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**F. No. 06/29/2024-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4<sup>th</sup> Floor, Jeevan Tara Building,  
Parliament Street, New Delhi - 110001.**

Dated: 25<sup>th</sup> September 2025

**FINAL FINDINGS**

**CASE NO. AD (OI) – 27/2024**

**Subject: Anti-dumping investigation concerning imports of Acrylonitrile Butadiene Rubber ('NBR') from China PR, European Union, Korea RP and Russia.**

**F. No. 06/29/2024 – DGTR** - Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the 'Act') and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof, as amended from time to time (hereinafter also referred to as the 'AD Rules' or the 'Rules') thereof;

- a. The Designated Authority (hereinafter referred to as 'Authority') received an application filed on behalf of the domestic industry by Apcotex Industries Limited (hereinafter referred to as the 'applicant' or the 'domestic industry') seeking initiation of an anti-dumping investigation concerning imports of *Acrylonitrile Butadiene Rubber ('NBR')* (hereinafter referred to as the 'product under consideration' or 'PUC') from China PR, European Union, Korea RP and Russia (hereinafter referred to as the 'subject countries', with imports of the product under consideration from the subject countries referred to as 'subject imports' or 'subject goods').
- b. The Authority examined the application and found *prima facie* evidence that exports from the subject countries were at dumped prices and there was consequent injury to the domestic industry. Accordingly, pursuant to Rules 5 and 6 of the Rules, vide Notification F. No. 06/29/2024 – DGTR dated 26 September 2024, the Authority initiated an investigation to examine the existence, degree and effect of any alleged dumping of the subject goods and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

**A. PROCEDURE**

1. The procedure described below has been followed with regard to the investigation:
  - a. In accordance with Rule 5(5), prior to initiation of the investigation, the Authority notified governments of the subject countries through their embassies in India about the receipt of the present anti-dumping application.
  - b. As noted above, upon examination of the application, the Authority found *prima facie* evidence of dumping and consequent injury. Therefore, in accordance with Rules 5 and 6, vide Notification F. No. 06/29/2024 – DGTR dated 26 September 2024 ('Initiation Notification'), the Authority initiated the present proceedings.
  - c. As noted in the initiation notification, the period of investigation ('POI') was considered as 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024. The injury period was set to cover the years 2020-21, 2021-22, 2022-23 and the period of investigation.
  - d. A request was made to the Directorate General for Systems and Data Management (DG Systems) for transaction-wise import data of the subject goods for the injury period. The Authority received the data and has relied upon this data for the necessary analysis after due examination of the transactions.
  - e. In accordance with Rule 6(2), the Authority informed interested parties of the initiation of the investigation by sharing a copy of the initiation notification with the embassies of the subject countries in India, known producers and exporters of the product under consideration in the subject countries, known importers of the subject goods in India and other interested parties, as per the information made available in the application.
  - f. In accordance with Rule 6(3), the Authority provided a copy of the non-confidential version of the application to the governments of the subject countries through their embassies in India, known exporters of the subject imports and to other interested parties who requested in writing for a copy of the application.
  - g. In accordance with Rule 6(4), the Authority issued questionnaires to the exporters and other interested parties to seek information regarding the normal value and net export price for the investigation.
  - h. The Authority sent questionnaires to the governments of the subject countries through their embassies in India. The governments of the subject countries were requested to forward the Initiation Notification and the questionnaires to the producers of the subject goods in their respective countries and advise them to respond to the questionnaire within the prescribed time limit.
  - i. The following known producers and exporters have registered themselves as interested parties in these proceedings:

SN	Country	Producer/Exporter
1	European Union	ARLANXEO Emulsion Rubber France S.A.S. (hereinafter referred to as 'Arlanxéo')
2	China PR	ARLANXEO TSRC (Nantong) Chemical Industrial Co. Ltd
3	Korea RP	Kumho Petrochemical Co. Ltd. (hereinafter referred to as 'KPC')

4	Russia	Krasnoyarsk Synthetic Rubber Plant, Public Joint-Stock Company (hereinafter referred to as 'KSRP')
5	Russia	PJSC Sibur Holding (hereinafter referred to as 'Sibur')
6	China	SIBUR International Trading (Shanghai) Co., Ltd
7	China	SIBUR Istanbul Uluslararası Ticaret Limited Sirketi

- j. The following importers, users and user associations have registered themselves as interested parties in the present proceedings:

SN	Importer/User/Association
1	Imperial Waterproofing Industries Pvt. Ltd.
2	Indian Rubber Gloves Manufacturers Association
3	JMF Performance Materials Private Limited
4	JMF Synthetics India Private Limited
5	Koove IOT Private Limited
6	Latrile Gloves Private Limited
7	Liberty Med Supplies Private Limited
8	Navco Industries Private Limited
9	NBR Cooling System Pvt Ltd
10	Reliance Sibur Elastomers Private Limited (RSEP)
11	Rishiroop Limited
12	Rishiroop Polymers Private Limited
13	Tegamen Safety Products Pvt Ltd
14	Wadi Surgicals Private Limited

- k. The Authority issued an Economic Interest Questionnaire (EIQ) to assess public interest and impact of the duties on the wider economy. A copy of the EIQ was sent to the embassy of each subject country, all the known exporters, importers and users and the domestic industry. The EIQ was also shared with the administrative line ministry. Only the domestic industry has filed a response to the EIQ.
- l. A list of all interested parties that registered themselves within the prescribed timeline was uploaded on the website. All registered interested parties were directed to circulate the non-confidential version of all their submissions in the present proceedings with all other interested parties.
- m. In view of the comments filed by the interested parties regarding the scope of the product under consideration and PCN methodology, the Authority held a meeting with the interested parties on 29<sup>th</sup> November 2024 to discuss the issues raised in the comments filed by the parties. Pursuant to the discussions held with the interested parties and the submissions filed, the Authority notified the product scope and PCN methodology for these proceedings vide its notice dated 11 December 2024 ('PUC Notice'). It was clarified in the notice that the product scope notified therein was for the purposes of defining the scope of the investigation, and

any requests for exclusion made during the course of the investigation, properly substantiated, would be duly considered in the final findings. The notice was published on the website of the DGTR.

- n. In accordance with Rule 6(6), the Authority provided an opportunity to the interested parties to present their views orally in a hearing held on 8<sup>th</sup> July 2025. The parties presenting their views in the oral hearing were directed to make written submissions of the views expressed orally, followed by rejoinder submissions.
- o. In accordance with Rule 6(8), wherever an interested party has refused access to or has otherwise not provided necessary information in a timely manner during the course of the present proceedings, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- p. In accordance with Rule 7, information provided by the interested parties on a confidential basis was examined by the Authority with regard to the sufficiency of the confidentiality claimed. 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 a non-confidential summary of the information filed on confidential basis.
- q. In accordance with Rule 8, the Authority conducted verification of the data provided by the applicant and other interested parties to the extent considered necessary for the present proceedings. The Authority has considered the verified data of the interested parties in its analysis in the present case.
- r. The Authority calculated the non-injurious price (NIP) for the product under consideration so as to ascertain whether duties lower than the dumping margin would be sufficient to remedy the injury being suffered by the domestic industry. The NIP has been calculated based on the optimum cost of production and cost to produce & sell the domestic like article in India, based on the information furnished by the applicant and having regard to the Generally Accepted Accounting Principles (GAAP).
- s. The Authority examined the issues raised, information provided, and submissions made by the interested parties during the course of the proceedings, to the extent they were supported by evidence and considered relevant to the present purposes, in making the final finding.
- t. A disclosure statement containing the essential facts of the investigation which formed the basis of the final findings was issued to the interested parties on 17<sup>th</sup> September 2025 and the interested parties were allowed time to comment on the same. The comments to disclosure statement received from the interested parties have been considered, to the extent found relevant, non-repetitive and supported with evidence in this final findings notification.
- u. \*\*\* represents information furnished by a party on confidential basis and so considered by the Authority under the Rules.
- v. The exchange rates adopted by the Authority for the present investigation is 1\$ = Rs 83.69.

## **B. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

### **B.1 Submissions of the other interested parties.**

2. The other interested parties submitted as follows with regards to the scope of the product under consideration, like article and PCN methodology:
  - a. The product scope, as notified in the initiation notification, refers to only the bale form of NBR. It should be clarified that NBR in powder and liquid forms is not included in the product scope. In previous investigations concerning this product, latex and powder forms of NBR were excluded from the product scope.
  - b. It should be clarified if certain grades, such as KNB1845, which have ACN content beyond the specified range of 25-42%, are included inside the scope of the product under consideration.
  - c. Goods produced by KSRP differ from the goods produced by the domestic industry in key respects. Due to the longer transportation times for imported goods, the colour of the product may change, which may result in a price reduction if the colour of the product at the time of delivery does not match the customer's requirements.
  - d. The domestic industry produces goods via low-temperature polymerisation (LTP) process only. Sibur produces goods via the high-temperature polymerisation (HTP) process. Hot-polymerized NBR and cold-polymerized NBR both cater to distinct end-use applications due to their differences in polymerization temperatures and other mechanical properties.
  - e. LTP NBR is valued more highly by the market and hence commands a higher price point. Therefore, due to the difference in prices, a fair comparison is not possible.
  - f. The Authority has recognised in previous investigations that NBR is sold in different grades, based on ACN content and Mooney viscosity. The Authority identified three grades: Low, Medium and High which have different ACN content.
  - g. PCNs have been formulated based on ACN content only. Another important factor affecting pricing is Mooney viscosity, which has an inverse relation with the price of NBR. It is a critical factor affecting price of NBR, which needs to be taken into account for comparison of different grades.
  - h. Sibur primarily exports grades with ACN content below 35%, whereas the domestic industry primarily manufactures grades with higher ACN content.

### **B.2. Submissions of the domestic industry.**

3. The domestic industry has submitted as follows with regards to the scope of the product under consideration and like article:
  - a. The scope of the product under consideration in the application is the same as the product scope determined in previous investigations concerning this product.
  - b. The domestic industry has produced like article to the imported product.
  - c. The domestic industry does not object to exclusion of liquid NBR, powder NBR and oil-extended NBR made with the addition of non-DOP plasticisers.

- d. The domestic industry does not object to the exclusion of grades with ACN content beyond the defined range, that is, 25% to 42%.
- e. Differences in production process do not ipso facto warrant exclusion of a form or grade from the product scope. NBR produced by both LTP and HTP is eventually put to the same end use.
- f. NBR produced by both HTP and LTP are technically and commercially substitutable. Import data shows that the same consumers are purchasing both types of NBR.
- g. The domestic industry manufactures and sells all grades of the product, including with ACN content below 35%.
- h. PCNs were not formulated in previous investigations concerning this product. The domestic industry understands that other interested parties want PCNs to be formulated based on ACN content. The domestic industry does not object to this in principle.

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

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

*3. The product under consideration in the present application is Acrylonitrile Butadiene Rubber (NBR) in bale form with ACN content (Bound Acrylonitrile %) between 25% to 42%, specifically excluding Carboxylated, Hydrogenated and Oil-extended NBR bales.*

- 5. The initiation notification invited all interested parties to file their comments on the product scope and PCN methodology. within 30 days from the initiation notification, which was extended upon the request of the parties. The Authority notes that various interested parties requested exclusion of certain forms of the product, as well as confirmation regarding the exclusion of certain grades, which are:
  - a. Powder NBR
  - b. Liquid NBR
  - c. Latex NBR
  - d. NBR with ACN content less than 25%
  - e. NBR with ACN content greater than 42%
  - f. NVC NBR
- 6. Based on the comments filed by the interested parties, in the PUC Notice, the product scope for the purpose of filing of response and the investigation was defined as follows:

*The product under consideration in the present investigation is Acrylonitrile Butadiene Rubber (NBR) in bale form with ACN content (Bound Acrylonitrile %) between 25% to 42%.*

*Following NBR are excluded from the scope of the product under consideration.*

- a. Carboxylated NBR*
- b. Hydrogenated NBR*
- c. Powder NBR*
- d. Liquid NBR*
- e. Oil extended NBR*
- f. Latex NBR*
- g. NBR with ACN content less than 25%*
- h. NBR with ACN content more than 42%*
- i. NVC NBR*

7. Subsequent to the PUC-PCN notice, additional submissions were made by certain interested parties regarding product scope and PCN methodology in the written submissions and rejoinder submissions filed after the oral hearing. All submissions made by the interested parties, to the extent considered relevant, have been recorded and examined herein.
8. The participating producer from Russia and its related importer in India have requested for exclusion of HTP (High-temperature polymerisation) NBR. The Authority notes that it is settled practice of the Authority that two articles do not become unlike article simply due to differences in their respective production processes. Therefore, the mere fact that NBR can be produced via two processes does not imply of two distinct products, unless it is established that the two are not technically and commercially substitutable.
9. The Authority notes that the interested parties requesting exclusion of HTP-NBR have submitted that LTP NBR commands a higher price point than HTP-NBR. No evidence or data has been submitted in support of this. Notwithstanding, the Authority considers that a mere difference in prices does not lead to commercial non-substitutability.
10. The Authority also notes that the interested parties requesting exclusion of HTP NBR have made some submissions regarding the technical differences between HTP and LTP NBR, including differences in polymer structure, tear strength, elastic recovery etc. However, the Authority notes that these submissions have not been adequately elaborated upon or supported with evidence. In the first instance, the Authority notes that the interested parties have not provided any evidence regarding the existence of these purported differences.
11. More fundamentally, the Authority considers that there is no material on record indicating why these specific parameters are of relevance in determining technical substitutability. Such an analysis is important as two goods may differ on certain parameters but still be wholly or partially substitutable. The interested parties have not advanced any submissions or evidence indicating that these parameters affect qualities of the product desired by the general consumers of the product, or that use cases for the product are defined by consumers based on these parameters, or that differences on these parameters significantly influence purchasing decisions of consumers.

