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**F. No. 6/54/2020-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001**

Dated 16<sup>th</sup> February, 2022

**NOTIFICATION**

**FINAL FINDINGS**

**Subject: Anti-dumping investigation concerning imports of Plastic Processing Machines originating in or exported from China PR**

**A. BACKGROUND OF THE CASE**

1. Plastics Machinery Manufacturers Association of India (hereinafter referred to as the “applicant association” or “PMMAI”) has filed a duly substantiated application before the Designated Authority (hereinafter also referred to as the “Authority”), on behalf of the domestic producers namely, M/s Shibaura Machine India Pvt. Ltd. (formerly known as Toshiba Machine (Chennai) Private Limited) and M/s Milacron India Pvt. Ltd. (hereinafter together referred to as the “applicants”) in accordance with the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred as the “Rules”) for initiation of, an original anti-dumping investigation concerning the imports of Plastic Processing Machines (PPM) or Injection Moulding Machines, (hereinafter also referred to as “product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR (hereinafter referred to as “the subject country”).
2. Based on the duly substantiated application with prima facie evidence of dumping and injury filed by the applicant association, the Authority initiated an anti-dumping investigation vide Notification No. 6/54/2020 – DGTR dated 17<sup>th</sup> February, 2021, published in the Gazette of India, Extraordinary, in accordance with Rule 5 of the Rules to determine the existence, degree and effect of alleged dumping of the subject goods, originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged material injury to the domestic industry

**B. PROCEDURE**

3. The procedure described below has been followed with regard to this investigation:
- i. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
  - ii. The Authority issued a public notice dated 17<sup>th</sup> February, 2021, published in the Gazette of India, Extraordinary, initiating of the anti-dumping investigation concerning the import of subject goods from the subject country.
  - iii. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, known producers/exporters from the subject country, known importers/users and the domestic industry as well as other domestic producers, as per the addresses made available by the applicant association and requested them to make their views known in writing within 30 days from the receipt of notice in accordance with Rule 6(4) of the AD Rules.
  - iv. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, known importers and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules.
  - v. The Embassy of the subject country in India was also requested to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to them along with the names and addresses of the known producers/ exporters from the subject country.
  - vi. The Authority sent exporter's questionnaire to the following known producers/ exporters in the subject country, whose details were made available by the Applicants, to elicit relevant information in accordance with Rule 6(4) of the Rules:
    - a. M/s Haitain International
    - b. M/s Ningbo Hengrun Plastic Machinery Co Ltd
    - c. M/s Hangzhou Tederic Machinery Co Limited
    - d. M/s Guangzhou Borch Machinery Co Ltd.
    - e. M/s Zhejiang Golden Eagle Plastic Machinery Co Ltd
    - f. M/s Mitsrong Mould & Machine Co Ltd
    - g. M/s Liguang Machinery Co Ltd.
    - h. M/s Qingdao Sanyl Plastic Machinery Co Ltd.
    - i. M/s Zhangjiagang New Wanda Machinery Co Ltd.
    - j. M/s Zhejiang East Zhouqiang Plastic & Mould Industry Co Ltd.
    - k. M/s Zhangjiagang King Machine Co Ltd.
    - l. M/s Shanghai GS Machinery Manufacture Co. Ltd.

- m. M/s Suzhou Fosita Science and Technology Co Ltd.
  - n. M/s Qingdao Runjia Plastic Machinery Co Ltd.
  - o. M/s Ningbo Shuangma Machinery Industry Co. Ltd.
  - p. M/s Demag Plastics Machinery (Ningbo) Co. Ltd.
  - q. M/s Ningbo Haixiong Plastics Machinery Co. Ltd.
  - r. M/s Guangdong Yizumi Precision Machinery Co. Ltd.
  - s. M/s Shandong Tongjia Machinery Co. Ltd.
  - t. M/s Chen De Plastics Machinery Co. Ltd.
  - u. M/s Xinle Huabao Plastic Machinery Co. Ltd.
  - v. M/s Cosmos Machinery Ltd.
- vii. None of the producers/exporters from the subject country filed any response to the exporter's questionnaire issued to them by the Authority.
- viii. Submissions have been made by the China Plastics Machinery Industry Association (CPMIA) and the same have been duly considered in the present final findings.
- ix. The Authority sent questionnaires to the following known importers / users of subject goods in India seeking necessary information in accordance with Rule 6(4) of the Rules.
- a. M/s Bharat Box Factory Limited
  - b. M/s Kunstocom (India) Limited
  - c. M/s Sumi Motherson Group
  - d. M/s Supreme Industries Limited
  - e. M/s Vidyut Metallics Limited
  - f. M/s Prince Plastics International Pvt. Ltd
  - g. M/s Arun Plasto Moulders India Pvt. Ltd
  - h. M/s Moldwell Products
  - i. M/s Salzer Electronics Limited
  - j. M/s Riya Moulders
  - k. M/s CJ Polytech Private Limited
  - l. M/s Tech Plastic Industries
  - m. M/s Sakkthi Polymers
  - n. M/s Tooling Temple
  - o. M/s Victorious Engineering Works
  - p. M/s Ejobs info Tech India Pvt. Ltd
  - q. M/s Electronics Machine Tools Ltd
  - r. M/s Moldwell Products India Private Limited
  - s. All India Plastic Manufacturers' Association, Mumbai (AIPMA)
- x. None of the importers and users of the subject goods have filed response to the questionnaire issued to them by the Authority. Submissions have been made by the

All India Plastic Manufacturers' Association, Mumbai (AIPMA) and the same have been duly considered in the present final findings.

- xi. Exporters, foreign producers, and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, have been treated as non-cooperating interested parties.
- xii. Information provided by the interested parties on confidential basis was examined with regard to the 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 the other interested parties. Wherever possible, parties providing information on a confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- xiii. A list of all the interested parties was uploaded on the DGTR's website along with the request therein to email the non-confidential version (NCV) of their submissions to all the other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
- xiv. The Period of Investigation (POI) for the purpose of the present investigation has been considered from 1<sup>st</sup> April 2019 to 30<sup>th</sup> September 2020 (18 months). The reason for adopting a POI with a longer duration than the standard 12 months is that the data furnished by the domestic industry in their application was up to June only, which was not recent enough and was more than six months old at the time of initiation of the investigation. The injury investigation period has been considered as the period from 1<sup>st</sup> April 2016 – 31<sup>st</sup> March 2017, 1<sup>st</sup> April 2017 – 31<sup>st</sup> March 2018, 1<sup>st</sup> April 2018 – 31<sup>st</sup> March 2019 and the Period of Investigation.
- xv. Desk Verification of the information submitted by the domestic industry was conducted to the extent considered necessary for the purpose of the present investigation.
- xvi. The Non-Injurious Price (NIP) is based on the cost of production and the cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules.
- xvii. Information obtained from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) on transaction-wise import data for the past three years, and the period of investigation has been adopted for determination of volume and value of imports of product under consideration in India.

- xviii. In accordance with Rule 6(6) of the Rules, the Authority also provided an opportunity to all interested parties to present their views orally in a hearing held on 7<sup>th</sup> September, 2021. All the parties who had attended the oral hearing were provided an opportunity to file written submissions, followed by rejoinders, if any.
- xix. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority these final findings.
- 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 these final findings on the basis of the facts available.
- xxi. In accordance with Rule 16 of the Rules, the essential facts of the investigation were disclosed to the known interested parties vide disclosure statement dated 4<sup>th</sup> February, 2022 and comments received thereon, considered relevant by the Authority, have been addressed in these final findings. The Authority notes that most of the post disclosure submissions made by the interested parties are mere reiteration of their earlier submissions. However, the post disclosure submissions to the extent considered relevant are being examined in these final findings.
- xxii. \*\*\* in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- xxiii. The exchange rate adopted by the Authority during the POI for the subject investigation is 1 US\$= Rs. 73.17/-.

