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**F. No. 06/07/2022-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
Jeevan Tara Building, Parliament Street, New Delhi -110001**

Dated: 27.09.2023

**NOTIFICATION
FINAL FINDINGS
Case No. ADD (OI) – 07/2022**

Subject: Anti-dumping investigation concerning imports of “Industrial Laser Machines, used for cutting, marking, or welding” originating in or exported from China PR.

A. BACKGROUND OF THE CASE

1. Sahajanand Laser Technology Limited (hereinafter referred to as the “applicant”) filed an application before the Designated Authority (hereinafter referred to as the “Authority”) in accordance with Customs Tariff Act, 1975 (hereinafter referred to as the “Act”) as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the “Anti-Dumping Rules” or “Rules”) for initiation of an anti-dumping investigation and subsequent imposition of anti-dumping duty on the imports of “Industrial Laser Machines, used for cutting, marking, or welding” (hereinafter referred to as the “product under consideration” or the “PUC” or the “subject goods”) from China PR (hereinafter referred to as the “subject country”). The application is supported by Lastronics Technology Private Limited, Proteck Machinery Pvt. Ltd. and Messers Cutting System India Private Limited.
2. The Authority on the basis of sufficient *prima facie* evidence submitted by the domestic industry, issued a public notice vide Notification No. 6/7/2022-DGTR dated 29th September 2022 in the Gazette of India Extraordinary initiating the investigation in accordance with Section 9A of the Act read with Rule 5 of the Rules to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

B. PROCEDURE

3. The procedure described herein below has been followed with regard to the investigation:

- i. The Authority notified the Embassy of the subject country in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
- ii. The Authority issued a public notice dated 29th September 2022 published in the Gazette of India Extraordinary, initiating an anti-dumping investigation concerning the imports of the subject goods from the subject country.
- iii. The Authority sent a copy of the initiation notification to the Embassy of the subject country in India, the known producers, and exporters from the subject country, known importers/users and the domestic industry as well, as per the available information. The interested parties were advised to provide relevant information in the form and manner prescribed and to make their submissions known in writing within the prescribed time-limit.
- iv. The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassy of the subject country in India in accordance with Rule 6(3) of the Rules.
- v. The Embassy of the subject country in India was also requested to advise the exporters/producers from their 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 along with the names and addresses of the known producers/exporters from the subject country.
- vi. The Authority sent exporter's questionnaires to the following known producers/exporters in the subject country in accordance with Rule 6(4) of the Rules: -
 - i. Chongqing Zixu Machine Works
 - ii. Foshan Beyond Laser Technology Co. Ltd.
 - iii. GD Hans Yueming Laser Group Co. Ltd.
 - iv. Glorystar Dongguan Glorystar Laser
 - v. Hans Songu Intelligent Equipment Co. Ltd.
 - vi. HSG Laser Co. Ltd.
 - vii. Jiangsu Jinfangyuan CNC Machine Co., Ltd.
 - viii. Jiangsu Yawei Chuangkeyuan Laser Equipment Co. Ltd.
 - ix. Jinan Acme CNC Equipment Co. Ltd.
 - x. Liaocheng Jingwei Laser Equipment Co. Ltd.
 - xi. M S Morn Laser Technology Co. Ltd.
 - xii. M S Shandong Oree Laser Technology
 - xiii. Maven Laser Automation Co. Ltd.
 - xiv. Shandong Hongniu Laser Equipment Co. Ltd.
 - xv. Shandong Leapion Machinery Co. Ltd.
 - xvi. Shenzhen Dapeng Laser Technology Co. Ltd.
 - xvii. Shenzhen Lei Kang Machinery Equipment Co. Ltd.
 - xviii. Wuhan Optical Valley Laser Equipments Co. Ltd.
 - xix. Zhejiang Guangxu Numerical Control Equipment Co.
- vii. In response to the above notification, the following producers/exporters have submitted the exporter questionnaire responses:

- A. Han's Group
 - i. GD Han's Yueming Laser Group Co., Ltd.
 - ii. Han's Laser Smart Equipment Group Co., Ltd.
 - iii. Han's Laser Technology Industry Group Co., Ltd.
 - iv. Han's MP Laser Technology Co., Ltd.
 - v. Suzhou Songu Intelligent Equipment Co., Ltd.
 - vi. Han's Laser Technology Co., Ltd.
 - B. Yawei Group
 - i. Jiangsu Yawei Machine-Tool Co., Ltd.
 - ii. Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd.
 - C. Trumpf
 - i. Trumpf (China) Co., Ltd.
 - ii. Jiangsu Jinfangyuan CNC Machine Co., Ltd.
 - iii. Trumpf Werkzeugmaschinen SE+ Co. Ltd.
 - D. HSG
 - i. HSG Laser Co., Ltd
 - ii. Jinan Hongshi Laser Technology Co., Ltd
 - E. Bystronic Group
 - i. Bystronic Laser AG
 - ii. Bystronic (Tianjin) Laser Ltd
 - iii. Bystronic (Shenzhen) Laser Technology Co., Ltd
 - iv. Bystronic Laser India Pvt Ltd
 - F. Jinan Bodor Group
 - i. Jinan Bodor CNC Machine Co., Ltd
 - ii. Bodor Laser India Pvt Ltd
 - G. Shandong Oree
 - i. Jinan Oree Laser Technology Co., Ltd
 - ii. Shandong Oree Laser Technology Co., Ltd
 - H. Gweike
 - i. Gweike Tech Co. Ltd
- iii. The Authority sent questionnaires to the following known importers/users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules: -
- i. ADK Engineering Solutions
 - ii. Agile Machineries Pvt Ltd
 - iii. Angel India Cad Cam Pvt Ltd
 - iv. Apollo Tyres Limited
 - v. Arihant Maxsell Technologies Private Limited
 - vi. Arihant Maxsell Technologies Private Limited
 - vii. Autogen India Private Limited
 - viii. Chirag International
 - ix. Divine Techno Engineers
 - x. Force Motors Limited

- xi. Global India Automotive Pvt. Ltd.
- xii. Godrej Boyce Mfg. Co Ltd
- xiii. Involute Technologies Pvt Ltd
- xiv. Laser Technologies Pvt Ltd
- xv. Lubi Electronics
- xvi. Mahavir Impex
- xvii. Meera Laser Solutions Private Limited
- xviii. Mikronix Calibration Centre
- xix. Mtech Laser India Private Limited
- xx. Narola Gems
- xxi. Pusan Automation
- xxii. SAI ARC India Private Limited
- xxiii. Schneider Electric India Pvt Limited
- xxiv. Shivam Jewels
- xxv. Sigma Mechatronics Pvt Ltd
- xxvi. SPR Technologies
- xxvii. Star Laser Technology
- xxviii. Suttatti Enterprises Private Limited
- xxix. Tata Steel Limited
- xxx. Truetzschler India Pvt Ltd
- xxxi. Uflex Limited
- xxxii. Venus Jewel
- xxxiii. Z-Agi Agricultural Equipment India Private Limited

- iv. In response to the above notification, the following importers/users have submitted the questionnaire responses:
 - i. Angel India Cad Cam Pvt. Ltd.
 - ii. Apex Machinery Technology
 - iii. Electronica Hitech Machine Tools Pvt. Ltd.
 - iv. Laser Technologies Pvt. Ltd.
 - v. Meera Laser Solution Pvt Ltd.
 - vi. Sarika Engineers
 - vii. Sharda Engineers
 - viii. SPR Technologies
 - ix. Trumpf (India) Pvt. Ltd.
- v. In response to the above notification, the China Chambers of Commerce for import and export of machinery and electronic products have submitted injury submission:
- vi. The Authority specified proposed Product Control Number (PCN) for fair comparison of the PUC in the Initiation Notifications dated 29th September 2022.
- vii. The Authority invited comments from the interested parties on the proposed PCN and thereafter held a hearing on 14th November 2022 to finalise PCN methodology. All the parties who presented their views in virtual meeting were requested to file written comments.

- viii. After considering the arguments made by the interested parties in virtual meeting and the written comments filed thereafter, the Authority notified final PCN methodology on 13th December 2022.
- ix. Interested parties were requested to file the questionnaire response in accordance with the PCN notified upto 28th December 2022. Thereafter, an extension was granted upto 11th January 2023 upon request made.
- x. The Authority made available non-confidential version of the evidence presented by various interested parties through e-mail to the interested parties.
- xi. The Authority issued Economic Interest Questionnaire to the Chinese Embassy, all the known exporters, importers, and the domestic industry. The Economic Interest Questionnaire was also shared with the Administrative Line Ministry.
- xii. The Authority called upon DG Systems to provide transaction-wise details of imports of the subject goods for the injury period. The Authority has relied upon DG Systems data for the computation of the volume of imports and its analysis after due examination of the transactions.
- xiii. Non-Injurious Price (hereinafter referred to as 'NIP') has been determined based on the cost of production and reasonable profits of the subject goods in India, based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) and Annexure III to the Rules so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- xiv. The information/data submitted by the domestic industry has been verified to the extent deemed necessary and relied upon for the purpose of these findings. Information was sought from the domestic industry and the other interested parties to the extent deemed necessary. The Authority has also conducted physical verification of the domestic industry. The Authority has also verified the data of the responding exporters from the subject country through desk verification.
- xv. The period of investigation (hereinafter referred to as 'POI') for the purpose of the present investigation is 1st April 2021 to 31st March 2022 (12 months). The injury examination period has been considered as the period from 2018-19, 2019-20, 2020-21 and the POI.
- xvi. The Authority held an oral hearing in hybrid mode on 26th May, 2023 to provide an opportunity to all the interested parties to present information orally in accordance with Rule 6(6). All the parties who presented their views in the oral hearing were requested to file written submissions in order to enable the opposing interested parties to file rejoinder thereafter.
- xvii. 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.
- xviii. A disclosure statement containing the essential facts of the investigation which have formed the basis of the final findings was issued to the interested parties on 7th

September 2023 and the interested parties were allowed time up to 15th September 2023 to comment on the same. The comments to disclosure statement received from the interested parties have been considered, to the extent found relevant, in this final finding notification.

- xix. Wherever an interested party has refused access to or has otherwise not provided the necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present preliminary findings on the basis of the facts available.
- xx. The Authority has considered all the arguments raised and information provided by all the interested parties to the extent the same are supported with evidence and considered relevant to the present investigation.
- xxi. ‘****’ in this final finding represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- xxii. The exchange rate adopted by the Authority for the present investigation is 1 US \$= Rs 75.37.

C. PRODUCT UNDER CONSIDERATION

4. The product under consideration (hereinafter also referred to as the “PUC”) as defined at the stage of initiation was as follows:

3. The product under consideration in the present application is “Industrial Laser Machines, in fully assembled, SKD or CKD form, used for cutting, marking, or welding operations”. The scope of the PUC includes Laser Cutting Machines (LCM), Laser Marking Machines (LMM), and Laser Welding machines (LWM).

4. These machines are used for cutting, marking, or welding on metal/non-metal surfaces. Depending on the specific end-use application of the PUC, the power of the laser used in the PUC can range from 3 watts to 40 kilowatts. All laser industrial machines used for purposes other cutting, marking, or welding are excluded from the scope of the PUC.

5. The product under consideration is classified under chapter 84, 85 and 90 under tariff headings 84561100, 84569090, 8462290, 84798999, 85152190, 85158090 and 90132000. The customs classification is only indicative and is not binding on the scope of the present investigation.

C.1 Submission made by the interested parties

5. The interested parties have made the following submission with respect to the product under consideration and like article:
 - a. Product types which were not produced by the petitioner during the POI should be excluded from the scope of the PUC. Even till date, the petitioner lacks the capability to produce them. It is the consistent practice of the Authority to limit the scope of the PUC to goods actually manufactured by the domestic industry.
 - b. The Authority is requested to exclude the following product types from the scope of the PUC since the petitioner lacks the capacity and capability to produce it.
 - Double headed LCMs,
 - Protective film LCMs,

- LCMs with a power range of less than 500W.
 - 2 D LCM with laser source power more than 15 KW,
 - Large size gantry type LCM,
 - LCM combination with punching machine.
 - Fully automated coiled sheet fiber laser
 - Product types with lasers
 - Laser cutting machines with laser power more than 15KW.
- c. The investigation effectively has three different PUCs with different technical properties, specifications, end-uses, and average CIF price. Separate examination should be done by the Authority for all the parameters.
- d. SLTL might not have standing to file the application for anti-dumping duty on laser cutting machine. SLTL is trying to achieve indirectly what it can't directly. The fact that some type of industrial laser machine not included in PUC shows the product is not one category. ADA and AD Rules does not restrict product type-wise standing assessment.
- e. The scope of the PUC is broad, which does not allow a representative assessment of material injury. Panel Report in *EC – Farmed Salmon from Norway* is relied on. Hence, separate injury examination has to be undertaken for LCM, LMM, and LWM. SLTL might not be able to show material injury for LCM alone. It is not disputed that the imports of LMM and LWM have no impact on the domestic industry of LCM.
- f. The Authority is requested to examine the PCNs of the machines imported by the petitioner. If the same PCNs are imported, it can mean they are not produced by the domestic industry and hence, should be excluded from scope of the PUC.
- g. The domestic industry must disclose the complete details of machines it has imported. The scope of the investigation should exclude the products imported by the domestic industry as importing of parts evidence the domestic industry's inability to manufacture those parts.
- h. There is no clear definition of the type of machines considered as Semi-Knocked Down ("SKD") and Completely Knocked Down ("CKD"). Inclusion of CKD shall also include components resulting in investigation of goods not part of the current proceeding.
- i. The three machines involved in the present investigation, but they are different product as the end use and industry is different:
- The price of each type of machine is significantly different from other products.
 - The machines are produced independent of each other. A producer of one type of machine does not have to produce the other type of machines.
 - The function of each machine is different from other machines. Therefore, the product is not technically and commercially substitutable with each other.
 - The user industry application of the machines and the users are different.
- j. The decisions of *EC- Salmon*, *EC-Fasteners* and *Huawei Technologies* are not applicable as the nature of the product under consideration is significantly different in comparison to the nature of the PUC. The common denominator that is laser in 3 different machines is flawed as no commonality can be drawn between the laser machine merely by virtue of laser component.

