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

**4th Floor, Jeevan Tara Building  
5 Parliament Street, New Delhi - 110001**

Dated the 1<sup>st</sup> October, 2015

**NOTIFICATION  
Final Findings**

**Subject: Sun Set Review (SSR) investigation of the anti-dumping duties imposed on the imports of ‘Carbon Black used in rubber applications’, originating in or exported from China PR, Russia and Thailand.**

**No.15/8/2014-DGAD:** Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as the Rules) thereof;

**A. Background of the case**

2. Whereas, an anti-dumping investigation concerning imports of “Carbon Black used in rubber application” (hereinafter also referred to as the subject goods), originating in or exported from Australia, China PR, Russia and Thailand was initiated by the Designated Authority (hereinafter also referred to as the Authority) vide Notification No.14/21/2008-DGAD dated 26<sup>th</sup> December 2008. The preliminary finding was issued by the Authority, recommending imposition of provisional anti-dumping duties on the imports of the subject goods, originating in or exported from Australia, China PR, Russia and Thailand, vide Notification No. 14/21/2008-DGAD dated 25th May 2009. The provisional duty was imposed by the Central Government on the imports of the subject goods, originating in or exported from the Australia, China PR, Russia and Thailand vide Notification No. 83/2009-Customs dated 30<sup>th</sup> July 2009. The final findings notification of the Authority was published vide Notification No. 14/21/2008-DGAD dated 24<sup>th</sup> December 2009. The definitive anti-dumping duties were

imposed by the Central Government on the imports of the subject goods, originating in or exported from the said countries, vide Notification No. 6/2010 dated 28<sup>th</sup> January 2010.

3. Whereas, on the basis of an application filed by M/s Automotive Tyre Manufacturers' Association (ATMA), the Authority initiated a mid-term review (MTR) investigation vide Notification No.15/41/2010-DGAD dated 30<sup>th</sup> August, 2011 and vide Notification No.15/41/2010-DGAD dated the 28<sup>th</sup> February, 2013 recommended continued imposition of the anti-dumping duties at enhanced rates which was imposed by the central Government vide Notification No. 9/2013-Customs (ADD) dated 26<sup>th</sup> April, 2013.
4. WHEREAS, M/s Phillips Carbon Black Limited and M/s Hi-Tech Carbon, now known as SKI Carbon Black (India) Pvt Ltd, (hereinafter also referred to as the applicants), have filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from Australia, China PR, Russia and Thailand and consequent injury to the domestic industry and requested for review, continuation and enhancement of the anti-dumping duties, imposed on the imports of the subject goods, originating in or exported from the said countries. Subsequently, the petitioners withdrew their petition in respect of imports from Australia and accordingly the Authority excluded Australia from the purview of the present SSR investigation and considered China PR, Russia and Thailand as subject countries in the present SSR investigation. Accordingly, the Authority initiated the sunset review (SSR) investigation in accordance with Section 9A(5) of the Act read with Rule 23 of the Anti-dumping Rules, vide Notification No.15/8/2014-DGAD, dated 15<sup>th</sup> July, 2014 to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the China PR, Russia and Thailand (hereinafter also referred to as the subject countries) and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

#### **B. Procedure**

5. The procedure described below has been followed with regard to the investigation:
  - i. The Authority sent copy of the initiation notification dated 15<sup>th</sup> July 2014 to the embassies of the subject countries in India, known exporters from the subject countries, known importers and other interested parties, and the domestic producers, as per available information. The known interested parties were

requested to file questionnaire responses and make their views known in writing within the prescribed time limit. Copies of the letter and questionnaires sent to the exporters were also sent to embassies of the subject countries along with a list of known exporters/producers, with a request to advise the exporters/producers from the subject countries to respond within the prescribed time.

- ii. Copy of the non-confidential version of the application filed on behalf of the applicants was made available to the known exporters, other domestic producers and the embassies of the subject countries in accordance with Rule 6(3) of the Rules.
- iii. The Authority forwarded a copy of the public notice initiating the sunset review to the following known producers/exporters in the subject countries and gave them opportunity to make their views known in writing within forty days from the date of the letter in accordance with the Rules:

Carbon Black Producers/exporters in China

Hebei Daguangming Industry Group Co., Ltd, Western Side, Donghuan South Road, Shahe City, Hebei Province, China.	Shanghai Kargos International Trade Co., Ltd, T2-12F, No.2601 Xietu Rd, Shanghai, China.
Hebeijing Country Xinyuan Rubber Chemical Co Ltd., Shengli Road Guangsha District, Hengshui City, Hebei province, China.	Hebei Yonghui Chemical Industries Import and Export Co., Ltd., No.199, Xinhua Road, Shijiazhuang, Hebei, China.
Gansu Jinshi Chemical Co., Ltd 109 #, West Suburb, Minle County, Gansu, China.	Shandong Shuangyan Chemical Co., Ltd., No.787 Donger Road Dongying City, Shandong, China.
Weifang Longzhou Industry and Commerce Co., Ltd., Luocheng Town, Shouguang City, Shandong Province. China.	Laiwu Taishan Carbon Black Co., Ltd Gaozhuang industrial zone, Laicheng, Laiwu, China.
Qichang Chemical Co., Ltd Beichenwang, Tangyin County, Anyang City, Henan Province, China	Jiangxi Black Cat Carbon Black Co., Ltd., Liyao, Jingdezhen City, Jiangxi Province, China.
Suzhou Boahua Carbon, Xushuguan Suzhou, China.	Tianjin Dolphin Carbon Black Ltd. East of Railway, North of Yinheqiao Beichein District, Tianjin, China.

Carbon Black Producers/Exporters in Russia

Omsktechuglerod OJSC 644049, Barabinskaya Street, 20, Omsk, Russia	Amtel Holding Company Amtel House 45 Kutuzovsky Prospekt 121170 Moscow Russia
Severgazprom 39/2 Lenin Street, Ukhta Komi Republic of Russian Federation	Nizhnekamsk Nizhnekamsk Carbon Black Plant 423570 Nizhnekamsk Prombaza Republic of Tartarstan
Yaroslavltekhuglerod 150053 Yaroslavl	

Carbon Black Producers/Exporters in Thailand

Thai Carbon Black 44 Moo1, Ayuthaya-Angthong Highway Tambol Pasa Amphur Muang Anghang 14000, Thailand	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	

- iv. In response to the initiation of the subject investigation, following producers/exporters from the subject countries have responded by filing questionnaire response:

1.	M/s Jiangxi Black Cat Carbon Black Co. Ltd., Liyao Jingdezhen City, Jiangxi Province, PR China.
2.	M/s Wuhai Black Cat Carbon Black Co., Ltd.,Wusuyuan, Hainan District, Wuhai City, Inner Mongolia Province PR China.
3.	M/s Handan Black Cat Carbon Black Co. Ltd. North Chenzhuang Village, Shicunying, Ci County, Handan City, (Ci County Coal-Chemical Industrial Zone), Hebei Province, PR China
4.	M/s Chaoyang Black Cat Carbon Black Inc., Ltd. No. 82 fifth division of Changjiang Road,

	Longcheng District, Chaoyang City, Liaoning Province, PR China
5.	M/s Hancheng Black Cat Carbon Black Co., Ltd. Xizan Coal Industry Park, Hancheng, Shanxi, China
6.	M/s Tangshan Black Cat Carbon Black Inc. Ltd. Xiaozai , Fangezhuang, Guye District, Tangshan City, Hebei Province PR China
7.	M/s Taiyuan Black Cat Carbon Black Co., Ltd. Gao bai industrial park, Qingxu county, Taiyuan City, Shanxi Province PR China

- v. Market Economy Treatment (MET) questionnaire was also forwarded to the known producers/exporters in China PR and the Embassy of China PR in India with the request to provide relevant information to the Authority within the prescribed time limit. While for the purpose of initiation, the normal value in China PR was considered based on the cost of production of the subject goods in India, duly adjusted, the Authority informed the known producers/exporters from China PR that has examined the claim of the applicant in the light of Para 7 and Para 8 of Annexure I of Anti-dumping Rules, as amended. The exporters/producers of the subject goods from China PR were, therefore, requested to furnish necessary information/sufficient evidence as mentioned to enable the Authority to consider whether market economy treatment can be granted to the cooperative exporters/producers in China PR. However, none of the respondent producers/exporters from China PR have filed MET questionnaire response rebutting the non-market economy treatment meted out to China PR.
- vi. Questionnaires were sent to the following known importers/users/associations of subject goods in India calling for necessary information in accordance with the Rules:

1	M/s JK Tyres Ltd., Link House, 3, Bahadurshah Zafar Marg, New Delhi – 110 002	12	M/s Birla Tyre, Shivam Chambers 53, Syed Amir Ali Avenue, Kolkata-700 019, West Bengal.
2	M/s Apollo Tyres, Apollo House 7, Institutional Area, Sector-32, Gurgaon -122001 (Haryana)	13	M/s CEAT Ltd., CEAT Mahal, 463, Dr. Annie Besant Road, Worli, Mumbai 400 030
3	M/s MRF Ltd., 124 Greams Road,		M/s Ralson, Plot No: 3, New Industrial Area, Mandideep. Distt.

	Chennai-06	14	Raisen, M.P. – 462046
4	M/s Poddar Tyre, GT Road Jugiana, Ludhiana (PB) 141420	15	M/s Oriental Rubber Industries, 525 Koregoan Bima Pune Nagar Road, Pune
5	M/s Hindustan Rubber, 1 Janki Center Off Veera Desai Road Andheri(W) Mumbai-53	16	M/s Agarwal Rubber, 15-1-503/49/A, Ashok Market, Siddiamber Bazar, Hyderabad 500 01,
6	M/s Exel Rubber, Flat No. 507, Sai Sadan Apts, Opp. SBI Balkampet, S.R. Nagar, Hyderabad – 500038	17	M/s Tega Industries, First floor, No 210, 5 <sup>th</sup> Main Road Vijay Nagar 2 <sup>nd</sup> Stage Bangalore 560040
7	M/s Phoenix Yule, Ideal Plaza, 4 <sup>th</sup> Floor, 11/1, Sarat Bose Road, Kolkatta 600 02, West Bengal	18	M/s Monotona Tyres,Mumbai, Mumbai 422 01, Maharashtra
8	M/s TVS Srichakra, Perumalpatti road Velaripatti Road , Melur Taluq Madurai-625122	19	M/s Ahuja Continental, 1109 Mittal Towers MG Road Bangalore
9	M/s Midas Rubber,P. John Zachariah Buildings, Kottayam, Kerala, 686001	20	M/s Tolins, M.C. Road, Kalady-683 574, Kerala
10	M/s TM Tyres,5-35, Survey No, 305 & 321 Kalakal Village Medak – 502320, Andhra Pradesh	21	M/s Hartex Rubber,6-3-865, Madhupala Towers, Ameerpet, Hyderabad- 500 016
11	Automotive Tyre Manufacturers Association (ATMA), PHD House, 4 <sup>th</sup> Floor, Opposite Asian Games Village, Sirifort Institutional Area, New Delhi - 110016		

- vii. In response to the above notification, while importers questionnaire response has been filed by M/s Apollo Tyres Ltd and M/s. JK Tyres & Industries Ltd., submissions have been filed by ATMA.
- viii. Questionnaires were also sent to the following known domestic producers/associations of the subject goods in India for necessary information and response. However, none of these domestic producers of the subject goods filed any response.

