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F. No.15/22/2014-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: 5th January, 2016

(Final Findings)

Subject: Sunset Review investigation relating to Anti Dumping Duties imposed on imports of Tyre Curing Presses for Tyres originating in or exported from China PR

BACKGROUND

No.15/22/2014-DGAD:- Whereas, having regard to above Rules, the Designated Authority (hereinafter referred to as Authority) initiated an antidumping investigation in respect of the imports of Tyre Curing Presses also known as Tyre Vulcanisers or Rubber Processing Machineries for Tyres” (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as subject country) and definitive anti dumping duty was recommended vide Final Findings Notification No 14/22/2007-DGAD dated 15th October, 2009. On the basis of the said findings, the Central Government imposed definitive anti-dumping duties on the subject goods imported from subject country vide Notification No 01/2010 dated 8th January, 2010.

Further, whereas, M/s Ralson India Ltd., Ludhiana, a user of the subject goods, filed an application before the Authority in accordance with the Act and the AD Rules for initiation of Mid-Term Review seeking exclusion of anti-dumping duty on the product ‘6 Day Light Bicycle Tyres Curing Presses’ from the scope of the Anti-Dumping Duty. On the recommendation of Designated Authority, Ministry of Finance vide Notification No. 26/12 dated 14th May, 2012 excluded ‘6 day Light Bicycle Tyres Curing Presses’ from the scope and ambit of antidumping duties.

2. Whereas, in terms of the Act and the Rules, the antidumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition.

3. And whereas, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a

reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. And whereas M/s Larsen and Toubro Limited, approached the Authority with an application requesting for sunset review for extension of the definitive anti-dumping duty earlier imposed vide Ministry of Finance Notification No. 01/2010 dated 8th January, 2010 and Notification No. 26/12 dated 14th May, 2012 excluding '6 day Light Bicycle Tyres Curing Presses' from the scope and ambit of antidumping duties, on the imports of the subject goods originating in or exported from the subject country and seeking the continuation of anti-dumping duty on the grounds that cessation of anti dumping duty is likely to lead to continuation or recurrence of dumping and injury.

5. Having satisfied that the petitioner has substantiated the need for a review, the Designated Authority considered it appropriate to initiate sunset review vide notification no. 15/22/2014-DGAD dated 7th January, 2015. The validity of the antidumping duty on the imports of the subject goods from the subject country was extended up to 7th January 2016 by the Central Government vide Notification No. 06/2015-Customs (ADD) dated 3rd March, 2015.

6. The scope of the present review covers all aspects of the previous investigations concerning imports of the subject goods, originating in or exported from the subject country.

A. PROCEDURE

7. The procedure described below has been followed in this investigation:

- i) The Authority notified the embassy of China in India about the receipt of application before proceeding to initiate the investigation.
- ii) The Authority issued a Notification No. 15/22/2014-DGAD dated 7th January, 2015, published in the Gazette of India, Extraordinary, initiating sunset review anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject country.
- iii) The Authority forwarded a letter along with copy of the notification to all the known exporters and other interested parties/industry associations (whose details were made available by the domestic industry) in the subject country and gave them opportunity to make their views known in writing within the prescribed time limits in accordance with the anti-dumping rules.
- iv) The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject country in accordance with the Anti-dumping Rules. A copy of the application was also made available to other interested parties, upon request.
- v) Copy of the letter and the exporter questionnaires sent to the exporters/ producers in the subject country were also sent to the embassy of the subject country in India along with a

- list of known exporters / producers with a request to advise the known exporters / producers from the subject country as also other exporters / producers from the subject country to respond to the questionnaires within the prescribed time limits.
- vi) The Authority sent exporter's questionnaires to elicit relevant information to the following known exporters in the subject country in accordance with the Antidumping Rules:
- a. Guilin Rubber Machinery Factory,
 - b. Yiyang Yishen Rubber Machinery Co. Ltd.
 - c. Sino Rubber Machinery Co. Ltd.
- vii) Only Guilin Rubber Machinery Factory has filed exporter questionnaire response as a producer and exporter of the product under consideration in India.
- viii) The Authority forwarded a copy of the notification to the following known importers/consumers (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 prescribed time limit in accordance with the Rule 6(4):
- a. Apollo Tyres ltd.
 - b. Falcon Tyres ltd.
 - c. Birla Tyres
 - d. Goodyear India Ltd.
 - e. Bridgestone India Pvt. Ltd.
 - f. JK Tyre & Industries Ltd.
 - g. CEAT Ltd.
 - h. MRF Ltd.
 - i. Balkrishna Industries Limited
- ix) Following importers/users responded and filed importer questionnaire response:
- a. Automotive Tyre Manufacturing Association as an association of the consumers of the product under consideration in India.
 - b. JK Tyre & Industries Ltd
 - c. Apollo Tyres Ltd
 - d. CEAT Ltd
- x) The period of investigation for the purpose of the present review is 1st October, 2013 to 30th September, 2014 (12 months). However, injury analysis covered the period 2011-12, 2012-13, 2013-14 and the POI.
- xi) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, and the period of investigation. No imports were observed from the DGCI&S data. However, domestic industry submitted that imports of the product under consideration have been observed under Chapter 98 of Customs tariff Act, which is not the dedicated classification for the subject goods. Domestic industry procured import data from secondary source, namely, IBIS, Mumbai. Further, importer questionnaire response also shows imports made from subject country. Imports from both the source have been considered to determine volume and value of imports of the product under consideration in India.

- xii) 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).
- xiii) The Authority held oral hearing on 21st September 2015 to provide an opportunity to the interested parties to present information orally in accordance with Rule 6(6). The interested parties were allowed to present rebuttal arguments/rejoinders on the views/information presented by other interested parties.
- xiv) The parties presenting their views in the oral hearing were requested to file written submissions of the views expressed orally. The submissions made by the interested parties during the course of the investigation and the oral hearing, have been addressed in this final Finding, to the extent considered relevant by the Authority.
- xv) A disclosure statement was issued on 28.12.2015 containing essential facts under consideration of the Designated Authority, which have formed the basis for this Final Finding Notification. A time up to 01.01.2016 was given to furnish comments, if any, on Disclosure Statement. The Authority has considered post disclosure comments received from interested parties appropriately.
- xvi) The Authority examined the information furnished by the domestic producer to the extent necessary 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.
- xvii) Verification of the information and data submitted by the applicant was carried out to the extent deemed necessary the information submitted by responding exporter and importers has been examined in detail.
- 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 treated such parties as non-cooperative and recorded its finding on the basis of the 'facts available'.
- xx) The submissions made by the interested parties considered relevant by the Authority have been addressed in this Final Finding.
- xxi) Transaction-wise imports data has been procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) for the periods, April 2011-March 2012, April 2012-March 2013, April 2013-March 2014 and the POI. This information along with the secondary source information from IBIS as furnished by Petitioner and also the

information furnished by Importer has been relied upon for the analysis in present SSR investigation.

xxii) The exchange rate for the POI has been taken by the Authority as Rs.61.65 = 1 US\$.

xxiii) *** in the Final Finding represents information furnished by interested parties on confidential basis and so considered by the Authority under the Rules.

B. SCOPE OF THE PRODUCT UNDER CONSIDERATION AND ‘LIKE ARTICLE’

Submissions by the Domestic Industry

8. Views of the domestic industry on product under consideration are as follows:

- a. The product under consideration is “Tyre Curing Presses, excluding 6 day Light Bicycle Tyres Curing Presses”, also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres. Tyre Curing Press is a machine used for curing tyre during manufacturing of a tyre. One machine can be used for a range of bead sizes.
- b. Goods produced by the domestic industry are like article to the imported product in terms of parameters such as physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification. The two are technically and commercially substitutable.
- c. The product under consideration is classified under Chapter 84, subheading 8477 5100 of the Customs Tariff Act, 1975. The classification is meant for “Other machinery for moulding or otherwise forming for moulding or retreading pneumatic tyres or for moulding or otherwise forming inner tubes”. However, this classification is indicative only and is in no way binding on the scope of the investigation. Though TCP is classified under Chapter 84 of the Customs Tariff Act, 1975, imports are not being reported in the dedicated HS codes and are being reported under Chapter 98 of the Customs Tariff Act, 1975.
- d. Quality was not at all a relevant consideration for the consumers given that the product produced by the petitioner conforms to all laid down standards. No evidence has been provided to show that the domestic industry could not supply the material against orders and specifications desired by the user company, or to show that product supplied by the domestic industry was of poor quality.
- e. Domestic industry supplied the product in the international markets, which is testimony of its supplies.

Submissions by the Opposing Interested Parties –

9. Views of the opposing Interested Parties on product under consideration are as follows:

The other interested parties have contended that there has been deficiency in the quality of the materials supplied by the Domestic Industry, delay in service and even delay in supplying the PUC. All these factors have resulted in a situation wherein the user industry has been forced to import the PUC even at higher costs.

Examination by the Authority

10. The present petition is for sunset review of the anti dumping duty earlier imposed. The product under consideration considered by the Authority in the original final findings is as follows:

3. The product under consideration in the present petition is “Tyre Curing Presses” also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres. Tyre Curing Press is a machine used for curing tyre during manufacturing of a tyre. Tyre curing press is a machine where tyres get their final shape and tread pattern. Hot moulds shape and vulcanize the tyres. The moulds are engraved with the tread pattern, the sidewall markings of the manufacturer and those required by law. After curing, the tyres are removed from their moulds and taken to final finish and inspection. 4. The size of the Tyre Curing Press is normally indicated in inches by the internal diameter of the Dome or the diameter of the platen. This in turn determines the maximum size of the mould that can be used in the press. The mould diameter is the critical parameter that determines the maximum size of a tyre that can be cured in that press. Generally as the press size increases it can accommodate a bigger diameter mould and hence it can cure bigger tyres. The broad classification of press sizes for various tyre segments are as shown below: 24”-36” – Scooter tyres 40” -52” – Passenger car and LCV tyres 55”- 65.5” – Truck tyres 78” – Tractor and agricultural equipment tyres 85”-185” – OTR tyres (Mining and special equipment) Optional Add ons such as vertical chuck loader, segmented mould operator and post cure inflators which help the press in terms of automation better productivity and better product handling capacity etc. are added depending upon the requirement of the customers. 5. Tyre Curing Presses is classified under Chapter 84 of the Customs Tariff Act, 1975 under subheading 8477.51 under subheading 8477.5100 under the Indian Trade Classification (Based on Harmonized Commodity Description and Coding system).

