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F. No.14/24/2015-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi 110001

NOTIFICATION

Date 20th March, 2017

(Final Findings)

Subject: Anti-dumping duty investigation concerning imports of Aluminum Radiators, Aluminium Radiator Sub- Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminum radiators meant for use in new Automobiles from China PR

A. BACKGROUND

1. F. No. 14/24/2015-DGAD: M/s Banco Products (India) Ltd. (hereinafter referred to as 'petitioner' or "the applicant") has filed an application (also referred to as petition) before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter 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 referred to as the AD Rules) for initiation of Anti-Dumping Duty investigation concerning imports of "Aluminum Radiators, Aluminium Radiator Sub- Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminum radiators meant for use in new Automobiles from China PR" (hereinafter also referred to as subject goods) from China PR (hereinafter also referred to as subject country).
2. Whereas, the Authority, on the basis of sufficient evidence submitted by the applicant, issued a Notification No. 14/24/2015-DGAD dated 1st January, 2016, published in the Gazette of India, initiating the subject investigations in accordance with the Rule 5 of the above Rule to determine existence, degree and effect of the alleged dumping of the subject goods, originating in or exported from China, and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the alleged injury to the domestic industry.
3. Whereas, the Authority issued a corrigendum dated 22nd January 2016 and determined the period of investigation as 1st April 2014 to 30th June 2015 (15 Months) to enable itself to make required analysis on the basis of more updated data.
4. Whereas, the Authority issued a clarification dated 16th March 2016 with regard to scope of the product under consideration.

B. PROCEDURE

5. The procedure described herein below has been followed by the Authority with regard to the subject investigation:
- i. The Designated Authority, under the above Rules, received a written application from the Applicant on behalf of the domestic industries, alleging dumping of "Aluminum Radiators, Aluminium Radiator Sub- Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminum radiators meant for use in new Automobiles from China PR".
 - ii. The Authority notified the Embassy of China in India about the receipt of the anti-dumping application before proceeding to initiate the investigations in accordance with sub-rule (5) of Rule 5 supra.
 - iii. The Authority issued a public notice dated 1st January, 2016 published in the Gazette of India Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods.
 - iv. The Authority sent a copy of the initiation notification to the Embassy of China PR in India, known producers/exporters from China PR and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.
 - v. The Authority sent exporter's questionnaires to elicit relevant information to the following known producers/exporters in China PR, (whose details were made available by the applicant) and gave them opportunity to make their views known in writing in accordance with the Rule 6(2) of the AD Rules.
 1. Xinxiang Hauzheng Radiator Co. Ltd
 2. Botou City Sanqi Auto parts Co. Ltd
 3. Guangzhou Guangyang Auto radiator Co Ltd
 4. Guangzhou Auto Parts
 5. Jiangxi Xintian Auto Industry Co Ltd
 6. KVR International Co. Ltd
 7. Ningbo Haishu Zhong Xing Original Trading Co. Ltd
 8. Ningbo Tirri Automobiles Parts Co Ltd
 9. Ruian Xinminbang Imp & Exp Trade Co Ltd
 10. Wenzhou Guangsheng Auto parts Co Ltd
 11. Wenzhou Tall Automobiles Parts Co Ltd
 12. Jiangsu Valsens Thermalsys
 13. Zhejiang Yameili Automobile Parts Co Ltd
 14. Zhejiang Huasen Radiator Manufacturing Co Ltd
 - vi. However, none of the exporters filed response to the exporter's questionnaire or made any other submissions.
 - vii. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations (whose names and addresses were made available to the authority) of subject goods in India and advised them to make their views known

in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):

1. Unique Motors (India)
2. Apex Cooling System Pvt. Ltd
3. Kota Radiators Sales and Service
4. Rajasthan radiator House
5. Karnavati Car Pvt. Ltd
6. Ahuja Sons.
7. Classic Spares
8. Gurupraksh Auto Pvt. Ltd.
9. Apollo Industries

viii. Initiation notification was sent to the following other domestic producers:

1. Tata Toyo Radiator Ltd
2. Tekson Radiators Pvt Ltd
3. Varun Radiators
4. AlkraftThermotechnologies Pvt Ltd
5. Lloyd Electric & Engineering Ltd.
6. Modine Thermal Systems
7. S M Auto Engg. Pvt. Ltd
8. Standard Radiators Pvt. Ltd
9. G.S.Radiators Ltd.

ix. None of the other domestic producer has filed response in the form and manner prescribed. However, following companies made submission, supporting imposition of anti-dumping duties.

1. G. S. Radiators
2. Lloyd Electric & Engineering Ltd
3. Tata Toyo Radiator Limited
4. Varun Radiators

x. Following importers/users have also filed their submissions/representations in the above matter.

1. Pacific Exports
2. Classic Spares

xi. The Authority made available non-confidential version of the evidence presented by interested parties in the form of a public file kept open for inspection by the interested parties as per Rule 6 (7).

xii. The Authority has examined the information furnished by the domestic producer 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. The period of investigation (POI) proposed by the applicant was from 1st April 2014 to 31st March 2015. However, for enabling the Authority to make required analysis on the basis of more updated data, the Authority determined the revised POI as 1st April 2014 to 30th June 2015 (15 Months) vide corrigendum issued dated 22nd January 2016. The injury investigation period covered is April 2011-March 2012, April 2012 - March 2013, April 2013 -March 2014 and POI.
- xiv. Further information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation.
- xv. Non-injurious price has been determined based on the cost of production and cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xvi. During the course of investigation, the transaction wise data was called from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and the same has been adopted for determination of volume and value of imports of the product concerned in India and analysis of various parameters. However, for the import data for Radiators for Gensets, the reliance has been placed on IBIS data since DGCI&S data did not show any imports.
- xvii. The Authority held an oral hearing on 24th August, 2016 to provide an opportunity to the interested parties to present relevant information orally in accordance to Rule 6 (6), which was attended by the representatives of domestic industry, M/s Standard Radiators another manufacturer in India and M/s Classic Spares, a user of the product in India. A second hearing was held by the Authority on 7th November, 2016. This second Oral Hearing was necessitated due to the change in the Designated Authority from the time of first Oral Hearing. This development mandates that a new public hearing be held by the new Designated Authority as per the judgement of the Hon'ble Supreme Court in the matter of Automotive Tyre Manufacturers' Association (ATMA) vs Designated Authority, delivered in Civil Appeal No. 949 of 2006 on 07-01-2011. The interested parties who presented their views orally at the time of oral hearing were advised to file written submissions of the views expressed. An opportunity to file rejoinder submissions by interested parties was also given. The submissions made therein have been duly considered and addressed appropriately. Further, for verification of various financial data of the petitioner Company, another hearing was held on 20th December, 2016.
- xviii. Exporters, producers and other interested parties who have neither responded to the Authority, nor supplied information relevant to this investigation have been treated as non-cooperating interested parties.
- xix. ***in this Final Finding represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xx. The exchange rate adopted by the Authority for the subject investigation is 1 US\$ = 62.13 Rs.