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

4. The product under consideration for the purpose of the present investigation is “Plastic Processing Machines (PPM) or Injection Moulding Machines”.
5. The scope of the product under consideration includes “all kinds of plastic processing or injection moulding machines having clamping force not less than 40 tonnes and not more than 3200 tonnes, used for processing or moulding of plastic materials. The following types of products are however excluded from the scope of the product under consideration:
- i. Blow moulding machines classified under Customs Tariff Classification No. 847730;
  - ii. Vertical injection moulding machines;
  - iii. All electric injection moulding machines wherein the mechanical movements such as injection, mould closing, mould opening, ejection, screw-drive, etc. are controlled

by independent servo motors and having digital control system and without Hydraulic Unit;

- iv. Multi-colour/ multi-mould machinery for making footwear, rotary injection moulding machinery for making footwear and footwear sole/strap/heel injection moulding machine classified under the Customs Tariff Classification No. 8453.
6. The subject goods are classifiable under Chapter 84 of the Customs Tariff Act, 1975 under the subheading 84771000. The customs classification is indicative only and in no way binding on the scope of this investigation.

### **C.1. Submissions by the domestic industry**

7. Following submissions have been made by the domestic industry with regard to the product under consideration and like article:
- i. Clamping force has been determined by the domestic industry as the parameter for comparing various types of machines and the same has been accepted by the interested parties during the oral hearing and the Authority in previous findings.
  - ii. The multi colour/multi-mould machinery for purposes other than footwear cannot be excluded from the scope of the product under consideration as these machines are calibrated for specific purposes. Further, these products manufactured by the domestic industry are like article to the subject imports.
  - iii. Used/second hand plastic processing machines have already been excluded from the scope of the product under consideration. The domestic industry has no objection to the Authority specifically excluding these machineries in the final finding provided the meaning of used machines be specified.
  - iv. The goods produced by the domestic industry are like articles to the goods imported from China PR.

### **C.2. Submissions by other interested parties**

8. The following submissions have been made by the other interested parties with regard to the product under consideration and like article:
- i. Clamping force is not an appropriate parameter since China-made PPM is smaller than India-made PPM when the clamping force is same. China-made PPM is cost efficient because it consumes lesser raw materials.
  - ii. Second-hand and used machinery should be excluded from the scope of the product under consideration, which has been conceded to by the domestic industry. The Authority is requested to specifically mention the exclusion of the same from the scope of the product under consideration in the final findings.

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

9. The product under consideration in the present investigation is Plastic Processing Machines (PPM) or Injection Moulding Machines. The product under consideration has been defined to include all kinds of plastic processing or injection moulding machines having clamping force not less than 40 tonnes and not more than 3200 tonnes, used for processing or moulding of plastic materials, except:
  - i. Blow moulding machines classified under Customs Tariff Classification No. 847730;
  - ii. Vertical injection moulding machines;
  - iii. All electric injection moulding machines wherein the mechanical movements such as injection, mould closing, mould opening, ejection, screw-drive, etc. are controlled by independent servo motors and having digital control system and without Hydraulic Unit;
  - iv. Multi-colour/ multi-mould machinery for making footwear, rotary injection moulding machinery for making footwear and footwear sole/strap/heel injection moulding machine classified under the Customs Tariff Classification No. 8453.
  - v. Second hand/ used plastic processing machines.
10. The subject goods are classifiable under Chapter 84 of the Customs Tariff Act, 1975 under the subheading 84771000. The customs classification is indicative only and in no way binding on the scope of this investigation.
11. The subject goods produced by the domestic industry and that imported from the subject countries are comparable in terms of physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the product under consideration produced by the domestic industry is treated as like article to the product under consideration imported from the subject country.
12. It is noted that the plastic processing machines are manufactured in various sizes and capacities described in terms of clamping forces. The domestic producers as well as the foreign producers manufacture different types of plastic processing machines with different clamping forces and different additional features and the machines with different capacities are used for molding certain group of products. The domestic industry has considered clamping force of a plastic processing machines as the basis for comparing different types of the PUCs and has provided information accordingly. The import description of the product under consideration in the DGCI&S data does not have any distinguishing feature other than the clamping force.
13. Further, it is noted that none of the exporters in the subject country has participated in the present investigation and even other interested parties have not provided any information on the likely parameters that can be considered relevant for fair comparison. Therefore, the Authority has considered clamping force as the appropriate parameter to differentiate different types of machines and to compare the imported product and the

domestic like product. It is noted that the domestic industry produces machines with different clamping forces and within those ranges the machines produced by the producers in the subject country are like articles and clearly technically and commercially substitutable. These product types are inter-se like products within their clamping force ranges. Machines of different clamping forces are produced using the same manufacturing facility with the same manpower and similar raw materials. Producers can thus interchangeably produce machines of different clamping forces and can readily switch from production of one type to the other. For the purpose of fair comparison, Plastic Processing Machines of different clamping forces have been treated as different product types and comparisons have been made on that basis to the extent possible. Dumping margin have been determined first for machines clamping force-wise and thereafter weighted average thereof has been taken.

14. As regards the exclusion of second-hand and used machinery from the scope of the product under consideration in the present investigation, it is noted that the same is excluded from the scope of product under consideration.

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

15. Rule 2(b) of the Rules defines domestic industry as under:

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

##### **D.1. Submissions by the domestic industry**

16. Following submissions have been made by the applicants with regard to the scope of the domestic industry and standing:
  - i. The application for initiation has been filed by the Plastics Machinery Manufacturers Association of India (PMMAI) on behalf of Shibaura Machine India Private Limited and Milacron India Private Limited. Production by Shibaura Machine India Private Limited and Milacron India Private Limited constitute more than 50% of the total domestic production of the subject goods. The applicants have provided all the relevant information with regard to the present investigation. The application is supported by Electronica Plastic Machines Limited and Windsor Machines Limited.
  - ii. The applicants have not imported the subject goods. The applicants are not related, either directly or indirectly, to any exporter in the subject country or any importer of the dumped article.



- iii. Trade notice cannot supersede the requirements of law and the rights of Windsor Machines Limited and Electronica Plastic Machines Limited as supporters cannot be denied for not adhering to the Trade Notices. Additionally, the applicants constitute major proportion even without the supporters.

## **D.2. Submissions by the other interested parties**

17. The following submissions have been made by the other interested parties with regard to the scope of the domestic industry and standing:
  - i. The applicants should provide meaningful and sufficient information of the supporting producers so that the same can be analyzed and comments can be filed.
  - ii. Windsor Machines Limited and Electronica Plastic Machines Limited cannot be termed as a supporter as it has merely submitted support letters and failed to file complete responses in the formats prescribed by the Authority, thereby violating Trade Notice No. 13/2018 and Trade Notice No. 14/2018.

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

18. The application has been filed by the Plastics Machinery Manufacturers Association of India (PMMAI). The application was filed on behalf of the domestic producers, M/s Shibaura Machine India Private Limited and M/s Milacron India Private Limited, which together constitute about \*\*\*% of the domestic production of the subject goods during the POI(A).
19. The Authority notes that the applicants have not imported the subject goods and are not related, either directly or indirectly, to any exporter in the subject country or any importer of the subject goods. The applicants account for “a major proportion” in the domestic production of the like article and are eligible domestic industry within the meaning of Rule 2(b) and Rule 5(3) of the Rules.