12. Further, the Authority notes that as per the ruling of the CESTAT in *Merino Panels v Designated Authority* (2015), for two goods to be deemed technically substitutable, it is not necessary that the goods must be completely interchangeable in all use cases for all consumers. As long as the products have overlaps in their uses, they are considered like articles. The Authority notes that the interested parties have not advanced any submissions or evidence indicating that there is *no overlap* in the uses for HTP and LTP NBR.
13. Further, the Authority notes that the domestic industry has submitted that NBR produced by either production process leads to the creation of the same product, and that LTP and HTP NBR are technically and commercially substitutable. The domestic industry has submitted that consumers have procured material interchangeably from Russia, which supplies LTP NBR, and other subject countries and the domestic industry, which supply HTP NBR, which establishes that they are being used substitutably by users. The Authority has examined transaction-wise import data from DG Systems, which shows that the same consumers are importing both HTP and LTP NBR. The Authority notes that it is indicative of substitutability, especially in the absence of any evidence to the contrary.
14. Therefore, the Authority considers that the request for exclusion of HTP NBR is not supported by the evidence on record and thus does not consider it appropriate to exclude HTP NBR from the product scope.
15. Certain interested parties have also submitted that they primarily export NBR with ACN content lower than 35%, whereas the domestic industry primarily produces and sells NBR with ACN content over 35%. The Authority examined the verified data of the domestic industry and notes that the domestic industry has made sales in commercial quantities of all grades, including NBR with ACN content lower than 35%. Therefore, the assertion of the interested parties is factually incorrect.
16. In view of the foregoing, regarding the product scope, the Authority concludes that the product scope, as defined in the PUC Notice, is appropriate, which is reproduced below:

*The product under consideration in the present investigation is Acrylonitrile Butadiene Rubber (NBR) in bale form with ACN content (Bound Acrylonitrile %) between 25% to 42%.*

*Following NBR have been excluded from the scope of the product under consideration.*

1. *Carboxylated NBR*
2. *Hydrogenated NBR*
3. *Powder NBR*
4. *Liquid NBR*



5. *Oil extended NBR*
6. *Latex NBR*
7. *NBR with ACN content less than 25%*
8. *NBR with ACN content more than 42%*
9. *NVC NBR*

17. The product under consideration is imported under the HS code 40025900.
18. Regarding the PCN methodology, it has been submitted by the interested parties that the Authority has not taken Mooney viscosity into consideration for formulation of PCNs. It has been submitted that Mooney viscosity is a ‘critical’ parameter affecting cost and price comparability. However, the Authority notes that no evidence has been extended regarding how Mooney viscosity affects cost and price comparability, which is the primary basis for formulation of PCNs. Viscosity is simply a physical characteristic. A physical characteristic is achieved as the result of a process. To warrant formulation of PCNs based on a physical characteristic, a clear link needs to be drawn between the physical characteristic, the excess production efforts/resources required specifically for achieving that physical characteristic, and the costs incurred. Since no such information has been placed on record, the Authority does not consider it appropriate to include Mooney viscosity as a factor in the PCN methodology.
19. Therefore, in absence of such information, the Authority does not consider it appropriate to include Mooney viscosity as a parameter in the PCN methodology.
20. In view of the foregoing, regarding formulation of PCNs, the Authority concludes that the PCN methodology as defined in the PUC Notice, is appropriate, which is reproduced herein:

<b>NBR Category</b>	<b>ACN Content</b>	<b>PCN Code</b>
Low	25% to 30%	L
Medium	Above 30% upto 35%	M
High	Above 35% upto 42%	H

21. The goods produced by the domestic industry and the goods imported from the subject countries are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable and consumers can use them interchangeably. Therefore, the Authority concludes that the product produced by the domestic industry is like article to the imported product.

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

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

22. The other interested parties have not made any submission.

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

23. The domestic industry has submitted as follows:
- Apxotex is the sole producer of the domestic like article in India.
  - It has not imported the subject goods from the subject countries.
  - It is not related to any producer of the subject goods in the subject countries or importer of the subject goods in India

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

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

*(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 ”*

25. The Authority notes that the present application has been filed by Apcotex Industries Limited. The applicant has submitted that it is the only producer of the domestic like article in India. During the course of the investigation, no averments have been made to the contrary. Considering the information on record, the Authority infers that the applicant accounts for entire Indian production.
26. Apcotex has certified that it has not imported the product under consideration. The Authority has examined the transaction-wise data obtained from DG Systems and found that there are no imports of the product under consideration by Apcotex.
27. In view of the foregoing, the Authority concludes that:
- The applicant, Apcotex Industries Limited, constitutes ‘domestic industry’ within the meaning of Rule 2(b).
  - Apcotex satisfies the requirement of standing as prescribed in Rule 5(3).

## **D. CONFIDENTIALITY AND MISCELLANEOUS ISSUES.**

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

28. The other interested parties have submitted as follows with regards to confidentiality claims and related issues:

- a. The domestic industry has not provided a write-up of the broad stage-wise manufacturing process.
- b. The domestic industry has not disclosed the calculation methodology for its claimed normal value in the application. All information, including cost of raw materials consumed, cost of captive input/utilities, bank charges etc have been claimed confidential.
- c. The domestic industry has not disclosed its quantification of the impact of the requested anti-dumping duties on the downstream products.
- d. The domestic industry has claimed excessive confidentiality regarding the details of its manufacturing plants.
- e. The domestic industry has claimed details of its proposed capacity expansion as confidential, whereas the expansion has already been announced and details are available in the public domain.
- f. The domestic industry is a habitual user of anti-dumping duties. There have been multiple investigations concerning imports of the present product under consideration, and duties were in force against its imports from various countries for almost 25 years, from 1995 till 2020. If duties are imposed again, it would lead to duties assuming almost a permanent character.
- g. In 2020, the Authority recommended extension of the anti-dumping duties on imports of the product under consideration from Korea RP. In 2021, the Authority recommended imposition of anti-dumping duties on imports from China PR, European Union, Japan and Russia. However, the Ministry of Finance concluded the domestic industry does not require further protection in the form of anti-dumping duties and did not accept either of these recommendations.
- h. The domestic industry is sufficiently protected from import competition by the Basic Customs Duty on imports of the product, which is 10%.
- i. The domestic industry has misled the Authority regarding the anti-dumping investigation against KPC in the US. Duties were not imposed in the US due to negative findings on injury.

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

29. The domestic industry has submitted as follows with regards to confidentiality claims and related issues:
  - a. Normal value has been calculated based on the cost of applicant. These constitute business proprietary information and thus have not been disclosed.
  - b. The domestic industry has quantified the impact of the requested duties and duly disclosed it in the non-confidential version of its response to the Economic Interest Questionnaire.
  - c. On the submission that the manufacturing process has been claimed confidential, the Authority has permitted exporters in several previous investigations to claim details of manufacturing plants as confidential. However, the domestic industry does not object to the disclosure and the same has been disclosed.
  - d. On the submission that the exact figures of capacity expansion have been claimed confidential, the proposed capacity expansion quoted in the media reports are

different from the actual figures. However, the domestic industry does not object to this request for disclosure and the same has been disclosed.

- e. As regards the habitual nature of the domestic industry for seeking anti-dumping duty, in the nine investigations conducted into imports of this product, the Authority issued positive final findings and recommended imposition of measures in all of them. Therefore, there is a history of anti-dumping duties on this product because the subject exporters habitually engage in dumping.
- f. While the Ministry of Finance did not accept the two most recent recommendations for imposition of anti-dumping duties on this product, there is nothing on public record to indicate that the Ministry of Finance concluded that the domestic industry did not require any further protection.
- g. On the submission that the imports of the product also enjoy basic customs duty, as per the calculations of the domestic industry, the injury margin is positive for the subject imports, indicating that the Basic Customs Duty does not offset the trade distortive effects of the unfairly priced imports.
- h. KPC habitually engages in dumping in various international markets, as evidenced by positive findings of dumping in investigations carried out in the US (2022) and China (2018, 2024). Further, the dumping margins determined for KPC in the US and China are significantly higher than the dumping margin determined for KPC in India.
- i. The quantum of duties imposed in India is significantly lower than the duties imposed in the other jurisdictions. The domestic industry believes that due to the low quantum of duties, the full extent of trade and market distortion created by these unfairly priced imports was never remedied.

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

#### **D.3.1 Appropriateness of confidentiality.**

30. With regard to confidentiality of information, Rule 7 provides as follows:

*Rule 7: Confidential information. (1) Notwithstanding anything contained in subrule (1), (2), (3) and (7) of rule 7, subrule (2) of rule 14, subrule (4) of rule 17 and subrule (3) of rule 19 copies of applications received under subrule (1) of rule 6 or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.*

*(2) The designated authority may require the parties providing information on confidential basis to furnish nonconfidential summary thereof in sufficient details to permit a reasonable understanding of the substance of the confidential information and if, in the opinion of a party providing such information, such*

*information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarization is not possible.*

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

31. The Authority notes that through its letter dated 20 May 2025, the domestic industry has complied with certain requests for disclosure.
32. The Authority notes that the domestic industry has relied on its own data for certain cost elements in determination of its claimed normal value in the application. Details relating to cost of utilities, conversion costs etc are confidential for any business. The claimed normal value has been disclosed as range, in accordance with the prescribed requirements. Therefore, the Authority considers that the disclosure of the calculation of normal value does not suffer from excessive confidentiality.
33. The Authority concludes that there are no outstanding issues of excessive confidentiality claims in the submissions filed in the present proceedings.

#### **D.3.2 Appropriateness of imposition of duties in light of previous history of measures.**

34. Interested parties opposing duties have highlighted that imports of the present product under consideration have been subject to anti-dumping duties since 1995 till 2020. Therefore, given the long history of duties on this product, they argue that imposition of fresh measures pursuant to the present investigation would be inappropriate. One of the interested parties has claimed that the Ministry of Finance has concluded that the domestic industry has had sufficient protection and further protection in the form of anti-dumping duties is no longer required, which is the reason for non-acceptance of previous recommendations for imposition of duties. The Authority notes that of the nine investigations (inclusive of both original investigations and sunset reviews) undertaken so far, all of them resulted in affirmative findings of dumping and consequent injury. The domestic industry has submitted that affirmative findings in previous cases indicate habitual and consistent dumping by exporters.
35. The Authority notes that in an anti-dumping investigation, the primary mandate of the Authority is to assess whether trade remedial measures are required in light of dumped imports and consequent injury to the domestic industry. India, being a rule of law country and a responsible adherent of the WTO disciplines, imposes trade remedial measures only when needed and only to the extent necessary. The domestic industry has highlighted that various jurisdictions have imposed measures for a substantially longer period, and submitted as follows.

SN	Jurisdiction	Case	Date of imposition	Date of expiry	Term of Duties
1	India	Melamine from China	16-Nov-04	01-Oct-21	16 years, 10 months
2	India	Float Glass from China	12-Nov-03	06-Feb-21	17 years, 2 months
3	USA	Persulfates from China	07-Jul-97	19-Feb-30	32 years, 7 months
4	USA	Brass Sheets and Strips from France, Germany and Italy	06-Mar-87	03-Apr-28	41 years
5	EU	Steel Ropes and Cables from China	17-Aug-99	06-Jun-29	29 years, 9 months
6	Korea	Stainless Steel Bars from China	30-Jul-04	21-Jan-24	19 years, 5 months
7	Brazil	Carbon Steel Seamless Steel Line Pipes from China and Romania	20-Oct-99	23-Jul-28	28 years, 9 months

*Source: Rejoinder submissions filed by the domestic industry. Original source: WTO Trade Remedies Data Portal.*

36. Authority notes that as per Section 9(A)(5) of the Act and Rule 23 of the Rules, there is no restriction on the maximum period for which the duty can remain in force. The only condition necessary for extension of duties is whether cessation of such duty is likely to lead to continuation or recurrence of dumping and consequent injury to the domestic industry. The anti-dumping duty can be imposed for a period as long as necessary to counteract dumping and injury.
37. The Authority also notes the contention of the interested parties regarding non-imposition of duties by Ministry of Finance despite recommendations in the last two investigations concerning this product. The interested parties have made definitive submissions regarding the reasons for such non-imposition. However, the Authority notes that the interested parties have not advanced any evidence in support of this submission. The Authority notes that there is nothing on record of the present case or in the office memorandum issued by the Ministry of Finance vide Notification F. No. CBIC-190354/97/2021-TO(TRU-I)-CBEC to support the contention of the interested parties.
38. In other products such as plastic processing machine, Ministry of Finance did not impose the measures in that period, but the DGTR has given a positive recommendation recently which has been accepted by the Ministry of Finance. Therefore, the Authority considered that there is no maximum permissible duration for the imposition of trade remedial measures and that there is no inappropriateness in imposition anti-dumping duties pursuant to the present proceedings due to the previous history of duties.

### **D.3.3 Appropriateness of imposition of anti-dumping duties in light of existing basic customs duties.**

39. Interested parties opposing duties have argued that the existing basic customs duties on imports of the product under consideration offers sufficient protection to the domestic industry from import competition, and hence anti-dumping duties are not required.
40. The Authority notes that customs duties and anti-dumping duties serve different purposes and thus cannot be equated. Notwithstanding, the Authority has compared the non-injurious price of the domestic industry with the landed price which takes into account basis customs duty. Such a comparison has revealed a positive injury margin for all subject countries. This demonstrates that the basic customs duty does not negate the trade distortive and injurious effects of the subject imports.

### **D.3.4 Appropriateness of imposition of duties in light of the demand-supply gap in the domestic market**

41. The interested parties opposing duties have argued that due to the demand and supply gap in the country, anti-dumping duties should not be imposed.
42. In *DSM Idemitsu v Designated Authority* (2000), CESTAT held as follows: -

*11. [...] It was submitted on behalf of the appellants that Domestic Industry was not in a position to meet the market requirements and hence, Japan came to the rescue of needy consumers in supplying the requisite material. If the exporters wanted to supply the goods to meet the requirement in Indian market that could be done by exporting the requirements at a price equivalent to normal value but not at a dumped value and to capture the market, as it was rightly pointed out by the counsel for the Designated Authority.*

43. In the above case, CESTAT has held that the existence of a demand and supply gap is not a justification for unfair and predatory trade practices such as dumping and therefore, the existence of a demand and supply gap does not preclude imposition of trade remedial measures. This principle has been consistently applied by the Authority in various cases. The Authority notes that trade remedial measures are not a barrier to trade, but rather a corrective mechanism for distortions in the market caused by certain unfair trade practices. Therefore, exporters remain free to export to India, but at fair prices. In fact, this is especially important for industries where the domestic demand exceeds domestic production capacity, as unfair imports prevent growth and development of the industry and prevent additional investments and expansions.
44. The Authority also notes that 18% of the imports in the period of investigation were from non-subject countries. Therefore, the Authority considers that there are other sources of

supply for the product and therefore supply of the product under consideration will not be impacted by imposition of trade remedial measures.