C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

6. The product under consideration in the present investigation is "Aluminum Radiators, Aluminium Radiator Sub- Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminum radiators meant for use in new Automobiles, originating in or exported from China PR".

Submissions by the Domestic Industries

7. The submissions made by domestic industry are as follows:
- a. The scope of product under consideration should include finished ready to use radiators, radiators in CKD or SKD conditions, and aluminium radiator core. If the duty is imposed only on finished goods, the goods can be imported in unassembled form and will frustrate the entire purpose of Imposing duty.
 - b. The product under consideration comprises of assembly of number of parts/components, some of which are produced in-house while some are purchased. The production process involves production of critical parts such as Aluminum Radiator core and thereafter assembly of the same. The assembly operation is merely a screw driver technology.
 - c. The anti-dumping duties are required to be imposed on product under consideration whether in the form of assembled or CKD & SKD conditions.
 - d. If ADD is imposed on product under consideration in assembled or CKD & SKD conditions, it would also address the future problem of circumvention of duty. In past Authority has determined the product similarly in CFL and SDH.
 - e. There has not been any case before where the product under consideration included only those goods which were imported during the POI. The Authority has never examined an exhausted list of product under consideration.
 - f. Sub-assemblies should be included in the product under consideration. If duty is imposed on radiator core only, the exporter will start exporting sub-assemblies and will make the entire process futile.
 - g. HS code for automotive radiators and Gen Set radiators are same. Even if it was different it could have been included in the product under consideration. Authority has done so in past cases such as VFY.
 - h. Petitioner is suffering adverse price effect. So long as the petitioner suffers adverse price or volume effect, the authority will conclude that the DI has suffered injury.
 - i. DGAD has restricted the scope of product under consideration on the basis of application and the same view can be taken in the present case.
 - j. US ITC has in the matter of Automotive Replacement Glass Windshields From China Investigation No. 731-TA-922 (Final) Publication 3494, March 2002, held as follows

We find one domestic like product comprised of ARG windshields. ARG and OEM windshields have the same basic physical characteristics and end uses; the differences between them, principally their conformity with vehicle manufacturers' proprietary specifications, are subtle. Nevertheless, those distinctions do have significant implications for other factors pertinent to the domestic like product analysis. Interchangeability is limited. ARG windshields, which are not designed to those proprietary specifications, may not be used in lieu of OEM windshields in automobile manufacturing. Although OEM windshields may be used in lieu of ARG windshields, this use appears to be limited primarily to warranty replacement where OEM windshields are required. There are significant differences in channels of distribution, in that OEM windshields are sold primarily to vehicle manufacturers, and ARG windshields are sold primarily to distributors and retail auto glass outlets. While certain basic manufacturing steps are the same for ARG and OEM windshields, and there is significant overlap in some common manufacturing facilities and employees producing both types of windshields in the United States, there are significant differences between the two in the time and expense devoted to product development. Moreover, while OEM windshields tend to be produced in high volume production runs with limited flexibility to change patterns, ARG windshields are generally produced in flexible production facilities that use low to moderate volume production runs, and make frequent pattern changes. On the basis of this record, we find one domestic like product coextensive with the scope consisting of ARG windshields.

- k. In the present case Product under consideration is an assembly of a number of components, such as aluminium radiator core, plastic top, bottom tanks, rubber gaskets, drain cock, pressure cap, fasteners, etc. The production process involves production of aluminium components, viz. Fins, Tubes, Header Plate and Core channel. A majority of these components items are produced in house by the DI. Once produced, the parts are assembled and then passed through a brazing furnace. The output from a brazing furnace is a brazed aluminium radiator core.
- l. The product under consideration is used as a cooling device in automobiles and industrial generator sets. The hot coolant carrying heat from the engine passes through the radiator cores and in the process conducts heat to the aluminium tubes. The aluminium tubes in turn conduct the heat to the aluminium fins. From the aluminium fins, heat is radiated out to the air which passes through the radiator core. Hot coolant passes through from the top tank of the radiator and cold coolant flows out from bottom tank of the radiator. The product under consideration is essentially a heat exchanger and is used in automobile and industrial generator sets. In automobiles, the product under consideration covers only radiators used in cars, truck & bus and tractors. Even though radiators are used in other kinds of vehicles as well, the same is beyond the scope of product under consideration. Further, every vehicle requires a specified dimensions of radiator and therefore different radiator cannot be interchangeably used in a vehicle.
- m. Radiators typically have a long life and therefore production of radiators for use in new automobiles is much different from production of radiators for use in aftermarket. As against about 12 lac radiators produced by the petitioner over the injury period for use in new vehicles, the petitioner produced about 7 lac radiators for use in vehicles in replacement market. In OEM sector, the product of a particular model is used in large volumes and therefore production lines for radiators meant for new vehicles are quite automated. By contrast, in aftermarket, since the product is used in automobiles which

were put on road several years before, the dimensions of the radiator used in replacement market are much different from dimensions of the radiators used in OEM. Further, every automobile producer tends to modify the dimensions of radiators with every change in the automobile model. Thus, radiator manufacturers work hand in hand with automobile manufactures for development of radiators required for new models of vehicles launched by automobile manufacturers. Further, once automobile manufacturers put a new model in the production line, such automobile manufacturers tend to buy large volumes of such radiators. By contrast, in replacement market, since radiators have long life, the requirement of radiator arises in vehicles which were put on road few decades before. Therefore, demand for such radiators in aftermarket is significantly lower than demand for radiators in OEM. Further, in replacement market, the buyers may not change complete radiator and may use one or more components of the existing radiator and buy only remaining from the market. For example, it is quite common for the consumers to buy only aluminium radiator core and use all other components and parts from the existing radiators. Accordingly, not only dimensions of product, but also consumer expectations and the volume of production significantly differ in OEM and replacement market. Thus, the requirement of the product in OEM and replacement market are totally different with regard to associated product type, its dimension, its stage of integration and the volume of product required. Accordingly, manufacturers tend to set up different production lines to cater to different requirements for different market segment.

- n. The subject goods are classified under Chapter 87 of the Customs Tariff Act, 1975, under customs sub-heading 87089100. The customs classification, however, is indicative only, and the same is not binding on the scope of the PUC under investigation.
- o. The subject goods produced by the domestic industry are identical to the product under consideration being imported into India. The domestic industry claims that there is no known difference in applicant's product and product under consideration exported from the subject country and the two are comparable in terms of characteristics such as physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. There is no significant difference in the subject goods produced by the applicant and those exported from the subject country and both are technically and commercially substitutable.
- p. The Designated Authority issued a clarification with regard to the product under consideration. Further, the Designated Authority has specified a PCN system for undertaking price comparisons. Petitioner has followed the same in providing relevant information to the Designated Authority.
- q. Domestic industry disputed the submissions made by Standard Radiators Pvt. Ltd stating that there is no ambiguity in the scope of product under consideration.