11. The Authority had modified the scope of product under consideration and excluded Six Day Light Curing Press for curing bi-cycle tyres from the scope of the product under consideration vide Notification No. 15/40/2010 dated the 29th March 2012.

12. The present investigation being review of existing anti dumping duty, the scope of the product under consideration in the proposed investigation remains the same as the scope of the product in the last concluded Mid Term Review wherein ‘6 day Light Bicycle Tyres

Curing Presses' was excluded from the scope and ambit of antidumping duties. It is also noted that none of the interested parties have made any relevant submission requesting modification (including curtailment) in the scope of the product under consideration.

13. As regards the argument that quality of the subject goods offered by the domestic industry is deficient, the Authority notes that the argument has not been substantiated and its impact on the present investigations has not been quantified. Furthermore, it is a settled principle of law that the fact that quality of the product supplied by two different parties is different does not per se imply that the imported product and the domestic product are not like articles.
14. After examination, the authority concludes that the scope of the product under consideration is *"Tyre Curing Presses" also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres, excluding Six Day Light Curing Press for curing bi-cycle tyres* and subject goods produced by the domestic industry are like article to that imported from the subject country.

C. DOMESTIC INDUSTRY AND STANDING

Submissions by the Domestic Industry

15. Views of the domestic industry on domestic industry & standing are as follows:
 - a. The petition was filed by Larsen and Toubro Limited. Petitioner is a major producer of the subject goods in India.
 - b. There are four other producers of the product in India - Devon Machines Pvt. Limited, Chennai, Trimac Machinery Manufacturing Pvt Limited, Mumbai, Alfred Herbert (India) Limited, Kolkata, and Specific Engineering Corporation Pvt. Limited, Mumbai. Devon Machines is a unit of MRF Limited and is understood to be producing only for MRF. Petitioner is not aware of any merchant sales by this company. Petitioner also does not have details regarding other producers.
 - c. The petitioner has not imported the subject goods during the period of investigation, and further, is not related to any exporter or producer of the subject goods in China or an importers or users of the PUC in India within the meaning of Rule 2(b).
 - d. The production of petitioner constitutes a major proportion of total domestic production of subject goods in India. Thus, the present petition satisfies the standing requirement under the Rules to file the present petition and petitioner constitutes 'domestic industry'.
 - e. Present petition is for sunset review. This being sunset review investigation, the Authority is not required to ascertain standing of the petitioner to file the present petition.

Views of the opposing Interested Parties

16. None of the interested parties have made submissions with regard to scope of the Domestic Industry and its standing.

Examination by Authority

17. 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”

18. The application was filed by Larsen and Toubro Ltd. The petitioner has not imported the subject goods during the period of investigation, and is not related to any exporter or producer of the subject goods in China or an importer or user of the subject goods in India. It is noted there are four other known producers of the subject goods in India, apart from the petitioner, viz., Devon Machines Pvt. Limited, Chennai, Trimac Machinery Manufacturing Pvt. Limited, Mumbai, Alfred Herbert (India) Limited, Kolkata, and Specific Engineering Corporation Pvt. Limited, Mumbai. It is noted that as per the submission by the petitioner Devon Machines is a unit of MRF Limited and is understood to be producing only for MRF and does not produce goods for domestic sales. The claim of the Petitioner in this regard has not been refuted by MRF, ATMA or other interested parties. All the known producers were sent intimation regarding the initiation notification and invited to furnish information pertaining to the case, however, they have not come forth with any information whatsoever. Further, data furnished by the petitioner shows that even if known capacity of M/s Devon Machines is considered as its domestic production, the production of petitioner would still constitute a major proportion of total domestic production of subject goods in India. The petitioner therefore satisfies the requirement of standing to file the present petition and constitutes ‘Domestic Industry’ within the meaning of the AD Rules.

D. CONFIDENTIALITY

View of Opposing Interested Parties

19. Following are the views of the Exporter:

- a. The DI in their petition has claimed confidentiality for its export figures. In fact, the DI has not even provided indexed figures and simply put an asterisk therein. Such a claim of confidentiality by the DI is inconsistent with Rule 7 of the Indian AD Rules and the practice of the Hon'ble DA as outlined in the trade notice no. 01/2013 dated 9 December 2013. Since the export figures for production and domestic sales can be indexed just like the figures for domestic production and sales, there is no basis for the DI to blank out the export figures. Para (iii) of the said trade notice clearly provides that the non-confidential version (NCV) of the submission should be indexed and only if the indexation is not possible, would the information be blanked out.
- b. As per the petitioner in the original submissions, the DI was not aware of import details but subsequent to hearing in their submissions the petitioner has mentioned import details of the subject goods from the subject country. The representative of ATMA and their member allege that the import data of ATMA members is confidential and seems to have been availed by DI on unauthorized basis.

Views of Domestic Industry

20. The following are the submissions of domestic industry.
 - a. The claim of the interested parties with regard to disclosure of exports from India is denied as incorrect.
 - b. In fact, ATMA member companies have resorted to excessive confidentiality. Since details of imports are publically available in the import data, there was no justification for claiming the same confidential by the importers.
 - c. It is presumptive on the interested parties that petitioner has got access to confidential information of the importers and exporters. The petitioner has only got access to non-confidential version of the response. Initially domestic industry considered imports under Chapter 84 Customs headings where the machines should have been ideally imported, but on finding importers questionnaire non confidential version, it became evident that there were imports of the product under consideration in India. The domestic industry therefore examined the entire matter and realized that the imports could have been made under Chapter 98. The domestic industry then took Chapter 98 import information from IBIS and got further detailed import information. This information has been provided to the authority. They got this insight from the fact that JK Tyre earlier wanted to buy 56 machines but subsequently placed order for 28 machines on Petitioner and for 28 machines on China. The petitioner therefore could construct information from publically available information source.
 - d. As regards the contention that the IBIS data has not been made available to the other interested parties or IBIS data does not show imports of the product under

consideration under Chapter 98, the domestic industry has provided IBIS data in detailed explanation given by them with regard to imports under Chapter 98. Domestic industry has not claimed confidentiality on this data.

- e. The facts clearly establish significant suppression of facts by the responding exporter and importer, wherein the exporter and importer have not reported that significant exports have been made through China National Pharmaceutical Foreign Trade Corporation. Further, when customs data show imports of the product under consideration on bill of entry basis, the importer or exporter could not have claimed volume of imports as confidential. The confidentiality provision has been abused by these interested parties to prevent DI from effectively participating in the investigation.

Examination of the Authority

21. The various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are examined and addressed in terms of Rule 7 of Anti-dumping Rules.
22. 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 confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis was directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file.
23. With regard to disclosure of confidential information to the interested parties, the authority notes that the domestic industry has been given access to only the public version of the questionnaire response filed by the exporter and importers/users. Any claim/allegation by any of the interested parties regarding violation of confidentiality is without any merit and baseless. The domestic industry obtained transaction wise data under Chapter 98 from IBIS, correlation of which with the questionnaire response can lead to construction of entire information. It is also noted that questionnaire response was filed by three importers, and whereas the said information was claimed confidential in questionnaire response, volume of imports have been disclosed in indexed form by one of the importers himself whereas other two importers claimed nil imports during POI. In any case, the information publicly available in IBIS and its comparison with non confidential version of the information would have led to easy understanding of the total imports, the imports details have been provided by DI and placed in public file. The repeated submission of the legal consultant of the importer with regard to unauthorized access of DI to imports figures is without any basis.

E. Assessment of Dumping – Methodology and Parameters**Normal Value, Export Price and Dumping Margin****Normal Value**

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

- (i) *the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
- (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either-*
 - (a) *comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

Normal Value for China PR**Submissions by the domestic industry**

25. Views of the domestic industry are as follows:

- a. Guilin Rubber Machinery Factory is not entitled for individual dumping margin as they are not exporter in the present case. All the exports have been made by China National Pharmaceutical Foreign Trade Corporation, who has not filed exporter's questionnaire response.
- b. Guilin Rubber Machinery Factory has claimed to have engaged China National Pharmaceutical Foreign Trade Corporation as an agent. If it is so then there could not have been sales and purchase transactions between the importer and the alleged appointed agent.

It is clear that China National Pharmaceutical Foreign Trade Corporation is not an agent but an exporter therefore they should have participated in the investigation proceedings by filing proper response.

- c. China PR should be treated as nonmarket economy country for the following reasons:
- i) Market economy status cannot be given in a situation where one of the major shareholders is a State owned/controlled entity – The Designated Authority in India and the EC has consistently held that possibilities of State interference cannot be ruled out in such cases. It is being held that it is not only the question of past interferences alone, but also possibilities of potential State interference in the future after the imposition of anti dumping duties that is relevant to market economy treatment.
 - ii) Market economy status cannot be given unless the responding Chinese exporters establish that the prices of major inputs substantially reflect market values – “substantially reflect market values” has been widely interpreted to mean that the price of these inputs must be comparable to the prices prevailing in the international market. The fact that such prices are comparable to the price prevailing in China is grossly insufficient.
 - iii) Market economy status cannot be given unless the responding exporter establish that their books are audited in line with international accounting standards – market economy treatment must be rejected in such situations where Chinese exporters are unable to establish that their books are consistent with International Accounting Standards (IAS). The requirement on insisting compliance with International Accounting Standards is to ensure accuracy and adequacy of revenues and expenses, assets and liabilities expressed in the annual report.
 - iv) Market economy status cannot be granted even if one of the parameters is not satisfied – market economy status cannot be granted unless the responding Chinese exporters pass the test in respect of each and every parameter laid down under the rules. This situation is just the opposite of the test required for material injury. It is well acknowledged position that a positive finding of injury can be recorded even if one single parameter established injury. Thus, while one parameter is sufficient to establish existence of injury, failure to pass one single parameter is sufficient to reject the claim of market economy status.
 - v) Onus/obligations – it is not for the Authority to establish that the Chinese companies are indeed operating under market economy environment and is entitled for market economy treatment. On the contrary, it is for the Chinese exporters to establish that they are operating under market economy conditions.
 - vi) Response from group as a whole – Market economy status cannot be granted unless the responding company and its group as a whole make the claim. If one or more companies forming part of the group have not filed the response, market economy status must be rejected.