- k. The PUC is the industrial laser machine and other laser machine. However, the domestic industry has not itself included other types of laser machine within the scope of the PUC such as laser engraving machines, laser bending machines, laser drilling machines and laser cleaning machines.
- l. Laser cutting machines, laser marking machines and laser welding machines are not manufactured together. All known producers in India are not involved in the production of all three types of lasers cutting machines.
- m. There is a significant difference in terms of import price between the three laser machines. The difference between the three products is not arising out of being in finished form or unassembled form. Thus, none of the possible justifications that permit clubbing of different products as one PUC are applicable.
- n. As per the initiation notification, the PCN proposed shows machines with laser power above 500 watts. The Authority is requested to clarify if the machines with laser power less than 500 watts are excluded from the scope of investigation. Machines with less than less than 500 watts have different usage as compared to machine with more than 500 watts.

C.2 Submission made on behalf of the domestic industry

- 6. The following submissions have been made on behalf of the domestic industry with respect to the product under consideration and like article:
 - i. The PUC in the present investigation is "Industrial Laser Machines", in fully assembled, SKD, or CKD form, used for cutting, marking, or welding operations.
 - ii. Interested parties have argued that inclusion of LMM (laser making machines), LWM (laser welding machines) and LCM (laser cutting machines) would make the PUC broad. The Anti-dumping Agreement or Rules do not provide any guidelines on how and in which manner a PUC should be defined.
 - iii. There is no requirement under the law or rules that the product types within the scope of the PUC must be internally homogenous. In any case, LCM, LMM and LWM are internationally homogenous and one product. All these machines are fundamentally laser systems.
 - iv. The Industrial Laser Machine primarily consists of a laser which generates laser power. A laser consists of a laser source and a laser head. The laser source generates the laser beam, while the head is designed for specific operations like cutting, marking, or welding. Different laser strengths are used based on the desired laser power for various applications.
 - v. The additional components of a machine, like the bed and controller, are meant to assist the primary product, which is the laser. The size of the bed varies based on the application, with larger beds for cutting machines and smaller beds for marking machines. In welding machines, both options are possible. Despite these variations which are necessary to suit the end application, these machines cannot be considered dislike. All "Industrial Laser Machines" are considered one product and internally homogeneous.
 - vi. The Authority has identified these codes 84561100, 84569090, 84622920, 84798999, 85152190, 85158090, and 90132000 under which 95% of imports were made during

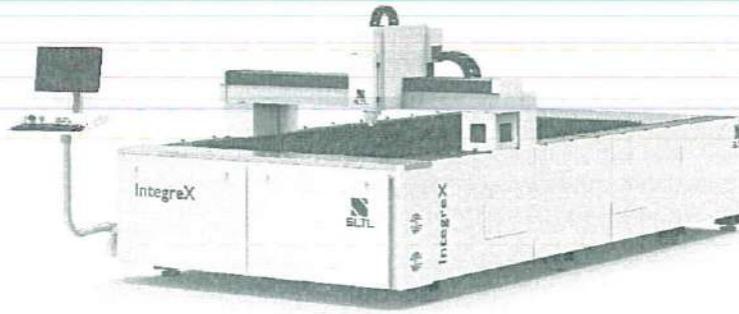
the POI. Further, there are several other codes under which a minor volume of the PUC is being imported. Thus, the Authority in the proposed duty table must include all the HS codes under which the imports are being made.

- vii. Certain product types not produced by the domestic industry should not be excluded from the PUC scope due to the following reasons:
 - a. As subject goods are normally made-to-order, supplying of the product would not arise in case the domestic industry is not approached for offer nor made know of the requirement. Hence for examination, the Authority must consider (a) whether the domestic industry was even approached for material, (b) whether the domestic industry was even made known about the requirement, (c) manufacturing and sales by the domestic industry over its operational history.
 - b. The product type if substitutable with those manufactured and sold by the domestic industry.
 - c. The product type is not in demand during the POI, considering how the subject goods are normally made to order. If production of a more complex or a higher range product type is done, then it per say means that there exists ability to produce less complex or lower range product types.
- viii. The respondent is making blank requests for exclusion of product type from the scope of the PUC without identifying the particular product type.
- ix. Components (Bed and controlled for the laser) were never considered for preparing the information on various injury parameters. Hence, exclusion of components has no impact on injury parameters.
- x. The primary difference between different types of machines is laser head. A mere replacement of a cutting head would allow a consumer to use machines for different purposes.
- xi. As regards the contention that the domestic industry did not produce the PCN imported by it, none of the imported machines were sold without further processing. The imported machines could not be sole as it is and they were processed to the form that can be sold in the market.
- xii. The term semi-knocked down (SKD) and completely knocked down (CKD)" is from Rule 2(a) of the General Rules for the interpretation of the Harmonized System issued by the World Customs Organization (WCO). The term "SKD/CKD form" refers to an article that is incomplete or unfinished but retains the essential characteristics of the complete article. Importing a standalone component does not qualify as importing the Product Under Consideration (PUC) in its SKD/CKD form.

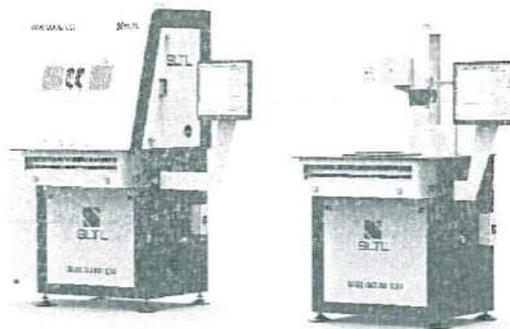
C.3. Examination by the Authority

7. The product under consideration in the present investigation was defined as "Industrial Laser Machines, in fully assembled, SKD or CKD form, used for cutting, marking, or welding operations. It was stated that the scope of the PUC includes Laser Cutting Machines (LCM), Laser Marking Machines (LMM), and Laser Welding machines (LWM). It was further stated that these machines are used for cutting, marking, or welding on metal/non-metal surfaces, and depending on the specific end-use application of the PUC, the power of

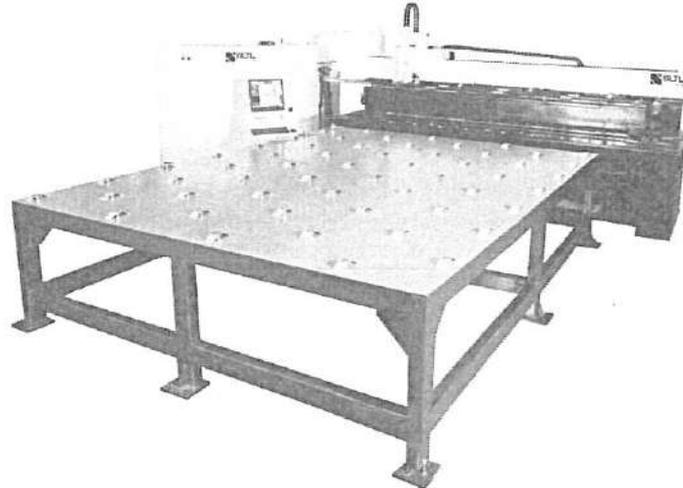
the laser used in the PUC can range from 3 watts to 40 kilowatts. All laser industrial machines used for purposes other than, cutting, marking, or welding are excluded from the scope of the PUC.



Laser Cutting Machine



Laser Marking Machine



Laser Welding Machine

8. Laser cutting, welding, or marking machines are essentially machines which have laser source as the base product and which performs the function of emitting laser required for cutting, welding, marking or any other operations. The laser source is so controlled (in respect of amount of laser density, i.e., brightness and exposure time) that it can perform the function of welding, cutting, marking or any other application. Further, the amount of laser light is controlled by use of different power of laser. The amount of light eventually is relevant to the amount of material that can be welded, marked, or cut. Depending on the object where cutting, marking, or welding operations are required to be performed, different kinds of laser sources are used. Different laser source merely differs in terms of the amount of laser light and the manner in which the laser light will be emitted by the source. Producers normally buy laser from producers who specialise in making lasers. Since the object can be of different kinds of material such as plastic, wood, glass, fabric or metal, the amount of light required to cut, weld or mark would differ. Accordingly, the machines are produced in many sizes to accommodate different size and type of objects. Further, the object may be of varying size. Depending on the size of the object, the product is supplied in different bed sizes. Further, the machine can perform in two ways – either the machine will move on with the object, or the object will move along with the machine. Thus, different kinds of laser machines are nothing but one product which essentially perform the function of emitting laser light in a controlled manner. Further it emits light in such a manner that it can produce the desired result of cutting, welding or marking on different kinds and variety of objects. In view of the same, the Authority concludes that different kinds of laser machines constitute one article.
9. Mere fact that the machine may perform the function of welding, cutting, or marking does not render these as different products. These different end applications are merely an end result of the manner in which the laser light is emitted by the machine. Further, different types of machines merely differ in terms of amount of laser power generated or the bed type and size. These differences however do not render these products as different products.

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

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

11. The submissions made by the interested parties and the domestic industry with regard to the product under consideration have been examined and addressed hereunder. The interested parties have raised number of issues with regard to the scope of the PUC in the present case. It has been contented that the scope of the PUC is too wide and includes different types of laser machines, which have significantly different cost, price, and end use. Further, interested parties have sought exclusion of many product types from the scope of the PUC on the grounds that the domestic industry does not produce and supply the product in the desired product type, or, the quality of the product produced and supplied by the domestic industry is different. The arguments of interested parties have been examined by undertaking on the spot verification at the premises of the domestic industry and calling relevant information from the parties.

12. The Authority has adopted certain broad principles for the purpose of exclusion of products of certain grades/specifications from the scope of the PUC. One such principle is whether the specification/grade/production process/production technology pleaded by the interested parties' results in a different product in terms of physical and technical characteristics whereby the distinctiveness of the product can be established with clarity and precision. The second principle is whether the domestic industry claimed through their product production or product profile/broacher as manufacturer of these grades, whether the domestic industry is manufactured/supplied such distinctive items at all during the POI or prior to the POI or in the past and whether the domestic industry capability to provide the product. Thirdly, whether the product supplied by the domestic industry is comparable to the product proposed/considered for exclusion and in such a case whether any evidential scientific literature or any other technical evidence has been established by the domestic industry.

a. Whether each machine should be seen differently

13. It is noted that the product under consideration for the purposes of the present investigation is Industrial Laser Machine. The dumping and injury analysis has been done for Industrial Laser Machine as a whole. Different types of Industrial Laser Machine are comparable in term of essential product characteristics including physical, production technology, manufacturing process, plant & equipment, functions & usage, etc. Different product types are laser systems used for industrial purposes. While different industrial laser machines have different specific end applications, it is however seen that they essentially have same fundamental laser systems and thus perform the same function, i.e., acting as a laser source. The laser source can perform the function of cutting, welding or marking, depending on the way the laser source is used. The product can be produced with varieties of laser sources, depending on the quantum of laser energy required. It is also seen that other components

(such as bed size) are used depending on the object on which the machine has to perform the operation. Different categories/types are therefore developed to meet specific end-user requirements. Since it is a capital good and customer made product, the design of the industrial laser machines is as per the end use requirements. Therefore, different types of industrial laser machines constitute one article, and it would not be appropriate to exclude product types, if the domestic industry is manufacturing or has the capability of producing the like article to the product being imported into India.

