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**F. No.6/30/2019-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001**

Dated 27.11.2020

NOTIFICATION

FINAL FINDINGS

Case No. OI- 22/2019

Subject: Anti-dumping investigation concerning imports of “New pneumatic radial tyres of rubber for buses and lorries, with or without tubes and/or flaps” originating or exported from Thailand.

A. BACKGROUND

Automotive Tyre Manufacturer’s Association (ATMA) (hereinafter also referred to as the “Applicant”) filed an application on behalf of domestic industry comprising of Apollo Tyres Ltd., J.K.Tyre Industries Ltd., Ceat Ltd. and MRF Ltd (hereinafter also referred to as the “petitioner/applicant companies”), who are members of ATMA, before the Designated Authority (hereinafter also referred to as the “Authority”) under the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the Act) and 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) for initiation of anti-dumping investigation and imposition of anti-dumping duty on imports of new pneumatic radial tyres of rubber for buses and lorries, with or without tubes and/or flaps (also referred to as the “subject goods”), originating in or exported from Thailand (also referred to as the “subject country”).

2. Whereas, the Authority, on the basis of prima facie evidence submitted by the applicant, issued a public notice vide Notification No. 6/30/2019-DGTR dated 2nd December, 2019 published in the Gazette of India, Extraordinary, initiating the subject investigation in accordance with the Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from the subject country, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to

the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed by the Authority with regard to this subject investigation:

- i. The Authority notified the embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
- ii. The Authority issued a Notification 6/30/2019-DGTR dated 2nd December, 2019 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods from subject country.
- iii. The Authority sent a copy of the initiation notification to the embassy of the subject country in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers as per the addresses made available by the applicant and requested them to make their views known in writing within 37 days from the date of issue of letter by the authority intimating initiation of the investigation or extended time limit.
- iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the embassy of the subject country in India in accordance with Rule 6(3) of the Rules supra.
- v. The Authority sent exporter's questionnaire to the following known producers/exporters in Thailand, whose details were made available by the applicant, to elicit relevant information and gave them opportunity to make their views known in writing in accordance with Rule 6(4) of the Rules:
 - a) Continental Tyres Co., Ltd. Thailand
 - b) Deestone Ltd. Thailand
 - c) Goodyear (Thailand) Public Co ltd
 - d) Hihero Company Limited
 - e) Huayi Group Co. Ltd. Thailand
 - f) Linglong International Tire
 - g) Maxxis International
 - h) Michelin Siam Co, Ltd
 - i) Otani Radial Co. Ltd.
 - j) Sentury Tire (Thailand) Co. Ltd.

- k) Siam Rubber Ltd.
- l) SR Tyres Co. Ltd.
- m) Sumitomo Corporation Thailand Ltd.
- n) Vee Rubber Corp. Ltd.
- o) Yokohama Tire Sales (Thailand) Co.Ltd.
- p) Zhongce Rubber Group

vi. In response to the above notification, following exporters / producers have filed response to the exporters' questionnaire:

- a) M/s. Bridgestone Asia Pacific Pte Ltd. (BSCAP)
- b) M/s. Bridgestone Tire Manufacturing (Thailand) Co. Limited (BTMT) and M/s. Thai Bridgestone Co. Ltd (Combined)
- c) M/s. LLIT(Thailand) Co. Ltd.
- d) M/s. Zhongce Rubber (Thailand) Co. Ltd.
- e) M/s. Deestone Corporation Limited
- f) M/s. Michelin Siam Co., Ltd.
- g) M/s. Siam Truck Radial Company Limited

vii. Only written submissions have been filed by Maxxis International (Thailand) Co Ltd. M/s. Otani Radial Co Ltd has only acknowledged the receipt of communication sent by the Authority.

viii. The Authority sent Questionnaires to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.

- 1) A.G. Industries, Haryana
- 2) A.S. & Company, Delhi
- 3) Aditya Sales Corporation, Delhi
- 4) Agk Digital Private Limited, Delhi
- 5) Akhil Impex Building, Punjab
- 6) Alliance Traders, Delhi
- 7) Amitt Enterprises, Punjab
- 8) Arora Enterprises, Uttar Pradesh
- 9) Asis Enterprises, Maharashtra
- 10) Bhagwatee Impex, Delhi
- 11) Captown Overseas, Delhi
- 12) Celite Tyre Corporation, Gujarat
- 13) Chadha Tyre Traders, Delhi
- 14) Chhabra Sales Corporation, Delhi
- 15) Dashmesh Trading Co, Maharashtra
- 16) Deep Enterprises, Uttar Pradesh
- 17) Delhi Tyre Shoppe, Delhi
- 18) Eknour Tyres Private Limited, Maharashtra

- 19) Electro Link, Kerala
- 20) Ess Infraproject Private Limited, Maharashtra.
- 21) Fine Traders, Delhi.
- 22) Fish Aquarium Home, Delhi
- 23) Ganpati Overseas, Delhi
- 24) Genetic Sales Corporation, Delhi
- 25) Globus Corporation, Maharashtra
- 26) Gupta Tyre House, Haryana
- 27) H.D. International, Punjab
- 28) H.S. Arora & Co., Delhi
- 29) H.S. International, Delhi
- 30) Harpreet International, Delhi
- 31) Hayer Trading Co, Maharashtra
- 32) Hind Traders, Maharashtra
- 33) Hind Traders, Delhi
- 34) Indian Rubber Manufacturers Research Association, Maharashtra.
- 35) Indo China Impex, Delhi
- 36) Indo Silicon Electronics P. Ltd, Delhi
- 37) International Business Group, Maharashtra
- 38) J.M. Shama Designs, Maharashtra
- 39) Jaipex, Maharashtra
- 40) Jitender Overseas, Delhi
- 41) Juneja Agencies, Punjab
- 42) K.C. Impex, Delhi
- 43) Kabeer Components Pvt Ltd, Delhi
- 44) Kaks And Bills Pvt Ltd, Delhi.
- 45) Kingston Enterprises, Delhi.
- 46) Lokesh Impex, Rajasthan.
- 47) M S International, Delhi.
- 48) Maankesh Trading Company, Delhi.
- 49) Meenakshi Importers, Maharashtra.
- 50) Mohan Enterprises, Delhi.
- 51) Nand Rubber Pvt.Ltd, Haryana.
- 52) National Trading Company, Delhi.
- 53) New Vikas Tyres, Delhi.
- 54) Pahwa Distributors, Uttar Pradesh.
- 55) Paras Auto Parts, Gujarat.
- 56) Pardeep Import Export, Maharashtra.
- 57) Pioneer Trading Corporation, Maharashtra.
- 58) Pricon Engineering Services, Maharashtra.
- 59) Prem Trading Company, Madhya Pradesh.
- 60) Pricon Engineering Services, Delhi.

- 61) R C International, Maharashtra.
- 62) R S Enterprises, Maharashtra.
- 63) Radhey Kishan Enterprises, Delhi.
- 64) Rajpal Roadlines Pvt Ltd., Maharashtra.
- 65) Rameshwar Dass & Co., Haryana.
- 66) Rangi Road Carrier, Maharashtra.
- 67) Renu Raj Trading, Maharashtra.
- 68) Roadlion International, Delhi.
- 69) Royal Traders, Delhi.
- 70) Rynaa Overseas (India), Maharashtra.
- 71) S R Enterprises, Delhi.
- 72) S. S. And Sons, Delhi.
- 73) S.K. International, Delhi.
- 74) Saarwan Enterprises, Delhi.
- 75) Sabharwal Trading Company, Delhi.
- 76) Sachin Prasad Yadav, West Bengal.
- 77) Samar Traders, Delhi.
- 78) Sanjog Impex, Madhya Pradesh.
- 79) Sanmati Portex Pvt Ltd., Delhi.
- 80) Sat Guru Traders, Uttar Pradesh.
- 81) Saveer International, Delhi.
- 82) Shiv Shakti Enterprises, Delhi.
- 83) Shivalik Exim, Punjab.
- 84) Simran India Inc., Delhi.
- 85) Simran Traders, Delhi.
- 86) Som Projects & Associates, Delhi.
- 87) Ixxxvii. Sri & Co, Karnataka.
- 88) Sri Kumaran Traders, Karnataka.
- 89) Sri Tyres, Karnataka.
- 90) Sumant Bachhawat, West Bengal.
- 91) Sun Traders, Delhi.
- 92) Supreme Trading Corporation, Delhi.
- 93) Surodhya Sales, Delhi.
- 94) Trans Tyres (India) Pvt. Ltd., Maharashtra.
- 95) Uniglory International, Delhi.
- 96) Vaan Sales India Private Ltd, Delhi.
- 97) Vikas Retail Private Limited, Delhi.
- 98) Vortex Rubber Industries Pvt. Ltd., Delhi.
- 99) Vrinda Overseas, Delhi.
- 100) Zafco India Pvt. Ltd., Delhi

ix. In response to the above, following importers / users have filed responses and/or made submissions.

