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**F.No.7/37/2020 - DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001**

Dated: 27th August, 2021

Notification

Final Findings

Case No: AD (SSR)- 19/2020

Subject: Sunset review investigation concerning imports of tyre curing presses originating or exported from China PR.

A BACKGROUND OF THE CASE

Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter also referred to as “the Rules” or “AD Rules”) thereof:

1. Larsen & Toubro Limited (hereinafter referred to as the “applicant” or “petitioner” or “domestic industry” or “DI”) has filed an application before the Designated Authority (hereinafter referred to as the “Authority”), in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred as the “Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the “Rules” or “AD Rules”) for sunset review investigation for extension of existing anti-dumping duties (ADD) on imports of Tyre Curing Presses also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres (hereinafter referred as the “subject goods” or “product under consideration” or “PUC”), originating in or exported from China(hereinafter referred to as the “subject country”).
2. The Applicant alleged likelihood of continuation or recurrence of dumping of subject goods, originating in or exported from the subject country and consequent injury to the domestic

industry and has requested for review and continuation of the anti-dumping duty imposed on the imports of subject goods, originating in or exported from the subject country.

3. Section 9A(5) of Act, inter alia, provides that anti-dumping duty imposed shall, unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Authority is required to review whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury. In accordance with the above, the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. Rule 23(1B) of the Rules provides as follows:

"...any definitive anti-dumping duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition, unless the Designated Authority comes to a conclusion, on a review initiated before that period on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said anti-dumping duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry."

5. Based on the substantiated application with prima facie evidence of likelihood of dumping and injury filed on behalf of the domestic industry in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority initiated sunset review investigation vide Notification No. 7/37/2020-DGTR dated 26th February, 2021 and to examine whether the expiry of the said duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry and whether there is a need for continued imposition of anti-dumping duty in respect of the subject goods originating in or exported from the subject country.

Background

6. Earlier, the Authority had initiated an antidumping investigation in respect of imports of tyre curing presses originating or exported from China PR and after conducting the investigation recommended imposition of definitive anti-dumping duty vide Final Findings Notification No. 14/22/2007-DGAD dated 15th October, 2009. On the basis of the recommendations made by the Authority in the final findings, definitive anti-dumping duty was imposed by the Central Government vide Notification No. 1/2010-Customs (ADD) dated 8th January, 2010.

7. A mid-term review was initiated on 23rd May 2011 and final findings were issued on 29th March 2012 which led to exclusion of "Six Day Light Curing Press for curing bicycle tyres" from the ambit of the antidumping duty. The Ministry of Finance issued notification number

26/2012 - Customs (ADD), dated 14th May, 2012 implementing the aforesaid recommendation.

8. Thereafter, a sunset review was initiated on 7th January 2015. The Authority issued final finding on 5th January 2016 extending duties for 5 years which was given effect vide Notification No. 11/2016-Customs (ADD) dated 29th March 2016 issued by Ministry of Finance. Vide notification no. 15/2021 dated 26th March 2021 anti-dumping duties were extended up to 30th September, 2021. Subsequently, vide Notification No. 35/2021-Customs (ADD), dated 29th June, 2021, existing anti-dumping duties have been extended up to 30th November, 2021.

B PROCEDURE

9. The procedure described herein below has been followed with regard to the subject investigation:
 - a. The Authority issued a Notification dated 26th February, 2021, published in the Gazette of India Extraordinary, initiating an investigation concerning imports of the subject goods from the subject country.
 - b. 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 per the addresses made available by the applicant and requested them to make their views known in writing within 37 days of the initiation notification in accordance with Rule 6(2) of the AD Rules. The time limit to file information was extended upto 23rd April, 2021.
 - c. 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 AD Rules.
 - d. The Embassy of the subject country in India were 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 producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject country.
 - e. The Authority sent exporter's questionnaire to the following known producers/exporters in the subject country, whose details were made available by the applicant, to get relevant information in accordance with Rule 6(4) of the Rules:
 - i. Guilin Rubber Machinery Company Limited
 - ii. Sino Rubber Machinery Company Limited
 - iii. Yiyang Yishen Rubber Machinery Company Limited
 - iv. Qingdao Huicai Machinery Manufacturing Company Limited
 - v. COMIX curing agent technology Wuxi Company Limited
 - vi. Qingdao Shenghualong Rubber Machinery Company Limited
 - vii. Qingdao Green Rubber Machinery Company Limited
 - viii. Qingdao Eenor Science & Technology Company Limited
 - ix. Qingdao Fangyuanda Rubber Machine Company Limited

- x. Qingdao Plastsea International Trade Company Limited
- xi. Jiangyin Linsheng Machinery Company Limited
- xii. Qingdao Guangyue Rubber Machinery Company Limited
- f. M/s Guilin Rubber Machinery Company Limited, a producer/exporter from the subject country has filed questionnaire response.
- g. The Authority forwarded a copy of the Initiation Notification to the following known importers/users/user associations, whose names and addresses were made available to the authority, of subject goods in India and advised them to make their views known in writing within the time limit prescribed by the Authority in accordance with the Rule 6(4):
 - i. Balkrishna Industries Limited
 - ii. Bridgestone India Private Limited
 - iii. Apollo Tyres Limited
 - iv. CEAT Limited
 - v. Birla Tyres Limited
 - vi. Goodyear India Limited
 - vii. JK Tyres Industries Limited
 - viii. MRF Limited
 - ix. Continental India Private Limited
 - x. Falcon Tyres Limited
- h. The following users have filed user questionnaire response.
 - i. Apollo Tyres Limited
 - ii. CEAT Limited
 - iii. JK Tyres Industries Limited
- i. Automotive Tyre Manufacturers Association has filed submissions during the course of the investigation.
- j. Exporters, foreigner producers and other interested parties who have not responded to the Authority, or not supplied information relevant to this investigation, are treated as non-cooperating interested parties.
- k. The information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted and such information has been considered as confidential and not disclosed to 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.
- l. The interested parties were asked vide letter dated 1st April 2021, to share the non-confidential version of the responses, submissions and evidence presented by them with the other interested parties.
- m. The period of investigation for the purpose of the present investigation is from 1st April, 2019 to 30th September, 2020 (POI). The injury investigation period has been considered as the period from 1st April 2016 to 31st March 2017, 1st April 2017 to 31st March 2018 and 1st April 2018 to 31st March 2019 and the period of investigation.

- n. Additional/supplementary information was sought from the applicant and other interested parties to the extent deemed necessary. Verification of the data provided by the domestic industry was conducted to the extent considered necessary for the purpose of the investigation. The Authority made available non-confidential version of the evidence presented/made by various interested parties to the other parties by directing the parties to exchange such submissions via e-mail based on the list of interested parties relevant for the subject investigation made available to all relevant parties on the website of the DGTR.
- o. The Non-injurious Price (NIP) is based on the information on the cost of production and cost to make and sell the subject goods in India furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the AD Rules. The NIP has been worked out so as to ascertain whether duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- p. 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 the product concerned in India.
- q. In accordance with Rule 6(6) of the Rules, the Authority provided opportunity to all interested parties to present their views orally in the oral hearing held on 20th May 2021 which was attended by various parties. The oral hearing was held through video conferencing in view of the special circumstances arising out of the COVID- 19 pandemic. All the parties who had presented their views in the oral hearing were requested to file written submissions of their views, in order to enable opposing interested parties to file rejoinders thereafter, if any.
- r. The submissions made by the interested parties during the course of this investigation, wherever found relevant, have been addressed by the Authority, in this final findings.
- s. 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 this final findings on the basis of the facts available.
- t. *** in this final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.
- u. The exchange rate adopted by the Authority during the period of investigation for the subject investigation is 1 US\$= Rs. 73.17

C PRODUCT UNDER CONSIDERATION

10. The product under consideration defined in the initiation notification is as below: -

"The product under consideration in the present application, as defined in the last sunset review investigation is "Tyre Curing Presses" also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres, excluding Six Day Light Curing Press for curing bicycle tyres.

The product under consideration is classified under chapter 84 of the Customs Tariff Act, 1975 and subheading 84775100. However, the custom classification is indicative only and not binding on the scope of the investigation.”

C.1 Submissions of the domestic industry

11. As regards to the product under consideration and like article, the domestic industry has submitted the following:
 - a. Since the present investigation is a sunset review investigation, the scope of the product under consideration remains the same as in the last sunset review investigation.
 - b. The Authority had in previous investigations held that the product produced by the domestic industry is like article to the product under consideration.
 - c. The domestic industry has been in business for 48 years and sold more than 3000 machines in more than 45 countries. The domestic industry has received repeated orders from the same consumers.
 - d. The domestic industry has not faced any quality, technical and timely delivery issue with the customers.
 - e. Machines supplied by the domestic industry are running successfully for years.
 - f. CEAT Limited is repeatedly sourcing various presses from the domestic industry. Subject goods are produced on made to order basis in which the customer lays down the technical specifications. If the specifications have been complied, there cannot be any technical difference.
 - g. Product produced by the domestic industry is accredited with ISO 9001:2015 - Quality Management Systems, ISO 14001:2015 - Environmental Management Systems and ISO 45001:2018- Occupational Health and Safety Management System.

