury period. There is no contraction in demand in the injury period.

**c. Trade restrictive practices**

85. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.

**d. Development of technology**

86. The Authority notes that technology for production of the product has not undergone any change. Further, the responding producer has also not stated that there is any development in technology.

**e. Export performance**

87. The Authority has relied on segregated data for domestic and export operations, to the extent the same could be, therefore, export performance could not have caused impact on the domestic profitability of the domestic industry. In any case, it is seen that the domestic industry has made profits in the export operations.

**f. Performance of other products**

88. The Authority has considered the data relating to the performance of the subject goods only. Therefore, performance of other products produced and sold by the domestic industry are not a possible cause of the injury to the domestic industry, if any.

**I.1 Overall conclusions on continuation of injury, and causal link**

89. The examination of the imports of the subject goods from subject countries and their impact on the performance of the domestic industry shows that the volume of dumped imports from the subject countries has increased but have not had any suppressing/depressing effect on the domestic industry. Production, capacity utilisation and domestic sales of the domestic industry have increased over the injury period. The performance of the domestic industry in terms of profitability, profits, cash profits and return on capital employed has also improved over injury period. Therefore, the Authority concludes that the domestic industry has not suffered continued injury.

**J. MAGNITUDE OF INJURY MARGIN**

90. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the 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 countries for calculating injury margin. For determining the NIP, 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 PUC was allowed as pre-tax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

91. Based on the landed price and NIP determined as above, the proposed injury margin for producers/exporters as determined by the Authority is provided in the table below.

SN	Particulars	NIP	Landed price	Injury margin		
		USD/KG	USD/KG	USD/KG	%	Range%
<b>A</b>	<b>Korea RP</b>					
1	Kumho Petrochemical Co., Ltd	***	***	***	***	0-10
2	Any other producer	***	***	***	***	10-20
<b>B</b>	<b>European Union</b>					
1	Any producer	***	***	***	***	20-30

92. It is seen that the injury margin in respect of the participating producer is positive. Further, injury margin is positive in respect of imports from European Union.

**K. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

**K.1 Submissions by the other interested parties**

93. The following submissions have been made by other interested parties during the course of investigation:
- a. Information regarding exports to third countries at dumped and injurious price, price attractiveness of Indian market and export orientation of producers in the subject countries has not been updated.
  - b. Information on third country exports provided in the application is regarding SBR as a whole and not for product under consideration only.
  - c. Information for capacity, production and demand provided in the application regarding exports from Korea RP is for SBR as a whole.
  - d. LG Chem Ltd. has decided to exit from the SBR business as of March 2022. As LG Chem Ltd. exports will be stopped, total exports to India from Korea RP will reduce significantly.
  - e. None of the factors relied upon by the Authority for likelihood analysis as per Annexure II (vii) of anti-dumping rules are satisfied.
  - f. Information provided by respondent in the questionnaire response clearly shows that there is no unutilized capacity for the product under consideration.
  - g. The Authority is required to look into the period of investigation and the post period of investigation data and assesses whether there is a possibility/ likelihood of dumping and consequent injury if duty is discontinued.
  - h. It has been held by Hon'ble CESTAT in the matter of Indian Spinners Association v. Designated Authority that mere existence of excess capacities is not sufficient for the extension of anti-dumping duties.

- i. There is no continued injury being caused due to imports and therefore, existence of surplus production capacity cannot be considered as posing likelihood of recurrence of injury.
- j. There is a substantial decline in capacity in Korea which indicates that exports from Korea are likely to decline.
- k. Excess capacity, if any, with the Korean producer will not be diverted to India but would be used to meet its domestic demand.
- l. In post-period of investigation, prices for product under consideration have increased globally in the backdrop of the Russia-Ukraine war which has affected global supply chains.
- m. North America is price-wise much more attractive for the exporters than India, as the prices have seen a spike, without any anticipated downward trend.
- n. Analysis on third country exports from the subject countries should be rejected as the domestic industry has itself admitted that it has not segregated non-product under consideration exports.
- o. The domestic industry has not provided any methodology for calculation of normal value and export price in each of the subject country for third country analysis.
- p. There has been a substantial increase in prices of SBR to the extent of 48% from the subject countries collectively. Therefore, following the same rationale for the post-period of investigation period, a case of likelihood of continuation of dumping and consequent injury is not made out.
- q. Mere dumping in the absence of any likelihood of recurrence of injury is insufficient to merit an extension of the anti-dumping duty.
- r. Even if there is a likelihood of diversion of exports from third countries it will not lead to injury as the current prices have not caused injury.
- s. The exports to India account for a very low share in total sales of the respondent. With the exit of LG Chem Ltd., respondent will also have to substantially fulfil the void in Korea's domestic demand and exports to India will decline.
- t. There is no significant inventory with the respondent and exports to India have also declined.
- u. There is no likelihood of increase in respondent's volume of exports to India as customers from third countries want to maintain its existing level of supply.
- v. The respondent has not made any volume commitments to sell to consumers in Indian market as well.
- w. For claim of increased dumping, the domestic industry has failed to provide any reliable data to justify their likelihood analysis.
- x. It is not clear as to how Thailand is exporting 72% of its production when it has made zero exports to India in the period of investigation. This shows the dubious conclusions made by the domestic industry on the basis of their questionable "market analysis".