## **E. CONFIDENTIALITY**

### **E.1. Submissions by the domestic industry**

20. Following submissions have been made by the applicants with regard to confidentiality:
  - i. Costing information is a business proprietary information and is not amenable to summarization. Reliance is placed on the decisions of the CESTAT in the case of Anwar Jute Spinning Mills Ltd and Nitro Chemical Industry Ltd v. Designated Authority.
  - ii. Price undercutting for the POI(A) has been provided in the application post-initiation contrary to the Respondent's allegation. No further information is provided by the interested parties on the alleged excessive confidentiality claims of the domestic industry.

## **E.2. Submissions by the other interested parties**

21. The following submissions have been made by the other interested parties with regards to confidentiality:
  - i. NCV of the application does not allow a reasonable understanding of the allegations contained in it. The NCV fails to meet the standards in Rule 7 of the Rules and Trade Notice No. 1/2013. No information has been provided on Section VI of the application.
  - ii. No reasonable justification for the excessive confidentiality has been provided. Significant data in the application are not properly indexed. Confidentiality reasoning table is not as per the Trade Notice.

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

22. With regard to confidentiality of information, Rule 7 of the Rules provides as follows:

*“Confidential information: (1) Notwithstanding anything contained in sub-rules (2), (3) and (7) of rule 6, sub-rule (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.”*

23. A list of all the interested parties was uploaded on the DGTR’s website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing COVID19 global pandemic.
24. The Authority notes that the information provided by the interested parties on confidential basis was duly examined with regard to the 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 the 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 also notes that all the interested parties have claimed their business-related sensitive information as confidential.

## **F. MISCELLANEOUS SUBMISSIONS**

### **F.1. Submissions by the domestic industry**

25. Following miscellaneous submissions have been made by the applicants:
- i. Opposing interested parties have failed to substantiate their claim that the domestic industry has failed to provide substantive evidence and as such the allegation is baseless.
  - ii. The application for initiation has been filed by the Plastics Machinery Manufacturers Association of India (PMMAI) on behalf of Shibaura Machine India Private Limited and Milacron India Private Limited. Production of Shibaura Machine India Private Limited and Milacron India Private Limited constitute more than 50% of the domestic production of the subject goods and is supported by Electronica Plastic Machines Limited and Windsor Machines Limited. The applicant association has provided information as required under para 4.9.10 of the Manual of Operating Practises via letter dated 6<sup>th</sup> September 2021.
  - iii. CPMIA and AIPMA have failed to comply with the obligations set out under Rule 6 and 7 thereby failing to establish themselves as interested parties in the present investigation. Additionally, the interested parties have failed to respond to the relevant questionnaires.
  - iv. CPMIA is not an association dedicated to the producers/exporters of the subject goods in China PR. Additionally, out of the seven producer/exporters that it represents in the current investigation, three producers are not its members.
  - v. Neither did the members co-operate with the investigation by providing information, nor have they refuted the claim that producers/exporters from China PR are dumping the subject goods into India. Additionally, during the oral submission, the association claimed that they are not interested in India as it is not a major market for them, thereby evidencing no objection on imposition of duties.
  - vi. AIPMA does not represent the interest of the users and have failed to demonstrate its credentials by not providing information on the members or authorisation to represent such members. Reference is placed on the decision of the Tribunal in *Automotive Tyre Importers Association v. Designated Authority* (2011 (270) E.L.T. 119 (Tri. -Del.)), which held that a user association must establish itself as an interested party by demonstrating its credentials, including registration under any law and objects and purpose.
  - vii. As per the provisions of Rule 2(c) read harmoniously with Rule 6(5), the associations do not constitute interested party, considering that the subject goods are sold only to industrial users and the participating association have merely advanced submissions.

- viii. Imposition of anti-dumping duty will not be against public interest as the absence of participation from user/importer industry shows that they are not adversely impacted and the impact of duty on the consumer and downstream industry is miniscule. Further, there is sufficient inter-se competition in the domestic industry and there is no demand-supply gap in the country. It is also noted that reliance on foreign producers would make post-sale services time consuming and expensive to the user industry.
- ix. The responding associations has attempted to derail the current investigations by making generic statements without concrete submissions, information, or evidence to substantiate their claims on impact of ADD. The impact analysis undertaken by the domestic industry indicates that not only is the impact on the downstream industry minuscule, but the duties shall also contribute to generating employment as a labour-intensive industry and allow growth of supporting industry including local plastics processors.

## **F.2. Submissions by the other interested parties**

- 26. The following miscellaneous submissions have been made by the other interested parties:
  - i. PMMAI has not provided substantive evidence establishing conditions for the initiation of the investigation. The initiation is baseless and the investigation ought to be terminated.
  - ii. While PMMAI has 292 members as per their website, the application lists down only 24 producers of the subject goods in India. Hence, a majority of the members of PMMAI are not producers of the subject goods and cannot be interested parties as per Rule 2(c)(iii) of the Rules. The term “majority of the members” implies at least 50%. No member producer has authorized PMMAI to file the application. No letter or minutes of the board meetings authorizing the association has been enclosed with the application.
  - iii. No evidence has been submitted to show that PMMAI meets the precondition under Rule 2(c)(iii).
  - iv. Granting protection on an application filed by a deficient representation can have a detrimental impact on MSME end-users. The investigation should be terminated taking into consideration the public interest.
  - v. There is no trade notice issued by the Authority that requires an exporters’ association to file a questionnaire response. Hence, CPMIA and AIPMA did not file a questionnaire response. The Authority has not called any information from CPMIA or AIPMA by issuing a notice as per Rule 6(4) of the Rules. Hence, CPMIA and AIPMA have not ignored its obligations.
  - vi. CPMIA had participated in the past investigations on the import of the subject goods from China PR. CPMIA had fully cooperated in the past and is willing to provide any information required by the Authority. The list of 27 members of CPMIA submitted by the applicants is from the English version of CPMIA’s website, which is not updated. The member list is also out of date. The authorizing companies are all members of CPMIA and account for 65-70% of the total PUC production in China

- PR. The Rules do not require all members of an association to be producers, exporters or importers of the PUC to be an interested party.
- vii. AIPMA was listed as a known importer by the applicant in the original application. AIPMA has participated in several investigations in the past and the Authority has considered them as an interested party.
  - viii. The Authority had considered an association as an interested party in the recently concluded anti-subsidy investigation on “Viscose Rayon Filament Yarn above 60 deniers” from China PR. Similar analogy should be applied for CPMIA and AIPMA in the present case. The documents required as per the Manual of Operating Practices is not an obligatory requirement for CPMIA or AIPMA and is specifically required only for the Applicant association.
  - ix. The imposition of the anti-dumping duty shall affect the downstream industry who may not be capable of sustaining the increment of cost, and the subsequent competitive asymmetry in the market shall drive the small industries to unemployment. Additionally, the duty shall contribute to steep inflationary trend.

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

- 27. The present investigation was initiated pursuant to a duly substantiated application filed by the applicant association on behalf of the domestic producers. The investigation was initiated by the Authority based on prima facie evidence of dumping of the subject goods from the subject country, injury to the domestic industry, and the causal link between the alleged dumping and injury.
- 28. As regards the argument on the eligibility of PMMAI as an applicant association, it is noted that PMMAI, vide a letter dated 6<sup>th</sup> September 2021, provided the prescribed information of the applicant association to establish that they are an interested party to the present investigation. All the known producers of the product under consideration are members of PMMAI. Two members of the association, Shibaura Machine India Private Limited and Milacron India Private Limited have individually requested imposition of ADD by providing all relevant injury information.
- 29. The Authority notes that CPMIA provided a list of 7 producers/exporters of the subject goods in the subject country who have authorized CPMIA to represent them in the present investigation. However, CPMIA has not provided a list of all their members identifying the producers/exporters of the subject goods in the subject country. Even AIPMA has neither provided a letter from its members whom they seek to represent nor a list of their members identifying those engaged in the subject goods. The applicants have contended that both CPMIA and AIPMA are not associations dedicated to the subject goods. However, the Authority for the purposes of the present investigation has considered their submissions to the extent they are relevant to the present investigation.
- 30. As regards the argument of impact of the anti-dumping duty on the downstream industry, it is noted that no user/importer has cooperated in the present investigation. Even the

responding user association has failed to provide any verifiable evidence to demonstrate that the imposition of the anti-dumping duty would adversely impact the downstream industries. Further, even if the imposition of anti-dumping duty affects the price levels of the products manufactured using the subject goods, it would only ensure fair competition in the Indian market.