C.2 Submissions of the other interested parties

12. The other interested parties have submitted as follows regarding the product under consideration and like article:
 - a. The product manufactured by the Indian manufacturers lacks technological quality, safety standards, appropriate safety interlocks, alarm systems, customer services, delivery standards and hence cannot compete with the imported product.
 - b. The frequency of component failure is more in the product manufactured by the domestic industry as compared to the imported product.
 - c. The products manufactured by the foreign producers are more competitive in terms of faster curing cycle, higher productivity, lower cost of operation, higher safety, high reliability, consistency low maintenance cost, high OEE, less scrappage of cured tyre and higher Automation and low human interface.

C.3 Examination by the Authority

13. The product under consideration in the last sunset review investigation as well as in the present sunset review is Tyre Curing Press. In the previous investigation, the product under consideration was defined as under.:

"The product under consideration in the present application, as defined in the last sunset review investigation is "Tyre Curing Presses" also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres, excluding Six Day Light Curing Press for curing bicycle tyres.

The product under consideration is classified under chapter 84 of the Customs Tariff Act, 1975 and subheading 84775100. However, the custom classification is indicative only and not binding on the scope of the investigation."

14. Since the other interested parties have not made any submission with regard to the product under consideration, the Authority has considered the same scope of the product under consideration which was considered in last sunset review investigation, for the present investigation as well.
15. The subject goods produced by the domestic industry and that imported from the subject country are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. In view of the same, the product under consideration produced by the domestic industry is to be treated as like article to the product under consideration imported from the subject country.
16. As regards the submission of the interested parties with regard to quality and delivery issue of the articles, it is noted that none of the interested parties have provided any verifiable evidence in support of their above submission. However, the domestic industry in its submissions has stated that it has been in operation for a long-time catering to both domestic and export market and most of its customers are placing repeat orders. The domestic industry has further provided details showing the product produced by it is accredited with quality standards.

D DOMESTIC INDUSTRY AND STANDING

17. Rule 2(b) of the AD rules defines domestic industry as under:

"(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of

that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term, 'domestic industry' may be construed as referring to the rest of the producers."

D.1 Submissions of the domestic industry

18. The following submissions have been made by the domestic industry with regard to the standing and the scope of the domestic industry: -
- a. There are four other producers of the subject goods in India.
 - b. The production of the applicant producer accounts for majority of production in India.
 - c. The applicant has not imported the subject goods and is not related, either directly or indirectly, to any exporter in the subject country or any importer of the dumped article in India.
 - d. The other producers have not opposed the application for extension of duties.
 - e. The application satisfies the requirement of the Rules.
 - f. The applicant has established that it constitutes the domestic industry under law and thus, there is no legal requirement for it to seek support.
 - g. Devon Machines Private Limited is a related company of user MRF Limited and therefore, has not participated in the investigation.
 - h. Alfred Herbert (India) Limited has in their annual report of 2019-20 highlighted risks posed by cheaper imports.
 - i. From the data available upto 2017-18, it can be seen that Specific Engineering Private Limited too was in losses.
 - j. The other four companies in India have limited product range and deal with selected customer base.

D.2 Submissions of the other interested parties

19. As regards the standing and scope of the domestic industry, the opposing interested parties have stated that the present application is not being supported by any of the other four producers showing that they are unaffected by the imports from China PR.

D.3 Examination by the Authority

20. The present application has been filed by Larsen & Toubro Limited. From the information on record, it is noted that the applicant accounts for 88% of the production of PUC in India and has provided relevant information as per the prescribed format. It is also noted that the applicant has not imported the product under consideration from the subject country, and the applicant is eligible domestic industry within the meaning of Rule 2(b) of the Rules. The application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E MISCELLANEOUS SUBMISSIONS

E.1 Submissions of other interested parties

21. The other interested parties have made the following miscellaneous submissions: -

- a. Non-confidential version of the application does not give a reasonable understanding of the allegations contained therein. It violates the requirements specified in Rule 7 of the Rules.
- b. The domestic industry has not furnished any information in Section-VI (Costing Information) in the non-confidential version.
- c. The Authority should consider negative and burdensome impact of the imposition of these duties on the user industry.
- d. Failure to import would result in shortage of tyres in the Indian market.
- e. Every manufacturer would like to reduce its manufacturing cost to the extent possible so as to remain competitive in the market. It is immaterial if the impact is very marginal.
- f. The Applicant is the sole producer of the product under consideration in India and continuation of the anti-dumping duty could create complete monopoly over the Indian market.
- g. Continued anti-dumping duty will make the imports of the product expensive and the burden would eventually fall upon the end users and the transport sector.
- h. Degree of impact of the duty on ATMA's member companies is significant. 11 years is sufficient time for the domestic industry to start competing.
- i. Apollo Vredestein B.V., European subsidiary of Apollo Tyres Ltd. has not placed orders with the domestic industry.
- j. The domestic industry has not shown any evidence to satisfy the 'special case' requirement in cases of anti-dumping duty extension beyond a period of 10 years.
- k. In the sunset review of anti-dumping duty on imports of 'Dry Cell Batteries' from China PR, the Authority had noted that the duty may only be imposed beyond a period of 10 years if it qualifies as a 'special case.
- l. As per the judgment of Union of India v. Raghbir Singh and Divisional Commissioner KSRTC v. Mahadev Shetty & Ors, it is incumbent upon the Hon'ble DA to be consistent in decision making process.
- m. The Panel in US – DRAMS described the requirement in Article 11.1 whereby anti-dumping duties shall remain in force only as long as and to the extent necessary to counteract injurious dumping as a general necessity requirement.
- n. There is a lack of "sufficient evidence" of dumping/injury and likelihood and incorrect assessment of the allegations of injurious dumping. The producer/exporter notes that "prima facie" and "sufficient" are two completely distinct terms, imply different standards and are not interchangeable. Therefore, application does not meet the requirements laid down under the law and ought to be rejected.

E.2 Submissions of the domestic industry

22. Following miscellaneous submissions have been made by the domestic industry: -
 - a. Information such as names of related parties are available in the public domain but have been claimed confidential by the responding producer.

- b. The producer has provided information with regard to capacity, production and sale of the subject goods in its response. However, the information has been claimed completely confidential and even source of information has not been provided.
- c. In response to question regarding plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns since the date antidumping duty under review was levied, the producer has stated not applicable but as per information in public domain, the producer has expanded its capacity and has bought Krauss-Maffei Group.
- d. Same quantum of duty may be extended considering the history of the product, volume of imports and the performance of domestic industry during these periods.
- e. Extension of the anti-dumping duty on the imports of the subject goods from China PR will not have any significant adverse impact on the user industry.
- f. The product is a capital good and has an average useful life of over 20 years. The impact of duties over the life of the product would be highly insignificant.
- g. Expression of public interest does not limit itself only to the consumer but also extends to the domestic industry as well.
- h. The domestic industry is the largest producer accounting for 80-90% of the total domestic production. A healthy domestic industry is in the best interest of the users.
- i. Since there are four other producers, the possibility of establishing a monopoly does not exist.
- j. The users and the Association, instead of providing the relevant information on the impact of duties, have made blatant statements on the quality of the product produced by the domestic industry.
- k. The domestic industry has exported to Apollo Vredestein B.V. a tyre curing machine for producing OTR Tyres of 108 inches.
- l. There is no requirement of "special case" in either the law or the rules on the period for which the duty can be imposed. Only condition necessary under Rule 23 for extension of duties is whether the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury.
- m. The DGTR has in plethora of cases extended anti-dumping duty for more than 11 years. Facts of the current case is similar to the facts of other cases where the Authority extended the duties.
- n. There is no merit in the argument that because extension of duties was not recommended in one of the cases, they should not be extended in the current case as well. The Authority is required to examine the merits of the case on case-to-case basis and the facts of 'Dry Cell Batteries' case were different from that of the present case.
- o. The imposition of anti-dumping duties has not stopped the imports from the subject country and has not led to monopolistic tendencies. If the applicant was enjoying monopolistic status, it would have not lost the orders and also not sold the presses at losses to duty free segment.
- p. When demand is determined after including imports from non-China and sales of other domestic producer, the demand-supply gap cannot be determined considering capacity of the domestic industry alone. There is no demand and supply gap.

- q. Complete information relied on by Authority for the purpose of injury examination has been provided. Interested party should establish what prejudice has been caused by non-disclosure of purchase and sales policy.