Submissions made by the other producers/exporters/other interested parties

8. The submissions made by other interested parties are as follows:
 - i. PUC includes Aluminium radiators along with sub-assemblies and generator sets. It is not appropriate to include sub-assemblies and components with the main product. The

Description of the PUC suffers from serious legal flaws. Any information to be given by the interested parties becomes difficult as there is no clarity as to what data is to be shared.

- ii. Standard Radiators Pvt. Ltd made submissions stating that the scope of product under consideration was vague and unclear. It has been contended that the authority should clarify the meaning of sub-assemblies that are sought to be included and specify precise scope of product under consideration. There is no clarity as to what is the definition of “Sub-Assemblies, SKD and CKD” with respect to the PUC.
- iii. The investigation excludes aluminium radiators meant for use in new vehicles, The PUC cannot be defined on the basis of market segment.
- iv. Mr Prashant Aggarwal appearing on behalf of Classic Spares, an importer/user of radiators have represented that the petitioners are not making the full range of radiators and therefore mechanical radiators required by some of the car manufacturers be kept out of the scope of investigation and consequent imposition of duty.
- v. M/s Tekson Radiators Pvt. Ltd., a supporter of the petition has requested to include Oil Coolers in Product under consideration for this investigation.

Examination by the Authority

9. The product under consideration in the present investigation as per the initiation notification is as follows-

“ The product under consideration in the present petition is “Aluminium Radiators, Aluminium Radiator Sub -Assemblies and Aluminum Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminum radiators meant for use in new automobiles”. Aluminium Radiators are classified in Chapter 87 under customs subheading no. 87089100 of Schedule I of the Customs Tariff Act, 1975. However, the said Customs classification is indicative only and in no way binding on the scope of the present investigation.”

10. Authority after receiving post initiation submissions from the interested parties decided to further specify the scope of product under consideration. Accordingly, Designated Authority issued clarification dated 16th March, 2016, stating as follows-

“With reference to Initiation Notification No. 14/24/2015/ DGAD dated 1st January, 2016 concerning imports of "Aluminium Radiators, Aluminium Radiator Sub-Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminium radiators meant for use in new automobiles originating in or exported from China", requests were received from the interested parties, seeking clarity on the scope of the Product Under Consideration. The matter has been examined and it has been decided by the Designated Authority to clarify the matter further in continuation of the said initiation notification, as below:

*A. The following items imported for use in Used/On Road Automobiles and Gen Sets **are covered** within the scope of PUC for the purposes of this investigation:*

- (a) Aluminium Radiator Cores;
- (b) Aluminium Radiators; Complete and/or in completely knocked or semi-knocked down condition;
- (c) Aluminium Radiator attached with other parts such as, oil cooler, air cooler, condenser, compressor, fan motors etc.

*B. Aluminium Radiators, Radiator core, Aluminium Radiator attached with an assembly or a sub-assembly in any combination, mentioned above, when imported by the Original Equipment Manufacturer (such as Automobile Manufacturer and Gen Set Manufacturer) are **not covered** within the scope of PUC for the purposes of this investigation and proposed measures.”*

11. The subject goods are used as engine cooling devices, mainly used by Automobile and Industrial generator set. The subject goods are commonly sold in pieces or numbers. The product is classified in chapter 87 of the Customs Tariff Act 1975, under customs sub-heading 87089100”. The classification is, however, indicative only and in no way binding on the scope of the present investigation
12. It was clarified that the scope of product under consideration does not include solo components e.g. rubber gasket, frames, cooler, tank, tubes etc. However, if the component is imported along with radiator core as a part of radiator, the same is subject to the proposed anti-dumping duty because it is covered within the definition of CKD/SKD. The Authority has decided that for the purpose of this investigation, imports of any component/s in isolation or as stand-alone imports is not covered within the scope of the product under consideration
13. The sub-assemblies are assembly of aluminium radiator core along with some or all parts and components. The complete Radiator or sub-assemblies when imported in completely knocked down or semi knocked down form, are also covered within the scope of the PUC under investigation.
14. Also the PUC does not include the radiators required for assembly of new equipment by the car manufacturers and genset manufacturers (OEMs).
15. The submission made by the DI regarding clear demarcation of market segment for the Radiators required by OEM and on road vehicles was examined in detail and also verified. During the physical verification of the plant of the domestic industry, it was clearly seen that the manufacturing lines deployed by petitioners for production of radiators meant for OEM are substantially different from production lines deployed by petitioners for production of radiators meant for replacement market. Further, the product itself is clearly distinguishable in the respect of its application i.e. new vehicle application or aftermarket application. Not only dimensions of product, but also consumer expectations and the volume of production significantly differs in OEM and replacement market. The replacement market goods cannot be used by OEM of the automobiles and gensets. The OEM Radiators are generally sold to vehicle manufacturers, whereas the replacement goods are sold to distributors and auto repair shops.
16. The investigating authorities in other countries have also described product under consideration, scope of which was restricted to use in particular market segments.

17. Since the product under consideration can be produced and sold at different stages of its integration, the product under consideration for the purpose of present investigation has been segregated into (a) radiator core & (b) radiator complete.
18. Further, considering that the product under consideration may be used in car, truck & bus, tractors and gensets applications, the authority has already clarified the PUC by various PCN system for the purpose of undertaking dumping margin, price undercutting and injury margin analysis.
19. The product under consideration is "Aluminium Radiators, Aluminium Radiator Sub-Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminium radiators meant for use in new Automobiles" originating in or exported from China PR, excluding aluminium radiators meant for use in new automobile equipment manufacturing applications. Imports of any component/s like rubber gasket, frames, oil cooler, tank, tubes etc. in isolation or as stand-alone imports is not covered within the scope of the product under consideration. PUC covers subject goods for used cars, tractor trucks and gensets. Specifically excluded from the scope of this investigation are aluminium radiators for use in original assembly of vehicles. The radiators made for OEM and replacement market (or for on road vehicles) are different in technical specifications and pricing.