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

### **G.1. Normal Value**

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

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

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

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

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

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

### **G.2. Submissions by the domestic industry**

32. The following submissions have been made by the domestic industry with regard to the normal value, export price, and dumping margin:

i. The Designated Authority shall follow Para 1-6 of Annexure – I of the Rules for determination of normal value only if the responding Chinese producers/exporters establish that their costs and price information is such that individual normal value

and dumping margins can be determined. If the responding Chinese producers/exporters are not able to demonstrate that their costs and price information can be adopted, the Designated Authority shall reject the claim of individual dumping margin.

- ii. Unless the producers / exporters in China PR establish their costs and prices are reliable, their domestic costs and prices cannot be accepted for determination of normal value. In view of the failure of the producers and exporters to demonstrate that they are operating under market economy conditions, the normal value should be determined in accordance with the provisions of para 7 of Annexure – I to the Rules.
- iii. Since no verifiable evidence could be collected for prices or constructed value of various types of the subject goods in market economy third country or price from third country to other country, the applicants determined the normal value on the basis of cost of production of the domestic industry, duly adjusted, and after adding selling, general, and administrative expenses and reasonable profit margin.
- iv. The dumping margin is not only above de-minimis but also significant for the subject country.
- v. None of the exporters or importers/users have responded to the questionnaire and as such should be considered non-cooperative. Further, these parties should not be allowed to provide any information regarding dumping margin calculation at such belated stage. Hence, the dumping margin for exporters from China PR should be determined on the basis of price payable in India, duly adjusted after addition for SG&A expenses and reasonable profits.
- vi. The Chinese producers/exporters have not participated in the current investigation and thereby failed to substantiate that market economy conditions prevail in the industry as required under Article 15 (a) (i) of the Accession protocol.
- vii. Reliance is placed on the final finding in SSR investigation concerning imports of Electric Insulators, originating in, or exported from People's Republic of China [Case No. 7/44/2018-DGTR], which held that in the absence of responding exporters from China, normal value shall be computed as per provision of para 7 of Annexure-I of the Rules. As such, the dumping margin is required to be determined on the basis facts available.

### **G.3. Submissions by the other interested parties**

33. The following submissions have been made by the other interested parties with regard to the normal value, export price, and dumping margin:
  - i. There is no basis for NME treatment of China post 11<sup>th</sup> December, 2016. Hence, the Authority should not use the “surrogate country” methodology for calculating Normal Value. The same is supported by the interpretation of the legal relationship between Article 15(a) and 15(b) of the protocol in the AB Report in the Fasteners case.
  - ii. No party should evade obligation under international law citing domestic laws. China is entitled to various rights granted under the WTO framework. The

- importance of the 15 years deadline was shared by the US and EU as well. Domestic laws allowing NME treatment of China has no relevance after the 15-year deadline.
- iii. China should be granted Market Economy status. At the least, data on costs and prices provided by the company should be applied for normal value determination.

#### **G.4. Examination by the Authority**

34. The Authority sent questionnaires to the known producers/exporters of the subject goods from the subject country advising them to provide information in the form and manner prescribed by the Authority. None of the producers/exporters of the subject goods from the subject country have co-operated in this investigation and filed prescribed questionnaire responses.

#### **Market Economy Status for Chinese Producers**

35. Article 15 of China's Accession Protocol in WTO provides as follows:

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

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

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

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

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



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

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

36. It is noted that while the provision contained in Article 15(a)(ii) has expired on 11.12.2016, the provision under Article 2.2.1.1 of the WTO read with obligation Article 15(a) (i) of the Accession Protocol requires the criterion stipulated in Para 8 of Annexure I of the Rules to be satisfied through the information/ data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since none of the producers/exporters of the subject goods from China PR have cooperated in the present investigation, the normal value computation is required to be done as per provisions of Para 7 of Annexure I of the Rules.

37. As none of the producers / exporters from China PR have filed the questionnaire response in the present investigation, the normal value has been determined in accordance with para 7 of Annexure I of the Rules, which reads as under:

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

38. The Authority notes that the prices or constructed value of the product in an appropriate market economy third country or import price from such a market economy third country to another country based on various clamping force has neither been made available by the applicants nor by an interested party nor is available with the Authority from any

public source. Hence, the normal value for all the producers/exporters of the subject goods in the subject country has been determined on the basis of cost of production of the domestic industry, duly adjusted, and after adding selling, general, and administrative expenses and reasonable profit margin. The normal value so determined is given below in the dumping margin table.

#### **G.5. Determination of export price**

39. Since none of the producers/exporters of the subject goods from the subject country has cooperated in the present investigation, the export price for all producers/exporters from China PR have been determined as per facts available in terms of Rule 6(8) of the Rules.

#### **G.6. Dumping Margin**

40. Considering the normal value and export price as above, the dumping margin for all producers/exporters of the subject goods from the subject country is determined as below. Further, normal value and export price has been taken for the comparable clamping forces for determination of clamping force-wise dumping margin and thereafter weighted average thereof has been taken. The table below represents weighted average considering associated import volumes:

**DUMPING MARGIN TABLE**

<b>Producer</b>	<b>Normal Value (Rs. Lacs. per machine)</b>	<b>Export Price (Rs. Lacs. per machine)</b>	<b>Dumping Margin (Rs. Lacs. per machine)</b>	<b>Dumping Margin (%)</b>	<b>Dumping Margin Range (%)</b>
All producers/ exporters from China PR	***	***	***	***	50-60

### **H. METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK**

#### **H.1. Submissions by the domestic industry**

41. The following submissions have been made by the domestic industry with regard to injury and causal link analysis:
- i. The Period of Investigation includes period from April 2020-September 2020, which was impacted by COVID-19, it is requested that injury analysis be conducted by either examining injury parameters for the period from April 2019- March 2020, or for the entire period of investigation from April 2019-September 2020.
  - ii. The subject imports have increased in absolute and relative terms despite decline in demand, impact of COVID-19 and the existence of anti-dumping duty.

