

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING & ALLIED DUTIES)**

NOTIFICATION

New Delhi the 25th May, 2009

Preliminary Findings

Subject:- Anti-Dumping Investigations concerning imports of 'Carbon Black used in rubber applications' originating in or exported from Australia, China PR, Iran, Malaysia, Russia and Thailand.

No. 14/21/2008-DGAD: - Having regard to the Customs Tariff Act 1975 as amended from time to time (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules thereof, as amended from time to time (hereinafter referred as the AD Rules);

A. PROCEDURE

2. The procedure described herein below has been followed:

i The Designated Authority (hereinafter referred to as the Authority), under the above Rules, received a written application from the Association of Carbon Black Manufacturers on behalf of the domestic industry, alleging dumping of 'Carbon Black used in rubber applications' (hereinafter also referred to as the subject goods); originating in or exported from Australia, China PR, Iran, Malaysia, Russia and Thailand (hereinafter also referred to as the subject countries).

ii The Authority notified the High Commissions/Embassies of the subject countries in India about the receipt of the anti-dumping application before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra;

iii The Authority on the basis of sufficient evidence submitted by the applicant on behalf of the domestic industry issued a public notice dated 26th December, 2008 published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of 'Carbon Black used in rubber applications' originating in or exported from subject countries, in accordance with the sub-Rule 6(1) of the AD Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

iv The Designated Authority sent a copy of initiation notification dated 26th December, 2008 to the High Commissions/Embassies of the subject

countries in India, known exporters from subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 40 days of the initiation notification.

v Request for extension of time to file the questionnaires' response was received from some interested parties. The Authority granted the time extension, keeping in view the time constraints.

vi The Authority provided a copy of the non-confidential version of the application to the known exporters and to the High Commissions/Embassies of the subject countries in India in accordance with Rule 6(3) supra.

vii The High Commissions/Embassies of the subject countries in India were informed about the initiation of the investigation in accordance with Rule 6(2) of the AD Rules with a request to advise the exporters/producers from their country to respond to the questionnaire within prescribed time limit. A copy of the letter and questionnaire sent to the exporters was also sent to them along with the names and addresses of the known exporters.

viii The Authority sent questionnaires to elicit relevant information to the following known exporters in subject countries in accordance with Rule 6(4) of the AD Rules:

Carbon Black Producers/Exporters in Australia

1. Continental Carbon Company Sir Joseph Banks Drive Kurnell NSW 2231	2. Cabot Australia Pty. Ltd P.O. Box 829, Torquay, Victoria 3228 Australia
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Carbon Black Producers/Exporters in China PR

1. Hebei Daguangming Industry Group Co., Ltd., Western Side, Donghuan South Road, Shahe City, Hebei Province. P.R.China.	2. Shanghai Kargos International Trade Co., Ltd., T2-12F, No. 2601 Xietu Rd, Shanghai, P. R. China
3. Hebeijing country xinyuan rubber Chemical Co Ltd., Shengli road Guangsha district 31-1-101, Hengshui city, Hebei province, P.R.China	4. Hebei Yonghui Chemical Industries Import and Export Co., Ltd., No.199, Xinhua Road, Shijiazhuang, Hebei, P. R. China
5. Gansu Jinshi Chemical Co., Ltd., 109 #, West suburb, Minle County, Gansu, P. R. China	6. Shandong Shuangyan Chemical Co., Ltd., NO.787 Donger Road Dongying City, Shandong, P.R.China
7. Weifang Longzhou Industry and	8. Laiwu Taishan Carbon Black

Commerce Co., Ltd., Luocheng Town, Shouguang City, Shandong Province, P.R.China	Co., Ltd.,Gaozhuang industrial zone, Laicheng, Laiwu, P.R.China
9. Qichang Chemical Co., Ltd., Beichenwang, tangyin County, Anyang City, Henan Province, P. R. China	10. Jiangxi Black Cat Carbon Black Co., Ltd., Liyao, Jingdezhen City, Jiangxi Province, 333000, P.R.China
11. Suzhou Boahua Carbon, Xushuguan Suzhou, P.R. China-21515	12. Tianjin Dolphin Carbon Black Ltd., East of Railway, North of Yinheqiao Beichein District, Tianjin, P.R.China 300400

Carbon Black Producers /Exporters in Iran

1. Doodeh Sanati Pars Company, No. 49, Padidar Alley, Africa Ave., Tehran - 15188 Iran	2. Simorgh Carbon Black Mfg. Co. Unit 9, No. 11, East Nahid St Africa Ave.,Tehran
3. Iran Carbon Company, International Private company, Box 14155-1333, Tehran, Iran	

Carbon Black Producers/Exporters in Malaysia

1. Paradise Polymers And Chemicals Malaysia, 470 Taman Muhibbah Jaya, Sungai Siput (Utara), Perak , Malaysia - 31100	2 Segfield Carbon Industries (M) Sdn Bhd, Lot 149675, Igb International Industrial Park,Ipoh, Perak Malaysia – 31100
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Carbon Black Producers/Exporters in Russia

1. Omsktechuglerod OJSC, 644049, barabinskaya Street, 20,Omsk, Russia	2. Amtel Holding Company, Amtel House 45 Kutuzovsk, Prospekt,121170 Moscow, Russia.
3. Severgazprom, 39/2 Lenin Street Ukhta Komi, Republic Russian Federation	4. Nizhnekamsk Carbon Black Plant 423570 Nizhnekamsk , Prombaza Republic of Tartarstan
5. Yaroslav, Itekuglerod, 150053 Yaroslavl	

Carbon Black Producers/Exporters in Thailand

1. Thai carbon Black, 44 Moo1, Ayuthaya -Angthong Highway, Tambol Pasa, Amphur Muang, Angthang 14000	2. Bridgestone Carbon Black (Thailand) Co., Ltd., Rojana Industrial Park, Ban Khai District, Rayong Province, Thailand
3. Thai Tokai Carbon Product Co., Ltd. 9th Floor, Harindhorn Tower, 54	

North Sathorn Road, Silom, Bangrak, Bangkok 10500, Thailand	
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ix In response to the above notification, following exporters/producers/Association have responded:

S.N.	Name of Interested Party	Country
1.	M/s Continental Carbon Australia Pty Ltd.	Australia
2.	M/s Ningbo Detai Chemical Co. Ltd.	China PR
3.	M/s Hebei Daguangming Juwuba Carbon Black Co., Ltd.	China PR
4.	M/s Longxing Chemical Stock Co., Ltd.	China PR
5.	M/s Ningbo Sheen – All Chemical Co., Ltd.	China PR
6.	M/s Jiangxi Black Cat Carbon Black Co., Ltd (“Black Cat”)	China PR
7.	China Rubber industry Association	China PR
8.	M/s Suzhou Baohua Carbon Black Co., Ltd.	China PR
9.	M/s. Yaroslavskiy Tekhnicheskii Uglerod	Russia
10.	M/s Omsktechuglerod Ltd.	Russia
11.	M/s Trigon Gulf FZCO	UAE
12.	M/s Thai Tokai Carbon Product Company Ltd. (“TCP”)	Thailand

M/s Omsktechuglerod Ltd. did not file the response as per the questionnaire.

x Questionnaires were sent to the following known importers / users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the AD Rules:

1. M/s JK Tyres, Link House, 3, Bahadurshah Zafar Marg, New Delhi - 110 002	2. M/s Birla Tyre, Shivam Chambers 53, Syed Amir Ali Avenue, Kolkata-700 019, West Bengal.
3. M/s Apollo tyres, Apollo House 7, Institutional Area, Sector-32, Gurgaon - 122001 (Haryana)	4. M/s CEAT Ltd., CEAT Mahal, 463, Dr. Annie Besant Road, Worli, Mumbai 400 030
5. M/s MRF Ltd., 124 Greams Road, Chennai-06	6. M/s Ralson, Plot No: 3, New Industrial Area, Mandideep. Distt. Raisen, M.P. - 462046
7. M/s Poddar Tyre, GT Road Jugiana, Ludhiana (PB) 141420	8. M/s Oriental Rubber Industries, 525 Koregoan Bima Pune Nagar Road, Pune
9. M/s Hindustan Rubber, 1 Janki Center OFF Veera Desai Road Andheri(W) Mumbai-53	10. M/s Agarwal Rubber, 15-1-503/49/A, Ashok Market, Siddiamber Bazar, Hyderabad 500 01, Andhra Pradesh
11. M/s Exel Rubber, Flat no. 507, Sai Sadan Apts, Opp. SBI Balkampet,	12. M/s Tega Industries, First floor, No 210, 5th Main Road Vijay Nagar 2nd

S.R. Nagar, Hyderabad - 500038	Stage Bangolre 560040
13. M/s Phoenix Yule,Ideal Plaza, 4th Floor, 11/1, Sarat Bose Road, Kolkatta 600 02, West Bengal	14. M/s Monotona Tyres,Mumbai, Mumbai 422 01, Maharashtra
15. M/s TVS Srichakra, Perumalpatti road Velaripatti Road , Melur Taluq Madurai-625122	16. M/s Ahuja Continental, 1109 Mittal Towers MG Road Bangalore
17. M/s Midas Rubber,P. John Zachariah Buildings, Kottayam, Kerala, 686001	18. M/s Tolins, M.C. Road, Kalady-683 574, Kerala
19. M/s TM Tyres,5-35, Survey No, 305 & 321 Kalakal Village Medak - 502320, Andhra Pradesh	20 M/s Hartex Rubber,6-3-865, Madhupala Towers, Ameerpet, Hyderabad- 500 016

xi In response thereof, following have responded:

S.N.	Name of Interested party
1.	M/s Apollo Tyres Ltd.
2.	M/s J. K. Tyre & Industries Ltd.
3.	M/s Goodyear South Asia Tyres Pvt. Ltd.
4.	M/s Goodyear India Ltd.
5.	M/s Cabot India Ltd.
6.	M/s General Rubbers
7.	Automotive Tyre Manufacturers' Association (ATMA), India
8.	All India Rubber Industries Association, New Delhi

M/s General Rubbers, M/s Apollo Tyres Ltd., M/s Cabot India Ltd., M/s. Goodyear India Ltd, M/s J. K. Tyre, have filed their importer's questionnaire providing details of the imports of the subject goods by them.

xii The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties;

xiii Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the applicant on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain if anti-dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry.

xiv Investigation was carried out for the period starting from 1st Oct 2007 to 30th September, 2008 (POI). The examination of trends, in the context of injury

analysis, covered the periods April 2005-March 2006, April 2006-March 2007, April 2007-March 2008 and the POI. For assessing the threat of material injury, post POI data has also been considered.

xv *** in this notification represents information furnished by an interested party on confidential basis, and so considered by the Authority under the AD Rules.