1	Continental Carbon India Limited A-14 Industrial Area No. 1 South Side of GT Road Ghaziabad-201 001	3	Himadri Chemicals & Industries Limited Ruby House 8, India Exchange Place 2nd Floor, Kolkata- 700 001
2	Goodluck Carbon Pvt. Ltd. (Ralson Carbon Black) 303, Rohit House, Tolstoy Marg, Connaught Place, New Delhi-110001	4	Association of Carbon Black Manufacturers, A-22, Belvedere Tower, DLF City, Phase – I, Gurgaon - 122002

- ix. Exporters, producers and other interested parties who have not responded to the Authority, nor supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- x. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange for details of imports of subject goods for the past three years, including the period of investigations, which was received by the Authority. The domestic industry provided information with regard to imports based on IBIS data (secondary source). The Authority has, however, relied upon the DGCI&S imports data for computation of the volume & value of imports and injury analysis.
- xi. Optimum cost of production and cost to make & sell the subject goods in India based on the information furnished by the domestic industry 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. The NIP has been determined by the Authority in terms of the principles laid down under Annexure III to the Anti-dumping Rules.
- xii. The period of investigation for the purpose of the present review is 1<sup>st</sup> October 2012 to 31<sup>st</sup> December 2013 (15 months). However, injury analysis covered the periods April, 2010-March, 2011, April, 2011-March, 2012, April, 2012-March, 2013 and the POI.
- xiii. In accordance with Rule 6(6) of the Anti-dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a public hearing held on 30<sup>th</sup> January, 2015. The parties, who presented their views in oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

- xiv. A disclosure statement, disclosing the essential facts of the investigation, was issued by the Authority on 31<sup>st</sup> July, 2015 inviting comments from the interested parties.
- xv. Post disclosure, due to change in the incumbency of the Designated Authority and in line with the judgment of the Hon'ble Supreme Court in the ATMA case, another oral hearing was conducted by the new Designated Authority on 27<sup>th</sup> August, 2015. The parties, who presented their views in the 2<sup>nd</sup> oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.
- xvi. The submissions made by the interested parties during the course of this investigation have been considered by the Authority, wherever found relevant, in this finding.
- xvii. Verification to the extent deemed necessary was carried out in respect of the information & data submitted by the domestic industry.
- xviii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xix. In accordance with Rule 16 of the Rules supra, the essential facts were disclosed by the Authority to the known interested parties vide a disclosure statement issued on 31<sup>st</sup> July, 2015 and comments received on the same, to the extent considered relevant by the Authority, have been considered in this finding.
- xx. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the findings on the basis of the facts available.
- xxi. The Department of Revenue vide their letter No.354/130/2009-TRU dated 17.07.2015 extended the time period to complete the investigations up to 14.01.2016.
- xxii. \*\*\* represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

- xxiii. The average exchange rate of 1US\$ = Rs 58.05 prevailing during the POI has been adopted by the Authority in this finding.

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

6. The Product under Consideration (PUC) in the original investigation was 'Carbon Black used in rubber application'. In the original investigation the product was defined as under:

*"5. 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, 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.*

7. Since the present investigation is for sunset review, the scope of the product under consideration remains the same as that of the original investigation. The subject goods fall under Chapter 28 of the Customs Tariff Act under Subheading No.28030010. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

8. Rule 2(d) with regard to like article 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;*

9. Applicants have claimed that there is no known difference in carbon black produced by them and exported from subject countries. Carbon black produced by the applicants and imported from subject countries are having comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods.

10. The application filed is for the review, continuation and enhancement of the quantum of the anti-dumping duty in force, and the issue of like article has been already dealt with in the previous investigations. In the earlier investigations the Authority has already held that the subject goods produced by the domestic industry is like article to the subject goods imported from the subject countries. The opposite interested parties submitted that Authority should exclude such grades, which are not produced by the domestic industry. However, the Authority notes that such claims have not been substantiated. The product under consideration in the earlier as well as present investigation is Carbon Black used in rubber applications and the different grades are not mutually exclusive in usage. Moreover, in the earlier investigation, no such claim was made by the opposite interested parties. 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.

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

##### **Submissions made by the Exporters/Importers/ users/other Interested Parties**

11. With regard to scope of the domestic industry and standing, following submissions have been made by the exporters/importers/users/other interested parties:
- i. Hi-Tech Carbon is related to the producers/exporters in the subject countries namely Thai Carbon Black Co Ltd, Thailand, Liaoning Birla Carbon Co Ltd, China and Columbian Chemicals Weifang Co Ltd., China. Therefore, Hi-Tech Carbon cannot be considered as domestic industry.
  - ii. The argument of the applicants that exports made by related exporters in China PR were insignificant vis-à-vis total Indian production or total Indian demand or total Indian sales is not relevant. Instead, what is relevant is comparison of imports made by the related exporters with imports from China PR only.
  - iii. As regards exports made by related company in Thailand, the level of exports from Thailand does seem insignificant during the POI. However, upon comparison with previous years, it is also apparent that after the end of previous investigation, imports from Thailand shot up significantly and reduced drastically at the time of present POI. This trend shows a probable strategy on the part of domestic producer in India and its related exporter in Thailand to keep its exports insignificant during the POI, so as to avoid the issue of standing of domestic industry.

- iv. If Authority accepts the contention of DI that imports made under Advance License should be considered for determination of injury, then Hi-tech should be excluded from the constituent of the Domestic Industry.

### **Submissions made by Domestic Industry**

12. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
  - i. According to Rule 2 (b), “domestic industry” means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term ‘domestic industry’ may be construed as referring to the rest of the producers”.
  - ii. It is an established position of law that the Authority may, in its discretion, include a producer who is either related to the producer/exporter of the subject goods or imported the subject goods, within the scope of domestic industry.
  - iii. In the instant case, Hi-Tech Carbon should be considered as an eligible domestic producer despite exports by their group companies in subject countries in view of (i) past decision of the Designated Authority in this regard at the time of original investigations and mid-term review, (ii) low volume of exports by the group companies, (iii) production of the company in India being quite significant, (iv) focus of the company being on domestic production instead of imports.
  - iv. None of the petitioner companies have imported the subject goods.
  - v. Phillips Carbon Black Limited is not related to any exporter or importer of the subject goods.
  - vi. Aditya Birla Group, to which Hi-Tech Carbon belongs, has group companies who are producers of subject goods in Thailand and China, but they are independent legal entities under legal framework of respective countries.
  - vii. Petitioners’ production constitutes more than 50% of Indian production. The petition satisfies the requirement of standing under the Rules and petitioner companies constitute the domestic industry.

- viii. Hi Tech Carbon was earlier a unit of Aditya Birla Nuvo Ltd and now a unit of SKI Carbon black (India) Pvt Ltd.
- ix. The Aditya Birla Group is an Indian multinational conglomerate corporation headquartered in Mumbai. It operates in 33 countries worldwide. The Group consists of 5 flagship companies in India namely Hindalco, Grasim, Aditya Birla Nuvo, idea Cellular and Ultra Tech Cement.
- x. Aditya Birla Nuvo divested its Carbon Black business (HiTech Carbon – Gumudipundi, Renukut and Patalganga units) to SKI Carbon Black (India) Pvt Ltd with effect from 1<sup>st</sup> April, 2013. 99.99% share in SKI Carbon Black (India) Pvt Ltd is held by SKI Carbon Black (Mauritius) Ltd, which in turn is 100% owned by SKI Investment Pte Ltd, Singapore. However, carbon black business of the Group was and continues to be nicknamed as Hi Tech Carbon. Both Aditya Birla Nuvo Ltd and SKI Carbon Black (India) Pvt Ltd. are Aditya Birla Group Companies.
- xi. The directors of SKI Carbon Black (India) Private Limited are as follows
  - a. Mr Santrupt Misra
  - b. Mr Gopi Krishna Tulsian
  - c. Mr Surendra Goyal
  - d. Mr Dilip Roopsingh Gaur
  - e. Mr Shyamsundar Rathi
  - f. Mr Satish Rai
- xii. Thai Carbon Black Public Co Ltd, Thailand (TCB) is a member of the Aditya Birla Group.
- xiii. Following are the directors of TCB
  - a. Mr Kumar Mangalam Birla- Chairman
  - b. Mrs Rajashree Birla- Director
  - c. Mr Santrupt B Misra- Director
  - d. Mr S S Mahansaria- Independent Director
  - e. Mr G K Tulsian- Independent Director
  - f. Mr Prakit Pradipasen- Independent Director
  - g. Mr Deepak Mittal- Independent Director
  - h. Mr Rajinderpal Singh Thakralbutra Independent Director
  - i. Mr Arvind K Newar- Independent Director
  - j. Mr Sajeev Sood- President & Director
- xiv. The shareholders of Columbian Chemical Weifang Co Ltd China PR are Thai Carbon Black Public Company Limited – 20.59%, Alexandria Carbon Black Co S.A.E, Egypt- 20.59% and SKI Investments Pte Ltd, Singapore-

58.82%. The Board of Directors of Columbian Chemical Weifang Co Ltd China PR are as follows:

- a. Mr Kumar Mangalam Birla- Chairma
  - b. Mrs Rajashree Birla
  - c. Mr Rajiv Dube
  - d. Mr Santrupt Misra
  - e. Mr D D Rathi
  - f. Mr Kevin Boyle
- xv. Liaoning Birla Carbon Co Ltd (LBCC) was founded in 2003 and is based in China. In 2010, Thai Carbon Black Company Ltd (TCB) held 100% shareholdings in the LBCC. In October 2013, TCB disposed off its investments in LBCC and as of October 2013, LBCC operates as a subsidiary of Columbian Chemicals (Weifang) Holdings S. a.r.l. which is a Aditya Birla Group Company.
- xvi. SKI India, Thai Carbon Black, LBCC and Columbian Chemical are autonomous while taking business decisions and pursuing their business plans. In fact, both the companies are working in competition with each other in Indian market, as one of the domestic producer and the other market as an exporter. The decision making of both the companies are independent and there is no interference in this regard
- xvii. Following are the exports into India from the companies mentioned below under advance license.

Company	FY 2012-13	FY 2013-14	POI	FY 2014-15
CCW-China	***MT	*** MT	***MT	***MT
LBCC- China	*** MT	***MT	*** MT	***MT
TCB- Thailand	*** MT	*** MT	*** MT	***MT

#### **Examination by the Authority**

13. In the earlier investigations, the domestic industry was constituted by M/s Phillips Carbon Black Limited and M/s HiTech Carbon. Although the application for sunset review has been filed by M/s Phillips Carbon Black Limited and M/s HiTech Carbon, the Authority notes that since 2013 Hi-Tech Carbon was demerged from Aditya Birla Nuvo Ltd and M/s SKI Carbon (India) Pvt Ltd was incorporated. Apart from Phillips Carbon Black Limited and SKI Carbon (India) Pvt Ltd, there are three other producers of subject goods in India namely M/s. Continental Carbon India Limited, Himadri Chemicals and Industries Limited and M/s Good Luck Carbon Black Pvt. Ltd. Although these other domestic producers have neither supported nor opposed the present SSR application, from the application the Authority notes that the applicant industry's production accounts for 78.29 % in the production of the subject goods in India. Therefore,

the production of subject goods by M/s Phillips Carbon Black Limited and M/s SKI Carbon (India) Pvt Ltd (formerly HiTech Carbon) constitute a major proportion in Indian production, as per the Rules.