E.3 Examination by the Authority

23. Regarding the submissions of interested parties on the adequacy and accuracy of the application, the Authority notes that the application contained all information relevant for initiation of the investigation. The Authority, only after satisfying itself that application contained sufficient evidence to justify initiation of the investigation initiated the present review investigation.

E.4 Confidentiality

Submissions by domestic industry

24. Exporter has claimed excessive confidentiality as it has claimed publicly available information as confidential. Information such as names of related parties (China Lichuang Mechanical and Electrical Equipment Co., Ltd.) etc are available in the public domain but have been claimed confidential.

Submissions by other interested parties

25. In the present investigation, the rights of defence of interested parties cannot be fully exercised, since significant data provided in the petition is not properly indexed or provided in the non-confidential version by the domestic industry. Justification Table indicating reasons for confidentiality provided by the domestic industry is not as per the requirements under the Trade Notice.
26. The domestic industry has claimed excessive confidentiality and filed an incomplete petition. In response to Section-VI (Costing Information) of the petition, the domestic industry has not furnished any information required. The domestic industry failed to reply in Section-VI of the Petition "please refer enclosed Format A to L" but nothing has been provided in non-confidential version of these formats. The petitioner is required to show reasonable justification for its claim but has failed to do so.

Examination by Authority

27. With regard to confidentiality of information, Rule 7 of the Anti-Dumping 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 subrule (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.”

28. Information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted and such information has been considered confidential and not disclosed to other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis. The Authority made available the non-confidential versions of the evidence submitted by various interested parties in the form of a public file.

F DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

F.1 Normal Value

29. 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 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):

- (b) 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."*

F.2 Submissions of the domestic industry

30. The submissions made by the domestic industry with regard to normal value, export price and dumping margin are as follows: -
- a. The Designated Authority may kindly direct Chinese produces to show that, consistent with the provisions of Article 15(a)(i), market economy conditions prevail in the industry producing the like product with regard to the manufacture, production, and sale of that product under consideration.
 - b. There are certain products which are imported for which domestic industry has not sold identical specifications and an appropriate methodology for the same needs to be adopted for calculating undercutting, dumping margin and injury margin calculations.
 - c. Normal value of Chinese producers cannot be accepted unless the producers show that their accounts reasonably reflect the costs associated with the production and sale of the product under consideration, having regard to the provisions of Rule 7 and 8 of the Rules, provisions of Accession Protocol of China, and the practice being followed by the Designated Authority.
 - d. Normal value is required to be determined for each of the PCN produced and exported by the producers/exporters from China PR. Information relating to the prices for each of the PCN is not available in the public domain and cannot be determined based on the customs data.
 - e. Normal value can be determined on the basis of the price payable in India duly adjusted to include a reasonable profit margin.
 - f. Dumping has intensified in the period of investigation. Continued dumping when duties are imposed itself establishes that there is likelihood of dumping in the event of cessation of the anti-dumping duty.
 - g. Gulin Rubber Machinery Factory participated in the original and first sunset review but the Authority did not accept their questionnaire response and did not determine individual dumping margin.
 - h. In the original investigation, Gulin had not been able to correctly establish its export price claim and therefore no individual dumping margin was determined. In the Sunset Review investigation, the exporter submitted an incomplete questionnaire and therefore it was not provided with individual dumping margin.
 - i. In past, Gulin was exporting through trader/exporter which did not participate in the investigations. Authority may examine the value chain in current investigation. If the

producer has exported through the same company or trader, it was required to file a response and failure to do so would entail rejection of its response.

- j. There are certain types of products imported from China PR for which domestic industry has not sold identical types of product. Either characteristics of the products differ in terms of associated add-on or the cost of components differs. 100% comparable PCN may not be available between domestic and imported product.
- k. While the respondent has contended that provisions of Article 15(a)(ii) have already ceased, provisions of Article 15(a)(i) are still applicable and must be considered for determination of normal value in China.

F.3 Submissions of other interested parties

- 31. The submissions made by the other interested parties with regard to normal value, export price and dumping margin are as follows: -
 - a. Constructed normal value computed by domestic industry lacks objectivity as there is no basis for adjustments carried out by it.
 - b. Constructed normal value may lead to an inflated dumping margin and therefore, the same ought to be rejected by the Authority.
 - c. It should also be verified that the domestic industry is capable of providing the adjustments.
 - d. The domestic industry has not provided any evidence to show how these adjustments are justified under benchmarked industry standards as required under Article 2.4 of the Anti-dumping Agreement ('ADA').
 - e. The Methodology adopted by the domestic industry to arrive at the normal value is problematic as it must be ensured that imported product variant can actually be manufactured by the domestic industry.
 - f. Surrogate country should not be considered in calculating normal value.
 - g. After 11 December 2016, India no longer has a legal basis under the agreements of the WTO to calculate normal value of Chinese products using the non-market economy methodology.

F.4 Examination by the Authority

- 32. The Authority notes that only one producer, Guilin Rubber Machinery Company Limited, has filed response in the present investigation. All other producers in China have been treated as non-cooperative as they failed to provide the necessary information for the present investigation.

Determination of normal value and export price

Market Economy Status for Chinese Producers

- 33. 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."*

34. It is noted that while the provision contained in Article 15 (a) (ii) have expired on 11.12.2016, the provision under Article 2.2.1.1 of WTO read with obligation under 15 (a) (i) of the Accession protocols require criterion stipulated in para 8 of the 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 the responding

producer/ exporter from China PR has not submitted response to questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.

35. Accordingly, the normal value for all the producers/exporters from the subject country have been determined as below.

Normal Value for all producers in China PR.

36. As none of the producers from China PR have claimed determination of normal value on the basis of their own data/information, 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.

37. The Authority notes that normal value could not be determined on the basis of prices or constructed value of the product in an appropriate market economy third country or the prices from such third country to other countries, as the relevant information has neither been made available by the applicant or an interested party, nor is available with the Authority from any public source. In this case, it is noted that the PUC does not have a dedicated classification, and these machines differ significantly in terms of add ons or specifications. Thus, the normal value has been determined on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits.
38. It is noted that subsequent to initiation of investigation, submissions were received from the interested parties about the fact that since the product under consideration has different technical characteristics, the Authority should adopt Product Under Consideration (PCN) for the purpose of determining Normal Value and Export Price. Taking the submissions into account, the Authority notified the Product Under Consideration (PCN) on the basis of technical characteristics and asked interested parties to submit information on the basis of notified PCNs.

39. In this case, normal value has been determined for two PCNs which have been exported by cooperating exporter from China PR to India on the basis of price paid or payable in India, duly adjusted to include profit, which has been determined considering cost of production in India, after addition for selling, general & administrative expenses and reasonable profits. In case a machine exported from the subject country has not been produced in India, constructed normal value for machines produced by domestic industry with similar technical characteristics have been adopted in order to work out the cost of the machine imported from the subject country. The normal value so determined is given below in dumping margin table.

Export price

Guilin Rubber Machinery Company Limited

40. It is noted that Guilin Rubber Machinery Company Limited is a producer and exporter of the subject goods in China PR, and has exported directly to unrelated customers in India during the period of investigation. The responding producer/exporter has given details of the exports of the subject goods to India in Appendix 3A of the exporters' questionnaire response. It is noted from the response that the company has exported *** sets of subject goods to India. For the exports to India, the producer/exporter has claimed adjustments on account of port and other related expenses, transportation charges, insurance charges, bank charges and credit expenses. The Authority has relied upon the details of the exports given in the questionnaire response filed by the producer/exporter after verification of information. The adjustments towards port and other related expenses, transportation charges, insurance charges, bank charges and credit expenses of the producer/exporter have been accepted after verification of information through remote cross check/desk verification. Accordingly, the Authority has determined the net export price, and the same is mentioned in the dumping margin table below.

For all other producers/exporters from China PR

41. The export price for all other producers and exporters who has not participated in the present investigation has been determined as per facts available and the same has been mentioned in the dumping margin table.

Calculation of dumping margin

42. PCN wise normal value, ex-factory export price and dumping margin determined in the present investigation for China PR is as follows: -

SN	Particulars	Normal Value (USD/MT)	Export price (USD/MT)	Dumping margin (USD/MT)	Dumping margin - %	Dumping margin – range
	China PR					
a	Guilin Rubber Machinery Company Limited					
	HM65.521VCLSMO	***	***	***	***	(10-20)
	HM5521VCLSMO	***	***	***	***	(0-10)
	Weighted Average	***	***	***	***	(10-20)
b	Any other non-cooperative producer/exporter	***	***	***	***	(0-10)

43. It is seen that the dumping margin is negative in respect of both PCNs for cooperative exporter as well as for non-cooperative producer/exporters.