## **K.2 Submissions made by the domestic industry**

94. The following submissions have been made by the domestic industry during the course of the investigation: -
- a. Producers in the subject countries are exporting their product to third countries at dumped prices.
  - b. Korean producers are not only dumping in the Indian market but are dumping in the global market. Industry globally is concerned over dumping by Korean producers.
  - c. USA had imposed anti-dumping duty on the imports of the subject goods from Korea in September 2017 which has been extended in the admin review with a dumping margin determined as 44%.
  - d. Mexico had also imposed anti-dumping duty on imports from Korea RP in 2018.
  - e. Expiry of anti-dumping duties will provide producers in the subject countries an opportunity to divert their third country exports to India. Significant share of third countries exports is at prices lower than export prices to India.
  - f. There are significant exports to third countries at injurious prices. India is a favourable market for the producers in the subject countries, diversion of these exports to the Indian market would lead to intensified imports at injurious prices.
  - g. Production undertaken by the producers in the subject countries is significantly higher than the demand in the respective countries.
  - h. Producers in the subject countries are always in a lookout for markets to utilize their surplus productions and cessation of duties will allow these producers to divert their production to India.
  - i. Producers in the subject countries are operating with significantly idle capacities.
  - j. A significant share of production of the producers in the subject countries is being used for export purposes.
  - k. 36% of production from European Union, 75% of production from Korea RP and 72% of production from Thailand is being exported.
  - l. If the domestic industry is forced to match its prices with the imports, the return earned by the domestic industry will decline significantly.
  - m. Increase in imports inspite of duties in place clearly shows the likelihood that the imports will further increase if the duties are not extended.
  - n. Biggest market for the SBR are India, European Union and China.
  - o. China has expanded its SBR capacities and due to the ongoing freight issue, European market does not have very remunerative prices for Korean producers.
  - p. Korean producers also enjoy advantage of custom duty concessions in India and therefore, biggest market left for Korean producers to exploit is the Indian market.

- q. Significant imports below the cost and selling price of the domestic industry are very likely to have an adverse impact on the prices of the domestic industry.
- r. Indian market is a price sensitive market. Consumers negotiate on the basis of prices quoted by the exporters. If the present anti-dumping duties are not continued, the landed import price will decline.
- s. As history of investigations involving product under consideration would establish, price of imports has been below cost of sales of the domestic industry which has resulted in the domestic industry suffering losses.
- t. From the response of Kumho, it can be seen that their domestic sales have declined. There has been a significant decline in the domestic production of tyres in Korea RP, which has resulted in sharp decline in domestic sales of product under consideration. The demand in the country is not likely to witness any improvement in the recent period.
- u. From the response of Kumho, it can be seen that exports to India declined in the year 2019 but increased thereafter. Increase in exports to India with duties in place, shows that the exports are likely to increase if the duties expire.
- v. From the response of Kumho, it can be seen that the inventories in the period of investigation have shot up significantly. Increase in idle inventories with a decline in domestic demand further shows that the producers will look for alternative market to utilise their surplus production.
- w. Kumho has admitted that no specific export markets have been developed since the levy of antidumping duty by India and they have no volume commitments in other markets and will continue to export to Indian market.
- x. Kumho has admitted that it negotiates price and terms of sales with its customers on a transaction-by-transaction basis. This shows that with no volume commitments in other markets, Indian market will continue to be a hunting ground for the producers.
- y. On the submission that excess capacities is not sufficient to extend the duties, legal requirement is “freely disposable production capacities”. Even if it is assumed that domestic demand is not freely available, rest of the capacity is freely disposable to the exporters.
- z. On the submission that post period of investigation has seen an increase in price due to Ukraine Russia war, interested parties wishes the Authority to believe that the Russia-Ukraine conflict is a permanent feature. Increase in prices in the post period of investigation is a completely temporary phenomena which is not going to last for a very long period.

### **K.3 Examination by the Authority**

95. The present investigation is a sunset review of duties imposed on the imports of the subject goods from European Union, Korea RP and Thailand. Under the Rules, the Authority is required to determine whether cessation of existing duty is likely to lead to continuance or recurrence of dumping and injury to the domestic industry.
96. The Authority has examined the likelihood of continuation or recurrence of dumping and 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.
97. There are no specific methodologies available to conduct such a likelihood analysis. However, Clause (vii) of Annexure II of the Rules provides, inter alia, factors which are relevant for threat of injury and the same factors may be used for likelihood analysis in a sunset review as well. Further, these are non-exhaustive list of parameters relevant to determination of likelihood:
- a. A significant rate of increase of dumped imports into India indicating the likelihood of substantially increased importation.
  - b. Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to Indian markets, taking into account the availability of other export markets to absorb any additional exports.
  - c. Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and
  - d. Inventories of the article being investigated.
98. The Authority has examined various indicators relevant to the assessment of likelihood of injury to the domestic industry, having regard to the above listed parameters. 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.
99. It is seen that only producer from Korea RP has participated in the present investigation. There is no response from European Union and Thailand. Therefore, the Authority has considered information provided by the responding producer for examining likelihood of injury from Korea RP. For European Union and Thailand, in view of non-cooperation, the Authority has considered information on record.
100. On the submission that post period of investigation is also required to be examined, the Authority notes that examination of the post period of investigation information is not

mandatory. In this case, the Authority has analysed various factors in order to examine the likelihood of continuation or recurrence of dumping and injury, and the same is mentioned in the forgoing para.

**K.3.1 The level of current dumped imports into India indicating the likelihood of substantially increased importation**

101. In order to examine the rate of increase in imports which could indicate the likelihood of further increase, the Authority has examined the trend of volume of imports over the injury period, both in absolute terms and in relation to production and consumption in India.