14. On the basis of the declaration submitted by M/s Phillips Carbon Black Limited and M/s SKI Carbon (India) Pvt Ltd (formerly HiTech Carbon), the Authority further notes that none of the applicant companies have imported the subject goods from the subject countries. Further, on the basis of the declaration of M/s Phillips Carbon Black Limited, the Authority notes that this company is not related to any exporter or importer of the subject goods. As regards M/s SKI Carbon (India) Pvt Ltd (formerly HiTech Carbon), on the basis of information provided by the company, the Authority notes that SKI Carbon (India) Pvt Ltd (formerly HiTech Carbon) belongs to Aditya Birla Group and has group companies in Thailand and China which are involved in the production and exports of subject goods. The details of exports of subject goods made by these group companies to India during the POI are as follows:

Name of the Aditya Birla Group Company	MT
Columbian Chemicals Weifang Co Ltd, China (a)	***
Liaoning Birla Carbon Co Ltd, China (b)	***
Total for China (a+b)	***
Thai Carbon Black, Thailand	***

15. As claimed by the applicants, these imports were cleared by the Indian importers under duty exemption scheme of the Govt. of India. On the basis of information furnished by the applicants, the Authority notes that during the POI while the volume of exports made by the related companies from Thailand is insignificant, the exports made by the related Chinese companies constitutes an insignificant percentage of the total exports of the subject goods made by China to India during the POI considering (i) the total imports of subject goods to India during the POI (ii) the total imports of subject goods to India from the subject countries during the POI (iii) the total Indian production, (iv) domestic sales of the domestic industry, (v) demand for subject goods in India and (vi) production of SKI as is evident from the table below:

Particulars	China	Thailand
Imports in relation to Total Imports	***%	***%
Imports in Relation to Total Imports from Subject Countries	***%	***%
Imports in Relation to Total Indian Production	***%	***%

Imports in Relation to Total SKI Production	***%	***%
Imports in Relation to Domestic sales of DI	***%	***%
Imports in Relation to Demand	***%	***%

16. The issue regarding standing of the applicants was raised by the interested parties at the time of earlier investigations as well and the Authority had held that both Hi-Tech Carbon (now known as SKI Carbon (India) Pvt Ltd) and Phillips Carbon Black constituted domestic industry. The Authority notes that there is no material change in the legal and factual position, concerning the standing of the applicants, since the original investigations and midterm review investigations. In view of the above position, the Authority considers both M/s Phillips Carbon Black Limited and M/s SKI Carbon (India) Pvt Ltd (formerly HiTech Carbon), the applicants for the present sunset review investigation, as domestic industry within the meaning of the Rule 2(b) of the Rules and holds that the application satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

17. As regards the contention that imports under advance license should not be treated differently for the purpose of standing and injury, the Authority notes that the applicant domestic industries have declared that they have not imported the subject goods from the subject countries during the POI. Nevertheless, imports/exports made under advance license should not debar the domestic industry from being treated as eligible domestic industry because these imports are on actual user basis and meant for production and export. However, the imports made under advance licenses cannot be considered to have not affected the price in the domestic market. An Advance license/authorization holder has a choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance Release Order. The purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. Therefore, it would not be reasonable to exclude the duty free imports from the injury analysis. Further, import under advance license is a benchmark for the price at which goods can be imported by a consumer after payment of taxes and duties. It would not be appropriate to consider that imports made under advance license do not cause injury to the domestic industry.

**E. Confidentiality and other issues**

18. Following submissions have been made by the exporters, importers and other interested parties with regard to confidentiality:

- i. Excess confidentiality has been claimed by the petitioners in respect of information concerning costing, price, changes in the structure of the company etc.
  - ii. Excessive confidentiality claimed by the petitioners has restrained the respondent from making complete analysis of injury.
19. Following submissions have been made by the domestic industry with regard to confidentiality:
- i. The interested parties have resorted to excessive confidentiality in the questionnaire responses filed by them and not provided even the non confidential summary.
  - ii. Non-confidential version of the questionnaire responses is grossly inadequate. The interested parties have not disclosed all such information that they are obliged to disclose under the Rules and practice being followed by the Designated Authority in this regard.

#### **Examination by the Authority**

20. Submissions made by the interested parties with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

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

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

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

*(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information*

*public or to authorise its disclosure in a generalized or summary form, it may disregard such information.*

- ii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential version of the evidences submitted by various interested parties in the form of public file. The Authority notes that any information which is available in the public domain cannot be treated as confidential.

## **F. MISCELLANEOUS ISSUES**

### **Submissions by producers/exporters/importers/other interested parties**

21. Following are the miscellaneous submissions made by producers/ exporters/ importers/ other interested parties:

- i. Applicant has not filed a 'duly substantiated' petition in terms of Rule 23(1B) of the Anti-Dumping Rules by providing sufficient and accurate information.
- ii. The subject investigation covers only carbon black for rubber application. The Authority should exclude the carbon black required for non-rubber applications from the import data while doing analysis.
- iii. Carbon Black business of Hi-Tech Carbon has been sold by way of slump sale by Aditya Birla group with effect from 1<sup>st</sup> April 2013. Details of such information have not been provided in the petition.
- iv. Imposition of anti-dumping duty will deprive the Indian consumers from qualitative products exported by Omsk, Russia.

### **Submissions made by the Domestic Industry**

22. Following are the miscellaneous submissions made by the domestic industry:

- i. Hi-Tech Carbon was demerged from Aditya Birla Nuvo Ltd and SKI Carbon Black (India) Pvt Ltd has been incorporated in 2013. Both companies

pertain to Aditya Birla Group. It is, therefore, factually incorrect that Aditya Birla Group has sold the business. Carbon Black business has been hived off to a new company. The business continues to be owned and controlled by same group.

- ii. Petitioners have provided the raw data without segregation of product under consideration and non product under consideration. However, for determination of volume and value of imports, the petitioners have only considered imports of product under consideration.
- iii. The petition has been filed with best available information.

### **Examination by the Authority**

23. The miscellaneous submissions made by the interested parties are examined as below:

- i. As regards the contention that Applicant has not filed a 'duly substantiated' petition in terms of Rule 23(1B) of the Anti-Dumping Rules by providing sufficient and accurate information, the Authority notes that the present investigation was initiated on the basis of sufficient prima facie evidence furnished by the domestic industry showing dumping, injury and causal link and justifying initiation of the investigation in accordance with the Act and Rules.
- ii. As regards the submission that Authority should exclude the carbon black required for non-rubber applications from the import data while doing analysis, the Authority notes that the product under consideration in the present investigation, as the earlier investigations, covers only carbon black required for rubber applications. Further, the domestic industry has made available the transaction-wise imports data sourced from the DGCI&S in the public file.
- iii. As regards the submission that imposition of anti-dumping duty will deprive the Indian consumers from qualitative products exported by Omsk, Russia, the Authority notes that imposition of anti-dumping duty does not prevent imports.

**G. MARKET ECONOMY TREATMENT, NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

**Submissions made by exporters, importers and other interested parties**

24. Following submissions have been made by the exporters, importers and other interested parties with regard to normal value, export price and dumping margin:

- i. During the period of investigation, only Jiangxi Black Cat Carbon Black Inc., Ltd was involved in the exporting business within the Black Cat Group. Remaining six related producers were not involved in any export business during POI and their products were exported through Jiangxi Black Cat. Jiangxi Black Cat Carbon Black Inc., Ltd did not export its own produced subject goods to India during the POI.
- ii. Petitioners directly proceeded to construct normal value for the subject countries without providing evidence of prevailing selling price in such countries.
- iii. Normal Value cannot be constructed based on domestic industry data for market economy countries in term of Section 9A(1)(c).
- iv. For China PR, dumping margin needs to be determined based on the responses of the cooperating producers and exporters instead of adopting constructed normal value and export price approach.
- v. The Applicant has used international raw material prices as per Platts magazine, however the source document has not been made available.

**Submissions made by the domestic industry**

25. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows:

- i. China should be treated as non-market economy country and normal value in case of China should be determined in accordance with para-7 Annexure-I to the Rules.
- ii. The petitioner has not been able to get any evidence of price in the domestic markets of subject countries. In view of the same, the normal value has been constructed for all exporters/producers from subject countries.

- iii. Platts document is a third party information and the domestic industry is not authorized to disclose the same.

### **Examination of the Authority**

#### **Determination of Normal Value for Russia and Thailand**

26. Under section 9A (1) (c), the normal value in relation to an article means:

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

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

#### **Determination of Normal Value for producers and exporters in China PR**

27. 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 Rules.

28. As per Paragraph 8 of Annexure I of the Anti-dumping 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 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.

29. The Authority notes that consequent upon the initiation notice issued by the Authority, the following Chinese companies have filed exporter's questionnaire response:

- a. Jiangxi Black Cat Carbon Black Co. Ltd
- b. Wuhai Black Cat Carbon Black Co., Ltd
- c. Handan Black Cat Carbon Black Co. Ltd
- d. Chaoyang Black Cat Carbon Black Inc., Ltd
- e. Hancheng Black Cat Carbon Black Co., Ltd
- f. Tangshan Black Cat Carbon Black Inc. Ltd
- g. Taiyuan Black Cat Carbon Black Co., Ltd

30. As stated in the exporter's questionnaire responses (EQR), all the above Chinese companies belong to the Black Cat Group of China and are producers of the subject goods. As stated in the EQR, during the POI, Jiangxi Black Cat Carbon Black Co. Ltd exported the subject goods produced by the other above stated six Group companies and did not export self produced subject goods to India. The EQR further stated that none of the other Black Cat Group companies have exported the subject goods to India during the POI directly.

31. The Authority notes that none of the respondent producers/exporters from China PR have claimed market economy treatment (MET) by filing the market

economy questionnaire response. None of the interested parties have also made available any material fact to the Authority to select an appropriate market economy third country for the purpose of determination of normal value in case of China PR. Under the circumstances, the Authority is not in a position to apply Para 8 of Annexure 1 to the Rules to the above named Chinese companies and therefore has to proceed in accordance with Para 7 of Annexure - I to the Rules for determination of normal value for China PR.

32. Paragraph-7 of the Annexure-1 to the Anti-dumping Rules provides as follows:

*“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”*

33. According to these Rules, the normal value in China can be determined on any of the following basis:

- a) On the basis of the price in a market economy third country, or
- b) The constructed value in a market economy third country, or
- c) The price from such a third country to other countries, including India.
- d) If the normal value cannot be determined on the basis of the alternatives mentioned above, the Designated Authority may determine the normal value on any other reasonable basis including the price actually paid or payable in India for the like product duly adjusted to include reasonable profit margin.

34. The Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of

such producers in third country is required, which is not available with the Authority in the present investigation. Also, no such verifiable information with regard to prices and costs prevalent in other such market economy third countries have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country. Under such circumstances the Authority proceeds to construct the normal value based on any other reasonable basis in terms of Para 7 of Annexure 1 to the Rules.

35. In terms of Para 7 of Annexure 1 to the Rules, the Authority has constructed the Normal value for the Chinese producers on the following basis –

- i. International prices of major inputs, carbon black feed stock has been considered on the basis of the price published by Platts magazine for Heavy Stock GC3%.
- ii. Consumption of raw materials and conversion costs have been adopted on the basis of information/data of most efficient producer of the domestic industry.
- iii. Selling, general & administrative costs have been taken on the basis of information/data of most efficient producer of the domestic industry.
- iv. Profit has been taken @ 5% of ex-factory cost excluding interest.

36. For the purposes of conducting a fair comparison and in view of significant difference in the cost of production of different grades, separate normal value has been calculated for each grade of subject goods produced and sold. Further, in view of significant difference in cost of production and resultant selling price over time period within the POI, separate normal value has been calculated for each quarter of the period of investigation. However, the dumping margins so arrived for different grades and for each quarter have been weighted averaged for the entire 'period of investigation' and for the 'product under consideration' as a whole thereafter by considering associated export volumes. The Authority has determined the weighted average normal value accordingly.

#### **Normal value in case of Russia and Thailand**

37. Since none of the exporters from Russia and Thailand have cooperated in the present investigation and filed exporter's questionnaire response, the Authority has determined the Normal Value in respect of Russia and Thailand as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. Accordingly

normal value at ex-factory level in respect of Russia and Thailand has been determined on the following basis –

- i. International prices of major inputs, carbon black feed stock has been considered on the basis of the price published by Platts magazine for Heavy Stock GC3%.
- ii. Consumption of raw materials and conversion costs have been adopted on the basis of information/data of most efficient producer of the domestic industry.
- iii. Selling, general & administrative costs have been taken on the basis of information/data of most efficient producer of the domestic industry.
- iv. Profit has been taken @ 5% of ex-factory cost excluding interest.