D. LIKE ARTICLE

20. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:-

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;

21. After considering the information on record, the Authority holds that there is no material difference in product under consideration exported from subject country and the product produced by the Indian industry. Product under consideration produced by the domestic industry is comparable to the imported subject product in terms of physical characteristics, production technology & manufacturing process, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable.
22. The Authority holds that the product manufactured by the domestic industry and the subject goods imported into India from the subject country are like articles within the meaning of the Anti-dumping Rules;

E. SCOPE OF DOMESTIC INDUSTRY & STANDING

Submissions by the Domestic Industries

23. The submissions made by the domestic industry are as follows:

- i. The petition has been filed by M/s Banco Products (India) Ltd. (referred to as Petitioner/Applicant) for imposition of anti-dumping duty on imports of Aluminium radiators (subject goods) from China PR.
- ii. The production of the petitioner alone constitutes a major proportion of Indian production of the subject goods. The petitioner has sufficient standing to file the present petition on behalf of the Indian domestic industry for the product concerned. Further, petitioner constitutes domestic industry within the meaning of the Rules.
- iii. The total size of the market and production of Radiators for used/on road cars and gensets in the country have been determined based on the market intelligence carried out by the petitioner's Marketing field staff. There is a dedicated Aftermarket Sales & Marketing team, which is scattered in all the regions to cover whole of Indian Market. Since the Production and Sales data are company confidential and no such data are available in other sources petitioner considers it to be the best way to infer the Size of the market and share of each producer in India for After Market sales
- iv. The petition has been subsequently supported by Tata Toyo Radiator Ltd. Varun/Cougar Radiators Pvt. Ltd., Teksons Radiators Pvt. Ltd and Lloyd Electric & Engineering Ltd. M/s G.S. Radiatots have also stated support to the petition, however they have not produced radiators for replacement market during the period of investigation, accordingly, their production has not been taken into account. Petitioner along with supporters, who are manufactures of PUC in POI, is a major producer of the subject goods in India holding 92% share of the production of PUC in India.
- v. Petitioner has not imported the subject goods. Petitioner is not related (either directly or indirectly) to any exporter or importer of product under consideration in the subject country. Thus the petitioner is eligible domestic industry under Rules 2(b) and 5(3) of the AD Rules.

Submissions made by the producers/exporters/other interested parties

24. The submissions made by other interested parties with regard to domestic industry and standing are as follow:
 - i. Defining the PUC as it has been, makes it impossible for the DA to carry out the mandatory tests of "standing" and "DI"
 - ii. Standing has not been established as the proposition of the DI to read the phrase "total production" qua a particular market segment is not envisaged in the provisions of law. There is no legal authority to exclude any particular market segment. Thus, question of taking production for used vehicles for determining standing is not justified.
 - iii. Further, production meant for captive consumption is also to be taken into consideration while assessing the Standing. (*Cases referred: Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan*).

Examination by the Authority

25. Rule 2 (b) of the AD rules defines domestic industry as under:

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

- 26.** The application in the present case has been filed by M/s Banco Products (India) Ltd., a domestic producer of the product under consideration and who has provided detailed information for investigation in the matter of imposition of anti-dumping duty on imports of subject goods from China PR. The authority determined at the stage of initiation that the petition satisfied requirement of standing under the Rules and the Petitioner constituted domestic industry within the meaning of the Rules.
- 27.** Since the product under consideration has been described as "Aluminium Radiators, Aluminium Radiator Sub -Assemblies and Aluminium Radiator Core, including in CKD or SKD conditions, for use in used/on road vehicles and generator sets, excluding aluminium radiators meant for use in new automobiles", production of radiators only in use in replacement market has been considered for the purpose of determining standing. Production of radiators for use in new vehicle applications or for exports has not been considered as product under consideration for the purpose. Production of product under consideration only for replacement segment has been considered for the purpose of standing, scope of the domestic industry and injury analysis
- 28.** Prior to initiation, the authority sent communications to various Indian producers to confirm their support or opposition to be able to take a decision on the standing of the Domestic Industry. The following domestic producers have stated their support to imposition of anti-dumping duties, though they have not provided costing and injury information.
- a) Tata Toyo Radiator Ltd.
 - b) Varun/Cougar Radiators Pvt. Ltd,
 - c) Teksons Radiators Pvt. Ltd and
 - d) Lloyd Electric & Engineering Ltd.
 - e) G.S Radiators
- 29.** AlkraftThermoTechnologies Pvt Ltd., Modine Thermal Systems, S M Auto Engg. Pvt. Ltd and Standard Radiators Pvt. Ltd and Delphi Radiators are the other known producers of the subject goods in India. These companies have however, not expressed their opinion with regard to the present investigation and proposed measures.
- 30.** Production of the petitioner,supporters and other Indian producers was re-determined based on information received from various interested parties, as below:

S.No.	Particulars	Production in Numbers	Share in production
1	Petitioner	****	70.89 %
2	Supporters	****	21.21 %
3	Petitioner + Supporter	****	92.10 %

4	Others(Estimated)	****	7.90 %
5	Total Production	****	100 %

31. On the basis of above figures, the authority holds that that the petitioner has satisfied the requirement of standing under Rule 5(3) and constitutes domestic industry within the meaning of Rule 2(b).

F. ASSESSMENT OF DUMPING – METHODOLOGY AND PARAMETERS

Market Economy Treatment, Normal Value, Export Price and Determination of Dumping Margin

Normal Value

Submissions by the Domestic Industries

32. The submissions made by domestic industry are as follows:

- i. China should be considered a non-market economy, in line with the position taken by the Authority in previous cases, and by investigating authorities in other countries. Chinese producers' cost and price cannot be relied upon for determination of normal value.
- ii. Market economy status cannot be granted unless following conditions are fulfilled:
 - a. Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity
 - b. Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values
 - c. Market economy status cannot be given unless the responding exporter establish that their books are audited in line with international accounting standards
 - d. Market economy status cannot be granted even if one of the parameters is not satisfied.
 - e. The onus/obligations to establish market economy status is onto responding Chinese exporters and not onto the Designated Authority.
 - f. Market economy status cannot be granted unless the responding company and its group as a whole make the claim.
 - g. In a situation where the current shareholders have not set up their production facilities themselves but have acquired the same from some other party, market economy status cannot be granted unless process of transformation has been completely established through documentary evidence.
- iii. According to these Rules, the normal value can be determined on any of the following basis:
 - *the price in a market economy third country,*
 - *constructed value in a market economy third country,*
 - *the price from such a third country to other country, including India.*
 - *the price actually paid in India, adjusted to include a reasonable profit margin.*
 - *the price actually payable in India, adjusted to include a reasonable profit margin.*

- iv. Since no questionnaire response has been filed by any of the Chinese companies, the subject country should be treated as non-market economy. India is most appropriate country for comparable prices for the PUC.

Views of the opposing interested parties

33. None of the exporters from China PR has filed any exporter questionnaire response and claimed MET status in the above matter.