SN	Particulars	UOM	2018-19	2019-20	2020-21	POI
1	Subject countries	MT	69,838	57,910	73,002	85,755
2	Subject countries import in relation to -					
a	Indian production	%	***	***	***	***
	Trend	Indexed	100	83	112	115
b	Demand	%	***	***	***	***
	Trend	Indexed	100	85	98	98
c	Total imports	%	93.86%	95.90%	84.07%	79.42%

102. It is seen that imports from the subject countries have increased in absolute terms despite Anti-Dumping duties in existence and continue to remain significant both in absolute and relative terms. However, the imports from the subject countries have declined in relation to the total demand.

**K.3.2 Whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for further imports**

103. The Authority has considered the imports in the period of investigation, cost of production, and selling price of the domestic industry in order to examine if imports are likely to have depressing or suppressing effect on the domestic prices.

SN	Particulars	Below cost		Below selling price	
		Volume in MT	Landed price Rs/MT	Volume in MT	Landed price Rs/MT
1	Imports from subject countries	30,518	***	53,970	***
2	Share of imports in relation to				

A	domestic sales	***		***	
c	total imports	28.27%		49.99%	

Source – Transaction wise DG Systems data for October 2020 to September 2021 (POI).

104. It is seen that there are significant imports from the subject countries which are below the selling price and cost of sales of the domestic industry. Considering the volume of these imports, it is likely that imports are will occur at a price that will have depressing or suppressing effect on the domestic prices and would likely increase demand for further imports.

### K.3.3 Export orientation

105. Information with respect to export orientation of the producers in the subject countries is given below. The Authority has examined the information for period of investigation for the responding producer from Korea RP, and in case of European Union and Thailand, the information placed on record for the year 2020 (Source- ICIS report) has been considered to examine likelihood of injury.

SN	Particulars	Production	Exports	Export orientation	Export orientation as % of Indian demand	
		KT	KT		%	Range%
1	Kumho Petrochemical Co., Ltd, Korea RP (Index)	***	***	70-80%	***	50-60
2	European Union	1,040	370	36%	***	110-120
3	Thailand	138	99	72%	***	30-40

106. It is seen that 73% of production of Kumho Petrochemical Co., Ltd have been exported. In case of European Union, and Thailand, it is seen that 116% and 72% of production have respectively been used for export purpose. Therefore, the producers in the subject countries are utilizing a significant share of their production for export purpose.

### K.3.4 Idle or unutilised capacities

107. Information with respect to surplus capacities with the producers in the subject countries is given below. In case of responding producer, the Authority has examined the information for period of investigation on the basis of their response, and in case of European Union and Thailand, in view of the non-cooperation, the information provided by the domestic industry for the year 2020 has been considered to examine likelihood of injury.

SN	Particulars	Capacity	Production	Idle capacity	Idle capacity as % of Indian demand	
		KT	KT	KT	%	Range
1	Kumho Petrochemical Co., Ltd, Korea RP	***	***	***	NIL	NIL
2	European Union	1,604	1,040	564	***	170-180
3	Thailand	175	137	38	***	10-20

108. It is seen that Kumho Petrochemical Co., Ltd was operating at full capacity in the period of investigation. However, considering the fact that 70-80% of exports from Kumho have been exported, it shows export orientation. In case of European Union and Thailand, 170-180% and 10-20% of capacities are lying idle respectively. It is seen that the producers have set up capacities significantly higher than the demand in their respective country and will try to utilise their capacities for export purpose.

### K.3.5 Third country dumping

109. Information with respect to third country dumping is given below.

SN	Particulars	Exports to third countries at dumped price	Total exports	Share of dumped exports in total exports	
		MT	MT	%	Range
1	Kumho Petrochemical Co., Ltd, Korea RP	***	***	***	60-70
2	European Union	1,39,820	2,48,643	56%	50-60
3	Thailand	48,452	97,314	50%	50-60

*Source – For Korea RP the information has been taken from the response filed by Kumho and for other countries as per the information provided by the domestic industry.*

110. It is seen that 60-70% share of exports of the responding producer to third countries are at dumped prices. Similarly, in case of European Union and Thailand the share of dumped exports to third countries in total exports are 56% and 50% respectively.

### K.3.6 Third country injurious exports

111. Information with respect to third country injurious exports is given below:

SN	Particulars	Exports to third countries at injurious price	Total exports	Exports at injurious prices as % of Indian demand	
		MT	MT	%	Range
1	Kumho Petrochemical Co., Ltd, Korea RP	***	***	***	30-40
2	European Union	1,61,214	2,48,643	***	40-50
3	Thailand	45,039	97,314	***	10-20

*Source – For Korea RP the information has been taken from the response filed by Kumho and for other countries as per the information provided by the domestic industry.*

112. It is seen that a significant share of exports of the responding producer to third countries are at prices which are injurious to the domestic industry. Similarly, in case of European Union and Thailand the injurious exports to third countries are 49% and 14% respectively.

### **K.3.7 Price attractiveness**

113. Information with respect to price attractiveness is given below:

SN	Particulars	Exports to other countries below price to India	Total exports	Exports to other countries below price to India % of Indian demand	
		MT	MT	%	Range
1	Kumho Petrochemical Co., Ltd, Korea RP	***	***	***	30-40
2	European Union	1,18,561	2,48,643	***	30-40
3	Thailand	34982	97,314	***	10-20

*Source – For Korea RP the information has been taken from the response filed by Kumho and for other countries as per the information provided by the domestic industry.*

114. It is seen that 30-40% of exports of the responding producer to third countries are at prices which are lower than the export price to India. Similarly, 30-40% of exports in case of in case of European Union and 10-20% exports in case of Thailand are at prices below Indian prices.