14. Industrial laser machines are manufactured in various sizes and capacities described in terms of bed size, laser source and power. The domestic producers as well as the foreign producers manufacture different types of industrial laser machines with different bed size, laser source, power, and different additional features. The machines with different capacities are used for cutting, welding, and marking operations. Machines produced by the producers in the subject country and machines produced by the domestic industry are technically and commercially substitutable.
- b. Inclusion of product types which were not produced by the petitioner
15. Since the product is a customer-made product, the domestic industry has supplied machines as per the customer requirements. There may be many types/sizes/ dimensions, which may be manufactured in China and not exported to India. If such types or form of PUC and are in commercial competition with like article and can cause injury to the domestic producer they can be covered by the scope of the product under consideration. It is noted that the product is a customer-made product. The domestic industry produces all types machines, which may not be imported. Similarly, all types of machines imported may not be produced by the domestic industry. Therefore, only on the basis of non-production of particular product type, exclusion cannot be granted.
16. The claim of interested parties with regard to exclusion of specific product types has been examined hereinbelow
 - i. Double headed LCMs – The domestic industry has provided evidence of sale of multi-functional machines like machines performing both cutting and welding operations, 3-in-1 machines, double headed LCM etc. Therefore, the same cannot be excluded from the product scope.
 - ii. Machines having weight more than 10 MT, Machine with robotic arm, Master oscillator power amplifier LWM – The domestic industry has provided evidence of its sales of these products and therefore, the products cannot be excluded.
 - iii. Protective film LCMs – Protective film LCM is nothing but just an added safety feature to the machines. During the physical verification, it was seen that the domestic industry can produce LCM with protective films. Therefore, the exclusion cannot be provided.
 - iv. LCMs with a power range of less than 500 watt - The domestic industry has submitted evidence that they manufacture and sell machines of laser power as low as 20 watt and as high as 6000 watts in the period of investigation itself and has got orders to supply machine of 20,000 watt. Therefore, the contention cannot be accepted.

- v. 2 D LCM with laser source power more than 15 KW - It is seen from the import data that there are no imports of machines having laser power more than 10000 watt. Further the domestic industry has shown order of machine having laser power of 20000 watt. Therefore, the contention of the interested parties cannot be accepted.
 - vi. Machines having 2d or 3d axis and large size gantry type LCM - The domestic industry claimed through their product brochure as manufacturer of these grades. Similarly, types of machines such as handheld machines, Bevel LCM, Mini tube LCM, 3 chuck tube LCM, heavy tube LCM, 3+1 chuck tube LCM, sheet + tube LCM, LCM auto sheet loader, machine with automation, protective film LCM, fully automatic coiled sheet fibre laser are manufactured and supplied by the domestic industry as is evident from their brochures.
 - vii. LCM combination with punching machine - If the product type is imported as an Industrial laser machine, the same is covered under the scope of the product under consideration. Since these machines are in commercial competition with like article and can cause injury to the domestic producer and therefore these machines are covered in the scope of the product under consideration.
 - viii. The machines are used for cutting, marking, or welding on metal/non-metal surfaces. Depending on the specific end-use application of the PUC, the power of the laser used in the PUC can range from 3 watts to 40 Kilowatts. All laser industrial machines used for purpose other than cutting, marking, or welding are excluded from the scope of the PUC.
 - ix. Machines of specific bed size: several interested parties have argued exclusions of machines with specific bed sizes to be excluded on the ground that the domestic industry is not manufacturing the bed of particular sizes and machines with particular laser power. It is noted that the size of the bed is prepared through fabrication process. It is not necessary for the domestic industry to manufacture bed size of all dimensions. The domestic industry has manufactured machines with a bed size of 24 sq. mtr. Since the process of manufacturing bed size is fabrication, different bed sizes can easily be made. The difference in bed size pleaded by the interested parties does not results in a different product in terms of physical characteristics and chemical composition or technology.
- c. Exclusion or inclusion of components.
17. As regards arguments if components are included or excluded from the scope of product under consideration, it is clarified that components are excluded from the scope of investigation.
- d. Meaning of SKD and CKD machines.
18. As regards meaning of SKD and CKD, the Authority considers that the same is a well understood term. SKD shall mean a laser machine which is not fully assembled, but is transacted as a laser machine with all essential components not fitted and the machine is not ready to use. CKD for the purpose shall mean an article in its incomplete or unfinished form and has the essential character of the complete article. Hence, a standalone component shall not amount to import of the PUC in its SKD/ CKD form. However, if all the components

are transacted in such a manner that it merely requires assembly operation in India, such transaction would amount to transaction in CKD condition and shall be within the ambit of the PUC, even if such transaction does not take place in single consignment.

19. In view of the above, the Authority concludes not to modify the scope of the product under consideration as defined in the initiation notification.
- e. Customs classification in which the product is being imported.
20. The Authority has examined the DG Systems data and found that there is no dedicated classification under the Customs Tariff Act. The product has been imported under HS codes - 84561100, 84569090, 84622920, 84798999, 85152190, 85158090 and 90132000 codes. The customs classification is only indicative and is not binding on the scope of the present investigation.
21. After considering the information on record, the Authority concludes that there is no known difference in the product under consideration exported from subject country and the product produced by the domestic industry. The subject product produced by the domestic industry are comparable to the product under consideration imported from China. The product supplied by the domestic industry and the imported product are similar in terms of characteristics such as physical & technical, functions & uses, product specifications, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the imported product and the product supplied by the domestic industry interchangeably.
22. Thus, the Authority concludes that the subject product produced by the applicant domestic industry is like article to the product under consideration, in accordance with the AD Rules.

Product Control Number (PCN)

23. The Authority specified proposed Product Control Number (PCN) for the purpose of fair comparison of different types of the PUC, in the Initiation Notification dated 29th September 2022. The Authority invited comments from the interested parties on the proposed PCN and thereafter held deliberations with the interested parties on 14th November 2022 to finalise the PCN methodology. All the parties who presented their views at the time of deliberations were requested to file their submissions in writing.
24. Submission made by the interested parties.
 - i. Specific watt/Kw are an essential parameter along with the size of the machine and should be considered as a PCN parameter.
 - ii. Origin of fibre laser and Enclosure (cover) should be considered as a PCN parameter.
 - iii. Technology base should be considered as a PCN parameter.
 - iv. Type of laser source should be considered as a PCN parameter.
25. Submission made by the domestic industry.

- i. Mere existence of some difference in the product in itself does not justify including the same in framing PCN.
 - ii. Analysis of import data does not show that the parameters proposed by the other interested parties are mentioned anywhere in the import data.
 - iii. Analysis of product literatures of number of producers does not show that the Authority can verify these parameters from those product catalogues.
26. After considering the submissions made by the interested parties, the Authority notified following PCN methodology on 13th December 2022 for the purpose of undertaking fair comparison between different types of products under consideration.

| Criteria | Values | PCN Code |
|----------------------------|---|------------------------------|
| Category/ Type of machine | Laser Cutting Machines (LCM) | C |
| | Laser Marking Machines (LMM) | M |
| | Laser Welding Machines (LWM) | W |
| Laser power | Power of the laser in watts (W), expressed in five-digit form with the prefix 'L' | L00100, L00150, L01000, etc. |
| Bed size | 3000mm x 1500mm | B1 |
| | 4000mm x 2000mm | B2 |
| | 6000mm x 2000mm | B3 |
| | 6000mm x 2500mm | B4 |
| | 8000mm x 2500mm | B5 |
| | 12000mm x 2500mm | B6 |
| | Others (to be defined by respondent) | B7, B8, etc |
| Model of laser source | IFA | C1 |
| | IPG | C2 |
| | MAX | C3 |
| | Raycus | C4 |
| | Others (to be defined by respondent) | C5, C6, etc. |
| Type of laser cutting head | CO2 laser | X |
| | Fibre laser | Y |
| Number of axes | 2D | 2D |
| | 3D | 3D |

D. SCOPE OF DOMESTIC INDUSTRY AND STANDING

D.1. Submission made by other interested parties

27. Following submissions have been made by interested parties with regard to the scope of the domestic industry and its standing:
- i. Supporters have not filed data as per Trade Notice 14/2018. Hence, the support should be rejected in accordance with Rule 6(8) of the AD Rules. In the absence of such

information, the Authority will not be able to examine if they are facing injury and the existence of a causal link.

- ii. Apart from those identified in the application, the like article is produced in India by (i) Mansoori Weldarc India Pvt. Ltd., (ii) M/s Ruanmi Technology (Joy Laser brand), (iii) M/s Dhanlaxmi Laser Technology, (iv) Dolphin Laser Machine Pvt. Ltd., (v) Starlase Systems Pvt. Ltd., and (vi) M/s Sunny Machineries. Only 1 of the 13 producers have come forward to claim injury.
- iii. Petitioner's share in Indian production would be 20-25% and would not constitute "major proportion". None of the producers except for Dolphin Laser Machine (4 machines) has imported the PUC from China PR. Even their import is lesser than the domestic industry. Hence, production by all of them should be considered for standing determination.
- iv. The other Indian producers could account for up to 90% of the total production of the PUC.
- v. The share of SLTL in total Indian production can be discerned to be approximately 40% and barely qualify as a major proportion.
- vi. Prakash Laser and Messer Cutting Systems India Pvt. Ltd. are other producers of the product in India. Though Messers registered as a supporter, their production was not considered to determine the total production.
- vii. The Authority is requested to verify the reason for continuous imports of the PUC by the domestic industry over the years.
- viii. There is no clarity on whether production of SEZ unit has been included for analysis of standing and economic parameters. It is settled that SEZ cannot be considered constituent of the domestic industry as per Rule 2(b).
- ix. The applicant should not be exempt from the criteria for determining domestic industry merely because they are MSME. The domestic industry should provide MSME certificate to validate the claim and identify the law which provides them such exception.
- x. The domestic industry accounts for only 23% of the total production in India. The growth of the domestic industry in production is only 35% as compared to the 50%+ increase in other domestic producers.
- xi. The Authority should examine information of all domestic producers to understand the market dynamics and impact of imported goods. Reliance is also placed on AD investigation of Polyester Staple Fiber from China, Indonesia, Malaysia, and Thailand.
- xii. The information on record of 8 known producers shows that the domestic industry does not have required standing.

D.2. Submission made by the domestic industry

28. Following submissions have been made by the domestic industry with regard to standing and scope of the domestic industry:
 - i. The present application is filed by Sahajanand Laser Technology Limited (STLT) supported by Messer Cutting System India Pvt Ltd, Lastronics Technology Private Limited and Protek Machinery Pvt Ltd. The entire industry belongs to MSME sector. Some of the MSME companies have a turnover of Rs 10 Cr or less.

- ii. The Authority undertook separate standing determination in the investigation concerning imports of (i) Front Axle Beam and Steering Knuckles, (ii) Penicillin and (iii) Rubber Chemical, however, they were not with respect to various product types within the scope of the PUC but various PUCs within the same investigation. The present investigation involves a single PUC. There is no law or practice of the Authority to permit separate standing determination.
- iii. The production of the PUC by (i) Mansoori Weldarc India Pvt. Ltd., (ii) M/s Ruanmi Technology (Joy Laser Brand), (iii) M/s Dhanalaxmi Laser Technology, (iv) Dolphin Laser Machine Pvt. Ltd. and (v) Starlase Systems Pvt. Ltd. need not be considered for determining domestic industry standing as they are only resellers of the product in India. Further, the import data shows that Dolphin Laser Machine and Starlase Systems have imported substantial volume of the subject goods from China during the period of investigation.
- iv. Despite the initiation of the investigation and gazette notification, none of the alleged producers have shown interest. Additionally, the importers failed to provide an estimate of production of alleged producers.
- v. The final finding of Solar Cells and Modules referred by interested parties is contrary. As per domestic industry, there is no explicit exclusion of SEZs or EOUs from the scope of the domestic industry. Even if the Authority excluded the production of the subject goods in SEZ unit, the domestic industry still has sufficient standing.
- vi. The domestic industry had imported 18 machines from the subject country in the POI. The share of imports of the domestic industry is only 0.3% of subject imports during the POI and is insignificant. Out of the 18 machines imported, 9 were sold after processing in the POI. Hence, the share of the imported machines in the domestic sales of the domestic industry is merely 3.6%.
- vii. The domestic industry has requested other producers to file support letter to the petition to the Authority directly. The domestic industry is not in possession of the support letter as it contains confidential information.
- viii. Volume of production are estimates based on market information. The Authority may substitute the estimates with the actual production volumes of supporters as per the letter filed with the Authority for the purpose of determination of standing of the domestic industry.
- ix. The Authority has previously considered domestic producers as supporters without requiring detailed information as per Trade Notice 14/2018. MSMEs find it burdensome to provide detailed information as per Trade Notice 14/2018.

D.3. Examination by the Authority.

29. The submission made by the interested parties and domestic industry with regard to the standing and scope of the domestic industry have been examined and addressed hereunder:

Rule 2(b) of the Anti-Dumping 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”.

a. Alleged existence of large number of other producers in India.