B. PRODUCT UNDER CONSIDERATION AND DOMESTIC LIKE ARTICLE

The product under consideration is 'Carbon Black used in rubber applications'. It is an inorganic chemical used in production/ processing of rubber (including tyres), as reinforcing filler. Carbon Black is also known as acetylene black, channel black, furnace black, lamp black, lampblack, thermal black, and noir de carbone. Carbon black can be divided into two categories – rubber and non-rubber applications Carbon black. Carbon black for rubber applications is the Carbon black that is used in production/ processing of rubber (including tyres), as a reinforcing filler. The present investigation is in respect of Carbon black used in rubber applications. Carbon black used in non-rubber applications, such as inks in copiers and computer printer cartridges, paints, crayons and polishes is not within the scope of the present investigation.

The subject goods fall under Chapter 28 of the Act under subheading no. 28030010. The customs classification is indicative only and is in no way binding on the scope of the present investigation.

Issues raised by interested parties

All India Rubber Industries Association, New Delhi has, *inter alia*, stated that Thermal Black is not produced in India and thus, should be kept out of the scope of the investigation.

M/s Gem Polytech Industries Pvt. Ltd, has, *inter alia*, contended the following:

- o Specialised grades of carbon Black (HS code: 28030010) meant for semi conductive compound application give superior processing characteristics, low sulphur content and good electrical conductivity. These grades are not manufactured in India; they attract premium price and are not used in rubber application as reinforcing filler. They are used in plastic application as electro-static discharge (ESD) & semiconductor (SC). Their structure is different from the PUC. Thus, these grades be included in non rubber application including cables, films, injection moulded products for electronic application.

Examination by the Authority

Thermal black – Even though the domestic industry has contended that Thermal black is nothing but carbon black but it has added that the domestic industry has not produced N880, N990 and N991 grades during the POI and is at present also not producing these grades.

Therefore, pending further investigation and verification, the Authority for the purposes of these preliminary findings, has excluded these grades of Thermal Black from the scope of the product under consideration as the domestic industry apparently does not manufacture the same.

Carbon black for semi conductive compound applications – since the domestic industry has stated that this is not the grade of Carbon black meant for rubber applications; therefore pending further investigation, the Authority has excluded these grades from the ambit and scope of the product under consideration.

With regard to like articles, Rule 2(d) of the AD Rules provides as under: -

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

With regard to the possible difference between the product sold by the exporters in the Indian market and the product sold by the domestic industry, the Authority notes that there is no dispute by the exporters that there is any difference in the two products. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject countries and the product produced by the Indian industry. Product under consideration produced by the domestic industry are comparable to the imported subject product in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

Thus, the Authority is of the view that product under consideration produced by the applicant domestic industry is like article to the subject product under consideration in accordance with the AD Rules.

C. SCOPE OF DOMESTIC INDUSTRY & STANDING

Rule 2(b) of the AD Rules defines domestic industry as under:-

(b) "Domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers may be deemed not to form part of domestic industry.

The Application has been filed by Association of Carbon Black Manufacturers on behalf of the domestic industry. M/s. Phillips Carbon Black Limited and M/s. Hi-Tech Carbon have provided injury information, whereas M/s. Continental Carbon India Limited has supported the application.

Issue raised by Interested Parties

M/s Jiangxi Black Cat Carbon Black Co., Ltd (“Black Cat”) has, *inter alia*, contended that the applicant does not have Standing in view of relationship of M/s Hi-Tech carbon India with M/s Liaoning Birla Co. Ltd (China) and M/s Thai Carbon Black Public Company Ltd. (Thailand).

Examination by the Authority

The Authority notes that M/s Hi Tech Carbon is related to M/s Thai Carbon Black Public Company and M/s Liaoning Birla Co. Ltd. M/s Hi Tech Carbon has claimed that M/s Liaoning Birla Co. has not exported Carbon black in Indian market. Even though M/s Thai Carbon Black Public has exported the subject goods to India, the entire volume of exports is only 2178 MT, out of total of 518624 MT in POI.

The Authority notes that the volume of exports made by Thai Carbon Black is too insignificant in relation to production and consumption in India. Besides, it has not been established that M/s Hi Tech Carbon should be excluded from the purview of domestic industry because of exports made by the related company. The Authority considers it appropriate to include Hi Tech Carbon within the scope of the domestic industry.

As per the evidence available on record, production of M/s Phillips Carbon Black Ltd. and Hi-Tech Carbon account for a major proportion of the domestic production of like article, being significantly more than 50% of Indian production. The application thus satisfied the requirements of Rule 2(b) and Rule 5(3) of the AD Rules. Further, M/s Phillips Carbon Black Ltd. and M/s Hi-Tech Carbon are being treated as “domestic industry” within the meaning of Rule 2(b) read along with Rule 2(d) of the AD Rules for the purpose of the present findings.

SUBJECT COUNTRIES

The investigation was initiated concerning imports of the subject goods originating in or exported from Australia, China PR, Iran, Malaysia, Russia and Thailand on the basis of IBIS data relied upon by the Applicant. However, the Authority had requested the DGCI&S to provide the relevant data on the subject, which was received. A perusal of the data shows that imports of the subject goods from Iran are below the *de-minimis* limits prescribed. Hence, further investigation has been restricted to imports of subject goods originating in or exported from Australia, China PR, Malaysia, Russia and Thailand.

Other issues raised by Interested Parties

It has been, *inter alia*, contended that:

- Selection of the subject countries is on discriminatory basis as volume of import from some of non-subject countries is neither negligible nor the import price is lower.
- Russia should be the appropriate analogue country instead of Thailand as primary raw material for manufacturing Carbon black is feed stock in Thailand whereas in China PR it is Coal tar, more economic, raw material for manufacturing Caron black.
- The Authority should make the comparison on a monthly or if it is not practical, on quarterly basis, as per Article 2.4 of the WTO Anti-dumping Agreement that ‘ this comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time.
- No injury exists before April 2008 as per their own website, thus injury margin calculation should be based on data on the third and fourth quarter. Further quarterly determinations may be carried out for both injury and dumping determination due to the extreme volatility in prices and cost during the POI
- Some interested parties have contended that there is no justification for retrospective imposition of anti dumping duties.

Examination by the Authority

- The Authority notes that volume of imports beyond 3% was reported only from UK. The applicant has claimed that (a) there is no production facility in UK, (b) imports from UK are transshipment, (c) imports from UK include substantial sales of off spec material. None of the interested parties has refuted this claim of the applicant.
- The Authority notes that the primary reason advanced for consideration of Russia as an appropriate market economy third country is similarity of raw material. However, the Authority notes that it has not been established by an interested party that difference in raw material leads to any possible difference in the associated product characteristics. Moreover, in a situation where the selling price is above cost of production, the difference in raw materials (whose impact may be on the cost of production) become irrelevant. The AD Rules require that an appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. The Authority does not have on record any reliable information in this regard. Therefore, the Authority has at this stage considered cost of production in India, duly adjusted, for determination of normal value in China PR. However, the Authority would consider comments of interested parties and consider the option of considering Russia or Thailand as a surrogate market economy third country for the purpose of final determination.

- The Authority notes that domestic industry too has requested for comparison of Normal value with Export price on quarterly basis. As regards conducting a monthly comparison is concerned, not only would it have been more cumbersome, but also observing that the pricing in this industry, particularly in tyre segment is on quarterly basis; it would be more appropriate to conduct a quarterly comparison. However, the Authority would consider comments of interested parties and may consider the option of conducting monthly comparison for the purpose of final determination.
- The Authority notes that the domestic industry has not claimed that it has suffered no injury till April, 2008. On the contrary, the domestic industry has stated that deterioration in their profitability started with quarter ending March, 2008 and the same has continued till date. Moreover, if dumping margin and injury margin are determined only based on last two quarters, it would lead to reducing the period of investigation to just two quarters. While quarter by quarter comparison/analysis may be desirable, it has not been established that information for any particular quarter is required to be excluded.
- Since the Authority at this stage is not recommending retrospective imposition of duty, the issue becomes irrelevant. The Authority would consider for final determination whether retrospective imposition of duty is called for.

D. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

NORMAL VALUE

The Authority sent questionnaire to the known exporters from subject countries, advising them to provide information in the form and manner prescribed. Response to the questionnaires were received from the following companies –

S.N.	Name of Company	Country
1.	M/s Ningbo Detai Chemical Co. Ltd.	China PR
2.	M/s Hebei Daguangming Juwuba Carbon Black Co. Ltd.	China PR
3.	M/s Longxing Chemical Stock Co. Ltd.	China PR
4.	M/s Ningbo Sheen – All Chemical Co. Ltd.	China PR
5.	M/s Jiangxi Black Cat Carbon Black Co., Ltd (“Black Cat”)	China PR
6.	M/s. Yaroslavskiy Tekhnicheskii Uglerod,	Russia
7.	M/s Continental Carbon Australia Pty Ltd.	Australia
8.	M/s Thai Tokai Carbon Product Co. Ltd.	Thailand

The Authority has noted that no difference has been claimed by any producer/exporter regarding the product under consideration that has been sold to India and like articles that has been sold in their domestic markets. The exporters have claimed Normal values on the basis of grades of the subject goods sold in their domestic market. Some of the exporters and domestic industry have claimed that the Normal value and Export price should be compared on the basis of monthly or quarterly averages. The

submissions to conduct a quarterly analysis have been provisionally accepted and the Authority has at this stage compared Normal value with Export price on the basis of quarterly averages. However, in the case of China PR, as elaborated herein below, there are significant issues of market economy determination in respect of the responding exporters that requires further examination and verification. Therefore, pending further examination and verification of the claims made by the responding exporters and producers from China PR, in respect of their market economy claims and individual treatment claims; for the purposes of the preliminary finding, the Authority has provisionally estimated the Normal value in China on the basis of Para-7 to Annexure-I to the Rules.

Normal value in case of China PR

Para 7 of Annexure I of the AD Rules provides that

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

The Authority indicated, in the initiation notification that the applicant claimed that China PR is a non market economy and Thailand could be considered as a market economy as an appropriate surrogate country. The Authority invited comments from all interested parties in accordance with para 7 of Annexure I. One of the Chinese exporters, namely M/s Jiangxi Black Cat Carbon Black Co., Ltd (“Black Cat”), without claiming market economy treatment, has, *inter alia*, contended that Russia be treated as an appropriate market economy third country for the purpose.

Examination of Market Economy claims in respect of China PR

The Authority notes that in the past three years China PR has been treated as a non-market economy country in anti-dumping investigations by India and other WTO Members. China PR has been treated as a non-market economy country subject to rebuttal of the presumption by the exporting country or individual exporters in terms of the AD Rules.

As per Paragraph 8 of Annexure I of the AD Rules, the presumption of a non-market economy can be rebutted, if the exporter(s) from China PR provide information and sufficient evidence on the basis of the criteria specified in sub paragraph (3) of Paragraph 8 and establish the facts to the contrary. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider the following criteria as to whether:-

- a) the decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- 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.

The Authority notes that consequent upon the initiation notice issued by the Authority; some Chinese exporters have submitted their questionnaire responses including the market economy questionnaire responses and sought to rebut the non-market economy presumption except M/s Jiangxi Black Cat Carbon Black Co. Ltd ("Black Cat"). The questionnaire responses and the market economy responses of the responding producers and exporter have been examined for determination of Normal value of the responding producers/exporter of the subject goods from the subject country as follows:

Views of the domestic industry

In support of their claim, the domestic industry has, *inter alia*, made the following contentions –

- a. Unless Chinese exporters establish that they pass the test of market economy status for each and every parameters laid down under the Rules, market economy treatment cannot be given to them.
- b. The responding exporters have not established how they are entitled for market economy status in terms of, *inter-alia*, ownership & control, acquisition of plants, raw material prices and accounting standards.

Submissions made by Chinese exporters/producers **M/s Jiangxi Black Cat Carbon Black Co., Ltd ("Black Cat")**

In its response to the Questionnaire, the exporter did not answer the questions of part D, E, F, G, I, J & K and Appendix 1 of the Questionnaire on the ground that these parts were related to either domestic sales or production cost. It was made clear by them that they did not apply for market economy treatment, therefore their Normal value should be determined on the basis of price or cost in a third market economy analogue country in accordance with the rules.

The exporter also claimed price difference between coal-based tar and oil-based tar used as a raw material for the subject goods. For this purpose, it provided the Chinese Customs export statistics in respect of coal-based tar for the period of investigation. It was submitted that China exports coal-based tar to Japan, Taiwan, Korea and Mongolia, among which Japanese imports takes a high majority. The exports of coal-based tar to Japan on a monthly basis were provided as mentioned below:

Summary of Chinese Customs Export Statistics of Coal-based Tar during the POI				
HS Code	<u>Importing country: Japan</u>			
27060000				
	Export QTY in KG	Export Value FOB in USD	Unit price per Ton including VAT	Net unit price per Ton net of VAT in USD
Oct-07	15,502,298	5,333,260	344	294
Nov-07	11,698,655	4,148,016	371	317
Dec-07	14,560,343	5,399,859	397	339
Jan-08	11,029,308	4,374,271	399	341
Feb-08	8,324,216	3,319,458	420	359
Mar-08	12,838,507	5,395,734	443	379
Apr-08	11,910,519	5,281,898	426	364
May-08	16,366,168	6,969,834	426	364
Jun-08	11,194,695	5,241,809	468	400
Jul-08	13,408,305	7,080,159	528	451
Aug-08	7,859,734	5,006,943	637	544
Sep-08	4,659,025	3,206,600	688	588
total	139,351,773	60,757,841	436	373

The exporter has requested that the above market price of coal-based tar be considered as benchmark for price comparison. Besides, it also requested the Authority to compare the prices of coal-based tar with oil-based tar prices, which the Authority is able to obtain in the course of investigation of exporters of other countries. In addition, the exporter claimed the price difference on account of coal-based tar and oil-based tar.

Examination by the Authority

As already stated, since China PR has been treated as a NME for the purposes of anti-dumping investigations, the prices of raw-materials procured in the Chinese domestic market cannot be said to be reflecting the international prices, pending further investigation and verification, particularly in the context that the exporter has provided that data in respect of the exports of a major raw material, namely coal-based tar to Japan, which is significantly higher than the price at which the material has been purchased by the Carbon black producers in China PR.

Therefore, for the purposes of these preliminary findings, the Normal value is being constructed as explained in the relevant section of these findings. As regards, the export price, the information/data provided by the exporter has been provisionally accepted, pending further investigation and verification.

M/s Longxing Chemical Stock Co. Ltd.

On a perusal of the response from the exporter, a deficiency letter was sent to them, *inter alia*, seeking certain clarifications therein. The exporter responded to the letter.

Examination by the Authority

It has been observed that it has procured major raw-materials from State-owned companies, and no evidence has been provided to establish that these prices are reflecting the market conditions. Therefore, for the purposes of these preliminary findings, the Normal value is being constructed as explained in the relevant section of these findings. As regards, the export price, the information/data provided by the exporter has been provisionally accepted, pending further investigation and verification.

M/s Ningbo Sheen – All Chemical Co.

On a perusal of the response from the exporter, a deficiency letter was sent to them, *inter alia*, seeking certain clarifications therein. The exporter responded to the letter.

Examination by the Authority

A perusal of the response showed that the respondent had a related company, namely M/s HHUI, who in fact had exported the subject goods to India; though the company claimed that it was the real exporter. Without going into the merits of this contention, it was also noted that it had predominantly procured the subject goods from M/s Longxing Chemical Stock Co. Ltd. The other supplier of the subject goods to them, namely M/s Jiangxi Heibao Carbon Black Co. Ltd. has not co-operated in this investigation. Since M/s Longxing Chemical Stock Co. has not been given the MET status, the same cannot be also extended to the company, pending further investigation and verification because M/s Longxing Chemical Stock Co., *inter alia*, procured major raw-materials from State-owned companies, which cannot be stated to be reflecting the market conditions. Therefore, for the purposes of these preliminary findings, the Normal value is being

constructed as explained in the relevant section of these findings. As regards, the export price, the information/data provided by the exporter has been provisionally accepted, pending further investigation and verification.

M/s Ningbo Detai Chemical Co. Ltd.

On a perusal of the response from the exporter, a deficiency letter was sent to them, *inter alia*, seeking certain clarifications therein. The exporter responded to the letter.

Examination by the Authority

A perusal of the response showed that the company was formed in 2005 by four shareholders including M/s Santai Electrical Co. Ltd. However, M/s Santai Electrical Co. Ltd. is no more the shareholder of the respondent since 2006 and hence the details of the shareholding of the company were not available. A copy of the business licence attached with the response shows that the same is in the name of M/s Santai Electrical Apparatus factory, instead of M/s Santai Electrical Co. Ltd .

Besides, it has also been contended by the company that there are no international prices of the major raw materials used in the production of the subject goods and that the raw materials were procured in domestic market at market driven prices. Since, China PR has been treated as a NME for the purposes of anti-dumping investigations, the prices of raw-materials procured in the Chinese domestic market cannot be said to be reflecting the international prices, pending further investigation and verification, particularly in the context that one of the Chinese producers has provided that data in respect of the exports of a major raw material, namely coal-based tar to Japan, which is significantly higher than the claims made by the company.

Therefore, for the purposes of these preliminary findings, the Normal value is being constructed as explained in the relevant section of these findings. As regards, the export price, the information/data provided by the exporter has been provisionally accepted, pending further investigation and verification.

M/s Hebei Daquangming Juwuba Carbon Black Co. Ltd.

The response filed by the exporter was perused and certain deficiencies were observed. Accordingly a deficiency letter was sent seeking clarifications.

Examination by the Authority

Though the exporter responded to the deficiency letter but it was found that it has not appropriately answered all the queries raised therein. For instance, the issue regarding acquiring the plant and machinery has not been appropriately answered. It was also observed that it purchases the raw material and other inputs in the domestic market according to the prevailing market price.