Examination by the Authority

34. At the stage of initiation, the Authority proceeded with the presumption by treating China PR as a non-market economy country. Upon initiation, the Authority advised the producers/exporters in China to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the MET questionnaire to all the known producers/ exporters for rebutting presumption of nonmarket economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules. The Authority also requested Government of China to advise the producers/exporters in their country to provide the relevant information. However, none of the Chinese producers/exporters have filed any response.
35. As per Paragraph 8, Annexure I to the Anti Dumping Rules as amended, the presumption of a non-market economy can be rebutted if the exporter(s) provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) in Paragraph 8 and establish to the contrary. The exporter/ producer of the subject goods are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-
- i. The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
 - ii. The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
 - iii. Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms and
 - iv. The exchange rate conversions are carried out at the market rate.
36. The Authority notes that none of the producers and exporters of the subject goods from the subject country have submitted the exporter's questionnaire response and market economy treatment questionnaire response, consequent upon the initiation notice issued by the Authority or rebutted the non-market economy presumption. In view of the above position, the Authority considers it appropriate to proceed with para-7 of Annexure I to the Rules for determination of normal value in case of China PR. As none of the producers/exporters from China PR has submitted MET

questionnaire response, the Authority is unable to grant market economy status to Chinese producers for the purpose of this determination.

37. In view of the fact that none of the producers/exporters has filed any exporter's questionnaire including MET questionnaire, MET status has not been accorded to Chinese producers. Further, none of the interested parties, including the domestic industry, has made available any material fact to the Authority to select an appropriate market economy third country. The Authority has, therefore, determined the normal value in respect of China PR on other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules.

38. Para 7 of Annexure I of the Anti-dumping Rules provides as under:

“In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

39. In view of the above, the normal value for the subject products imported from China PR into India has been determined on the "any other basis" by considering best available information with regard to cost of production and after reasonable additions for selling, general & administrative expenses and reasonable profit margin. The normal value has been constructed considering consumption of major raw materials as per information provided by the domestic industry, international prices for major raw materials, conversion cost, interest, SGA, etc. at the levels allowed for the domestic industry. Further, 5% of cost of sales has been added towards reasonable profit.

Export price for China PR

40. Since none of the exporters from subject country has responded to the Authority, in the form and manner prescribed which could be used for determination of the export price and individual dumping margin, the Authority has determined the export price for producers/exporters on the basis of the DGCI&S transaction wise data. Further, in view of significant difference in the costs and resultantly the price of different types of the product under consideration, the authority devised a PCN system and the same has been followed for determination and comparison of normal value, export price and dumping margin for each PCN.

41. The export price has been adjusted on account of Ocean freight, Marine insurance, Commission, Port expenses, Inland freight expenses, which may have been incurred

by the exporter for exporting the material to India. Bank charges, Net Export Price after adjustment of the above-mentioned expenses is determined.

Determination of Dumping Margin

42. As per the DGCIS import data of the subject goods, 6 product types have been imported namely, Car Core, Car Complete, Truck and Bus Core, Truck and Bus Complete, Tractor Core and Tractor Complete. However, several import transactions of subject goods could not be identified PCN wise and have not been taken into account for dumping margin calculations. The import data for Genset Core and Genset Complete has been taken from IBIS, as the same were not identifiable from the DGCIS data.
43. In view of significant difference in the associated costs and prices of the product on the basis of PCN, the Authority has determined separate normal value for each of the product type and thereafter quantified dumping margin for the product under consideration on the basis of weighted average of the individual dumping margins.
44. Based on the methodology explained above, PCN wise constructed normal value, export price and dumping margin in respect of China has been worked out. Further, in view of significant difference in the associated costs and prices of the product, the Authority has analyzed separate dumping margin for each of the product type and thereafter quantified dumping margin for the product under consideration on the basis of weighted average of the individual dumping margins.

Net Export Price		Constructed Normal Value		Dumping Margin		
USD/No.	Rs/No.	USD/No.	Rs/No.	USD/No.	Rs/No.	Range %
7.03	436.716	***	***	***	***	300-350

45. It is seen that the dumping margin for the subject goods is more than de-minimis for the imports from the subject country.

G. METHODOLOGY FOR DETERMINATION OF INJURY

Submissions by the Domestic Industries

46. The submissions made by domestic industry are as follows:
- There is steady increase in demand throughout the injury period.
 - The petition was made on the basis of IBIS data, however, whatever DGCI&S data have been obtained it appears that the imports of product under consideration is even higher.
 - Imports in relation to production and consumption have also remained significant throughout the injury period.
 - The landed price of imports from subject country is below the net sales realization of the domestic industry in the period of investigation.

- v. The imports are significantly undercutting the prices of the domestic industry in the market.
- vi. Landed price of imports have remained significantly below the selling price, cost of sales and NIP of the domestic industry.
- vii. The effect of such dumped imports is to depress prices to a significant degree and prevent price increases which otherwise would have occurred to a significant degree.
- viii. Production and sales of the domestic industry has increased over the injury period;
- ix. Petitioner has expanded capacity in the proposed POI. The capacity is for the plant as a whole.
- x. Capacity utilization of the plant has increased over the injury period.
- xi. Petitioner has made significant efforts to sell its product in the market, even at financial losses and therefore volume parameters shall not show the effect of dumping.
- xii. The market share of the domestic industry has increased over the injury period in view of the significant efforts made by the petitioner. Market share of the subject country has remained significant throughout the injury period.
- xiii. Landed price of imports has remained below the level of selling price and cost of sales of the domestic industry. The selling price of the domestic industry is below the level of cost of sales.
- xiv. Low priced imports from subject country forced the petitioner to reduce its prices consequently the petitioner was forced to suffer financial losses throughout the injury period. The losses have further intensified in the POI.
- xv. Profit before interest, cash profit and ROI also follow the same trend as that of profits.
- xvi. The decline in profitability of the domestic industry was due to reduction in the import prices without any justifiable reasons. The domestic industry is suffering significant financial losses as a result of significant dumping.
- xvii. Inventories with the Domestic Industry have shown increase throughout the injury period with a significant increase in POI. This situation exists despite rise in the level of demand.
- xviii. Consideration of the import prices from 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 would show that the landed value of imported material from subject country is significantly below the level of selling price and cost of the sales of the domestic industry, causing severe price undercutting and price depression in the Indian market.
- xix. There is no viable substitute to this product. Demand for the product has shown increase and could not have been a factor responsible for price depression faced by the domestic industry in the proposed POI. It is thus evident that the only factor responsible for the domestic industry prices are the import prices of the product.
- xx. Employment and wages have shown improvement in injury period. Employment and wages are not solely dependent on the subject goods performance. These are governed by several legislative requirements in the Country. This increase in wages and employment is a result of setting up of fresh capacities and enhancement in production in POI. Employment and wages are not reflective of the adverse performance of the domestic industry, as these factors are governed by overall operations of the company and the economy.
- xxi. Productivity per day as well as per employee has increased over the injury period, in line with the movement of production.
- xxii. The dumping margin is not only more than de-minimus but also substantial. The impact of dumping on the Domestic Industry is adverse.
- xxiii. Most of the price parameters are negative in POI.