#### **D.3.4 Other miscellaneous issues**

45. Interested parties opposing duties have argued that the domestic industry has misled the Authority, and that duties were not imposed in the US pursuant to negative findings of injury. The Authority notes that a finding relating to injury is a factor specific to the domestic industry. Therefore, the fact that the US industry of NBR was not injured in 2021 and consequently duties were not imposed has no bearing on the present case.

### **E. DETERMINATION OF NORMAL VALUE, NET EXPORT PRICE AND DUMPING MARGIN**

#### **E.1 Submission made by the other interested parties.**

46. The other interested parties have submitted as follows with regards to determination of normal value, net export price and dumping margin:
- a. In the application, normal value has been constructed based on the cost data of the domestic industry. This is inappropriate given the differences in the production environment and market conditions and raw material prices. Therefore, there was no evidence of dumping at the time of initiation.
  - b. On the submission of the domestic industry on dumping in USA, the US authorities, pursuant to their investigation, arrived at a negative finding on injury and therefore duties were ultimately not imposed. In China, in the original investigation (2018), the MOFCOM imposed adverse facts against KPC, which led to escalated margins and duties. In the sunset review (2024), MOFCOM determined a de minimis margin for KPC. However, duties were continued at 12% on grounds of likelihood.
  - c. Sales of KPC are not at losses and have been made at profits in both Korea (home market) and India (export market), as submitted in Appendix 8 of its exporter questionnaire response.
  - d. KPC has always cooperated with the Authority to the fullest extent in all previous investigations. Cost and sales data submitted by KPC, subject to certain adjustments, have been accepted by the Authority and margins determined based on its data. This shows that KPC's data is reliable.
  - e. If financial expenses (e.g., interest on borrowings) are included in SG&A and thus in the cost of production, then financial income, interest income from short-term operational funds, must also be deducted to ensure symmetry and fairness. Failing to deduct such income results in an asymmetrical treatment, artificially inflating cost of production and distorting the dumping margin.
  - f. KPC purchases acrylonitrile exclusively from unrelated third-party suppliers at arm's-length prices. These are the actual purchase prices recorded in the company's accounting system and represent the most accurate and reliable measure of acrylonitrile consumption cost. A comparison with import statistics may be



misleading due to differences in product grades, contract terms, and timing of purchases.

- g. KPC purchased most of its butadiene requirement from unrelated third-party suppliers at market prices. A comparison with import statistics may be misleading due to differences in product grades, contract terms, and timing of purchases.
- h. A small quantity of the total quantity consumed was 'reprocessed butadiene', which is recovered as a by-product during production at the plant. Butadiene was not captively produced during the period of investigation.
- i. Power has been procured from Hanju at market prices, a contention which was also accepted by the US DOC in its investigation.
- j. KPC has purchased most of its steam from Hanju, and purchases have been made at market prices. Only a small amount of steam is produced captively. The valuation method and amounts for these by-products were already reported in Exhibit G-7 (Valuation of By-products).
- k. Steam generated from these by-products is valued in direct linkage with the SMP and SLP prices purchased from Hanju, thereby ensuring consistency with market-based prices.
- l. Consumption factors reported were derived directly from KPC's books of accounts and production records. Verification of consumption norms is not a requirement under the law and the domestic industry cannot be allowed to introduce an intrusive and onerous standard.

#### **E.2. Submission made by the domestic industry.**

47. The domestic industry has submitted as follows with regards to normal value, net export price and dumping margin:
- a. As stated in para 48 of the application, the domestic industry considered the raw material prices in the subject country in its computation of the constructed normal value and dumping margin for each subject country.
  - b. Adjustments to normal value, as presented in Annexure 3.4, were based on the best available information with the domestic industry. The domestic industry cannot be expected to have detailed knowledge of the 'production environment and market conditions' in each subject country.
  - c. Market behaviour of KPC shows a consistent pattern of dumping of the product in India and other markets. In the five investigations undertaken by the Authority against imports of the product from Korea, a positive determination of dumping by KPC was made in every investigation.
  - d. The quantum of dumping determined by the Authority has been historically low. The dumping margin quantified by the Authority is significantly lower, in both absolute USD/MT and percentage terms, than the dumping margins determined by US DOC and MOFCOM.
  - e. NEP of KPC is significantly below the cost of sales of the domestic industry. The cost structure of the domestic industry and KPC cannot be materially different. KPC has stated that it is sourcing butadiene and acrylonitrile at market prices. If true, cost of KPC should be in the same range as the domestic industry and

therefore, either export sales of KPC are at losses, which is highly unlikely, or its costs are under-reported.

- f. If home market sales price of KPC are below its NEP, this implies that either they are at losses and must be disregarded from normal value determination, or that costs are under-reported.
- g. KPC has a history of claiming inappropriate adjustments to its cost and sales price, which were not accepted by the Authority in the past.
- h. Financial income from activities unrelated to the product under consideration cannot be deducted from the cost of production of the product under consideration. KPC had claimed such an offset before the US DOC, which was rejected. If such an offset has been claimed presently, it should be rejected.
- i. Acrylonitrile cost reported by KPC in its response should be compared with the relevant entries in its books of accounts. The reported cost should also be compared with the import prices of acrylonitrile into Korea to assess whether the reported costs are accurate.
- j. Butadiene cost reported by KPC in its response should be verified against the relevant entries in its books of accounts.
- k. KPC has admitted that power for its NBR plant is procured from Hanju, a district energy company affiliated to KPC. Therefore, the Authority must compare the price at which power was transferred to KPC by Hanju to prices of power procured by KPC from other sources.
- l. In addition to power, steam is a major utility cost. It is understood that for production of NBR, KPC utilises steam that is generated as a by-product in the production of other merchandise. The price at which steam is transferred must be examined. In case transfer price is claimed as zero on account of the steam used being a by-product, it must be rejected, as even in such cases, there are associated expenses such as fuel inputs, maintenance of the generating equipment, handling, and transfer infrastructure.
- m. Consumption factor reported by KPC for acrylonitrile and butadiene should be compared with the consumption factor reported by other producers, including other participating exporters and the domestic industry.
- n. Consumption factor reported by KPC for power should be compared with the consumption factor reported by other producers, including other participating producers and the domestic industry. Any substantial differences in the absence of significant operational differences would merit investigation.
- o. Since the previous investigation concerning imports from Korea, the increase in the cost of sales of the domestic industry has been steeper than the increase in the NEP of KPC. Further, in the last investigation, KPC was producing some portion of its raw material inputs captively, which it has claimed is not the case anymore. Therefore, it stands to reason that the dumping margin would be higher than the dumping margin determined in the previous investigation.

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

48. Section 9A(1)(c) defines normal value in relation to an article as:

*(c) “normal value”, in relation to an article, means -*

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

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

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

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

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

49. The Authority notes the following producers and exporters of the subject have filed exporter questionnaire responses in the present proceedings:

- a. Kumho Petrochemicals Co Ltd (Korea)
- b. Arlanxeo Emulsion Rubber France SAS (EU), along with its related trader ARLANXEO TSRC (Nantong) Chemical Industrial Co. Ltd.
- c. Krasnoyarsk Synthetic Rubber Plant, Public Joint-Stock Company (Russia), along with its related traders PJSC Sibur Holding (hereinafter referred to as ‘Sibur’), SIBUR International Trading (Shanghai) Co., Ltd and SIBUR Istanbul Uluslararası Ticaret Limited Sirketi.

### **A.3.1 Normal value and net export price for China PR**

a. Normal value for China PR

50. In accordance with the note to para 8 of Annexure I of the Rules, at the stage of initiation, the Authority proceeded with the presumption that China is a non-market economy. With regard to determination of normal value for a non-market economy, paras 7 and 8 of Annexure I provide as follows:

*[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 a 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 the 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.]*

*[8. (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph (3).*

*(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a nonmarket economy country for purposes of an anti-dumping investigation by the designated authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economy country :*

*Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).*

*(3) The designated authority shall consider in each case the following criteria as to whether :*

*(a) the decisions of concerned firms in such country 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;*

*(b) 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;*

*(c) such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and*

*(d) the exchange rate conversions are carried out at the market rate :*

*Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the designated authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in paragraph 7 and in this paragraph.]*

*[(4) Notwithstanding anything contained in sub-paragraph (2), the designated authority may treat such country as market economy country which, on the basis of the latest detailed evaluation of relevant criteria, which includes the criteria specified in sub-paragraph (3), has been, by publication of such evaluation in a public document, treated or determined to be treated as a market economy country for the purposes of anti-dumping investigations, by a country which is a Member of the World Trade Organisation.]*

51. The Authority, upon initiation, advised the producers/exporters in China PR to respond to the notice of initiation and provide information on whether their data/information could be adopted for normal value determination. The Authority sent copies of the market economy treatment/supplementary questionnaire to all the known producers/ exporters in China PR to provide relevant information in this regard.
52. Article 15 of the Protocol on Accession of China PR to the WTO provides as follows:

*15. Price Comparability in Determining Subsidies and Dumping*

*Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:*

*(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:*

*(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;*

*(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.*

*(b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply; however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.*

*(c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.*

*(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.*

53. The Authority notes that while the provisions of Article 15 (a)(ii) of China PR's Accession Protocol have expired with effect from 11th December 2016, the provision under Article 2.2.1.1 of the Anti-Dumping Agreement read with an obligation under 15(a)(i) of the Accession Protocol require criterion stipulated in Para 8 of Annexure I of Anti-Dumping Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming MET status. The Authority notes that no producer or exporter from China PR submitted market economy treatment or supplementary questionnaire response. Therefore, the normal value computation for these producers/exporters is required to be determined in terms of provisions of Para 7 of Annexure- 1 of Anti-Dumping Rules.
54. It is noted that paragraph 7 of Annexure-I to the AD Rules stipulates three methods of constructing the normal value for Non-Market Economies:
- a. on the basis of price or constructed value in a market economy third country;
  - b. export price from a third country to other countries, including India; and
  - c. on any other reasonable basis.
55. The Authority notes that under the provisions of paragraph 7 of Annexure I to the Rules, the normal value must first be determined on the basis of the price or constructed value

in a surrogate country, or the price of the exports from such country to other countries, including India.

56. The Authority notes that interested parties have not placed any material on record to permit determination of normal value based on the price or constructed value in a market economy third country. Therefore, the first and second method is unpracticable.
57. Therefore, the Authority has considered the normal value for China based on the last methodology which is price paid or payable in India. The normal value has been calculated based on the cost of production in India with reasonable additions for margin.

b. Net export price for China PR

58. The Authority notes that no producer from China PR has participated in the present investigation. Therefore, the Authority has determined the net export price for China PR based on facts available. To determine the net export price of China PR, the Authority has considered the export price as per DG Systems data, and has made adjustments, as necessary.

### **A.3.2 Normal value and net export price for the European Union**

a. Arlanxeo Emulsion Rubber France SAS (EU), along with its related trader ARLANXEO TSRC (Nantong) Chemical Industrial Co. Ltd

➤ Normal value

59. The Authority notes that Arlanxeo has sold 20,157 MT of subject goods in its domestic market, compared to 617 MT of exports of the subject goods to India. The exporter has claimed that all domestic sales are to unrelated customers. Therefore, the Authority notes that the volume of sales in the domestic market is sufficient to permit a comparison with its export price to India.
60. The Authority considered whether the sales in the domestic market were in the ordinary course of trade. For each PCN, the Authority compared the cost of production of the domestic like article with the selling price for each sale. The Authority notes that for High and Low PCNs, less than 80% but more than 20% sales were profitable sales. It is seen that for M PCN, less than 20% sales for profitable sales.
61. Therefore, the Authority has determined the normal value for High and Low PCN based on selling price of profitable sales. For Medium PCN, the normal value has been determined based on the cost of production of the PCN with addition of reasonable profits. The Authority has considered the profit margin for profitable sales to calculate the quantum reasonable profit.

62. The Authority examined the domestic selling prices reported by Kumho and the price adjustments claimed. The normal value determined for this product is stated in the dumping margin table.

➤ Net export price

63. The Authority examined the domestic selling prices reported by Kumho and the price adjustments claimed. The normal value determined for this product is stated in the dumping margin table.

b. Other producers and exporters from the European Union

64. The Authority has considered producers and exporters not participating in this investigation as non-cooperative and accordingly, the normal value and net export price for such producers and exporters has been determined based on facts available.

**A.3.3 Normal value and net export price for Korea RP**

a. Kumho Petrochemicals Co Ltd (KPC)

➤ Normal value

65. The Authority notes that KPC has sold \*\*\* MT of subject goods in its domestic market, compared to \*\*\* MT of exports of the subject goods to India. The exporter has claimed that all domestic sales are to unrelated customers. Therefore, the Authority notes that the volume of sales in the domestic market is sufficient to permit a comparison with its export price to India.

66. The domestic industry has claimed that KPC's Ulsan facility, where the product under consideration is manufactured, does not have a dedicated utility plant for generation of steam for use in the production of the product under consideration. The domestic industry emphasized that steam being generated as a by-product during production of other products and thereafter consumed in production of a different product must be appropriately valued. This is necessary in order to ensure that costs reported by the company are not only in accordance with the records maintained by the company as per generally accepted accounting principles but also reasonably reflect the costs associated with production and sale of a product.

67. Data of KPC has been examined. It is seen that there are three sources of steam – from affiliated supplier, from unaffiliated supplier and generated in the production of other products. The comparison of prices of the three sources is given below.

Source	Quantity	Price (KRW)	Price (USD)
From unaffiliated supplier	***	***	***



From affiliated supplier	***	***	***
Generated in production process of other products	***	***	***
Steam consumed in PUC	***, out of which **% is steam generated as a by-product in production of other products.		