38. For the purposes of conducting a fair comparison and in view of significant difference in the cost of production of different grades, separate normal value has been calculated for each grade of subject goods produced and sold. Further, in view of significant difference in cost of production and resultant selling price over time period within the POI, separate normal value has been calculated for each quarter of the period of investigation. However, the dumping margins so arrived for different grades and for each quarter have been weighted averaged for the entire 'period of investigation' and for the 'product under consideration' as a whole thereafter by considering associated export volumes. The Authority has determined the weighted average normal value in respect of Russia and Thailand accordingly.

## **H. EXPORT PRICE**

### **Export price for the responding producers-exporters from China PR.**

39. As stated in the exporter's questionnaire responses (EQR), all the respondent Chinese companies belong to the Black Cat Group of China and are producers of the subject goods. As stated in the EQR, during the POI, Jiangxi Black Cat Carbon Black Co. Ltd exported the subject goods produced by the other above stated six Group companies and did not export self produced subject goods to India. The EQR further stated that none of the other Black Cat Group companies have exported the subject goods to India during the POI directly. Based on the information furnished in the EQ responses, the Authority notes that during the POI, Jiangxi Black Cat Carbon Black Co. Ltd exported a total quantity of \*\*\*MT of subject goods produced by its related companies to India for a total value of US\$ \*\*\*.

40. For the purposes of conducting a fair comparison and in view of significant difference in the cost of production of different grades, separate export price has been calculated for each grade of subject goods produced and sold. Further, in view of significant difference in cost of production and selling price over time period within the POI, separate export price has been calculated for each quarter of the period of investigation. Price adjustments have been made on account of overseas freight, inland freight, insurance, clearing charges, credit costs, bank charges & VAT etc. on the basis of the questionnaire response filed by the exporter and the related producers. After making the acceptable adjustments, the Authority has determined weighted average net export price as US\$ \*\*\*per MT during the POI.

**Determination of Export Price in respect of Non-Co-operative Exporters/Producers from China PR**

41. The Authority has determined the Export Price in respect of non-cooperative exporters from China PR as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. Accordingly, after making the due adjustments, the weighted average net export price at ex-factory level in respect of all non-co-operative exporters from China PR has been determined as US\$\*\*\*per MT.

**Determination of Export Price in respect of Exporters/Producers from Russia and Thailand**

42. Since no exporter from Russia and Thailand have cooperated and filed exporters questionnaire response in the present investigation, the Authority has determined net export price in respect of Russia and Thailand as per facts available in terms of Rule 6(8) of the Anti-dumping Rules. After making the due adjustments, the Authority has determined weighted average net export price for the all exporters in Russia and Thailand as US\$ \*\*\*per MT and US\$ \*\*\*per MT respectively.

**I. DUMPING MARGIN**

43. Considering the normal values and export prices as determined above, the dumping margins are determined as follows:

Particulars		Normal value/MT	Export Price/MT	Dumping Margin/MT	Dumping Margin%	Dumping Margin Range %
China PR						
Producer	Exporter					
Wuhai Black Cat Carbon Black Co., Ltd Handan Black Cat Carbon Black Co. Ltd	Jiangxi Black Cat Carbon Black Co. Ltd	***	***	***	***	70-80

Particulars	Normal value/MT	Export Price/MT	Dumping Margin/MT	Dumping Margin%	Dumping Margin Range %
Chaoyang Black Cat Carbon Black Inc., Ltd (producer) Hancheng Black Cat Carbon Black Co., Ltd Tangshan Black Cat Carbon Black Inc. Ltd Taiyuan Black Cat Carbon Black Co., Ltd					
Others from China PR	***	***	***	***	100-110
Russia	***	***	***	***	15-25
Thailand	***	***	***	***	5-15

### Post POI

Country of Origin	Producer		Normal value (US\$/MT)	Net Export Price (US\$/Mt)	Dumping Margin (US\$/Mt)	Dumping Margin (%)	Dumping Margin Range (%)
China PR	Producer	Exporter	***	***	***	***	75-85
	Wuhai Black Cat Carbon Black Co., Ltd Handan Black Cat Carbon Black Co. Ltd Chaoyang Black Cat Carbon Black Inc., Ltd (producer) Hancheng Black Cat Carbon Black Co., Ltd Tangshan Black Cat Carbon Black Inc. Ltd Taiyuan Black Cat Carbon Black Co., Ltd	Jiangxi Black Cat Carbon Black Co. Ltd					
	Others from China PR		***	***	***	***	80-90
Russia	Any		***	***	***	***	35-45
Thailand	Any		***	***	***	***	(10-20)

## J. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

### Submissions made by the exporters, importers and Other Interested Parties

44. Following are the submissions made by exporters, importers and other interested parties:

- i. Imports under Advance license are a legally permissible way to import the goods duty free for exportation. In the present case, significant quantities

- have been imported into India under Advance license scheme. Authority should exclude such imports and examine alleged injury.
- ii. Applicant has provided grade-wise and country-wise dumping margin for the subject product and alleged dumping. However, Applicant has failed to provide country-wise and grade-wise injury margin.
  - iii. Applicant has deflated the landed value of imports to show a higher level of price undercutting.
  - iv. Capacity of the Applicant has increased by 38% during the injury period. Such a huge increase in capacity would have resulted in significantly high fixed costs during the period of investigation. The Authority is requested to determine the non-injurious price by applying the principles provided under Annexure III of the anti-dumping rules.
  - v. Rate of return as high as 22% may result in unduly high non-injurious price. The Authority should adopt ROCE earned by the Industry when there was no allegation of dumping as reasonable profit margin and not 22% ROCE.
  - vi. Designated Authority should take into consideration the loans taken by the Applicant and only those loans that relate to or may be apportioned to subject product are taken into account while determining non-injurious price.
  - vii. While the production and sales of the Applicant has been declining consistently over the injury period, in contrast, the production of sales of other domestic producers has been consistently increasing throughout the injury period. Therefore, alleged dumping can not affect selectively.
  - viii. Landed Value is higher than selling price, injury cannot be attributed to the imports.
  - ix. Given a situation wherein 99% of imports are competing in India at Rs.88,950/MT, what were the reasons because of that the applicants did not increase the prices and earned profits.
  - x. In the past three years, the domestic industry had best capacity utilization of 88% in the year 2010-11. Authority is requested to take 88% capacity utilization for Non Injurious Price and not 74% that had prevailed during period of investigation.

- x. Inter-se competition between the domestic producers is the reason for decline of market share of the Applicants. The Applicant has selectively chosen those inefficient domestic producers who are not capable to earn a profit even when no import may take place at all. Otherwise, with the increase in imports, as alleged by the Domestic Industry, the other producers would not have shown tremendous growth. Therefore, causal link is absent.
- xii. During the injury period, applicant was protected adequately with levy of anti-dumping duty as well as safeguard duty. Despite the excessive level of protection granted, applicant has not been able to improve its performance because of its own intrinsic reasons.
- xiii. The annual report of PCBL for 2013-14 states that there are other factors for the decline in their performance such as inadequate infrastructure at ports, causing detention of vessels and higher freight cost, higher inflation leading to higher interest costs may delay the investment recovery cycle, volatility in Rupee exchange rate vis-à-vis US \$, etc. Therefore, causal link between alleged dumping and injury is not established.

#### **SUBMISSIONS MADE BY THE DOMESTIC INDUSTRY**

45. Following are the submissions made by the domestic industry in this regard:

- i. Landed value of imports is lower than the cost of production of the domestic industry and selling price of the domestic industry. The market share of the imports has substantially increased since the original case and is significant during period of investigation. The imports are entering the Indian market at low prices which are compelling the domestic industry to keep its prices below its cost to match the import price.
- ii. Imports from subject countries have substantially increased. Subject imports have increased not only in absolute terms but also in relation to production and consumption in India. Imports from subject countries are entering the Indian market at dumped prices.
- iii. Imports are significantly suppressing the prices of domestic industry. Domestic industry is unable to increase its selling price neither in proportion to increase in cost nor at the level of cost thereby suffering huge losses. In fact, whereas the domestic industry was earlier earning profits, the domestic industry is now once again suffering financial losses despite existing anti dumping duty.
- iv. Demand of the product in the Country shows a positive trend over the injury period.

- v. Volume of dumped imports has increased over the period with a marginal decline during period of investigation. However, there is an overall significant increase in imports.
- vi. The volume of imports from Russia and Thailand is low and shows declining trend over the present injury period. However, low volume of imports from Thailand and Russia are because of anti dumping duty in force and aggressive dumping by Chinese producers. Dumping is likely to intensify in the event of cessation of anti dumping duty on imports from these countries.
- vii. Performance of the domestic industry deteriorated in terms of production, sales, capacity utilization, market share, profits, return on investments, cash flow. Consequent impact of dumping on the domestic industry has been significantly adverse.
- viii. The domestic industry has suffered continued injury from dumped imports. Even if it is concluded that the domestic industry has not suffered continued material injury, in any case, the performance of the domestic industry continues to be fragile. Further, dumping and consequent injury is likely to continue and intensify further, should the current anti dumping duty ceases.
- ix. The dumping margin in respect of the present countries is quite significant. Existence of significant dumping is a clear evidence of injury being caused to the domestic industry.
- x. The injury claim is with regard to period of investigation where there was no safeguard duty in place. Further the claim of the domestic industry is despite anti-dumping duty, the imports are entering the Indian market at dumped prices causing injury to the domestic industry
- xi. Domestic industry in fact earned returns on investment in 2010-11 which itself justifies 22% return on investment.
- xii. The dumping margin and injury margin during POI is positive. Post POI is necessary only when either dumping margin or injury margin in the POI is negative.
- xiii. Public statements in the Annual Report do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry. The factors listed in the annual reports are in the context of absolute levels of performance of the domestic industry. Thus, the statements in the annual report do not provide any guidance with regard to deterioration in performance over the injury period of an anti dumping case.
- xiv. The very basic objective of Annexure III is to determine the amount of antidumping that would remove the injury to the domestic industry. As per Rule 3, information or data relating to cost of production for POI should be considered and as per Rule 4 best utilization of raw materials/ utilities/production capacities over the past three years and POI may be considered to nullify the injury. If there is no inefficient utilization of raw materials/ utilities/production capacities by the domestic industry, then rule 4

will not come into operation at all. So authority can consider the period other than POI only when there is inefficient utilization of resources.

- xv. If the revalued assets are used in the production process, one cannot exclude that revalued value in arriving at the cost of production. Otherwise, it will understate the true cost of production and will also be against rule 3 that requires consideration of data relating to period of investigation.
- xvi. Without prejudice, even if NIP should be at ex-factory level, the principles of fair comparison are required to be considered and addressed while comparing NIP with import price.
- xvii. Transportation cost from the factory to warehouse must be included while calculating the NIP.
- xviii. Bad debts shall not be treated as non-cost item and should be allowed while determination of NIP.
- xix. For the purpose of return on capital employed, fixed assets must be included at gross value basis and not on net basis. In any case, DGAD must consider the replacement value of fixed assets which have been depreciated substantially at original cost/replacement cost.