- iii. The subject imports are undercutting, depressing, and underselling the prices of the domestic industry during 2019-20 and the period of investigation.
- iv. The production, sales and capacity utilisation of the domestic industry increased till 2018-19 and declined thereafter. The market share of the domestic industry declined in 2017-18 and remained stagnant thereafter while the market share for the imports have increased in 2019-20 and the period of investigation.
- v. The domestic industry suffered decline in profitability, cash profits and ROI in 2019-20 and experienced financial losses, negative PBIT and negative returns on capital employed in the POI. The inventories have increased throughout the injury period including 2019-20 and the POI. The growth of the domestic industry recorded negative on all the major injury parameters and the ability to raise capital investment weakened significantly.
- vi. While the volume of imports declined significantly and the performance parameters improved after imposition of the duty in the original investigation, in the current investigation, despite the existing ADD, the performance parameters continue to deteriorate.
- vii. No evidence has been provided by the interested parties to substantiate that the increase in subject imports and injury to the domestic industry is exaggerated. The financial statements of the domestic industry refer to its entire operation covering both domestic and exports for the products produced by the company.
- viii. Haitian Huayuan Machinery (India) Pvt. Ltd., a subsidiary of Haitian Plastics Machinery Group Co. Ltd in China PR is not engaged in manufacturing the subject import but assembling the product using imports of the subject goods in semi-knocked down or completely knocked down forms of the product under consideration from their parent company, as evidenced by their high raw material share and low employee and depreciation cost.
- ix. Imports from Taiwan does not cause injury to the domestic industry as the export price from China PR is lower than those from Taiwan for almost all imports on a clamping-wise comparison.
- x. Even though COVID-19 left the domestic industry in a vulnerable state, the subject imports have caused the injury as can be seen from the analysis on the injury parameters for the injury period and the year 2019-20 when the impact of COVID-19 is absent. The decline in demand has not impacted the volume of imports – which has in fact increased. Further, steep increase in inventories in the year 2018-19 despite increase in demand and in 2019-20 when the impact of COVID-19 is absent is a proof that the increase in inventories cannot be solely attributed to a decline in demand or COVID-19.
- xi. The injury to the domestic industry is not due to increase in net fixed assets (NFA), working capital or number of employees. Further, the domestic industry has suffered negative returns on the capital employed, which indicates that the Respondent's argument that increase in net fixed assets and working capital shows absence of injury is misleading. Additionally, it has already been submitted that the number of employees is not reflective of the impact of dumping. The increase in capital

- employed is owing to the investments made by the domestic industry to replace job work with in-house production.
- xii. The domestic industry does not deny the impact of slowdown in automobile sector due to COVID-19, however, the subject imports have injured the domestic industry leaving it vulnerable to these factors. Additionally, it is to be noted that the requirement under Rule 11 (2) of the Rules does not necessitate that the subject imports be the sole cause of injury suffered by the domestic industry. The allegation that the domestic industry faces internal problems is baseless and unsubstantiated.
  - xiii. The news on the proposed \$30 million investment made by Milacron was put on hold due to low demand. As such, there are no additional capital/revenue cost incurred by the domestic industry.

## **H.2. Submissions by the other interested parties**

42. The following submissions have been made by the other interested parties with regard to injury and causal link analysis:
- i. PMMAI has exaggerated the increase in imports and invented an injury to the domestic industry. There is, in fact, no increase in the subject imports. The claims of PMMAI are contrary to published information and appears to be made up and fabricated to show injury to the domestic industry.
  - ii. The duty has already been in existence during the POI as well as for the last 10 years on the subject goods from China PR. As such the current investigation is practically an SSR investigation. It is submitted that the duty has resulted in sharp decline of subject imports, and has served its purpose and is therefore not warranted in future.
  - iii. Subject imports are not causing any volume injury to the domestic industry. Major share of demand is fulfilled by the domestic industry only. The Authority should examine whether injury is due to other Indian producers whose share has increased substantially. Imports from China PR have not caused injury to the domestic industry during the POI(A). The demand for the subject goods has increased substantially, and subject imports only accounted for \*\*\*% of the total demand in India during the POI.
  - iv. The increase in landed price of the subject imports is higher than the increase in domestic selling price. Hence, there cannot be price injury. Price undercutting is also negative.
  - v. The decline in production, capacity utilization and domestic sales in the POI (A) is attributed to the COVID-19 Pandemic and not the subject imports as provided in the financial statements of Milacron India Private Limited for the year 2019-20. There is no mention of increase in imports or dumping of subject goods.
  - vi. The sudden decline in domestic sales/ export sales during the POI raises doubts about the authenticity of the data provided.
  - vii. The decline in demand due to COVID-19 resulted in the accumulation of average stock. Increase in stock should be analyzed with total production and sales.
  - viii. Major market share is enjoyed by the domestic industry. Market share of subject imports increased marginally, while that of other Indian producers increased sharply.

- The increase in share of other Indian producer in the POI as compared to the base year could be the reason for the injury to the domestic industry.
- ix. The decline in profitability and return of the domestic industry is not due to dumping or increase in imports. The number of employees have increased. There is no injury since Net Fixed Assets and Working Capital has also increased. There is an increase in capital employed despite no increase in installed capacities. The Authority is requested to examine the same.
  - x. The Appellate Body in US – Hot Rolled Steel held that the investigative authority should separate and distinguish the injury caused to the domestic injury by other known factors. Hence, the Authority should examine the effect of other factors, the extent of the effect, and make a detailed analysis of the same.
  - xi. The domestic industry has failed to address a number of issues other than the subject imports. They include slow market growth in automotive segment, unplanned shut down of plants, internal problems, and impact of Covid-19.
  - xii. Milacron is investing in building a second factory in India. The performance of the domestic industry might be affected due to this long-term construction project. The Authority should examine if such capital/revenue cost for the new project has been shown in current operations. Losses due to new investment should not be attributed to the subject imports.

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

43. The Authority has taken note of the arguments and counter-arguments of the interested parties with regard to injury to the domestic industry. The injury analysis by the Authority hereunder addresses the various submissions made by the interested parties.
44. Rule 11 of the Rules read with its Annexure-II thereto 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 to 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. 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, inventory, profitability, net sales realization, the magnitude and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.
45. The submissions made by the domestic industry and the other interested parties during the course of investigations with regard to injury and causal link and considered relevant by the Authority are examined and addressed as under.

### H.3.1. Assessment of Demand

46. The Authority has defined, for the purpose of the present investigation, demand or apparent consumption of the product in India as the sum of domestic sales of the Indian producers, and imports from all sources. The demand so assessed is given in the table below.

Particulars	UOM	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
Subject Country China	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	130	135	213	142
Other Countries	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	116	174	92	61
Sales of domestic industry	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	115	130	136	91
Sales of Supporters	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	115	132	135	90
Sales of Other Indian producers	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	210	220	253	169
Total Demand	Number	3,774	4,905	5,640	5,718	3,812

47. The Authority notes that the demand for the subject goods in India has increased till 2018-19 and declined in the POI(A). The domestic industry has submitted that this decline in demand in the POI(A) is due to recession in the auto industry and due to COVID-19. The demand of subject imports in the POI(A) has, however, increased when compared to the base year.

### H.3.2. Volume Effect of Dumped Imports

48. The effect of the volume of dumped imports from the subject country as well as imports from other countries have been examined by the Authority as follows. The effect of import has been evaluated in value terms since prices of the PUC of different clamping forces have huge price variation and determination of market share in terms of numbers may not give correct picture.

Particulars	Unit	2016-17	2017-18	2018-19	POI(A)
Sales DI	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	119	142	141
Sales of other producers	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	113	125	147
Imports from China	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	104	169	180
Imports from other countries	₹ Lacs	***	***	***	***

<i>Trend</i>	<i>Index</i>	100	91	176	112
Total	₹ Lacs	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	111	147	140
Market Share in Demand					
Domestic industry	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	108	96	100
Other producers including supporter	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	102	85	105
Imports from China	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	94	115	128
Imports from other countries	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	82	120	80
Total	%	100.00	100.00	100.00	100.00

49. The Authority notes that the volume of subject imports have increased in absolute terms over the injury period and the POI despite the anti-dumping duty that was in force on the imports of the subject goods from the subject country during the entire duration of the injury period. The subject imports have also increased in relation to consumption in India during the POI(A) in comparison to the previous as well as the base year. Even in terms of number of machines, the increase in imports from the subject country is consistent over the injury investigation period.

### H.3.3. Price Effect of Dumped Imports

50. In terms of Annexure II (ii) of the Rules, the Authority is required to consider the effect of the dumped imports on domestic prices in terms of price undercutting, price suppression and price depression, if any.