- i. Bridgestone India Pvt Ltd.
 - ii. Zafco India Pvt Ltd.
 - iii. Force Motors Ltd.
 - iv. Renault India Pvt. Ltd.
 - v. Triumph Motorcycles (India) Pvt. Ltd.
- x. The Authority, upon request, granted extension for filing Exporter Questionnaire Response (EQR) up to 24.01.2020, which was placed in the public domain through DGTR's website.
- xi. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all interested parties. A list of all interested parties was uploaded on DGTR's website along with the request therein to email the NCV of their submissions to all other interested parties since the public file was not accessible physically due to ongoing global pandemic.
- xii. The Authority has examined the information furnished by the domestic producers in India to the extent possible on the basis of guidelines laid down in Annexure III to work out the cost of production and the non-injurious price of the subject goods in India so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiii. Further information was sought from the Applicants and other interested parties to the extent deemed necessary. Verification of the data provided by domestic industry was conducted to the extent considered necessary for the purpose of present investigation.
- xiv. The Period of Investigation for the purpose of the present anti-dumping investigation is from 1st April, 2018 to 30th June, 2019 (15 Months). The injury investigation period has, however, been considered as the period from April 2015 - March 2016, April 2016 - March 2017, April 2017 - March 2018, and the POI. Since the POI is a period of 15 months duration, the same has been "annualised" for comparison with previous years for the purpose of injury assessment.
- xv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the transaction-wise details of imports of subject goods for the past three years, and the period of investigation, which was received by the Authority. The Authority has relied upon the DGCI&S data for computation of the volume of imports and its analysis after due examination of the transactions.

- xvi. The submissions made by the interested parties during the course of this investigation, to the extent supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority, in these Final Findings.
- xvii. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 21st October, 2020 which was attended by various parties. The 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 of these views, in order to enable opposing interested parties to file rejoinders thereafter.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xix. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and issued the present final findings on the basis of the facts available.
- xx. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide Disclosure Statement dated 13th November, 2020 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these Final Findings.
- xxi. ‘***’ in these Final Findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

xxii. Information in () bracket indicates negative number/range.

xxiii. The average exchange rate of US\$1 = ₹ 70.73 prevailing during the period of investigation has been adopted by the Authority for the present investigation.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

4. At the stage of initiation, the product under consideration was defined as:

"2. The product under consideration for the purpose of present investigation is "New pneumatic radial tyres of rubber for buses and lorries, with or without tubes and/or flaps" classifiable under 4011 20 10.

3. The Applicant has claimed that the subject goods produced by the domestic producers and the subject goods imported from the subject country are having comparable characteristics in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods and the two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Based on prima facie examination it is noted that the subject goods produced by the petitioner companies in India is treated as 'Like Article' to the subject goods being imported from the subject country."

C.1 Submissions made by the Domestic Industry

5. The submissions made by the Domestic Industry with regard to scope of product under consideration are as follows:

- i. The product under consideration is "New Pneumatic radial tyres, of rubber of a kind used in buses or lorries, with or without tubes and/or flap of rubber, classifiable under 4011.20".
- ii. A tyre can be of two types, tube type or tubeless (without tube and flap). In tube type product, tyre is used along with one tube and one flap in a vehicle. A tyre, a tube and a flap are sold together as a "tyre set". The term "TTF" is prevalent in the industry, to denote a "tyre set". Tyre, tube and flap jointly render the function of "tyre" in a vehicle. Air is filled in the tube inside the tyres and a flap is used in between wheel and tube to avoid tube burst. Tyre, tube and flap are produced separately by the producers. Sale of tyre, tube and flap are primarily on "TTF" or "tyre set" basis.

- iii. Radial tyre, tube and flap used in buses and lorries / trucks is included in the scope of the product under consideration, irrespective of whether they are in TTF form or individually as tyre, tube and flap. Tubeless radial tyres, where tube and flap are not required, are also within the scope of this investigation. Tyres, Tubes and Flaps are produced separately. However, they are invariably used together in automotive applications.
- iv. The product under consideration is classified in Chapter 40 under customs subheading no 4011.20 and tubes and flaps are classified under 4013.1010/4013.1020 and 4012.9049 respectively. However, customs classifications are indicative only and in no way binding on the scope of investigation.
- v. There is no difference in product produced by the applicant companies and the subject goods exported from the subject country.

C.2 Submissions made by other interested parties

6. Following submission has been made by other interested parties concerning the scope of product under consideration in the subject investigation.

- a) Deestone Corporation Limited & Siam Truck Radial Company Limited first proposed a PCN system. The PCN structure proposed was based on width/type of tyres/inner dimension/tube type/flap, contending that each of these elements impacts selling price and cost.
- b) Bridgestone initially proposed PCN considering (i)Tyre (ii)Tyre + Tube (iii) Tyre + Tube + Flap (iv) Tyre + Flap. Bridgestone contended that PCNs are not based on the difference in technical characteristics (such as performance, physical features, price, cost and usage differences), but determined by the different product combination (i.e. with or without flap and/or tube). Bridgestone, however, submitted that there is no difference in the production costs with respect to the same tyre product under different PCNs.

C.3 Examination by the Authority

7. The product under consideration (PUC) in the present investigation is ““New pneumatic radial tyres of rubber for buses and lorries, with or without tubes and/or flaps”, classifiable under tariff heading 40112010 of the Customs Tariff Act, 1975”. The scope of the product under consideration includes both tube type and tubeless type radial tyres.

8. In tube type tyre, tyre is used along with one tube and one flap in a vehicle. One tyre, one tube and one flap are together sold as a "tyre set" and described as "TTF". The term "TTF" is prevalent in the industry, to denote a "tyre set". Tyre, tube and flap jointly render the function of "tyre" in a vehicle. Sale of tyre, tube and flap are primarily on "TTF" or "tyre set" basis. Tubeless radial tyres, where tube and flap are not required, are also within the scope of this investigation.

9. The scope of the imported product includes only Radial tyres used in buses and lorries / trucks. Tyres are generally used in various kinds of vehicles such as trucks, buses, lorries, light commercial vehicles, passenger car, jeep, tractor, two-wheeler, three-wheeler, animal pulled vehicles, earthmover, industrial tyres, aircrafts etc. However, the product under consideration is the type that is used in buses & lorries / trucks. All other types of tyres are beyond the scope of the product under consideration in the present investigation.

10. Product under consideration is classified under chapter 40 of the Customs Tariff Act, 1975. Radial tyres are classified under customs tariff item 40112010 whereas tubes and flaps are classified under 40131020 and 40129049 respectively. Tubes and/or flaps imported without New/Unused pneumatic radial tyres are outside the scope of the PUC. The customs classification is indicative only and in no way binding upon the product scope.

11. After considering the information on record, the Authority holds that there is no known difference between the subject goods produced by the Indian domestic industry and that exported from Thailand. Subject goods produced by the applicants and imported from Thailand are comparable in terms of product characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The product under consideration produced by the applicant domestic industry is like article to the subject product under consideration imported from the subject country.

12. As regards the argument that PCN should be made in the present investigation, it is noted that the interested parties who sought use of PCN methodology withdrew their suggestion. Further, none of the parties provided either relevant information or adequate reasoning justifying use of PCN methodology. It is also noted that the subject goods have been subject to antidumping and anti-subsidy investigation in past, wherein the Authority has not used a PCN methodology. The Authority, therefore, has not used any PCN methodology for the purpose of the present investigation.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1 Submissions made by the Domestic Industry

13. The submissions made by the Domestic Industry during the course of the investigation with regard to scope of Domestic Industry & standing are as follows:

- i. The application has been filed by Automotive Tyre Manufacturer's Association ('ATMA' or Applicant / Applicant Association), with four members companies of ATMA, viz. M/s Apollo Tyres Ltd., M/s Ceat Ltd., M/s J. K. Tyre Industries Ltd. and MRF Ltd participating in the present application by providing all the relevant information/data as they are the producers of the subject goods in India. There are five other producers of the subject goods, other than the Applicants, i.e. M/s. Birla Tyre, M/s. Goodyear India Limited, M/s Bridgestone India Private Limited, M/s. Michelin India Pvt Ltd, and M/s. Continental India Ltd.
- ii. The applicant companies have not imported the product under consideration from the subject country, and are also not related to any importer in India or any exporter from the subject country.
- iii. The applicant companies hold a major proportion of total Indian production of the product under consideration and account for more than 50% of the production of subject goods in India. Accordingly, the applicant companies constitute 'Domestic Industry' and satisfy the requirement of standing in terms of Rule 2(b) read with Rule 5(3) of the AD Rules.

D.2 Submission made by other interested parties

14. None of the interested parties have made any submission with regard to the scope of domestic industry and standing.

D.3 Examination by the Authority

15. Rule 2(b) of the AD Rules provides as follows:

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

16. The application has been filed by Automotive Tyre Manufacturer's Association on behalf of domestic producers, namely, Apollo Tyres Ltd., J.K. Tyre Industries Ltd., MRF Ltd. and Ceat Ltd. The applicant companies have provided relevant information for the present investigation.

17. The information on record shows that the applicant companies have neither imported the product under consideration from the subject country during the POI, nor they are related to any of the importers of the subject goods in India or exporters of the subject goods from Thailand.

18. Production of the applicant companies constitutes more than 50% of Indian production and thus constitutes a major proportion of total Indian production.

19. The Authority thus holds that the petitioner companies command a major proportion in the production of the subject goods in India and for the purpose of this investigation they satisfy the standing requirement in terms of Rule 5(3) and constitute domestic industry in terms of Rule 2(b) of the AD Rules.