### **K.3.8 Measures imposed by the other countries**

115. It is seen that post imposition of anti-dumping duties by India, the Mexican Ministry of Economy have also imposed the anti-dumping duties against the imports from Korea. The resolution imposing the definitive duty was issued on 25 January 2019 and the duties are still in force. It is also seen that U.S. Department of Commerce has also imposed anti-dumping duties on the imports of product under consideration into USA from Korea. The duties were first imposed in September 2017 and are still in existence. The rate of duty imposed by the Mexican Ministry of Economy on imports from Korea RP is 0.1137 USD per KG and the duty imposed by U.S. Department of Commerce on imports from Korea RP is 44.3%.
116. On overall examination of factors for likelihood of injury, it is seen that despite imposition of duties, the volume of dumped imports from subject countries has increased in absolute terms and in relation to Indian production. Significant quantities of imports are below the selling price and the cost of the domestic industry which shows that if the duties are allowed to expire, the imports will have a suppressing/depressing effect on its prices.
117. Even though Kumho does not have any idle capacities, it is seen that a very high share of its production has been undertaken for export purpose. It is also noted that the producers from Thailand and European Union have substantial unutilized capacities and are utilizing a significant share of their production for export purposes. A significant share of exports of the subject countries to third countries are at dumped prices and at prices which are lower than the export price to India, which shows likely diversion of exports.

## **L. POST-DISCLOSURE COMMENTS**

118. The post disclosure submissions have been received from the interested parties. The issues raised therein have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity, the submissions by the interested parties are being examined as below:

### **L.1 Submissions made by other interested parties**

119. The following submissions have been made by the other interested parties on the disclosure statement: -
- a. Participation of ISRPL is significant because it was the only producer during the original investigation and the Authority had concluded existence of material injury

based on its data. Therefore, examination of its performance post imposition of anti-dumping duties is essential to objectively examine the need for extension of ADD.

- b. Any information available to the public on payment of a fee cannot be claimed to be confidential. Thus, the domestic industry must disclose complete contents of the ICIS Report and IISR Report as well as the information procured from Trade Map and Eurostat.
- c. The domestic industry had admitted that data from Trade map and Eurostat is not specific to product under consideration and hence is unreliable.
- d. Details of volume losses of the domestic industry during the injury period owing to shutdown of their plants should be disclosed so that injury can be analysed objectively.
- e. Given the high level of profitability of the domestic industry, respondent fails to understand how price underselling is positive and in the range of 20-30%.
- f. The domestic industry (DI) has a pricing policy for the PUC according to which it adds the applicable ADD to the quoted prices as 'Cost to Serve' component; whereas, the landed value used for computation of price undercutting is determined by addition of only BCD to the CIF values and does not include the ADD component. Given these factors, the comparison of the landed value and the NSR is not objective as the price undercutting would remain positive regardless of the level of DI's profitability.
- g. If at all there was any impact on the domestic industry, it can only be attributed to the pandemic and consequent stoppage in production.
- h. There exists a significant demand-supply gap to the tune of 26%, which the domestic industry is unable to fulfil.
- i. Any injury to the domestic industry must be attributed to the decline in the demand of the automobile industry.
- j. In absence of reliable product under consideration specific import data on increase in dumped imports, any claim of dumping by the domestic industry is unsubstantiated.
- k. There is substantial decline in the capacity of Korea RP due to exit of LG Chem Ltd from the sector which indicates that exports from Korea RP are likely to decline.
- l. The soaring freight costs and shipping disruptions due to the lack of shipping containers has increased import rates by 200-400%. Such high prices do not indicate any likelihood of injury on account of the alleged dumped imports.
- m. The period of investigation by Mexican Ministry of Economy and U.S. Department of Commerce on imports of product under consideration is different from the period of investigation of the present SSR investigation. The same cannot be used as a yardstick to continue the imposition of ADDs on the PUC.

- n. Apollo Tyres Limited and JK Tyre & Industries Limited had filed questionnaire response way before the issuance of the disclosure statement. However, the Authority has not sent any deficiency letter or an email seeking any clarification from the respondent's member companies on this account.
- o. The Authority has calculated ex-factory price for export transaction made through Apollo on the basis of facts available. There is no legal basis for drawing 'adverse' inference while applying facts available. Article 6.8 of the Anti-dumping Agreement provides that when faced with missing information, the Authority should use most appropriate facts and not adverse facts.
- p. The Authority should note that Apollo Tyres Holdings Pte. Ltd is an unrelated trader and Kumho has no control over its participation in the subject investigation. Insignificant export quantity of export made through Apollo Tyres Holdings Pte. Ltd can be ignored without applying facts available.
- q. If the Authority decides to recommend continuation of anti-dumping duty, the Authority should rely on dumping margin or injury margin determined during the sunset review.
- r. Facts and circumstances in the present sunset review necessitate separate assessment of likelihood of dumping and injury for exports from Korea RP because apart from Kumho, the only other producer of subject goods in Korea RP i.e., LG Chem Ltd. has decided to exit the SBR business as of March 2022.
- s. The Authority has excessively relied on Kumho's exports to third countries while assessing likelihood of injury. Export pattern to third countries would become relevant only when there are unutilized or idle capacities with the producer/exporter.
- t. Kumho is exporting subject goods to many countries other than India. Customers from countries other than India want Kumho to maintain the existing level of supply.
- u. The domestic industry is also now firmly established and earning profits. If the Authority decides for continuation of anti-dumping duty, it should be for a period of 2 years.
- v. Thailand made zero exports to India during the period of investigation. Thus, even if it may have a high export orientation, it is evident that it does not consider India as a lucrative market.
- w. Measures taken in other jurisdictions are irrelevant for the present investigation.
- x. The Authority has made incorrect observations that share of SBR in total cost of tyres is less than 10%. For Passenger and Light truck tyres, the relative value of PUC incorporated in finished products is around 15%.