68. KPC has explained that this steam is generated during the conversion of scrap butadiene into usable butadiene which is used in the production of NBR. *[KPC has attributed the cost differences in steam to variations in the steam pressure. KPC has also claimed the steam from Hanju is used directly in manufacturing and is supplied at a pressure suitable for such operations. In contrast, steam sourced from unrelated supplier—such as at the port—is intended for alternative use and is delivered at a different pressure. No further clarification has been provided on the pressure of different steam and how it affects prices. It has also been claimed that most steam is also purchased from Hanju. The producer has claimed that as with electricity, Hanju’s prices are at arm’s length, and therefore, they should be accepted in the present NBR investigation. Further, it has been claimed captive consumption of steam produced as by-product have been fully and transparently reported. It has been stated that steam/by-product captive consumption included in the manufacturing costs comes from RF-3 and OFF-GAS generated as by-products during the Butadiene reprocessing stage. The steam generated from these by-products is valued in direct linkage with the SMP and SLP prices purchased from Hanju, thereby ensuring consistency with market-based prices]*. It is seen that the steam cost reported for captive by product is significantly lower than the steam price reported from the affiliated supplier Hanju and unaffiliated supplier.
69. In its submissions, KPC has claimed that majority of their steam is purchased from Hanju. However, the data on record shows that majority of the steam consumed in the product under consideration is steam generated captively as a by-product. The Authority notes the contradiction between the statements made and the information provided. This contradiction is in addition to mere claim of different pressures of steam, without providing relevant information of different types of steam and the type of steam consumed in the production of the PUC. The data provided by the domestic industry was examined. It was noted that no credit for steam has been reported by the domestic industry.
70. In the disclosure statement issued, the Authority had found that steam cost reported by KPC does not reasonably reflect the costs associated with the production of the PUC. Therefore, the Authority had substituted the steam prices as per the purchase price of steam from affiliated supplier.
71. Post the issuance of disclosure statement, KPC has claimed that the volume reported for the captive steam was in KG and the volume reported in the purchased steam was in MT. It has therefore been claimed that contrary to the Authority’s examination, majority of

the steam consumed is purchased from affiliated supplier. KPC has also claimed that the instead of captive production of steam, the quantity considered pertains to captive production of fuel input (OFF GAS and RF-3) which are used to produce steam. The table below shows the numbers disclosed to the producer and the information reported by KPC in the comments.

<b>Figures as per KPC</b>			
<b>Sources</b>	<b>UOM</b>	<b>Quantity (MT)</b>	<b>Price KRW/MT</b>
From Unaffiliated Supplier	MT	***	***
From Affiliated Supplier	MT	***	***
RF-3 and OFF GAS used for producing steam	MT	***	***
<b>Figures as per disclosure statement</b>			
Steam From Unaffiliated Supplier	MT	***	***
Steam From Affiliated Supplier	MT	***	***
Steam Generated in production process of other products	MT	***	***

72. The Authority observes that a review of the exporter questionnaire response filed by KPC shows several inconsistencies regarding the reporting of data and the claim made now relating to captive steam and by-product gases. Nowhere in the questionnaire response has KPC explicitly stated that (a) the quantity reported for captive steam generation is measured in kilograms (KG); (b) the reported figures do not pertain to steam but instead to OFF GAS and RF-3 gases, which are by-products.
73. Upon examining of Appendix 6 and Appendix 8 of the response, the Authority notes that KPC has not disclosed the unit of measurement used for captive steam in these formats. The unit of measurement for OFF GAS and RF-3 gas has been reported in Appendix 10 but it has not been specified how it pertains to the product under consideration or captive steam generation. In the same format, KPC has claimed that the volume reported for all other inputs and utilities including steam purchased from affiliated and unaffiliated entities was in MT and only in case of captive steam, it was in KG. KPC's claim that the unit of measurement for captive steam is in KG, while steam from other sources is measured in metric tonnes (MT), casts ambiguity over the data reported. The Authority also notes that in the exporter questionnaire response, KPC has not clarified that that quantities reported relate to OFF GAS and RF-3 gases rather than to captive steam. In none of the verification documents submitted by KPC, this has been highlighted.
74. The Authority observes that the producer had not provided the information in the appropriate manner in the prescribed format. This led to significant delay in the investigation process. In such circumstances, the Authority is constrained to consider drawing an adverse inference. However, taking into account that the relevant information

was nevertheless present on record, though not filed appropriately, the Authority has decided to accept the submissions made by Kumho.

75. The domestic industry has also claimed that the electricity used by KPC at the Ulsan facility is procured from an affiliated entity, Hanju and has therefore requested detailed scrutiny of the transfer price. The domestic industry has requested comparison of purchase prices from Hanju with purchase prices from unaffiliated suppliers to establish that the transfer pricing is market based. The exporter has claimed that electricity price of Hanju has been as considered as reflective of market price by the Authority of the other jurisdiction.
  76. The Authority examined the submissions filed by KPC regarding valuation of steam, electricity and other issues related to the computation of the cost of production. In the present final findings, the Authority has considered the cost of production reported by the exporter, as verified by the Authority during desk verification.
  77. The domestic industry contended that KPC has a history of reporting interest expenses after reducing the same for interest income and the Authority has been modifying the same by excluding interest income. Interest expenses have therefore been considered after removing interest income.
  78. The Authority considered whether the sales in the domestic market were in the ordinary course of trade. For each PCN, the Authority compared the cost of production based on response filed by the producer and verified by the producer, with the selling price of the like article. The Authority notes that more than 80% of KPC's total sales were profitable, and therefore, the Authority has considered that the entire domestic sales are in the ordinary course of trade. Therefore, the Authority has considered the total domestic sales in its determination of normal value.
  79. The Authority examined the domestic selling prices reported by Kumho and the price adjustments claimed. The normal value determined for this product is stated in the dumping margin table.
- Net export price
80. The Authority examined the export prices reported by KPC and the price adjustments claimed. The net export price determined for KPC is stated in the dumping margin table.
- b. Normal value and net export price for other producers and exporters from Korea RP
81. The Authority has considered producers and exporters not participating in this investigation as non-cooperative and accordingly, the normal value and net export price for such producers and exporters has been determined based on facts available.

#### **A.3.4 Normal value and net export price for Russia**

- a. Normal value and net export price for PJSC SIBUR Holding, SIBUR Istanbul Uluslararası Ticaret Limited Sirketi and Krasnoyarsk Synthetic Rubber Plant, Public Joint-Stock Company (KSRP)
82. The Authority notes that PJSC SIBUR Holding has extended a price undertaking to the Authority. As part of this undertaking, the producer has agreed to revise its export prices to India and to provide all reasonable and relevant information that the Designated Authority may consider necessary to monitor compliance with the terms of the undertaking.
83. In accordance with Rule 15 of the Rules (Suspension or Termination of Investigation Pursuant to Price Undertaking), the Designated Authority may suspend or terminate an antidumping investigation if the exporter of the article under investigation furnishes a written undertaking to revise the prices of the product under consideration so as to eliminate the injurious effects of dumping. A copy of the undertaking was circulated to all the interested parties. The Authority had advised the producer to comply with the conditions of Rule 15 and circulate the undertaking.
84. As part of this undertaking, the producer has agreed to revise its export prices to India and to provide all reasonable and relevant information. The domestic industry had filed comments to the undertaking proposal of the producer and have requested revision of the prices. The comments on the undertaking have been accepted by the producer. The producer has filed revised undertaking which has been accepted by the Authority. Upon acceptance of the said price undertaking by the domestic industry, it was further examined by the Authority, and the price undertaking has been accepted in terms of Rule 15 of the Rules. Consequently, the Authority has not determined definitive dumping and injury margins for the producer.
85. The Designated Authority may, suo motu or upon a request from the exporter, the domestic industry, importers, or any other interested party, periodically review the need for the continuation of the undertaking. The terms of the price undertaking shall remain co-terminus with the duration of any anti-dumping duties imposed by the Central Government through the applicable notification and shall be subject to review as provided under the relevant provisions of the Anti-Dumping Rules.
- b. Normal value and net export price for other producers and exporters from Russia
86. The Authority has considered producers and exporters not participating in this investigation as non-cooperative and accordingly, the normal value and net export price for such producers and exporters has been determined based on facts available.

### A.3.3 Dumping margin

87. The normal value, export price and dumping margin determined in the present investigation are as follows.

SN	Particulars	UOM	Import volume	Normal value	Net export price	Dumping margin		
			MT	\$/MT	\$/MT	\$/MT	%	Range
<b>A</b>	<b>Korea</b>							
1	Kumho Petrochemical Co. Ltd	\$/MT	***	***	***	***	***	Negative
2	Any other	\$/MT	***	***	***	***	***	40-50%
<b>B</b>	<b>European Union</b>							
1	ARLANXEO Emulsion Rubber France S.A.S.	\$/MT	***	***	***	***	***	60-70%
2	Any other	\$/MT	***	***	***	***	***	120-130
<b>C</b>	<b>Russia</b>							
1	Any other	\$/MT	***	***	***	***	***	60-70%
<b>D</b>	<b>China</b>							
1	Any	\$/MT	***	***	***	***	***	30-40%

88. It is seen that except for Kumho Petrochemical Co. Ltd, the dumping margin for the subject countries is above de minimis, and is significant.

## **F. ASSESSMENT OF INJURY TO THE DOMESTIC INDUSTRY**

### **F.1 Submission made by the other interested parties.**

89. The other interested parties have submitted as follows with regards to injury and causal link: -

- i. The domestic industry has stated that it is not claiming volume injury, only price injury. In a case of material injury, examination of material injury must be done as a whole. If material injury is claimed, all injury parameters are relevant.
- ii. Improvement in some parameters cannot be disregarded for injury analysis, and the domestic industry cannot opt out of a given set of parameters. The report of the WTO Appellate Body in *Thailand – H-Beams* supports this position.
- iii. The performance of the domestic industry shows an improvement in seven out of fifteen injury parameters listed in the Rules, including production capacity, production, domestic sales and export sales. This shows the domestic industry is not suffering injury.

- iv. CESTAT has also held in *Bridge Stone Tyre Manufacturing (Thailand) v. Designated Authority* that all injury parameters are required to be seen.
- v. Landed price of imports from Korea is higher than that from other subject countries. Price undercutting is also negative for Korea.
- vi. Price undercutting has remained low or negative for imports from Korea throughout the injury period. Further, an analysis of the data shows that there is no correlation between import prices from Korea and profitability of the domestic industry. Therefore, imports from Korea are not a cause of injury to the domestic industry.
- vii. Imports from European Union ought to be decumulated for the purposes of injury analysis. Import volumes from the European Union have remained low and stable over the injury period and have actually declined compared to the base year.
- viii. Imports from the European Union are *likely* operating at a different price level than reflected in the application, with Arlanxeo's verified data indicating higher actual prices. This reinforces the contention that European Union imports are not competing in the same price segment as imports from other subject countries, further demonstrating distinct market dynamics.
- ix. As per the application, price undercutting has also remained in the range of 0-10% over the entire injury period. However, profitability of the domestic industry has varied significantly over the injury period. This shows that there is no correlation between imports from the EU and profitability of/injury to the domestic industry.
- x. Over the past five years, the domestic industry has reported an operating profit of approximately INR 600 crores, which should have provided sufficient financial capability to invest in capacity expansion.
- xi. Decline in financial performance of the domestic industry is due to a correction in the market not due to dumped imports. In the annual reports and quarterly earnings calls of the domestic industry, it has been stated that prices have declined in the period of investigation compared to the previous two years due to normalisation of sea freight charges, which were higher earlier due to the Red Sea crisis and other issues.
- xii. Depreciation costs have increased by 65% in the period of investigation, which indicates that any financial strain is self-inflicted.
- xiii. Capacity expansions involving heavy capital investment lead to negative financial pressures in the short run. The domestic industry undertook capacity expansion during the injury period. Therefore, decline in financial parameters is due to the capacity expansion and not imports.
- xiv. The domestic industry uses pressurised containers and trucks for transportation of raw materials, as opposed to direct pipelines used by other manufacturers. This results in a 2% loss in transit, eroding cost efficiency.
- xv. Export volumes of the domestic industry have increased over the injury period despite a decline in export price. Therefore, injury is due to poor export performance, not subject imports.
- xvi. Decline in prices in the period of investigation is due to sluggish demand and decline in raw material prices.

- xvii. Imports from Russia ought to be decumulated due to low share of Russian imports in total imports.
- xviii. The domestic industry has not suffered price injury. All parameters are positive over the entire injury period; it has not suffered any losses. A decline in profit levels does not equate to material injury.
- xix. Import price (Rs. 203.75 /kg) of subject goods from Japan during the POI was significantly higher than the subject countries. Compared to 2022-23, the volume of imports from Japan in the POI increased by almost 35%. Moreover, imports from Japan demand a sizeable share of almost 10% in the total demand for the subject goods.
- xx. Applicant's investor calls clearly reveal that further capacity expansion plans have been put on hold owing to the current CAPEX costs, as opposed to alleged dumping.
- xxi. In the case of *Bridgestone Tyre Manufacturing (Thailand) v Designated Authority*, the Hon'ble CESTAT noted that a ROCE of 22% itself is inherently high and the actual ROCE of the domestic industry should be considered with due deference to ROCE earned by other producers of the PUC.

**F.2. Submission made by the applicant.**

90. The applicant has submitted as follows with regards to injury and causal link: -
- i. The product under consideration is manufactured using a continuous process. As a result, suspension or scaling down production is a significant cost in itself, causes loss of efficiency and affects quality when production is resumed or scaled up again.
  - ii. Since the domestic demand for the product exceeds the domestic production capacity, the market is able to easily absorb the entire production of the domestic industry, especially since the lead times are much lower for the domestic industry compared to imports.
  - iii. During the injury period, the domestic industry was able to sell at prices that allowed it to earn a positive contribution. Therefore, the domestic industry has continued to produce and sell the product during the period of investigation, and therefore, volume parameters have not been impacted.
  - iv. Imports from the European Union and Korea meet all requirements for cumulation under Para (iii), Annexure II of the Rules. Mere differences in import volume trends do not warrant decumulation of imports.
  - v. The profitability of the domestic industry over the injury period is nowhere near the figure of INR 600 crores claimed by interested parties.
  - vi. The delta between the landed price of imports and the cost of sales of the domestic industry has declined. Therefore, over the years, the domestic industry has gradually lost the ability to price its products freely and profitably, and the profits of the domestic industry have declined.
  - vii. Despite pricing pressures from subject imports, the domestic industry was profitable in the past. However, over the injury period, with the declining delta between landed price and cost of sales, the profitability has declined sharply.