30. As regards the arguments of other interested parties on existence of more domestic producers, the Authority sent a communication to these other domestic producers identified by the interested parties, via email, on the email ids provided by these other interested parties. In response to the email, only one company, Dolphine Laser Machine responded providing estimated figures of its capacity, production, percentage of their domestic sales and percentage of imports from China PR. The company further stated that they support imposition of anti-dumping duties on Industrial laser machines. However, the company has stated that they import 60% of their production. In view of high share of imports as compared to their own production, the Authority considers that the company cannot be considered eligible domestic producer for the purpose of Rule 2(b). Further their production far exceeded their capacity, which further showed that the production reported includes imports made by them. The annual report of the company shows total turnover of the company as Rs. 1.9 crores during the POI, which does not justify their sales volumes. The Authority considers that imports made by a company and sold in the domestic market is already included in the import volumes and demand determined. Therefore, for the purpose of the present investigation, the Authority has not considered the data of the said company.

b. Non-compliance of support letter with trade notice 13/2018.

31. The other interested parties have contended that the letters filed by the supporters should be disregarded, as these do not comply with requirements laid down vide Trade Notices 13/2018 and 14/2018. The Authority considers that while Trade Notices 13/2018 and 14/2018 requires a domestic producer to provide certain information, the mere fact that a party supporting the imposition of AD measures without providing that information is insufficient to hold that the party has not supported the measures. Any such interpretation would be violative of the Rules. Further, the Authority vide Trade Notice 4/2021 dated 16th June, 2021 has allowed supporters to express support after giving information concerning capacity, production, and sales. The supporters in the present case have already supplied such information. Therefore, the Authority has considered the support expressed by these companies.

c. Inclusion of production of SEZ unit in the standing determined.

32. As per SEZ Act-2005 the "Domestic Tariff Area" means the whole of India (including the territorial waters and continental shelf) but does not include the areas of the Special Economic Zones. Hence, the SEZ units are considered to be deemed to be outside DTA area. The production of SEZ units has therefore not been considered in the determination of total Indian production for the purpose of standing.

d. Imports made by the applicant.

33. It has been contended that the applicant has imported the product under consideration from the subject country during the POI. It has been submitted by the petitioner that out of the imported machines, *** machines were further processed and then sold in the domestic market. The Authority notes that the volume of imports made by the petitioner is insignificant (***% in relation to total imports into India and ****% in relation to total demand in India and ****% of its total domestic sales), were processed after sales. Production has remained the core activity of the petitioner. The imports made by the petitioner are not such in volumes as to disentitle them from being treated as eligible domestic industry.
34. The application has been filed by M/s. Sahajanand laser Technology Limited. The Authority has received support letter from Lastronics Technology Private Limited, Proteck Machinery Pvt Ltd. and Messers Cutting System India Private Limited, wherein their capacity, production, and domestic sales have been declared. The applicant has submitted production volume of the other Indian producers as per market intelligence.
35. No other information has been brought forward by the interested parties on total production in India. Therefore, the Authority has relied on the information provided by the petitioner, wherever the same has not been provided by a domestic producer. It is seen that the production by the applicant constitutes a major proportion of the production of the like article in India. Further, the applicant together with supporters account for 50-60% of the total domestic production of the like article in India. Production of the petitioner alone accounts for 40-50% of Indian production. The applicant has certified that they are not related to any exporter or producer of the subject goods in the subject country or an importer in India either directly or indirectly within the meaning of Rule 2(b) of anti-dumping rules and the application satisfies the criteria of standing in terms of Rule 5(3) read with Rule 2(b) of the anti-dumping rules.
36. On examination of the material on record as above, and considering the legal provisions, the Authority hold that the applicant constitutes domestic industry in terms of Rule 2(b) of the anti-dumping rules and the application satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

E. ISSUES RELATED TO CONFIDENTIALITY

E.1. Submission made by the other interested parties

37. Following submissions have been made by other interested parties in regard to confidentiality claimed by them and the domestic industry:
- i. The petitioner has not disclosed source of import data and the method of segregation. Non-disclosure of the source of data is a violation of natural justice principles. The CESTAT order in All India Laminated Fabrics Manufacturers Association v. Designated Authority is relied on.
 - ii. The applicant has not provided DGCI&S data. The Authority has also not called for the same. The applicant has been allowed to bypass the mandatory requirements of DGCI&S T data in the checklist.

- iii. No information regarding the economic parameters of other producers, including 3 supporters have been provided.
- iv. No support letters allegedly submitted by other companies have been circulated with the NCV petition. The respondent is unaware if these supporters have met the requirements laid under the Trade Notice.
- v. The domestic industry has not provided the declaration of the imports and their relationship with the importer or exporter of the subject goods for the whole injury period. They have only provided the import information of the POI and the subject country. The volume of imports submitted by the petitioner has also been marked as confidential.
- vi. The domestic industry has not disclosed any source of the production of other domestic producers and no evidence has been attached in support to their production data. The domestic industry has failed to provide information of all the domestic producers of the subject goods.
- vii. There is no detail of the share of the domestic industry in ranges. The domestic industry has provided the share in percentage for all the years in trends which has no meaning.
- viii. The domestic industry has not provided any details regarding PCN-wise export price neither any PCN-wise details were given regarding the injury and costing information.
- ix. ROCE and profit/loss information has been marked as confidential whereas no information has been provided related to price underselling and injury margin.

E.2. Submission made by the domestic industry

- 38. Following submissions have been made by the domestic industry in regard to confidentiality:
 - i. Bystronic Laser Ltd, Bystronic Laser AG, Jinan Bodor CNC Machine Co. Ltd., Shenzhen DNE Laser Science and Technology Co., Ltd have failed to comply with the Trade Notice 10/2018 as they failed to provide performance parameters in trend. Despite the letter filed by the domestic industry regarding gross violation of the confidentiality rule, these parties have failed to revise the performance parameters.
 - ii. The comments on the confidentiality made by other interested parties must be rejected as it is at a belated stage. As per initiation notification, the Authority has given the opportunity to other interested parties to make comments, but they failed to provide.
 - iii. The domestic industry has complied with the requirement of the Trade Notice 10/2018. The information in trends is sufficient NCV of the confidential information as per the practice of the Authority.
 - iv. Various interested parties have failed to fully respond to the various questions regarding business activity, the product under consideration specification and channel of marketing of the questionnaire issued by the Authority.
 - v. Despite information being available on the public domain, the interested parties have claimed financial statements, corporate address, date of incorporation, product list, etc. of the company as confidential.

- vi. To the number of questions, the interested parties have claimed complete confidentiality under the pretext of business proprietary information. However, such claim does not support their claims.
- vii. The interested parties who made confidentiality claims were inconsistent with their own response. These claims were not intended to protect business proprietary information but rather to prevent the domestic industry from making similar submissions.
- viii. The domestic industry has relied on market field research since they were not authorized to collect DGCI&S import data. The checklist is for the Authority and not for interested parties.

E. 3. Examination by the Authority

39. Various submissions have been made by the applicants as well as the other interested parties during the course of the investigation with regard to confidentiality, to the extent considered relevant by the Authority, have been examined below.
40. 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 authorisation 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 summarisation 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 generalised or summary form, it may disregard such information.”*
41. The Authority considers that any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by the parties to an investigation shall, upon good cause shown, should be treated as such by the Authority. Such information cannot be disclosed without specific permission of the party submitting it.

42. The Authority has considered the claims of confidentiality made by the applicant and the other interested parties and on being satisfied about the same, the Authority has allowed the claims on confidentiality. The Authority made available to all the interested parties the non-confidential version of evidence submitted by various interested parties for inspection.

43. As regards the contention that the domestic industry has not disclosed the information regarding the imports made by it over the injury period, the Authority notes that the information has been disclosed in the proforma IV A submitted to the Authority, which has been shared with the other interested parties.

e. Confidentiality claims of the exporters.

44. With regard to the contentions of the domestic industry concerning the excess confidentiality claimed by the responding foreign producers / exporters, it is noted that the Authority has examined the confidentiality claims made by the responding foreign producers/ exporters and on being satisfied the Authority has accepted the confidentiality claims, wherever warranted.

f. Non-disclosure of the Import data.

45. As regards import data filed in the application, the Authority notes that import data received from market intelligence sources cannot be shared. The data is being provided in the application in terms of the provisions of Rule 5(2) read with the Trade Notice issued in this regard, specifying the application formats. Hence, the confidentiality claim of the applicant on the import data has been accepted by the Authority. The domestic industry has anyways shared the import data with the Authority. Further, the Authority has adopted transaction wise DG System import data and the present facts has been disclosed on the basis of import data called by the Authority. The other interested parties can offer their comments on the import data

g. Methodology adopted on disclosure of non-confidential information by petitioner

46. The Authority notes that a petitioner is required to disclose the information as per trade notice 10/2018. The petitioner has complied with the requirement of the trade notice on disclosure of information in the non-confidential application shared with the other interested parties. The Authority has examined the confidentiality claims made by the domestic industry, and on being satisfied, the Authority has accepted the confidentiality claims.

h. Support letter.

47. The Authority notes that Lastronics Technology Private Limited, Proteck Machinery Pvt. Ltd. and Messers Cutting System India Private Limited have filed support letter to the Authority and have given information on production and sales. The fact that these producers had participated and supported the investigation was known to the interested parties as they were already included in the registered list of interested parties issued by the Authority. These support letter contains information on the production and sales. Being

a single company specific information, this is confidential in nature and cannot be disclosed. Even if these producers would have circulated the letter in non-confidential information, the entire data would have remained confidential. Therefore, it cannot be said that the non-sharing of the letter has impeded the investigation.

F. MISCELLANEOUS SUBMISSION

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

48. Following miscellaneous submissions have been made by the other interested parties:
- i. The domestic industry has requested sampling to improve chances of higher rate of anti-dumping duty in the form of weighted average duty for non-sampled producers/exporters. No sampling has been notified as per the deadline in the Manual.
 - ii. Even if sampling is adopted, individual margin for non-sampled companies is desirable. Hence, sampling will become redundant. When a questionnaire response has been filed and desk verification conducted, there is no valid reason for not granting individual rate.
 - iii. It is unlikely that sampled producers/ exporters with largest export volume have exported representative quantities of all possible PCNs or closely resembling PCNs. Hence, the dumping margin and injury margin determined would be unrepresentative of all other non-sampled producers/ exporters.
 - iv. The discretion to conduct sampling is vested with the Authority as under Article 6.10 and the petitioners cannot influence or propose sampling for the investigation. Sampling, if required by the Authority should be done only in consultation and with consent of the concerned exporters, producers and importers. Introduction of sampling in the final stages of investigation is violative of WTO laws, and principles of natural justice.
 - v. The sampling is unwarranted. No consultation has been held with the responding exporters with regards to sampling. The exporters have provided all the information in their questionnaire response. Thus, sampling is unreasonable in the present investigation.
 - vi. Whereas the petitioner states that there are no known associations of domestic producers of like article in India, the relevancy of support letter provided from Indian Machine Tools Manufacturer Association (IMTMA) is questionable.
 - vii. Despite IMTMA's claims of importing around 40-50% of laser machines per year, the lack of support by its members to the petition or filing separate data supporting the domestic industry's claims raise doubts about the credibility of the letter.
 - viii. The NCV of comprehensive analysis on the large-scale import of industrial laser machines prepared by IMTMA should be placed on record for scrutiny.
 - ix. Even on imposition of anti-dumping duty, the importers and users would prefer to import Chinese machines due to quality reasons.
 - x. Machines supplied by the petitioner faces serious qualitative issues. Customers have filed two cases, even though the cases were rejected, they were not rejected for reasons concerning the plaintiff's grievance regarding the quality of machines.
 - xi. The rejection rate of petitioner's machines is higher whereas that of Chinese producers is negligible. The Authority should examine the rejection rates and reasons for rejection.

- Grievances on account of precision, speed, accuracy, performance, life of machine, and frequent breakdown have been aired against goods produced by the petitioner. The Chinese producers has high scale of production and meet required industrial standards.
- xii. The petitioners have alleged the creation of documents without any evidence to prove their allegations. The allegation made by the petitioners with regards to verification documents is inappropriate

F.2. Submission made by the domestic industry.

49. Following miscellaneous submissions have been made by the domestic industry:
- i. The interested parties mentioned below have failed to provide NCV of the questionnaire response filed by them. The Authority must therefore consider them as non-cooperative.
 - a. Wuhan Raycus Fiber Technologies Pvt. Ltd.
 - b. Jiatai International Company (India)
 - c. Wila CNC India Pvt. Ltd.
 - d. Vee M Automation Technology
 - e. S&T Engineering Pvt. Ltd.
 - f. Premier United Pvt. Ltd.
 - g. SMT Innovative
 - h. Daksh Enterprises
 - i. Sahil Technocrats
 - j. Upanal CNC Pvt. Ltd.
 - k. Shree Ram Enterprises
 - l. Meera Laser Solution Pvt. Ltd.
 - ii. Additional submissions made by interested parties with regards to reply to sampling request, preliminary submissions and comments on the petition must be disregarded on account on failure to file NCV.
 - iii. The level of cooperation from the producers/exporters from the subject country is very large. Despite the large number of participants, they collectively constitute only about 13%. This shows that major exporters are not even cooperating in the present investigation.
 - iv. Several importers acting as traders in the Indian market have cooperated with the present investigation but remain unable to quantify the impact of anti-dumping duty.
 - v. The application filed by domestic industry was found to be duly substantiated with the import data. The import data submitted by the domestic industry solely pertains only to the PUC. USITC in the investigation of NRSC from India, initiated an injury investigation based on the import data filed by the applicant.
 - vi. In the present investigation, eight group companies have participated. From the NCV EQR the domestic industry has identified that there are more than 15 export sales channels.
 - vii. The PCN in the present investigation is an elaborate PCN. Correct identification of PCN is a major task. Thus, correct identification is a highly time consuming and elaborate task. Further, it is very easy to distort determination of dumping margin by reporting a PCN which will minimise the dumping margin and injury margin.