- vii) Transformation – 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.
- d. The petitioner has no reservation to any categorization or PCN mechanism being followed in the present case for different sizes of the machines. It is, however, pointed out that this PCN system is appropriate only for determination of dumping margin, price undercutting and extent of injury. However, injury is required to be assessed for product under consideration as a whole. Petitioner has already undertaken price undercutting, dumping margin and injury margin analysis by comparing comparable product types. However, it is wrong to contend that the entire injury analysis and price analysis for each grade of TCP should be done separately.

Views of the Opposing Interested Parties

26. Views of the Opposing Interested Parties are as follows:

- a. Guilin Rubber Machinery Factory has claimed to be the producer and exporter of subject goods which they export to India through their agent namely China National Pharmaceutical Foreign Trade Corporation. Since China National Pharmaceutical Foreign Trade Corporation is working only as an agent, there is no need to file separate response by the agent.
- b. Export price for the purpose of calculating the dumping margin should be based upon the actual shipments of the PUC from China PR.
- c. Export price can only be constructed when there is no export price or the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party. In the present investigation, actual shipments of the PUC exist and invoices with respect to the same have been provided by the importers to the DGAD. Secondly it is not the argument of the DI that export is unreliable on account of association.
- d. One size of TCP is specifically used to manufacture a particular type of tyre and a different size of TCP cannot be used as a substitute. In the present investigation, the PUC, i.e. TCP consists of various sizes and each type is used to manufacture a particular type of radial tyre. For example 65.5” TCP is used to manufacture radial tyres and cannot be used to manufacture other tyres such as bus tyres etc. This fact was also admitted by the DI during the oral hearing. It only implies that different grades of TCP cannot be considered as one product and therefore injury analysis and price analysis for each grade of TCP should be done separately.

Examination by the Authority

27. None of the exporters from China PR has filed the NMET questionnaire response.
28. China has been treated as a non-market economy country by various authorities world over and in recent cases China has been treated as non-market economy country in India also. Therefore, the normal value for China is required to be determined as per the procedure described in Para 7 of the Annexure I to the Anti-dumping Rules. For the ready reference the provisions of Para 7 are quoted below:

“7. In case of imports from non-market economy countries, normal value shall be determined on the basis of 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, 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. Account shall also be taken within time limits, where appropriate, of the investigation if any made in similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.”

29. Since China is being considered as Non Market Economy, the Rules provide that the normal value for China is required to be determined based on domestic selling prices in a market economy third country or the constructed value in a market economy third country or the export prices from such a third country to any other country including India. However, if the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.
30. In the absence of any price and cost details for the subject goods in any market economy third country and the fact noted that the exporter/producer has not filed the complete questionnaire response and claimed market economy treatment in terms of Paragraph 8(3) of Annexure 1 to the Anti-dumping Rules, the Designated Authority is left with no alternative in the current case but to determine normal value estimated on the basis of price actually paid or payable in India for the like product, duly adjusted, to include a reasonable profit margin.

Determination of individual dumping margin

31. As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy may be rebutted, if the exporter(s) /producer(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The co-operating exporters/ producers of the subject goods from People's Republic of China 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 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*
32. The exchange rate conversions are carried out at the market rate.
33. The authority notes that response to questionnaire response has been filed by Guilin Rubber Machinery Factory claiming that the company is a producer of the product under consideration and has exported the same to India through their agent namely China National Pharmaceutical Foreign Trade Corporation. The company has claimed export of *** machines to India during the investigation period. The domestic industry contended that the questionnaire response filed by the producer-exporter is not complete, as the company has exported the product under consideration to India through another company (China National Pharmaceutical Foreign Trade Corporation) who has not filed questionnaire response. Further, the domestic industry contended that 26 machines were imported during the period of investigation and all these machines have not been reported by the responding exporter, Guilin Rubber Machinery Factory. The domestic industry further contended that the questionnaire response filed by importer also showed increase in imports in India during the present investigation period, as per the indexed information.
34. In view of contradictory claims made by Guilin Rubber Machinery Factory and domestic industry, detailed discussions were held with the representative of Guilin Rubber Machinery

Factory. It was opined that all the machines produced by Guilin Rubber Machinery Factory for export to India have not been reported in the questionnaire response filed by Guilin Rubber Machinery Factory. Guilin Rubber Machinery Factory stated that they are not aware of any exports of the goods produced by them that might have been exported by some other Chinese traders. The Authority notes in this regard that even at the time of original investigations, it was found that Guilin Rubber Machinery Factory had not provided information in respect of all the machines. The authority had noted as follows at the time of original investigations:

44. The Guilin Rubber Machinery Factory, the exporter from China PR provided transaction-wise details of exports made during POI. However, it was noticed that some exports were made to India from 'Guilin' which was not reflected in export transactions disclosed by the exporter. The exporter was asked to clarify and it was replied that Guilin has "reported its sales shipped by it to India during POI and negotiated directly with Indian customers. Apart from these Guilin has sales within China including also to unrelated traders, sometimes even delivered to China ports. Guilin has no idea of the final customer of such unrelated traders. Guilin reports such sales as its domestic sales since goods were delivered by it or collected from it in China and it has no knowledge of the final customer in China, India or elsewhere and since no VAT refund has been claimed or received by Guilin in respect of such sales as can be verified". After the Preliminary Findings, it was informed that the exporter has contracts with the trader and asked them to confirm whether they have re-sold the presses to India. It has also been intimated that the traders refuse to cooperate however they have confirmed that presses were re-sold to India and the names of customers have also been provided. In the revised information, the exporter has given the transaction-wise details of export directly made to India and exports made to India through one of the trader. No information has been provided about the export sales made to other countries or exports made to India through other traders. During the verification, the exporter was asked to show the delivery documents, in this regard it was stated that they were not aware of the final destination though they have delivered the presses at the direction of the trader on China's port. The exporter however could not explain satisfactorily that how the TCP which require technical inputs, for manufacturing and installation from final customer's place, could be sold to trader without knowing the final customer. It was also informed that they are not aware of final destination of the TCP sold to other traders. In the submissions, the exporter has stated that most important consideration is "technical ability". The Authority in view of the nature of the product, is unable to accept the explanation of the exporter and cannot rely on the transaction-wise details provided for exports to India. Since the exporter has not been able to correctly establish its export price claims, which is most vital for determination of individual dumping margin the Authority has not been able to determine separate individual dumping margin for the exporter 'Guilin'.

35. The Authority notes that the questionnaire response filed by the exporter, Guilin Rubber Machinery Factory is not complete as it does not contain information/evidence with regard to all goods produced by the company for export to India. The quantity of exports as declared by M/S Guilin Rubber Machinery is significantly lower than the total quantity of import as declared by the importers. The Authority further notes that the nature of the product is such that a producer/exporter of the product under consideration cannot claim lack of knowledge with regard to ultimate destination of the product. In view of the above, the Authority holds that the questionnaire response filed by the responding producer Guilin Rubber Machinery Factory is incomplete, in so far as the exporter/trader of Guilin Rubber Machinery Factory has not filed the response. In view of the same, the Authority considers it inappropriate to determine individual dumping margin for Guilin Rubber Machinery Factory.
36. Further, the Authority notes that consequent upon the initiation notice issued by the Authority; only one exporter responded, namely, Guilin Rubber Machinery Factory. However the exporter has not claimed market economy questionnaire's response and sought to rebut the non-market economy presumption. Since none of the Chinese companies have filed MET questionnaire response or claimed market economy treatment, petitioner has proposed India as surrogate country. No comments have been filed by any party opposing claim of the petitioner.
37. The information on record shows imports of the following machines during POI:
- a. 48" Hydraulic Tyre Curing Press With Heating Module And Surge Conveyor Complete
 - b. 65.5" Twin Platen Mechanical Tyre Curing Press With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation.
38. In view of significant difference in the associated costs and prices of the product on the basis of size and accessories, the Authority has proposed to determine 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. Accordingly, separate normal value has been proposed to be determined for the two sizes of TCP imported during POI.
39. For the purpose, as far as 65.5" machine is concerned, the domestic industry has produced and supplied machines with almost same specifications during the POI. The Authority has therefore considered production cost of these 65.5" machines by the domestic industry for determination of normal value for 65.5" machines imported from China. As regards normal value for 48" Hydraulic Tyre Curing Press, the Authority notes that the petitioner domestic industry has not produced this type of machine during the POI. However, the company did produce 48" mechanical TCP during POI. Due allowance has been made in accordance with

para 6(i) of Annexure I to the Antidumping Rules for differences which are demonstrated to affect price comparability. . Further, the authority notes that both 46" and 48" presses are used for production of the same type of tyres and therefore are interchangeable. The Authority therefore considers the adjusted cost of production of 48" mechanical TCP as a benchmark for constructing the cost of production of 48" hydraulic presses in POI to arrive at estimates of normal value.

40. The dumping margin has therefore been determined by comparing the constructed normal value with the associated ex-factory price in China. Further, in view of significant difference in the associated costs and prices of the product, the Authority has determined 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.
41. As no information about prices has been made available in respect of market economy third country and also prices from such third country to other countries, the Authority has therefore determined normal value on 'any other reasonable basis'. The Authority has constructed Normal value for the Chinese producers as below –
- Consumption of raw materials per unit of production and the conversion costs have been considered on the basis of best information/data available on record, considering information/data of the domestic industry in view of the peculiarity of the product.
 - Selling, general & administrative costs have been taken on the basis of best information/data available on record, considering information/data of the domestic industry.
 - Appropriate Profit has been added.