As already stated, since China PR has been treated as a NME for the purposes of anti-dumping investigations, the prices of raw-materials procured in the Chinese domestic

market cannot be said to be reflecting the international prices, pending further investigation and verification, particularly in the context that one of the Chinese producers has provided that data in respect of the exports of a major raw material, namely coal-based tar to Japan, which is significantly higher than the claims made by the company.

Therefore, for the purposes of these preliminary findings, the Normal value is being constructed as explained in the relevant section of these findings. As regards, the export price, the information/data provided by the exporter has been provisionally accepted, pending further investigation and verification.

Determination of Normal value in respect of Exporters / Producers from China PR

The Authority notes that the exporters have not provided any evidence to establish that prices of basic inputs substantially reflect market values. The producers have named the raw materials suppliers and identified their legal status. The companies have not provided any evidence to establish that the inputs have been procured at prevailing international prices. At the same time, domestic industry has claimed that, in fact, price of coal-based tar in China PR does not substantially reflect market values. This also calls for further investigations, including spot verification.

Considering that the cost of the raw-material form a significant portion of the cost of the subject goods, the Authority is unable to grant market economy treatment to the Chinese exporters at this stage, pending further investigation including spot verification.

In view of the above, pending examination of the above issues such as acquisition of plants, whether the prices of raw materials reflect international prices, their impact on the cost and prices of the subject goods, accounting issues etc, and verification of the same, the Authority is of the view that the producers/exporters from China PR cannot be granted market economy status for the preliminary determination of their Normal Value.

Methodology adopted for constructing Normal Value in case of China PR

The Authority has constructed Normal value for the Chinese producers at this stage on the following basis –

- a. Prices of major input, coal based tar have been considered on the basis of the price at which this material has been claimed to have been exported from China PR to Japan.
- b. Consumption of raw materials per unit of production has been considered as claimed by the responding exporters.
- c. Conversion costs have been adopted on the basis of information/data of efficient producer of the domestic industry.
- d. Selling, general & administrative costs have been taken on the basis of information/data of efficient producer of the domestic industry
- e. Profit has been taken @ 5% of ex-factory cost excluding interest.

For the purposes of conducting a fair comparison, separate Normal value has been calculated for each grade of subject goods produced and sold and separate Normal value has been calculated for each quarter of the Period of investigation. However, the dumping margins so arrived have been weighted averaged for the entire 'period of investigation' and for the 'product under consideration' as a whole thereafter.

Normal value in case of Australia, Russia and Thailand

Response to questionnaire were filed by the following companies

S.N.	Name of Company	Country
1.	M/s Continental Carbon Australia Pty Ltd.	Australia
2.	M/s. Yaroslavskiy Tekhnicheskii Uglerod,	Russia
3.	M/s Thai Tokai Carbon Product Co. Ltd.	Thailand

Since these companies have responded with questionnaire responses, the Authority has determined individual dumping margin in respect of these companies. The methodology adopted for determination of Normal values is as follows:

General methodology followed for the responding exporters for determination of Normal Values

It was first seen, whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the exporters, subject to verification. In their responses, the exporters have provided transaction-wise details of sales made in their home markets. The information so provided has been relied upon to determine separate weighted average domestic selling price for each grade/type of the subject goods to the extent feasible, subject to further investigation and verification.

For the determination of the ordinary course of trade test, the costs of production of the product concerned have been provisionally accepted, subject to verification of these claims. Further, all domestic sales transactions were examined with reference to the costs of production of the subject goods to determine whether the domestic sales were in the ordinary course of trade. It was also seen whether the loss-making transactions account for over 20% of the sales or not.

Considering that there have been significant variations in the prices of major raw-material, the applicant and one of the Chinese exporters has requested the Authority to assess the impact of dumping on the basis of quarterly comparisons.

The Authority considers that there is merit in the above submissions and has observed significant changes in the cost of production and selling price from quarter to quarter for the same grade and has therefore assessed the dumping margin on a quarterly basis for ensuring a fair comparison.

M/s Continental Carbon Australia Pty Ltd., Australia

The Normal value has been determined as per methodology mentioned in the earlier paragraphs based on the domestic selling price of the subject goods of the exporter pending further verification. The adjustments have been made on account of discount and inland transport as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification.

M/s. Yaroslavskiy Tekhnicheskiy Uglerod,

On examination of the exporter's response, certain deficiencies were noted and the exporter was requested to provide necessary information/clarification, including the information as mentioned in Appendix 1 of the response. Since the information/clarification sought vide the deficiency letter have not been provided in time by the exporter, the Authority is constrained to proceed further after synthesizing the data on the basis of facts available. It is noted that the exporter was provided time to respond to the deficiency letter. The exporter did not provide the information within this time limit. Thereafter, the exporter vide fax dated 2nd April 2009 stated that all information would be provided by 7th April 2009. It is however noted that requisite information has not been provided despite the fact that it promised to revert with the requisite information/data. Accordingly, even though the response is not complete and the exporter has not responded to the request for supplementary information, the Normal value has been determined as per methodology mentioned in the earlier paragraphs based on the domestic selling price of the subject goods of the exporter as per best information available on record, pending further verification after adjustment of packing expenses as claimed by the exporter.

M/s Thai Tokai Carbon Product Co. Ltd,

The Normal value has been determined as per methodology mentioned in the earlier paragraphs based on the domestic selling price of the subject goods of the exporter pending further verification. However, on examination of the exporter's response, certain deficiencies were noted and the exporter was requested to provide necessary information/clarification, including information relating to certain transactions as mentioned in Appendix 1 of the response. Since the information/clarification sought vide the deficiency letter have not been provided yet by the exporter, the Authority is constrained to proceed further after ignoring these transactions. Barring these transactions, the claims made by the exporter have been provisionally accepted, subject to further investigation and verification. Adjustments have been made on account of discount and inland transport as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification.

Normal value in case of Malaysia

None of the producers/exporters from Malaysia has responded to the Authority by providing information in the form and manner prescribed in the exporters' questionnaire. As no information has been received from any exporter/producer from Malaysia, the Authority has constructed the Normal values on the basis of facts available. Normal value in respect of Malaysia has been determined on the basis of constructed value, by considering best consumption norms for the raw materials, best estimates of conversion

cost, selling, general & administrative costs of the domestic industry. Reasonable profit @ *** % has been added to determine Normal value.

Determination of Normal value in respect of Non-Co-operative Exporters / Producers

Since, no other response has been received from any other producer/exporter of the subject goods; the Authority has decided to determine their Normal Value as per facts available in terms of Rule 6(8) of the AD Rules.

EXPORT PRICE

Export price for the responding exporters

The Authority examined whether the export prices in respect of responding exporters could be determined on the basis of questionnaire responses filed by these interested parties. The export prices have been allowed as claimed by the responding exporters, subject to further investigation and verification.

M/s Continental Carbon Australia Pty Ltd., Australia

Separate weighted average export price to India has been determined for each grade/type of subject goods, as explained above. The adjustments have been made on account of inland freight, ocean freight, port handling charges, customs fees, and commission as claimed by the exporter for the purpose of the preliminary findings, subject to further investigation and verification.

M/s. Yaroslavskiy Tekhnicheskij Uglerod,

On examination of the exporter's response, certain deficiencies were noted and the exporter was requested to provide necessary information/clarification, including relating to information as mentioned in Appendix 2 of the response. Since the information/clarification sought vide the deficiency letter have not been provided in time by the exporter, the Authority is constrained to proceed further on the basis of facts available. It was also noted that significant portion of the response was in Russian language and despite an opportunity provided to the exporter to furnish an English translation thereof, the same has not been received by the Authority. Besides, inconsistencies have been noted between the response received from the exporter and the response filed by their agent namely, M/s Trigon Gulf Fzco, leading the Authority to disregard the export price data due to the deficiencies pointed out and the inconsistencies observed.

As stated, separate weighted average export price to India has been determined for each grade/type of subject goods based on imports reported in India as per the DGCI&S data. The adjustments have been made on account of inland transportation charges on road and rail, re-stuffing, warehousing and demurrage charges, ocean freight, bank charges, commission etc as per the submissions made by M/s Trigon Gulf Fzco for the purpose of the preliminary findings, subject to further investigation and verification.

M/s Thai Tokai Carbon Product Co. Ltd.

Separate weighted average export price to India has been determined for each grade/type of subject goods, as explained above. The adjustments have been made on account of commission, freight, shipping, insurance, as claimed by the exporter for the purpose of the preliminary findings, subject to further investigation and verification.

M/s Jiangxi Black Cat Carbon Black Co., Ltd (“Black Cat”)

Separate weighted average export price to India has been determined for each grade/type of the subject goods, as explained above. The adjustments have been made on account of inland transportation, overseas transportation, overseas insurance, credit, bank charges and export packing as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification. Besides, it is noted that the other exporters from China PR have made adjustments on account of VAT as well; but M/s Jiangxi Black Cat Carbon Black Co., Ltd has not done so. Therefore, pending further investigation and spot verification, the adjustment on account of Vat is also being made to the export price.

M/s Longxing Chemical Stock Co. Ltd.

Separate weighted average export price to India has been determined for each grade/type of the subject goods as per data provided by the exporter in Appendix 2 of the response. The adjustments have been made on account of overseas freight, overseas insurance, output VAT, export packing, inland freight, handling, credit and bank charges as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification.

M/s Ningbo Sheen – All Chemical Co.

Separate weighted average export price to India has been determined for each grade/type of the subject goods as per data provided by the exporter in Appendix 2 of the response. The adjustments have been made on account of overseas freight, overseas insurance, output VAT, handling, and bank charges as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification. Besides, the adjustments claimed by the producer M/s Longxing Chemical Stock Co. Ltd., the principal supplier of the subject goods to M/s Ningbo Sheen – All Chemical Co., have been made on account of inland freight, packing and credit, for the purpose of the preliminary findings, subject to further investigation and verification.