G METHODOLOGY FOR INJURY DETERMINATION AND EXAMINATION OF INJURY AND CAUSAL LINK

44. Rule 11 of the Rules read with Annexure-II provides that an injury determination shall involve examination of factors that may indicate injury to the domestic industry, "*... taking into account all relevant facts, including the volume of dumped imports, their effect on prices in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles...*". In considering the effect of the dumped imports on prices, it is considered necessary to examine whether there has been a significant price undercutting by the dumped imports as compared with the price of the like article in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

45. Rule 23 of the Rules provides that the provisions of Rule 6, 7, 8, 9, 10, 11, 16, 18, 19 and 20 shall apply mutatis mutandis in case of a review. The Authority in its examination has evaluated the injury parameters which are required under Rule 11 and Annexure II of the Rules and has also examined as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

G.1 Submissions of the domestic industry

46. The submissions of the domestic industry with regard to injury and causal link are reproduced herein below: -

- a. The volume of Chinese imports decreased upto the year 2018-19 but have increased very sharply in the period of investigation.

- b. The imports in the period of investigation are more than the level at which they were in the base year.
- c. Imports have increased in relation to production and consumption. Increase in imports in relation to consumption highlights that the increase in imports is over and above the increase in demand in India.
- d. Owing to the different diameters and type of machines in terms of mechanical and hydraulic, it is necessary that the Authority undertakes price undercutting analysis on PCN basis.
- e. There are some imports of the product for which domestic industry had quoted a price and lost the order because the Chinese producers had quoted a lower price.
- f. There are significant imports of 48 inch and 52.5-inch machines which were imported by Yokohama Rubber Company for their project in Bahadurgarh, Haryana. However, these imports may not be from freshly negotiated order and instead are orders which were placed by them for a new major set up in Philippines around 2010-2011 and expanded in phases.
- g. Yokohama placed orders for about 100 machines and has imported these machines into India while the orders may have been originally meant for other country. Since these orders were placed earlier and rates finalised earlier in USD, in order to compare it with the current selling price of the domestic industry, the rate of exchange as prevailing at that time in the market should be considered.
- h. The orders placed with the Chinese producers are with additional add on features. However, in case of the domestic industry, consumer placed order for machines without add on features. Such being the case it is imperative that the prices of the domestic industry are adjusted for the additional features in the imported product.
- i. For imports by Apollo Tyres of 55-inch press, the domestic industry was asked to quote a final “no regret price”. The price quoted by the domestic industry for the exact model was Rs 265 lakhs. However, the domestic industry lost the order and ultimately, Apollo Tyres imported the product from China at a price of Rs 212-214 lakhs.
- j. Apollo Tyres imported 65.5-inch press in the price range of Rs 230 lakhs to Rs 240 lakhs. The domestic industry was not asked to quote a price for the same. However, the domestic industry sold 65.5-inch machine to MRF Ltd. After considering due adjustments in the price of machine sold to MRF, the average price of the domestic industry for the similar machine imported by Apollo would have been Rs 285 lakhs.
- k. There has been import of 1 lot by Bridgestone India which has imported 3 machines of 51 inches. On a comparison of the average price of comparable item of the domestic industry, it would be seen that the import price was significantly lower.
- l. The domestic industry quoted its lowest price to ATG Group who wanted a 108-inch press. The domestic industry had to take the order at a price of imported product and thereby incurred a significant loss.
- m. Anti-dumping duties have ensured that the dumped imports from the subject country do not affect the performance of the domestic industry at least in the duty paid segment.
- n. Capacity of the domestic industry is lower than the demand in India and considering demand supply gap, the domestic industry could have produced and sold more in the domestic market but instead it was operating with idle capacities.

- o. Production of the domestic industry increased till year 2018-19 but declined in the period of investigation. Declining production in spite of increasing demand itself shows the impact of imports on domestic industry's operations.
- p. Domestic sales of the domestic industry increased till 2018-19 and then declined in the period of investigation.
- q. Market share of the domestic industry increased upto year 2018-19. However, with increase in imports from the subject goods from China in the period of investigation, the market share of the domestic industry has declined.
- r. The domestic industry has made reasonable profits in the duty paid segment; Its profitability is adverse in the non-duty paid segment as it has suffered significantly on profitability.
- s. Injury in the non-duty paid segment can be attributed to exemptions given by the Government on import duties, but the fact that the domestic industry has suffered in the absence of anti-dumping duties itself shows the vulnerability of the domestic industry to the dumped imports.
- t. Considering the nature of the product, which is produced and sold on an order basis, even an inventory blockage of 8 units shows that the domestic industry could have actually sold more than what it has sold in the market.
- u. The domestic industry has recorded a negative growth in all the parameters in the period of investigation.
- v. Market for product under consideration can be clearly segregated into two segments – duty free and duty paid. The domestic industry competes with imports in these two segments based on whether antidumping duty applies, while giving price offers.
- w. The product being capital goods, is sold on order basis manufactured on the basis of specifications/requirements specified. Orders which have been imported in this period of investigation, order was placed sometime in 2018. The tyre manufacturing companies do the negotiations with the suppliers on the basis of price and other terms & conditions of sale and finally award the order generally on L-1 basis. Adverse effect of dumping is more visible in loss of sale/order rather than the arrival of the goods.
- x. The year 2019-20 saw high number of imports from China PR. In the period post the period of investigation, the Chinese producers have captured more market in India with their dumped imports.
- y. The domestic industry has only requested segmented analysis to consider performance of the domestic industry in the two segments to judge the performance of the domestic industry when the anti-dumping duty is in place and when the anti-dumping duty would not be in place.
- z. Domestic industry has not missed any order due to delay in delivery.
- aa. There are significant imports below the non-injurious price of the domestic industry. The fact that there is low-priced transactions cause injury (with positive injury margin) justifies extension of duty.
- bb. The cost being given for NIP is on the basis of standard cost with suitable adjustments for variance, cost of raw material has been provided on the basis of standard cost for NIP purposes. The data contains the variance on cost of production that has been adjusted in the total cost provided in the Format C.

- cc. On injury due to imports from other countries, merely because there are imports from third countries, it does not imply that the same are injurious. Majority of the imports from other than subject country is of small size machines and hence of lower price.
- dd. On no adverse price admitted in the application, Anti-dumping duties have ensured that the dumped imports from the subject country do not affect the performance of the domestic industry at least in the antidumping duty paid segment.
- ee. The company determines the capacity in terms of equivalent units of a standard product (i.e., 65.5" Tyre Curing Press with Accessories). Therefore, accordingly determined capacity is 372 Nos.
- ff. On the submission that the domestic industry has increased focus on exports, domestic industry's export sales are hardly 15% of its total production of the subject goods in the period of investigation.
- gg. Increasing exports at profits shows that there are no internal problems in the operations of the domestic industry, it is suffering in the domestic market only due to the dumped imports and not due to the quality of the products produced by the domestic industry.
- hh. On the submissions made in the annual report, applicant is multi product, multi-location, multi segment organization and majority of the revenue of the company comes from other businesses.
- ii. On the submission that there are internal problems, interested party has made a reference to the "internal problems" and "unfavourable economic environment" but has not brought forward any such factors.
- jj. Major investments for the year 2021 in the truck & bus tyres in India was proposed by Ralson India Limited who needed 54 machines of 65.5 inches. The domestic industry was keen to supply the product and had offered its price. However, as per its information the order has been given to a Chinese supplier at a significantly lower price than the price offered by the domestic industry.
- kk. First half of 2020-21 saw import of only 9 machines from the subject country. However, in the next 4 months of October 2020 to January 2021 itself, the number of machines imported has jumped to 17 machines.
- ll. China National Chemical Corporation, holding company of Guilin Rubber Machinery, announced that it got orders for vulcanizing machines worth "several hundred million yuan" from Indian customers. Considering the nature of the product and the lockdown imposed globally, it is expected that order too will be delivered soon in India.
- mm. The applicant requests the Authority for instructions on the treatment to be accorded for the period of lockdown and unlock down in various relevant information.

G.2 Submissions of the other interested parties

47. The submissions of the other interested parties with regard to injury and causal link are reproduced herein below:
- a. The Authority has in the past investigations rejected the distinction between the duty-free and duty-paid segment.
 - b. The analysis of the injury parameters highlights that the domestic industry has had a stellar performance and thus, no material injury.
 - c. Increase in imports was due to demand and supply gap.