42. The Normal Value as worked out by the Authority is as below:

Description of Item	Constructed Normal Value Rs/ machine	Constructed Normal Value USD/Machine
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	***	***
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	***	***

Export price for China

43. Since the authority has not determined individual dumping margin for the Chinese producers, export price has been determined on the basis of all known imports of the product under consideration in India.

44. The Authority has determined Export Price as per 'facts available' in terms of Rule 6(8) of the AD Rules. Interested parties have argued that export price cannot be constructed and actual shipments of PUC need to be considered. The Authority notes in this context that import data as provided by the domestic industry under Chapter 98 and the actual import data submitted by the importers through importer questionnaire response have been correlated and considered for the purpose of determining export price. The adjustments to the CIF prices have been made as per facts available on record. Accordingly, export price has been adjusted for agent's commission, packing expenses, ocean freight, port expenses in China, inland freight and VAT adjustments and is proposed to be determined as below.

Description of Machines	Imports (Nos)	CIF Value USD/Machine	Ex Factory Price Rs/ machine	Ex-Factory Price USD/Machine
48" Hydraulic TCP With Heating Module and Surge Conveyor Complete in all respect	18	***	***	***
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	8	***	***	***
Average	26	***	***	***

Dumping Margin

45. Considering the Constructed Normal Value with Ex- Factory Price as proposed above, the dumping margin has been determined as follows:

Description of Item	No. of machines Imported	Constructed Normal Value Rs/ machine	Ex- Factory Price Rs/ machine	Dumping Margin Rs/machine	Dumping Margin %	Dumping Margin Range
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	18	***	***	***	***	20-30
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	8	***	***	***	***	0-10
Average	26	***	***	***	***	10-20

F. Assessment of Injury And Causal Link

Views of the Domestic Industry

46. The submissions made by the Domestic Industry with regard to injury and casual link are as follows:
- a. The product is imported under Chapter 84 and 98 of the Customs Tariff Act.
 - b. The present anti dumping duty is not a sufficient deterrent for the Chinese exporters to sell the goods on dumped prices.
 - c. Imports of the product under consideration are undercutting the prices of the domestic industry. The situation is likely to continue, should the present anti dumping duty cease.
 - d. The increase in the selling price is far lower than the increase in cost of production. Further, these comparisons are on the basis of weighted averages and the PUC includes a number of different product types, whose costs and prices vary very significantly. However, if the comparison is drawn for comparable product types, the same conclusion shall be drawn.
 - e. Continued presence of the Chinese suppliers in the Indian market forced the domestic industry to offer sub-optimal prices. Mere presence of the low priced product in the market in an industry like this would force all the suppliers to quote lower prices on fears of loss of sales.
 - f. The profit/loss per unit machine has shown steep decline throughout the injury period even after the imposition of ADD.
 - g. Injury analysis would have to be done for the PUC as a whole. Individual TCP injury analysis for various economic parameters would be illegal. Even after determining separate price undercutting, dumping margin and injury margin for each type of TCP, the DA must determined weighted averages of the same and it is only the weighted average price undercutting, dumping margin and injury margin which alone are relevant for the present purposes.
 - h. PCN system is appropriate only for determination of dumping margin, price undercutting and extent of injury. Injury is required to be assessed for PUC as a whole.
 - i. Comparison with rubber chemicals case drawn by the interested parties is wholly inappropriate. In rubber chemicals, different types of rubber chemicals constituted different articles and therefore injury analysis was done separately. In CR Coil, injury analysis was not done separately for each product type. Only undercutting, dumping margin and injury margin was determined separately for each product type and thereafter weighted average of the same was applied and adopted.
 - j. Domestic industry has provided cost of production, selling price and profit/loss, production and sales for each type of TCP produced and sold by the domestic industry. However, the injury analysis should be done for PUC as a whole.

- k. It is admitted that demand for the PUC has declined but it does not imply that injury is unlikely from imports. In fact, in a situation of declining demand, increase in imports between 2012-13 and POI clearly establishes that injury to the DI has been caused both by decline in demand and dumping from China. There may be more than one factor causing injury to the DI.
- l. Increase in imports from a level of NIL imports in 2013-14 to 26 machines in POI in a situation where demand for the product has declined clearly establishes that dumping of PUC has adversely impacted the domestic industry. Under present situation, if the ADD be revoked, injury to the DI shall intensify both on account of volume and price
- m. There were no known imports of the PUC at the time of filing the petition. The domestic industry has provided during the course of the investigations, evidence of imports during the present injury period under Chapter 98. The existing ADD is not sufficient to create equal playing field for the DI. The volume of imports in India was quite significant in the previous investigation and has again increased in the POI. The volume of imports is likely to be as significant as before in the event of cessation of anti dumping duty.
- n. Share of subject country have increased significantly in the POI from the base year.
- o. Imports from third countries have not caused injury to the DI as those imports were made at much higher prices.
- p. Performance of the domestic industry deteriorated, as a consequence of continued dumping, in terms of profits, return on investment and cash flow.
- q. Performance of the domestic industry deteriorated in terms of production and sales volumes. Even though it was partially because of demand decline, the facts of the case on record clearly show that the domestic industry lost significant sales volumes, which directly affected its production, sales and consequently capacity utilization. Cessation of existing anti dumping duty shall in the present circumstances, led to intensified injury to the domestic industry.

Views of the Opposing Interested Parties

- 47. The submissions made by the Opposing Interested Parties with regard to injury and casual link are as follows:
 - a. The DI has admitted that there is no evidence to support its contention that Chinese exporters were made at low priced quotes and such information is not available publically also, which was the basis on which they relied to claim material injury.
 - b. The domestic industry has been able to increase its domestic selling price in September 2014 by 19% as compared to November 2013 according to the data available with the user industry, which rebuts the presumption of price suppression/depression.
 - c. There are different grades of TCP and therefore it is not possible to provide an accurate figure pertaining to profit/loss of the domestic industry when all the grades of TCP are

considered as one product. Domestic industry confirmed that the profit figures cannot be relied upon.

- d. This anomaly exists for other injury parameters too as figures for all the injury parameters have been provided considering TCP as one product and not for different grades. It is vital to analyze each grade of the TCP separately for injury analysis instead of conducting injury analysis on the TCP as a whole.
- e. The basis on which domestic industry claimed material injury does not exist because they were not aware of the price quotes provided by the Chinese exporters. It cannot be claimed that domestic industry was forced to lower its prices below the prices quotes by Chinese exporters especially considering the fact that the domestic industry has been able to achieve a market share of 63% in the POI.
- f. It is essential to provide grade wise injury and price figures for TCP so as to conduct an injury analysis and they have not been provided and thus any injury and price analysis based on these figures would not be consistent with Indian Rules and WTO Agreement.
- g. Domestic industry submitted that it is not possible for them to provide an accurate profit figure for the TCP as a whole and this could also be with respect to other injury figures such as cost of production, NIP etc which would directly impact the injury analysis. Thus, these figures cannot be relied upon and should be verified by DA.
- h. The domestic industry provided injury analysis that would serve no purpose as it will not fulfill the requirements under the Indian AD Rules. The injury analysis by the respondents show no injury to the domestic industry based upon the figures provided.
- i. There has been a significant decline in the demand and it would have impacted the domestic industry and therefore, an injury suffered on account of decline in demand cannot be attributed to imports of the PUC.
- j. The total domestic sales by the Indian manufacturers are 142 in number out of a demand of 180 and which amounts to a market share of 79% (3/4th) of the total demand. Also imports in the POI as compared to 2012-13 from third countries have increased their market share by nearly 20%.
- k. The production and domestic sales of the domestic industry has declined in the POI as compared to 2011-12 on account of decline in demand of the PUC as the market share of the Indian producers is 79% and therefore the imports cannot be held as the reason for decline in production and domestic sales.
- l. Domestic industry admitted that the profit figures provided in the petition is not accurate. A separate injury and price figures have to be provided for each grade of the TCP to comply with the requirements of Indian Rules and WTO Agreement.
- m. Even after the increase of 19% of the domestic selling price when the landed price was higher by 21% compared to the domestic selling price in the POI, the domestic selling price was still lower than the landed price of the product under consideration. There exists no case of price undercutting and in such circumstances the question of price injury to the domestic industry does not arise at all.

- n. The price comparability has to be done for each sub specific product with its corresponding like article, where the product mix is not homogenous. Each grade of TCP is used to manufacture a particular type of radial tyre. Therefore, injury analysis and price analysis for each grade of TCP should be done separately as they are not one product.
- o. The anomaly in the profit figures is on account that there are different grades of TCP and therefore it is not possible to provide an accurate figure when all the grades of TCP are considered as one product. Separate injury analysis for each grade of the TCP must be done so as to be in compliance with Indian Rules and WTO Agreement
- p. As there has been a decline in the demand of the PUC, any claim of injury to the domestic industry has to be assessed only after eliminating the impact of decline in demand has had on the domestic industry.
- q. The domestic industry states that the import prices from these countries are higher thereby it is established that a significant amount of market share has been taken by imports from other countries. The claim of material injury to the domestic industry cannot be attributed to imports.
- r. There is no causal link between the claim of material injury and import. A non-attribution analysis is to be carried out eliminating the factors discussed, and therefore, the claim of material injury by the domestic industry on account of import cannot be established.
- s. There exists no material injury to the domestic industry as the domestic industry itself admitted that imports from the other countries are not injuring the domestic industry as they are priced higher than the domestic selling price. Similarly as landed price of the import of the PUC from China PR is priced higher than the domestic selling price.

Examination by the Authority

48. The injury analysis made by the Authority hereunder ipso facto addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below:

- a. With regard to the submission that injury analysis should be done separately for each size of TCP, the Authority notes that owing to the difference in cost and price of different size of TCP, the Authority has followed the past practice of DGAD and determined dumping margin, injury margin and price undercutting separately for each product type. However, since the various sizes of TCP are nothing but different type of one product and further since the product under consideration in the present case is TCP, no separate analysis of injury is warranted. Further, even in the original investigation conducted, the analysis was done cumulatively for the product as a whole.