M/s Ningbo Detai Chemical Co. Ltd.

Separate weighted average export price to India has been determined for each grade/type of the subject goods as per data provided by the exporter in Appendix 2 of the response. The adjustments have been made on account of overseas freight, overseas insurance, output VAT, export packing, inland freight, handling, credit and bank charges as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification.

M/s Hebei Daguangming Juwuba Carbon Black Co. Ltd.

Separate weighted average export price to India has been determined for each grade/type of the subject goods as per data provided by the exporter in Appendix 2 of the response. The adjustments have been made on account of Customs declaration, port charges, inland transportation, overseas transportation, insurance, and bank charges as claimed by the exporter, for the purpose of the preliminary findings, subject to further investigation and verification. Besides, it is noted that the other exporters from China PR have made adjustments on account of VAT as well; but M/s Hebei Daguangming Juwuba Carbon Black Co. Ltd. has not done so. Therefore, pending further investigation and spot verification, the adjustment on account of Vat is also being made to the export price.

Export price in case of Malaysia

None of the producers/exporters from Malaysia has responded to the Authority by providing information in the form and manner prescribed in the exporters' questionnaire. As no information has been received from any exporter/producer, the export prices in respect of all exporters from Malaysia have been determined on the basis of best information available with regard to imports from Malaysia. The information with regard to imports reported in India as per the DGCI&S data has been adopted for the purpose. Separate weighted average export price to India has been determined for each grade/type of subject goods. Adjustments have been made on account of ocean freight, marine insurance, THC charges, Customs sundry charges, CHA charges, Bank charges and inland freight as claimed by the domestic industry.

Determination of Export Price in respect of Non-Co-operative Exporters/Producers

Since, no other response has been received from any other producer/exporter of the subject goods; the Authority has decided to determine their Export Price as per facts available in terms of Rule 6(8) of the AD Rules. The data has been collated as per the information provided by the applicant and the information provided by the co-operative exporters.

Dumping Margin – comparison methodology

It is noted that Carbon black for rubber applications is produced and sold in several grades. Information on record shows that there are significant differences in associated costs and prices of various grades, even though all the grades are employed for the same general purpose and perform the same function. In view of the same, the Authority has worked out a dumping margin separately for each grades of Carbon black by making a comparison between the Normal values and Export prices of the different grades at ex factory level. Weighted average overall dumping margin has been determined by computing the dumping found on each grade and associated volumes, without zeroing negative dumping found in individual grades. The comparison showed existence of dumping of the subject goods during the POI. The weighted average

dumping margin, expressed as a percentage to the export price has been determined as positive and significant.

Besides, information filed by the domestic industry and responding foreign producers show that there were significant differences in the prices of the product within the Period of Investigation. The Domestic industry has submitted that there has been significant increase in basic feedstock prices during the Period of Investigation, resulting in increase in the prices of the subject goods during the Period of Investigation. The domestic industry has therefore requested that the Authority should consider Normal value and Export price at as nearly as possible same time. Some of the responding exporters also agreed that the comparison of Normal value with Export price on the basis of weighted average for the Period of investigation may not be appropriate.

Considering the principles of fair comparison and distinctive facts of the present case, the Authority has compared Normal value with Export price on the basis of quarterly averages, which have thereafter been computed further to determine a single Dumping Margin for the PUC as a whole for the entire POI without zeroing negative dumping, if any.

DUMPING MARGIN

Considering the Normal values and Export prices as determined above separately for product subject to investigation, the dumping margins have been determined as follows:

Exporter	Country	Dumping Margin US\$ per Kg	Dumping Margin as %
M/s Continental Carbon Australia Pty Ltd.	Australia	***	38.36%
Non Co-operative producers/exporters	Australia	***	43.96%
M/s Jiangxi Black Cat Carbon Black Co., Ltd	China PR	***	26.34%
M/s Ningbo Detai Chemical Co. Ltd.	China PR	***	30.98%
M/s Hebei Daguangming Juwuba Carbon Black Co. Ltd.	China PR	***	33.93%
M/s Longxing Chemical Stock Co. Ltd.	China PR	***	37.94%
M/s HHUI / Ningbo Sheen – All Chemical Co	China PR	***	35.16%
Non Co-operative producers/exporters	China PR	***	46.45%

M/s. Yaroslavskiy Tekhnicheskij Uglerod through M/sTrigon Gulf Fzco	Russia	***	27.38%
Non-Co-operative producers/exporters	Russia	***	27.38%
All producers/exporters	Malaysia	***	12.77%
M/s Thai Tokai Carbon Product Co. Ltd	Thailand	***	21.27%
Non Co-operative producers/exporters	Thailand	***	38.53%

F. INJURY AND CAUSAL LINK

Injury Submissions made by interested parties

Submissions made by China Rubber industry Association, and M/s Suzhou Baohua Carbon Black Co. Ltd., China

Detailed submissions regarding injury to the Domestic industry have been made and it has been, *inter alia*, contended that the following table clearly establishes that the performance of the Domestic Industry has improved during the period of investigation as compared to the base year.

Sl No	Particulars	Comments on purported injury to Domestic Industry
1	Actual and potential decline in sales	Sales of Domestic Industry has increased in absolute terms. Domestic Industry is operating at its peak capacity.
2	Actual and potential decline in profits	Profitability has improved. Petitioners are making huge profits as compared to the base year when there was no allegation of dumping.
3	Actual and potential decline in output	Output has increased with increase in production and capacity utilization
4	Actual and potential decline in market share	All domestic producers have gained market share by 19%.
5	Actual and potential decline in productivity	Productivity has improved. There is no sign of deterioration in productivity.
6	Actual and potential decline in return on investment	Return on investment has improved during the period of investigation as compared to the base year when the same was negative.
7	Actual and potential decline in capacity utilization	Capacity utilisation has increased by more than 13%. Domestic Industry is operating at its peak capacity.
8	The magnitude of margin of dumping	Margin of dumping claimed is hypothetical.
9	Actual and potential	Cash flow of the Domestic Industry has improved during

	negative effects on cash flow	period of investigation as compared to base year.
10	Actual and potential negative effects on inventories	There is no change in the overall position of average stock if considered in link with the number of day sale/production. Domestic Industry is maintaining stock below the industry norms.
11	Actual and potential negative effects on employment	Number of employees has remained stable. There is no negative effect on employment.
12	Actual and potential negative effects on wages	Wages have increased even more than normal increase in the industry.
13	Actual and potential negative effects on growth	There is no negative effect on growth.
14	Actual and potential negative effects on ability to raise capital	The Domestic Industry has launched major expansion projects. This shows that they are able to raise capital easily.
15	Actual and potential negative effects on investments	The Domestic Industry has launched major expansion projects. This shows that there are no negative effects on investments because of alleged dumping.

It has been contended that the above table shows that the Domestic Industry is not affected on any of the mandatory injury parameters laid down under the Anti Dumping Agreement. Profits of the Domestic Industry have increased. Its capacity utilization including its enhanced capacity has increased. All injury parameters are showing signs of improvement during the period of investigation as compared to the base year. There is no causal relationship between alleged dumped imports and purported injury to the Domestic Industry.

Besides, it has been contended that the Domestic Industry is in expansion mode since 2007-08 due to improved performance and good profits. Various press releases issued by PCBL from time to time have been quoted. It has been contended that from this it is clear that the PCBL is increasing its capacities by making huge investments. These expansion programs clearly show that the business environment for the Domestic Industry in respect of Carbon Black is excellent and this has resulted in launching expansion programs by the Domestic Industry. This also shows that the Domestic Industry is in good health and wants to make use of the favourable conditions for increasing its profitability. There is no adverse effect on the Domestic Industry due to alleged dumped imports.

As regards, the Threat of Material Injury, it has been contended that the Threat of injury and material injury are generally considered in the alternative, as the threat of injury implies material injury in the imminent future, rather than material injury in the present. It has been contended that the claim of the Domestic Industry with regard to threat of injury is based on simple assertion and not based on facts. It has been contended that

there is neither material injury to the Domestic Industry nor a threat of injury to the Domestic Industry.

There is, however, no comment on the claim of the domestic industry with regard to deterioration in performance on quarter by quarter basis within the Investigation Period. Nor there is any comment on the performance of the domestic industry immediately after the Sept., 2008.

Submissions made by ATMA

ATMA has advanced elaborate submissions on various injury parameters, pleading non existence of injury to the domestic industry. Since the Authority has examined all injury parameters, the same addresses the views expressed by ATMA as well. Additionally, the Authority has following observations on the issues raised by ATMA.