- viii. There is a need for sampling in the present investigation, as the verification of 20 producers/exporters from the subject country where PCN is involved would be extremely difficult.
- ix. Some interested parties have argued that 8 months have already been lapsed, sampling at this stage would be belated. However, Rule 17(3) of ADD rules does not define any stage at which the sampling must be undertaken. Further, Rule 17 titled final finding. Hence, sampling relates to final finding.
- x. Chinese laser machine sector is growing dramatically. From the response it could be seen that four entities started exports to India in the injury period and three entities in the period of investigation. Out of them one has started production of the subject goods.
- xi. Certain importers were registered as interested parties, filed preliminary submissions, and post oral hearing written submissions but failed to file importer questionnaire response.
- xii. Supreme Technology and China Chamber of Commerce have filed written submissions. However, they are not in the list of registered interested parties.
- xiii. The other interested parties have not provided any evidence with regard to poor quality of the subject goods produced by the domestic industry. The domestic industry is in the market for more than 2 decades, if there would have been serious quality issue, the domestic industry would have been eliminated from the market. Further, during the POI, the domestic industry has undertaken exports to USA and UK.
- xiv. Claim made by importers regarding high rejection rate of the domestic industry machine. However, they are only able to provide evidence for only two rejections. Out of which one is due to their own misuse and for other the domestic industry has duly compensated the customers.
- xv. The respondents have not stated a single incident where the domestic industry has failed to provide evidence of where the Authority has failed to carry out proper scrutiny of the evidence. Only after substantiated evidence, the Authority has initiated the investigation.
- xvi. The domestic industry has provided import data for last 8 years in order to show how Chinese imports have taken over the Indian market. There is no law or rule that limit the Authority's examination of the volume of subject imports only to three years. Moreover, the domestic industry never claimed 8 years of injury period.
- xvii. The requirement of the application proforma is to provide information of known producers in India. The domestic industry has provided information as per their best knowledge.
- xviii. There is no dedicated association of the subject goods in India. Indian Machine Tools Manufacturer Association (IMTMA) is an umbrella association which includes producers of other products as well. There is no bar for an umbrella association supporting a case.
- xix. The respondent has not provided any evidence to show the domestic industry has undertaken capacity expansion in 2017. The domestic industry has dedicated 10% of its revenue to R&D. However, this is neither abnormal nor any cause of injury. In an industry like the laser machinery industry, such investment in R&D is the norm.

F.3. Examination by the Authority

50. With regards to the submissions made by the interested parties that the domestic industry has not brought any substantive evidence to provide the condition for initiation of anti-dumping investigation and the investigating Authority has not carried out appropriate scrutiny of facts, the Authority notes that the applicant had provided sufficient information that meets the required conditions for initiation of the present anti-dumping investigation. The investigation was initiated after satisfying that sufficient evidence as required under Rules was available justifying the initiation.
51. Regarding sampling of the exporters, the Authority has not conducted sampling in the present investigation.
52. Regarding the arguments on support by Indian Machine Tool Manufacturers' Association (IMTMA) it has been submitted that IMTMA is not a dedicated association for the product under consideration. There are more than 450 members of the association. IMTMA is an association of Indian Machine Tool Manufacturers and therefore, will contain large number of the producers of other types of products as well. Not all the members are producers of the product under consideration. IMTMA has supported the imposition of anti-dumping duties on imports of the product under consideration as an association. The Authority notes that IMTMA is entitled to make representations, even if all their members are not producers of the product under consideration.
53. As regards the argument on quality of the product under consideration, it is noted that the opposing interested parties have provided two instances of rejection during the injury period, whereas the domestic industry has sold machines more than 800 machines. Further out of two instances, domestic industry contended that one instance was because of improper use of machine by the customer or user. The fact that qualities may be different, does not imply that the imported products and the domestic are not like articles.
54. As regards level of cooperation by (a) Wuhan Raycus Fiber Technologies Pvt. Ltd. (b) Jiatai International Company (India) (c) Wila CNC India Pvt. Ltd. (d) Vee M Automation Technology (e) S&T Engineering Pvt. Ltd. (f) Premier United Pvt. Ltd. (g) SMT Innovative (h) Daksh Enterprises (i) Sahil Technocrats (j) Upanal CNC Pvt. Ltd. (k) Shree Ram Enterprises, it is noted that these parties have not filed importer questionnaire response. Therefore, the Authority has considered them as non-cooperative in the present investigation to that extent.

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

G.1. Views of other interested parties

55. The submissions made by the other interested parties on determination of normal value, export price and dumping margin are as follows:

- i. The Authority is requested to compute individual dumping margin based on verified information taken on record.
- ii. Even if all Chinese producers/ exporters cooperated, number of export transactions is not too large for examination to be impractical. There is no burden to determine normal value for each participating producer/ exporter since none or almost none have requested market economy treatment.
- iii. The domestic industry has erroneously claimed that prices from surrogate country are unavailable. The technical specifications and prices of all products are displayed on Manufacturer's e-commerce platform.
- iv. The constructed normal value on the domestic industry's cost of production is unreliable as the dumping is artificially created by the domestic industry relying on its own unhealthy cost of production.
- v. The period for determining the domestic prices or costs of the Chinese producers not being a market economy has ended on 11th December 2016 as provided in the Protocol of Accession of WTO. Normal value for the Chinese producers should be determined on the domestic prices and costs of the subject goods.
- vi. The domestic industry has violated the procedure to be followed as per the Indian Anti-Dumping rules by not making the interested parties aware of the third country selected for determining the normal value for Chinese producers.
- vii. There are no laws or practices of the Authority to only rely on commercial invoice and bill of entry and cannot rely on other documents. All the minute characteristics of the product cannot be mentioned in the commercial invoice or bill of entry.
- viii. The Authority must give a clear finding stating that all the information found on the commercial invoices of the domestic industry. In past investigations wherein complex PCN's is involved, the Authority has considered various documents for verification.
- ix. The documents like purchase orders, proforma invoice, product brochures, commercial invoices, etc. are valid documents based on which PCNs have been verified in the past investigations.
- x. The general practice of the industry is that there is reference to product brochures and other advertising material during sales and not all the details are mentioned in the commercial invoice.

G.2. Submissions made by the domestic industry

56. The following submissions are made by the domestic industry with regard to determination of normal value, export price and dumping margin are as follows:
- i. The producers or exporters did not file the MET response questionnaire. Therefore, the normal value should not be determined on the basis of their domestic sales, rather as per Para 7 of Annexure I of the AD rules.
 - ii. The authority must determine normal value based on Para 7 Annexure I of AD rules. Further, the export price may be determined based on exporters' data only after being satisfied with the accuracy and adequacy of the data.
 - iii. The domestic industry provided information that was available to them and appeared reasonable to them. The respondent failed to provide evidence of the price in the

- surrogate country even after claiming that information on price of the subject goods in the surrogate country are available online.
- iv. It is a consistent practice of the Authority to determine normal value on the basis of cost of production of the domestic industry for non-market economies in case no alternative evidence is available.
 - v. China is treated as a non-market economy by virtue of Article 15 of the Accession Protocol. As per Article 15(d), only Article 15(a)(II) shall expire on 11th December 2016 and not Article 15(a)(I). Therefore, the Authority can only consider domestic prices or costs in China if the producers under investigation can clearly show that market economy conditions prevail.
 - vi. The domestic industry has not considered any third country for the determination of normal value for Chinese producers.

G.3. Examination by the Authority

57. Under section 9A(1)(c), normal value in relation to an article means:
- (i) *the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
 - (ii) *when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –*
 - (a) *comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
 - (b) *the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):*

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

58. Article 15 of the China's Accession Protocol with the 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 non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector."

59. It is noted that while the provisions contained in Article 15(a)(ii) have expired on 11.12.2016. However, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocol require the criterion stipulated in para 8 of Annexure I of India's AD Rules to be satisfied through the information/data to be provided in the supplementary questionnaire for claiming the market economy status.
60. At the stage of initiation, the Authority proceeded as per the information given by the applicant. Upon initiation, the Authority advised the producers/ exporters in China PR to respond to the notice of initiation and provide information relevant to determination of their market economy status. The Authority sent copies of the supplementary questionnaire to all the known producers/ exporters for rebutting presumption of non- market economy in accordance with criteria laid down in Para 8(3) of Annexure-I to the Rules and furnish

relevant detailed information. The Authority also requested Government of China PR to advise the producers/ exporters in China PR to provide the relevant information. The following producers/ exporters have co-operated in this investigation by filing the questionnaire response:

A. Han's Group

- i. GD Han's Yueming Laser Group Co., Ltd.
- ii. Han's Laser Smart Equipment Group Co., Ltd.
- iii. Han's Laser Technology Industry Group Co., Ltd.
- iv. Han's MP Laser Technology Co., Ltd.
- v. Suzhou Songu Intelligent Equipment Co., Ltd.
- vi. Han's Laser Technology Co., Ltd.

B. Yawei Group

- i. Jiangsu Yawei Machine-Tool Co., Ltd.
- ii. Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd.

C. Trumpf

- i. Trumpf (China) Co., Ltd.
- ii. Jiangsu Jinfangyuan CNC Machine Co., Ltd.
- iii. Trumpf Werkzeugmaschinen SE+ Co. Ltd.

D. HSG

- i. HSG Laser Co., Ltd
- ii. Jinan Hongshi Laser Technology Co., Ltd

E. Bystronic Group

- i. Bystronic Laser AG
- ii. Bystronic (Tianjin) Laser Ltd
- iii. Bystronic (Shenzhen) Laser Technology Co., Ltd
- iv. Bystronic Laser India Pvt Ltd

F. Jinan Bodor Group

- i. Jinan Bodor CNC Machine Co., Ltd
- ii. Bodor Laser India Pvt Ltd

G. Shandong Oree

- i. Jinan Oree Laser Technology Co. Ltd
- ii. Shandong Oree Laser Technology Co. Ltd

H. Gweike

- i. Gweike Tech Co. Ltd

61. None of the exporters/producers have claimed market economy treatment. Thus, in view of the above position and in the absence of rebuttal of the non-market economy presumption by any Chinese exporting company, the Authority, consider it appropriate to treat China PR as a non-market economy country in the present investigation and consider to proceed with para 7 of Annexure-I to the Rules for determination of normal value in case of China PR.

G.5. NORMAL VALUE FOR CHINA PR

62. The Authority notes that no evidence has been provided by the domestic industry or other interested parties on prices in market economy third countries. Some of the interested parties have argued that the technical specifications and prices of all products are displayed on Manufacturer's e-commerce platform and therefore prices of surrogate country should be considered for normal value determination. However, no evidence is provided by any of the interested parties identifying PCNs for a surrogate country. The global trade data also could not be used to consider price from a market economy third country in view of the fact of various PCNs involved. Thus, normal value based on such a third country to other countries including India could not be determined.
63. Therefore, the Authority has determined the normal value for the subject imports in China as per the "price actually paid or payable in India" as stipulated in para 7 of Annexure – I to the AD Rules, 1995. It has been computed based on the cost of production of the domestic industry, duly adjusted, and with reasonable addition for selling, general and administrative expenses, and profits. The normal value has been determined PCN wise for a fair comparison. The weighted average normal value on the basis of quantities of exports of various PCN by the respective producer exporter is shown in the dumping margin table below. Since different exporters have supplied different products, the normal value determined for different exporters are not *inter-se* comparable.

G.6. EXPORT PRICE OF EXPORTERS

a. Hans Group

64. GD Han's Yueming Laser Group Co., Ltd., Han's Laser Smart Equipment Company Group Ltd., Han's Laser Technology Industry Group Co., Ltd., Han's MP Laser Technology Co., Ltd., and Suzhou Songu Intelligent Equipment Co., Ltd. and Han's Laser Technology Co., Ltd., an importer (herein after referred to as Hans Group) have filed questionnaire response as the producers of the subject goods. These producers are related to each other and therefore, the Authority has calculated weighted average dumping margin. These producers have filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance etc. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below.

b. Yawei Group

65. Jiangsu Yawei Machine Tool Co. Ltd. and Jiangsu Yawei Chuangkeyuan Laser Equipment Co. Ltd. (herein after referred to as Yawei Group) have filed questionnaire response as the producer of the subject goods. Both the producers are related to each other and therefore, the Authority has calculated weighted average dumping margin. These producers have filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance etc. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the

Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below table.

c. Trumpf (China) Co., Ltd.