- b. With regard to the argument that there exists anomaly in the profit figures on account that there are different grades of TCP, the Authority has analysed profits, cash flow, PBIT for the product in absolute terms and not in terms of per unit in view of difference in cost and price of the different grades of TCP.
49. Rule 11 of the AD Rules read with its Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” While considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
50. Rule 23 of the Rules provide that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, and 20 shall apply mutatis mutandis in case of a review. In case the performance of the domestic industry shows that the domestic industry has not suffered injury during the current period, the Authority shall determine whether cessation of the present duty is likely to lead to recurrence of injury to the domestic industry.
51. Annexure-II of the AD 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.
52. As regards the impact of the dumped imports on the domestic industry, para (iv) of Annexure-II of the AD 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.”

53. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II(iv) of the Rules supra.

Assessment of Demand

54. For the purpose of determining the demand, the Authority has considered sales of the Indian producers and imports from various sources. The demand of the product in India has been computed as the sum of domestic sales of the Indian producers and known imports from various countries. The demand so assessed is shown in the following table:

Demand	Units	2011-12	2012-13	2013-14	POI
Sales of Domestic industry	Nos	242	187	121	114
Sales of Other Indian Producers	Nos	64	60	41	28
Subject Country-China	Nos	32	10	0	26
Other Countries	Nos	27	9	20	37
Demand	Nos	365	266	182	205

55. It is noted that the apparent consumption of the subject goods declined till 2013-14 and then increased in the Period of Investigation. The subject machinery is used for manufacturing tyres both for OEMs and replacement market. The industry had created surplus capacity in 2011-12 in anticipation of demand surge in subsequent years. But demand from automobiles sector slowed down in subsequent years and the tyre manufacturers did not expand their capacity in 2013-14 to the extent they did in the previous two years. As the demand in automotive sector picked up in 2014-15, the demand for the subject machinery has also risen in tandem.

Volume Effects of Dumped Imports

Import Volume and Market Share

56. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. For the purpose of injury analysis, the Authority has relied on the import statistics from DGCIS, the information furnished by importers as well as import data provided by the domestic industry from secondary source,

IBIS. The volume of imports of the subject good from the subject country has been analyzed as under:

Import - Volume	Units	2011-12	2012-13	2013-14	POI
China PR	Nos	32	10	0	26
Other Countries	Nos	27	9	20	37
Total	Nos	59	19	20	63
Market Share in Imports-Volume					
China PR	%	54.24%	52.63%	0.00%	41.27%
Other Countries	%	45.76%	47.37%	100.00%	58.73%
Total	%	100.00%	100.00%	100.00%	100.00%
Imports in relation to Indian production	%	1.65%	5.35%	0.00%	22.81%
Imports in relation to domestic sales	%	1.10%	3.76%	0.00%	12.68%

57. It is seen that the imports from the subject country declined and became nil in 2013-14, however imports have once again increased significantly in the POI. The share of the subject imports in total imports declined till 2013-14 and has thereafter increased at a significant level in the POI.
58. Imports in relation to production and consumption also declined till 2013-14. However, the same increased thereafter once again in the POI.

Price Effect

59. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like products 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 suppression and price depression, if any.

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 (without antidumping duty in force) with net sales realization of the domestic industry. The following

table shows the net selling price of the domestic industry, landed price of the dumped imports and the price undercutting.

Description	Landed Price (Rs/ Machine)	NSR (Rs/ Machine)	Price Undercutting (Rs/ Machine)	Price Undercutting %	Price Undercutting Range
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	***	***	***	***	20-30
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	***	***	***	***	0-10
Average	***	***	***	***	10-20

61. The above data indicates that the landed price of imports is significantly below the selling price of the domestic industry. Further, the price undercutting is quite significant both in absolute terms and in percentage terms. Thus cessation of anti dumping duty is likely to undercut the prices of the domestic industry to a significant extent.

Price underselling

62. The 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 product under consideration during the POI, in accordance with Annexure III of the Anti-dumping Rules.

63. The analysis shows that the landed value of subject imports was below the cost of production and non-injurious price of the domestic industry as can be seen from the table below:

Landed Price without ADD

Description	Imports (No of Machines)	Landed Price without ADD (Rs Per Machine)	Adjusted NIP/NIP (Rs Per Machine)	Price Underselling (Rs Per Machine)	Price Underselling %	Price Underselling Range
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	18	***	***	***	***	20-30

65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	8	***	***	***	***	0-10
Weighted Average	26	***	***	***	***	10-20

Landed Price with ADD

Description	Imports (No of Machines)	Landed Price with ADD (Rs Per Machine)	Adjusted NIP/NIP (Rs Per Machine)	Price Underselling (Rs Per Machine)	Price Underselling %
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	18	***	***	***	***
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	8	***	***	***	***
Weighted Average	26	***	***	***	***

64. It is noted that during the investigation period, the landed price of the subject goods from the subject country is far below the non injurious price determined for the domestic industry, resulting in price underselling. Even after considering the landed price after payment of current rate of 10% antidumping duty, the price underselling of 4% demonstrate that the existing rate of antidumping duty is not sufficient to curb dumping of the subject goods and would need to be reviewed.

Price Suppression and Depression

65. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of selling price of the domestic industry has been compared with the cost of production. The data given below shows that both cost of production and selling price have declined over the injury period, however the decline in selling price is much more than the decline in cost of sales. Thus, it is noted that imports are causing price depression in the domestic market.

Particulars	Unit	2011-12	2012-13	2013-14	POI
Cost of sales – Domestic	Rs/No	***	***	***	***
	Indexed	100	109	107	96
Selling price - Domestic	Rs/No	***	***	***	***
	Indexed	100	108	100	87

G. Economic Parameters affecting Domestic Industry

66. As per Annexure II to the AD Rules, the Authority is required to examine the impact of the dumped imports on the domestic industry concerned, which includes 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 the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. Accordingly, various economic parameters of the domestic industry have been analyzed as follows.

Sales, Capacity, Production, and Capacity Utilization

67. The performance of the domestic industry in respect of sales, capacity, production, and capacity utilization has been as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Capacity	Numbers	600	600	600	600
Production	Numbers	331	204	141	140
Capacity Utilization	%	55.17%	34.00%	23.50%	23.33%
Domestic Sales	Numbers	242	187	121	114

68. It is seen that the capacity with the domestic industry has remained constant throughout the injury period. Production, domestic sales and capacity utilization of the domestic industry declined over the investigation period despite imposition of anti dumping duty on dumped imports. It has been submitted that the demand decline is due to recession in automobile industry and consequent holding of capital expenditure by the tyre manufacturers. Under these circumstances, should the present duty ceases, the injury of domestic industry would further intensify due to aggressive dumping.

Market share in Demand

69. The effects of the dumped imports on the domestic sales and the market share of the domestic industry have been as below:

Market Share in Demand	Unit	2011-12	2012-13	2013-14	POI
Domestic industry	%	66.30%	70.30%	66.48%	55.61%
Other Indian Producers	%	17.53%	22.56%	22.53%	13.66%
China	%	8.77%	3.76%	0.00%	12.68%
Other Countries	%	7.40%	3.38%	10.99%	18.05%
Total	%	100.00%	100.00%	100.00%	100.00%

70. It is seen that the market share of the domestic industry in demand has declined whereas the market share of subject imports has increased despite imposition of anti dumping duties.

Profits, return on investment and cash flow

71. The cost of sales, selling price and profit/loss of the domestic industry has been analyzed as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Cost of sales	Rs Lacs	***	***	***	***
Index		100	85	53	45
Sales Value	Rs Lacs	***	***	***	***
Index		100	85	51	43
Profit/Loss (PBT)	Rs Lacs	***	***	***	***
Index		(100)	(116)	(181)	(203)
Average PBT per Machine	Rs./Unit	***	***	***	***
Index		(100)	(151)	(363)	(430)
Cash Profit	Rs Lacs	***	***	***	***
Index		(100)	(146)	(516)	(565)
Profit/Loss (PBIT)	Rs Lacs	***	***	***	***
Index		(100)	(123)	(278)	(330)
Productivity Per day	No/Day	***	***	***	***
Index		100	62	43	42
Return on Investment - NFA Basis	%	***	***	***	***
Index		(100)	(128)	(368)	(480)

72. It is seen that cost of sales and sales value has declined over the injury period due to decline in demand of the subject goods consequent upon recession in automobile industry and holding of capital expenditure on enhancement of capacity by the end users i.e. tyre manufacturers. . Cost of sales has remained higher than the sales value of the domestic industry. Thus resultantly, domestic industry incurred financial losses throughout the investigation period. The financial losses have aggravated in the POI. Domestic industry has submitted that this adverse situation is because of constant presence of dumped imports in the market and absorption of ADD by the Chinese suppliers.

73. Cash profits and return on investment are consistently showing declining trend over the injury period.

Inventories

74. The data relating to inventory of the subject goods are shown in the following table. In view of nature of the product under consideration, the inventories have been considered on volume and value basis. Further, average number of machines has been determined considering the average selling price of the product under consideration.

Particulars	Unit	2011-12	2012-13	2013-14	POI
In value					
Opening	Rs Lacs	***	***	***	***
Closing	Rs Lacs	***	***	***	***
Average	Rs Lacs	***	***	***	***
In volume		***	***	***	***
Opening	Numbers	***	***	***	***
Closing	Numbers	***	***	***	***
Average	Numbers	***	***	***	***
Index		100	65	42	37

Employment and wages

75. The position with regard to employment and wages is as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Number of employees	No.	***	***	***	***
Wages	Rs. Lacs	***	***	***	***

76. It has been contended by the domestic industry that they are a multi product company and as such these parameters may not show the potential adverse effect of dumping.

Productivity

77. Data relating to productivity shows as follows:

Particulars	Unit	2011-12	2012-13	2013-14	POI
Productivity per day	No/Day	***	***	***	***
Index		100	62	43	42
Productivity per Employee	No/No	***	***	***	***
Index		100	65	50	52

78. It is noted that productivity of the domestic industry has declined over the injury period following the movement of production of the domestic industry.