## **L.2 Submissions made by the domestic industry**

120. The following submissions have been made by the domestic industry during the course of the investigation: -
- a. The applicant has serious concerns with regard to price adjustments that are required to be reduced from normal value and export price.
  - b. The Authority is requested to consider applicant's submissions on Kumho dumping margin.
  - c. In sunset review of anti-dumping duty on imports of Acrylonitrile Butadiene Rubber from Korea RP, Kumho had claimed adjustment of packing expense from both the normal value and the export price and the same was allowed by the Authority.
  - d. The difference in the packing cost involved in domestic and export markets have not been brought on record by the exporter. Packing cost varies significantly in case of domestic and exports.
  - e. Lease charge for MB 5 container in case of domestic sale and export sales vary significantly. The agency providing these containers on lease is similar for both the applicant and Kumho.
  - f. There is a significant difference in the container lease charges for depending upon the days for lease. The applicant feels that the above facts have not been disclosed to the Authority by Kumho.
  - g. LG Chem. Ltd. had a 160 KT plant for the production of subject goods and has diverted only 80KT of the production capacity. The remaining 80 KT capacity continues to remain deployed for the production of subject goods.
  - h. There are significant imports from LG Chem Ltd till May 2022. Claims of interested parties that LG Chem Ltd has exited business and there is no likelihood of increase of exports from Korea are baseless. No evidence has been brought forward by the interested parties in support of their claim.
  - i. Dumping margin in the present investigation is more than the dumping margin determined in the previous investigation. This shows that the dumping from the subject countries has intensified. Therefore, duties should be increased.
  - j. The current import prices have been impacted by the ongoing freight issue. Once the freight issue settles, it is very likely that the producers in the subject countries will drop down their prices and dumping is likely to intensify further
  - k. Volume of imports from the subject countries have increased despite imposition of duties. Consideration of same level of duties is likely to lead to further increase in imports
  - l. Imposition/discontinuation of trade remedial measures have had absolutely no correlation with performance of the tyre industry. This is because tyre manufacturers do not bear the cost of these measures and pass on the duty impact to the eventual end consumers

- m. Continued improvement in the performance of the applicant may also lead to further investments in the product under consideration. Investments in the product under consideration will lead to generation of employment, reduced dependency on imports and boost for Indian foreign exchange.
- n. The current situation of Covid-19 has clearly shown the importance of indigenous production in the country.
- o. Balkrishna Industries, CEAT Tyres, Apollo Tyres and Goodyear Tyres are all looking to expand their capacities. No user will make investments if it does not anticipate good performance.

### **L.3 Examination by the Authority**

- 121. The Authority has examined the post disclosure submissions made by the domestic industry, and the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the disclosure statement. 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.
- 122. The other interested parties have submitted that the data of ISRPL is also required to be examined. The Authority notes that as per Rule 11(2) of the Rules, the Authority is required to determine injury to the domestic industry, threat of injury to the domestic industry, material retardation to the establishment of the domestic industry. Therefore, the evaluation of injury is required to be restricted to the defined domestic industry This is also consistent with the findings of the WTO Panel in EC-Bed Linen. The domestic industry in the present investigation is M/s. Reliance Industries Limited, which satisfies the requirement of Rule 2(b). Therefore, there is no merit in the argument that the data of ISRPL is also required to be examined.
- 123. On the submission of the other interested parties that export data provided by the domestic industry for the subject countries with respect to other countries pertains to the other products as well, the Authority notes that only producer from Korea RP has participated and there is no participation from European Union and Thailand. No other party has provided any relevant information to the Authority on third country exports. Therefore, the Authority has relied on information available on record.
- 124. With regard to the submission of the other interested parties that the landed value used for computation of price undercutting does not include the ADD component, the Authority notes that it has examined the price undercutting by comparing the NSR and the landed value, both with and without ADD in the relevant parts of this finding. The

Authority notes that the price undercutting has been positive even where the landed value had ADD component added to it.

125. With regard to the submission that the Authority did not send any deficiency letter to Apollo Tyres Limited and JK Tyre & Industries Limited, it is noted that it is the duty of all the interested parties to provide complete information in relevant form and manner required, to the Authority.
126. On the submission of the domestic industry regarding adjustment of packaging cost and other expenses for Kumho, the Authority notes that it has allowed the adjustment of packaging cost both from normal value and export price for Kumho, after due verification.
127. On the submission on application of facts available in respect of exports made by Kumho through Apollo, the Authority notes that the determination has been done as per the prescribed practice and applicable AD Rules.
128. It has been contended that LG Chem Ltd. has exited the business with effect from March 2022 and therefore there is no likelihood of diversion of exports to India from Korea. It is noted that the interested parties have not provided any evidence of LG's complete exit from the business. On the contrary, the domestic industry has provided the information that LG Chem Ltd. has diverted only certain capacities to NBR and certain capacities continue to produce SBR. Therefore, the contention of the interested parties cannot be accepted.
129. On the submission of the other interested parties on the calculation of the non-injurious price, the Authority notes that the non-injurious price has been determined as per the consistent practice of the Authority and in accordance with rules.
130. On the submission of no likelihood of injury from Thailand, the Authority notes that there are significant exports from Thailand to third countries at injurious prices and prices lower than export price to India. The fact that there are no imports from Thailand in the period of investigation is only because of the anti-dumping duty in force. It is also noted that producers in Thailand are export-oriented. Therefore, there is a likelihood of diversion of exports to India.
131. On the submission on no opportunity being given to Apollo Tyres Limited and JK Tyre Limited to supplement their calculation of impact of duties, the Authority notes that the interested parties had not provided any calculation with their user questionnaire response.