#### i. Price Undercutting

51. With regard to the effect of dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The price undercutting has been determined for the POI for the PUC clamping force-wise and thereafter for the product under consideration as a whole by taking weighted average using associated import volumes. The landed price of imports for the purpose has been determined considering imports of different types of machines, clamping force-wise. Further, in order to ensure fair comparison between the import price and selling price of the domestic industry, the selling price of the domestic industry has been considered for the comparable PCN. Weighted average price undercutting has been determined considering price undercutting for machines clamping force-wise and their associated import volumes. The selling price

of the domestic industry is shown below considering associated import volumes. Summarized position is as follows.

Parameters	UOM	POI
Weighted average landed price	₹ Lacs/Number	***
Weighted average selling Price considering associated imported volumes of machines clamping force-wise	₹ Lacs/ Number	***
Price undercutting	₹ Lacs/ Number	***
Price undercutting	Range	40-50%

It is noted that the subject imports are significantly undercutting the prices of the domestic industry.

#### ii. Price Suppression and Depression

52. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority notes the changes in the costs and selling prices over the injury period. It is noted that the Weighted average cost of sales & selling price of the domestic industry has been worked out considering the production & sales volumes of the domestic industry respectively. The position is shown as per the table below:

Parameters	UOM	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
Weighted average cost of sales	₹ Lacs/Number	***	***	***	***	***
Trend		100	103	110	111	111
Weighted average selling price	₹ Lacs/Number	***	***	***	***	***
Trend		100	104	109	104	104

53. It is noted that while the cost of sales of the domestic industry increased over the injury period, the domestic industry is unable to increase its price in proportion to increase in cost resulting in price suppression.

#### H.3.4. Impact on Economic Parameters of the Domestic Industry

54. Annexure II to the Rules requires that the determination of injury shall involve an objective examination of the consequent impact of dumped imports on domestic producers of such products. With regard to consequent impact of dumped 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. Various injury parameters relating to the domestic industry are discussed herein below.

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

55. The Authority has considered capacity, production, capacity utilization and domestic sales of the domestic industry over the injury period and notes as follows:

Particulars	Unit	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
Installed Capacity	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>150</i>	<i>100</i>
Production	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>112</i>	<i>130</i>	<i>136</i>	<i>91</i>
Capacity Utilisation	%	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>111</i>	<i>128</i>	<i>91</i>	<i>91</i>
Domestic Sales	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	<i>100</i>	<i>115</i>	<i>130</i>	<i>136</i>	<i>91</i>

56. It is noted that:

- a. The capacity of the domestic industry has remained constant throughout the injury period and the POI.
- b. The production of the domestic industry has increased till 2018-19 but declined significantly in the POI(A).
- c. The capacity utilization and domestic sales of the domestic industry also follows the same trend as these too have increased till 2018-19 and the registered significant decline in the POI(A).
- d. The production, sales and capacity utilization of the domestic industry has declined during period of investigation as compared to base year as well as previous year.

i. **Market Share of domestic industry in Demand**

57. Market share of the domestic industry has been examined as below:

Market Share in Demand	Unit	2016-17	2017-18	2018-19	POI annualized
Domestic industry	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	108	96	100
Other producers including supporter	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	102	85	105
Imports from China	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	94	115	128
Imports from other countries	%	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	82	120	80
Total	%	100.00	100.00	100.00	100.00

58. The market share of the domestic industry increased in 2017-18, then declined in 2018-19 and marginally improved in the POI(A). The market share of the subject imports, on the other hand, has increased in the POI(A) and is maximum during POI in the entire injury period.

ii. **Inventories**

59. The data relating to inventory of the subject goods are shown in the following table:

Parameters	Unit	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
Opening Stock	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	25	50	575	375
Closing Stock	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	200	2,300	400	300
Inventory	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	67	433	467	467

60. The Authority notes that the inventories with the domestic industry have increased significantly in the POI(A) in comparison with the base year as well as the previous year.

iii. **Profits, Cash Profits and Return on Capital Employed**

61. Profits, cash profits, PBIT, and return on investment of the domestic industry over the injury period is given in the table below:

Parameters	Unit	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
Profit/Loss	₹ Lacs/Number	***	***	***	***	***

<i>Trend</i>	<i>Index</i>	100	124	96	-18	-18
Profit/Loss	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	142	125	-24	-16
PBIT	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	142	125	-24	-16
Cash Profits	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	176	167	97	64
Return on Capital Employed	%	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	118	78	-12	-12

62. It is seen that:

- The profits of the domestic industry have increased till 2017-18, declined in 2018-19, and declined further to negative levels in the POI(A). The same trend is seen in PBIT and return on investment.
- The cash profits of the domestic industry, similarly, increased till 2017-18, declined in 2018-19, and further significantly in the POI(A), and is lower than the base year.
- The domestic industry has suffered financial losses and negative returns on investments in the POI.

iv. **Employment, wages and productivity**

63. The situation of the domestic industry with regard to employment, wages, and productivity is as below:

Parameters	Unit	2016-17	2017-18	2018-19	POI	
					Actual	Annualized
No. of Employees	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	102	110	114	114
Wages	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	124	145	209	140
Wages per employee	₹ Lacs	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	129	143	129	129
Productivity Per Day	Number	***	***	***	***	***
<i>Trend</i>	<i>Index</i>	100	112	130	91	91

64. It is noted that number of employees have increased during the period of investigation as compared to base year as well as previous years. However, wages paid have increased till 2018-19 but declined during period of investigation.

v. **Growth**

65. Examination of growth parameters of the domestic industry during the injury period is shown below –

Particulars	Unit	2016-17	2017-18	2018-19	POI
Production PUC	No.	-	12.19	15.45	-29.91
Domestic sales	No.	-	14.52	13.45	-30.31
Profit/Loss	₹/No.	-	24.12	-22.62	-118.49
Profit/Loss	₹ Lacs	-	42.14	-12.22	-112.88
Profit before interest and tax	₹ Lacs	-	42.00	-12.30	-112.75
Cash profit	₹ Lacs	-	76.32	-5.55	-61.29
Return on capital employed	%	-	17.45	-33.92	-114.84

66. It is noted that the growth of the domestic industry is negative for major parameters like production, domestic sales, profits, PBIT, cash profits, and ROCE during the POI. As regards the argument of the interested parties that the injury to the domestic industry is due to increase in employees, it is noted that wages per employee and the total wages paid has declined during period of investigation as compared to previous year. Therefore, increase in employees cannot be a cause of injury since less money has been spent on wages in POI(A) by the domestic industry in the POI as compared to the previous year.

**vi. Factors affecting domestic prices**

67. The Authority notes that the domestic prices have been affected due to the presence of dumped imports in the country.

**vii. Ability to raise fresh investment**

68. Due to the financial losses, negative PBIT, and negative returns suffered by the domestic industry its ability to raise capital investment has significantly weakened.

**viii. Magnitude of Dumping**

69. It is noted that the subject goods are being dumped into India and the dumping margin is positive and significant.

**I. CONCLUSION ON INJURY**

70. The Authority notes that subject imports have increased over the injury period in absolute terms and in relation to consumption in India despite the anti-dumping duty that was previously in force on the subject imports throughout the injury period. The subject imports are undercutting the selling price of the domestic industry in the POI and also causing suppression effect on the prices of the domestic industry. Overall performance of the domestic industry has deteriorated in terms of production, sales and capacity utilization. The domestic industry is suffering financial losses and negative returns on

investment in the POI. The Authority therefore concludes that the domestic industry has suffered material injury.

## **J. CAUSAL LINK AND NON-ATTRIBUTION ANALYSIS**

71. As per the Rules, the Authority, *inter alia*, is required to examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. Factors which may be relevant in this respect include, *inter alia*, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, export performance and the productivity of the domestic industry. It has been examined below whether factors other than dumped imports could have contributed to the injury to the domestic industry:

### **a. Volume and prices of imports from third countries**

72. The Authority notes that the imports of the subject goods from third countries are either (a) at insignificant volumes, or (b) at higher prices and hence not causing injury to the domestic industry.