Factors affecting prices

79. Consideration of the subject import prices and import prices from other countries, 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 subject imported material is significantly below the selling price of the domestic industry, causing significant price undercutting in the Indian market. The benchmark for the Indian producers' prices is the import prices into India. There is no viable substitute to this product. Demand for the product has declined, however as seen, the decline in sales and production is much more than the decline in demand and therefore could not have been a factor responsible for causing injury to the domestic industry. It is thus evident that the only factor responsible for the domestic industry prices are the import prices of the product from countries dumping the goods and the cost of production of the domestic industry. As the information shows, landed price of imports are below the non injurious price, selling price and also the cost of sales of the domestic industry and, therefore, imports are likely to influence the prices of the domestic industry in the market.

H. Magnitude of Dumping

80. Dumping margin determined for the subject country is above de minimis and significant.

Description of Item	Constructed Normal Value Rs/ machine	Ex- Factory Price Rs/ machine	Dumping Margin Rs/ machine	Dumping Margin %	Dumping Margin Range
Tyre Curing Press	***	***	***	***	10-20

I. Conclusion on Injury

81. In view of the above, it is concluded that imports of the product under consideration have increased in absolute terms and in relation to production and consumption in India. Imports are undercutting the prices of the domestic industry in the market, which has caused significant depressing effect on the prices of the product under consideration in the market. The dumping margin and injury margin determined are significantly positive. Performance of the domestic industry has deteriorated in terms of various economic parameters such as production, sales, capacity utilization, profits, return on investments and cash flow. While it is noted that the demand for the product under consideration has also declined, it is found that the market share of subject imports increased significantly in the POI as compared to

preceding years. It is concluded that despite anti dumping duty in force, the domestic industry suffered injury from dumped imports. Further, the landed price of imports is below the selling price and non injurious price of the domestic industry in the POI. In such a scenario, cessation of the anti dumping duty is likely to adversely affect the prices of the domestic industry and is likely to result in significant price depression.

J. Likelihood of Continuation or Recurrence of Dumping and Injury

Views of the domestic industry

82. The submissions made by the Domestic industry with regard to likelihood of continuation or recurrence of dumping and injury are as follows:

- a. The factors relevant to likelihood of dumping are relevant to the likelihood of injury as well in the present case.
- b. Imports made in the Indian market have been made at dumped prices.
- c. The exporters from subject country are exporting the product under consideration to third country at dumped prices.
- d. Dumping margin in the current POI is positive and significant.
- e. The price undercutting without prevailing anti-dumping duties is positive.
- f. The import price offers are materially below the cost and selling price of the domestic industry. The consumers would therefore switch to imported product in the event of cessation of anti-dumping duty which will lead to significant increase in imports of the product.
- g. The DA has recently issued final findings in the matter of Front Axle Beam and Steering Knuckles where the demand for the PUC has declined over the period. Despite the same, extension of ADD was recommended on the ground that injury to the domestic industry is likely in the event of cessation of ADD.
- h. The fact that any other country has not invoked an action against Chinese dumping does not imply that the Chinese are not dumping. If dumping action by third countries was a pre-requisite to establishment of likelihood, global countries would not have extended anti dumping duty on host of products every year. Brazil has imposed ADD on Indian Jute Bags despite the fact that no other country has invoked action against Brazil.
- i. A total of 106 machines have been imported from base year to post POI period in the present case. The Chinese producer has now obtained an order for supply of 28 machines. It is not possible without existence of sufficient capacities with him. The fact that Chinese companies have quoted for this number of machines itself clearly establishes likelihood of intensified injury in the event of cessation of ADD.
- j. Designated Authority is requested for continuation of antidumping duties and impose a higher level of duty to give full protection to the domestic industry, as at the current

level antidumping duty already in force are insufficient from protecting the domestic industry from unfair trade practices as indicated by significant dumped imports.

Views of the Opposing Interested Parties

83. The submissions made by the Opposing Interested Parties with regard to likelihood of continuation or recurrence of dumping and injury are as follows:

- a. Domestic industry has argued that there exists third country dumping of the PUC by China and this would be diverted to India if the existing anti dumping duty would be revoked. This is an incorrect assertion. No other country in the world apart from India has initiated an anti dumping investigation against import of TCP from China PR. Thus the question of dumping of the PUC from China PR does not arise.
- b. Domestic industry has argued that the domestic industry is vulnerable to the imported goods due to freely disposable present and potential capacity with the exporters. In this respect, the respondents submitted that the domestic industry has not provided any documentary evidence to support its claim.
- c. Even assuming that there exists surplus capacity, the same cannot be the ground to conclude imminent threat of injury. Thus the claim of domestic industry with respect to excess capacity of the exporters in view of the judgment of CESTAT in *Indian Spinner Association v. Designated Authority* cannot be accepted.

Examination by the Authority

84. The Authority has examined the contention of various interested parties. The Authority had called for additional information from the domestic industry for the period beyond the period of investigation.

i. Level of current and past dumping margin

85. The level of dumping margin both in the original as well as present investigation is significant. Despite the domestic industry holding the capacity to meet the demand, the import of the subject goods from the subject country still continue to take place at dumped prices. Given the level of price undercutting, underselling and price depression from subject country during the review period, the volume of dumped imports is likely to increase further in the event of revocation of anti-dumping duty.

ii. Volume of imports over the injury period

86. It is noted that after imposition of ADD, the volume of imports declined till 2013-14, however, increased significantly during period of investigation. A total of 26 machines

constituting 12.68% of the total demand in India were imported during the POI. Further, these imports were at dumped prices and both the dumping margin & injury margin are quite significant. The imports were at a price below the selling price of the domestic industry. The domestic industry has suffered injury during the injury period examined by the authority. Thus, the current volume of imports during the injury period and its prices establishes that the domestic industry has suffered injury as a result of dumping despite existing ADD. Given that the domestic industry has suffered injury and dumping has continued and the volumes have increased, these parameters per se establish that the cessation of ADD shall lead to further severity of the injury to the domestic industry.

iii. Volume of imports during Post - POI

87. In order to examine the continuation of dumping and injury to the domestic industry due to dumping of subject goods from China, the authority has also analyzed the volume of imports of subject goods into India from the subject country. The authority notes that volume of imports from subject country have increased significantly in the post POI, i.e., October 2014-March 2015. Therefore, it is clearly evident that in the event of cessation of duty the injury on account of dumped imports will multiply many folds.

Particulars	2011-12	2012-13	2013-14	POI	Post POI (6 months)
Imports from China (Nos)	32	10	-	26	38

iv. Post POI Performance of the Domestic Industry

88. In order to examine the likelihood of injury to the domestic industry due to dumped imports in the post investigation period, the authority has analyzed the performance of the domestic industry during the period from October 2014-March 2015. After examining the volume and price effects of imports of subject goods from subject country and its impact on the domestic industry, it is noted that the imports of the subject goods from the subject country have further increased in absolute terms as also in relation to production and consumption of the subject goods in India in post POI as compared to the POI. Though, it is seen that the production, sales and capacity utilization of the domestic industry increased, however, profit and PBIT has deteriorated. The domestic industry continues to remain fragile. If the domestic industry is forced to sell the subject goods at prices matching the landed value of the imported goods due to cessation of duty, the Domestic Industry would suffer further significant financial losses. If such a situation occurs, the return on investment and cash

profit would further worsen. Thus, cessation of anti-dumping duty is likely to cause significant adverse effect on the prices of the domestic industry.

v. Price attractiveness of the Indian market

89. The prices at which subject goods are being imported are substantially lower than the price at which the goods are being sold in the domestic market. Imports are undercutting the domestic industry prices. In case of cessation of duty, the Chinese producers would further aggressively target the Indian market. Thus, the Chinese product is likely to enter in large volumes at dumped prices, should the present anti dumping duty be ceased.

vi. Export orientation of major exporters

90. As per the records, the Chinese producers have huge capacity which is significantly beyond the demand in Indian local market. Evidence provided by the domestic industry shows percentage of exports by the exporters in the subject country as follows:

SN	Company	Export Orientation
1.	Qingdao Huicai Machinery Manufacturing Co., Ltd.	61% - 70%
2.	Qingdao Shenghualong Rubber Machinery Co., Ltd.	51% - 60%
3.	Qingdao Guangyue Rubber Machinery Co., Ltd.	31% - 40%
4.	Jiangyin Linsheng Machinery Co., Ltd (JYLMS)	11% - 20%
5.	Qingdao Fangyuanda Rubber Machine Co., Ltd.	21% - 30%
6.	Qingdao Plastsea International Trade Co., Ltd.	81% - 90%
7.	Qingdao Eenor Science&Technology Co., Ltd.	81% - 90%
8.	Qingdao Green Rubber Machinery Co.,Ltd	61% - 70%
9.	Qingdao Wanbao Machinery Co. Ltd	71% - 80%
10.	Qingdao Powerful Machinery & Electronics Co., Ltd	51% - 60%
11.	COMIX curing agent technology Wuxi Co., LTD.	31% - 40%

Conclusion on Likelihood of dumping and injury

91. In view of the current volume of imports in the POI from the subject country despite existence of anti-dumping duty, price undercutting, dumping margin & injury margin; and also the analysis of the performance of the domestic industry in the post POI, the Authority concludes that there exists likelihood of intensified dumping and consequent injury to the domestic industry in the event of revocation of anti dumping duty. It is further noted that the import prices would undercut the domestic prices and also have a significant suppressing effect on the domestic prices. Surplus capacity available with the subject country and high export orientation shows likelihood of increase in dumped imports from subject country.

K. Causal Link

92. Under Section 9A (5) of the Act, the Authority is required to examine the likelihood of dumping and injury and the need for continuation of duties. Accordingly, the Authority has concluded that the dumped imports are likely to intensify and cause injury if antidumping duty were to be revoked. Notwithstanding, the Authority has examined whether other listed known factors could have caused or are likely to cause injury to the domestic industry.