E. CONFIDENTIALITY AND MISCELLANEOUS SUBMISSIONS

E.1 Submissions made by the Domestic Industry

20. The following submissions have been made by the Domestic Industry with regard to confidentiality issues:

- i. The applicant companies have disclosed all the essential information in the non-confidential version of the application in accordance with Rule 7 of AD Rules and as per Trade Notice No. 10/2018 dated 7th September 2018.
- ii. Confidentiality claims are limited to information publicly unavailable. Indexed information has been provided wherever feasible and revised non-confidential version of injury statement has been provided.
- iii. Exporters themselves have violated confidentiality norms blatantly preventing applicants from providing comments effectively.
- iv. The applicants have provided sufficient information on imports, import price, dumping margin and adverse impact on numerous economic parameters to warrant imposition of antidumping duty. The interested parties failed to provide comments on sufficiency when abundant time was permitted by the Authority before initiation of the investigation.
- v. Imposition of anti-dumping or countervailing duties on Chinese enterprises globally have resulted in these producers investing in countries outside China. There has been significant investment in Thailand owing to

availability of subsidised raw materials. This has eventually led to significant export of tyres from Thailand to various countries including India.

- vi. Earlier trade remedies were to address dumped imports originating from China and had no relation to the dumped imports from new source i.e., Thailand. The shifting of tyre into restricted category only adds licensing requirement and it is no ban on tyres. This will not impact the volume and price of imports.
- vii. The applicant inadvertently missed attaching annexures on export price calculation and adjustments made. It seems interested parties themselves gave little significance to such information, otherwise same could have been requested at a much earlier stage. In any case, the petition has information on CIF prices and ex-factory prices. Revised annexures have been provided for Format H.
- viii. There is no inconsistency between the data provided in IVA and Annexure 1.3. The source of the data in both the annexures are DGCI&S published data, however the information provided in Annexure 4.1 is sourced from Thai customs data.
- ix. The Authority has not carried out segregated analysis for replacement market and OEM market for investigations concerning China.

E.2 Submissions made by other interested parties

21. The following submissions have been made by other interested parties:

- i. The applicant companies have not followed the instructions given in the Trade notice 10/2018 issued by the Authority. In contravention to that the applicant companies have kept several key economic parameters as confidential. Without disclosure of such information the respondent will not be able to make meaningful examination of the injury parameters of the applicant companies. The confidentiality claimed by the applicant companies is excessive.
- ii. The applicant has mostly provided the data for the economic parameters of the participating companies in an indexed form claiming that the actual data may provide a competitive advantage to their competitors. However, if the aggregate data of the participating companies is provided on an actual basis, the individual figures of the participating companies would not be discernible. No competitive advantage would accrue to the respondent or any other competitor.
- iii. The information on these parameters such as capacity, production, capacity utilization, domestic sales, market share, etc. have been disclosed by the

Authority in the Final Findings issued in the anti-dumping investigation against China PR. Three of the four participating companies are common to the current investigation and the China anti-dumping investigation on TBR. MRF Ltd., which was not part of the earlier anti-dumping investigation, specifically supported that petition. In that case, the data was not treated as confidential but now it is being claimed as confidential.

- iv. The applicant has also claimed absolute and excess confidentiality in respect of net fixed assets, working capital and capital employed. The applicant has not even provided indexed figures in respect of these parameters.
- v. Rule 5(2) of the AD Rules mandates that an application for initiation of an investigation shall be supported by evidence. The Applicant has failed to provide any evidence that there is dumping and that the Domestic Industry is suffering injury. In the absence of such evidence, the present investigation should not have been initiated. Reliance is placed on WTO Panel in *DS-60 Guatemala - Anti-dumping investigation regarding Portland Cement from Mexico* and Panel in *DS 264 United States - Final Dumping Determination on Softwood Lumber from Canada*.
- vi. Sufficient protection is available to new pneumatic radial tyres by way of trade remedy measures in the past 3 years.
- vii. Restriction on imports of subject goods imposed by the Directorate General of Foreign Trade in June 2020 needs to be kept in mind by the Authority while recommending imposition of anti-dumping duty in the present case.
- viii. Sufficient protection is available to new pneumatic radial tyres by way of trade remedy measures in the past 3 years.
- ix. Domestic industry is sufficiently protected by existing trade remedial measures and especially after DGFT's decision to move 'new pneumatic tyres' from free to restricted list. The exports of product under consideration in the month of July, August and September 2020 have been reduced to zero.
- x. There are multiple inconsistencies in the petition resulting in deprivation of proper rebuttal opportunity to the interested parties. The period of investigation is 15 months, whereas, data given in Format H POI column is not in an annualized form.
- xi. There is failure on the part of the Domestic industry to segregate information relating to replacement market and OEM market despite submission in the petition that imports are happening only in the replacement market.
- xii. Recent restrictions by DGFT will further reduce supplies from Michelin Siam to Michelin India.

E.3' Examination by the Authority

22. With regard to confidentiality of information, Rule 7 of Anti-dumping Rules provides as follows:

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

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

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

23. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential versions of the evidences/submissions submitted by various interested parties to each other by directing the interested parties to circulate the non-confidential versions of the evidences/submissions through e-mail.

24. As regards the argument that for justifying the initiation of the subject investigation sufficient evidence was not provided indicating dumping causing injury, it is noted that the initiation notification itself mentioned about the Authority finding prima facie evidence of dumping of the subject goods causing injury to the domestic industry. The adequacy and accuracy of evidence thus were examined prior to initiation of investigation.

25. As regards the issue that there is sufficient protection available to the domestic industry, the Authority notes that anti-dumping/ anti-subsidy duties have been recommended only when parameters for the same were satisfied. Moreover, the purpose of anti-dumping duty is to only create a level playing field and provide relief to domestic industry from the injurious effect of dumping and not to provide undue protection to the domestic industry.

26. With regard to submission that restriction on imports imposed by Directorate General of Foreign Trade (DGFT) in June 2020 is further going to reduce supplies, Authority notes that the subject goods have been placed under the restricted category and have not been prohibited for imports. In case of restricted category products, importers would require a licence or permission from the DGFT for imports of such products.

F. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

27. 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 to 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 transhipped 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

28. The following submissions have been made by the Domestic Industry:

- i. Applicants made efforts to get evidence of the price of subject goods in the domestic market of Thailand. However, they were unable to get any information/evidence of price of subject goods in the form of actual transaction prices. Applicants, therefore, have determined the normal value in Thailand based on cost of production in India, duly adjusted with selling, general and administrative expenses.
- ii. Export price from the subject country has been adjusted for the following expenses, which the exporters from the subject country have incurred for exporting to India, i.e. Ocean Freight, Marine Insurance, Commission, Inland Transportation, and Port Expenses.
- iii. Considering the normal value and export price as above, the dumping margin has been determined, details of which can be seen from the application on record. The dumping margin from the subject country is above de-minimis levels and significant.
- iv. The export price considered by the applicant has been disclosed in the revised annexures. The petition however contained information on CIF price and ex-factory export price and the interested parties were aware of the gross adjustments made by the domestic industry and therefore were aware whether the same is reasonable or not.
- v. The interested parties have not shown existence of any information showing the price at which producers of the product under consideration sell the product in domestic market. Before making a statement, the applicants have done necessary scrutiny about the same.
- vi. Filing of response by a company involved in the production, sales, distribution and marketing of the product under consideration in Thailand or to India is crucial and without that it is not possible to establish the value chain. The exporters have not filed the complete information for the full value chain and therefore their responses should be rejected as per the consistent practice of the Authority.

F.2 Submissions made by other interested parties

29. The following submissions have been made by other interested parties:

- i. Various inconsistencies exist with respect to the construction of normal value and export price, which impact the dumping margin projected by the Applicant.
- ii. There is no explanation of the efforts undertaken by the Applicant to find the domestic prices in Thailand for the purposes of calculating the normal value.
- iii. Thailand is a market economy for which normal value cannot be constructed based on the cost of the domestic industry in India. Explanation (c) to Section 9A (1) of Customs Tariff Act, 1975 ("Act") provides only 3 options for determining normal value for a market economy country - domestic selling price in the exporting country, export price from exporting country to an appropriate third country, or cost of production in the country of origin plus reasonable addition for administrative, selling and general costs and profits. The Petitioner's resort to an arbitrary fourth option which is not provided under the Act is illegal and therefore unacceptable.
- iv. Normal value, export price and dumping margin for the exporters should be based on the information provided in the Exporter's Questionnaire Response.
- v. No positive evidence has been adduced by the Applicant regarding the basis on which certain costs were adopted, thus failing the test of evidentiary requirement under the WTO ADA and the Indian law.
- vi. The Authority should adopt PCN wise comparison while determining the dumping margin in the present investigation.
- vii. The Applicant has arbitrarily used figures for the adjustments to the export price which has unfairly lowered the export price determined. The data presented in the Petition with regard to adjustments are bare assertions unsubstantiated by evidence, which could not have been relied upon for initiating the case.
- viii. Petitioners have not explained the efforts undertaken to find the domestic prices in Thailand for calculation of Normal Value and rather have relied on adjusted cost of production in India. Such computation is not permitted by Explanation (c) to Section 9(A) 1 for a market economy.
- ix. Petitioner's failure to provide evidences for adjustments with regard to export price calculation and no information with regard to Ocean freight results in deprivation of opportunity to the respondent to offer proper rebuttal.