- viii. The mere fact that in a previous year the imports may not have been injurious due to external cost escalations, such as freight, cannot justify continued dumping in the present period. In fact, this goes to show that while exports were made from subject countries at injurious prices, the injurious effects were ameliorated due to external factors. Without those factors, the domestic industry would have been injured even then.
- ix. Cash profit of the domestic industry, which is calculated without deduction of depreciation costs from the revenue, has declined over the injury period. This shows that depreciation is not a cause of injury.
- x. Profit before interest and cash profit have both sharply declined over the injury period. This establishes that injury is not attributable to capacity expansions undertaken by the domestic industry.
- xi. Non-attribution analysis is not required for factors that are inherent to the domestic industry and have remained unchanged over the injury period. Therefore, the Authority must disregard claims regarding cost efficiency of the production process.
- xii. The domestic industry has not claimed injury on volume parameters and acknowledges that imports are necessary at present for meeting the demand in the country.
- xiii. Regardless of whether the domestic capacity is deficient or surplus, imports must be at fair prices to ensure a level playing field for all players and fair competition based on free-market principles. The grievance of the domestic industry is that the imports are not at fair prices.
- xiv. The economics of reinvestment are not being accounted for even in the determination of NIP and injury margin. Duties equivalent to the injury margin quantified are often not sufficient to fully remedy the injurious effects of dumped imports, because of consideration of 22% return on capital employed, in a situation where the significant part of the assets is fully depreciation, whereas another significant part is substantially depreciated.
- xv. The production capacity of the domestic industry has consistently increased over the years, and even over the injury period. Since ownership of the plant was acquired by the present applicant in 2016, capacity has been increased by 45%, and the current capacity and production are higher than that claimed by opposing interested parties.
- xvi. The share of NBR in cost of production of immediate downstream products is very low. Further, the share of the immediate downstream products in the cost of end-use automotive products is very low.
- xvii. Non-attribution analysis is not required for factors that are inherent to the domestic industry and have remained unchanged over the injury period. Therefore, claims regarding cost efficiency of the production process must be disregarded.

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



91. Rule 11 of the ADD Rules provides for determination of injury and causal link, while further principles for determination of injury and causal link have been prescribed in Annexure II. Rule 11 reads as follows:

*RULE 11. Determination of injury. –*

*(1) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.*

*(2) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a causal link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in Annexure II to these rules.*

*(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured, if -*

*(i) there is a concentration of dumped imports into an isolated market, and*

*(ii) the dumped articles are causing injury to the producers of all or almost all of the production within such market.*

92. The Authority notes that the present investigation was initiated on grounds of material injury. Therefore, in accordance with the Rules, an assessment of the injury to the domestic industry is made herein below.

### **F.3.1 Appropriateness of the domestic industry's claims of no volume injury**

93. The domestic industry has submitted that it is not claiming volume injury in the present case. Opposing interested parties have countered that if material injury is claimed, all injury parameters are relevant. Improvement in some parameters cannot be disregarded for injury analysis, and the domestic industry cannot opt out of a given set of parameters. It has been submitted by the interested parties that the performance of the domestic industry has in fact improved on seven out of fifteen parameters over the injury period.
94. The WTO Appellate Body in *Thailand – H-Beams* held as follows:

**7.249 While we do not consider that such positive trends in a number of factors during the IP would necessarily preclude the investigating authorities from making an affirmative determination of injury, we are of the view that that such**

*positive movements in a number of factors would require a compelling explanation of why and how, in light of such apparent positive trends, the domestic industry was, or remained, injured within the meaning of the Agreement.* In particular, we consider that such a situation would require a thorough and persuasive explanation as to whether and how such positive movements were outweighed by any other factors and indices which might be moving in a negative direction during the IP.

95. As held by the WTO Appellate Body above, it is a settled position that for a positive finding of injury, it is not necessary for all injury parameters to show a decline. A positive finding of injury may well be arrived at even if a number of parameters show improvement, provided there is a cogent explanation as to why the domestic industry was or remained injured in light of such apparent positive trends on certain parameters.
96. The claim of the domestic industry that it has not suffered volume injury is based on the following three elements: -
  - a. The domestic demand for the product exceeds the domestic production capacity, the market is able to easily absorb the entire production of the domestic industry, especially since the lead times are much lower for the domestic industry compared to imports.
  - b. The product under consideration is manufactured using a continuous process, as a result of which suspension or scaling down production is a significant cost in itself. Additionally, suspension or scaling down of production causes loss of efficiency and affects quality when production is resumed or scaled up again. Therefore, reducing production or sales volumes is not a viable option.
  - c. During the injury period, the domestic industry was able to sell at prices that allowed it to earn a positive contribution. Therefore, the domestic industry has continued to produce and sell the product during the period of investigation, and therefore, volume parameters have not been impacted. However, price parameters and profitability of the domestic industry have been severely impacted over the injury period.
97. The Authority notes that the two key determinants of revenue for a business are volume and price of sales. Pursuing revenue targets through higher sales prices, higher sales volumes, or a mix of both is a matter of business strategy, which will depend on the specific nature of the industry. In the present case, the domestic industry has submitted that due to the nature of the production process, prevailing prices and market dynamics of demand and supply, it has reduced its prices to retain sales and production volumes.
98. This line of reasoning also finds strong support in the ruling of the CESTAT, in *Reliance Industries Limited v Designated Authority* (2023), where it was held:

22. [...] When faced with cheap imports, any domestic industry has two options available. It can either retain its market by reducing prices to match imports, in

which case there would be price injury but no volume injury, i.e. no decline in sales, market share, capacity utilization etc. The domestic industry may refuse to reduce prices which would result in volume injury but no price injury.

24. Thus, the accepted position on record is that even in the absence of volume injury to the domestic industry during the period of investigation, the price effect of dumped imports by itself would be a sufficient factor for examining whether the dumped imports are causing material injury to the domestic industry.

42. As an illustration, where an industry consequent to increase dumped imports, restricts its domestic sales, it is likely to show injury on all volume parameters, such as decline in sales, market share, etc. However, the price parameters such as profits, return on capital employed etc. may not show a decline, especially where the domestic industry has been able to maintain its production by exporting or by captive consumption. On the other hand, an industry which has continued competing with the imports by reducing its prices is not likely to show injury on volume parameters but its profitability, return on capital employed would register a decline. Thus, the factors relevant for assessing impact of dumped imports on the condition of domestic producers of like products would have to be determined on case-to-case basis.

99. Therefore, in view of the foregoing, the Authority considers that in the present case, there is a sufficient reason justifying improvement in the volume parameters of the domestic industry. Accordingly, the Authority considers that a positive finding of injury is not precluded by any purported improvement in volume parameters over the injury period. The Authority has examined all parameters of injury, including volume parameters, and conducted a holistic assessment taking all factors into consideration.

### **F.3.2 Appropriateness of cumulative analysis of import**

100. Para (iii) of Annexure II of the Rules deals with cumulative analysis of imports. It reads as follows:

*(iii) In cases where imports of a product from more than one country are being simultaneously subjected to antidumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that, -*

*(a) the margin of dumping established in relation to the imports from each country is more than two per cent. expressed as percentage of export price and the volume of the imports from each country is three per cent. of the import of like article or where the export of individual countries is less than three per cent., the imports collectively accounts for more than seven per cent. of the import of like article; and*

*(b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products.*

101. One of the interested parties, Arlanxeo, has requested decumulation of imports from the EU on the grounds that import volumes from the European Union have remained low and stable over the injury period, and have actually declined compared to the base year and the imports from European Union are at a different price level. Similarly, SIBUR has requested decumulation on the ground that the product supplied by it is a different grade and low import volume.
102. The Authority draws reference to the report of the WTO Panel in *EC – Tube or Pipe Fittings*, where the Panel held that a difference or dissimilarity in the ‘evolution’ of import volumes and prices does not, ipso facto, establish a difference in the conditions of competition. The Panel specifically notes that differences in evolutionary trends of import volumes and prices are not sufficient to establish a difference in the conditions of competition.

*While we note that a broadly parallel evolution and a broadly similar volume and price trend might well indicate that imports may appropriately be cumulated, we find no basis in the text of the Agreement for Brazil's assertion that 'only a comparable evolution and a similarity of the significantly increased import volumes and/or the significant price effects ... would indicate that these imports might have a joint impact on the situation of the domestic industry and may be assessed cumulatively'. Moreover, the provision contains no express indicators by which to assess the 'conditions of competition', much less any fixed rules dictating precisely and exhaustively the relative percentages or levels of such indicators that must be present. Unlike the lists of factors that guide an authority's examination under, for example, Articles 3.2, 3.4 and 3.5, Article 3.3 does not provide even an indicative list of factors that might be relevant in the assessment called for under that provision, in particular, the assessment of 'conditions of competition'.<sup>242</sup> We note that Article 3.2 explicitly concentrates on volume and price trends, and that Article 3.3 is neither specific nor limited in this way. Thus, while price and volume considerations may well be relevant in this context, we find no explicit reference thereto in Article 3.3(b).*

103. As specifically noted by the Panel, a difference or dissimilarity in the ‘evolution’ of import volumes and prices does not, ipso facto, establish a difference in the conditions of competition. The Panel specifically notes that differences in evolutionary trends of import volumes and prices are not sufficient to establish a difference in the conditions of competition.

104. The Authority also draws reference to decision of European Commission, in *Flat-Rolled Products of Silicon-Electric Steel from China PR, Japan, Korea RP, Russia and USA* (2015) wherein it was noted as follows:

*(65) Two exporting producers claimed that the cumulative assessment of the imports from their respective countries in comparison with those from the other countries concerned was unwarranted: one of the Japanese exporting producers argued that they are only exporting high quality types of the product concerned and since its exports are decreasing, they are not exerting any price pressure on the Union market. The American exporting producer argued that imports from the USA decreased by 400 % during the period considered and that it has always set prices at much higher levels than other producers. Furthermore, one user argued that such a cumulative assessment is inappropriate due to the decrease in imports and the difference in price behaviour, on top of the fact that a particular exporting producer is selling types of the product concerned that the Union producers and other producers of the countries concerned do not sell.*

*(66) As set out in recital (132) of the provisional Regulation, it has been acknowledged that there was a decrease in imports from Japan and the USA during the period considered. Nevertheless, these imports have also contributed to the exerted price pressure for the product concerned on the Union market. Imports from Japan and the USA were found to be dumped and their products are clearly in direct competition with Union products and products from other exporting producers. All types of the product concerned, including the types sold by the Japanese and American exporting producers, are sold for use in the production of transformer cores and they are sold to the same relatively limited group of customers. Therefore, the Commission rejected the claims for de-cumulation.*

105. In order to ascertain whether cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles, the following parameters have been examined: -
- a. Products supplied by different parties are like articles and are comparable in properties.
  - b. Domestically produced products and the imported products are interchangeable.
  - c. There is direct competition between the domestic product and the imported product and inter-se between the imported product.
  - d. Consumers are using domestic material and imported material interchangeably and the exporter and the domestic industry have sold the same product to same set of customers.
  - e. Import price from the subject countries have moved in tandem.
106. With reference to the above, the Authority notes:
- a. The dumping margin for each subject country is greater than 2%.

- b. The volume of imports from each subject country is greater than 3% of the total import volume.
  - c. Cumulative assessment is not inappropriate in light of the conditions of competition between the imported products and the domestic like article. An examination of the import data shows that customers have purchased interchangeably from different subject countries
107. Therefore, in view of the foregoing, the Authority considers that cumulative assessment of injury is appropriate in the present case and decumulation is not warranted.

### **F.3.3 Issues relating to cost efficiency of the domestic industry**

108. An interested party has alleged that the domestic industry has lower cost efficiency due to transportation of raw materials using pressurised containers and trucks, as opposed to dedicated pipelines used by other manufacturers.
109. In this regard, the Authority draws reference to the findings of the WTO Appellate Body in *European Union – Biodiesel (Argentina)*:

*7.522. Argentina primarily takes issue with the EU authorities' conclusion that the structure of the EU industry was not a cause of injury. The two factors, namely lack of vertical integration and lack of access to raw materials, identified by Argentina, essentially are inherent features of the EU domestic industry that, according to Argentina, render it less competitive than the Argentine producers. In our view, however, this line of argument is premised on a misreading of Article 3 of the Anti-Dumping Agreement and its various paragraphs, including Article 3.5. The concept of injury envisaged by Article 3 relates to negative developments in the state of the domestic industry. Article 3 is not intended to address differences in the structure of the domestic industry as compared to that of the exporting Member. Rather, it is clear from the text of Article 3.5 and from its indicative list of such "other factors" – which all pertain to developments in the situation of the domestic industry – that the authority is not required to conduct a non-attribution analysis with respect to features that are inherent to the domestic industry and have remained unchanged during the period considered by the investigating authority for purposes of its injury analysis.*

110. As is evident from the above, factors inherent to the domestic industry that remain unchanged during the injury period are not taken into account in the assessment of injury and causal link. The allegation raised by the interested parties regarding purported cost efficiency is such a factor. Therefore, the Authority considers that it is not relevant for the present analysis.
111. The domestic industry has submitted that the base year of the injury period in the present investigation is 2020-21, a year in which markets were impacted over the entire year due

to the effects of the COVID-19 pandemic. On this basis, the domestic industry has requested exclusion of 2020-21 from the injury period. The Authority considers it is not appropriate to exclude 2020-21 from the injury period. The Authority, as a matter of practice, examines data for the period of investigation as well as the injury period to assess performance of the domestic industry over an extended period. Therefore, the Authority has examined data for the entire injury period, including 2020-21, for assessing whether the domestic industry has suffered material injury. The Authority has used 2020-21 as the base year and due weightage has been given to performance in the intervening years.

#### **F.3.4 Correlation between import prices and profitability of/injury to the domestic industry**

112. The interested parties opposing duties have argued that there is no correlation between the price of imports and the profitability of the domestic industry. The Authority notes that the difference (delta) between the landed price of imports and the cost of sales of the domestic industry has declined sharply in the period of investigation. When the delta was higher, net sales realisation and profitability were higher, but they declined steeply in the period of investigation. The Authority considers that this establishes a direct correlation between the prices of the subject imports and the profitability of, and therefore injury to, the domestic industry.

SN	Particulars	UOM	2020-21	2021-22	2022-23	POI
1	Landed price of subject imports	₹/Kg	***	***	***	***
2	Cost of sales of domestic industry	₹/Kg	100	141	147	131
3	Delta between cost and landed price	₹/Kg	***	***	***	***
	Index	Trend	-100.00	645.68	873.79	-146.69

#### **F.3.5 Decline in landed price due to normalisation of sea freight charges.**

113. It has been argued that freight charges were higher in the years preceding the period of investigation and declined in the period of investigation, as a result of which landed prices declined in the period of investigation. Interested parties argue that injury is attributable to this factor.
114. In this regard, the Authority notes that Para (i) of Annexure II provides as follows:

*(i) A determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the affect of the dumped imports on prices in the*

*domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.*

115. Thus, in making a determination of injury, the Authority is required to examine the volume of imports, the effect of the imports on domestic prices and the consequent impact of the imports on the domestic industry. Possible causes for variations in the landed price of the subject imports are not a criterion for consideration in the scheme of injury assessment provided in the Rules. The Authority is required to examine if the imports in the period of investigation are at dumped prices and whether the dumping has caused injury. The Authority considers that variations in landed price due to external fluctuations in charges associated with exports are not a factor to which injury can be attributed. In fact, the Authority considers that the fact that landed prices may have been higher in the past due to supernormal freight charges shows that exports were made at injurious prices even in the past but the injurious effects were masked due to external factors.