66. Trumpf (China) Co., Ltd., Jiangsu Jinfangyuan CNC Machine Co., Ltd. and Trumpf Werkzeugmaschinen SE+ Co. Ltd. (herein after referred to as Trumpf Group) have filed questionnaire response as the producer of the subject goods. First both the producers are related to each other and therefore, the Authority has calculated weighted average dumping margin. The producers have filed complete questionnaire response. The producer has claimed adjustments on account of ocean freight, marine insurance etc. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level has been determined as shown below table.

d. HSG Group

67. HSG Laser Co. Ltd. and Jinan Hongshi Laser Technology Co. Ltd. (hereinafter referred to as HSG Group) have filed questionnaire response as the producer of the subject. Both the producers are related to each other and therefore, the Authority has calculated weighted average dumping margin. These producers have filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance etc. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below table.

e. Bystronic Group

68. Bystronic (Tianjin) Laser Ltd., Bystronic Laser AG, and Bystronic (Shenzhen) Laser Technology Co., Ltd, and Bystronic Laser India Pvt Ltd (herein after referred to as "Bystronic Group") have filed questionnaire response as the producer of the subject goods. Three producers and Bystronic Laser India Pvt Ltd (trader) are related to each other and therefore, the Authority has calculated weighted average dumping margin. These producers have filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance, inland transportation, bank charges and credit cost. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below table.

f. Jinan Bodor Group

69. Jinan Bodor CNC Machine Co., Ltd., and Bodor Laser India Private Limited an importer (herein after referred to as "Jinan Bodor Group") have filed questionnaire response as the producer of the subject goods. The producer has filed complete questionnaire response. The producer has claimed adjustments on account of ocean freight, marine insurance,

inland transportation, bank charges and credit cost. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for this producer has been determined as shown below table.

g. Shandong Oree

70. Jinan Oree Laser Technology Co., Ltd. and Shandong Oree Laser Technology Co., Ltd. (herein after referred to as “Shandong Oree”) have filed questionnaire response as the producer of the subject goods. Both the producers are related to each other and therefore, the Authority has calculated weighted average dumping margin. These producers have filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance, inland transportation, bank charges and credit cost. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below table.

h. Gweike

71. Gweike Tech Co., Ltd. has filed questionnaire response as the producer of the subject goods. The producer has filed complete questionnaire response. These producers have claimed adjustments on account of ocean freight, marine insurance, inland transportation, bank charges and credit cost. The Authority has undertaken desk verification and examined the claims made by them. On being satisfied with respect to the claims made, the Authority has allowed them. Accordingly, the net export price at ex-factory level for these producers have been determined as shown below table.

G.7. DETERMINATION OF DUMPING MARGIN

72. The dumping margin determined for each co-operating producers/exporter based on PCN wise constructed normal value and net export price, is determined as follows:

| S N | Group | Producers/Exporters | CNV (\$/Unit) | EP (\$/Unit) | DM (\$/Unit) | DM % | DM range (%) |
|--------|---------------|--|------------------|-----------------|-----------------|---------|--------------------|
| 1 | Hans Group | GD Han's Yueming Laser Group Co., Ltd. | *** | *** | *** | *** | 30-40 |
| | | Han's Laser Smart Equipment Group Co., Ltd. | | | | | |
| | | Han's Laser Technology Industry Group Co., Ltd. | | | | | |
| | | Han's MP Laser Technology Co., Ltd. | | | | | |

| | | | | | | | |
|---|-------------------|--|-----|-----|-----|-----|---------|
| | | Suzhou Songu Intelligent Equipment Co., Ltd. | | | | | |
| 2 | Yawie Group | Jiangsu Yawei Machine-Tool Co., Ltd. | *** | *** | *** | *** | 50-60 |
| | | Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd. | | | | | |
| 3 | TRUMPF Group | TRUMPF (China) Co., Ltd. | *** | *** | *** | *** | (30-40) |
| | | Jiangsu Jinfangyuan CNC Machine Co., Ltd. | | | | | |
| 4 | HSG Group | HSG Laser Co., Ltd | *** | *** | *** | *** | 50-60 |
| | | Jinan Hongshi Laser Technology Co., Ltd | | | | | |
| 5 | Bystronic Group | Bystronic Laser AG | *** | *** | *** | *** | 30-40 |
| | | Bystronic (Tianjin) Laser Ltd | | | | | |
| | | Bystronic (Shenzhen) Laser Technology Co., Ltd | | | | | |
| 6 | Jinan Bodor Group | Jinan Bodor CNC Machine Co., Ltd | *** | *** | *** | *** | 130-140 |
| 7 | Shandong Oree | Jinan Oree Laser Technology Co. Ltd | *** | *** | *** | *** | 100-110 |
| | | Shandong Oree Laser Technology Co. Ltd | | | | | |
| 8 | Gweike | Gweike Tech Co., Ltd | *** | *** | *** | *** | 110-120 |
| 9 | Residual | Other than column no.1 to 8 | *** | *** | *** | *** | 160-170 |

H. EXAMINATION OF INJURY AND CAUSAL LINK

H.1. Submissions made by other interested parties.

73. The other interested parties have made the following submissions with regard to injury and causal link:
- i. The domestic industry has presented data and assessed injury for a period of 8 years to artificially demonstrate injury. Authority must limit injury analysis to 3 years.
 - ii. The Authority has the discretion to consider one like article or each article as a separate like article. For each like article, the Authority should identify the domestic industry as well. NIP should also be calculated for each like article.
 - iii. The applicant requested exclusion of components from the scope of the PUC, it is not clarified if the exclusion has any impact on injury.
 - iv. The increase in manufacturing at domestic industry's SEZ unit should be considered as exports not domestic sales.

- v. The imports by the petitioner should be adjusted from total imports while undertaking injury analysis.
- vi. The Authority must examine if the methodology followed by the petitioner for determining capacity is reasonable, and this methodology must also be disclosed to the interested parties.
- vii. Reason for increase in import volume is because the industry does not have the capability to meet the domestic demand.
- viii. While demand increased in the POI, the domestic sale and market share of petitioner declined, while that of other Indian producers increased.
- ix. The fact that one of the supporters, Messer Cutting System India Pvt. Ltd. opened second manufacturing unit in 2019 shows imports were not to displace the market.
- x. The Authority should reject claim for price undercutting as price undercutting data has not been provided for the entire injury period.
- xi. The petitioner was able to increase/ decrease its selling price without influence of landed value. The year-on-year analysis shows absence of price suppression and depression. Also, no price suppression exists as the cost of sales has reduced more than the net sales realization.
- xii. The Authority should not consider price underselling for evaluating injury in light of the Gujarat High Court order in Nirma Lt. v. Union of India.
- xiii. There is no injury on account of productivity and employment as they showed an increase.
- xiv. Though the applicant claimed their domestic sale is miserably low compared to demand in India, their production and sales have increased despite the imports. The decline in losses during the injury period shows the improved performance of the applicant.
- xv. Also, if Q1 of POI is excluded from the period of investigation considering covid lockdowns, the performance will show further improvement. The petitioner's PBDIT has improved from a negative position.
- xvi. Injury to the domestic industry is because of uncompetitive products, market conditions, high expenditure on R&D.
- xvii. As per the applicant's annual report, the profitability of the applicant was highest in the POI. Low profitability as claimed in general can be attributed to capacity expansion undertaken in 2017, high expenditure on R&D, excessive assets under charge.
- xviii. Increase in inventory has to be examined as a proportion of sales as held by CESTAT in Bridge Stone case. The inventory might be just a handful since the machines are made to order. The inventory could also be because of delay in delivery due to end of financial year.
- xix. Further, temporary accumulation of inventory can be attributed to COVID-19, force majeure, and prevailing global recession than evidence of injury.
- xx. The import data submitted by the domestic industry shows an 87-index point increase in imports which should be seen with a substantial 74 index point increase in domestic sales by other producers.
- xxi. Other factors such as Covid-19, Ukraine-Russia War, force majeure, currency depreciation (Rupee-US Dollar variation), internal problems and subdued demand for Company's product have caused injury.

- xxii. Causal link analysis by examining correlation of volume and price undercutting and petitioner's economic performance has not been done.
- xxiii. The petition shows that average capital employed and fixed assets have declined whereas installed capacity is constant. This anomaly should be examined by the Authority.
- xxiv. Considering 22% return on capital employed is inflated especially during the era of global recession. The Authority may consider ROCE in the range of 12-15%. The CESTAT orders in Bridge Stone Tyre Manufacturing & others vs. Designated Authority and Hyosung Corporation vs. Designated Authority are relied on. Practice followed by the EU is also cited.
- xxv. If the other domestic producers would have suffered the injury, they would have participated in the present investigation.
- xxvi. The production of Lastronics has increased 4 times in the POI as compared to the base year.
- xxvii. The profitability has improved in the last two years. Even if the profitability been impacted, there is no correlation between the profitability of the domestic industry and imports from the subject country.
- xxviii. The inventory trend of the domestic industry is in accordance with the trend of the domestic sales movement.
- xxix. It is not necessary that the product needs to be homogenous, but the product scope must be to a like article and assessment of injury to be done based on like article. In the present investigation, the Authority has not conducted alike product analysis. Thus, singular injury determination cannot be made. The Authority is bound to determine individual injury for each individual product comprising the PUC.

H.2. Submission made by the domestic industry

- 74. The domestic industry party has made the following submissions with regard to injury and causal link:
 - i. The injury suffered is not only limited to the domestic industry but also affects other Indian producers. The surge in Chinese imports started before the base year of the injury period in 2017-18.
 - ii. The subject imports have increased in absolute terms as well as in relative to production and consumption in India in the POI compared to the base year and the previous year.
 - iii. The market share of the subject imports has increased over the injury period and POI while that of the domestic industry has declined in the POI compared to the previous year and base year.
 - iv. The domestic industry has been unable to increase their production, capacity utilisation, and domestic sales in relation to the capacity at its disposal and the demand in India.
 - v. The domestic industry is suffering financial losses, cash losses, negative PBIT, and negative returns in the POI.
 - vi. The inventories of the domestic industry have increased in the POI compared to the base year.
 - vii. The domestic industry has seen negative growth on major injury parameters.

- viii. The ability of the domestic industry to raise capital investment has significantly declined.
- ix. The subject imports are undercutting, underselling, and depressing the prices of the domestic industry.
- x. The profit, according to the annual report of the domestic industry is due to the production of diamond processing equipment, special purpose machine and RF absorbers. These machines are earning good profits and is NPUC in the present investigation.
- xi. Neither any law nor past practice of the Authority shows that the Authority has any discretion to undertake segmented analysis of the PUC; the ADA and the AD Rules require a wholistic examination of the PUC. The investigations relied on by the importers involve multiple 'products under consideration' as opposed to 'a product' under consideration.
- xii. The increase subject imports are not because of the demand-supply gap, but because of dumping. Injury suffered by the domestic industry is not limited to the injury period and POI. The domestic industry has suffered injury prior to the investigation period.
- xiii. The domestic industry alone has the capacity to meet 18% of the Indian demand. The market share of the domestic industry in the POI is merely 3%. The Indian industry can meet a larger share of the demand and increase capacities in reasonable time.
- xiv. Dumping is analyzed only with respect to the imports in the POI. Hence price undercutting is also required to be examined only for the same period.
- xv. The Gujarat High Court in the case of Nirma Ltd. Vs. Union of India deals with interim review and the imposition of anti-dumping duties. Interim review investigations allow for duty extension even with a negative injury margin, unlike original investigations.
- xvi. The importers have incorrectly analyzed the CESTAT decision in Bridge Stone Tyre Manufacturing (Thailand) v. Designated Authority. The CESTAT did not state that inventory must be assessed solely based on domestic sales trends. It only mentioned that mere increased inventory could be linked to higher domestic sales, which the Authority did not consider in that investigation.
- xvii. The PBDIT of the domestic industry improved in 2020-21 but declined in POI. PBDIT was so low that the return on capital employed was negative in the POI. Other economic parameters show the existence of injury.
- xviii. A year-on-year examination of volume and price parameters need not result in direct correlation in every market. It is typical of certain markets to show a delay in the cause and effect.
- xix. As per AD rules, a decline in profit indicates injury. In the present investigation, the domestic industry is suffering from financial losses thus, it is irrelevant whether the losses increased or declined.
- xx. The domestic industry has calculated the dumping and injury margin on weighted average basis. Though the price undercutting was calculated on an average basis, a calculation on weighted average basis will not yield a different result.
- xxi. The imports made by the domestic industry is insignificant. Hence exclusion of those imports would not affect the injury examination.