### **b. Contraction in demand and/ or change in pattern of consumption**

73. The demand for the subject goods has increased in the POI(A) compared to the base year. The decline in comparison to the previous year is due to the slowdown in the automobile sector and COVID-19. While these factors did impact the domestic industry adversely, the industry has been largely hit by the increasing volume of dumped imports from the subject country

### **c. Export performance of the domestic industry**

74. It is noted that the injury analysis is based on domestic performance. Hence, the injury is not on account of export performance of the domestic industry.

### **d. Development of technology**

75. It is noted that the technology for producing subject goods has not undergone any change and therefore could not have caused injury to the domestic industry.

### **e. Performance of other products of the company**

76. It is noted that domestic industry has segregated its performance with respect of different products. The performance of other products those are being produced and sold by the domestic industry are not a cause of injury, if any

**f. Trade restrictive practices and competition between foreign and domestic producers**

77. The import of the subject goods is not restricted in any manner and the same are freely importable in the country. The domestic producers compete with the landed prices of the subject goods. The price of the domestic industry is influenced substantially by the landed prices of subject goods. Moreover, no evidence has been submitted by any interested party to suggest that the conditions of competition between foreign and domestic producers have undergone any change.

**K. FACTORS ESTABLISHING CAUSAL LINK**

78. The Authority concludes that the domestic industry has not suffered injury due to other known factors listed above.
79. The Authority, thus, concludes that dumped imports from the subject country have caused material injury to the domestic industry.

**L. MAGNITUDE OF INJURY MARGIN**

80. The Authority has determined the NIP for the domestic industry on the basis of principles laid down in the Rules read with Annexure III, as amended. The NIP of the PUC has been determined by adopting the verified information/data relating to the cost of production for the POI. Separate NIP has been determined for the various product types based on clamping force. The NIP, thus calculated, has been considered for comparing the clamping force-wise landed price from the subject country for calculating the weighted average injury margin. For determining the NIP, the best utilisation of the raw materials by the domestic industry over the injury period has been considered. The same treatment has been carried out with the utilities. The best utilisation of production capacity over the injury period has been considered. It is ensured that no extraordinary or non-recurring expenses were added to the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e. average net fixed assets plus average working capital) for the PUC was allowed as pre-tax profit to arrive at the non-injurious price as prescribed in Annexure III of the Rules and being followed.
81. The landed price and non-injurious price determined as above have been compared for the Plastic Processing Machine (PUC) clamping force-wise. The weighted average of the injury margins determined clamping force-wise for producers/exporters by the Authority is provided in the table below: -

**INJURY MARGIN TABLE**

<b>Producer</b>	<b>Non- Injurious Price (Rs. Lacs. per machine)</b>	<b>Landed Price (Rs. Lacs. per machine)</b>	<b>Injury Margin (Rs. Lacs. per machine)</b>	<b>Injury Margin (%)</b>	<b>Injury Margin Range (%)</b>
All producers/ exporters from China PR	***	***	***	***	35-45

## **M. POST DISCLOSURE STATEMENT COMMENTS**

82. The Authority issued a disclosure statement on 4<sup>th</sup> February 2022 disclosing essential facts of the case and inviting comments from all the interested parties. The post-disclosure submissions have been received from the interested parties. Most of the issues flagged in the post-disclosure comments have already been raised earlier and addressed appropriately in the findings above. Additional submissions to the extent considered relevant have been examined below.

### **M.1. Submissions by the domestic industry**

83. Following submissions have been made by the domestic industry:

- a. The clamping force as the sole parameter for identifying product types of the PUC is appropriate for the present investigation considering the parameters identifiable from the DGCI&S data, non-cooperation from the subject country producers, general industry practice globally, and the past practice of the Authority.
- b. The Authority is requested not to consider CPMIA and AIPMA as “interested parties” and thus not to take their submissions on record as the contrary would mean additional burden on the applicant association compared to other associations and set a bad precedent of non-compliance with legal requirements.
- c. The Authority is justified in its observation that the use of number of machines for examining volume effect is inappropriate in view of different tonnages and values of different machines. In fact, some Chinese producers report their production and sales figures by expressing the quantity of different machines with different tonnages in terms of one particular tonnage only to achieve parity and equivalence. For instance, machines of 1000 tonne and 500 tonne clamping force are equivalent to 10 machines and 5 machines of 100 tonne clamping force respectively.
- d. Subject imports are suppressing and depressing the prices of the domestic industry.
- e. The domestic industry has suffered material injury due to the dumped subject imports.
- f. There is no adverse impact of any ADD on consumers and public at large considering the objective of ADD, absence of participation from users/importers, lack of adverse impact and positive impact of ADD imposed in the past, insignificant cost impact that is quantified, lack of demand-supply gap in the country, need for after sales services

to customers, high domestic competition, need to support domestic investments, need for support to users in India, need for vibrant domestic industry and contribution of the industry to the economy of the country.

## **M.2. Submissions by the other interested parties**

84. Following submissions have been made by other interested parties:

- a. The Authority is requested to confirm the exclusion of second hand used plastic processing machines in the final finding as in the disclosure statement.
- b. The submissions by the petitioners against CPMIA and AIPMA are mere allegations to mislead the Authority. There is no Trade Notice requiring exporters' association to file a questionnaire response. CPMIA and AIPMA had registered themselves as an interested party and filed injury submissions. The Authority has not sought any information from CPMIA through a notice as per Rule 6(4) of the AD Rules. No obligation was ignored by CPMIA and AIPMA. The Authority is requested to consider the submissions made by CPMIA and AIPMA.
- c. Allegation of the petitioner that CPMIA is not an interested party is unwarranted. CPMIA had participated in the previous investigations on the subject goods from the subject country and their arguments were taken on record by the Authority. The Authority has considered various chambers as interested parties in the past. Similar analogy should be applied to CPMIA.
- d. Allegation of the petitioner that AIPMA is not an interested party is unwarranted. The Authority has considered AIPMA as an interested party in several previous investigations. The finding on participation of associations as interested parties in the final finding of the anti-subsidy investigation on imports of 'Viscose Rayon Filament Yarn above 60 deniers' may be referred and the same analogy should be applied to AIPMA.
- e. A number of the members of PMMAI are not producers of the subject goods and hence, cannot be an interested party as per Rule 2(c)(iii) of the Rules. The information provided by the petitioner vide letter dated 6th Sept 2021 was not shared with the interested parties.
- f. Clamping force should not be considered as criteria for fair comparison. For same clamping force, the Chinese machines cost less and are cheaper. Hence, "space between tie bar" may be used to determine size of the machine. Machines of similar size have comparable cost and price.
- g. The public interest or interest of downstream industry has not been examined in the disclosure statement. The imposition of ADD will affect downstream industry which will put end users belonging to small-scale industries at stake. Imposition of ADD will contribute to steep inflationary trend and create competitive asymmetry.
- h. Haitian has submitted that machines offered by Haitian are of higher quality and costlier than those of other producers and therefore do not cause injury to the DI.