- a. Price undercutting – the Authority is not recommending anti dumping duty in case of imports from Malaysia and Iran. But the volume of imports reported in DGCI&S data has been found to be understated in case of Thailand. The information made available by the responding Thai exporter shows positive price undercutting. With regard to remaining countries, the Authority notes that the price undercutting is positive. The fact that the said undercutting amount was reducing, at best, addresses the claim of the domestic industry that it was trying to reduce the gap between the imported and domestic product and resultant volume of domestic sales did not decline.
- b. Price suppression/depression – the Authority notes that the impact of dumped imports on the domestic industry needs to be ascertained within the period of investigation itself as well. This is so particularly in a case, where the increase in the cost of production within the period of investigation itself is significant as is seen from the quarterly analysis of the data. It is noted that within the period of investigation, the increase in the cost of production was more than the increase in the selling price. Further, in Oct.-Dec., 08 period, this difference accentuated leading to losses to the domestic industry.
- c. Losses in Oct.-Dec.,08 period – the Authority notes that ATMA has not established that the domestic industry has suffered financial losses in this period due to higher cost of raw materials. In any case, the Authority considers the actual cost structures of the domestic industry. In a situation where the input prices are rising, the Authority does not consider prevalent input prices for undertaking injury analysis but relies on the actual data. Thus, it would not be appropriate to assess injury based on prevailing input prices. Further, it is observed that whereas the sales volumes of the domestic industry declined significantly, those of imports showed an increase in this period.
- d. Normal value – While stating that the prices of the product or inputs are readily available, the Authority notes that ATMA has not provided any such information to the Authority. The purpose of evidence of Normal value in the application is to establish that there is sufficient prima facie evidence justifying initiation of the

investigation. But the quality and quantity of the investigation improves gradually during the course of the investigation, as the investigation progresses. The responses received by the Authority show that the dumping margins are significantly positive except against imports from Malaysia and Iran. In fact, the Authority is not recommending anti dumping duty in case of imports from Malaysia and Iran, notwithstanding that no response has been received from any exporter/producer from these countries. It is also noted that there are various grades of the feedstock and coal-based tar. Carbon black feedstock and the subject goods fall under the same customs classification and therefore summary customs data in any case is not useful. Besides, coal-based tar has wide range of grades that differ significantly in associated applications and prices.

The Authority is in agreement with ATMA' s submission that the Normal value is required to be determined on the basis of cost of production in the country of origin. In fact, the applicant has determined Normal value based on cost of production in the country of origin. This has, however, been constructed based on best available information.

- e. Injury information in the Application – the Authority notes that the Application filed before the Authority contains information in respect of all mandated injury parameters. However, it notes that existence of information on all injury parameters and claim of the domestic industry with regard to presence or absence of injury on account of some injury parameters should not be mixed up. While the Applicant is required to provide information on all mandated injury parameters, it is not necessary that the Application claims injury in respect of each and every injury parameter. In any case, it is an accepted position that all mandated injury parameters need not establish injury to the domestic industry.
- f. Recommendation and imposition of preliminary anti dumping duties-- With regard to the conditions precedents for recommendation and imposition of preliminary anti dumping duties, the Authority notes that injury for this purpose need not be restricted only to material injury. Moreover, the Authority has recorded a positive preliminary finding of material injury as well, which material injury has further aggravated in Oct.-Dec., 08 period, when situation in respect of a number of economic parameters drastically deteriorated.
- g. Contraction in demand – the Authority notes that demand for the product has not declined till Sept., 2008. While ATMA has claimed that import volumes steeply declined in Oct.-Dec., 08 without providing any evidence, information made available by the domestic industry from IBIS data shows that import volumes in fact substantially increased during this period. Further, while it is appreciated that vehicle production (and consequently all inputs to that industry, which in turn implies subject goods as well) declined steeply, a situation where demand for the product declines but import volumes increases, apparently shows injury being aggravated by the dumped imports.

- h. Raw materials prices – the Authority notes that spot and long term contracts have their own associated advantages & disadvantages. The domestic industry has claimed that their product prices are fixed on quarterly basis, whereas their raw material prices are fixed for a period much less than one quarter. Apparently, this factor could have gone in favour of the domestic industry.
- i. Difference in IBIS data – Authority notes that while alleging that IBIS data provided by the Applicant and procured by ATMA are at variance; it is seen that ATMA has not established the variance. In any case, the Authority has now procured data from DGCI&S and has recorded the present findings based on the same.

Examination by the Authority

The Authority has taken note of various submissions of the interested parties on injury to the domestic industry and has analyzed injury to the domestic industry considering the facts available on record and the applicable law as follows:

Cumulative assessment

The analysis shows that the subject goods are being dumped into India from the subject countries. Attention is invited to Annexure II para (iii) of the AD Rules which provides that in case imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports, in case 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. 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 Authority observes that

- i. The margins of dumping from each of the subject countries are more than the limits prescribed above;
- ii. The volume of imports from each of the subject countries is more than the limits prescribed except from Iran;
- iii. Cumulative assessment of the effects of imports is appropriate since the exports from the subject countries directly compete with the like articles offered by the domestic industry in the Indian market. This is evident from the following:

- a. The domestic industry produces various grades of the subject goods. Similar grades are being produced by producers from the subject countries and supplied to India. The subject goods manufactured by the producers from the subject countries inter-se and in comparison to the product manufactured by the domestic industry has comparable properties. In other words, the subject goods supplied from various subject countries and by the domestic industry are inter-se like articles.
- b. There are common parties who are resorting to use of imported material from various sources and domestic material. Imported and domestic materials are, therefore, being used interchangeably and there is direct competition between the domestic product & imported product and *inter-se* imported product.
- c. The exporters from the subject countries and domestic industry have sold the same product in the same periods to the same set of customers. The sales channels are comparable.
- d. Volume of imports from each of the subject countries is significant.
- e. Domestic industry has contended that consumers make purchase decision on the basis of prices offered by various suppliers.

In view of the above, the Authority considers it would be appropriate to assess injury to the domestic industry cumulatively from Australia, China PR, Malaysia, Russia and Thailand.

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

As regards the impact of the dumped imports on the domestic industry para (iv) of Annexure-II of the Anti Dumping Rules states as follows:

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

flow, inventories, employment, wages, growth, ability to raise capital investments.”

Demand and market share

Demand of the product in the Country has been assessed as the sum of domestic sales of the domestic producers and imports from all sources.

	Unit	2005-06	2006-07	2007-08	POI
Demand in India	Mt	408692	439812	503122	526199

It is noted that demand for the product has shown significant and consistent increase over the injury period.

Import volumes and market share

The Applicant has provided information with regard to imports based on IBIS data for the entire injury period. The Authority requested the DGCI&S for the import data, which was received. Further, a number of producers/exporters from subject countries and Indian consumers/importers have responded to the Authority. The Authority collated all imports information and compared the same in order to assess the volume of imports during the period. It is noted that the actual volume of exports reported by responding exporters in case of Thailand and Australia is higher than the volume reported in DGCI&S or IBIS data. Further, the volume of imports reported in DGCI&S data is significantly higher than the volume of imports reported in IBIS data. Therefore, in case of Thailand and Australia, the Authority has adopted the actual volume of exports reported by the responding exporters from Australia and Thailand. In all other cases, the volume of imports reported by DGCI&S has been adopted. It is seen that: -

a) Imports from subject countries have increased significantly in absolute terms, except from Malaysia.

Imports	Unit	2005-06	2006-07	2007-08	POI
Australia	Mt	2,142	2,094	5,905	6,655
China PR	Mt	1,342	6,221	11,565	12,580
Malaysia	Mt	942	2,660	5,443	5,092
Russia	Mt	16,194	8,379	25,008	26,391
Thailand	Mt	125	3,932	5,731	7,888
Subject countries	Mt	20,746	23,287	53,652	58,607

Other countries	Mt	3,139	7,383	9,415	8,552
Total import	Mt	23,885	30,670	63,066	67,159

b) Imports from subject countries have increased in relation to production and consumption in India as compared to the base year.

	Unit	2005-06	2006-07	2007-08	POI
Dumped imports in relation to Indian production	%	4.15	4.36	9.40	9.83
Dumped imports in relation to demand in India	%	5.08	5.29	10.66	11.14

c) While market share of the subject countries have increased, that of the domestic industry has marginally declined as compared to the base year.

Market Share in demand as %	Unit	2005-06	2006-07	2007-08	POI
Subject countries	%	5.08	5.29	10.66	11.14
Other countries	%	0.77	1.68	1.87	1.63
Domestic industry	%	69.94	68.42	65.69	65.28
Supporter companies	%	12.96	12.10	10.44	11.12
Other Indian Producers	%	11.26	12.51	11.33	10.83
Share of Indian Industry	%	94.16	93.03	87.46	87.24

It is thus seen that the volume impact of the imports on the domestic industry has been marginally adverse when compared to data 2007-08. However, since the data of 2007-08 also has a part of the POI, it would be appropriate to compare it with the preceding periods. It is seen that the market share of imports from the subject countries have significantly increased, whereas that of the domestic industry has declined.

Price effect of imports

With regard to the effect of the dumped imports on prices, the Designated Authority is required to consider whether there has been a significant price undercutting by the

dumped imports as compared with the price of the like products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. It is seen that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting, except in case of Malaysia. For the purpose, the Authority notes that there is significant difference in the prices of different grades. Further, there was significant increase in the input cost over the injury period, thus leading to increase in the prices within the Period of investigation. Therefore, the Authority has compared landed price of imports with the selling price of the domestic industry for comparable grades and on quarterly basis. Weighted average price undercutting has been determined after considering associated import volumes. It is seen that the landed price of imports of the subject goods are significantly below the selling prices of the domestic industry, resulting in significant price undercutting, except in the case of imports from Malaysia; though the overall price undercutting from the subject countries is positive. The position is as follows.

Country	Price undercutting (Rs/Mt)	Price undercutting as %(Range)
Australia – Continental	***	4 to 8%
China PR	***	8 to 12%
Russia	***	5 to 9%
Thailand - TCP	***	1 to 4%
Malaysia	***	Negative
Subject countries	***	3 to 8%

The Authority has determined price undercutting for the responding exporters in case of Thailand and Australia using their data instead of DGCI&S because the volume of exports reported by the responding exporters is higher than the volume reported in DGCI&S.