- x. Calculation of normal value as per cost of production in India is not permitted under law for a market economy.

F.3 Examination by the Authority

30. The Authority sent questionnaires to the known producers/exporters from the subject country, advising them to provide information in the form and manner prescribed by the Authority. In response to the questionnaire sent, following producers/exporters filed the questionnaire response:

- a. M/s. Bridgestone Asia Pacific Pte Ltd. (BSCAP)
- b. M/s. Bridgestone Tire Manufacturing (Thailand) Co. Limited (BTMT) and M/s. Thai Bridgestone Co. Ltd (Combined)
- c. M/s. LLIT (Thailand) Co. Ltd.
- d. M/s. Zhongce Rubber (Thailand) Co. Ltd.
- e. M/s. Siam Truck Radial Company Limited
- f. M/s. Deestone Corporation Limited
- g. M/s Michelin Siam Co. Ltd.

31. As regards the argument of the interested parties for PCN wise comparison in the present case, no valid or compelling reason has been put forth by them for the Authority to consider PCN wise analysis in the present case. None of the exporters have provided adequate reasoning justifying requirement of PCN in the present case. Further, while suggesting PCN wise analysis, these parties have not provided their own information on the basis of the PCN suggested by them. It is also noted that the subject goods have been subject to antidumping and anti-subsidy investigation in past and no PCN wise analysis has been conducted by the Authority in those investigations. Thus, it is noted that PCN-wise analysis need not be done in the present investigation. The Authority, therefore, has determined dumping margin and injury margin for the product under consideration as a whole.

F.4 Determination of Normal Value and Export Price for producers and exporters in Thailand

Normal value for M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited (BTMT), M/s. Thai Bridgestone Co. Ltd (TBC), and M/s. Bridgestone Asia Pacific Pte Ltd. (BSCAP)

32. M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited (BTMT) and M/s. Thai Bridgestone Co. Ltd (TBC) have provided information for both the companies in a single exporter's questionnaire. It is noted by the Authority that exporter's questionnaire response filed by them is grossly deficient. Both producers have not submitted separate exporter's questionnaire which is mandatorily required. It is noted

from the response that during the POI both companies have sold in domestic market to various unrelated/ related parties. However, no separate information has been provided in Appendix-4A, 4B and 4C. Further, Appendix-6, 7, 8, 9 & 11 have not been provided by the producers. BSCAP has submitted blank formats in the exporter's questionnaire response. Accordingly, Authority holds to reject the responses filed by M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited, M/s. Thai Bridgestone Co. Ltd and M/s. Bridgestone Asia Pacific Pte Ltd. Therefore, the normal value for these companies is determined on the basis of facts available.

Normal value for LLIT (Thailand) Co. Ltd

33. M/s. LLIT (Thailand) Co Ltd ("LLIT") have provided information pertaining to their domestic sales, exports to India and cost of production in the exporter's questionnaire. LLIT has claimed normal value on the basis of sales made in the domestic market. However, due to reasons given in subsequent paragraphs, normal value for LLIT has not been determined on the basis of the information provided in exporter's questionnaire response and the same has been determined on the basis of facts available.

Normal Value for Zhongce Rubber (Thailand) Co. Ltd

34. M/s. Zhongce Rubber (Thailand) Co. Ltd has provided information pertaining to their domestic sales and cost of production in the exporter's questionnaire. It is noted from the response that during the POI the company has sold *** MT in domestic market to various unrelated parties. In order to determine the normal value, the authority conducted the ordinary course of trade test to determine profit making domestic sales transactions with reference to cost of production of subject goods. The Authority found that profitable sales are more than ***% and thus the Authority has considered all domestic sales for determination of normal value. The company has claimed adjustments on account of warranty, rebate and inland transportation, which has been allowed by the Authority. Accordingly, normal value determined for M/s. Zhongce Rubber (Thailand) Co. Ltd is mentioned in the dumping margin table below.

Normal Value for M/s Siam Truck Radial Company Limited (Producer) and Deestone Corporation Limited (Exporter)

35. M/s. Siam Truck Radial Company Limited has provided information pertaining to their domestic sales and exports to India in the exporter's questionnaire. However, no information related to cost of production has been provided in the relevant Appendices even though it is mentioned in the descriptive part of exporter's questionnaire that relevant information has been submitted. In fact, the producer has only provided Appendix-1, 2, 3C, 4A & 4B in the exporter's questionnaire. Therefore, Authority is unable to carry out the ordinary course of trade test for the

producer. Accordingly, the normal value for Siam Truck Radial Company Limited has been determined on the basis of facts available.

Normal Value for Michelin Siam Co. Ltd. (Producer) and Michelin Asia-Pacific Export (SG) Pte Ltd (Exporter)

36. M/s. Michelin Siam Co. Ltd has provided information pertaining to their domestic sales in the exporter's questionnaire. It is noted from the response that during the POI the company has sold subject goods in domestic market to various unrelated parties. However, the cost of production information required to be provided in Appendix-6, 7 & 8 is grossly deficient. Therefore, Authority is unable to carry out the ordinary course of trade test for the producer. Accordingly, the normal value for Michelin Siam Co. Ltd has been determined on the basis of facts available.

Normal value for all non-cooperative producers/exporters from Thailand

37. Normal Value for non-cooperative producers/exporters from Thailand has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The normal value so determined is mentioned in the dumping margin table below.

F.5 Determination of Export Price

Export Price for M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited (BTMT), M/s. Thai Bridgestone Co. Ltd (TBC), and M/s. Bridgestone Asia Pacific Pte Ltd. (BSCAP)

38. As mentioned above, the Authority holds to reject the exporters' questionnaire responses filed by BTMT, TBC and BSCAP. Accordingly, the Authority holds to determine the export price for these companies on the basis of facts available.

Export Price for LLIT (Thailand) Co. Ltd

39. From the response filed by the producer, the Authority notes that more than 30% of exports to India have been made through Dubai based traders namely M/s. AL Dobowi FZE, ITR Middle East FZCO and Jhinu Impex FZE. These traders have not filed their exporters' questionnaire responses in the subject investigation. Therefore, the Authority holds not to accept the response of LLIT because the complete export chain for a significant portion of the exports made to India is not before the Authority. Accordingly, the export price for LLIT has been determined on the basis of facts available.

Export price for Zhongce Rubber (Thailand) Co. Ltd

40. The Authority notes that M/s. Zhongce Rubber (Thailand) Co., Ltd has exported *** MT of the subject goods to unrelated customers in India. The Company has claimed adjustments on account of ocean freight, insurance, inland freight, port handling charges and credit cost. The Authority has also made adjustment on account of bank charges to determine net export price at ex-factory level. The ex-factory export price so determined is indicated in the dumping margin table given below.

Export Price for M/s Siam Truck Radial Company Limited (Producer) and Deestone Corporation Limited (Exporter)

41. As stated above, the Authority holds not to accept the exporter’s questionnaire response filed by the producer. Accordingly, the Authority has determined the export price for these companies on the basis of facts available.

Export Price for Michelin Siam Co. Ltd. (Producer) and Michelin Asia-Pacific Export (SG) Pte Ltd (Exporter)

42. It is noted from the exporters’ questionnaire responses that the exporter has sold the subject goods to a related party in India, namely, M/s. Michelin India Pvt. Ltd (MIPL). MIPL has not provided any information relating to resale of subject goods in India. In view of this deficiency and other facts stated above in the normal value section for these companies, the Authority holds not to accept the exporters’ questionnaire response filed by these companies. Accordingly, the Authority has determined the export price for these companies on the basis of facts available.

Export price for all non-cooperative producers/exporters from Thailand

43. The export price for other non-cooperative producers / exporters from Thailand has been determined on the basis of facts available in terms of Rule 6(8) of the Rules. The export price so determined is mentioned in the dumping margin table below.

F.6 DUMPING MARGIN

44. Considering the normal value and export price as determined above, the dumping margin is as follows:

	Normal value (USD/MT)	Export price (USD/MT)	Dumping Margin		
			Amount (USD/MT)	%	Range
Zhongce Rubber (Thailand) Co. Ltd	***	***	***	***	10%-30%

Any other producer/exporter	***	***	***	***	20%-40%
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45. It is seen that the dumping margins are significant and more than the de-minimis limits prescribed under the AD Rules in respect of exports made from the subject country.

G. Determination of Injury and Causal Link

G.1 Submissions made by the Domestic Industry

46. The domestic industry has made the following submissions with regard to injury and causal link:

- i. The demand/apparent consumption of the subject goods increased over the injury period.
- ii. The volume of imports from subject country has increased significantly both in absolute and relative terms.
- iii. Subject imports are undercutting the selling price of the domestic industry and price undercutting is significantly positive.
- iv. Comparison of cost of production and selling price shows that even though the selling price has increased, the increase is less than the increase in cost of production. The imports are causing price suppression.
- v. Considering the increasing demand, the capacity of the domestic industry has increased over the injury period. Accordingly, production and domestic sales increased. However, production and sales of the domestic industry is lower than what it could have been in the absence of dumped imports, which have increased significantly.
- vi. Profits of the domestic industry have declined significantly. Cash profit, PBIT and ROCE also followed the same trend and declined significantly over the period of injury.
- vii. Market share of the domestic industry should have increased looking at ADD and CVD imposed on imports from China, but to the contrary it has declined.
- viii. The level of inventories with the domestic industry has decreased over the injury period, but remains significant.