- xxii. The Authority may consider actual figures to ascertain the total imports. The increase in Chinese imports which might be seen for other Indian producers is meaningless since they together command merely 4% market share and operate with severely underutilized capacities.
- xxiii. The sales from the SEZ unit of the domestic industry have been completely excluded for the purpose of injury examination.
- xxiv. The other interested parties is seeking Authority to change the practice of allowing 22% returns in all situation. Even in the case of Eximcorp India Pvt. Ltd. v. Designated Authority, the CESTAT refuse to interfere in the Authority practice.
- xxv. The domestic industry has filed information on PCN-wise export price with the Authority. The domestic industry is not required to provide PCN wise injury information.
- xxvi. Information on ROCE and profit/loss of the domestic industry has been provided as trends in Proforma IV-A of the application as per Trade Notice 10/2018. Further, NCV application also consist of injury margin.
- xxvii. The respondent failed to identify other factors which are causing injury to the domestic industry other than subject imports.
- xxviii. Arguing that the Indian industry is facing injury due to competition from other producers is baseless as the subject imports command more than 80% of the Indian demand.
- xxix. Even if the average capital employed in the base year were to remain the same throughout the injury period, it remains a fact that the domestic industry is earning negative returns in the POI.
- xxx. The Ukraine-Russia conflict commenced in February 2022, i.e., just a month before the end of the POI. The respondent cannot attribute any remote global event as a factor contributing to the injury to the domestic industry.

H.3. Examination by the Authority

- 75. The Authority has taken note of the arguments and counter arguments of the interested parties on injury. The injury analysis made by the Authority hereunder *ipso facto* addresses the various submissions made by the interested parties. However, the specific submissions made by the interested parties are addressed by the Authority as below.
 - i. Claim for separate Injury analysis for each product separately.
- 76. The opposing interested parties have contended that a separate injury analysis must be conducted for LCM, LWM and LMM, treating them as different products. The Authority notes that, having already examined above that the all the three products types are one single product under consideration, it would not be appropriate to examine injury for all the three kinds of machines separately. There is no requirement under law or in jurisprudence that all the subsets / types or sub-sets of the PUC should be homogenous for them to be covered under the same PUC and the same investigation. Further in the present investigation, all the items covered within the scope of this investigation constitute one product. Thus, there is no requirement to undertake separate injury analysis.

j. Adequacy of return for determination of non-injurious price

77. As regards submission of the applicant and other interested parties concerning methodology of determination of NIP, the Authority notes that relevant guidelines in this regard is well laid down under Annexure III of Anti-dumping Rules. The Authority has consistently allowed 22% return on capital employed, and the same has been adopted in the present case as well.

k. Claims of Injury due to the other factors.

78. As regards the submission of opposing interested parties that alleged injury to the domestic industry is due to the other reasons and there is no injury as per statements in the annual reports of the domestic industry, the Authority notes that the injury analysis carried out hereunder is self-explanatory. It is also seen that the petitioner in the present case is a multi-product company and performance as per the financial statements. Further, no evidence is provided by the interested parties on how the other factors listed by them are causing injury to the domestic industry.

79. 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. For the examination of the impact of the dumped imports on the domestic industry in India, indices having a bearing on the state of the industry such as production, capacity utilization, sales volume, inventory, profitability, net sales realization, the magnitude, and margin of dumping, etc. have been considered in accordance with Annexure II of the Rules.

H.3.1. Volume effect of dumped imports on domestic industry

a. **Assessment of Demand**

80. The Authority has determined the demand or the apparent consumption of the product in India as the sum of the domestic sales of all Indian producers, and the imports from all the sources. The demand so assessed is given in the table below:

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-----------------------------|--------------|------------|-----------|------------|------------|
| Domestic Sales of Applicant | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>83</i> | <i>109</i> | <i>124</i> |
| Sale of Supporter | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>71</i> | <i>86</i> | <i>143</i> |

| | | | | | |
|-----------------------------|--------------|------------|------------|------------|------------|
| Sales of other producers | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>106</i> | <i>135</i> | <i>164</i> |
| Import from subject country | No | 3,327 | 3,624 | 3,808 | 6,027 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>109</i> | <i>114</i> | <i>181</i> |
| Import from other countries | No | 567 | 541 | 466 | 752 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>95</i> | <i>82</i> | <i>133</i> |
| Total | No | 4,265 | 4,501 | 4,708 | 7,299 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>106</i> | <i>110</i> | <i>171</i> |

81. It is seen that there is an increase in the demand throughout the injury period and in the POI. It is seen that the demand increased more than 70% compared to the base year. However, the applicant sales increased only 24% compared to the base year and imports increased by more than 80%. In absolute terms, whereas the demand increased by more than 3000 machines, the imports increased by 2700, sales of the domestic industry increased by ***, whereas sales of Indian industry as a whole increased by only *** machines.

b. Import volume and share of subject country.

82. With regards to the volume of dumped imports, the Authority is required to consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to the production or the consumption in India. Summarized position is as follows.

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|--------------------------------|--------------|----------------|----------------|----------------|----------------|
| China PR | No | 3,327 | 3,624 | 3,808 | 6,027 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>109</i> | <i>114</i> | <i>181</i> |
| Other Countries | No | 567 | 541 | 466 | 752 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>95</i> | <i>82</i> | <i>133</i> |
| Total Imports | No | 3,894 | 4,165 | 4,274 | 6,779 |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>107</i> | <i>110</i> | <i>174</i> |
| Subject Imports in Relation to | | | | | |
| Indian production | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>114</i> | <i>97</i> | <i>125</i> |
| Indian consumption | % | 80% | 82% | 83% | 84% |
| <i>Trend</i> | <i>Index</i> | <i>100</i> | <i>103</i> | <i>104</i> | <i>105</i> |

83. It is seen that –

- a. The volume of imports from the subject country has increased throughout the injury period and in POI. The subject imports constitute 90% of the total imports of the subject goods into India in the POI.

- b. The imports from the subject country increased in relation to the Indian production and the Indian consumption in the POI as compared to base year as well as the previous year.
- c. The subject imports constitute very significant proportion in demand for the product in the country.

H.3.2 Price effect of the dumped imports

84. With regard to the effect of the dumped imports on the prices, it is required to be analysed whether there has been a significant price undercutting by the alleged dumped imports as compared to the price of the like products in India, or whether the effect of such imports is otherwise to depress the prices or prevent the price increase, which otherwise would have occurred in the normal course.
85. Accordingly, the Authority has examined the impact on the prices of the domestic industry on account of the dumped imports from the subject country with reference to the price undercutting and price suppression/ depression, if any. For the purpose of this analysis, the cost of production and the selling price of the domestic industry have been compared with the landed price of imports of the subject goods from the subject country.

a. Price undercutting.

86. The Authority has calculated price undercutting on PCN level and thereafter determined price undercutting for the PUC as a whole. The Authority however notes that the product description in the DG Systems data did not allow complete identification of PCN in the entire import data. Therefore, it was not possible to calculate price undercutting for the entire import volumes. Since large number of producers from China PR have participated and have given PCN wise information, the Authority has calculated price undercutting based on the data of the responding producers from China PR.

| Particulars | Landed price | Selling price | Price Undercutting | Price undercutting % | Price undercutting (range) |
|-------------|--------------|---------------|--------------------|----------------------|----------------------------|
| USD/machine | *** | *** | *** | *** | 40-50 |

87. It is seen that the price undercutting is significant and positive.

b. Price suppression/ depression

88. In order to determine whether the dumped imports are depressing the domestic prices, or, whether the effect of such imports is to suppress such prices to a significant degree and prevent price increases which otherwise would have occurred in normal course, the changes in the costs and prices over the injury period, are examined as below:

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-------------|-----|---------|---------|---------|---------|
|-------------|-----|---------|---------|---------|---------|

| | | | | | |
|---------------|--------------|-------|-------|------|-------|
| Cost of Sales | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 103 | 93 | 92 |
| Selling Price | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 95 | 96 | 83 |
| Landed Price | ₹ Lacs/No | 10.67 | 11.18 | 9.22 | 11.48 |
| <i>Trend</i> | <i>Index</i> | 100 | 105 | 86 | 108 |

89. It is seen that whereas both costs and prices have declined over the injury period, the decline in the selling price was more than the decline in the costs. The landed price of the imports has consistently been significantly below the cost and the selling price of the domestic industry. While, a comparison of import price with the domestic industry cost and price on weighted average basis may not be appropriate considering the wide range of PCNs involved, the Authority notes that the fact that the PCN wise undercutting is positive to the extent of 40-50% shows that the imports have forced the domestic industry to reduce its price beyond the decline in the costs.

H.3.3 Economic parameters of the domestic industry.

90. Annexure II to the Rules provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all the relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in the sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of the dumping; actual and potential negative effects on the cash flow, inventories, employment, wages, growth and the ability to raise the capital investments. Accordingly, various injury parameters relating to the domestic industry are discussed below:

i. Capacity, production, capacity utilization and domestic sale

91. The Authority has analysed capacity, production, capacity utilization and domestic sales of the domestic industry over the injury period.

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|----------------------|--------------|---------|---------|---------|---------|
| Installed Capacity | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 100 | 100 | 100 |
| Production Volume | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 86 | 106 | 124 |
| Capacity Utilization | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 87 | 106 | 135 |
| Domestic Sales | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 83 | 109 | 124 |

92. It is seen that the capacity of the domestic industry has remained constant throughout the injury period and in the POI. The production and sales of the domestic industry has

increased with the increase in demand. However, the volumes of production and sales are significantly lower as compared to the capacity and demand in India. The capacity with the domestic industry is much lower than demand for the product in India. Despite the same, the capacity utilization of the domestic industry has remained low throughout the injury period.

ii. **Market Share**

93. The Authority has examined the effect of the dumped imports on the market share of the domestic industry and other Indian producers as under.

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-----------------------------|--------------|---------|---------|---------|---------|
| Domestic Industry | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 78 | 99 | 72 |
| Sale of Supporter | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 68 | 78 | 83 |
| Sales of other producers | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 100 | 122 | 96 |
| Indian industry as a whole | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 86 | 106 | 82 |
| Imports from China | % | 78% | 81% | 81% | 83% |
| <i>Trend</i> | <i>Index</i> | 100 | 103 | 104 | 106 |
| Import from other countries | % | 13% | 12% | 10% | 10% |
| <i>Trend</i> | <i>Index</i> | 100 | 90 | 74 | 77 |

94. It is seen that the market share of the domestic industry has declined over the injury period, whereas the market share of the subject country has increased and is more than 80% of the total demand. The market share of other countries, other Indian producers and domestic industry is low throughout the injury period.

iii. **Inventories**

95. The inventory position with the domestic industry over the injury period is given in the table below:

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-------------------|--------------|---------|---------|---------|---------|
| Average Inventory | No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 142 | 158 | 154 |

96. It is seen that the inventories with the domestic industry have increased over the injury period. As regards the contention that the product is a customer-made product and the increase in the inventory should be seen in that context, during the physical verification, it was seen that certain standard machines are manufactured without orders and are offered as "readily available for sale" by the domestic industry. Therefore, it cannot be said that entirety of the production is against orders. The domestic industry produces both against

orders and against inventories considered normal market requirements. The increased inventory are machines lying in stock which are to be sold after receipt of orders.

iv. **Profitability, cash profits and return on capital employed.**

97. Performance of the domestic industry has been examined in respect of profitability, profits, cash profits, PBIT, and return on investment.

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-------------------------------------|--------------|---------|---------|---------|---------|
| Cost of Sales | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 103 | 93 | 92 |
| Selling price | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 95 | 96 | 83 |
| PBT (Profit before Tax) | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | -100 | -233 | -47 | -248 |
| PBIT (Profit before Interest & Tax) | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | -100 | -370 | 47 | -453 |
| Cash Profit | ₹ Lacs/No | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | -100 | -459 | 48 | -526 |
| ROCE | % | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | -100 | -390 | 49 | -700 |

98. It is seen that-

- The domestic industry has been suffering from losses throughout the injury period and in the POI.
- The domestic industry suffered financial losses, negative PBIT, cash losses and negative return on capital employed in the POI.
- The return on capital employed was negative throughout the period of investigation except in the year 2020-21.

99. The interested parties contended that the financial results of the domestic industry shows that the domestic industry is in profits. The Authority however notes that the domestic industry produces a number of other types of machines. The domestic industry has sold those machines at a profit, leading to overall profits at company level. The domestic industry stated that there was no material dumping happening in those products.