#### **EXAMINATION BY THE AUTHORITY**

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

- i. As regards the submission that Authority should exclude the duty free imports made under advance licenses while examining injury, the Authority notes that the imports made under advance licenses cannot be considered to have not affected the price in the domestic market. An Advance license/authorization holder has a choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance Release Order. The purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. Therefore, it would not be reasonable to exclude all duty free imports for the purpose of injury analysis. Further, import under advance license is a benchmark for the price at which goods can be imported by a consumer after payment of taxes and duties. It would not be appropriate to consider that imports made under advance license do not cause injury to the domestic industry.
- ii. As regards the submission that 22% return on capital employed, allowed by DGAD, is not reasonable, the Authority notes that granting 22% return on capital employed is a consistent practice in the DGAD

- iii. As regards the submission that inter-se competition between the domestic producers is the reason for their injury, the Authority notes that in a healthy market situation competition among the producers cannot be ruled out. While it cannot be excluded that other producers may have contributed to the deterioration of the situation of the domestic industry, given their sales volume and market share during the POI, this is not sufficient to break the causal link between the injury suffered by domestic industry and the dumped imports. It is noted that the performance of the domestic industry has materially declined in respect of parameters such as profit, cash flow and return on investment.
  - iv. As regards the submission that the applicant has selectively chosen inefficient domestic producers to constitute domestic industry to show inflated injury, the Authority notes that the production of the petitioning companies constitutes more than 78% of Indian production. Further, these companies constituted domestic industry at the time of original investigation as also the midterm review investigation. Moreover, no substantiated information has been provided by the opposing interested parties to establish that performance of other domestic producers is significantly different as compared to performance of the domestic industry.
  - v. As regards the submission that alleged injury to the domestic industry is due to intrinsic reasons and as per the annual report of PCBL for 2013-14 there are other factors for the decline in their performance, the Authority notes that it's a case of continued dumping of subject goods from the subject countries. The injury analysis carried out hereunder is self explanatory to establish that the continued dumping has caused continued injury to the domestic industry. Further, public statements like annual reports of companies do not alter the conclusion that dumping of the product has contributed to injury to the domestic industry.
  - vi. As regards submission of the applicant and other interested parties concerning methodology of determination of NIP, the Authority notes that relevant guidelines in this regard is well laid down under Annexure III of Anti-dumping Rules. The authority has determined NIP for the domestic industry on the basis of provisions laid down under Annexure-III of the Rules.
47. In consideration of the various submissions made by the interested parties in this regard, the Authority proceeds to examine the current injury, if any, to the domestic industry before proceeding to examine the likelihood aspects of dumping and injury on account of imports from the subject countries.

48. Rule 11 of Antidumping Rules read with Annexure–II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, “.... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles....” In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.
49. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, stock, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the rules supra.
50. The present investigation is a sunset review of anti-dumping duties in force. Rule 23 provides that provisions of Rule 11 shall apply, mutatis mutandis in case of a review as well. The Authority has, therefore, determined injury to the domestic industry considering, mutatis mutandis, the provisions of Rule 11 read with Annexure II. Further, since anti-dumping duties are in force on imports of the product under consideration, the Authority considers whether the existing anti-dumping duties on the imports of subject goods from the subject countries are required to be considered while examining injury to the domestic industry. The Authority has examined whether the existing anti-dumping measure is sufficient or not to counteract the dumping which is causing injury.
51. According to Section 9(A)(5) of the Customs Tariff Act, anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition, provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.
52. For the purpose of current injury analysis, the Authority has examined the volume and price effects of dumped imports of the subject goods on the domestic industry and its effect on the prices and profitability to examine the

existence of injury and causal links between the dumping and injury, if any. The Authority has examined injury to the domestic industry by considering information relating to M/s Phillips Carbon Black Limited and M/s SKI Carbon (India) Pvt Ltd (formerly Hi Tech Carbon), constituting domestic industry under the Rules. Accordingly, the volume and price effect of dumped imports have been examined as follows:-

**Volume Effect**

**Demand and market share**

53. The Authority has considered the transaction-wise import data procured from DGCI&S for the assessment of volume and value of imports from the subject country and other countries. Demand for the product under consideration has been determined as the imports of the product under consideration into India from all countries and sales of all the domestic producers in India. The position is as follows

Particulars	Units	2010-11	2011-12	2012-13	POI	P-POI	POI (A)	P-POI (A)
Sales of Domestic Industry	MT	462,285	429,824	431,417	537,814	228,651	430,252	457,302
Sale of Other Indian Producers	MT	101,624	130,816	141,907	179,550	78,112	143,640	156,224
Imports from Subject Countries	MT	35,553	86,471	94,940	110,487	45,923	88,390	91,847
Imports from Other Countries	MT	27,033	20,314	27,359	32,613	13,493	26,091	26,986
Demand/consumption	MT	626,494	667,425	695,624	860,465	366,180	688,372	732,359

The Authority notes that demand for the subject goods has shown consistent increase over the injury period, although marginally fallen during the annualized POI. However, during the annualized post POI period, demand has gone up as compared to the annualized POI.

**Import volumes and share of subject countries:**

54. With regard to volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports either in absolute terms or relative to production or consumption in India. Annexure II (ii) of the anti dumping rules provides as under:

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

55. The import volumes for the injury period, considering the transaction wise data provided by DGCIS are as under:

Particulars	2010-11	2011-12	2012-13	POI	P-POI	POI (A)	P-POI (A)
	<b>Volumes In MT</b>						
China	15778	80703	91159	110167	44961	88134	89922
Russia	8732	4207	3750	260	950	208	1899
Thailand	11043	1562	31	60	13	48	26
Subject Countries	35553	86471	94940	110487	45923	88390	91847
Others	20259	12697	7704	8484	2588	6787	5175
Total imports	62586	106786	122300	143101	59417	114481	118833
<b>Market Share in Imports</b>	<b>%</b>						
China	25%	76%	75%	77%	76%	77%	76%
Russia	14%	4%	3%	0%	2%	0%	2%
Thailand	18%	1%	0%	0%	0%	0%	0%
Subject Countries	57%	81%	78%	77%	77%	77%	77%
Others	32%	12%	6%	6%	4%	6%	4%
Total imports	100%	100%	100%	100%	100%	100%	100%
Import in relation to Indian Production	5%	12%	14%	13%	13%	13%	13%
Import in relation to Consumption	8%	20%	22%	21%	20%	21%	20%
Import in relation to Total Imports	57%	81%	78%	77%	77%	77%	77%

From the above information, the Authority notes that:

- i. While the imports from Thailand has consistently declined and remained a miniscule during the annualized POI and annualized post POI, the imports from Russia, after a consistent decline during the injury period, has registered a sharp increase during the annualized post POI.
- ii. The imports from China PR have consistently increased throughout the injury period, although declined marginally during the annualized POI. During the annualized post POI, it has registered an upward trend.
- iii. The imports of the product under consideration from China PR command a huge share throughout the injury period including the POI and post POI as compared to the rest of the subject countries.
- iv. Imports from subject countries as a whole have remained significant in relation to production and consumption in India.

## **PRICE EFFECT**

### **Price effect of dumped imports and impact on domestic industry**

56. The impact on the prices of the domestic industry on account of imports of the subject goods from the subject countries have been examined with reference to price undercutting, price underselling, price suppression and price depression. For the purpose of this analysis, the cost of production, net sales realization (NSR) and the non-injurious price (NIP) of the domestic industry have been compared with landed value of imports from the subject countries. A comparison for subject goods during the period of investigation was made between the landed value of the dumped imports and the domestic selling price in the domestic market. In determining the net sales realization of the domestic industry, taxes, rebates, discounts and commission incurred by the domestic industry have been adjusted. The price underselling is an important indicator of assessment of injury; thus, the Authority has worked out a non-injurious price and compared the same with the landed value to arrive at the extent of price underselling. The non-injurious price has been evaluated for the domestic industry in terms of Annexure III of the Anti-dumping Rules. The position is as follows:

### **Price Undercutting and Underselling**

57. The Authority has made price undercutting and price underselling analysis both with and without anti-dumping duty as below:

#### **Price Undercutting during POI**

<b>Particulars</b>	<b>Unit</b>	<b>China</b>	<b>Russia</b>	<b>Thailand</b>	<b>Subject Countries</b>
Net Sale Realization	Rs./MT	***	***	***	***
Landed value with ADD	Rs./MT	***	***	***	***
Landed value without ADD	Rs./MT	***	***	***	***
<b>Price undercutting without ADD</b>					
Price undercutting without ADD	Rs./MT	***	***	***	***
Price undercutting without ADD	%	***	***	***	***
Price undercutting without ADD	Range	15-25%	0-10%	(10-20)%	15-25%
<b>Price undercutting with ADD</b>					
Price undercutting with ADD	Rs./MT	***	***	***	***
Price undercutting with ADD	%	***	***	***	***
Price undercutting with ADD	Range	(10-20)%	(20-30)%	(20-30)%	(10-20)%

### **Price Undercutting during post-POI**

<b>Particulars</b>	<b>Unit</b>	<b>China</b>	<b>Russia</b>	<b>Thailand</b>	<b>Subject Countries</b>
Net Sale Realization	Rs./MT	***	***	***	***
Landed value with ADD	Rs./MT	***	***	***	***
Landed value without ADD	Rs./MT	***	***	***	***
<b>Price undercutting without ADD</b>					
Price undercutting without ADD	Rs./MT	***	***	***	***
Price undercutting without ADD	%	***	***	***	***
Price undercutting without ADD	Range	15-25%	10-20%	(20-30)%	15-25%
<b>Price undercutting with ADD</b>					
Price undercutting with ADD	Rs./MT	***	***	***	***
Price undercutting with ADD	%	***	***	***	***
Price undercutting with ADD	Range	(10-20)%	(20-30)%	(30-40)%	(10-20)%

58. The Authority notes that during POI, the price undercutting without ADD from China is significant, from Russia and Thailand it is negative. During post POI, the price undercutting without ADD from China is significant, from Russia it is positive and from Thailand it is negative.

### **Price Underselling**

59. For the purpose of determining price underselling, the landed values of the imports from subject countries have been compared with the Non-injurious price of the domestic industry determined for the POI. In view of significant difference in the cost of production of different grades, separate price underselling has been determined for each grade of subject goods sold by the domestic industry and imported into India. Further, in view of significant difference in cost of production and resultantly non injurious price over time period within the POI, separate price underselling has been calculated for each quarter of the period of investigation. The eventual price underselling has been determined for the entire 'period of investigation' and for the 'product under consideration' as a whole by considering associated import volumes. The price underselling on the basis of weighted average figures shows as follows

#### **POI**

<b>Particulars</b>	<b>Unit</b>	<b>China</b>	<b>Russia</b>	<b>Thailand</b>
Non injurious price	Rs./MT	***	***	***
Landed Value of imports	Rs./MT	***	***	***
Price underselling amount	Rs./MT	***	***	***
Price underselling degree	%	***	***	***
Price underselling range	Range %	30-40	0-10	(0-10)

### **Post POI**

<b>Particulars</b>	<b>Unit</b>	<b>China</b>	<b>Russia</b>	<b>Thailand</b>
Non injurious price	Rs./MT	***	***	***
Landed Value of imports	Rs./MT	***	***	***
Price underselling amount	Rs./MT	***	***	***
Price underselling degree	%	***	***	***
Price underselling range	Range%	25-35	15-25	(15-25)

60. The Authority notes that during the POI, the price underselling was positive for China, marginally positive for Russia and negative for Thailand. During post POI, the price underselling was positive for China and Russia and negative for Thailand.

### **Price suppression and depression effects of the dumped imports:**

61. The price suppression and price depression effect of the dumped imports has also been examined with reference to the cost of production, net sales realization and the landed values of the subject goods from the subject countries in relation to injury period including POI.

<b>Particulars</b>	<b>Units</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>POI</b>	<b>Post POI</b>
Cost of sales	Rs./MT	***	***	***	***	***
Trend	Index	100	127	148	155	152
Selling price	Rs./MT	***	***	***	***	***
Trend	Index	100	117	130	132	137
Landed Value of Imports	Rs./MT	***	***	***	***	***
Trend	Index	100	117	121	121	125

62. From the above information, the Authority notes that there was significant increase in both costs of sales as well as selling price over the injury period. The increase in selling price was not in proportion to the increase in cost of production over the injury period. This shows price suppression effect whereby the domestic industry has not been able to increase the selling price commensurate with increase in the cost of sales.

### **K. Examination of Economic Parameters relating to Domestic Industry**

63. Annexure II to the Antidumping Rules requires that a determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic

factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments. The various injury parameters relating to the domestic industry are discussed below.