- (a) Volume and value of imports not sold at dumped prices: - Interested parties have argued that imports from other countries are causing injury to the domestic industry. The Authority however notes that imports from other countries are at higher prices. Since the import price from third countries are at prices materially higher than China and the domestic industry prices, third country imports could not have been a cause of injury to the domestic industry.
- (b) Contraction in demand: - The Authority notes that the demand of the product under consideration has shown some decline as compared to the base year. However, decline in demand is much more than the decline in imports. Hence, contraction in demand is not the only reason which could have contributed to injury to the domestic industry. Further, in a situation of declining demand, the authority notes that cessation of ADD would further aggravate injury to the domestic industry.
- (c) Changes in the patterns of consumption: - The pattern of consumption with regard to the product under consideration has not undergone any change. Change in the pattern of consumption is unlikely to contribute to the injury to the domestic industry.
- (d) Trade restrictive practices of and competition between the foreign and domestic producers: - There is no trade restrictive practice which can contribute to the injury to the domestic industry.
- (e) Developments in technology: - It is noted that the technology for production of the product has neither undergone any material change. Developments in technology, therefore, do not appear to be a possible factor of injury. The domestic industry is producing the product under consideration for the past several years. The technology adopted by domestic industry is comparable to the technology adopted by other players world-over.
- (f) Performance of other products produced and sold by the domestic industry: - The domestic industry comprises multi-product companies. However, injury analysis has been made with respect to the product under consideration only.
- (g) Productivity: - The Authority notes that the productivity of the domestic industry, as measured in terms of production per employee, has declined and has followed the same trend as production. It is however seen that the decline in production per employee is not the cause of the injury to the domestic industry.

L. Magnitude of injury and injury margin

93. The Authority has determined the non-injurious price for the domestic industry, taking into consideration the cost of production of the domestic industry. This non-injurious price of the domestic industry has been compared with the landed value of the subject goods from the subject country to determine the injury margin. The injury margin has been worked out as follows:

Description of Machines	Imports (Nos)	Landed Price (Rs/ Machine)	Adjusted NIP/NIP (Rs/ Machine)	Injury Margin (Rs/ Machine)	Injury Margin %	Range %
48" Hydraulic TCP With Heating Module And Surge Conveyor Complete in all respect	18	***	***	***	***	20-30
65.5" Twin Platen Mechanical TCP With Vertical Chuck Loader And Segmented Mould Operator Complete With Piping, Electricals & Instrumentation	8	***	***	***	***	0-10
Weighted Average	26	***	***	***	***	10-20

M. Post Disclosure Comments**Submissions by the domestic industry**

94. The submissions made by DI have been summarized as below:

- a. the Authority should confirm the scope of the product under consideration and methodology of comparison of different types of the product under consideration as in the original investigation;
- b. the applicants constitute domestic industry within the meaning of the term as per the AD Rules;
- c. the sole responding exporter has once again partially cooperated and has filed incomplete questionnaire response;
- d. the product under consideration continues to enter the Indian market, from China PR, at dumped prices. Further, the dumping margin has increased as compared to the original investigations;
- e. the landed price of imports of product under consideration is materially below the NIP of the domestic industry, thus resulting in significant injury margin.
- f. the injury margin has increased as compared to the original investigations.
- g. imports of product under consideration from China PR are undercutting the prices of the domestic industry and there is positive price underselling.

- h. while the Petitioner stated in the petition that there were no imports of the product under consideration from China, the facts gathered during the course of the investigations clearly establish that there were significant imports of the product under consideration. In fact, the volume of imports increased over the present injury period.
- i. comparison of imports from China and demand over the present injury period and in the post POI with the injury period of original case shows that volume of imports in absolute terms as also in relation to consumption in India in the present POI is higher than volume of imports in absolute terms and in relation to consumption in India at the time of original investigation. This is despite ADD in place. Thus, while this clearly establishes absorption of ADD by the Chinese exporter on one hand, this also establishes likelihood of injury in case of cessation of ADD and a need for enhancement in the quantum of ADD.
- j. the NIP determined by the Authority is unduly low.
- k. with regard to NIP for 48" press, the domestic industry has submitted that it would not be appropriate to take the average selling price of mechanical press produced by domestic industry over the injury period to average selling price of the hydraulic press sold in 2011-12. The Authority should consider the average price of the machines sold in hydraulic and mechanical form during the same period, i.e., 2011-12. Further, the adjustment factor is also required to be provided for reasonable profits. If level of profits for different machines produced and sold cannot be the same, level of profit for 48" and 65.5" can also not be the same. The Authority should apply the adjustment factor for calculating the return on capital employed while constructing the non-injurious price of 48" hydraulic machine.
- l. the entirety of expenses on account of freight inward, loose tools, stores and spares, Engg., Professional & Consultancy fee, travelling and conveyance cannot be treated as fixed expenses. In fact, the application proforma itself requires domestic industry to segregate freight inward, loose tools, stores and spares, travelling and conveyance into fixed and variable expenses. The petitioner has identified and segregated expenses into fixed and variable expenses. Such being the case, it would be inappropriate to treat entirety of these expenses as fixed expenses particularly when the application proforma itself requires segregation of expenses into fixed and variable expenses.
- m. freight inward is required to be considered as variable expense and therefore should not be normated.
- n. working capital should not be reduced for the advance received from customers.
- o. landed price of import is also required to be adjusted for the advance that have been received by exporters. If advance received by the domestic industry has been reduced from working capital, such advance is required to be deducted from the landed price of imports as well.
- p. determination of NIP as per Annexure III is inconsistent with other provisions of the Rules
- q. Commission, sales tax, freight outward and bad debts are required to be added to the NIP.
- r. ADD is required to be continued in ad-valorem form and the quantum is required to be enhanced.

Submissions made by interested parties

95. Submissions made on behalf of Automotive Tyre Manufacturers Association (ATMA) have been summarized as below:

- a. Several injury parameters which are completely different than what has been provided by the domestic industry in their submissions and this itself invalidates the disclosure report as the same is not based upon the facts revealed to the opposing interested parties.
- b. Profit is different from what was submitted during Post Oral Hearing submissions. If the DI provided such changed data then veracity of the data is questionable in view of the consistently changed data. Why such data was not provided by the DI to the other interested parties for their comments. However, if such data was available with the Hon'ble DA, then why such data was not shared with the interested parties before and why the interested parties were deprived of the opportunity to comment on the same.
- c. Different set of profit/loss figures have been provided through the course of this investigation. The first instance of anomaly in profit figures had been highlighted by the respondent in the previous submissions.⁴ It was only when the accuracy of these figures was contested by the respondent that the DI admitted to the anomaly in its figures at the oral hearing, wherein after posting profits the DI was suffering losses.
- d. Opposing interested parties including ATMA have not been provided with the transaction wise import data from IBIS under Chapter 98 till date which is in contravention to the established practice of the DGAD and for the first time finds a mention in the disclosure statement.
- e. It is mandatory for the Hon'ble DA to provide the import data as relied upon by the DI to the opposing interested parties. This position is also supported by the observation of the Hon'ble High Court of Delhi in Sandisk International.
- f. DA performs a quasi judicial function and such functions are subject to the principles of natural justice. These principles require that the Hon'ble DA should disclose to the opposing parties all the relevant facts based upon which the present disclosure statement has been issued.
- g. TCP consists of various grades and each grade is used to manufacture a particular type of radial tyre which cannot be used to manufacture other tyres. On account of this difference, the weight and prices of different grades of TCP varies significantly. 46'' and 48'' presses are not interchangeable and therefore cannot be considered as the same product.
- h. DA has not determined the NIP for 48'' TCP. TCP of 48'' was not produced by the DI during the POI and therefore, the NIP could not have been worked out using the cost of production of the Domestic Industry. The basis for concluding underselling for 48'' TCP is not clear.
- i. Historical rate of return in the industry should be taken into consideration while determining the NIP and therefore the same must be disclosed.

- j. Since other importers have also imported the PUC, it is not possible to identify the exact import data for each year of the injury period simply on the basis of the IBIS data. How Domestic Industry could Domestic Industry compare IBIS data with NCV indexed information to construct total imports data.
- k. Designated Authority has not considered rebuttal on surplus capacity. The information provided in one page summary does not support the conclusion drawn by the DI with respect to excess capacity, as it does not mention that the increase in installed capacity is being done for exports and that too for India.
- l. Out of 11 manufacturers of the TCP whose details are provided for export orientation, there is no documentary evidence to suggest that any one of these manufacturers have excess capacity.

96. Submissions made on behalf of Guilin Rubber Machinery Factory (GRM) have been summarized as below:

- a. GRM has fully cooperated with the Designated Authority and filed complete and comprehensive questionnaire response.
- b. GRM exported only 8 machines of 65.5 to JK Tyres. The rest 18 machines of 48” sourced from CNPFT by JK Tyres during Period of Investigation were supplied by M/s Mesnac Co. Ltd. China PR. Both CNPFT and Mesnac are not related companies of GRM.
- c. Rejection of all information is violative of para-5 of the Annex II of AD Agreement. GRM acted with great responsibility by providing complete information as and when sought by the Authority and offered verification of the data. Before rejection, Authority should have either conducted verification at the exporters premise.
- d. TCP of above 130” must be specifically excluded as was originally excluded from the original investigation. The Domestic Industry does not produce the same.
- i. Size is a crucial parameter for pricing the product. Thus, ADD should be imposed by dividing PUC into two groups as per the size namely, for TCP upto 48” and the other TCP between 48”-130”.