- ix. Employment and wages have shown improvement in the injury period. Petitioners produce other goods as well; and, therefore, employment and wages are not solely dependent on the subject goods' performance.
- x. As the information would show, whereas the cost of production increased, the import prices were much lower than the domestic prices and therefore, prevented the domestic industry from increasing their prices in line with the increase in the cost.
- xi. The dumping margin is not only more than de-minimis but also substantial. The impact of dumping on the Domestic Industry is adverse.
- xii. Growth of the Domestic Industry in terms of the majority of parameters such as, profits, return on investment, cash profits, etc. is negative.
- xiii. China has made a huge investment for Truck and Bus radial tyres in Thailand.
- xiv. One of the biggest tyre producer in China, Shandong Linglong Tire Co. has made another huge investment in a new radial truck and bus manufacturing plant. This plant in Thailand is Linglong's fourth domestic manufacturing facility, which will produce 2.4 million truck and bus tires a year at full capacity and will further add to the already surplus capacity available in Thailand. The capacity of the company alone is more than the combined capacity in India. This is clearly indicative of the manner in which Chinese companies are investing outside China in order to beat the increasing trade defence cases against them.
- xv. Imports of subject goods from Thailand have intensified sharply within a short span of time, particularly after imposition of ADD and CVD on subject goods from China. This further increase in capacities in Thailand with an aim to target export markets is indicative of intensified imports into India evidencing further threat of material injury to the domestic industry, in case anti-dumping duties are not imposed.
- xvi. Imposition of anti-dumping or anti-subsidy duties on Chinese tyres by a number of countries globally has made Chinese producers invest in countries outside China. Chinese investment in Thailand has been steadily increasing over the past few years. According to data from the Board of Investment of Thailand, Chinese direct investment in Thailand totals 28 billion baht (about \$ 800 million), making it the 6th largest foreign investor in Thailand.

- xvii. Shandong Linglong Tire Co has already made 1st phase of investment in Thailand in 2012, i.e. an investment of USD 700-million (Bt 24.5 billion) in setting up production facilities for radial truck tires, has made 2nd phase of investment in 2016 and setting up production facilities for natural rubber. The company, in its corporate filing disclosed plans to add 800,000 units of annual capacity for radial truck tires, for 2 million units of radial passenger tires and for 400,000 bias-ply tires. Construction is expected to take 18 months. This could be the 3rd phase of investment or can be part of second phase of investment. This has led to significant exports of tyres from Thailand to various countries including India.
- xviii. Export price from Thailand to India is very low as compared to export price from Thailand to other countries. Exports from Thailand have increased in those markets where Chinese product is attracting trade remedy measures.
- xix. In the present investigation, Chinese dumped goods have shifted to new source and thus domestic industry shows improvement on certain parameters. The EC regulation specially considers this as a factor showing injury. Anti-dumping duty on imports of polyester staple fibres originating in Belarus by EC has been referred in this regard.
- xx. The increase in sale of less profitable exports by the domestic industry is also a sign of injury to the domestic industry.
- xxi. The selective comparison of injury information by interested parties is erroneous. Such examination should take into account entire injury period. The WTO panel report in EC – Tube or Pipe Fittings has been referred to in this regard.
- xxii. The present injury period covers the period of investigation considered for the ADD and CVD investigation on imports from China. The domestic industry is yet to recover fully despite some improvement post imposition of anti-dumping and countervailing duties.
- xxiii. The dumped imports were at the peak in 2016-17 and imports declined thereafter with imposition of ADD on China and initiation of CVD investigation on China. Thus the improvement in performance was as a result of ADD measures imposed.
- xxiv. The reduction in normal value may have been as a result of ideal cost consideration by the directorate even for calculating normal value apart

from NIP. The normal value can be calculated on the basis of information provided by exporters in response to the questionnaire.

- xxv. The Indian industry has sufficient capacity to cater to the demand in India. Dumping cannot be justified on account of demand supply gap. CESTAT decision in DSM Idemitsu Limited versus Designated Authority may be referred in this regard.
- xxvi. Domestic industry is still in the process to recover from past ill effects of dumped imports from China and thus the comparison with the situation when imports from Thailand to India was very low, will not give correct picture.
- xxvii. The reference to CESTAT decision in “Bridgestone tyre manufacturing (Thailand) vs. Designated Authority” is erroneous owing to the distinguishing factors in the present case.
- xxviii. It is wrong on the part of the interested party to assume dumping to be the sole cause of injury to the domestic industry. The CEAT’s annual report also emphasises upon recovery stage of the industry from previous ill effects of dumping and subsidised imports. Further, reliance on annual reports are misplaced because of annual reports’ focus on a specific period rather than injury period and annual reports’ concern about overall operations etc.
- xxix. Existence of other factors causing injury does not necessarily break the causal link between dumping from subject country and injury to the domestic industry. The WTO panel report in Thailand - Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel and H-Beams from Poland is relied upon in this regard.

G.2 Submission made by other interested parties

- 47. The other interested parties have made the following submissions with regard to injury and causal link:
 - i. Imports from Thailand have increased only after 2017-18. In September 2017, anti-dumping duties were imposed against the importation of the subject goods from China PR. Then, 2018 witnessed an anti-subsidy investigation against the same goods from China PR. Accordingly, the imports of the subject goods from China PR dried up and some portion of that went to Thailand.

- ii. From a perusal of data regarding imports of subject goods in relation to Indian demand, Indian production and Domestic Sales it is clear that the share of the Indian industry was not affected at all.
- iii. The increase in imports from Thailand was a response to the suppression of imports from China PR. Imports from Thailand have never been in competition with the domestic production which has also gained the market lost by Chinese imports.
- iv. The participating Indian companies were able to raise their selling price significantly after the imposition of anti-dumping duty against China PR. The imposition of anti-dumping duty on China PR released the price suppression/depression faced by the participating Indian companies.
- v. Price underselling is not a 'factor' to assess injury but rather a tool of measuring the extent of injury, once the same has been established. The AD Rules specifically exclude any mention of price underselling.
- vi. There appears to be no injury to the participating companies in the POI. In fact, after imposition of anti-dumping duties against the imports from China PR, it appears that the economic performance of the participating companies has improved in volume terms as well as on price and profitability parameters.
- vii. The sales quantity, capacity and production quantity of the Domestic Industry has drastically improved during the POI. The most significant growth is seen in the sales of the participating companies, both in domestic and export markets.
- viii. Domestic industry has earned huge profits during POI, making three times more than its PBIT per unit in the previous year. Similarly, cash profits for domestic sales have increased substantially. After a decline in 2017-18, the domestic industry has substantially high cash profits in the POI.
- ix. The injury caused to the Domestic Industry, if any, is attributable to other factors like NBFC crisis, slowdown in automobile industry, increased insurance and fuel prices in India. Despite these factors, the participating companies have made considerable expansion and earned profits as can be seen from CEAT's annual reports and management analysis report for 2018-19.

- x. The Period of Investigation in the current Petition is 15 months long. However, the data presented by the domestic industry under the POI column in Format H is not in an annualized form. This presents an incorrect situation and poses a difficulty in making a comparison with the previous injury years, which are 12 months long.
- xi. The domestic industry has miscalculated the price undercutting, by considering the incorrect Basic Customs Duty.
- xii. If the Designated Authority imposes the duty on the import of the subject goods, it may cause users of the subject goods to solely depend upon the domestic industry and this will provide unjustified protection to the domestic industry.
- xiii. The domestic industry has failed to provide any details pertaining to the calculation of the Non-Injurious Price beyond an unsubstantiated statement that “the landed prices of imports from subject country is below the level of non-injurious price”. The range of NIP has not been provided, despite an express mandate by the DGTR in this regard.
 - xiv. There is no causal link between Michelin imports from Thailand and reduction in sales of Domestic Industry as Michelin Brand Tyres are placed at differentiated / premium price point in the market.
- xv. The increase in volume of imports from Thailand was to fill the demand supply gap resulting from reduction of imports from China. This volume from Thailand has remained in the range of 0-10% throughout the injury period.
- xvi. There is no correlation between price undercutting and injury parameters such as cash profits and total profitability. Further, there is no price suppression. Sales, capacity and production quantity of the domestic industry has improved significantly during the period of investigation. There is no material injury.
- xvii. The injury evidence with regard to cash profits, PBIT and ROCE are on account of period prior to the imposition of anti-dumping duties against imports from China.
- xviii. CESTAT in Bridgestone Tyre Manufacturing (Thailand) vs. domestic industry has miscalculated the price undercutting, by considering the incorrect Basic Customs Duty.
- xix. Exports from Michelin are not causing injury since, such exports are negligent in comparison to annual truck tyre market in India. This is further explained from the fact that the exports form Michelin China to Michelin

India are increasing each year despite present anti-dumping imposes the duty.