- d. Imports of 48 inch and 52.5-inch presses for which orders are placed in 2010-11 and hence are not comparable to the present day prices.
- e. Price undercutting is disputed due to adjustments made by the domestic industry to the prices on account of additional features in the Chinese product under consideration which are not present in the orders placed by the domestic industry.
- f. The domestic industry has admitted that there has been no adverse price effect on accounts of Chinese imports.
- g. Non-injurious price determined by the domestic industry is incorrect.
- h. Performance parameters of the domestic industry show significant improvement leading up to the period of investigation. The installed capacity has remained constant, decrease in market share of Chinese imports by 53% as compared to decrease of 11% of the domestic industry, stellar profitability, ROI and cash profits as usual and decline in inventory.
- i. Installed capacity of the domestic industry was 600 nos. and demand were 114 in the period of investigation of previous SSR. The capacity of the domestic industry is likely to remain at 600 numbers and the demand has increased by more than three times in the current period of investigation.
- j. Capacity of the domestic industry has remained same during entire injury period and production has increased sharply. The capacity utilization has increased 65% as compared to the base year.
- k. Decrease in the market share is also on account of the domestic industry's export focus.
- l. There is a need to segregation of injury on account imports from other countries. CIF prices from China PR are higher than the landed prices for imports from other countries.
- m. Imports from China PR have share of only 19% whereas that of other countries is 81%.
- n. Injury is also due to merger with L&T Shipbuilding Limited which could have major financial implications, COVID-19, and the subsequent stoppage of economic activity, increase in interest payment costs by 287%.
- o. The domestic industry's profit has been impacted by the increase in depreciation and amortization expenses which have increased by 38% in the period of investigation compared to the base year.
- p. There has been an increase in domestic and export sales of the domestic industry.
- q. There is a delay in delivery and resolution of issues in case of product supplied by the domestic industry.
- r. The Return on Investment which has been claimed at 22% return on gross fixed assets is inflated and not in accordance with law. Such estimate seems to be unrealistic and not as per industry norms. Cites jurisprudence in Indian Spinners Association v. Designated Authority to hold that the return is subject to variation and fixing of a fixed return on investment at 22% was artificial and against market reality.
- s. Period leading up to the lockdown and subsequent stoppage of all economic activity affected the availability of labour. This also had an impact on the operations of the entity.
- t. The application does not contain adequate evidence of injury and likelihood of continued dumping and injury. There has been an increase in total demand and decline

in imports by 7% in the period of investigation. There has also been a substantial increase in domestic sales.

- u. Annual report for the financial year 2019-20 show that the performance of the petitioner has improved.
- v. Cash profit and profit before interest and tax of the company remained positive during the entire injury period and the period of investigation.
- w. The domestic industry has instead of accounting for actual raw material costs taken normated or standardized costs causing distortion of the non-injurious price.
- x. Demand and sales of domestic industry have increased as compared to the base year. On the contrary, imports from subject country have declined.

G.3 Examination by Authority

- 48. The Authority has taken note of the submissions made by the interested parties as well as the domestic industry. Annexure-II of the Anti-Dumping Rules provides for objective examination of both (a) the volume of dumped imports and the effect of the dumped imports on prices in domestic market for the like articles; and (b) the consequent impact on domestic producers of such products.
- 49. The Authority has examined the injury parameters objectively considering the facts and arguments submitted by the domestic industry and the other interested parties.
- 50. The Authority has taken note of the various submissions made by the domestic industry and other interested parties on injury and causal link and analysed the same considering the facts available on record and applicable laws. The injury analysis made by the Authority in the succeeding preceding paras ipso facto addresses submissions made by the domestic industry and the other interested parties.
- 51. It has been contended that there is a delay in delivery and resolution of issues in case of product supplied by the domestic industry. The Authority notes that the product is a capital good which is manufactured as per specifications provided by the customers. The lead time of projects by the tyre companies may run into several months for the civil construction, providing utilities and arranging necessary tooling's, moulds etc. which can be as high as 1 year. As per the information provided by the domestic industry, it has not missed any order till date. Further, the interested parties too have not shown any evidence where there has been a delay in delivery from the domestic industry. Therefore, it cannot be a case where an order has been placed on the Chinese producers because the domestic industry had given much longer delivery period as compared to what the Chinese producers had offered.

G.3.1 Assessment of demand

- 52. The Authority has determined demand or apparent consumption of the product in India, as the sum of domestic sales of the domestic industry and imports from all sources and the details of the same are provided in the table below.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	Sales of domestic industry	Nos.	***	***	***	***	***
	Trend	Index	100	164	257	268	178
2	Sales of other Indian producers	Nos.	***	***	***	***	***
	Trend	Index	100	110	120	200	135
3	Imports from subject country	Nos.	44	37	3	62	41
4	Import from other countries	Nos.	51	99	85	271	181
5	Total demand/ consumption	Nos.	***	***	***	***	***
	Trend	Index	100	148	161	302	201

53. It is seen that the demand of the subject goods has increased over the injury period.

G.3.2 Volume effect of dumped imports.

i. Import volume and share of subject countries.

54. The effects of the volume of dumped imports from the subject country as well as imports from other countries have been examined by the Authority in the table below.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	Imports from subject country	Nos.	44	37	3	62	41
2	Imports from non-subject country	Nos.	51	99	85	271	181
3	Total imports	Nos.	95	136	88	333	222
	Imports in relation to						
4	Indian production	%	***	***	***	***	***
	Trend	Index	100	62	3	59	59
5	Demand	%	***	***	***	***	***
	Trend	Index	100	57	4	47	47
6	Total imports	%	46.32%	27.21%	3.41%	18.62%	18.62%

55. It is seen that the volume of dumped imports of subject goods declined till 2018-19 but it has increased sharply in the period of investigation. Subject imports in relation to Indian production, consumption and gross imports have also followed the similar trend. Overall,

the volume of imports of subject goods have declined during POI as compared to base year. Further, imports in relation to Indian production, and demand have also shown a decline.

56. It is noted that the imports from subject country has decreased in POI as compared to the base year but the imports from non-subject countries has increased substantially in POI as compared to the base year.
57. Further, it is also noted that the imports in relation to both Indian production and demand has decreased in POI as compared to the base year.

G.3.3 Price effect of dumped imports.

58. 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 underselling, price suppression and price depression, if any.

a. Price undercutting

59. 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 Authority has examined price undercutting on PCN wise basis. In this regard, a comparison has been made between the landed value of all the PCNs imported from subject country (two PCNs) and average selling price of the identical PCN or in case where there is no identical machine sold by domestic industry, nearest possible machine with appropriate adjustments, net of all rebates and taxes, at the same level of trade has been considered. The prices of the domestic industry were determined at ex-factory level.

SN	PCN	Landed Price Rs/machine	NSR Rs/machine	Price undercutting Rs/machine	Price undercutting %	Price undercutting Range
1	HM65.521VCLSMO	***	***	***	***	(10-20%)
2	HM5521VCLSMO	***	***	***	***	(0-10%)
3	H5121VCLSMOPCIGTH/HPU	***	***	***	***	10-20%
4	HM68.521VCLSMOGTH/HPU	***	***	***	***	30-40%
5	M4821VCLSMOPCIGTH	***	***	***	***	(10-20%)
6	M52.511VCLSMOPCIGTH	***	***	***	***	10-20%
7	M52.521VCLSMOPCIGTH	***	***	***	***	(20-30%)
	Total (weighted average)	2,39,42,774	***	***	***	(0-10%)

60. It is noted that the price undercutting of the subject goods from subject country is found to be negative.

b. Price Suppression/Depression

61. To examine the price suppression and depression effects of the dumped imports on the domestic prices, the trend of selling price of the domestic industry has been compared with the cost of production. The data given below shows that both cost of production and selling price have increased over the injury period, however the increase in selling price is more than the increase in cost of sales. Thus, it is noted that imports are not causing either price suppression or price depression in the domestic market.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	Cost of sales	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	150	256	334	223
2	Selling price	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	173	284	361	241

G.3.4 Impact on economic parameters of the domestic industry

62. Annexure - II to the Anti-Dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. The Anti-Dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective 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. Accordingly, various injury parameters relating to the domestic industry are discussed herein below.

a. Capacity, Production, Capacity Utilization and Sales

63. The Authority has considered the data of capacity, production, capacity utilization and sales volume of the domestic industry over the injury period given in the table below.

SN	Particulars	UOM	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	Capacity -Plant	Nos.	***	***	***	***	***
	Trend	Indexed	100	100	100	150	100
2	Production -Plant	Nos.	***	***	***	***	***

	Trend	Indexed	100	135	201	226	151
3	Production -PUC	Nos.	***	***	***	***	***
	Trend	Indexed	100	142	231	248	165
4	Capacity Utilization-Plant	%	***	***	***	***	***
	Trend	Indexed	100	135	201	151	151
5	Domestic sales	Nos.	***	***	***	***	***
	Trend	Indexed	100	164	257	268	178

64. It is seen that:

- a. Capacity with the company is not dedicated for the production of the subject goods only. Other types of machines can also be manufactured by the domestic industry. The capacity of the domestic industry has remained constant over the injury period.
- b. The production of the subject goods of the domestic industry increased till the year 2018-19 but has declined in the period of investigation. With a decline in production in the period of investigation, the capacity utilization of the domestic industry has also declined during the POI.
- c. Domestic sales of the domestic industry have followed a similar trend as they have increased till the year 2018-19 but declined in the period of investigation.