Even where the users provided the impact of duties, no backup calculations were provided.

132. It has been contended that the examination of the Authority on share of SBR in the total tyre cost is incorrect as the share in passenger car tyres is 15-20%. The Authority notes it is required to consider the impact on all types of tyres and not just passenger car tyres. It is from the user questionnaire response that the Authority has considered that the share of SBR is less than 5%. It is thus seen that the share of SBR in the total cost of tyre is insignificant and the impact of anti-dumping duties will not be significant.
133. On the submission of examination of exports to third countries, the Authority notes that all the factors have been examined as per the consistent practice of the Authority. Export pattern to third countries is of significant importance in the likelihood analysis considering the fact that the producers are heavily export oriented. The degree of third country dumping shows the pricing behavior of the domestic industry. Further, the share of exports to third countries at prices below export price to India and below non-injurious price shows the likely diversion of exports to India and the consequential impact on the domestic industry.
134. On the submission of details of disclosure of volume losses of the domestic industry owing to shut down, the Authority has examined the confidentiality claims of all the parties and notes that all interested parties have claimed their business-related sensitive information as confidential. In any case, the Authority has concluded that the domestic industry has not suffered continued injury.

## **M. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES**

### **M.1 Submissions by the other interested parties**

135. The following submissions have been made by the other interested parties during the course of the investigation: -
  - a. There is a demand and supply gap in the country and the imports are inevitable.
  - b. Continuation of anti-dumping duty would be contrary to Government Schemes for promotion of domestic manufacturing in the automobile sector.
  - c. Continuation of anti-dumping duty will impact the exports of the tyre industry.
  - d. The Authority has in recent finding of Pneumatic off-road tyres held that tyre industry is suffering injury. Continuation of anti-dumping duty for further period of 5 years will leave no scope of recovery.

- e. Impact of duty considering 15% consumption in a 10KG tyre with estimated demand of tyre of 21,13,37,500 will be INR 80 to 106 cr which will be 10% to 15% of total profits of tyre companies.
- f. Impact of anti-dumping duty as quantified by the domestic industry should be rejected as it has taken SION norms of high value items.
- g. The Authority is requested to refer to user questionnaire response to verify the percentage of product under consideration incorporated in finished products.
- h. There were concerns that majority industry are importing through advance authorization and exporting the goods, due to which products are not being purchased from the domestic industry. Such issue is a policy issue and DGTR is not the Authority to address the issue.
- i. The domestic industry has quantified the impact of duty on the selling price of the end product. The impact of duty should be quantified on the cost of production of the product.
- j. There is no logical reason provided to exclude demand met by the imports under advance licence while assessing the demand-supply gap. It has been a consistent practice of the Authority to examine overall import volumes, including the duty-free imports, such as the imports under advance license, while assessing the volume effect in any anti-dumping investigation.
- k. The Authority had recommended imposition of countervailing duty on imports of SBR from Korea RP which was not implemented by the Ministry of Finance. This supports the claim that continued protection of anti-dumping duty is not warranted and is not in public interest.
- l. The domestic industry has not mentioned the source of the period for which the data has been considered for calculating the impact of duty.
- m. The domestic industry in every investigation makes a claim that the impact of duties would be minimal for a particular product, however taking them together the burden adds up to be significant.
- n. Impact of duty on the domestic industry's total operations should be ascertained. The domestic industry is a multi-product company and the product under consideration forms only a limited percentage of overall revenue.
- o. In the absence of a fair competition, the domestic industry and the supporter will create a monopolistic market.
- p. Contrary to the submission of the domestic industry, the profitability of user industry is only modest.
- q. User industry has provided the impact analysis on the basis of the actual representative data of the tyre industry and the same should be considered to objectively assess the impact on the user industry.
- r. During the last 16 years, a significant number of raw materials used by the tyre industry have been under anti-dumping/safeguard duty protection.

- s. The impact of anti-dumping duty imposed on all the raw materials of tyre industry comes out to be around 7.72%.
- t. Profit before tax for 2021-22 for the user industry is 3% on an average and an anti-dumping duty having impact of 0.5% to 1% will be significant.
- u. On the submission of the domestic industry that users cannot have access to raw material at dumped prices at its cost, the domestic industry has not claimed any material injury.
- v. Anti-dumping duty is a trade remedy measure to protect the domestic industry against import of dumped goods if the imports of dumped goods are causing injury to the domestic industry and cannot be used to protect its investment.
- w. There is no legal or factual basis for categorization of total demand into 'available demand' and 'non-available' demand.
- x. It is the consistent practice of the Authority to determine the total demand of the subject goods considering the total imports and total domestic sales of the subject goods.
- y. There is no compulsion on users to import under advance authorization and there is also no restriction on the domestic industry to sell to users who are holders of advance authorization.
- z. Indian market for the subject goods is currently a duopoly. The import for the subject goods from the subject countries will ensure healthy competition in the Indian market for the subject goods.
- aa. Duty has served its purpose as the domestic industry has itself admitted that there is no injury and it has recorded significant profits during period of investigation in spite of establishing itself in 2016.
- bb. Average impact of anti-dumping duty on the user industry is less than 0.5% of the total consolidated EDITBA of the domestic industry signifying that the users will be more negatively impacted if the duty is continued.

## **M.2 Submissions by the domestic industry**

136. The following submissions have been made by the domestic industry during the course of the investigation: -

- a. The expression 'public interest' does not limit itself to consumer industry's interest alone and is a much wider term, which covers in its ambit the interest of the domestic industry and ultimately the public at large.
- b. Extension of duties will ensure that a level playing field is provided to the Indian producers in India against the dumped imports.
- c. Even in the CVD investigation, the Authority found that the domestic industry was suffering injury and it is only in the period of investigation that the domestic industry has been able to post profits.