- xx. There is absence of causal link between exports from Thailand and injury to the domestic industry because of premium price, performance and powerful brand & innovation of Michelin tyres in comparison to domestic tyres. These points were brought before the Authority by a letter given with the written submission.
- xxi. The authority should as per Rule 11, determine threat of injury to domestic industry, causal link and effect on prices in the domestic market of like articles. All three are absent in the present investigation. Michelin brand tyres were sold at 17-22% higher price as compared to prices of domestic manufacturers.
- xxii. The performance of the domestic industry improved significantly despite biggest surge in imports during 2017-18 and the period of investigation.
- xxiii. Appellate body's report in Anti-dumping measures on Certain Hot Rolled Steel Products from Japan shows the Authority's obligation to examine all known factors and injury by other factors not attributed to the dumped imports. Final findings in anti-dumping investigations on imports of Ball Bearings (up to 50 mm bore dia.) from China PR, Poland, Russia and Romania; Non-Woven Fabric, originating in or exported from Malaysia, Indonesia, Thailand, Saudi Arabia and China PR; and Belting Fabric exported from Peoples Republic of China has also been referred in this regard. In these findings, the Authority concluded that domestic industry did not suffer material injury on account of the dumped imports.

G.3 Examination by the Authority

48. The Authority has taken note of the submissions made by the interested parties and has examined the various parameters in accordance with the Rules after duly considering the submissions made by the interested parties.

49. Annexure-II of the Anti-dumping Rules provides for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like articles; and (b) the consequent impact of these imports on domestic producers of such articles. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.

50. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the Anti-dumping Rules states as follows:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment wages growth, ability to raise capital investments.”

51. 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, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered.

G.4 Volume Effect of Dumped Imports on the Domestic Industry

52. With regard to the volume of dumped imports, the Designated Authority has examined whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the Anti-dumping rules provides as under:

“While examining the volume of dumped imports, the said Authority shall consider whether there has been significant increase in the dumped imports either in absolute terms or relative in production or consumption in India”

a) Assessment of Demand/Apparent Consumption

53. Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian Producers and imports from all sources. The demand so assessed is given in the table below. The Authority notes that the demand of the product under consideration has increased over the period.

Particulars	UOM	2015-16	2016-17	2017-18	POI	
					Actual	Annualised
Subject Country	MT	3,514	2,720	9,623	27,697	22,158
Other Countries	MT	75,790	91,292	50,152	20,798	16,638
DI domestic Sales	MT	348,576	356,975	404,935	603,824	483,059
Other Indian Producers	MT	54,081	43,631	44,143	21,240	16,992

Total Demand	MT	481,961	494,619	508,854	673,559	538,847
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b) Imports in absolute as well as relative term

54. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports from the subject country, either in absolute terms or relative to production or consumption in India.

Particulars	UOM	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Import Volume						
Subject Country	MT	3,514	2,720	9,623	27,697	22,158
Other Countries	MT	75,790	91,292	50,152	20,798	16,638
China PR	MT	69,805	85,902	42,501	14,839	11,871
Others	MT	5,984	5,390	7,652	5,959	4,767
Total	MT	79,304	94,013	59,776	48,495	38,796
Subject Country Imports in relation to						
Indian Production	%	0.79%	0.60%	1.88%	3.67%	3.67%
Consumption	%	0.73%	0.55%	1.89%	4.11%	4.11%
Total Imports	%	4.43%	2.89%	16.10%	57.11%	57.11%

55. It is seen from above table that:

- a. Imports from the subject country have increased significantly during POI (A) in absolute terms as compared to the previous years.
- b. Imports from other countries have declined. It is noted that imports from China PR have declined significantly after the imposition of anti-dumping and countervailing duty. However, imports from subject country have increased.
- c. Imports have increased in relation to production as well as consumption in India.

c) Market Share in demand

56. Market share of subject imports in demand was almost negligible in the base year and the same has increased during the POI(A).

Market Share in Demand	UOM	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Subject Country	%	0.7%	0.5%	1.9%	4.1%	4.1%
Other Countries	%	15.7%	18.5%	9.9%	3.1%	3.1%
DI Domestic Sales	%	72.3%	72.2%	79.6%	89.6%	89.6%
Other Indian Producers	%	11.2%	8.8%	8.7%	3.2%	3.2%
Total	%	100%	100%	100%	100%	100%

G.5 Price Effect of Dumped Imports on the Domestic Industry

57. With regard to the effect of the dumped imports on prices, Annexure II (ii) of the Rules lays down as follows-

“With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the Designated Authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred to a significant degree.”

58. Accordingly, the impact on the prices of the domestic industry on account of dumped imports of the subject goods from the subject country have been examined with reference to price undercutting, price suppression/depression and price underselling.

a) Price Undercutting

59. For the purpose of price undercutting analysis, the selling price of the Domestic Industry has been compared with the landed value of imports from the subject country. Accordingly, the undercutting effects of the dumped imports from the subject country works out as follows:

Particulars	UOM	2015-16	2016-17	2017-18	POI
Landed price of imports	Rs/Kg	170	147	149	168
Net Sales Realization	Rs/Kg	***	***	***	***
	Index	100	95	97	101
Price undercutting	Rs/Kg	***	***	***	***
	Index	100	136	142	114
Price undercutting	%	***	***	***	***
	Range	10-30	20-40	20-40	10-30

60. It is seen that the landed price of the subject goods was below the selling price of the domestic industry showing price undercutting being caused by the dumped imports from the subject country during the injury investigation period including the

POI. The Authority notes that the level of price undercutting is significant to cause adverse price effect on the domestic industry.

b) Price Suppression and Depression

61. In order to determine whether the dumped imports are depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the changes in the costs and prices over the injury period as compared to the landed price of imports have been considered and are as follows:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Cost of Sales	Rs/Kg	***	***	***	***
	Index	100	98	104	109
Selling Price	Rs/Kg	***	***	***	***
	Index	100	96	97	101
Landed Price	Rs/Kg	170	147	149	168
	Index	100	86	88	99

62. It is seen that both cost of sales and selling price have increased over the injury period including the POI. However, import prices have declined during the same period. The cost of sales increased by 9 indexed points during the POI as compared to the base year whereas the selling price increased by 1 indexed points during the same period. It is also seen that the landed price of imports has remained below the level of cost and selling price of the domestic industry throughout the injury period. Thus, imports thus have had suppressing effect on the selling price of the domestic industry.

c) Price Underselling

63. The Authority notes that the dumped imports have caused price underselling effect on the domestic industry:

Particulars	Unit	POI
Landed price of imports	Rs/Kg	168
Non-Injurious Price	Rs/Kg	***
Price Underselling	Rs/Kg	***
Price Underselling	%	***
Price Underselling	Range%	10%-30%

Observation on volume effect & price effect

64. The Authority notes that there has been a significant increase in dumped imports, both in absolute terms and in relation to production and consumption in India. Imports are undercutting the domestic prices to a significant degree and are also causing price suppression effect for the domestic industry. The landed price of imports has been significantly below the level of cost of sales of the domestic industry during the period of investigation.

G.6 Economic Parameters of the Domestic Industry

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

a) Production, Capacity, Sales and Capacity Utilization

66. Capacity, production, sales and capacity utilization of the Domestic Industry over the injury period is given in the following table: -

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Capacity	MT	464,654	480,431	536,322	813,066	650,453
Production	MT	388,152	408,089	468,124	733,743	586,994
Capacity utilization	%	83.54	84.94	87.28	90.24	90.24
Domestic Sales	MT	348,576	356,975	404,935	603,824	483,059

67. It is noted that the domestic industry has added capacity throughout the injury period. Consequently, production, sales and capacity of the domestic industry have increased.

b) Profitability, return on investment and cash profits

68. Profitability, return on investment and cash profits of the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2015-16	2016-17	2017-18	POI	
					Actual	Annualized
Profit/(Loss)	Rs Lacs	***	***	***	***	***
	Index	100	76	57	83	67
Profits	Rs/MT	***	***	***	***	***
	Index	100	74	49	48	48
PBIT	Rs Lacs	***	***	***	***	***
	Index	100	79	62	93	74
	Rs/MT	***	***	***	***	***
	Index	100	77	54	54	54
Cash Profit	Rs Lacs	***	***	***	***	***
	Index	100	85	77	116	93
	Rs/MT	***	***	***	***	***
	Index	100	83	66	67	67
ROCE	%	***	***	***	***	***
	Range	10%-30%	0%-20%	0%-20%	0%-20%	0%-20%

69. It is noted that:

Profits of the domestic industry declined till 2017-18 and thereafter increased during the POI. While the profits have improved in the POI as compared to 2017-18, they are still lower as compared to 2015-16 and 2016-17. ROCE has followed the same trend. PBIT and Profit per MT has however consistently declined.

c) Employment, wages and productivity

70. Employment and productivity of Domestic Industry over the injury period is given in the table below.

Particulars	Unit	2015-16	2016-17	2017-18	POI	POI(A)
No. of Employees	Nos	***	***	***	***	***
	Index	100	104	104	103	103
Wages	Rs Lacs	***	***	***	***	***
	Index	100	114	133	215	172
Productivity Per Day	MT/Day	1,078	1,134	1,300	1,631	1,631