65. It is noted that the capacity of the domestic industry has remained the same but the production of the domestic industry has increased in the POI as compared to the base year. It is also noted that the capacity utilization and the domestic sales have increased by 50% in the POI as compared to the base year.

b. Market share of the domestic industry in demand.

66. The effects of the dumped imports on the market share of the domestic industry have been examined.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Domestic industry	%	***	***	***	***
	Trend	Indexed	100	111	159	89
2	Other producers	%	***	***	***	***
	Trend	Indexed	100	74	74	66
3	Subject country	%	***	***	***	***
	Trend	Indexed	100	57	4	47
4	Other countries	%	***	***	***	***
	Trend	Indexed	100	131	103	176

67. It is seen that market share of the domestic industry declined from 100 index points to 89 index points in the period of investigation as compared to the base year.

68. It is also noted that market share of the imports from subject country and other countries declined by more than 50% in the period of investigation as compared to the base year.

c. Inventories

69. Information with respect to volume and value of inventory is given below.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI
1	Average inventory	No.	***	***	***	***
	Trend	Indexed	100	100	-	50
2	Average inventory	Rs Lakh	***	***	***	***
	Trend	Indexed	100	100	-	57

70. The product under consideration is a capital good and is produced on order basis. Therefore, volume and value of inventory with the domestic industry will not be a relevant parameter to examine the effect of dumped imports on the domestic industry.

d. Profit or loss, cash profits and return on investment.

71. Performance of the domestic industry has been examined in respect of profits, cash profits and return on capital employed based on the data given in the table below.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	Cost of sales	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	150	256	334	223
2	Selling price	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	173	284	361	241
3	Profit / Loss (PBT)	□ Lacs	***	***	***	***	***
	Trend	Indexed	(100)	165	120	36	24
4	Profit / Loss (PBT)	□ per no.	***	***	***	***	***
	Trend	Indexed	(100)	101	47	13	13
5	Cash profits	□ Lacs	***	***	***	***	***
	Trend	Indexed	(100)	486	407	270	206
6	Profit before Interest & Tax (PBIT)	□ Lacs	***	***	***	***	***
	Trend	Indexed	(100)	285	260	255	170
7	Return on capital employed	%	***	***	***	***	***
	Trend	Indexed	(100)	235	186	99	99

72. Authority has examined the profitability of the domestic industry over the injury period. It is seen that:

- a. The overall profits of the domestic industry have increased in the period of investigation as compared to base year.
- b. Similarly, the cash profits and profit before interest and tax were also negative in the base year but became positive during the injury period.
- c. Returns on capital employed increased to 99 index points in POI from -100 index points in base year.

e. Employment, wages and productivity

73. The situation of the domestic industry with regard to employment, wages and productivity was examined.

SN	Particulars	Unit	2016-17	2017-18	2018-19	POI	
						Actual	Ann.
1	No of Employees	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	98	96	97	97
2	Salary & Wages	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	77	96	138	110
3	Productivity Per Day	□ Lacs	***	***	***	***	***
	Trend	Indexed	100	135	201	151	151
4	Productivity Per Employee	□ per no.	***	***	***	***	***
	Trend	Indexed	100	137	209	233	155

74. It is seen that the number of employees with the domestic industry has marginally declined over the injury period whereas the wages paid have increased. The productivity of the domestic industry has shown a similar trend of production.

f. Growth

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

SN	Particulars	2017-18	2018-19	POI
1	Production	42%	63%	-28%
2	Sales	64%	57%	-31%
3	Market share %	11%	44%	-25%
4	Profit/loss per lakh	352%	11%	-80%
5	Profit/loss per unit	254%	-29%	-71%
6	Cash profits	1593%	12%	-49%
7	Return on capital (%)	862%	9%	-46%

76. It is seen that performance of the domestic industry was positive in respect of volume parameters in the first two years of injury period and thereafter became negative in the period

of investigation. Performance in respect of price parameters was negative in the period of investigation.

g. Magnitude of dumping

77. It is seen that the dumping margin in respect of the imports from the subject country is negative.

h. Ability to raise fresh investment.

78. It is seen that the domestic industry is operating with reasonable margins in injury period except in the base year and the current rate of operations has ensured that its ability to raise capital investments has not been impacted.

i. Factors affecting domestic prices.

79. It is noted that domestic industry competes with the imports on the basis of import price.

j. Magnitude of injury margin/Price underselling

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 information/data relating to the cost of production provided by the domestic industry and duly certified by the practising accountant for the POI. The Authority has examined injury margin on PCN wise basis. In this regard, a comparison has been made between the landed value of all the PCNs exported by the cooperating producer and non-injurious price of the identical PCN or in case where there is no identical machine produced by domestic industry, nearest possible machine produced by the domestic industry. Based on the landed price and NIP determined as above, the injury margin for producers/exporters as determined by the Authority is provided in the table below:

SN	Particulars	NIP (Rs/MT)	Landed price (Rs/MT)	Injury margin (Rs/MT)	Injury margin - %	Injury margin - range
1	China PR					
a	Guilin Rubber Machinery Company Limited					
	HM65.521VCLSMO	***	***	***	***	(30-40)
	HM5521VCLSMO	***	***	***	***	(15-25)
	Weighted Average	***	***	***	***	(20-30)
b	Any other non-cooperative producer/exporter	***	***	***	***	(15-25)

H CAUSAL LINK

80. As per the AD Rules, the Authority, inter alia, is required to examine any known factors other than dumped imports which are injuring or are likely to cause injury to the domestic industry, so that the injury caused by these other factors may not be attributed to the dumped imports. While the present investigation is a sunset review investigation and causal link has already been examined in original investigation, the Authority examined whether other known listed factors have caused or are likely to cause injury to the domestic industry. It was examined whether other factors listed under the AD Rules could have contributed or are likely to contribute to the injury suffered by the domestic industry.
- a. Volume and price of imports from third country**
81. It is noted that the PUC is a capital goods, and every machine is made to order with many components being added depending upon requirements of the customers. It is noted that the imports from other countries are mainly machines of smaller sizes which are not being imported from China PR. However, the price of imports from non -subject countries is significantly higher. Therefore, the imports from non- subject countries cannot be a cause of injury.
- b. Contraction in Demand and / or Change in Pattern of Consumption**
82. Demand of the subject goods has increased in the period of investigation as compared to base year and year 2018-19. Therefore, fall or contraction in demand and / or change in pattern of consumption cannot be a factor of injury.
- c. Development of Technology**
83. The Authority notes that technology for production of the product has not undergone any change. Developments in technology are, therefore, not a possible factor of injury.
- d. Trade restrictive practices**
84. The Authority notes that there is no trade restrictive practice, which could have caused injury to the domestic industry.
- e. Export performance**
85. The domestic industry has made profits in the export of the product under consideration. Therefore, export operations cannot be a cause of injury. In any case, Authority has considered segregated data of domestic operations of the domestic industry only.
- f. Performance of other products**
86. The Authority has considered segregated data only relating to performance of the product under consideration. Therefore, performance of other products produced and sold by the applicant is not a possible cause of the injury to the domestic industry in this investigation.

Conclusion on likelihood of continuation of injury

87. It is noted that the imports from subject country has decreased in POI as compared to the base year but the imports from non-subject countries has increased substantially in POI as compared to the base year. Further, it is also noted that the imports in relation to both Indian production and demand has decreased in POI as compared to the base year.
88. It is noted that the price undercutting of the subject goods from subject country is found to be negative.
89. It is noted that both cost of production and selling price have increased over the injury period, however the increase in selling price is more than the increase in cost of sales. Thus, it is noted that imports are not causing either price suppression or price depression in the domestic market.
90. It is noted that the capacity of the domestic industry has remained the same but the production of the domestic industry has increased in the POI as compared to the base year. It is also noted that the capacity utilization and the domestic sales have increased by 50% in the POI as compared to the base year.
91. It is seen that market share of the domestic industry declined from 100 index points to 89 index points in the period of investigation as compared to the base year. It is also noted that market share of the imports from subject country and other countries declined by more than 50% in the period of investigation as compared to the base year.
92. As regards profitability, it is noted that the overall profits of the domestic industry have increased in the period of investigation as compared to base year. Similarly, the cash profits and profit before interest and tax were also negative in the base year but became positive during the injury period. Returns on capital employed increased to 99 index points in POI from -100 index points in base year.
93. On the basis of above analysis, the Authority notes that there is no likelihood of continuation of injury to the domestic industry in the event of cessation of existing anti-dumping duty.

I LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

94. In a review investigation, the Authority has to determine whether the subject goods are continuing to enter or likely to enter the Indian market at dumped prices and whether injury to the domestic industry is likely to continue or recur due to these dumped imports if the duty is removed.

I.1. Submissions by the domestic industry

95. The submissions of the domestic industry with regard to likelihood of injury are reproduced herein below: -
 - a. Imports from subject country have been made in both the duty paid segment as well as non-duty paid segment. Performance of domestic industry has been relatively poor in non-duty paid segment.
 - b. Loss per unit sold of the domestic industry has increased sharply in the period of investigation as the imports increased which clearly depicts the likely performance of the domestic industry in case the duties are allowed to lapse.

- c. The domestic industry has also lost sales opportunities in the period of investigation as well. Loss of sales opportunities in a segment where the domestic industry is competing with dumped imports without any anti-dumping duties in place itself show the likelihood of loss of sales opportunities in the duty paid segment also, if the existing antidumping duties are not extended.
- d. As per the information from the website of the Chinese producer, they have set up huge capacity which are significantly beyond the demand in their country and are exporting their goods to various markets globally.
- e. Continued and intensified dumping when duties have been imposed itself establishes the likelihood of continuation of dumping and injury in the event of cessation of anti-dumping duty.
- f. As per the survey of European Rubber Journal, India is identified as fast-growing market by almost 80% of the global companies. New offices are being planned to be established by Marangoni Mescanica and Rodolfo Comerio.
- g. The fact that producer is operating with 30% idle capacities, itself shows that there is a likelihood of increase in imports in case duties are not extended.
- h. India is a growing market, which is not only recognized by China but also by other countries, it becomes more important to extend the duty.
- i. If excess capacity may not mean that it can be utilized for selling in the Indian market once duties expire, exporters are free to establish that they have set up capacity for holding them idle, have no concerns over unutilized capacities, their business objective is not to maximize revenue and profits, their government bears fixed costs or gives owners enough money and the owners are not concerned with profits being earned or these are charitable institutions and are not meant for revenue and profit maximization.

I.2 Submissions by other interested parties

96. The submissions of the other interested parties with regard to likelihood of injury are reproduced herein below: -
- a. Market share of the Chinese imports cannot be more than 7% of the total Indian demand. Therefore, it does not show likelihood of continuation of injury.
 - b. The domestic industry ought to provide positive evidence instead of merely asserting excess capacity with the exporters as it does not always imply diversion of exports to India.
 - c. There has been a decline in the domestic industry's market because the domestic industry is export oriented.
 - d. The CIF prices of the PUC from China is significantly higher than CIF prices from other countries.
 - e. There has been a decline in Chinese imports in absolute and relative terms.
 - f. Presence of any price underselling is unlikely as the domestic industry has been performing very well and the Chinese imports are not entering the Indian market below the domestic industry's non-injurious price.
 - g. There has been a decline of 77% in the inventories of the domestic industry showing improvement of its performance.

- h. The ability to raise capital is not impacted.
- i. Claims of the domestic industry with regard to likelihood are based on hypothetical assumptions and not based on facts.
- j. Gulin has not caused injury but contributed to the growth of the Indian industry.
- k. Any injury allegedly suffered by the DI has been caused by factors other than imports from China PR.
- l. The injury in the non-duty paid segment is largely on account of imports from other countries whose CIF prices are substantially lower than Chinese CIF prices of the PUC.
- m. There is a decline in market share of the domestic industry due to its focus on exports.
- n. Producer/exporter has been operating at more than 70% capacity utilisation and hence it does not have freely disposable capacities.

I.3. Examination by the Authority

97. On the basis of above analysis, the Authority notes that there is no likelihood of continuation or recurrence of dumping and injury to the domestic industry in the event of cessation of existing anti-dumping duty.

I.4. POST DISCLOSURE COMMENTS

98. Post disclosure submissions have been received from the interested parties. These are examined as follows:

Submissions by ATMA

The submission made by ATMA is as follows:

99. The performance of the DI may vary across the injury period depending on supply and demand side factors. Thus, any increasing or decreasing trend should be compared against the base year leading up to the POI to ensure an objective analysis.
100. ATMA agrees with the findings of significantly negative price undercutting and requests to confirm the same in the final findings.
101. ATMA agrees with the findings of absence of price suppression/depression and requests to confirm the same in the final findings.
102. ATMA agrees with the findings on increase in overall profits, cash profits, profits before interest and tax and requests to confirm the same in the final findings.

103. ATMA agrees with the findings of negative dumping margin for both the cooperative as well as the non-cooperative producers of the PUC from China PR and requests to confirm the same in the final findings.
104. ATMA agrees with the finding that there is no continued dumping post the previous sunset review and requests to confirm the same in the final findings.
105. With respect to the likelihood of continuation or recurrence of dumping, the domestic industry has only provided one argument in its petition wherein it has argued that as there is continued dumping, the same itself establishes likelihood of continuation or recurrence of dumping. As there is no continued dumping from China PR, the argument of the domestic industry is without any factual basis. Additionally, it was also submitted that as the only argument of the domestic industry with respect to likelihood of dumping is invalidated, it should be concluded in the final findings that there is no likelihood of continuation or recurrence of dumping and due to the absence of the same, there cannot be a situation of likelihood of continuation or recurrence of material injury.
106. With respect to the possibility of future dumping due to price fluctuations, the domestic industry has not provided any positive evidence to establish that the present price trends will not continue in future.
107. ATMA agrees with the findings of negative injury margin and requests to confirm the same in the final findings.
108. With respect to the argument of the domestic industry that it has suffered injury in the duty-free segment and not in duty paid segment and if the ADD were to be discontinued, it will also face injury in the duty paid segment, ATMA has submitted that as there is no on-going dumping, there cannot be case of existing injury to the domestic industry in the duty-free segment also. Further, ATMA also submits that this Authority consistently rejected in previous cases any distinction between duty free market and duty paid market segment. Lastly, ATMA also submits that the comparison between duty free and duty paid markets is not apple to apple comparison as the domestic industry is protected in the duty paid segment due to the presence of basic customs duty which is not present in the duty-free segment.
109. With respect to likelihood of continuance or recurrence of injury on account of surplus capacities in China, ATMA has submitted that the nature of the PUC is that of a capital good. TCP is not a product which can be stocked in large quantities and sold off the shelf. Given the various technical specifications, tyre manufactures require TCPs to be customized and built to suit specific requirements. Hence, it cannot be a case that the alleged capacities will be diverted to the Indian markets if the ADDs were to cease. Further, ATMA also submits that if there were no existing dumping and material injury to the domestic industry, the mere existence of alleged surplus capacities in the subject country itself will not lead to any determination of the likelihood of continuation or recurrence of material injury.

110. With respect to claim of the domestic industry concerning lost orders to the Chinese producers, it is submitted by ATMA that the domestic industry in its 15 May letter had claimed that it has sold significant volumes of product to the user industry. Further, ATMA also submits that the domestic industry itself has admitted that it is not always a case wherein the L1 quote will be preferred. Also, as per the ATMA as there is a demand-supply gap in the country, there will be some imports of the PUC.
111. With respect to the issue of public interest, ATMA has submitted that the public interest lies strongly in favour of discontinuing the ADD's. Even though there is a demand-supply gap, 40% of the domestic industry's production is exported which implies that the demand in India will not be met.

Submissions by Guilin Rubber Machinery Co. Ltd.

The submission made by Guilin Rubber Machinery co. is as follows:

112. It is clear from the disclosure statement that the dumping margin as well as the injury margin for Guilin as well as other producers from China PR is negative which implies that the domestic industry is not suffering from any injury due to the imports from the said country. Guilin has not caused the injury but contributed in the growth of the Indian industry as well as promoting the excellent quality of Indian goods that are exported. Further, there is no likelihood of continuation/recurrence of dumping and injury in case of cessation of duty.

Submissions by domestic industry

The submission made by the Domestic industry is as follows:

113. The domestic industry has submitted that the disclosure statement is incomplete as it has not disclosed the essential facts concerning whether there is continued injury or the likelihood of recurrence of the injury. The domestic industry is unclear whether the Authority finds that the domestic industry has suffered continued injury. It also submits that whether it is a case of continued injury or the likelihood of recurrence of injury is a question of fact. The disclosure statement is incomplete without disclosure of this fact to the interested parties. Such non-disclosure has been stated to be violative of Article 6.9 of the Anti-dumping Agreement which requires disclosure of essential facts basis which the Authority will make its decision. In this regard the domestic industry has relied on the WTO Appellate Body Report in *China – Countervailing and Anti-Dumping Duties on Grain Oriented Flat-Rolled Electrical Steel from the United States* [WT/DS414/AB/R], the WTO Panel Report in *European Communities-Anti-dumping Measure on Farmed Salmon from Norway* [WT/DS337/R] and the Hon'ble Gujarat High Court's decision in *Nirma Limited Vs. Union of India* [2017 (358) E.L.T. 146 (Guj.)].