Views of other interested parties

47. No submissions have been made by any producer/exporter/other interested parties with regard to the injury and causal link.

Examination by the Authority

48. In consideration of the various submissions made by the domestic industry in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the injury on account of imports from the subject country.
49. Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide 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 products; and (b) the consequent impact of these imports on domestic producers of such products. 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. Annexure II of the AD Rules requires that determination of injury shall involve 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 products; and
 - b. Consequent impact of these imports on domestic producers of such products.
51. The Authority has examined the injury parameters objectively taking into account the facts and submissions made by various interested parties.

H. Impact of dumped imports on domestic Industry

52. The impact of the dumped imports on the domestic industry and production thereof, was analysed in terms of Annexure-II of the Anti-dumping Rules, which *inter alia* states as under:

“(iv) *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.*

(vi) *The effect of the dumped imports shall be assessed in relation to the domestic production of the like article when available data permit the separate identification of that production on the basis of such criteria as the production process, producers’*

sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.”

53. The Authority has examined the various injury parameters on the basis of facts and submissions made by the domestic industry.

a) Volume of Import

54. As per DGCIS data, Imports volume from subject country have been identified and tabulated as under. As per the data 6 different product types have been imported, namely, Car Core, Car Complete, Truck and Bus Core, Truck and Bus Complete, Tractor Core, and Tractor Complete. Also there were several import transactions of subject goods which could not be identified under a specific PCN but have been taken into account for injury analysis. These unidentified import transactions could possibly include import of Gensets core and complete.

Particulars	Unit	2011-12	2012-13	2013-14	POI	POI (A)
China	Nos	199,880	184,584	341,050	4,81,635	3,85,308
Other Countries	Nos	7,226	1,285	1,491	4,636	3,709
Total imports	Nos	207,106	185,869	342,541	4,86,271	3,89,017

55. It is seen that imports have increased significantly in absolute terms over the injury period. Whereas demand for the product under consideration increased by about 39%, imports of the product under consideration from China increased by about 93% and imports from third countries declined by 49%.

b) Demand and Market Share

56. The demand/consumption of subject goods has been determined by adding domestic sales of domestic like products and imports of subject goods from subject country. It is noted that demand for the PUC has increased throughout the injury period as can be seen in the table below. Further, market share of subject country in demand has also increased over the injury period, whereas the market share of other countries and Indian Producers as a whole has declined.

Particulars	UOM	2011-12	2012-13	2013-14	POI(A)
Domestic industry	Nos	****	****	****	****
Trend	Indexed	100	136	139	213
Other Indian Producers	Nos	****	****	****	****
Trend	Indexed	100	83	67	50
Subject Country-China	Nos	199,880	184,584	341,050	385,308
Trend	Indexed	100	92	171	193
Other Countries	Nos	7,226	1,285	1,491	3,709
Trend	Indexed	100	18	21	51
Demand/Consumption	Nos	****	****	****	****
Trend	Indexed	100	97	121	139
Market Share in Demand					

Domestic industry	%	****	****	****	****
Trend	Indexed	100	140	115	154
Other Indian Producers	%	****	****	****	****
Trend	Indexed	100	86	55	36
Indian Producers as a whole	%	****	****	****	****
Trend	Indexed	100	105	76	77
Subject Country-China	%	****	****	****	****
Trend	Indexed	100	95	141	139
Other Countries	%	****	****	****	****
Trend	Indexed	100	18	17	37

c) Imports in relation to consumption and total imports-

57. Imports of the product under consideration from subject country have increased in relation to total imports, production and consumption in India as shown below:

<u>China imports in relation to</u>	%	2011-12	2012-13	2013-14	POI(A)
<u>Total Imports</u>	%	96.51	99.31	99.56	99.05
<u>Total demand/Consumption</u>	%	37.65	35.8	53.19	52.29

d) Price Effect of the Dumped imports on the Domestic Industry

58. 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."

59. It has been examined whether there has been a significant price undercutting by the dumped imports compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price underselling, price suppression and price depression, if any. The analysis for various price parameters has been based on DGCI&S data for 6 identified products and IBIS data for Genset core and Genset complete.

e) Price Undercutting

60. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry. The prices of the domestic industry were determined at the ex-factory level and a comparison has been made between the

landed value of the product and the average selling price of the domestic industry net of all rebates and taxes. This comparison showed that during the POI, the subject goods originating in China were imported into the Indian market at prices which were lower than the selling prices of the domestic industry. It is thus noted that imports of subject goods were undercutting the domestic prices and margin of undercutting is shown in the table below. In view of significant difference in the cost and price of PUC produced and sold in different market segment, the analysis of price undercutting was done PCN wise and thereafter price undercutting was quantified for the PUC on the basis of weighted average of the individual dumping margins.

Landed Value Rs/No	Net Sales Realization Rs/No	Price Undercutting Rs/No	Price Undercutting %
504	****	****	65-75

61. It is seen that the landed price of imports from subject country is lower than the selling price of the domestic industry, thus resulting in significant price undercutting.

f) Price suppression/depression

62. In order to determine whether the effect of imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred, the Authority examined the changes in the costs and prices over the injury period. The position is shown as per the Table below:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Cost of sales	Rs/Unit	****	****	****	****
Trend	Index	100	100	97	89
Selling price	Rs/Unit	****	****	****	****
Trend	Index	100	100	96	89

63. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of net sales realization of the domestic industry has been compared with the cost of sales. It is seen that both costs and price decreased over the injury period. It is also noted that the landed price of imports have been materially lower than the cost of production of the domestic industry.

g) Price Underselling

64. Authority notes that the price underselling is an important indicator of assessment of injury. Non injurious price has been worked out and compared with the landed value of the subject goods to arrive at the extent of price underselling. The non-injurious price has been determined considering the cost of production of the domestic industry for the PUC during the POI, in accordance with Annexure III of the Anti-dumping Rules. In view of significant difference in the cost and price of PUC produced and sold in market, the analysis of Landed Value and NIP was done PCN wise and thereafter price underselling was quantified for the PUC on the basis of weighted average of the individual dumping margins.

Landed Value Rs/No	Non Injurious Price Rs/No	Injury Margin Rs/No	Injury Margin %
504	***	***	300-350

I. IMPACT ON ECONOMIC PARAMETERS OF THE DOMESTIC INDUSTRY

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

i. Capacity, Production, Sales, Capacity Utilization and Inventories

66. The data relating to the domestic industry is shown in the following table:

Particulars	UOM	2011-12	2012-13	2013-14	POI(A)
Capacity	Nos	***	***	***	***
Trend	Indexed	100	100	100	113
Production-PUC	Nos	***	***	***	***
Trend	Indexed	100	133	142	223
Production-NPUC	Nos	***	***	***	***
Trend	Indexed	100	85	102	111
Production-Total	Nos	***	***	***	***
Trend	Indexed	100	99	113	143
Capacity Utilization	%	***	***	***	***
Trend	Indexed	100	99	113	126
Sales Volume	Nos	***	***	***	***
Trend	Indexed	100	136	139	213
Average Stock	Nos	***	***	***	***
Trend	Indexed	100	87	112	352

67. It is noted that

- The capacity of the domestic industry has increased in period of investigation.
- Production of the domestic industry has increased throughout the injury period.
- Capacity utilization of domestic industry has been determined by including production of other kind of radiators, as the production facilities for the product under consideration are not dedicated for product under consideration alone. Capacity utilisation determined after adding production of other kinds of radiators also shows increase over the injury period.