### **F.3.6 Capacity expansion and depreciation cost as a possible factor causing injury.**

116. Interested parties opposing duties have argued that injury to the domestic industry is self-inflicted and has been caused by high depreciation costs. The Authority notes that the per unit depreciation cost of the domestic industry has increased by 31 index points, which is not a significant or unusual increase considering the capacity expansion undertaken during this period.
117. The Authority notes that the cash profit of the domestic industry has sharply declined during the period of investigation. Cash profit is calculated without deduction of depreciation costs. Further, the Authority also notes that both for the domestic industry PBIT, which is calculated after deduction of depreciation costs, and PBDIT, which is before deduction of depreciation costs, have declined sharply in the period of investigation. Therefore, the Authority considers that injury suffered by the domestic industry is not attributable to capacity expansions undertaken.
118. Therefore, it is evident that injury is not attributable to depreciation costs.

### **F.3.7 Assessment of demand and apparent consumption**

119. The demand or apparent consumption has been determined as the sum of domestic sales of the domestic industry (which is the sole Indian producer), captive transfers by the domestic industry and imports from all sources.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Imports from subject countries	MT	22,237	21,533	30,619	36,171
2	Imports from other countries	MT	9,810	6,655	5,743	7,278



3	Domestic industry's domestic sales	MT	***	***	***	***
	Index	Trend	100	108	117	126
4	Demand in India excluding captive	MT	***	***	***	***
	Index	Trend	100	93	114	133
5	Domestic industry's captive sales	MT	***	***	***	***
	Index	Trend	100	114	110	134
6	Demand in India including captive	MT	***	***	***	***
	Index	Trend	100	93	114	133

120. The Authority notes that with the exception of 2021-22, the domestic demand has consistently increased over the injury period. In the period of investigation, demand has registered an increase compared to the base year as well as the preceding year.

121. Considering domestic production capacity for the product and the aggregate domestic demand, the Authority notes that the domestic industry does not have the capacities to meet the domestic demand.

### **F.3.8 Assessment of volume effects of subject imports**

122. Para (ii) of Annexure II of the Rules reads as follows:

*(ii) While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. [...]*

123. In accordance with the above, the Authority is required to examine whether there has been a significant increase in imports, either in absolute terms or relative to production or consumption in India. For the purpose such assessment, the Authority has relied on the transaction-wise import data procured from DG Systems and Data Management.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	China	MT	333	42	2,445	2,151
2	EU	MT	3,735	2,438	2,099	2,470
3	Korea	MT	13,176	14,201	21,405	24,399
	<i>Kumho Petrochemicals *</i>	MT				***
4	Russia	MT	4,993	4,852	4,670	7,152
5	<b>Total subject countries</b>	<b>MT</b>	<b>22,237</b>	<b>21,533</b>	<b>30,619</b>	<b>36,171</b>
6	<b><u>Imports in relative terms</u></b>					
a	Production	%	***	***	***	***

	Index	Trend	100	81	109	119
b	Consumption	%	***	***	***	***
	Index	Trend	100	104	121	122
c	<b>Total imports</b>	<b>%</b>	<b>69</b>	<b>76</b>	<b>84</b>	<b>83</b>

124. The Authority notes that:

- The volume of imports declined in 2021-22 as the demand in India declined. The volume of imports increased in 2022-23 and further increased in the period of investigation.
- In absolute terms, the volume of subject imports has increased in the period of investigation relative to the base year as well as the immediately preceding year.
- In relation to production in India, the volume of subject imports has increased in the period of investigation relative to the base year as well as the immediately preceding year.
- In relation to consumption in India, the volume of subject imports has increased over the injury period as well as in the period of investigation.

### **F.3.9 Assessment of price effects of subject imports**

125. With regard to the effect of the dumped imports on the prices, it is required to be analyzed whether there has been a significant price undercutting by the dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress the prices or prevent the price increase, which otherwise would have occurred in the normal course. Further, the Authority is required to consider the impact of the dumped imports on the prices of the domestic industry by examining price suppression/ depression effects, if any.

126. In accordance with the above, the Authority is required to consider whether subject imports are undercutting the prices of the domestic industry, or whether they have the effect of suppressing or depressing the prices of the domestic industry.

a. Evolution of the landed price of imports.

127. The table below shows that difference between the landed price of imports and the raw material cost of the domestic industry.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Landed price	₹/Kg	127.32	207.48	222.45	166.62
2	Raw material cost	₹/Kg	100	162	156	130
3	Difference	₹/Kg	***	***	***	***
4	Difference	₹/Kg - Indexed	100	164	210	132

128. It is seen that the difference between the landed price of imports and raw material cost increased till 2022-23 but has significantly declined in the period of investigation. While the difference in the period of investigation is more than the base year, the domestic industry has claimed that the prices in the period 2020-21 was impacted by COVID-19.
129. It is seen that in comparison the immediately preceding year, the raw material cost declined only by Rs [\*\*\*] per KG, whereas the landed price declined by Rs [\*\*\*] per KG.
130. The Authority therefore notes that the landed price of imports has not moved in line with the raw material cost.

b. Price undercutting

131. The Authority compared the net sales realisation of the domestic industry with the PCN-wise landed price of the subject imports. For each PCN, the landed price considered was the weighted average landed price of imports from all subject countries.

SN	Particulars	UoM	H	M	L	Total
1	Import volume	MT	2,175	31,327	2,569	36,071
2	Selling price	₹/Kg	***	***	***	***
3	Landed price	₹/Kg	190.08	162.34	191.08	166.06
4	Price undercutting	₹/Kg	***	***	***	***
5	Price undercutting	%	***	***	***	***
6	Price undercutting	Range				0-5%

132. The Authority notes that when seen on weighted average basis, price undercutting is positive. However, the Authority notes that the price undercutting is miniscule. The degree of price undercutting establishes that there is price competition in the market and the domestic industry is not able to charge a price materially different from than the prices in the market. The low quantum of price undercutting indicates that the domestic industry has aligned its prices to prices of the subject imports and has not been able to price the product independently.

c. Price suppression/depression

133. The Authority compared the evolution of the cost of sales with the net sales realisation of the domestic industry to determine whether prices were suppressed/depressed. Additionally, comparison was also made to the landed price of the subject imports to assess whether the landed price could plausibly have influenced the movement in the net sales realisation.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Cost of sales	₹/Kg	***	***	***	***
	Index	Trend	100	141	147	131

2	Selling price	₹/Kg	***	***	***	***
	Index	Trend	100	159	162	126

134. The domestic industry has claimed that the prices in the period 2020-21 was impacted by COVID-19.

135. It is seen that the cost of sales and selling price increased in 2021-22. The increase in the selling price was more than the increase in the cost of sales. The domestic industry has contended that this increase was because the domestic industry recovered from the ill effects of dumping. The cost of sales and selling price has further increased in the year 2022-23. In the period of investigation, while the cost of sales declined by 16 index point, the selling price declined 36 index point.

136. The Authority notes that in the period of investigation, the decline in the net sales realisation of the domestic industry has been much sharper than the decline in the cost of sales. It is therefore seen that the price of the domestic industry are depressed in the period of investigation.

137. Considering that the Authority has identified PCNs in this investigation, the Authority examined cost of sales, selling price and landed price for each PCN.

SN	Particulars	UoM	H	M	L
1	Cost of sales	₹/Kg	***	***	***
2	Net sales realisation	₹/Kg	***	***	***
3	Landed price	₹/Kg	190.08	162.34	191.08
4	Import volume	₹/Kg	2,175	31,327	2,569

138. The Authority notes that in the period of investigation, imports of M grade constituted the majority of the imports of the product. The Authority notes that for this grade, the landed price of the subject imports is below the net sales realisation and even below the cost of sales of the domestic industry. Therefore, the Authority considers that the subject imports have had a depressive effect on the prices of the domestic industry in the period of investigation.

### **F.3.10 Assessment of economic parameters of the domestic industry**

139. Para (iv) of Annexure II reads as follows:

*(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including natural and [Potential] decline in sales, profits, output, market share, productivity, return on investments or utilisation 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.*

140. In accordance with the above, the performance of the domestic industry on various economic parameters is examined herein.

a. Capacity, production, capacity utilisation and sales

141. The table below shows capacity, production, capacity utilisation and domestic sales.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Capacity	MT	***	***	***	***
	Index	Trend	100	125	125	128
2	Total production	MT	***	***	***	***
	Index	Trend	100	120	128	136
3	Capacity utilization	%	***	***	***	***
	Index	Trend	100	96	102	107
4	Production-PUC	MT	***	***	***	***
	Index	Trend	100	119	127	137
5	Domestic sales	MT	***	***	***	***
	Index	Trend	100	108	117	126
6	Exports sales	MT	***	***	***	***
	Index	Trend	100	992	1,154	662
7	Captive consumption	MT	***	***	***	***
	Index	Trend	100	114	110	134

142. It is seen that: -

- Production capacity of the domestic industry has increased over the injury period.
- Production volume of the domestic like article has increased over the injury period.
- Capacity utilisation has increased over the injury period as well as in the period of examination and remained high over the entire injury period.
- The domestic sales of the domestic industry have also increased over the injury period.

143. The domestic industry has not claimed volume injury. It has been submitted that product under consideration is manufactured using a continuous process and suspension or scaling down production is a significant cost in itself.

b. Market share

144. The table below shows the market share of various entities.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Subject countries	%	***	***	***	***
	Index	Trend	100	104	121	122

2	Other countries	%	***	***	***	***
	Index	Trend	100	73	51	56
3	Applicant	%	***	***	***	***
	Index	Trend	100	116	102	95

145. The Authority notes that the market share of the domestic industry has declined marginally over the injury period. On the other hand, the market share of the subject imports has increased over the injury period as well as in the period of investigation.

c. Inventories

146. The table below shows the market share of various entities.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Opening inventory	MT	***	***	***	***
	Index	Trend	100	36	60	74
2	Closing inventory	MT	***	***	***	***
	Index	Trend	100	165	205	252
3	Average inventory	MT	***	***	***	***
	Index	Trend	100	71	98	122

147. The Authority notes that the level of average inventory available with the domestic industry has increased over the injury period as well as in the period of investigation.

d. Profits, cash flows and return on investment

148. The table below shows the profitability of the domestic industry over the injury period.

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Profit/loss per unit	₹/Kg	***	***	***	***
	Index	Trend	100	503	444	27
2	Profit/loss in lakhs	₹ Lacs	***	***	***	***
	Index	Trend	100	542	518	34
3	Cash profits	₹ Lacs	***	***	***	***
	Index	Trend	100	361	354	94
4	PBIT	₹ Lacs	***	***	***	***
	Index	Trend	100	455	441	46
5	ROCE	%	***	***	***	***
	Index	Trend	100	492	315	32

149. The Authority notes that the profitability parameters of the domestic industry have declined in the period of investigation relative to the base year as well as the immediately preceding year. The year-on-year decline in profitability from 2022-23 to the period of investigation is very significant.

150. The profitability of the domestic industry in the period of investigation is lower than even in 2020-21, a year when profits were severely impacted by COVID-19.

151. The Authority notes that the cash profit and profit before interest has also shown a decline in the period of investigation. ROCE of the domestic industry has followed the same trend. ROCE of the domestic industry has declined in the period of investigation relative to the base year as well as the immediately preceding year.

e. Employment, wages and productivity

152. The table below shows the relevant information: -

SN	Particulars	UoM	2020-21	2021-22	2022-23	POI
1	Employment	Nos	***	***	***	***
	Index	Trend	100	108	104	91
2	Wages	₹ Lacs	***	***	***	***
	Index	Trend	100	104	131	147
3	Productivity per day	MT	***	***	***	***
	Index	Trend	100	119	127	137

153. The Authority notes that the number of employees has declined over the injury period. Expenses towards wages have increased over the injury period. With the increase in the production, the productivity has increased over the injury period.

f. Growth.

154. The table below shows the relevant information: -

SN	Particulars	UoM	2021-22	2022-23	POI
1	Capacity	%	25%	0%	3%
2	Production	%	19%	6%	8%
3	Domestic sales	%	8%	8%	8%
4	Market share of applicant	%	16%	-13%	-6%
5	Average inventory	%	-29%	40%	24%
6	Profit/loss per unit	%	403%	-12%	-94%
7	Profit/loss in lakhs	%	442%	-4%	-94%
8	Cash profits	%	261%	-2%	-74%
9	PBIT	%	355%	-3%	-90%
10	ROCE	%	29%	-13%	-21%

155. The Authority notes that the domestic industry has witnessed positive growth on volume parameters. However, growth in ROCE and parameters of profitability has been sharply negative in the period of investigation.

g. Ability to raise capital investment

156. The Authority notes that ROCE of the domestic industry is low. This is despite the fact that a significant share of the assets of the domestic industry is fully depreciated, and another significant share is substantially depreciated. The domestic industry has submitted that such a situation does not warrant further investment. The domestic industry has submitted that in view of the growing demand for the product and the demand-supply gap in the country, it has been planning a capacity expansion of \*\*\* MT. However, the expansion plans had to be put on hold due to the injurious effects of dumping. The domestic industry has also submitted that despite the demand-supply gap, even other major players in the market are not entering the market, such as Reliance Industries, which has the financial means as well as ready supplies of the necessary raw materials available.

h. Conclusion on injury

157. On the basis of above, the following conclusions have been drawn:

- a. The volume of imports has increased over the injury period.
- b. The imports have increased in both absolute terms and in relative terms.
- c. The import price has not moved in line with the raw material prices.
- d. The import price is below the selling price of the domestic industry, resulting in positive price undercutting.
- e. In the period of investigation, both cost of sales and the selling price of the domestic industry declined. The selling price has declined at more rate as compared to the decline in the cost of sales. The domestic industry was unable to align their selling price with the changes in the cost of sales. The imports are depressing the prices of the domestic industry.
- f. The imports have depressed the prices of the domestic industry in the period of investigation as a result of which the domestic industry has suffered a decline in profitability, cash profits, profit before interest and return on capital employed. The profitability of the domestic industry is lowest in the period of investigation when seen over the injury period.
- g. The production and domestic sales of the domestic industry have increased. The domestic industry has not claimed volume injury. The domestic industry has claimed that the adverse effect of dumping has been felt only on the profitability parameters as the production process does not allow suspension of production.
- h. The growth of the domestic industry has been negative in price parameters. The domestic industry has recorded a negative growth in profitability, cash profits, profit before interest and return on capital employed.
- i. The degree of the price undercutting establishes that the imports are the only factor which are affecting the prices of the domestic industry.