Economic parameters of the domestic industry

Annexure II to the AD Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the AD Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential

negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

The various injury parameters relating to the domestic industry are discussed below:

Sales volumes

Sales volumes of the domestic industry were analysed over the injury period. The position is as follows

Period	Domestic Sales volume
	Mt
2005-06	285,838
2006-07	300,935
2007-08	330,521
POI	343,516
Oct-Dec07	90,295
Jan- Mar08	81,231
Apr- Jun08	86,612
Jul- Sep08	85,379
Oct.-Dec.08 (Post POI)	64,164

It is seen that the domestic sales volume have increased over the period. However, it is noted that within the Period of investigation, the sales volumes have declined as compared to the first quarter of the POI. Further, sales volumes declined very significantly in Oct.-Dec., 08 period.

Capacity and Capacity Utilization

	Capacity	Production	Capacity utilization
Unit	Mt	Mt	%
2005-06	440,000	396,040	90.01
2006-07	440,000	427,568	97.17
2007-08	485,000	465,587	96.00
POI	500,000	488,060	97.61
Oct-Dec07	125,000	123,480	98.78
Jan- Mar08	125,000	121,632	97.31
Apr- Jun08	125,000	121,891	97.51
Jul- Sep08	125,000	121,057	96.85
Oct.-Dec.08 (Post POI)	125,000	79,992	63.99

It is seen that production and capacity utilization improved upto Dec., 2007 over the

injury period. However, it is noted that the capacity utilization have gradually declined thereafter. Further, production and capacity utilisation declined very significantly in Oct.-Dec., 08 period.

Factors affecting prices:

It is seen that imports are undercutting the domestic prices. Comparison of cost of production and selling price of the domestic industry along with landed price of imports shows that the imports are also suppressing prices of the domestic industry.

	Selling price	Cost of production	Contribution margin	Landed price of dumped imports
Unit	Rs/Mt (Indexed)	Rs/Mt (Indexed)	Rs/Mt (Indexed)	Rs/Mt
2005-06	100	100	100	29,463
2006-07	125	119	126	41,128
2007-08	121	113	136	37,246
POI	147	142	120	43,902
Oct-Dec07	128	116	141	36,591
Jan- Mar08	134	127	125	40,296
Apr- Jun08	149	146	118	46,160
Jul- Sep08	179	180	111	52,726
Oct-Dec, 08 (Post POI)	192	234	27	64,243

It is observed that the landed price of imports of the subject goods is significantly below the selling price of these products by the domestic industry. Resultantly, the domestic industry has not been able to increase the prices of the product in proportion to the cost increases except in case of Malaysia. As a result of significant price difference between the imported products' price and domestic industry' price, some consumers have increased their procurement of dumped imports, as seen from some of the responses to importer's questionnaire. The Authority notes that response to questionnaire was received from some of the importers/consumers of Carbon Black in India. The Authority analyzed information provided by these parties and compared sourcing of these parties from imports and domestic market. The table below summarizes the position:

	Subject goods imported	Subject goods purchased from Domestic producers
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	2006-07	2007-08	POI	2006-07	2007-08	POI
Apollo	***	***	***	***	***	***
JK	***	***	***	***	***	***
Cabot India	***	***	***	***	***	***
Goodyear India	***	***	***	***	***	***
Goodyear SA	***	***	***	***	***	***
General Rubber	***	***	***	***	***	***

It is seen that sourcing of Apollo Tyres from domestic sources has marginally increased in the POI and imports declined. In case of J. K. Tyres, while sourcing from domestic market declined, sourcing from imports went up. The Authority determined price difference between domestic and imported product in case of Apollo Tyres and JK Tyres. The table below summarizes:

	Apollo	JK
Import volume (MT)	***	***
CIF import price per MT	***	***
Landed price of imports per MT	***	***
Purchase price from domestic industry per MT	***	***
Price undercutting per MT	(***)	***

Even though the above is on average basis, it is seen that the imports were significantly cheaper than the prices of domestic industry in case of JK Tyres. At the same time, while volume of imports by JK Tyres increased, volume of domestic sourcing declined. In case of Apollo Tyres, the import prices and domestic prices were somewhat comparable. The import volumes increased and domestic sales stagnated. However, in Period of investigation, the import volumes by Apollo slightly declined and domestic sales almost proportionately increased. The Authority thus notes the difference in the domestic and import prices directly impacted the volumes procured by the consumers.

Profit/Loss, return on investment and cash profits

The position with regard to Profit/Loss, return on investment and cash profits was as follows

Period	Profit/Loss Rs. per MT (Indexed)	Return on investment as % (Indexed)	Cash profits per MT (Indexed)	Rs.
2005-06	100	100	100	
2006-07	243	205	164	
2007-08	291	187	181	
POI	267	140	164	
Oct-Dec07	392	199	211	
Jan-Mar08	289	143	167	
Apr-Jun08	221	122	134	
Jul-Sep08	162	98	108	
Oct-Dec., 08 (Post POI)	-732	-190	-289	

It is observed that the profitability was improving till Dec., 2007. However, the profitability started declining thereafter significantly to such an extent that the profitability was below the levels of 2006-07 from April, 2008. Return on investment and cash profits have followed the same trend as that of profitability. Return on investment and cash profit per unit increased upto Dec., 2007 and declined thereafter even beyond the levels registered in 2006-07. Further, profitability declined to such an extent in Oct.-Dec., 08 that the domestic industry suffered significant financial losses. Return on investment and cash profits became negative in this quarter.

Inventories:

Data relating to inventories shows as follows

	Unit	2005-06	2006-07	2007-08	POI	Oct-Dec07	Jan-Mar08	Apr-Jun08	Jul-Sep08
Opening	Mt	10649	8361	8528	12322	12322	10049	9841	10228
Closing	Mt	8361	8528	10024	16190	10049	9841	10228	16190
Average Stock	Mt	9505	8444	9276	14256	11186	9945	10034	13209

It is noted that inventories have increased in the POI. The increase in the last quarter of the POI was significant in spite of reduction in production.

Employment, wages and productivity

Data relating to employment, wages and productivity show as follows

	Unit	2005-06	2006-07	2007-08	POI
Number of employees-Nos	Indexed	100	100	100	99
Wages-Rs.Lacs	Indexed	100	115	141	147
Wages per unit of production-Rs./MT	Indexed	100	107	120	119
Productivity per employee-MT	Indexed	100	108	117	125

It is seen that there was some decline in number of employees. Wages paid and productivity show improvement.

Dumping Margin:

It is observed from the section pertaining to Dumping Margin above that dumping margins in respect of the subject countries are significantly positive.

Growth

It is noted that the growth of the domestic industry was positive till Dec., 2007. The growth has however started becoming negative thereafter, as would be seen from the table below showing growth in various parameters.

	Unit	2006-07	2007-08	POI	Oct-Dec07	Jan-Mar08	Apr-Jun08	Jul-Sep08
Production	%	7.96	8.89	4.83	6.09	-1.50	0.21	-0.68
Sales volume	%	5.28	9.83	3.93	9.28	-10.04	6.62	-1.42
Profit/(Loss) per unit	%	143.02	19.88	-8.24	34.44	-26.25	-23.49	-26.54
Return on investment	%	11.41	-1.98	-5.05	1.31	-6.10	-2.21	-2.70
Average stock	%	-11.16	9.85	53.69	20.59	-11.09	0.90	31.64

Ability to raise funds:

It is noted that the ability to raise funds has not got affected so far.

Threat of material injury

Besides the above, the claim of threat of material injury was also examined. For this purpose, the Authority also considered situation of the domestic industry for the period subsequent to the POI.

1. The imports of the subject goods in India have been increasing. The volume of imports beyond the POI is also significant.

2. The difference between the import price of the subject goods and that of the domestic industry prices is quite significant. The imports are entering at such prices that the same are having a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports. While the input prices were increasing till Sept., 2008 and the imports were suppressing the prices of the domestic industry, the input prices have started declining thereafter. Resultantly, the prices of the subject goods have also fallen. It is however seen that the decline in the domestic industry's product prices is more than the decline in the input costs (as established by the decline in contribution).

3. The Applicant has provided information which suggests that demand for the subject goods in the subject countries has significantly fallen. From the data of Chinese Customs with regard to exports of Carbon black and tyres (majority of subject goods gets consumed in production of tyres), it is noted that export volumes of these countries have shown significant decline. Based on the information released by China customs, petitioner claimed significant decline in exports of tyres from China PR, as shown in table below. The Applicant has claimed that even if it is assumed that the Chinese domestic demand has not declined, it would be evident that the consumption of Carbon black in China PR alone has so materially declined that the same is significantly higher than the gross consumption in India.

	Apr-Sept., 08	Oct-Dec.,08	Jan-Feb., 09
Average monthly export of Tyres (Nos.)	3,622,818	2,675,376	1,284,561
Average monthly Carbon black consumption (MT)	50,719	37,455	17,984
Decline in monthly Carbon black consumption (MT)		13,264	32,736

(Note: The Applicant has claimed that China customs was earlier reporting figures in terms of numbers, whereas the same has been changed to weight w.e.f. January 2009 and therefore they have assumed average weight of tyre as 50 kg and average carbon black consumption as 14 kg per tyre for the above analysis].

The Applicant also provided information to show that the demand for tyres in the domestic and export markets of some of the subject countries has significantly declined. Since majority of product under consideration is consumed in tyres production, this clearly indicates creation of significant surpluses with the producers in these countries.

Conclusion on material injury and threat of material injury

It is seen that performance of the domestic industry has deteriorated in terms of profits, return on investments, cash profit, inventories and market share. Parameters such as production, sales volumes, and capacity utilization improved till Dec., 2007, but declined thereafter. The deterioration is more pronounced in terms of quarterly performance within the proposed investigation period. Further, the domestic industry was threatened with material injury and the same is evidenced by a number of parameters relating to Oct.-Dec., 2008 period. The deterioration in performance is significant and material. The domestic industry has thus suffered material injury. The post POI data shows threat of material injury as well.