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

85. The Authority notes that most of the submissions by the interested parties are repetitive in nature and have been already addressed appropriately in the findings above. Further, the Authority has examined post-disclosure submissions of the interested parties herein below to the extent relevant and not addressed elsewhere:
- a. With regard to CPMIA and AIPMA being considered “interested parties” for the purpose of the present investigation, the submissions of these parties have been taken on record. None of the members of these associations have participated in the investigation. The submissions by these associations have been considered to the extent considered relevant.
  - b. As regards submissions filed by Haitian Plastics Machinery Group Co. Ltd, it is noted that it is not a registered interested party and had not participated in the investigation till the stage of issuance of disclosure statement. Neither the questionnaire response nor any submission had been filed by them till now. Now, at the post disclosure stage, they have requested to consider “tie bar distance” as a parameter for fair comparison. The Authority however rejects the submission of the Haitian Plastics Machinery Group Co. Ltd since (1) it is a new information filed by an entity which is not even registered as an interested party in this investigation. (2) the submission has been filed at a much belated stage i.e. after issuance of the disclosure statement. (3) it has not provided any justification /evidence in support of its argument (4) the submissions are claimed to be confidential and, in any case, this being post disclosure submission there was no scope for the other interested parties to rebut the claims made in this submission.
  - c. As regards the contention that number of members of the petitioner association are not producers of subject goods, the Authority notes that the present petition was filed under Rule 5, which requires written application to be filed “by or on behalf of the domestic industry”. It is undisputed that the present petition has been filed “by or on behalf of the domestic industry”. The petition therefore met the requirement laid down under Rule 5 of AD Rules.
  - d. As regards quantifying import volume and market share by expressing the volumes in equivalent basis, it is noted that the Authority has already determined volume and market share by expressing the same in terms of value.

### **N. INDIAN INDUSTRY’S INTEREST AND PUBLIC INTEREST**

86. The Authority considered whether imposition of the proposed ADD will be against public interest. This determination is based on consideration of information on record and interests of various parties, including domestic industry, importers, and consumers of the product.
87. The Authority issued initiation notification inviting views from all interested parties including importers, consumers and others. The Authority also issued questionnaire for

the users/ consumers to provide relevant information including possible effect of ADD on their operations. However, none of the users/ importers have filed user questionnaire response. Though an importer association, namely AIPMA has filed submissions, none of its members have filed questionnaire response. The submissions of the importer association have been taken into account in the findings above. The association has not provided any quantified and verifiable information to demonstrate possible adverse effect of the proposed ADD on the consumers and public at large. It is, thus, noted that the interested parties have not established any adverse impact of ADD on the user industry with verifiable information. On the other hand, the domestic industry has quantified the impact of the proposed ADD on the subject goods and found it to be 0.0605% only, which is insignificant.

88. The Authority notes that the purpose of ADD, in general, is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures does not restrict imports from the subject country in any way. The Authority further notes that the subject goods are produced and imported into India from several countries other than the subject country. About 60% of the imports of the subject goods into India during the POI were from third countries. The imposition of the anti-dumping measures would not restrict imports from the subject country or affect the availability of the product to the consumers.
89. It is recognized that the imposition of ADD might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of the downstream industry. However, since the subject goods is a capital good, the cost increase of the asset is spread across the useful life of the asset. Hence, any increase in cost, is spread across the period and the impact passed on the end product is meagre.
90. The imposition of anti-dumping measure in fact would remove the unfair advantages gained by dumping practices, prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods. The Authority notes that the domestic industry themselves have the capacities to meet almost the entire Indian demand. Further, the product is produced and sold by several other domestic producers in the country, who are members of the applicant association, leaving India with even surplus capacities. Due to the presence of large number of producers, domestic competition is guaranteed.
91. Further the capacity utilization of the domestic industry has been low in the POI. The domestic industry had the potential to cater to a higher share of the Indian market. However, due to the dumped import of the product under consideration, the domestic industry was faced with unutilized capacity and had a much smaller share in domestic market than what otherwise would have been.

92. The Authority notes that ADD was in force on the imports of the subject goods from the subject country during the entire injury period and the POI. Despite the same, neither has any interested party pointed out any adverse effect on account of the past application of the duties nor is there any information publicly available highlighting the same.
93. In view of the foregoing, the Authority is of the view that the imposition of ADD will not be against public interest.

## **O. CONCLUSION**

94. Having regard to the contentions raised, submissions made, information provided and facts available before the Authority as recorded above and on the basis of the above analysis of dumping and consequent injury to the domestic industry, the Authority concludes that:
- i. M/s Shibaura Machine India Pvt. Ltd. and M/s Milacron India Pvt. Ltd. constitute domestic industry under Rule 2(b) of the Rules. Further, the application meets the criteria of standing in terms of Rule 5(3) of the Rules.
  - ii. The product produced by the domestic industry is like article to the PUC imported from the subject country.
  - iii. Since none of the producers/exporters of the subject goods from the subject country have cooperated with the present investigation, normal value and export price has been determined for all the producers/exporters of the subject goods from the subject country. The dumping margin thus determined is above de-minimis and significant.
  - iv. The domestic industry has suffered material injury. The Authority notes that the subject imports have increased in absolute terms as also in relation to Indian consumption. The subject imports are undercutting and suppressing the prices of the domestic industry. Overall performance of the domestic industry has deteriorated in the POI(A) in terms of production, sales, capacity utilization, and various profit parameters. The domestic industry is suffering financial losses and negative returns on investment during the POI.
  - v. The domestic industry has not suffered injury due to other factors. Therefore, the material injury caused to the domestic injury is due to dumping of the product under investigation from the subject country.
  - vi. Even though the Authority has prescribed formats for the users to quantify the impact of ADD and elaborate how imposition of ADD shall adversely impact them, it is noted that no importer/ user of the subject goods in India has cooperated with the present investigation. The cooperating importer association has failed to provide any verifiable evidence on the same as well. On the other hand, the domestic industry has quantified the impact of the ADD on the user industry to be insignificant. It is, thus, noted that the interested parties have not established any adverse impact of ADD on the downstream user industry.

**P. RECOMMENDATIONS**

95. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers, and other interested parties to provide information on the aspects of dumping, injury, and the causal link thereof in terms of the Rules and having established positive dumping margin as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of anti-dumping duty is necessary to offset dumping and injury.
96. Considering that the product under consideration is capital goods, the assessment and collection of anti-dumping duty should be based on value of the goods rather than on any other criterion such as weight or number etc. The Authority therefore considers that it would be appropriate to recommend antidumping duty as a percentage of the CIF value of the import price of the subject goods.
97. In view of the above, the Authority, in terms of provisions contained in Rule 17(1)(b) read with Rule 4(d) of the Rules, recommends imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. The Authority accordingly recommends imposition of anti-dumping duty on the imports of subject goods originating in or exported from China PR for a period of five years from the date of notification to be issued in this regard by the Central Government, as a percentage of the CIF price of the goods, as indicated in Col. 8 of the duty table given below.
98. The landed value of imports for this purpose shall be assessable value as determined by the Customs under the Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

**DUTY TABLE**

SN	Sub Heading or Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Duty Amount	Unit of Measure
1	2	3	4	5	6	7	8	9
1	8477.1000	Plastic Processing or Injection Moulding Machines*	Clamping force not less than 40 tonnes and not more than 3200 tonnes	China PR	Any country including China PR	Any	43.59 % of CIF value	%


2	-Do-	-Do-*	-Do-	Any country other than China PR	China PR	Any	43.59 % of CIF value	%
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\*The following type of machine are excluded from the scope of the product under investigation:

- i. Blow moulding machines classified under Customs Tariff Classification No. 847730;
- ii. Vertical injection moulding machines;
- iii. All electric injection moulding machines wherein the mechanical movements such as injection, mould closing, mould opening, ejection, screw-drive, etc. are controlled by independent servo motors and having digital control system and without Hydraulic Unit;
- iv. Multi-colour/ multi-mould machinery for making footwear, Rotary injection moulding machinery for making footwear and footwear sole/strap/heel injection moulding machine classified under the Customs Tariff Classification No. 8453.
- v. Second hand/ used plastic processing machines.

**Q. FURTHER PROCEDURE**

99. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

  
**(Anant Swarup)**  
**Designated Authority**