Examination by the authority

97. The issues put forward by the producer; user association and DI have already been addressed in relevant paragraphs. However, for the sake, of clarity some of the issues are being addressed here in below in brief:

- a. ATMA, the importer/users association has contended that several injury parameters in Disclosure Statement are completely different from petition or submissions of the domestic industry. The Authority notes in this regard that (a) the present disclosure statement is on the basis of investigations conducted by the Authority and facts and figures verified by the

Authority. It is, therefore, not necessary that figures contained in the petition or submissions of the domestic industry and figures considered by the Authority should be identical, (b) in fact, since Authority conducts its own investigation, the figures can be different from what has been given by the parties, (c) one of the purposes of investigation is to arrive at correct facts, (d) the purpose of disclosure statement is to inform interested parties about the essential facts under consideration which shall form the basis for determination, (e) adequate opportunity have been given to the interested parties to offer their comments.

b. It is also noted that as far as parameters such as PBT and PBDT are concerned, there is no change in the information contained in the petition and information verified by the Authority. There are minor changes in respect of parameters. It is further noted that the injury statement provided by the domestic industry contained several additional information such as amount of depreciation, amount of interest etc., the purpose of which is to arrive at the relevant economic parameter (cash profit or ROI). Some calculations done by the domestic industry does not show correct position with regard to whether the figure is positive or negative (the figures are correct. But, the fact that the figure is negative has not been correctly shown at few places). It is, however, noted that as far as the economic parameters are concerned, the same has been correctly indexed in the non-confidential versions. For instance, the cash profit throughout the period has been negative and has been reported accordingly in the injury statements. However, while doing calculation of cash profit, the domestic industry has shown its calculation (that the cash profit has been determined as sum of profit and depreciation), where profit/loss figures does not report that the figures is negative. However, the fact that the profit figure is negative is evident from the information on profit contained in the very same injury statement. In any case, as far as prescribed economic parameters are concerned, the same have been correctly reported.

c. As regards disclosure of information, Authority notes that non confidential version of the information has already been provided by the domestic industry in their letter dated 11.12.2015. Furthermore, it is noted that the importer concerned have also been participating in the present investigation and thus, the interested parties were fully aware of the relevant information.

d. As regards alleged violation of principles of natural justice, the Authority notes that due process has been followed in the present investigation and adequate opportunity has been provided to all interested parties. The interested parties contending violation of principles of natural justice are in fact in possession of relevant information and in fact have filed such information through their importers questionnaire response. It cannot therefore be claimed that the interested parties were not aware of the information relied upon by the domestic industry or by Designated Authority.

e. As regards injury analysis for each grade of the product, Authority notes that injury analysis under Annexure-II in respect of various parameters such as sales, profits, production, market share, productivity, return on investments, utilization of capacity, factors affecting

domestic prices, margin of dumping, cash flow, inventories, employment, wages, growth, ability to raise capital investments is required to be conducted in respect of product under consideration as a whole. The law does not permit segregate injury analysis for each grade in respect of these parameters. In case, in view of significant difference in the cost and price of different types of TCP, the Authority has determined dumping margin, price undercutting and injury margin separately for different type and thereafter has arrived at weighted average dumping margin, price undercutting and injury margin for the product under consideration as a whole.

f. As regards the contention that the Authority has not determined NIP for 48" TCP, the Authority notes that the rules require the Authority to determine NIP for like article and the same has been done in the present case. The Authority considered the actual information pertaining to 65" TCP produced during the POI by the DI for the determination of NIP. The 48" Hydraulic TCP was not produced by DI during the POI, therefore, the Authority considered it appropriate to take 48" Mechanical TCP data produced by DI during POI, duly adjusted, as a like article to imported 48" Hydraulic TCP. The opposing interested parties have not made any suggestion whatsoever in this regard. This is in accordance with the law that where the domestic industry has not offered identical product type, the Authority is required to consider another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.

g. As regards consideration of Return on Capital Employed, the Authority notes that it has been consistent practice of the Authority to adopt 22% ROCE, even if the historical return is higher than 22%. The authority notes in this regard that the Rules provide for consideration of a "reasonable" rate of rerun and not a "historical" rate of return. It is appropriate and reasonable to allow 22% return on the capital employed.

h. As regard possible import by other importers, the authority notes that the exporters, importers and other interested parties were provided adequate opportunity throughout the investigation to provide relevant information and participate in the investigation. Further, Automotive Tyre Manufacturers Association (ATMA) whose members are majority consumers of the product under consideration has also participated in the present investigation. The Authority has called information from DGCI&S and the domestic industry has provided information as per IBIS. Interested parties too had liberty to procure from secondary sources, particularly when there are several private agencies in the Country providing information. Information filed by the exporters was also considered for the purpose. Thus, volume and price of imports have been determined after considering all information available on record. None of the parties were able to point out possible non imports which have not been included in the present data.

i. As regards the contention that the domestic industry could not have constructed imports reported by an importer, the Authority reiterates the observations above and notes that the IBIS

data can be very easily correlated to the NCV of the Questionnaire Response. It is also noted that the domestic industry had filed in their post hearing written submissions various information such as import statement as per IBIS; normal value, export price, dumping margin. The description of the goods mentioned in the net export price and dumping margin statement clearly is as per the description mentioned in the IBIS data and is different from the description mentioned by the importer in its questionnaire response. Further, the domestic industry has filed a detailed reply on how they have arrived at this information, which clearly shows that they have sought information from IBIS and another secondary source for imports of the product under consideration under Chapter 98.

j. As regards the contention that the Authority has not considered rebuttal on surplus capacity, the Authority notes that the information on actual volume of import in the POI and post POI itself shows that volume of imports of the product under consideration in the present period is higher than the volume of imports in the original period, even when demand for the product in the current period was lower than demand for the product in the original POI. The fact that Chinese producers have sold 106 machines during April, 2011 to March, 2014, whereas they had sold only 31 machines during the injury period of original case itself establishes existence of significant surplus capacities in China. The Authority further note that 26 machines imported in POI constituted 12.68% of the demand for the product in the country and therefore was significant enough in establishing likelihood.

k. Guilin Rubber Machinery factory contended that the company has fully cooperated by filing the response. As per their statement, China National Pharmaceutical Foreign Trade Corporation is only their agent and not required to file response with the authority and that the 18 machines of 48" pointed out by the Authority were in fact produced by Mesnac Co. Ltd. who is not related to Guilin Rubber Machinery factory. The Authority notes that the questionnaire response of Guilin Rubber Machinery factory was discussed with the legal representatives of Guilin Rubber Machinery factory during the investigation and concerns regarding incomplete response was discussed with them. In view thereof, they were informed in advance that the verification exercise would not be appropriate. GRM was provided enough opportunity to clarify the factual position with regard to exports made by them and total imports made in India. However, the confirmation to the number of machines being produced by GRM and Mesnac has been brought to the notice of the Authority for the first time in post disclosure comments. Since goods produced by Guilin Rubber Machinery factory were exported by China National Pharmaceutical Foreign Trade Corporation and further since China National Pharmaceutical Foreign Trade Corporation is the exporter of the product under consideration of these machines, in any case, it is evident that the questionnaire response is incomplete in as much as Guilin Rubber Machinery factory as a producer has filed the questionnaire response, but China National Pharmaceutical Foreign Trade Corporation as an exporter has not filed questionnaire response, as also explained in above relevant paragraph. Under the circumstances, the Authority reiterates

that the questionnaire response filed by Guilin Rubber Machinery factory is incomplete and not sufficient to permit determination of individual dumping margin.

l. Guilin Rubber Machinery factory has contended that rejection of questionnaire response is in violation of Annexure-II of AD Agreement. The Authority notes in this regard that the Authority can determine individual dumping margin only when the parties concerned fully cooperate with the Designated Authority. Since, the exporter has not filed a questionnaire response, it is not possible to establish export price and therefore the individual dumping margin cannot be determined.

m. M/s Mesnac, the other producer whose goods have been exported through China National Pharmaceutical Foreign Trade Corporation has not filed any response. China National Pharmaceutical Foreign Trade Corporation, the exporter of PUC has also not filed any response.

n. As regards TCP above 130", it is clarified that the scope of product under consideration in the present investigation is the same as the scope of product under consideration in the original investigation, as modified by the midterm review.

o. As regards the contention that separate rate of anti-dumping duty should be specified for different size/categories of the product, the Authority notes that the investigation has been initiated in respect of Tyre Curing Press. The duty in the original investigation was imposed on various types of TCP imported into India. Further, the product under consideration is produced and sold in a number of product types having different costs and prices. Dumping margin and injury margin are required to be determined for the product under consideration as a whole. The ADD should therefore be one for the product under consideration. Further, there is no legal and factual basis for dividing the product into two groups. It would, therefore be inappropriate to specify separate rate of duty on the two groups identified by the exporter.

p. As regards the contention that it is mandatory for the authority to provide the import data as relied upon by the domestic industry to the opposing interested parties, the authority notes that the rules do not require the authority to "provide" information filed by various interested parties during the course of investigations. The Rule 6(7) requires the authority to "make available" the evidence presented to authority by one interested party to the other interested parties participating in the investigation. The domestic industry has provided IBIS transaction wise data on non-confidential basis in their submissions and the same had been placed in the public file.

q. While applying adjustment factor due allowance has been made in accordance with Para 6(i) of Annexure I to the ADD Rules for differences in hydraulic TCP and mechanical TCP produced by the domestic company.

r. As regards, normation of variable expenses, adoption of best capacity utilization and determination of capital employed, it is stated that treatment of expenses, adoption of best capacity utilization during the injury period for apportioning fixed cost and determination of capital employed is in accordance with the set principles laid in Annexure III and consistent past practice followed in DGAD.

s. As regards adjustment of advance received from importers from landed value, the suggestion made by the DI is against the basic accounting principles

N. CONCLUSION

98. 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 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.

O. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

99. 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.

100. 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 country in any way, and therefore, would not affect the availability of the products to the consumers.

P. RECOMMENDATIONS

101. 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.

102. 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.

103. Having regard to the lesser duty rule, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. The Authority further notes that there is a significant differentiation of the product in terms of its capacity and prices, hence, a duty in terms of reference price or fixed duty would not be appropriate in this case. Therefore, the Authority recommends imposition of the measure as an ad valorem duty, to be worked out as a percentage of the CIF value of imports of the subject goods from the subject country. Accordingly, the antidumping duty equal to the amount arrived at by applying the percentage indicated in Col 9 of the duty table is recommended to be imposed from the date of issue of this findings, on imports of all types of Tyre Curing Presses (upto 130”) originating in or exported from China PR.

Duty Table

Sl. No	Tariff Item	Description of Goods	Specificati on	Country of Origin	Country of Export	Producer	Exporter	% of CIF
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	84 77 5100	Tyre Curing Presses	All sizes upto 130”	China PR	China PR	Any	Any	15
2	84 77 5100	Tyre Curing Presses	All sizes upto 130”	China PR	Any	Any	Any	15
3	84 77 5100	Tyre Curing Presses	All sizes upto 130”	Any	China PR	Any	Any	15

104. 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.

105. 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.

(A.K.Bhalla)
Designated Authority