G. NON-ATTRIBUTION ANALYSIS AND ASSESSMENT OF CAUSAL LINK

158. As per the Rules, the Authority, inter alia, is required to examine any known factors other than the dumped imports which are injuring or are likely to cause injury to the domestic



industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and the domestic producers, developments in technology and the export performance and the productivity of the domestic industry. It has been examined below whether the factors listed under the Rules could have contributed to the injury suffered by the domestic industry.

a. Volume and value of imports from third countries

159. The Authority notes that in the period of investigation, import volumes from Japan are above the *de minimis* level. However, the landed value of these imports is higher than that for subject imports and the injury margin is negative for imports from Japan. Therefore, injury cannot be attributed to imports from non-subject countries.

b. Contraction in demand

160. The Authority notes that with the exception of 2021-22, the domestic demand has consistently increased over the injury period. In the period of investigation, demand has registered an increase compared to the base year as well as the preceding year. Therefore, injury cannot be attributed to a contraction in the demand for the product.

c. Changes in pattern of consumption

161. Interested parties have placed no material on record indicating a change in the pattern of consumption. Therefore, there is no indication that it is a possible cause of injury to the domestic industry.

d. Development of technology

162. No interested parties have produced any evidence relating to any known trade restrictive practice, which could have caused injury to the domestic industry.

e. Export performance of the domestic industry

163. The Authority notes that in its analysis of injury, it has examined data pertaining to domestic sales only. Further, interested parties have alleged that export volumes of the domestic industry have increased over the injury period, despite a decline in prices. However, the Authority notes that export sales constitute a miniscule share of the total sales of the domestic industry, as depicted below.

f. Performance of other products

164. The Authority notes that in its analysis of injury, it has examined data pertaining to the domestic like article only. Therefore, injury cannot be attributed to the performance of other products produced and sold by the domestic industry.

g. Causal link between dumping and injury.

165. While other known factors listed under the Rules have not caused injury to the domestic industry, the Authority notes that the following parameters show that injury to the domestic industry is caused by the dumped imports.
- The imports from the subject countries are at dumped prices except of exports of Kumho Petrochemical Co. Ltd.
  - The cost of sales and landed price have both declined. The decline in the landed price of imports is more than the decline in the cost of sales.
  - The dumped imports are below the selling price and cost of the domestic industry and have depressed the prices of the domestic industry.
  - Price undercutting and price depression has adversely impacted the profits, cash profits and return on investment of the domestic industry.
  - As a result of low-priced imports, the domestic industry's profitability has steeply declined during the period of investigation.
166. The Authority therefore holds that the injury to the domestic industry is caused due to dumping.

#### **H. MAGNITUDE OF INJURY MARGIN**

167. The Authority has determined the non-injurious price for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The non-injurious price has been determined by adopting the information/data relating to the cost of production provided by the domestic industry. The non-injurious price has been compared with the landed price of the product under consideration from the subject countries for calculating injury margin. For determining the non-injurious price, the best utilization of the raw materials and utilities and best utilization of production capacity has been considered. Extraordinary or non-recurring expenses and/or assets have been excluded from the cost of production and/or non-injurious price. A reasonable return (pre-tax 22%) on average capital employed (i.e., average net fixed assets plus average working capital) deployed for the product under consideration has been allowed for recovery of interest, corporate tax, and profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules.

SN	Particulars	Import volume	NIP USD/MT	Landed price USD/MT	Injury margin		
		MT	\$/MT	\$/MT	\$/MT	%	Range
<b>A</b>	<b>Korea</b>						
1	Kumho Petrochemical Co. Ltd	***	***	***	***	***	10-20%
2	Any other	***	***	***	***	***	20-30%
<b>B</b>	<b>European Union</b>						

1	ARLANXEO Emulsion Rubber France S.A.S.	***	***	***	***	***	(10-20)%
2	Any other	***	***	***	***	***	10-20%
<b>C</b>	<b>Russia</b>						
1	Any other	***	***	***	***	***	30-40%
<b>D</b>	<b>China</b>						
1	Any	***	***	***	***	***	10-20%

## **I. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES.**

### **I.1 Submissions of other interested parties**

168. The following submissions have been made by the other interested parties with regards to public interest.

- a. There is a supply-demand gap for the product under consideration in India.
- b. The domestic industry has been unable to increase its production capacity beyond 12,000-15,000 MT due to persistent operational bottlenecks, frequent equipment breakdowns, storage limitations and other practical constraints.
- c. The product under consideration is a raw material for the automotive industry. If duties are imposed, it will lead to an increase in costs for automotive manufacturers, who may opt to import rubber components directly to bypass the cost implications of the duties.
- d. The domestic industry has a history of supplying poor-quality specialty grades to IWIP, leading to rejection of material. Such inconsistencies in quality are unlikely to be accidental and suggest a deliberate strategy to undermine competitors.
- e. The domestic industry captively consumes NBR to produce NBR-PVC blends. The applicant deliberately refrains from marketing their NBR to NBR-PVC manufacturers, particularly withholding fast-moving grades.

### **I.2 Submissions of applicant.**

169. The following submissions have been made by the applicant with regards to public interest.

- a. The opposing interested parties have made insinuations regarding quality of the goods supplied by the domestic industry without providing any evidence. The domestic industry has been able to retain its sales volumes and increase its production as customers find the quality of its goods satisfactory.
- b. The domestic industry is committed to fair competition and supplies its products to all customers in the market, provided the prices are adequately remunerative. The domestic industry is unable to service customers that expect sales at dumped prices.
- c. Share of the product under consideration in the cost of automotive component - O ring, dust seal and air hose are 0.000%, 0.002% and 0.002% respectively. In case of rice rolls, hoses and cork sheet, the share of product under consideration in the total cost is 0.011%, 0.014% and 0.117%.

- d. Since the product under consideration forms insignificant part of the cost of production of the downstream product, the impact of duties will be minuscule.
- e. The product has a history of anti-dumping measures and the demand for the product has consistently increased throughout the term of the duties. This is clear evidence of the fact that the imposition of duties has not affected consumers of the product and there has been no adverse impact.
- f. The CIF import price from the subject countries was around Rs 200 per KG in 2022-23. Even after considering the anti-dumping measures, the landed price of imports will not increase to that level.
- g. There are more numerous consumers of the subject goods, only importers are participating in the present investigation. Moreover, these importers are traders of the subject goods and not actual users. This shows that the consumers were not bothered by the duties imposed.

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

- 170. The Authority considered whether imposition of the recommended anti-dumping duty will be against public interest. This determination is based on consideration of information on record and interests of various parties including the domestic industry, foreign producers and consumers.
- 171. The Authority issued gazette notification inviting views from all the interested parties, including importers, consumers and other interested parties. The Authority also prescribed a questionnaire for the users to provide the relevant information with regard to the present investigation, including possible effect of the anti-dumping duty on their operation. The Authority sought information on, inter-alia, interchangeability of the product supplied by the various suppliers from different countries, ability to switch sources, the effect of the anti- dumping duty on the consumers, the factors that are likely to accelerate or delay the adjustment to the new situation caused by the imposition of the anti-dumping duty.
- 172. The Authority notes that the purpose of anti-dumping duty, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market.
- 173. Interested parties opposing duties have argued that the domestic industry supplies product under consideration of inferior quality. The authority notes that a difference in quality cannot be recognized, unless the differences are quantified and their impact demonstrated. The domestic industry in the present case has seen a consistent increase in the domestic sales. Had quality been a factor, the domestic sales would not have increased. Therefore, the submission of the other parties cannot be accepted.
- 174. On the submission that the domestic industry has not sold the merchandise to its competitors that produce NVC blends, the Authority notes that given the fact that

domestic demand exceeds the production capacity of the domestic industry, it is natural that it would not be able to supply all customers. In the absence of any corroborating evidence, the Authority is constrained to disregard the submission.

175. The Authority further notes that imposition of anti-dumping duty does not restrict imports. Imports will continue to happen at fair prices. Anti-dumping duty ensures that the imports are entering the Indian market at fair prices and a level playing field is maintained between the foreign exporters and the domestic industry.
176. The Authority prescribed an economic interest questionnaire and invited submissions from all interested parties. The participating user has not filed any reply to the economic interest questionnaire. No interested party has provided information on the impact of anti-dumping duty.
177. The domestic industry has provided information on the share of the product under consideration in the cost of the downstream product and has claimed that the share of the product under consideration forms very low share in the overall cost of production.

<b>SN</b>	<b>Product</b>	<b>Price of the product</b>	<b>Share of NBR in cost</b>
1	Automotive component - O ring	7,00,000	0.000%
2	Automotive component - Dust seal	7,00,000	0.002%
3	Automotive component - Air hose	7,00,000	0.018%
4	Rice Rolls	70	0.011%
5	Hoses	35,00,000	0.014%
6	Cork sheet	50,000	0.117%
7	Cooker Gasket	1,000	0.251%

178. The domestic industry has also claimed that it had earlier planned a capacity expansion of 16,000 MT, to be financed internally, which had to be put on hold.
179. In view of the above, the Authority considers that the imposition of duty will be in public interest.

## **J. COMMENTS TO DISCLOSURE STATEMENT.**

### **J.1 Submissions of other interested parties**

180. The following comments have been filed by the interested parties.
  - a. Two working days are grossly insufficient to prepare and file comments in response to the disclosure statement and prejudices the right of the respondent to provide meaningful comments

- b. The domestic sales volume considered by the Authority does not match with the volume as per the questionnaire response of KPC. The domestic sales volume of KPC should be corrected.
- c. Cost of production determined by the Authority is 27% to 30% higher than actual cost of production of Kumho
- d. Authority has considered wrong unit of measurement for volume/quantity figure for captive steam production as MT instead of KG. Authority has correctly noted that purchases of steam from related party (Hanju) amounted to [\*\*\*] MT and purchases of steam from non-related parties amounted to [\*\*\*] MT, giving a total purchased quantity of [\*\*\*] MT. However, it appears that Authority treated [\*\*\*] kg as [\*\*\*] MT.
- e. [\*\*\*] Kg is fuel quantity of [\*\*\*]. while the actual steam production shown is \*\*\*MT.
- f. Share of captive production in total steam is [\*\*\*]% and not [\*\*\*]% as wrongly assessed by the Authority.
- g. Unit cost of \*\*\*KRW/MT is the correct cost of captive steam and not what has been disclosed by the Authority.
- h. Anti-dumping investigation on imports of NBR has been conducted by United States and China PR and in both these countries, Authority have not discarded the actual cost of steam of the KPC.
- i. Adjustments made by the Authority regarding conversion cost of the Respondent is arbitrary and unjustified.
- j. Kumho has an actual cost accounting system. In other words, costs are accumulated at various cost centers and departments which correspond to the actual production processes or are indirect cost centers that support multiple production processes.
- k. In accordance with the Appellate Body report in *Thailand – H-Beams*, positive trends across multiple factors do not preclude an affirmative outcome, but they do require a compelling and persuasive explanation of why the Domestic Industry remains injured notwithstanding such trends, and how any negative indicators outweigh them. The reasons recorded by the Authority are generic and industry agnostic.
- l. The absence of allegations or evidence by the domestic industry against European Union exporters underscores that the competitive conditions applicable to European Union imports are not the same as those of the other subject countries.
- m. Absent such an EU-specific causal link, the requirements of Article 3.5 of the ADA are not met, and imports from the EU must be decumulated.
- n. Exporter's verified transaction-level data demonstrates that actual European Union import prices were materially higher than the landed prices reported in the application. There is no factual basis for finding a correlation EU imports and the domestic industry's profitability.
- o. Rule 15(2) requires that a price undertaking cannot be accepted unless the Authority has made preliminary determinations of dumping and injury. As no preliminary determinations were made in this investigation, the price undertaking cannot be accepted.

- p. Customers of HTP and LTP based NBR choose the grades as per their specific need and cannot substitute the two.
- q. Hot Polymerized NBR is predominantly being used is NBR-PVC. All domestic producers of NBR-PVC are using KSRP Hot Polymerized NBR.
- r. If Hot Polymerisation NBR is not excluded, Apcotex will not have standing as domestic industry, as it has purchased the imported Russian product, through traders.

## **J.2 Submissions of domestic industry.**

181. The following comments have been filed by the domestic industry.

- a. The undertaking offered JSC Krasnoyarsk Synthetic Rubber Plant cannot be accepted in its present form and quantum.
- b. The legal requirement is that for two goods to be deemed technically substitutable, it is not necessary that the goods must be completely interchangeable in all cases for all consumers.
- c. Astron Polymers Pvt. Ltd., Hira Technologies Pvt Ltd., Jayem Auto Industries Pvt Ltd, Jinkoh Polymers LLP, Mega Rubber Technologies Pvt Ltd, Nucork Products Pvt Ltd, Oswal Poly Rubbers, Prime India Polymix Pvt Ltd and Sidharth Rubber Pvt Ltd are some of the consumers who have consumed the product supplied by both the domestic industry and the participating producer from Russia.
- d. Difference in the two products due to technology does not lead to change in the product. This has been the consistent position of the Authority on this issue.
- e. Production of NBR from Butadiene is carried out through emulsion polymerization process, and this process does not generate scrap butadiene in any significant quantities.
- f. The volumes of off spec or unreacted butadiene are very small less than 5% and are generally recycled directly back into the process stream.
- g. Wastage of Butadiene cannot be more than 1200-1300 MT. Such low quantum of Butadiene cannot be sufficient to generate such high quantum of steam that it can run NBR plant.
- h. Even if it is considered that 1-2% scrap is generated, the butadiene scrap will be very low.
- i. There are no other plausible sources of scrap Butadiene as far as Kumho is concerned. If Kumho claims that the waste generated are higher than this, it should have established the sources of such waste.
- j. production of butadiene itself is an endothermic process. If butadiene is obtained as a co-product from the cracking, it requires very high energy input of steam. Even after the cracking step, the recovery of butadiene involves energy-intensive purification steps which require significant steam consumption. Both the steps are heavily dependent on external heat and utilities, with steam being the principal energy source. Far from generating steam, the butadiene production process is in fact a net consumer of steam and fuel energy.