114. The domestic industry has submitted that in a situation where the Authority finds that there is no continued injury, the rules require consideration of the likelihood of recurrence of the injury.
115. The domestic industry has mentioned that the conclusion that the dumping margin and the injury margin are negative is a result of incorrect NIP, normal value and the non-application of principles of fair comparison.
116. The domestic industry has submitted that the Authority did not examine a large number of parameters which is unlike the practice in previous sunset reviews, despite such information being on record. Barring the determination of the current dumping margin and the injury margin, none of the other parameters that have been examined which has been stated to be discriminatory.
117. The domestic industry has submitted that it is unable to make any comments on the NIP as the disclosure of facts in this regard is inadequate. It has also stated that there is a vast difference between the NIP that the domestic industry has determined and the NIP that has been disclosed. The domestic industry has not been disclosed the complete working of the non-injurious price. The domestic industry has submitted that the Authority has not provided the breakup of cost of production and return allowed on different PCNs and only final NIP arrived. The PCN wise NIP disclosed to the domestic industry is grossly suppressed. The domestic industry has relied on the Hon'ble Supreme Court's decision in *Reliance Industries Limited Vs. Designated Authority* [2006 (202) E.L.T. 23 (S.C.)] in this regard to require the detailed costing information which was the basis for calculating the NIP.
118. The domestic industry agrees with the scope of the PUC and requests to confirm the same.
119. The domestic industry agrees with the determination of its standing as 'domestic industry' and requests to confirm the same.
120. The domestic industry disagrees with the negative injury margin. In case a machine exported from the subject country has not been produced in India, constructed normal value for the machines produced by domestic industry with similar technical characteristics have been adopted to work out the cost of the machine imported from the subject country. In such a scenario, the domestic industry has submitted that, because the imported and domestic machines are not same but similar, principles of fair comparison should be applied. In this regard the domestic industry has relied on Annexure – I and Article 2.4 of the Anti-dumping Agreement.
121. The domestic industry has submitted that quarter 1 and 2 of 2020-21 is affected by the Covid-19 pandemic and consequent lock downs and its aftereffects. The capacity utilisation in 2019-20, Q1 of 2020-21, Q2 of 2020- 21 was 91%, 27% and 25% respectively. On the contrary, capacity utilization over the 18-month period of investigation was 69%. Thus, considering the capacity utilisation on a cumulative basis for 18 months has led to highly

distorted situation for the domestic industry. This cannot lead to a conclusion of inefficiency in utilizing production capacities. The Domestic industry has relied on the findings in *Sunset Review investigation concerning imports of “Viscose Staple Fibre”* originating in or exported from China PR and Indonesia” where the lockdown period was excluded for calculations of NIP, net export price, normal value, landed price and injury analysis.

122. The domestic industry mentioned that despite its requests the Authority has provided no guidance on the issue of capacity and other factors to be considered for the lockdown period and the subsequent un-lockdown. Absent such direction, the Authority has considered complete 18 months capacity utilisation and has done normation of the fixed expenses, presuming as if there was no Covid and no lockdown. No covid impact has been accounted for in NIP determination.
123. The domestic industry mentioned that it had given elaborate injury analysis after segmenting the market which was not considered by the Authority.
124. The domestic industry has submitted that the submissions made on likelihood have been ignored.
125. The domestic industry has referred the WTO Panel Report in US – DRAMS (DS296) to argue that absence of dumping does not lead to revocation of anti-dumping duties.
126. The domestic industry has submitted a list of likelihood parameters considered by the Authority in the past findings and has noted that these factors have not been examined by the Authority in the present investigation.
127. The domestic industry has submitted that the Authority has ignored the third country export data of the respondent producer as also the PCN wise export data in the likelihood analysis.
128. The domestic industry has submitted that the Authority has not analysed the export orientation and the surplus production of the responding producer.
129. The domestic industry has submitted that the Authority has not considered the following factors related to the responding producer which has led to the insufficient examination of evidence:
 - The capacity utilization of the responding producer has declined over the injury period indicating idle capacities.
 - The exports to India have increased sharply in the last 2 years.
 - The producer’s domestic sales and exports to third countries have declined significantly in the POI.
 - The profit of the responding producer with respect to sales to India has declined over the injury period.

130. The domestic industry has argued that extension of the anti-dumping duty will not be against public interest for the following reasons:

- The opposing interested parties have provided no information/evidence to substantiate possible adverse effect.
- TCP is a capital good. Considering average useful life of a tyre curing press as more than 20 years, the impact of duties over the life of the product would be highly insignificant.
- Expression public interest does not limit itself to the consumer industry alone. A healthy domestic industry is in the best interests of the users.
- There is no demand and supply gap in the country.
- There are 4 other producers of TCP in India and imports happening from other sources. The domestic industry in any case is required to compete with other producers as well as imports. Therefore, there is no possibility of the domestic industry abusing its dominant position.
- Opposing parties have baseless statements about the quality of the product produced by the domestic industry. Such statements should be rejected.

131. In its prayer the domestic industry has sought further elaborate disclosure on the dumping margin, injury margin, NIP, form of injury and likelihood parameters. It has also requested opportunity to make further comments post such elaborate disclosure and has prayed for extension of the anti-dumping duty pending further examination.

I.4. Examination by the Authority

132. With respect to the submission of the domestic industry that the disclosure statement has not disclosed the essential facts concerning whether there is a continued injury or a likelihood of recurrence of injury to the domestic industry, the Authority notes that only the essential facts are required to be disclosed in the disclosure statement and the same has been done. The Authority is not required to reach any conclusion in the disclosure statement concerning issues with respect to the present investigation.

133. With respect to submission of the domestic industry that it is unable to make any comments on the NIP as the disclosure of facts in this regard is inadequate and there is a vast difference between the NIP that the domestic industry has determined and the NIP that has been disclosed, the Authority notes that the NIP has been determined as per the rules, and the same have also been duly disclosed to the domestic industry in accordance with its established practices.

134. With respect to submission of the domestic industry that the imported and domestic machines are not same but similar, and therefore, principles of fair comparison should be applied, the Authority notes that wherever the imported PUC is not identical to the domestic produced PUC, the Authority has considered the most similar product produced by the

domestic industry in accordance with the principles of fair comparison as provided in the rules.

135. With respect to submission of the domestic industry that it has suffered the injury in the duty-free segment and not in the duty paid segment and if the ADD were to be discontinued, it will also face similar injury in the duty paid segment, the Authority notes that the comparison between duty free and duty paid market is not applicable as the domestic industry is protected in the duty paid segment due to the presence of basic customs duty which is not present in the duty-free segment.
136. With respect to submission of the domestic industry that the Authority has not analysed the export orientation and the surplus production of the responding producer and that there is a likelihood of continuance or recurrence of injury on account of surplus capacities in China, the Authority notes that the domestic industry has not provided any positive evidence that surplus capacities, if any, will be diverted to India upon the cessation of existing anti-dumping duty. With regards to surplus capacity with the exporters, and price attractiveness of the subject goods from China PR, it is noted that the PUC is a capital good and not a product which can be stocked in large quantities and sold off the shelf. Given the various technical specifications, tyre manufacturers require TCPs to be customized and built to suit specific requirements. Hence, it cannot be a case that the alleged capacities will be diverted to the Indian markets if the ADDs were to cease.
137. On the basis of above analysis, it is concluded that there is no likelihood of continuation or recurrence of dumping and injury to domestic industry.

I.5. Conclusion

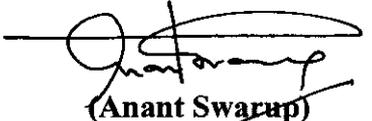
138. Having regard to the contentions raised, information provided, submissions made and facts available before the Authority as recorded in these findings, the Authority concludes that there is no continuation of dumping as the dumping margin determined for the POI is negative. Further, the injury margin has also been found to be negative during the period of investigation (POI). It is also concluded from the analysis of the submissions that there is no likelihood of continuation or recurrence of injury to the domestic industry, in the event of cessation of ADD on subject goods from China PR.

I.6. Recommendations

139. In view of above, the Authority considers it appropriate to recommend withdrawal of anti-dumping duty on import of subject goods from the subject country which was initially recommended vide Notification No. 15/22/2014-DGAD dated 5th January, 2016 and enforced vide Customs Notification No. 11/2016-Customs (ADD) dated 29th March 2016 which was extended up to 30th September, 2021 vide Customs notification no. 15/2021 dated 26th March 2021 and further extended up to 30th November, 2021 vide Notification No. 35/2021-Customs (ADD), dated 29th June, 2021.

I.7. Further Procedure

140. An appeal against the order of the central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the with the relevant provisions of the Act.


(Anant Swarup)
Designated Authority