### **Capacity, Production and Sales volumes**

64. Performance of the domestic industry with regard to production, sales, capacity and capacity utilization are as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI	P-POI	POI (A)	P-POI (A)
Capacity	MT	6,74,000	7,24,000	7,26,000	9,16,000	3,83,000	7,32,800	7,66,000
Index	<i>Trend</i>	100	107	108	136	57	109	114
Production	MT	5,81,508	5,87,496	5,48,871	6,78,656	2,81,948	5,42,925	5,63,896
Index	<i>Trend</i>	100	101	94	117	48	93	97
Capacity Utilization	%	86%	81%	76%	74%	74%	74%	74%
Index	<i>Trend</i>	100	94	88	86	85	86	85
Domestic Sales	MT	4,62,285	4,29,824	4,31,417	5,37,814	2,28,651	4,30,252	4,57,302
Index	<i>Trend</i>	100	93	93	116	49	93	99

From the information given above, the Authority notes that the Domestic industry, despite increasing its capacity in the face of increasing demand, has suffered decline in capacity utilisation. Production of the domestic industry increased in 2011-12, but declined thereafter upto POI. Production of domestic industry in annualized POI was lower as compared to base year and preceding year. It is noted that the sales volume declined in annualized POI as compared to both preceding year as also base year. The decline in sales volumes is despite increase in demand.

### **Inventories**

65. From the information given below, the Authority notes that the inventory position of domestic industry has increased consistently over the injury period

Particulars	Unit	2010-11	2011-12	2012-13	POI	Post POI
Inventories	MT	***	***	***	***	***
Trend	Index	100	111	134	184	180

### **Profits, return on investment and cash flow**

66. Performance of the domestic industry with regard to profits, return on investment and cash flow over the injury period was as follows:

Particulars	Unit	2010-11	2011-12	2012-13	POI	P-POI
Cost of sales - Domestic	Rs./MT	***	***	***	***	***
	<i>Trend</i>	100	127	148	155	152
Net Selling price	Rs./MT	***	***	***	***	***
	<i>Trend</i>	100	117	130	132	137
Profit/(Loss)	Rs./MT	***	***	***	***	***
	<i>Trend</i>	100	15	(38)	(85)	(11)
PBIT	Rs/ MT	***	***	***	***	***
	<i>Trend</i>	100	43	14	(23)	45
Cash Profit	Rs/ MT	***	***	***	***	***
	<i>Trend</i>	100	25	(23)	(62)	5
ROCE	%	***	***	***	***	***
	<i>Trend</i>	100	36	11	(15)	28

From the above information, the Authority notes that Profit/Loss and profitability of domestic industry has deteriorated throughout the injury period. Whereas both cost of production and selling price increased over the period, the increase in the cost of production was more than the increase in selling price. Resultantly, the profitability of the domestic industry steeply deteriorated over the injury period. The domestic industry started suffering financial losses in the year 2012-13, extent of which increased in the POI. Similarly, the cash profits and return on capital employed also followed the same trend.

### **Employment, wages and productivity**

67. From the information given below, the Authority notes that the employment and wages position of the domestic industry has increased mainly due to enhancement of capacities, but productivity in terms of production per day and production per employee show decline.

Particulars	Unit	2010-11	2011-12	2012-13	POI (A)	Post POI
Employment	No.	***	***	***	***	***
	<i>Index</i>	100	102	103	104	105
Productivity	MT/Day	***	***	***	***	***
	<i>Index</i>	100	101	94	93	97
	MT/ employee	***	***	***	***	***
	<i>Index</i>	100	99	91	112	46
Wages	Rs. Lakh	***	***	***	***	***
	<i>Index</i>	100	123	138	172	54
Wages	Rs./MT	***	***	***	***	***
	<i>Index</i>	100	122	147	148	111

#### **L. Magnitude of dumping**

68. The Authority notes that the dumping margin of the imports of the subject goods from the subject countries, except Thailand, is positive.

#### **M. Growth**

69. The Authority notes that the growth of domestic industry was negative during injury period including POI. Production, sales volumes, capacity utilization, market share, profits, return on investment and cash flow also show negative growth over the injury period.

<b>Particulars</b>	<b>Units</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>POI</b>	<b>Post POI</b>
Production	%	-	1.03	-5.61	-6.64	-3.03
Domestic Sales	%	-	-7.02	-6.68	-6.93	-1.08
Cost of sales	%	-	27.31	47.90	54.56	51.95
Selling Price	%	-	16.74	30.34	31.99	36.58
Profitability	%	-	-84.86	-138.41	-184.91	-111.14
Avg Stock	%	-	10.81	33.64	83.87	80.32
ROI	%	-	-15.74	-21.85	-28.01	-17.51

#### **Ability to raise Capital Investment**

70. The Authority notes that the domestic industry has enhanced its capacity in the face of increase in demand. However, continuous dumping of subject goods from the subject countries (except Thailand) has caused continued material injury to the domestic industry.

#### **N. Causal Link**

71. The Authority examined whether other known factors could have caused injury to the domestic industry as follows:

##### **(a) Volume and prices of imports from third countries**

72. The Authority notes that during POI, imports of the subject goods from countries other than the subject countries have been de-minimis in volume, except South Korea. The domestic industry filed a separate petition in respect of imports from South Korea and the Authority has initiated an anti-dumping investigation, on being prima facie satisfied on existence of dumping causing injury to the domestic industry.

##### **(b) Contraction of demand and changes in the pattern of consumption**

73. The Authority notes that there is no contraction in the demand during injury period. Demand for the product has increased over the injury period. The

Authority further notes that the domestic industry has expanded its capacity over the injury period. However the domestic industry is unable to utilize its capacity to the extent of available demand due to dumped imports.

**(c) Developments in technology**

74. The Authority notes that none of the interested parties have furnished any evidence to demonstrate significant changes in technology that could have caused injury to the domestic industry.

**(d) Conditions of competition and trade restrictive practices**

75. The Authority notes that the subject goods are freely importable. The domestic industry is the major producer of the subject goods and account for significant domestic production and sales. Further there is no perceptible unfair competition among the domestic producers, except that is obvious of a market economy.

**(e) Export performance of the domestic industry**

76. The export performance of the domestic industry is not relevant since price and profitability in the domestic and export market has been segregated by the Authority for the purpose of assessing injury to the domestic industry.

**O. Magnitude of Injury and Injury Margin**

77. The non-injurious price of the subject goods produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject countries for determination of injury margin during POI. In view of significant difference in the cost of production of different grades, separate non injurious price has been determined for each grade of subject goods sold by the domestic industry. Further, in view of significant difference in cost of production over time period within the POI, separate non injurious price has been calculated for each quarter of the period of investigation. Injury margin has been determined considering comparable grades and the same time period. Eventual injury margin has been determined for the entire 'period of investigation' and for the 'product under consideration' as a whole by considering associated import volumes. The injury margin on the basis of weighted average figures shows as follows. The injury margin determined for each of the subject countries, during POI and post POI is as follows:

**Injury margin – POI**

Particulars		NIP (US\$/MT)	Landed Value (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin%	Injury Margin Range %
China PR						
Producer	Exporter					
(i)Wuhai Black Cat Carbon Black Co., Ltd (ii)Handan Black Cat Carbon Black Co. Ltd (iii)Chaoyang Black Cat Carbon Black Inc., Ltd. (iv)Hancheng Black Cat Carbon Black Co., Ltd (v)Tangshan Black Cat Carbon Black Inc. Ltd (vi)Taiyuan Black Cat Carbon Black Co., Ltd	Jiangxi Black Cat Carbon Black Co. Ltd	***	***	***	***	30-40
Others from China PR		***	***	***	***	45-55
Russia		***	***	***	***	0-10
Thailand		***	***	***	***	(0-10)

**Injury margin – post POI**

Country	Particulars	NIP	Landed Value (US\$/MT)	Injury Margin (US\$/MT)	Injury Margin (%)	Injury Margin (%) Range
		(US\$/MT)				
China PR	Jiangxi BlackCat Carbon Black Inc. Ltd.	***	***	***	***	15-25
Others from China PR		***	***	***	***	40-50
Russia	All	***	***	***	***	20-30
Thailand	All	***	***	***	***	(15-25)

From the aforesaid information, the Authority notes that during POI, while the injury margin in respect China PR and Russia positive, in respect Thailand the Injury margin is negative. Similarly, during post POI, the injury margin is positive in respect of China and Russia, but negative in respect of Thailand.

### **Conclusion on material injury**

78. The investigation has thus shown that the volume of dumped imports from China PR has increased consistently throughout the injury period, although declined marginally during the annualized POI as compared to the immediate preceding year. The volume of dumped imports from Russia has consistently declined during the POI, but increased during the post POI. From Thailand the volume of dumped imports have drastically fallen and remained a miniscule both during POI and post POI.

79. With regard to the effect of the dumped imports on prices, there has been significant price undercutting and underselling effect by the dumped imports from China PR and Russia as compared with the price of like product in India, and the effect of such imports was to depress prices to a significant degree. With regard to consequent impact of the dumped imports from China PR and Russia on the domestic industry, the investigation has shown that performance of the domestic industry has deteriorated significantly in terms of parameters such as production, capacity utilisation, domestic sales volumes, market share, profits, cash profits and return on investment. The investigation has thus shown that the domestic industry has suffered continued injury from the dumped imports of subject goods from China PR and Russia and not from Thailand as the injury margin determined by the Authority in respect of Thailand is negative during POI as well as post POI.

### **P. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING AND INJURY**

#### **Submissions by the Domestic Industry**

80. The domestic industry submitted as under in support of its claim of likelihood of continuation or recurrence of dumping and injury:

- i. Significant dumping margin during POI establishes that the dumping is likely to continue and intensify in the event of cessation of present anti dumping duty.
- ii. The imports from the subject countries are showing the increasing trend even in the presence of anti dumping duty, thereby showing that the imports would increase in the event of withdrawal of anti dumping duty.
- iii. Producers in the subject countries maintain huge capacities to produce carbon black. In case of revocation of anti dumping duty, the volume of imports is bound to increase further.

- iv. The exporters from the subject countries have very high export orientation worldwide. Hence, the dumping and injury is likely to recur at aggravated level in case the existing anti-dumping duties are revoked at this stage.
- v. The landed value of imports is undercutting the prices of the domestic industry without anti dumping duty. Therefore, cessation of anti dumping duty is likely to cause significant adverse volume & price effect on the domestic industry.

#### **Submissions by the opposing interested parties**

81. The opposing interested parties have made the following submissions with regard to likelihood of continuation or recurrence of dumping and injury<sup>1</sup>:

- i. In a sunset review, the focus of entire investigation is on the fact whether revocation of anti-dumping duty will lead to recurrence of dumping or injury to the domestic industry. Applicant has not provided any post POI data to indicate continuance of dumping or injury being caused to it, in order to claim likelihood of recurrence of dumping and injury.
- ii. In examining likelihood of injury, the Authority has to examine future events, based on projected levels of dumped imports, prices and impact on domestic producers and whether domestic industry is likely to be materially injured again. The domestic industry did not provide information about its performance for future period, the claim of the Applicant needs to be rejected.
- iii. The alleged presence of excess capacities and the recurrence of injury, itself cannot be a ground for the extension of anti dumping duties.
- iv. Section 9A(5) of the Customs Tariff Act provides only for extending the period of such imposition for a further period of five years. There is no power to enhance the anti-dumping duty in a sunset review

#### **Examination by the Authority**

82. The present investigation is a sunset review of anti-dumping duties imposed on the imports of subject goods from China PR, Russia and Thailand. Under the Rules, the Authority is required to determine whether continued imposition of antidumping duty is warranted. This also requires examination whether the duty imposed is serving the intended purpose of eliminating injurious dumping.