- k. Steam generation is integral to the plant's operation, Kumho's Ulsan products are not marketed as steam-generating materials. Steam is only generated significantly in Yeosu plant.
- l. Steam generated as a by-product in any other plant related to butadiene is entirely irrelevant in the present investigation.
- m. KPC has itself claimed that the input butadiene is purchased, there can be no justification for considering in steam generated as a by-product of a different plant into the cost of the product under consideration.
- n. Internally transferred goods must be an arm's-length basis which must be reflecting market rates. By transferring steam at 1% of the market price, the booked cost of production is artificially lowered, creating a distortion in the production cost
- o. Korean International Financial Reporting Standards should be on the same line as International Financial Reporting Standards IAS 2 which deals with inventory valuation states that when by-products, scrap, or waste materials are produced incidentally in the production of a main product, their value should be measured at net realizable value (NRV) and this value is deducted from the cost of the main product.
- p. WTO Panel in case of *US – OCTG (Korea)* found that a producer's purchases of a certain raw material had not been made at arm's-length prices, and therefore that producer's records did not reasonably reflect the costs associated with the production and sale of the subject product.
- q. WTO Panel and Appellate Body in *EU – Biodiesel* have clearly observed that records that are GAAP-consistent may nonetheless be found not to reasonably reflect the costs associated with the production and sale of the product under consideration where transaction involving inputs are not at arm's length.
- r. Second condition of reasonableness of Article 2.2.1.1 does not restrict its scope to arm's length transactions but to non-arm's length transactions also. The position is supported by the Appellate Body Report in *Ukraine – Ammonium Nitrate*.
- s. The steam price between the affiliated supplier and KPC is not reflective of the market prices. Price of steam purchased from affiliated supplier is half of the price of steam purchased from unaffiliated. In no business economics or market parlance, it is possible that the price from affiliated supplier is half of the price from unaffiliated supplier. Therefore, the price from affiliated supplier is also impacted.

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

182. The Authority has examined the post-disclosure submissions made by the interested parties. It is observed that most of these submissions are reiterations of arguments and contentions that have already been examined and addressed to the extent deemed necessary in the relevant paragraphs of these final findings. The issues raised for the first time in the post disclosure comments/submissions by the interested parties and the domestic industry and considered relevant by the Authority are examined below. Any submission which was merely a reproduction of the previous submissions and which had been adequately examined by the Authority has not been repeated for the sake of brevity.



183. Arlanxeo has contended imports from the EU should be decumulated for the assessment of injury and causal link. However, the Authority notes that although Arlanxeo's prices during the period of investigation were above the selling prices of the domestic industry, the average import price for the European Union was materially lower than Arlanxeo's prices. In accordance with Paragraph (iii) of Annexure II, which provides for cumulative assessment, the Authority is first required to ascertain whether the imports are at dumped prices. The data filed by the producer shows that Arlanxeo's exports were at significantly dumped prices. Arlanxeo has not claimed its supplies were differentiated or specialized products. Therefore, the Authority sees no justification for decumulation and has assessed the cumulative impact of imports from the subject countries on the domestic industry.
184. Submissions have been filed by KPC and the domestic industry on the determination of cost of production for KPC for the purpose of normal value. They have been considered by the Authority in the normal value determined above.
185. On the comments filed by KSRP regarding exclusion of HTP NBR, the Authority notes that the issue has been examined in detail in the relevant portion of the finding. The Authority notes that a mere difference in production process/technology is not considered sufficient grounds for product exclusion. This has been the consistent practice of the Authority, including in *Isopropyl Alcohol from China* (2024), *Monoisopropylamine from China PR* (2018, 2022), *Electrical Insulators from China PR*, and various investigations concerning imports of PVC Paste Resin and Soda Ash.
186. One of the interested parties has also submitted that the applicant has purchased the product under consideration from traders in India, and that these traders have supplied the product imported from the subject countries to the applicant. The interested party has provided evidence of purchase of [\*\*\*] MT. The Authority notes that this is new factual information brought to the record of the case for the first time only after the issuance of the Disclosure Statement, despite KSRP being aware of the facts. Therefore, Authority considers that such information is significantly belated.
187. However, the Authority sought clarification from the domestic industry. The Authority has examined the reply filed by the domestic industry. It is seen that the domestic industry has clarified that there are no purchases in the period of investigation. The Authority notes that evidence provided by the other interested parties also pertain to the post period of investigation. The Authority notes that purchases/imports by the applicant do not, *per se*, preclude the applicant from meeting the requirement of standing. Only when the volume of purchases/imports is significant, either in absolute terms or in relation to total production by the applicant or total imports of the product into India, does the standing of the applicant come into question. In the facts of the present case, the Authority considers that the volume of purchases by the applicant is miniscule in comparison to the total production by the applicant and it does not pertain to the period of investigation.

Therefore, the Authority considers that the standing of the domestic industry is not affected.

188. Regarding the issue of the price undertaking, the Authority notes that under Rule 15(2), a price undertaking may not be accepted without a preliminary determination of dumping and injury. Some of the interested parties have argued that since a preliminary finding was not issued in the present investigation, a price undertaking cannot be accepted.
189. The Authority notes that issuance of preliminary findings is not a mandatory requirement under the WTO Anti-Dumping Agreement or under Indian law, and as a matter of practice, the Authority does not issue preliminary findings in every case. However, in accordance with the WTO Agreement and Indian law, the Authority issues a disclosure of essential facts in every case, which includes, *inter alia*, detailed examination and proposed conclusions on dumping and injury.
190. The Authority further notes that the purpose of a price undertaking is to provide for an option for voluntary resolution of the injurious unfair trade practices, on terms acceptable to both the domestic industry and the exporter, as well as approved by the Authority. Therefore, the Authority does not accept the view proposed by the interested parties that a price undertaking may not be accepted in a case where preliminary findings were not issued. The Authority considers that the examination and proposed conclusions on dumping and injury contained in the Disclosure Statement satisfy the requirements of Rule 15(2). Therefore, the Authority considers there is no inappropriateness in proceeding with the price undertaking submitted in the present case.

## **K. CONCLUSION**

191. Having regard to the contentions raised, information provided, and submissions made by the interested parties and facts available before the Authority, as recorded in the above findings, and on the basis of above analysis of the dumping, injury and causal link to the domestic industry, the Authority concludes as follows:
  - a. The product under consideration in the present investigation is Acrylonitrile Butadiene Rubber (NBR) in bale form with ACN content (Bound Acrylonitrile %) between 25% to 42%.
  - b. The scope of the product under consideration excludes Carboxylated NBR, Hydrogenated NBR, Powder NBR, Liquid NBR, Oil extended NBR, Latex NBR, NBR with ACN content less than 25%, NBR with ACN content more than 42% and NVC NBR
  - c. The produced by the domestic industry is like article to the imported product.
  - d. The other interested parties had requested exclusion of the product produced from high-temperature polymerisation technology on the ground that it is a different product. However, the information on record shows that the consumers have used the product produced through high-temperature polymerisation and low

temperature polymerisation interchangeably. There is no justification on the exclusion of the product produced through high-temperature polymerisation technology. In view of the same, the Authority does not find any merit in the exclusion request.

- e. Apcotex Industries Limited constitutes 'domestic industry' within the meaning of Rule 2(b). Apcotex satisfies the requirement of standing as prescribed in Rule 5(3).
- f. Dumping margin in case of Kumho Petrochemical Co. Ltd is negative. However, it is seen that the injury margin is positive.
- g. PJSC SIBUR Holding has extended a price undertaking. Comments were invited from other interested parties and domestic industry. The domestic industry had disputed the undertaking and had filed comments requesting increase in the price. The producer has accepted the submission of the domestic industry for price increase. The undertaking of the producer has been accepted.
- h. ARLANXEO Emulsion Rubber France S.A.S. has exported the product at prices higher than the domestic industry prices. Despite the same, the dumping margin in these exports is significant 60-70% thus showing that the product is being sold in Europe market at a price 60-70% higher than export price to India.
- i. Considering the normal value and export price for the product under consideration, the dumping margins for the product under consideration from the subject countries have been determined, and the margins are significantly positive.
- j. The examination of the imports of the product under consideration shows that the volume of dumped imports from the subject countries have increased in the period of investigation. The imports have increased in both absolute terms and in relation to production and consumption. While the increase in the imports could be attributed to the demand and supply gap, the landed price of imports has not moved in the line with the cost. The producers in the subject countries are free to export the product but not at dumped prices.
- k. The import price has not moved in line with the movements in raw material cost. The decline in the import price is more than the decline in the raw material cost.
- l. The import price is below the selling price of the domestic industry resulting in price undercutting.
- m. The domestic industry's prices have declined at a higher rate than the decline in the cost of sales. It is seen that the domestic industry's prices are significantly depressed. The fact that the import price is below the selling price and cost of domestic industry establishes that imports from subject countries are depressing the prices of the domestic industry.
- n. The production, domestic sales and capacity utilization of the domestic industry increased over the injury period. The domestic industry has not suffered volume injury.
- o. The profits, cash profit, PBIT and ROCE of the domestic industry have declined steeply in the period of investigation. The profitability of the domestic industry has steeply declined by 94% in the period of investigation as compared the immediately preceding year. The cash profit and profit before interest and tax have also declined by 74% and 90% respectively.

- p. The domestic industry has not suffered injury due to other factors. Material injury caused to the domestic industry is due to dumping of the product under consideration from the subject countries.
- q. The imposition of anti-dumping measures does not restrict imports from the subject countries in any way.
- r. The impact of proposed anti-dumping duty on downstream industries is insignificant. The Authority also notes that anti-dumping duties were imposed in the past. There is no evidence to suggest that there was any adverse impact on the downstream industry as a result of the duties previously in force. The domestic industry has provided information on the share of the product under consideration in the end product, and it is seen that share of the product under consideration is miniscule.
- s. Anti-dumping duty would ensure that the imports are entering the Indian market at fair prices and a level playing field is maintained between the foreign exporters and the domestic industry.
- t. Imposition of anti-dumping duty would not be against the larger public interest.

#### **L. RECOMMENDATION**

- 192. The Authority notes that the investigation was initiated and notified to all the possible interested parties and adequate opportunity was given to the domestic industry, exporters and other interested parties to provide positive information on the aspect of dumping, injury and causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the anti-dumping rules, the Authority is of the view that imposition of duty is required to offset dumping and injury. Therefore, the Authority considers it necessary and recommends the imposition of anti-dumping duty on imports of the subject goods from the subject countries.
- 193. PJSC SIBUR Holding, has given a price undertaking to the Designated Authority and has agreed not to sell the product under consideration either directly or through intermediaries, to India at prices that have been accepted by the Authority. The Authority has considered the price undertaking. Accordingly, exports made by the producer shall be covered under undertaking and no antidumping duties are being recommended on exports made by PJSC SIBUR Holding. The price undertaking shall take effect from the date on which the Central Government decides to implement the present final findings. The validity of the price undertaking would be coterminous with the duration of the anti-dumping duties imposed by the Central Government and shall be subject to review as per the applicable provisions under the Rules. The said undertaking will not apply to (i) sales to importers holding advance licenses or (ii) sales to export-oriented units. The company shall provide relevant information to the Authority to establish that the said price undertaking is not being violated. Therefore, the imports of PJSC SIBUR Holding will not attract any anti-dumping duties. The Authority shall periodically review the exports made by the company and ascertain that the said price undertaking is being fully

complied. Appropriate action, in accordance with the Rules, shall be taken in the event of any violation of the undertaking.

194. Having regard to the lesser duty rule followed by the Authority, the Authority recommends the imposition of an anti-dumping duty equal to the lesser margin of dumping and the margin of injury, so as to remove the injury to the domestic industry.

195. The Authority recommends imposition of anti-dumping duty on the imports of the subject goods, originating in or exported from subject countries for a period of 5 years from the date of notification to be issued in this regard by the Central Government, equal to the amount mentioned in Col. 7 of the duty table appended below.

SN	Heading/ Subheading	Description of the goods	Country of origin	Country of export	Producer	Amount	UOM	Currency
1	2	3	4	5	6	7	8	9
1	4002 59 00	Acrylonitrile Butadiene Rubber (NBR)*	European Union	Any country, including European Union, Korea, Russia and China	ARLANX EO Emulsion Rubber France S.A.S.	Nil	MT	USD
2	-do-	-do-	European Union	Any country, including European Union	Any producer other than SN 1	205	MT	USD
3	-do-	-do-	Any country other than European Union, Korea, Russia and China	European Union	Any producer	205	MT	USD
4	-do-	-do-	Korea RP	Any country, including Korea RP	Kumho Petrochem ical Co. Ltd	Nil	MT	USD
5	-do-	-do-	Korea RP	Any country, including European Union, Korea, Russia and China.	Any producer other than SN 4	420	MT	USD
6	-do-	-do-	Any country other than European	Korea RP	Any producer	420	MT	USD

			Union, Korea, Russia and China					
7	-do-	-do-	Russia	Any country, including Russia	PJSC SIBUR Holding	Nil	MT	USD
8	-do-	-do-	Russia	Any country, including European Union, Korea, Russia and China	Any producer other than 7	606	MT	USD
9	-do-	-do-	Any country other than European Union, Korea, Russia and China	Russia	Any producer	606	MT	USD
10	-do-	-do-	China	Any country, including China	Any producer	291	MT	USD
11	-do-	-do-	Any country other than European Union, Korea, Russia and China	China	Any producer	291	MT	USD

*\* Customs classification is indicative only and is not binding on the scope of the investigation*

*\*\* Acrylonitrile Butadiene Rubber (NBR) in bale form with ACN content (Bound Acrylonitrile %) between 25% to 42%. The product excludes*

- i. Carboxylated NBR*
- ii. Hydrogenated NBR*
- iii. Powder NBR*
- iv. Liquid NBR*
- v. Oil extended NBR*
- vi. Latex NBR*
- vii. NBR with ACN content less than 25%*
- viii. NBR with ACN content more than 42%*
- ix. NVC NBR*

**M. Further procedure.**

196. An appeal against the determination/review of the Designated Authority in this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.



**(Siddharth Mahajan)**  
Designated Authority