- d. It is in the consumers' interest to have a competitive domestic industry capable of supplying the product to the consumers at fair prices.
- e. It is in the interest of the public at large to have a strong, competitive domestic production of the product. This will not be possible if injury to the domestic industry continues in the long run.
- f. Impact of the duty should be assessed considering the prices of downstream product before and after the duty.
- g. Impact of anti-dumping duties on the end product shall be very minimal.

<b>SN</b>	<b>Name of product</b>	<b>Product price Rs per unit</b>	<b>Impact of duty – Rs per unit</b>	<b>Impact of duty - %</b>
1	Truck/Bus Radial Tyre	Rs 28,000	Rs 9 per tyre	0.03%
2	Truck/Bus Bias Tyre	Rs 19,700	Rs 16 per tyre	0.08%
3	Passenger Car Tyre	Rs 5,545	Rs 3 per tyre	0.18%
4	Motorcycle Tyre	Rs 4,000	Rs 2 per tyre	0.05%

- h. Impact of anti-dumping duty on the Tyre industry turnover is hardly 0.01%.
- i. There is absolutely no correlation between profit before tax of the tyre industry and the imposition/enhancement of basic customs duty and anti-dumping duties.
- j. Viability of the consumers cannot be dependent on access to raw material at unfair and dumped prices.
- k. While the domestic producers for the subject goods have a legitimate claim to be protected against unfair competition, the consumers cannot claim a right to availability of the product at dumped prices.
- l. Out of the total demand around 15-20% of the imports are being done under the advance authorization scheme. Imports under the scheme are bound to happen irrespective of continued imposition of duty.
- m. Demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports and does not justify dumping as has been held by Hon'ble CESTAT in the matter of DSM Idemitsu Limited vs Designated Authority.
- n. Even if the duties are imposed, users are free to import under advance license at any price offered by the exporter without payment of duties.
- o. For all the major tyres produced by the tyre manufacturers, the major raw material is natural rubber and not the product under consideration.
- p. In Automotive Tyre Manufacturer's Association's Indian Tyre Industry overview report, it has been stated that the share of SBR in the total cost of Tyres is hardly 5%.
- q. Price of the product has moved from as low as Rs 92-94 per KG in September 2017 and as high as Rs 124-126 per KG October 2018. When such significant movement

- in the price of goods did not bother the user industry, an anti-dumping duty of 0-5% should hardly have any significant impact on the user industry.
- r. Even after the imposition of duties in 2017, the imports have continued to enter the Indian domestic market.
  - s. On the submission of rejection of CVD duty by the Ministry of Finance, there is no relationship between the two particularly when no one knows the reasons for rejection of the CVD recommendation.
  - t. On the submission that there is a demand and supply gap, the domestic industry has not filed application for ban on imports, as permitted under Foreign Trade Policy.
  - u. The domestic industry's claim regarding imports under advance authorization scheme is that even if anti-dumping duties are imposed, the users have been importing from the subject countries under duty free schemes.
  - v. On the difference in the impact of duty on tyre industry as calculated by the user industry, tyre industry turnover is about 70,000 crores and even if profit is considered at high level of 10,000 crores, the calculations can be done by considering costs as 60,000 crores. Results would remain almost the same.
  - w. When imposition of duty has not adversely impacted the tyre industry, it is without any legal and factual basis that continuation of duty shall cause adverse effects.
  - x. Contrary to the claim made that imposition of duty will be against the Government of India scheme, imposition and continuation of duty would be totally in aid to Government's Scheme for promotion of domestic manufacturing in automobile sector.

### **M.3 Examination by the Authority**

137. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the consumers to provide relevant information with regard to the present investigation, including possible effect of anti-dumping duty on their operations. The Authority sought information on, inter-alia, interchangeability of the product supplied by various suppliers from different countries, ability of the consumers to switch sources, effect of anti-dumping duty on the consumers, factors that are likely to accelerate or delay the adjustment to the new situation caused by imposition of anti-dumping duty.
138. It has also been contended by the user industry that several trade remedial measures have been imposed on their different raw materials which have impacted their costs. The Authority notes that the product under consideration in the present application is restricted to SBR and therefore duties imposed on other products are not relevant. It is

also seen that majority of the anti-dumping duties imposed on the raw materials of tyre industry have been rescinded and at present only SBR is attracting anti-dumping duty. Further, the domestic industry has provided trend of performance of tyre industry along with different trade remedial measures imposed in past and has claimed that there is no correlation between trade remedial measures and performance of the tyre industry - either individually (for one of the raw materials) or collectively (for all raw materials attracting trade remedy measures).

139. The Authority prescribed a user questionnaire in which the users are required to give information on cost on account of product under consideration in the final cost and price of consumer's end products. It is seen that Apollo Tyres Limited and JK Tyre & Industries Limited have not provided the relevant information. Bridgestone India Private Limited has claimed in their written submission that the share of SBR in the total cost of Tyre is 15-20%, but it is seen from their response that the share of SBR in their total cost is \*\*\*% (less than 10%). Similar trend has been observed from the response filed by CEAT Limited and MRF Limited as well and from the ATMA Tyre Industry Overview Report provided by the domestic industry.
140. The Authority recognizes that the extension 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, extension 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.
141. It has been contended that there is a demand and supply gap in the country and the Indian industry is unable to meet the demand. The Authority notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices. Even after the imposition of anti-dumping duty, the imports are not restricted in the country. Further, it is also seen that the Indian industry has a capacity of 2,61,000 MT and the demand in India is the range of 3,25,000 MT to 3,35,000 MT. In this regard, it is noted that there are significant imports from the non-subject countries which will continue to happen.