Causal Link

As per the AD Rules, the designated authority is, inter alia, obligated to also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors must 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 dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.

It was examined whether these other parameters listed under the Rules could have contributed to injury to the domestic industry. It was found that

- a. Imports from Third Countries: - The Authority notes that imports from third countries beyond de-minimis limits have been reported only from UK. The applicant has stated that there is no production facility in UK and imports from UK largely represent sales of off specs material. Other interested parties have not disputed this claim.
- b. Contraction in Demand: - The Authority notes that there is no contraction in the demand during injury period. On the contrary, overall demand for subject goods has shown significant positive growth during the injury period. It is, however, noted that there is some decline in demand in Oct.-Dec., 2008 period. While it is appreciated that there was a decline in demand in this period and the same would have had its own adverse impact on the domestic industry in terms of sales and consequently production & capacity utilization, it is noted that the import volumes increased further in this quarter. Thus, while the domestic sales (and consequently production & capacity utilisation) declined significantly in this quarter, the imports increased significantly in this quarter.
- c. Pattern of consumption: - No significant change in the pattern of consumption has come to the knowledge of the Authority, nor any interested party has made any submission in this regard.
- d. Conditions of competition: - the investigation so far has not shown that conditions of competition or trade restrictive practices are responsible for the claimed injury to the domestic industry.

- e. Developments in technology: - the investigation so far has not shown that there was any significant change in technology which could have caused injury to the domestic industry.
- f. Export performance of the domestic industry: - While the export volumes of the domestic industry have increased, the price and profitability in the domestic and export market has been segregated by the Authority for the purpose of present injury assessment. Therefore, the analysis on injury is not misrepresentative due to possible inclusion of export performance. In fact, the domestic industry has contended that they are being forced to export only because of lack of demand for their product in the Country because of presence of dumped imports in the market.

The Authority notes that while listed known other factors do not show injury to the domestic industry, following parameters show that injury to the domestic industry has been caused by dumped imports.

- i. Whereas feedstock prices increased significantly over the injury period, the import prices did not increase in proportion to such increase in the feedstock prices. The landed prices of imports were lower than the selling price of the domestic industry. As a result of price undercutting, the consumers have resorted to higher volume of imports, thus leading to loss of potential sales and decline in market share.
- ii. Decline in market share has prevented the domestic industry from raising their production and capacity utilization. On the contrary, production and capacity utilization declined after Dec., 2007 due to presence of dumped imports.
- iii. Landed price of imports were undercutting the prices of the domestic industry. Resultantly, lower import prices appear to have prevented the domestic industry from increasing their prices.
- iv. Price suppression effect of the imports has directly resulted in deterioration in profitability of the domestic industry and consequently the return on investment and cash profits. Thus, the decline in profits, return on investments and cash profits is apparently due to presence of dumped imports in the market.
- v. Significant deterioration in performance of the domestic industry in Oct.-Dec., 08 period is apparently due to presence of dumped imports in the market.

The Authority is of the view that injury to the domestic industry has been caused by dumped imports.

Magnitude of injury and injury margin

The Authority has determined non-injurious prices of different grades of subject goods for the domestic industry taking into account cost of production of the domestic industry.

This non-injurious price of the domestic industry has been compared with the landed values of the subject imports to determine injury margin. The injury margins have been worked out as follows:

Country	Exporter	IM US\$ per Kg	IM%
Australia	M/s Continental Carbon Australia Pty Ltd.	***	12.26%
Australia	Non Co-operative producers/exporters	***	14.80%
China PR	M/s Jiangxi Black Cat Carbon Black Co., Ltd	***	9.54%
China PR	M/s Ningbo Detai Chemical Co. Ltd.	***	10.62%
China PR	M/s Hebei Daguangming Juwuba Carbon Black Co. Ltd.	***	7.40%
China PR	M/s Longxing Chemical Stock Co. Ltd.	***	14.88%
China PR	M/s HHUI / Ningbo Sheen – All Chemical Co	***	8.71%
China PR	Non Co-operative producers/exporters	***	18.23%
Malaysia	All producers/exporters	***	-7.11%
Russia	All producers/exporters	***	12.48%
Thailand	M/s Thai Tokai Carbon Product Co. Ltd	***	9.46%
Thailand	Non Co-operative producers/exporters	***	18.20%

H. Conclusions:

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

(a) The product under consideration has been exported to India from the subject countries below associated Normal values, thus resulting in dumping of the product.

(b) The domestic industry has suffered material injury in the product under consideration. Besides, the imports were threatening material injury to the domestic industry as well.

(c) The material injury and threat thereof has been caused by the dumped imports from subject countries.

I. Indian industry's interest & other issues

The Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the Country. Imposition of anti-dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product to the consumers.

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

J. Recommendations

The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and causal link. Having initiated and conducted a preliminary investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having provisionally established positive dumping margins as well as material injury and threat thereof to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of provisional duty is required to offset dumping and injury pending completion of the investigation. Therefore, the Authority considers it necessary and recommends imposition of provisional anti-dumping duty on imports of subject goods from the subject countries in the form and manner described hereunder.

Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of provisional anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, provisional antidumping duty as per amount specified in Col 8 of the table below is recommended to be imposed from the date of this notification in the event of acceptance of these recommendations by the Central Government, on all imports of subject goods originating in or exported from subject countries.

S.N	Heading/ Subheading	Description of goods *	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	28030010	Carbon Black used in rubber applications	Australia	Australia	M/s Continental Carbon Australia Pty Ltd.	M/s Continental Carbon Australia Pty Ltd.	0.131	Per Kg	US\$
2.	28030010	'Carbon Black used in rubber applications'	Australia	Australia	Any combination other than the above		0.155	Per Kg	US\$
3.	28030010	'Carbon Black used in rubber applications'	Australia	Any country other than subject countries. **	Any	Any	0.155	Per Kg	US\$
4	28030010	'Carbon Black used in rubber applications'	Any country other than subject countries. **	Australia	Any	Any	0.155	Per Kg	US\$
5	28030010	'Carbon Black used in rubber applications'	China PR	China PR	M/s Ningbo Detai Chemical Co. Ltd	M/s Ningbo Detai Chemical Co. Ltd	0.133	Per Kg	US\$
6	28030010	'Carbon Black used in rubber applications'	China PR	China PR	M/s Hebei Daguangming Juwuba Carbon Black Co., Ltd.	M/s Hebei Daguangming Juwuba Carbon Black Co., Ltd.	0.078	Per Kg	US\$
7	28030010	'Carbon Black used in rubber applications'	China PR	China PR	M/s Longxing Chemical Stock Co., Ltd.	M/s Longxing Chemical Stock Co., Ltd.	0.159	Per Kg	US\$
						M/s Ningbo Sheen All Chemical Co. Ltd through M/s Hhui Chemical Co., Ltd	0.094	Per Kg	US\$
8	28030010	'Carbon Black used in rubber applications'	China PR	China PR	M/s Jiangxi Black Cat Carbon Black Co., Ltd	M/s Jiangxi Black Cat Carbon Black Co., Ltd	0.109	Per Kg	US\$

9	28030010	'Carbon Black used in rubber applications'*	China PR	China PR	Any combination other than the above		0.190	Per Kg	US\$
10	28030010	'Carbon Black used in rubber applications'*	China PR	Any country other than subject countries. **	Any	Any	0.190	Per Kg	US\$
11	28030010	'Carbon Black used in rubber applications'*	Any country other than subject countries.**	China PR	Any	Any	0.190	Per Kg	US\$
12	28030010	'Carbon Black used in rubber applications'*	Russia	Russia	M/s. Yaroslavskiy Tekhnicheskiy Uglerod	M/s Trigon Gulf FZCO	0.132	Per Kg	US\$
13	28030010	'Carbon Black used in rubber applications'*	Russia	Russia	Any combination other than the above		0.132	Per Kg	US\$
14	28030010	'Carbon Black used in rubber applications'*	Russia	Any country other than subject countries. **.	Any	Any	0.132	Per Kg	US\$
15	28030010	'Carbon Black used in rubber applications'*	Any country other than subject countries. **	Russia	Any	Any	0.132	Per Kg	US\$
16	28030010	'Carbon Black used in rubber applications'*	Thailand	Thailand	M/s Thai Tokai Carbon Product Company Ltd.	M/s Thai Tokai Carbon Product Company Ltd.	0.114	Per Kg	US\$
17	28030010	'Carbon Black used in rubber applications'*	Thailand	Thailand	Any combination other than the above		0.195	Per Kg	US\$
18	28030010	'Carbon Black used in rubber applications'*	Thailand	Any country other than subject countries. **	Any	Any	0.195	Per Kg	US\$
19	28030010	'Carbon Black used in rubber applications'*	Any country other than subject	Thailand	Any	Any	0.195	Per Kg	US\$

			countries. **						
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*Note: - Pending further investigation, N880, N990 and N991 grades and Carbon black grades meant for semi conductive compound applications are excluded from the scope of the product under consideration.

** Subject countries are: Australia, China PR, Malaysia, Russia and Thailand.

K. Further Procedure

The following procedure would be followed subsequent to notifying the preliminary findings: -

- (a) The Authority invites comments on these findings from all interested parties and the same would be considered in the final findings;
- (b) Exporters, importers, the applicant and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the dispatch of the these Preliminary findings. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- (c) The Authority would hold a hearing to hear the views of various interested parties orally;
- (d) The Authority would conduct further verification to the extent deemed necessary;
- (e) The Authority would disclose essential facts as per the AD Rules before announcing final findings.

(R. Gopalan)
Designated Authority