- d. Sales of domestic industry has also followed the same trend as production and capacity utilisation. Sales of the domestic industry have increased over the injury period.
- e. Inventories with the domestic industry have increased significantly over the injury period.

ii. **Profits, return on investments and cash flow**

68. The data relating to the domestic industry is shown in the following table:

Particulars	Unit	2011-12	2012-13	2013-14	POI(A)
Profit before tax	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(136)	(140)	(188)
Profit before interest	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(132)	(121)	(195)
Cash Profit	Rs. Lacs	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(126)	(103)	(154)
Return on capital employed	%	(***)	(***)	(***)	(***)
Trend	Indexed	(100)	(84)	(68)	(85)

69. It is noted that

- a. Low priced imports from subject country forced the petitioner to sell the product at a price below the remunerative prices resulting in financial losses suffered by the domestic industry throughout the injury period. The losses have intensified in the POI.
- b. Profit before interest was significantly negative and deteriorated over the injury period. The domestic industry was unable to recover its interest costs.
- c. The domestic industry also suffered cash losses and negative return on investment.

70. It is thus noted that the domestic industry is suffering significant financial losses as a result of significant dumping, which has led to significant cash losses and negative return on investment.

iii. **Employment, wages and productivity**

71. The position of the domestic industry with regard to employment, wages and productivity was below:

Particulars	UOM	2011-12	2012-13	2013-14	POI(A)
Salaries and wages	Rs Lacs	***	***	***	***
Trend	Indexed	100	132	128	189
Employees	Nos	***	***	***	***
Trend	Indexed	100	123	110	184
Productivity per Employee	Nos	***	***	***	***

Trend	Indexed	100	108	129	122
Productivity per Day	Nos	***	***	***	***
Trend	Indexed	100	99	113	143

72. It is seen that the employment, wages and productivity have increased in the injury period.

iv. Growth

73. The growth of the domestic industry with regard to various parameters was as follows. It is seen that growth of the domestic industry was positive with regard to volume parameters and negative with regard to price parameters.

Growth	UOM	2011-12	2012-13	2013-14	POI
Production	%	-	33	7	57
Sales	%	-	36	3	53
Capacity utilization	%	-	(1)	(8)	(7)
Profit before tax	%	-	0	0	12
Profit before interest	%	-	(32)	8	(61)
Cash Profit	%	-	(26)	18	(50)
Return on Capital Employed	%	-	4	4	(5)

v. Factors Affecting Domestic Prices

74. Examination of the import prices from China, 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. show that the landed value of imported material from China is below the selling price and the non-injurious price of the domestic industry, causing significant price undercutting as well as price underselling in the Indian market. It is also noted that the demand for the subject goods was showing significant increase during the injury period including the POI and therefore it could not have been a factor affecting domestic prices. Thus, the principal factor affecting the domestic prices is the dumped imports of subject goods from subject country.

vi. Magnitude and Margin of Dumping

75. The imports from China are far above the de minimis level of dumping margin. The dumping margin is quite significantly high. With such high magnitude of dumping margin, dumped imports are causing material injury to the domestic industry.

vii. Conclusion on injury

76. Having regard to the information on record and after examination of the performance of the domestic industry, the Authority concludes that the dumped imports of the subject goods from China have increased in absolute terms as well as in relation to production and consumption of the subject goods in India. Imports of the product are very significantly undercutting the prices of the domestic industry in the

market. The imports are resulting in price underselling in the market, and are preventing the domestic industry from raising its price to a level where the domestic industry can earn reasonable profits on the investment. The demand for the product increased significantly and consequently production, capacity utilisation and sales of the domestic industry also increased. However, performance of the domestic industry deteriorated in respect of inventories, profits, cash flows and return on investments. Growth of the domestic industry in respect of price parameters such as profits, cash profits, returns on capital was negative.

77. The Authority holds that the domestic industry has suffered injury in terms of adverse price effect of dumped imports, as a result of which the domestic industry incurred losses, negative cash profit and negative return on capital employed through entire injury period.

viii. Non attribution Analysis

78. The Authority has examined whether factors listed under the Anti-dumping Rules could have contributed to injury to the domestic industry. The examination of causal link between dumping and material injury to the domestic industry has been done as follows.

- a. *Changes in the patterns of consumption:* The pattern of consumption with regard to the product under consideration has not undergone any change. Changes in the pattern of consumption could not have, therefore, contributed to the injury to the domestic industry.
- b. *Trade restrictive practices of and competition between the foreign and domestic producers:* There is no trade restrictive practice, which could have contributed to the injury to the domestic industry.
- c. *Developments in technology:* Technology for production of the product has not undergone any change. Developments in technology are, therefore, not a factor of injury.
- d. *Export performance:* Petitioner has exported the product under consideration during the injury period. However, the claimed injury to the domestic industry is on account of domestic operations for other than used/on road vehicles and generator sets. Petitioner has provided costing and injury information for the product under consideration separately. Hence, injury to product under consideration cannot be attributed to exports.
- e. *Performance of other products being produced and sold by the domestic industry:* Claimed injury to the domestic industry is on account of product under consideration.

79. Authority concludes that listed known other factors have not caused injury to the domestic industry.

J. CAUSAL LINK

Factors establishing causal link: -

80. The Authority notes the following parameters show that injury to the domestic industry has been caused by dumped imports:

- a. There is significant difference between the prices offered by the domestic industry and foreign producers. Resultantly, domestic industry was prevented from raising its prices to a level where it can earn reasonable profits.
- b. Imported product was undercutting the prices of the domestic industry. Resultantly, the domestic industry has been prevented from increasing the prices to the extent of increase in cost of production.
- c. Losses, negative cash profits and negative return on capital employed across injury period are directly a result of dumped imports;
- d. Significant increase in imports has led to significant stock piling with the domestic industry;
- e. Market share of the subject imports remained significantly high. Resultantly, market share of the domestic producers has declined.
- f. Growth of the domestic industry was negative in respect of a number of parameters as a result of dumped imports.

K. MAGNITUDE OF INJURY AND INJURY MARGIN

- 81.** The Authority has determined non-injurious price for the domestic industry on the basis of principles laid down in the Rules, as amended. The non-injurious price so determined has been compared with the landed prices of imports from the subject country. The injury margin so determined is significant.