142. The Authority notes that Indian industry has made significant investments in product under consideration and it is only in the recent period that it has been able to record profits. This shows the need to provide a level playing field to the producers to justify significant investments undertaken by them.
143. To ensure continued availability of a domestic product, it is necessary that the domestic producers remain viable at fair prices failing which the users would become increasingly dependent on the dumped imports.

## **N. CONCLUSION & RECOMMENDATIONS**

144. Having regard to the contentions raised, information provided, submissions made and the facts available before the Authority as recorded above and on the basis of the above analysis of the likelihood of continuation or recurrence of dumping and injury to the domestic industry, the Authority concludes that:
- i. The applicant constitutes domestic industry under Rule 2(b) of the Rules and the application satisfies the requirements under the rules.
  - ii. There is continued dumping of the subject goods from Korea RP and European Union, despite duties being in force. The dumping and injury margins are positive.
  - iii. The volume of dumped imports have increased in absolute terms despite imposition of duties.
  - iv. The imports are undercutting the price of the domestic industry in the period of investigation and the price effects would have been higher in the absence of existing duties.
  - v. Production, capacity utilisation, sales of the domestic industry have increased during the POI.
  - vi. The subject imports are neither suppressing nor depressing the prices of the domestic industry. The domestic industry's performance has improved in the period of investigation because of the anti-dumping duty in place.
  - vii. Dumping of the subject goods has continued.
  - viii. Producers from Thailand and European Union have unutilized capacities.
  - ix. There are significant imports from the subject countries below the selling price and cost of sales of the domestic industry which are likely to cause

suppressing/depressing effect on the prices of the domestic industry on cessation of duties.

- x. It is noted that 70-80%, 30-40% and 70-80% production has been utilised for export purpose by KKPC, European Union and Thailand producers respectively.
  - xi. It is noted that 60-70%, 50-60 and 50-60% exports by KKPC, European Union and Thailand producers respectively to third countries are at dumped prices.
  - xii. It is noted that 30-40% of exports of the responding producer to third countries are at prices which are lower than the export price to India. Similarly, 30-40% of exports in case of in case of European Union and 10-20% exports in case of Thailand are at prices below Indian prices.
  - xiii. There is persistent practice of dumping of the subject goods in other jurisdictions as evidenced from duties imposed and/or continuation of duties from other jurisdictions, and it is highly likely that the imports from the subject countries would increase on the event of cessation of duties.
  - xiv. The fact that the dumped imports continued even after imposition of duties shows a strong likelihood that if the duties are revoked the imports will increase at a much higher rate.
  - xv. The Authority accordingly concludes that there is likelihood of continuation/recurrence of dumping and injury to the domestic industry in the event of cessation of duties.
  - xvi. The user industry has not been able to establish any adverse impact of duties on them. It is noted that the continuation of anti-dumping duties on the imports of the subject goods would be in the interest of domestic producers of the subject goods in India.
  - xvii. The product under consideration has a very low share in the total cost of tyre and therefore, the impact of duties on the end product will be negligible.
  - xviii. There is healthy competition in the Indian market and continuation of anti-dumping duty would not deprive the user industry of any requirements.
145. 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 information on the aspects of likelihood of continuation/recurrence of dumping and injury.
146. Having concluded that there is likelihood of continuation/recurrence of dumping and injury if the existing anti-dumping duties are allowed to cease, the Authority is of the

view that continuation of duty is required on the import of PUC from the subject countries. The Authority examined as to what quantum of duty be recommended which would mitigate the dumping/injury on account of likelihood analysis as conducted above. The volume of dumped and injurious imports from subject countries to India and to the rest of the world have been considered.

147. Under the aforesaid circumstances, the Authority considers it appropriate to recommend continuation of existing quantum of anti-dumping duty on the imports of the subject goods from the subject countries which would address and mitigate the likelihood of dumping and injury from the subject countries. The Authority, thus, considers it necessary to recommend continuation of existing definitive anti-dumping duty imposed vide Notification No. 43/2017-Customs (ADD) dated 30<sup>th</sup> August 2017. Therefore, considering the facts and circumstances of the case, as established hereinabove, anti-dumping duty equal to the amount indicated in Col 7 of the duty table given below is recommended to be imposed from the date of notification to be issued in this regard by the Central Government, on all imports of subject goods, from the subject countries for a further period of three (3) years.

Duty Table

SN	Heading/ Subheading	Description of goods	Country of origin	Country of export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1	4002 19	Emulsion Styrene Butadiene Rubber (E-SBR) of 1500 Series and 1700 Series	Korea RP	Any country including Korea RP	Kumho Petrochemical Co., Ltd	33.95	MT	\$
2	-do-	-do-	Korea RP	Any country including Korea RP	Any other producer	64.00	MT	\$
3	-do-	-do-	Any country other	Korea RP	Any producer	64.00	MT	\$

			than countries attracting anti-dumping duty					
4	-do-	-do-	European Union	Any country including European Union	Any other producer	266.00	MT	\$
5	-do-	-do-	Any country other than countries attracting anti-dumping duty	European Union	Any other producer	266.00	MT	\$
6	-do-	-do-	Thailand	Any country including Thailand	Any other producer	243.60	MT	\$
7	-do-	-do-	Any country other than countries attracting anti-dumping duty	Thailand	Any other producer	243.60	MT	\$

148. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

**O. FURTHER PROCEDURE**

149. An appeal against these findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.



(Anant Swarup)  
Designated Authority