71. It is seen that number of employees increased till 2016-17, then remained same in 2017-18 and declined thereafter in POI. Productivity has increased during the injury investigation period.

d) Inventories

72. Inventory position with the Domestic Industry over the injury period is given in the table below:

Particulars	Unit	2015-16	2016-17	2017-18	POI
Average	MT	***	***	***	***
	Index	100	101	92	184

73. It is seen that the inventories increased in 2016-17, then declined in 2017-18 and increased thereafter in POI

e) Growth

Particulars	Unit	2015-16	2016-17	2017-18	POI -A
Growth					
Production	%	-	***	***	***
	Range		0%-20%	10%-30%	20%-40%
Domestic Sales	%	-	***	***	***
	Range		0%-20%	10%-30%	10%-30%
PBT - Domestic	%	-	***	***	***
	Range		(20)%- (40)%	(20)%- (40)%	10%-30%
Cash Profit	%	-	***	***	***
	Range		0%-20%	0%-(20)%	20%-40%
ROCE	%	-	***	***	***
	Range		0%-(20) %	0%-(20) %	0%-20%

74. It is noted that the domestic industry has witnessed a growth in volume as well as price parameters during the POI after imposition of anti-dumping and countervailing duty measures against China PR.

f) Ability to raise capital investment

75. The domestic industry has been making capital investments during the injury investigation period.

g) Factors affecting domestic prices

76. The examination of the import prices from the subject country, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the Domestic Industry in the domestic market, etc. shows that the landed value of imported material from the subject country is below

the selling price and the cost of production of the Domestic Industry, causing significant price undercutting as well as price suppression in the Indian market. It is also noted that the demand for the subject goods was showing increase during the injury period including the POI and therefore it could not have been a factor affecting domestic prices. Thus, it can be said that the imports are affecting the domestic prices of the subject goods.

G.7 Magnitude of Injury and Injury Margin

77. Non-Injurious Price for the domestic industry has been determined on the basis of principles laid down in the Rules read with Annexure III. The NIP of the product under consideration has been determined by adopting the verified information/data relating to the cost of production for the period of investigation. The NIP has been compared with the landed price from the subject country for calculating injury margin. For determining NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. The production in POI has been calculated considering the best capacity utilisation and the same production has been considered for arriving per unit fixed cost. It is ensured that no extraordinary or non-recurring expenses were charged to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. Average Net Fixed Assets plus Average Working Capital) for the product under consideration was allowed as pre-tax profit to arrive the NIP as prescribed in Annexure-III as per the consistent practice. The non-injurious price so determined has been compared with the landed prices of imports from the subject country to determine the injury margin as follows:

Particulars	NIP USD/MT	Landed price USD/MT	Injury margin		
			Amount	%	Range
Zhongce Rubber (Thailand) Co. Ltd	***	***	***	***	10-30%
Any other producer/exporter	***	***	***	***	20-40%

H. CONCLUSION ON INJURY

78. Considering various parameters relating to material injury, the Authority notes that:

- a. The dumped imports of the subject goods have increased in absolute as well as relative terms.
- b. The subject goods are undercutting the prices of the domestic industry in the Indian market.
- c. Production and sales of the domestic industry have increased over the injury period.

- d. Profits, cash profits and return on capital employed have improved during the POI as compared to 2017-18 but are below the levels achieved in 2015-16 and 2016-17.
- e. The landed price of imports from Thailand is below the selling price and cost of sales of the domestic industry.

I. OTHER KNOWN FACTORS AND CAUSAL LINK

79. As per the AD Rules, the Authority, *inter alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the Domestic Industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the Domestic Industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the Domestic Industry.

a) Volume and price of imports from third countries

80. Imports from other countries (except China PR) are low in volume and are at prices higher than import price from Thailand. Further, imports from China PR are already attracting anti-dumping and countervailing duty. Thus, any other third country imports are not causing injury to the domestic industry.

b) Contraction in Demand

81. It is noted that the demand for the subject goods has increased consistently over the entire injury period. Thus, the injury to the Domestic Industry was not due to contraction in demand.

c) Development of Technology

82. The Authority notes that the investigation has not shown any material change in technology for production of the product, which could have caused injury to the domestic industry.

d) Performance of other products of the company

83. The Authority notes that the performance of other products being produced and sold by the Domestic Industry does not appear to be a possible cause of injury to the Domestic Industry. Further, Authority has only considered information for the PUC in its examination.

e) **Trade Restrictive Practices and Competition between the Foreign and Domestic producers**

84. The domestic producers compete with the landed price of the subject imports. The price of the domestic industry is influenced substantially by the landed price of subject goods. Moreover, no evidence has been submitted by any interested party to suggest that the conditions of competition between the foreign and the domestic producers have undergone any change. The Authority notes that the imports of subject goods have been put under the restricted category from June 2020 onwards.

f) **Export performance**

85. The Authority has considered only the domestic performance of the domestic industry in its examination.

Conclusion on Injury and Causal Link

86. While there is no evidence of injury being caused by other known factors listed under the rules, the following parameters show that the dumped imports are causing injury to the domestic industry :

- a. Imports of the subject goods from the subject country have increased in absolute and relative terms in the period of investigation.
- b. The price undercutting from the subject country during the POI is positive and significant;
- c. Prices of the domestic industry are suppressed. The domestic industry has not been able to increase prices to the extent it could have.
- d. This price suppression being faced by the domestic industry resulted in continued adverse profits and low level of ROI. The domestic industry has not been able to generate cash profits from operations relating to the product, to the extent it could generate in the past.

J. POST-DISCLOSURE SUBMISSIONS

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

J.1 Comments by the Domestic Industry

88. Format-B, D and capital employed details considered for determination of NIP

have not been made available to the domestic industry. The details of expenses deducted/disallowed have also not been disclosed to the domestic industry. The NIP has been substantially reduced as compared to the NIP reported in the application. This has significantly reduced the injury margin.

89. The deductions made and expenses disallowed in NIP have not been deducted from NSR. Thus, NSR and NIP are at two different and incomparable levels. This has overstated price undercutting as well.

90. In the very recent past, two investigations – one for subsidy and other for dumping – have been conducted by the Authority on the same product. The methodology applied by the Authority in the present case appears inconsistent with the methodology applied in the previous two investigations. This has led to contradictions.

J.2 Comments by other Interested Parties

Zhongce Rubber (Thailand) Co. Ltd.

91. Though the Petitioners have disclosed certain operational parameters, they have not disclosed many of the relevant parameters as required under the AD Rules.

92. Even though there is no prohibition on import of the subject goods into India, but licensing requirement is a barrier to imports, because the same is a non-automatic system. This further serves to protect the domestic industry.

93. Absolute increase in subject imports from Thailand must be examined in the context of decline in imports from China PR subsequent to imposition of anti-dumping duty and countervailing duty, and accordingly, the Authority is requested to hold that there is no volume effect.

94. The increase in relation to consumption and production is very minimal, and the subject imports still have a very small share in demand in India.

95. Price undercutting declined in the POI. The domestic industry has been able to increase its selling price commensurate to the increase in its cost of sales, without being suppressed by the landed value of the subject imports.

96. There is no injury on account of operational parameters as the capacity, production, and sales of the domestic industry have increased over the injury period.

Siam Truck Radial Company Limited (“STR”) and Deestone Corporation Limited (“DSC”)

97. The reason provided by the Hon'ble Designated Authority for rejecting STR and DSC's response is that the cost data was not filed by STR whereby the Hon'ble Designated Authority was prevented from determining whether or not the domestic sales for STR and DSC were in the ordinary course of trade.

98. The Exporters filed their requisite questionnaire responses in line with the Hon'ble Designated Authority's prescribed deadline of January 24, 2020. However, due to some clerical omissions, certain appendices (including appendices 6, 7 and 8) were not uploaded and consequently filed as part of the questionnaire response filed at a later date.

99. However, STR has placed its cost appendices on record with the Hon'ble Designated Authority on July 23, 2020. The Hon'ble Designated Authority has also actively sought to verify the cost data filed by STR. As part of the comments to the disclosure statement STR has provided the complete timeline of the filings made – this includes evidence to establish that not only was the cost information filed, but also that the Hon'ble Designated Authority verified the same over the course of various email communications as well as multiple virtual verification calls.

100. STR and DSC submit that there is no basis to reject the verified cost to make and sell. Further, Rule 4 and 17 of the Indian Anti-dumping Rules clearly require that the Hon'ble Designated Authority ought to recommend individual margins for cooperating producers and exporters. The Hon'ble Designated Authority is accordingly requested to calculate STR and DSC's dumping and injury margins based on the data filed.

101. Without prejudice to the above, even if the Hon'ble Designated Authority wished to use facts available for the normal value calculation, it could at least have calculated an individual margin for the Exporters based on the export price data filed, since there is no claim that the export price was either unreliable or not filed with the Hon'ble Designated Authority.

102. STR and DSC submit that their arguments on injury, made in prior written submissions and rejoinder submissions, have not been addressed particularly on the issue of lack of correlation between import behaviour and the performance of the Domestic Industry.