83. The Authority notes that in the present investigation, there is continuous dumping of the subject goods from China PR and Russia, causing continued injury to the domestic industry, which ipso facto indicates likelihood of dumping and injury from these subject countries. In view of the above position and due to favorable market conditions prevailing in the Indian market as far as demand and price for the subject goods are concerned, the Authority has reason to believe that in the event of revocation/cessation of anti-dumping duties, dumping may intensify from China PR and Russia. As regards Thailand, although the imports of the subject goods from this country are still at dumped prices, the volume of imports has drastically fallen during the POI as well as post POI. Further, the injury margin as determined by the Authority in respect of Thailand is negative during POI as well as in post POI. The following analysis would show about the likelihood of continuation/intensification of dumping and injury to the domestic industry in the event of revocation of anti-dumping duties:

(i) **Level of current and past dumping margin**

84. The level of dumping margin in respect of China and Russia in the earlier as well as present investigations is significant. Despite the Indian industry holding significant capacity to meet the demand, the import of the subject goods from the subject countries, except Thailand, still continue at dumped prices. Given the level of price undercutting and price underselling effects from the imports of subject goods from China PR and Russia, the volume of dumped imports is likely to increase further in the event of revocation of anti-dumping duty.

(ii) **Price attractiveness of Indian market**

85. The price at which the subject goods are being exported by China PR is itself an indicator of the likelihood of continuation and intensification of dumping. Although the imports of subject goods from Russia have consistently fallen throughout the injury period including POI, during post POI the imports from Russia have registered a sharp increase. Moreover, the said imports still continue to be at dumped prices. In the event of revocation/cessation of anti-dumping duty, the volume of dumped imports from Russia may further accelerate considering the production capacity in Russia and favourable market conditions in India.

(iii) **Export orientation of producers in the subject countries**

86. The domestic industry has contended that the producers/exporters in subject countries are highly export oriented. Considering the high demand and favourable market conditions for the subject goods in India and the high production capacity and export orientation of these producers, the Authority holds that in the event of revocation of anti dumping duties, the exporters from China PR and Russia are likely to increase their exports to India at dumped prices.

(iv) **Huge production capacity in the subject countries**

87. The evidence provided by the domestic industry, as given below, shows that China PR and Russia have high surplus capacity, which is capable of getting dumped in to Indian market in the event of revocation/cessation of the anti-dumping duties.

Particulars	Unit	2009	2010	2011	2012
<b>Russia</b>					
Year- End - Capacity	Kilotons/Year	720	720	730	780
Total Demand	Kilotons	233	298	301	305
Excess Capacity	Kilotons	487	422	429	475
<b>China</b>					
Year- End - Capacity	Kilotons/Year	4,639	5,114	5,526	6,339
Total Demand	Kilotons/Year	2,758	3,239	3,452	3,166
Excess Capacity	Kilotons	1,881	1,875	2,074	3,173
<b>Thailand</b>					
Year- End - Capacity	Kilotons/Year	375	460	460	510
Total Demand	Kilotons/Year	240	314	347	377
Excess Capacity	Kilotons	135	146	114	133

Source: CBO Monitor and Notch Report

(v) **Price undercutting, suppression, depression in the absence of measures**

88. The prices at which subject goods are being imported from China PR and Russia are substantially lower than the price at which the goods are being sold in the domestic market. Therefore, in the event of revocation/cessation of the anti-dumping duties, it is likely that exporters from these countries may channelize their output in the Indian market in view of the significant capacities being held by them.

**Comments/Submissions made by the Interested Parties pursuant to the 1<sup>st</sup> Disclosure Statement, 2<sup>nd</sup> Oral Hearing and 2<sup>nd</sup> Disclosure Statement.**

**Domestic Industry**

89. The following are the comments/submissions made by the domestic industry pursuant to the 1st Disclosure Statement, 2nd Oral Hearing and 2<sup>nd</sup> Disclosure Statement:

- i. Non injurious price determined by the Authority is inappropriate. So also the adjustment of profit earned by the Domestic Industry on production and sale of power from the cost of production of carbon black. The NIP needs to be revised upwards after considering depreciation, Commission, Freight outward, Bad-debts, capital employed, Freight, sales tax and excise duty.
- ii. The imports of subject goods from Korea started increasing in significant quantities at dumped prices. The petitioners have filed a fresh petition against imports from Korea. There is excess capacity available in the subject countries which will be directed to India in the event of revocation of duties.
- iii. There is continuous dumping of the subject goods from China PR and Russia, causing continued injury to the domestic industry, which ipso facto indicates likelihood of dumping and injury from these subject countries. The Authority has reason to believe that in the event of revocation/cessation of anti-dumping duties, dumping may intensify from China PR and Russia.
- iv. It is for the interested parties to identify other factors, thereafter, demonstrate its existence and then quantify impact before the Authority can consider any other factor as a cause of injury. Present investigation is a sunset review investigation and their likelihood of injury to the domestic industry is the parameter which shall alone decide whether the anti dumping duty should be extended further.
- v. The extension of time for completion of review investigation beyond one year is permissible under the Anti-dumping Rules. As regards the disclosure of special circumstances to extend the time beyond 12 months, such circumstances are not required to be shown to the interested parties.
- vi. Both the Associations (ATMA and AIRIA) are non-cooperative as they have not provided any information in the present investigation. None of the members of AIRIA has filed importers questionnaire response, in

case of ATMA, there are a large number of members of ATMA and only two of them have filed importers questionnaire response.

- vii. Annexure-4 to the disclosure statement deals with methodology for determination of NIP. The disclosure of Non Injurious Price methodology is same to all the interested parties with the sole difference that the disclosure of domestic industry contains the figures as well which is confidential.
- viii. There is no significant increase in capital employed. In any case, the increase has to be considered with the increase in capacity. Net fixed asset is grossly inappropriate methodology for determination of capital employed.
- ix. It is indeed surprising that a user association is questioning why the domestic industry has not increased prices. Any of prices fixed is in accordance of the consumers fiercely negotiating the price with the domestic industry. The consumers fight for smallest price increase and reduction.
- x. Association in reading the negative injury margin in case of Thailand and conveniently ignoring hefty injury margin in case of China and Russia. 0.2% of imports came in from Thailand, while 76% of imports came in from China. Weighted average, undercutting and injury margin from all sources were significantly high.
- xi. As regards appropriateness of the Platts Magazine and decision of the CESTAT in the matter of Dye Stuff for determination of normal value, the facts are totally different and it would not be appropriate to simply refer to a case without establishing that the facts are the same.
- xii. Prices from market economy third country to India could also not be adopted for the reasons that (a) the product under consideration involved a number of different types which vary in associated costs & prices; (b) price adjustments to determine ex-factory prices are not available, (c) these prices could not be considered representative given the claims that prices from third countries to India were inappropriate due to dumping from China.
- xiii. As far as responding exporter is concerned, the Authority has accepted their questionnaire response for adjustments to the export price. As regards any other exporter, the Authority could compare the adjustments claimed by the domestic industry and reported by the responding exporters.

- xiv. The petitioner and the Chinese/Thai companies are operating independently and even when they might be related for the purpose of this law, all these entities have complete autonomy for their operations. Petitioner has no ability to direct them to respond to the Authority. The anti dumping duty shall be applied on a non-discriminatory basis and shall also apply to exports made by them.
- xv. As regards imports under advance license, GOI has exempted imports for export from payment of anti dumping duty and to that extent this demand is being met by imports. The domestic industry considers that exemption should not be granted in this market segment. Import under advance license caused injury as far as price effect is concerned.

**Submissions made by the Exporters/Importers/ users/other Interested Parties**

90. The following are the comments/submissions made by the Exporters/Importers/ users/other Interested Parties pursuant to the 1st Disclosure Statement, 2nd Oral Hearing and 2<sup>nd</sup> Disclosure Statement:

- i. The petition filed by the domestic industry is not duly substantiated and lacks necessary information regarding methodology of normal value, adjustments made in export price, likelihood of injury and injury margin, etc. Construction of Normal value on the basis of prices published by Platts magazine is contrary to the order of CESTAT and Hon'ble Supreme Court.
- ii. The present investigation being a sunset review, the extension of duration of investigation period beyond twelve months is illegal and without jurisdiction.
- iii. As per Annexure I of the Anti-dumping Rules, the Normal Value for China is to be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India. The authority should consider prices from other market economy country to India for the Normal Value for China. Only when the said methodology is not possible, the Authority can resort to other reasonable basis for determining normal value for China PR.
- iv. The standing of SKI Carbon as part of domestic industry is doubtful. The Authority has not disclosed the actual exports made by these related entities to India during the POI and did not compare the imports of related exporter with total imports from China PR.
- v. The application of the domestic industry should be rejected as the related producers/exporters of the applicants have not filed

questionnaire responses. The non-cooperation by the related producers/exporters of the domestic producers leads to non-disclosure of complete information and casts doubt on the standing of the domestic industry.

- vi. Designated Authority has held that imports/exports made under advance license does not debar domestic industry from being treated as eligible domestic industry as such imports are on actual user basis and meant for production and export. Thus all other imports under advance license also need to be excluded from the scope of this investigation. Designated Authority cannot treat imports made under Advance Licenses differently for standing and for the purposes of injury analysis.
- vii. Designated Authority has not examined submissions concerning inter-se competition, consideration of 22% ROCE and Intrinsic factors cited in the Annual report of the domestic industry, raised by the Respondents.
- viii. Merely having excess capacity in the exporting countries does not mean that there is a likelihood of recurrence of dumping and injury. There is no likelihood of dumping from the subject country and no likelihood of injury to the domestic industry.
- ix. The methodology of determination of NIP is not disclosed in the disclosure statement. The power plant established by one of the domestic industry may be considered for determining NIP.
- x. The earlier investigation has accorded adequate protection to domestic industry which got enhanced in MTR and safeguard investigation. Further, there is no price undercutting, either during the POI or post POI and the imported goods were available to the consumers at a price higher than the NIP of the Domestic Industry during POI and post POI. Thus any injury being suffered domestic industry despite of adequate protection from dumped goods is self-inflicted. The Authority needs to examine the other factors causing injury to the domestic industry.
- xi. The domestic industry has claimed excessive confidentiality. The normal value, the cost of raw material considered for constructing normal value and the Methodology used for segregation of import statistics should be disclosed.
- xii. The Applicant has provided grade-wise and country-wise dumping margin for the subject product. However the applicant has failed to provide country-wise and grade-wise injury margin.

- xiii. The import statistics provided by the domestic industry is completely different from the statistics provided in final finding issued by the Designated Authority in mid-term review investigation and final finding issued by DG Safeguards concerning the subject product. The Authority needs to re-examine the statistics provided by the domestic industry.
- xiv. The standing of Hi-Tech Carbon is doubtful as they are related to producer/exporter of subject goods from subject countries. and M/s SKI Carbon (India) Pvt Ltd has also imported the subject goods under advance authorization, which is claimed to be cause of injury to domestic industry. The Authority has also not compared such imports with imports from China PR. If the authority excludes the imports under Advance Licenses made by M/s SKI Carbon (India) Pvt Ltd for determination of standing of domestic industry as such imports are meant for production and export, the Authority has to exclude all imports under Advance licenses from the scope of injury examination.
- xv. ROCE at the rate of 22% is an exorbitant and without any justification.
- xvi. The document and DGCI&S transaction wise data relied upon by the Authority should be provided to the interested parties.
- xvii. In a sunset review investigation, the Central Government can only extend the period of anti-dumping duty and cannot increase the existing anti-dumping duty.
- xviii. The imports from Thailand have fallen drastically during POI and post POI. Thus investigation against Thailand may be terminated under Rule 14 (e).
- xix. The normal value of the subject countries including Thailand could have been used for determination of Normal Value for China as the related producers/exporters of the applicant domestic industry are located in Thailand. The Designated Authority can seek information from such related producers/exporters from Thailand and failure to provide required information by the related entity of the domestic industry would tantamount to non-cooperation of the domestic industry.
- xx. The injury to domestic industry has been claimed on accounts of imports from subject countries including the imports under Advance Licenses. The Domestic industry on the other hand has imported

goods under Advance License claiming to be meant for exports. There is no reason why the imports by SKI Carbon could not have caused injury to domestic industry. The injury examination should be done separately for imports under Advance Licenses.