Landed Value		Non Injurious Price		Injury Margin		
Rs/No	USD/No	Rs/No	USD/No	Rs/No	USD/No	Range %
504	8.11	***	***	***	***	300-350

L. POST DISCLOSURE COMMENTS

- 82.** The issues raised at post disclosure stage have already been raised earlier during the investigation and also addressed appropriately. However, for the sake of clarity the submissions by the interested parties have been summarised and again addressed as below:

Submissions by the Domestic Industries

- 83.** Submissions made by the domestic industry are as follows:

- i. The petitioner has requested the Authority to add a detailed explanation to the PUC as a note in the duty table for clarity and proper implementation of the duty notification.
- ii. The petitioner has raised issues pertaining to calculations of non-injurious price. They have asked for the determination of NIP keeping following considerations in mind:
 - a) There is a conflict between rule 3 and rule 4 of Annexure III with regard to selection of period for considering the information and data relating to cost of production. Therefore, it is critically important that the harmonious interpretation

of rules made under Annexure III should be made to arrive at amount of antidumping duty that would remove the injury to domestic industry.

- b) As per Rule 3, information or data relating to cost of production for POI should be considered and as per Rule 4 best utilization of raw materials/ utilities/production capacities over the past three years and POI may be considered to nullify the injury.
 - c) There is apparent conflict regarding the selection of period for the purpose of assessment of injury. However, the purpose of rule 4 is different. Rule 4 comes into operation only if there is any inefficient utilization of raw materials/ utilities/production capacities. If there is no inefficient utilization of raw materials/ utilities/production capacities by the domestic industry then rule 4 will not come into operation at all. So authority can consider the period other than POI only when there is inefficient utilization of resources.
 - d) Merely because raw materials/ utilities utilization was mathematically higher in POI, one cannot automatically presume ‘inefficient utilization’ of raw materials/ utilities/production capacities by the domestic industry. In fact, there is no inefficient utilization of raw materials or utilities and any such difference is a bonafide difference.
 - e) Since Annexure-III provides for segregating injury due to inefficient utilization, the Designated Authority shall not reduce the NIP by presuming inefficient utilization of raw materials and utilities.
 - f) Petitioners submitted that there is no inefficient utilization of either raw materials or utilities or production facilities. Any difference in these parameters is bonafide and not inefficient utilization. Lower capacity utilization during the POI is not due to inefficient utilization of production capacities.
 - g) The rules provide that the Designated Authority shall consider non injurious price at ex-factory level. Sales tax, excise duty, discounts, commission are payable at ex-factory level and therefore the fact that injury margin is being determined at ex-factory level does not imply that the sales tax and excise duty cannot be added.
 - h) Petitioners submitted that there is no reason why NIP should be at ‘ex-factory level’ only. Any such mandatory prescription under Annexure-III shall render it contrary to Annexure-II. Without prejudice, even if NIP should be at ex-factory level, the principles of fair comparison are required to be considered and addressed while comparing NIP with import price.
 - i) Under Rule (vii)(b) all freight–outward expenses are also disallowed. But some freight outward expenses are also incurred when goods are transferred to a warehouse from the factory and they are sold from the warehouse. In such a case, transportation cost from the factory to warehouse must be included while calculating the NIP.
- iii. It was submitted by the Petitioners that the antidumping duty may be imposed as fixed quantum of anti dumping duty (fixed form of duty).
 - iv. It is requested that the duty should be imposed in terms of US\$. The Designated Authority has already expressed anti dumping duty in terms of US\$ in a large number of other investigations. We request the same in the present case as well. Rupee has depreciated significantly and impacted the costs of the raw materials,

utilities and other costs, therefore, the definitive duties may kindly be expressed in US\$.

Submissions made by the other interested parties

84. Standard Radiators Pvt. Ltd has made submissions stating that the PUC should be defined in detail in para 19 pertaining to scope of the PUC.

Examination by the Authority

85. The decision of the Authority regarding the issues raised above is as below:

- i.) It is noted that the scope of the product under consideration has already been dealt with sufficiently in appropriate paragraphs of this finding and a reference thereof is also being mentioned in the duty table. Further, it is the consistent stand of the Authority that the customs classification is indicative and description of the PUC is the deciding factor.
- ii.) Regarding the issue of clarity in PUC, the Authority has defined the scope and the exclusions in great detail in paragraph 19 of this finding.
- iii.) Annexure III of Custom Notification No. 15/2011-customs (N.T) dated 1st March 2011 laid down the principles for determination of Non-injurious Price. The NIP for the instant case has been determined following the said Rule. The contention of the DI is contrary to the *ibid* Rule and not acceptable.
- iv.) The authority has decided, based on the facts and circumstances of the present investigation, that the definitive anti-dumping duty imposed in USD will be most suitable to offset the dumping and injury caused to the domestic industry in the present investigation.

M. CONCLUSION

86. The Authority has, after considering the foregoing, come to the conclusion that:
- a. The subject goods have been exported to India from the subject country below its associated normal value;
 - b. The domestic industry has suffered material injury;
 - c. The material injury has been caused by the dumped imports of the subject goods from subject country.

Indian Industry's Interest And Other Issues

87. The Authority recognizes that imposition of antidumping duties might affect the price level of product in India. However, fair competition in Indian market will not be reduced by the anti-dumping measures. On the contrary, imposition of anti-dumping measures would remove the unfair advantage gained by dumping practices, would arrest the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. Consumers could still maintain two or more sources of supply.
88. The Authority notes that the purpose of antidumping duties, in general, is to eliminate injury caused to the Domestic Industry by unfair trade practices of dumping so as to

re-establish a situation of open and fair competition in Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the products to the consumers.

N. RECOMMENDATIONS

- 89.** The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of antidumping duty is required to offset dumping and injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of subject goods from the subject country in the form and manner described hereunder.
- 90.** Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, from the date of notification to be issued in this regard by the Central Government, so as to remove the injury to the domestic industry. Accordingly, the antidumping duty equal to the amount indicated in Col No.9 of the table below is recommended to be imposed on all imports of the subject goods originating in or exported from the subject country.

Duty Table									
Sl. No	Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount (in USD)	UOM
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	8708 91 00*	Aluminium Radiators**	Any specification	China PR	China PR	Any	Any	22.89	number
2	8708 91 00*	Aluminium Radiators**	Any specification	China PR	Any	Any	Any	22.89	number
3	8708 91 00*	Aluminium Radiators**	Any specification	Any	China PR	Any	Any	22.89	number

*Custom classification is only indicative and the determination of the duty shall be made as per the description of PUC.

** The description of the product is as specified in para 19 of this finding.

91. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
92. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(Dr. Inder Jit Singh)
Additional Secretary & Designated Authority