Bridgestone Tire Manufacturing (Thailand) Co Limited, Thai Bridgestone Co Limited, Bridgestone Asia Pacific PTE Limited, Bridgestone Sales (Thailand) Co Limited and Bridgestone India Private Limited (“Bridgestone Group”)

103. The Respondents submits that they had fully cooperated in the investigation and provided all the data and other information required as per the questionnaire issued by the Authority. In spite of having all the submissions on record, the Authority, with gross violation of the rights of the respondent has noted that Respondent has submitted grossly deficient response. This decision has the effect of prejudicing the interests of the respondent and therefore, the respondent registers its strong objection to this treatment.

104. If the Authority during investigation found that there was insufficient information given by the Respondent, then pursuant to Article 6.2 of the Agreement on Anti-dumping the Authority should have brought this to the notice of the Respondent. Article 6.2 provides that “Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests.” Article 6 of Agreement on Anti-dumping provides that “Except in circumstances provided for in paragraph 8, the authorities shall during the course of an investigation satisfy themselves as to the accuracy of the information supplied by interested parties upon which their findings are based.

105. The petitioners have claimed excessive confidentiality in contravention to Rule 6(5) and Trade Notice 10 of 2018. The petitioners have failed to provide transaction wise import data in excel format as required as per the decision of CESTAT in Exotic Décor Pvt Ltd vs Designated Authority. Further, no information is provided with respect to sales value, production, CIF price for exports, Annual Reports, imports made by Domestic industry and computation of NIP. The petitioners have claimed confidentiality on individual performance parameters in violation of Rule 7(2). The CESTAT decision in H&R Johnson (India) Ltd. Vs. Designated Authority is referred with regard to treatment of certain information as confidential.

LLIT (Thailand) Co. Ltd

106. LLIT in its initial Questionnaire response has already stated that it tried its best to request the unrelated traders to participate in the investigation. However, being a non- related party, they could not force them. The Respondent should not be penalized for something which is beyond their control. Article 6.13 provides that “the authorities shall take due account of any difficulties experienced by interested parties, in particular small companies, in supplying information requested, and shall provide any assistance practicable”. However, the Authority rejecting the data of the

Respondent due to non-supplying of information by non-related trader is in violation of Article 6.13, 6.4 and 6.2 of the Agreement on Anti-dumping.

107. As per the 'Complete Value Chain' principle, the determination of individual dumping margin on the basis of information of unrelated entities is not only contrary to the legal provisions of the Custom Tariff Act as highlighted above, but also runs contrary to the basic premise that dumping is a pricing behavior of an exporter.

108. It is clearly established that the availability or non-availability of the information of any unrelated entities can have no detrimental effect on the determination of individual dumping margin for a responding exporter. Moreover, any entity can in no manner force unrelated entities to participate in an anti-dumping investigation.

109. If the Authority at any stage of the investigation finds that the information submitted was incomplete, then the Authority has to provide a timely opportunity to the Respondent to provide the deficient information within a stipulated time. However, in the present case the Authority itself verified the information on record and issued list of verification documents based on the submissions made by the Respondent company.

J.3 Examination by the Authority

110. The Authority has examined the post-disclosure comments/submissions made by the interested parties including reiterations and has suitably and adequately addressed the same in the relevant paras of these final findings. The issues raised for the first time in the post disclosure comments/submissions made by the interested parties and considered relevant by the Authority are examined below.

111. With regard to the domestic industry's request to increase the NIP and consider certain expenses & capital employed in NIP determination, it is noted that NIP has been determined in accordance with Annexure III of the Anti-Dumping Rules. With regard to issues raised in respect of disclosure of NIP, it is noted that Format-L with all the details was disclosed to the Domestic Industry as per the consistent practice of DGTR. The format-L contains all the figures relating to raw materials, utilities, details of expenses and details of return allowed on capital employed. The details of working capital and NFA considered by the Authority were also disclosed. The Authority further notes that the Net Sales Realization (NSR) and Non-Injurious Price (NIP) are at different levels.

112. With regard to the issue of disclosure of information in non-confidential version, it is clarified that the non-confidential version has been prepared keeping in mind the confidentiality requests made by various interested parties and the legal provisions enshrined in the Anti-Dumping Rules.

113. STR and DSC have submitted that STR had placed its cost appendices on record with the Hon'ble Designated Authority but due to some clerical omission, certain appendices (including appendices 6, 7 and 8) were not uploaded and consequently these were filed as part of the questionnaire response on a later date. In this regard, the Authority notes that STR did not submit any information relating to cost of production in the relevant Appendices either in soft copy or hard copy within the extended deadline of 24th January, 2020 prescribed by the Authority. However, in the descriptive part of Exporters Questionnaire response STR mentioned that the information relating to the cost of production is being submitted. Thereafter, in July 2020, i.e. six months after the due date for filing of questionnaire response, STR actually filed the information relating to cost of production and argued that due to some clerical omission, certain appendices (including appendices 6, 7 and 8) were not uploaded. It is an undisputed fact that anti-dumping investigations are time bound. The Authority cannot accept belated questionnaire response filed by any party. Therefore, the Authority has decided not to accept the Exporters Questionnaire response filed by STR and DSC and not to determine an individual dumping margin for these parties. It is further noted that merely because the Authority decided to verify the information, the delay in submission of response beyond permitted time limit cannot be presumed to be condoned. Major data gaps like the non-submission of appendices relevant to determination of cost of production within the extended time frame came to the notice only during the process of verification and accordingly the Authority was constrained not to determine individual dumping margin for such interested parties.

114. With regard to the submissions made by M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited, M/s. Thai Bridgestone Co. Ltd and M/s. Bridgestone Asia Pacific Pte Ltd that they have fully cooperated in the present investigation and provided all the data and other information required as per the questionnaire issued by the Authority, the Authority notes that the claims made by them are baseless and devoid of any merit. The Authority notes that M/s. Bridgestone Tire manufacturing (Thailand) Co. Limited, M/s. Thai Bridgestone Co. Ltd and M/s. Bridgestone Asia Pacific Pte Ltd ("BSCAP") have failed to provide any cogent reasons w.r.t the issues highlighted in the disclosure statement for rejecting the response filed by these companies. In particular, they have failed to address as to why the producers have not submitted separate exporters questionnaires, which is mandatorily required to be submitted, why no separate information has been provided in Appendix-4A, 4B and 4C by the producers, why appendices-6,8, 9 & 11 have not been provided by the producers and why BSCAP has submitted blank formats in the exporter's

questionnaire response. It is further noted that merely because the Authority decided to verify the incomplete information submitted by Bridgestone Group, it does not mean that the Authority is obliged to accept the response filed by Bridgestone Group and determine an individual dumping margin for such interested parties. In view thereof, the Authority confirms to reject the Exporters Questionnaire response filed by the Bridgestone Group.

115. With regard to the submission made by LLIT that it tried its best to request the unrelated traders to participate in the investigation and non-participation by unrelated traders should not result in LLIT being treated as a non-cooperative party, Authority notes that quantity of exports to India through non-cooperating traders are very significant (more than 30% as submitted by LLIT) and cannot be ignored. In the absence of information relating to export price such significant quantity of exports to India, it is not possible to determine the reliable export price to India. It is the consistent practice of the Authority to not accept the response in these circumstances. Therefore, Authority is unable to accept the response filed by LLIT.

K. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES

116. The Authority notes that the purpose of anti-dumping duty, 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.

117. It is recognized that the imposition of anti-dumping duty might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measure, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measure would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

L. CONCLUSIONS

118. After examining the submissions made by the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes that:

- a) There is substantial increase in imports of subject goods from subject country in absolute terms as well as in relation to production & consumption in India during the POI as compared to the previous years.

- b) The product under consideration has been exported to India from the subject country below its normal value.
- c) The Domestic Industry has suffered material injury.
- d) Material injury has been caused by the dumped imports of subject goods from the subject country.

M. Recommendations

119. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the Domestic Industry, exporters, importers and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the authority is of the view that imposition of Anti-Dumping Duty is required to offset dumping and injury. Therefore, Authority recommends imposition of anti-dumping duty on imports of subject goods from the subject country.

120. In terms of provision contained in Rule 4(d) & Rule 17(1) (b) of the Rules, the Authority recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the duty table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on all imports of goods described at Column 3 of the duty table, originating in or exported from Thailand.

DUTY TABLE

Sl. No	Heading	Description *	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	4011 2010	New Pneumatic radial tyres, of rubber of a kind used in buses or lorries, with or without tubes and/or flap of rubber *	Thailand	Any Country including Thailand	Zhongce Rubber (Thailand) Co., Ltd.	337.80	MT	US\$
2.	-do-	-do-	Thailand	Any Country including Thailand	Any producer other than the one mentioned in Serial	527.08	MT	US\$

Sl. No	Heading	Description *	Country of origin	Country of export	Producer	Amount	Unit	Currency
					No. 1 above			
3.	-do-	-do-	Any Country other than Thailand	Thailand	Any	527.08	MT	US\$

*The product under consideration is used in buses and lorries/trucks". The scope of the product under consideration includes both tube type and tubeless.

N. FURTHER PROCEDURE

121. An appeal against the order of the Central Government that may arise out of this Final Findings Notification shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.



(B. B. Swain)

Special Secretary & Designated Authority