- xxi. The injury to the domestic industry is not on account of imports from subject countries. The same is evident from the disclosure statement which determined negative price undercutting for all subject countries in POI as well as post POI.
- xxii. The domestic industry has also claimed injury due to imports from Korea without providing evidences for the same. Moreover, as the injury to domestic industry is due to imports from Korea, the same cannot be attribution to imports from subject countries.
- xxiii. The respondents are not in access of the information concerning adjustment of profit of power from cost of carbon black. The domestic industry has also not submitted any evidence to prove that lean gas is a waste or scrap. The authority may examine the same as per NIP law after examining all the aspects including the investment in plant and machinery.
- xxiv. The exclusion of interest bearing credit cost purchase from current liabilities would amount to double benefit as the cost purchases also includes the interest cost and over and above the same the Domestic producers would get a notional return on capital employed for the same item.
- xxv. For the purpose of anti-dumping investigation, the depreciation can be claimed till the useful life of the machinery. If the machinery has been fully depreciated, no further depreciation can be claimed.
- xxvi. The Authority has consistently determined NIP at ex-factory level. the post manufacturing expenses such as commission, discount, freight-outward, etc at ex-factory level” shall not be considered while assessing non-injurious price and calculation of NIP other than at ‘ex-factory’ level is illegal and unjustified.

#### **Examination by the Authority**

91. The comments/submissions made by the domestic industry post 1<sup>st</sup> disclosure, 2<sup>nd</sup> oral hearing and 2<sup>nd</sup> disclosure and considered relevant by the Authority are examined as below:

- i. As regards the contention of the domestic industry that the non injurious price (NIP) determined by the Authority is inappropriate, the

Authority notes that the NIP has been determined as per the provisions laid down under Annexure III of the Anti-dumping Rules.

- ii. As regards the submission that profit on sale of power should not be considered while determining NIP, the Authority notes that the lean gas generated by the domestic industry in the manufacture of carbon black is used in generation of power and no value has been assigned for such lean gas. The Authority further notes that the domestic industry has sold part of the power generated by them to outside parties and made profit. Accordingly, the Authority has determined the NIP after adjusting the profit on sale of power generated from the lean gas generated while producing carbon black.

92. The comments/submissions made by the Exporters/Importers/ users/other Interested Parties post 1<sup>st</sup> disclosure, 2<sup>nd</sup> oral hearing and 2<sup>nd</sup> disclosure are mostly reiterations. Nevertheless, those comments/submissions considered relevant by the Authority are examined as below:

- i. As regards the contention that the petition filed by the domestic industry is not duly substantiated and lacks necessary information, the Authority notes that the investigation was initiated on the basis of sufficient prima facie evidence furnished by the domestic industry showing dumping, injury and causal link.
- ii. As regards the contention that the present investigation being a sunset review, the extension of duration of investigation period beyond twelve months is illegal and without jurisdiction, the Authority notes that the Central Government has extended the duration of the present investigation period beyond twelve months in terms of Rule 17 of Anti-dumping Rules.
- iii. As regards the contention that as per Annexure I of the Anti-dumping Rules, while determining the Normal Value for China authority should consider prices from other market economy country to India for the Normal Value for China and only when the said methodology is not possible, the Authority can resort to other reasonable basis for determining normal value for China PR, the Authority notes that for determination of normal value based on third country cost and prices, the complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country is required, which is not available with the Authority in the present investigation. Also, no such verifiable information with regard to prices and costs prevalent in other such market economy third

countries have been provided either by the applicant or by the responding exporters, nor any publicly available information could be accessed, nor the responding Chinese companies have made any claim with regard to an appropriate market economy third country. Under such circumstances the Authority has proceeded to construct the normal value based on any other reasonable basis in terms of Para 7 of Annexure 1 to the Rules. The methodology adopted by the Authority for determination of the normal value for the subject country has been well explained in the relevant areas of this disclosure statement.

- iv. As regards the contention concerning standing of SKI Carbon, the Authority notes that the matter has been elaborately examined in the relevant part of this final finding. On the basis of information furnished by the applicants, the Authority notes that during the POI while the volume of exports made by the related companies from Thailand is insignificant, the exports made by the related Chinese companies constitutes an insignificant percentage of the total exports of the subject goods made by China to India during the POI considering (i) the total imports of subject goods to India during the POI (ii) the total imports of subject goods to India from the subject countries during the POI (iii) the total Indian production, (iv) domestic sales of the domestic industry, (v) demand for subject goods in India and (vi) production of SKI.
- v. As regards the contention that the application of the domestic industry should be rejected as the related producers/exporters of the applicants have not filed questionnaire responses, the Authority notes that the issue has been well examined in the relevant part of this final finding. The exports of subject goods made by the related parties are not only insignificant, but also imported by the importers through duty free licensees. In view of this, the Authority has considered both the applicant industries in the present investigation as domestic industry within the meaning of the Rules.
- vi. As regards the contention that imports made under advance licenses should not be treated differently for standing and for the purposes of injury analysis, the Authority notes imports made under advance license, if any, should not debar the domestic industry from being treated as eligible domestic industry because these imports are on actual user basis and meant for production and export. However, the imports made under advance licenses cannot

be considered to have not affected the price in the domestic market. An Advance license/authorization holder has a choice either to import the inputs on a duty free basis or procure the same from indigenous sources by using the mechanism of Advance Release Order. The purpose of injury analysis is to examine and capture the effect of dumped imports on the domestic industry. Therefore, it would not be reasonable to exclude all duty free imports for the purpose of injury analysis. Further, import under advance license is a benchmark for the price at which goods can be imported by a consumer after payment of taxes and duties. Therefore, it is not appropriate to hold a view that imports made under advance license do not cause injury to the domestic industry.

- vii. The authority has consistently taken ROCE at the rate of 22% for determination of non-injurious price. As regards the inter-se competition and other intrinsic factors of injury, none of the interested parties have submitted evidences substantiating the impact of inter-se competition and other intrinsic factors on the performance of domestic industry.
- viii. Regarding disclosure of the methodology of determination of non injurious price (NIP), is clearly stated in the disclosure statement that NIP has been determined by the Authority as per the provisions laid down under Annexure III of the anti-dumping Rules. Moreover, Annexure IV of the disclosure statement provides the methodology for determination of NIP.
- ix. The enhancement of duty in mid-term review and imposition of safeguard duties does not debar the domestic industry to seek review of the anti-dumping duties. The enhancement of anti-dumping duty pursuant to review investigation demonstrated that producers/exporters are intensifying dumping, supporting the request of domestic industry seeking sunset review investigation. As regards the determination of negative price undercutting in the disclosure statement, the injury determination will be based on Annexure II of anti-dumping Rules, taking into account all relevant facts including the volume of dumped imported, the effect on price in the domestic market for the like article.
- x. As regards the contention that the applicant has failed to provide country-wise and grade-wise injury margin., the Authority notes that

the non-injurious price of the subject goods produced by the domestic industry, as determined by the Authority, has been compared with the landed value of the exports from the subject countries for determination of injury margin during POI. In view of significant difference in the cost of production of different grades, separate non injurious price has been determined for each grade of subject goods sold by the domestic industry. Further, in view of significant difference in cost of production over time period within the POI, separate non injurious price has been calculated for each quarter of the period of investigation. The weighted average injury margin has been determined considering comparable grades and the same time period. Eventual injury margin has been determined for the entire 'period of investigation' and for the 'product under consideration' as a whole by considering associated import volumes.

- xi. As regards the submission that DGCI&S transaction wise imports data relied upon by the Authority should be provided to the interested parties, the Authority notes that the transaction-wise imports data of DGCI&S contains commercially sensitive information pertaining to the exporters and the importers and therefore being confidential in nature it cannot be divulged by the Authority. Nevertheless, the relevant imports data has been submitted by the domestic industry and made available by the Authority in the public file.
- xii. As regards the contention that the Central Government can only extend the period of anti-dumping duty and cannot modify the quantum of anti-dumping duty, the Authority notes that it is a sheer misinterpretation of the intent of law. Otherwise, any such provision not empowering the Central Government to modify the nature and quantum of the anti-dumping duty would make the domestic industry remediless despite injury caused by continued/intensified dumping of goods post original determination.
- xiii. As regards the contention that the normal value prevailing in the subject countries including Thailand could have been used for determination of Normal Value for China as the related producers/exporters of the applicant domestic industry are located in Thailand, the Authority notes that none of the interested parties have furnished the relevant information in this regard. Moreover,

Thailand and China cannot be treated as at the same level of economic development for determination of normal value for China.

- xiv. The injury to domestic industry has been claimed on accounts of imports from subject countries including the imports under Advance Licenses. The Domestic industry on the other hand has imported goods under Advance License claiming to be meant for exports. There is no reason why the imports by SKI Carbon could not have caused injury to domestic industry. The injury examination should be done separately for imports under Advance Licenses.
- xv. As regards the contention that domestic industry has also claimed injury due to imports from Korea without providing evidences for the same, the Authority notes that an anti-dumping investigation concerning imports of the subject goods from Korea RP is in progress.

#### **Q. CONCLUSIONS**

93. Having regard to the contentions raised, information provided and submissions made by the interested parties and facts available before the Authority as recorded in this finding and on the basis of the above analysis of the state of continuation of dumping and consequent injury and likelihood of continuation/recurrence of dumping and injury, the Authority concludes that:

- i) There is continued dumping of the product concerned from China PR and Russia, causing injury to the domestic industry.
- ii) Both price undercutting and underselling effects of dumped imports from China PR and Russia are positive.
- iii) The financial performance of the Domestic Industry has deteriorated. During the POI, the domestic industry has shown negative growth in terms of the economic parameters such as production, sales, profitability and ROCE. The dumped imports from China PR and Russia continue to cause injury to the domestic industry.
- iv) Dumping of the product under consideration from China PR and Russia is likely to continue/intensify should the current anti-dumping duty be revoked.

## R. Recommendations

94. Having concluded as above, the Authority is of the view that the anti-dumping measures are required to be extended only in respect of China PR and Russia as specified in the duty table below. The Authority is of the further view that in respect of Thailand, in view of the negative injury margin determined by the Authority during the POI as well as post POI, the anti-dumping duty is required to be revoked. Therefore, Authority considers it necessary to recommend continued imposition of definitive anti-dumping duty on imports of subject goods from China PR and Russia, in the form and manner as described in the duty table given below and revocation of the anti-dumping duty in respect of Thailand.

95. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury, on the imports of the subject goods, originating in or exported from China PR and Russia, so as to remove the injury to the domestic industry. Accordingly, the anti-dumping duty equal to the amount indicated in Col. 8 of the table below is recommended to be imposed by the Central Government on the imports of the subject goods, originating in or exported from China PR and Russia.

**Duty Table**

No.	Heading/ Subheading	Description of goods *	Country of Origin	Country of Exports	Producer	Exporter	Duty Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	28030010	Carbon Black used in rubber applications	China PR	China PR	(i) Wuhai Black Cat Carbon Black Co., Ltd (ii) Handan Black Cat Carbon Black Co. Ltd (iii) Chaoyang Black Cat Carbon Black Inc., Ltd. (iv) Hancheng Black Cat Carbon Black Co., Ltd (v) Tangshan	Jiangxi Black Cat Carbon Black Co. Ltd.	397.10	MT	US Dollar

					Black Cat Carbon Black Inc. Ltd (vi) Taiyuan Black Cat Carbon Black Co., Ltd				
2	-do-	-do-	China PR	Any	Any	Any	494.00	MT	US Dollar
3	-do-	-do-	Any	China PR	Any	Any	494.00	MT	US Dollar
4	-do-	-do-	Russia	Russia	Any	Any	36.17	MT	US Dollar
5	-do-	-do-	Russia	Any	Any	Any	36.17	MT	US Dollar
6	-do-	-do-	Any	Russia	Any	Any	36.17	MT	US Dollar

\* Note: Thermal Black and Carbon Black grade meant for semi conductive compound applications are excluded from the scope of the product under consideration.

#### **S. Further Procedures**

96. An appeal against this order, after its acceptance by the Central Government, shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

**A. K. Bhalla**  
**Designated Authority**

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