100. The Authority also notes costs on account of raw materials alone constitutes a very significant proportion of sales price. The adverse performance of PUC and better performance of other products is established by the ratio of sales to raw material costs itself.

v. **Employment, wages and productivity**

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

| Particulars | UOM | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|---------------------------|--------------|---------|---------|---------|---------|
| No of employees | Nos. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 83 | 104 | 108 |
| Salaries & Wages | ₹ Lacs | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 78 | 88 | 95 |
| Productivity per day | Nos. | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 86 | 106 | 124 |
| Productivity per employee | Nos | *** | *** | *** | *** |
| <i>Trend</i> | <i>Index</i> | 100 | 103 | 102 | 115 |

102. It is seen that the number of employees with the domestic industry has increased over the injury period. Productivity per day and productivity per employee has improved over the period. Wages paid has declined as compared to base year, but has increased as compared to previous year. The domestic industry has submitted that these parameters are not reflective of the impact of dumped imports on the domestic industry. It is also seen that the salary & wages do not form a material part of the selling price.

vi. **Growth**

103. The growth of the domestic industry in terms of the production, the capacity, domestic sales volume, the inventories, the profits, the cash profits, the market share and the return on investment is as per given table below –

| Particulars | UOM | 2019-20 | 2020-21 | POI |
|-------------------------------|-----|----------|---------|-----------|
| Production | % | -14.15% | 23.30% | 17.05% |
| Domestic Sales | % | -17.24% | 31.55% | 13.57% |
| Profit / Loss per unit ₹ Lacs | % | -132.75% | 79.90% | -429.34% |
| Inventory | % | 41.67% | 11.76% | 0.00% |
| PBIT ₹ Lacs | % | -206.03% | 116.82% | -1187.78% |
| Cash Profit | % | -279.68% | 113.88% | -1335.58% |
| ROCE | % | -11.21% | 16.99% | -29.01% |

104. It is seen that the growth of the domestic industry was negative in most of the injury parameters during the POI.

vii. **Magnitude of dumping**

105. Magnitude of dumping is an indicator of the extent to which the dumped imports are causing injury to the domestic industry. The data shows that the dumping margin determined against the subject country as a whole is above the *de minimis* level and is very significant.

viii. **Ability to raise capital investment.**

106. It is seen that the domestic industry has faced financial losses, cash losses and a negative return on the capital employed throughout the injury period, which has weakened its ability to raise the capital investment.

H.3.4 Analysis of Injury

107. The examination of the imports of the subject goods and the performance of the domestic industry clearly shows that the volume of the dumped imports from the subject country has increased in absolute terms as well as in relation to production and consumption in India. The Chinese imports constitute a very significant share in Indian consumption. The imports from the subject country are undercutting the prices of the domestic industry. The price undercutting has led to depressing effects on the prices in the market, as seen from the decline in the domestic industry more than the cost declines. Production, capacity utilization, sales of the domestic industry has remained low throughout the injury period. The domestic industry and Indian industry as a whole have lost market share. Further, share held by the domestic industry and Indian industry as a whole in demand for the product has remained very low throughout the injury period, whereas share of Chinese imports is quite significant. The Indian industry is gradually heading towards extinction. The domestic industry has been suffering financial losses, cash losses and negative return on investments throughout the injury period.

I. CAUSAL LINK

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

a. Volume and prices of imports from third countries.

109. The imports from China PR constitutes 88% of the total imports of the subject goods into India in the POI. The imports from other countries are either at higher prices or insignificant volumes. Imports from other countries cannot be considered to have caused injury to the domestic industry.

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

110. The Authority notes that there is no contraction in demand during injury period. On the contrary, overall demand for subject goods has shown significant growth during the injury period. The Authority further notes that the domestic industry is unable to utilize its capacity to the extent of available demand due to dumped imports.

c. Conditions of competition and trade restrictive practices

111. The Authority notes that the investigation has not shown any change in conditions of competition, or the trade restrictive practices are responsible for the claimed injury to the domestic industry.

d. Development in technology

112. No evidence has been brought forward by any interested parties that developments in technology could be the cause of injury to the domestic industry.

e. Export performance of the domestic industry

113. The Authority has considered the injury data for the domestic operations separately for the injury analysis. Therefore, the export performance of the domestic industry is not the cause of the injury to the domestic industry.

f. Performance of other products

114. The Authority has considered data relating to the performance of the subject goods only. Therefore, the performance of the other products produced and sold by the domestic industry is not a possible cause of the injury to the domestic industry.

J. MAGNITUDE OF INJURY MARGIN

115. The Authority has determined the non-injurious price (NIP) for the domestic industry on the basis of the 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 practicing accountant for the period of investigation. The NIP has been considered for comparing the landed price from the subject country for calculating injury margin. For determining the NIP, the best utilization of the raw materials and utilities has been considered over the injury period. Best utilization of production capacity over the injury period has been considered. Extraordinary or non-recurring expenses have been excluded from the cost of production. A reasonable return (pre-tax @ 22%) on average capital employed (i.e., average net fixed assets plus average working capital) for the PUC was allowed as pretax profit to arrive at the NIP as prescribed in Annexure III of the Rules and being followed.

116. Based on the landed price and NIP determined as above, the injury margin for the producers/ exporters as determined by the Authority is provided in the table below. The injury margin has been determined by comparing the NIP with the landed price of imports, by undertaking PCN to PCN analysis:

| S N | Group | Producers/Exporters | NIP (\$/Unit) | LV (\$/Unit) | IM (\$/Unit) | IM% | IM Range (%) |
|--------|-------|---------------------|------------------|-----------------|-----------------|-----|--------------------|
|--------|-------|---------------------|------------------|-----------------|-----------------|-----|--------------------|

| | | | | | | | |
|---|-------------------|--|-----|-----|-----|-----|---------|
| 1 | Hans Group | GD Han's Yueming Laser Group Co., Ltd. | *** | *** | *** | *** | 20-30 |
| | | Han's Laser Smart Equipment Group Co., Ltd. | | | | | |
| | | Han's Laser Technology Industry Group Co., Ltd. | | | | | |
| | | Han's MP Laser Technology Co., Ltd. | | | | | |
| | | Suzhou Songu Intelligent Equipment Co., Ltd. | | | | | |
| 2 | Yawie Group | Jiangsu Yawei Machine-Tool Co., Ltd. | *** | *** | *** | *** | 40-50 |
| | | Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd. | | | | | |
| 3 | TRUMPF Group | TRUMPF (China) Co., Ltd. | *** | *** | *** | *** | (40-50) |
| | | Jiangsu Jinfangyuan CNC Machine Co., Ltd. | | | | | |
| 4 | HSG Group | HSG Laser Co., Ltd | *** | *** | *** | *** | 20-30 |
| | | Jinan Hongshi Laser Technology Co., Ltd | | | | | |
| 5 | Bystronic Group | Bystronic Laser AG | *** | *** | *** | *** | 20-30 |
| | | Bystronic (Tianjin) Laser Ltd | | | | | |
| | | Bystronic (Shenzhen) Laser Technology Co., Ltd | | | | | |
| 6 | Jinan Bodor Group | Jinan Bodor CNC Machine Co., Ltd | *** | *** | *** | *** | 70-80 |
| 7 | Shandong Oree | Jinan Oree Laser Technology Co. Ltd | *** | *** | *** | *** | 80-90 |
| | | Shandong Oree Laser Technology Co. Ltd | | | | | |
| 8 | Gweike | Gweike Tech Co., Ltd | *** | *** | *** | *** | 80-90 |
| 9 | Residual | Other than column no.1 to 8 | *** | *** | *** | *** | 130-140 |

117. It is seen that, barring one cooperating producer, injury margin in respect of the cooperating producers as well as all other producers is positive.

K. POST DISCLOSURE SUBMISSIONS

K.1. Submission made by other interested parties

118. Post disclosure comments made by other interested parties are as follows:

- i. The Authority has rejected exclusion requests made on the grounds that domestic industry produces a particular product. The domestic industry has to show that whether the specific product types have been produced and sold by the domestic industry during the period of investigation. Mere competency to produce a product type is not sufficient for its inclusion.
- ii. Whether a machine imported in CKD form will be included only if the consignment includes all parts that provide essential character to the product under consideration and if it so, which part provides essential character to the product under consideration.
- iii. Date of submission of support letters should be clarified by the Authority. They should be rejected if they were filed at belated stage, i.e., after 11th Jan 2023 (timeline for submission of EQR). In the initiation notification the Authority stated that other supporter i.e., Proteck & Lastronics and Messers Cutting System Private Limited have provided details of production, capacity, and domestic Sales. However, there is no such details present in the petition shared with the interested parties.
- iv. The other producers are doing extremely well as they have not supported nor came forward for the present investigation. Four other producers have neither supported nor opposed the initiation.
- v. In order to determine whether the imports by petitioner are insignificant, the Authority should consider imports for each machine type, i.e., cutting, marking, and welding, instead of clubbing all the three machines under one category.
- vi. The Authority is requested to disclose the methodology for comparing PCNs if a machine with a particular PCN was not manufactured by the domestic industry.
- vii. Trumpf and Jiangsu are producers related to each other. They should have been assigned a single weighted average dumping margin rather than separate.
- viii. PCN wise undercutting is not relevant for arriving at conclusions regarding price suppression or depression. Price suppression/depression requires separate analysis and cannot be determined merely on the basis of price undercutting.
- ix. Subject imports do not have price suppressing or depressing effect. The applicant was able to increase/decrease its selling price without influence of the landed value.
- x. The economic impact must be analysed in relation to net profits of users and not revenue.
- xi. Names of the HSG Laser Co., Ltd., Jinan Hongshi Laser Technology Co., Ltd and Gweike Tech Co Ltd are required to be corrected.
- xii. The domestic industry imports its raw materials from China PR and the cost of production used to determine normal value is not at significant variance with the cost of production of producers from China PR. Normal value and dumping margin for each PCN has been estimated by the respondents based on raw material price of 3 major components sourced from market intelligence enclosed with the disclosure comments. The dumping margin estimated is negative.
- xiii. The overly high dumping margin and injury margin is due to high normal value and NIP determined based on the cost of production of the domestic industry and inappropriate PCN to PCN comparison. Lack of disclosure on the PCN comparison

methodology has prevented respondents from providing their comments on the appropriateness of the same.

- xiv. The respondents again request the Authority to consider the data of other Indian producers alongside the applicant's data. This will ensure an accurate assessment of injury. This has been done by the Authority in the past as can be seen in *the Anti-dumping investigation of Polyester Staple Fiber from China PR, Indonesia, Malaysia, and Thailand*.
- xv. Reasons for substantial revision of critical parameters such as 'cost of sales per unit', 'net sales realisation per unit' and 'profit/loss per unit' of the domestic industry must be disclosed.
- xvi. As the product under consideration is capital goods, the form of duty imposed should be ad-valorem to uniformly impact all varieties of the product under consideration.
- xvii. The domestic industry does not have the capacity to meet the demand in India, the duty should be recommended for only 2 years.
- xviii. Shenzhen DNE is not part of Jinan Bodor Group as stated in the disclosure. They are a related trader of Bystronic Group. It is requested that the same be rectified in the final finding.
- xix. The fact about the domestic industry showing orders of machine having laser power of 20000W is disclosed for the first time in the disclosure and no evidence was put to record.
- xx. PCN wise comparison undertaken by the Authority is incorrect.
- xxi. No production details or support letter has been submitted in the petition of the supporter 'Messers cutting system Private Limited' and 'Proteck & Lastronics'
- xxii. In the normal value calculation, the Authority has missed the export details of Bystronic Shenzhen DNE in calculation of Bystronic Group resulting in reduction of export price and landed value by 20%.
- xxiii. The MSME certificate should be provided by the domestic industry including the law which states that rules and regulations of Anti-dumping should be foregone for MSME.

K.2. Submission made by the domestic industry.

119. Post disclosure comments made by the domestic industry are as follows:

- i. The domestic industry has requested disclosure of non-confidential version of the verification report of the participating exporters, communication exchanged with exporters, and any information filed by exporters post filing of initial questionnaire response.
- ii. The quantity and value reported by the responding exporters from the subject country is required to be matched with quantity and value reported in transaction wise import data.
- iii. In case the quantity and value reported by the responding exporter does not match with the transaction wise import data, such exporter must be considered non-cooperative, and their response rejected.
- iv. The following registered interested parties must be considered non-cooperative as they have failed to file the questionnaire response within prescribed time limits: (i) Jiatai

International Company (India), (ii) Wila CNC India Pvt. Ltd., (iii) Vee M Automation Technology, (iv) S&T Engineering Pvt. Ltd., (v) Premier United Pvt. Ltd., (vi) SMT Innovative, (vii) Daksh Enterprises, (viii) Sahil Technocrats, (ix) Upanal CNC Pvt. Ltd., (x) Shree Ram Enterprises, (xi) Meera Laser Solution Pvt. Ltd., (xii) Wuhan Raycus Fiber Technologies Pvt. Ltd.

- v. Only reliable and quantifiable information on record on the impact of the anti-dumping duty is provided by the domestic industry. This investigation has had no user participation, and the importers have not provided any quantifiable information.
- vi. The imposing of anti-dumping duty would not adversely affect end users or downstream industries as the product under consideration is a capital good and any impact of the duty would be spread across the life of the PUC.
- vii. Ad-Valorem form of duty must be recommended as: (a) the product involves many models and types that have considerable variances in associated costs and prices, (b) the product is a capital good and is manufactured in accordance with specifications/requirements, and (c) to avoid any circumvention.
- viii. The Authority must recommend anti-dumping duty for a period of 5 years as the applicant and other producers belong to the MSME sector, and the need for recovery as the Indian Industry has been suffering from dumping for a long period.

K.3. Examination of the Authority

120. The Authority has examined the post disclosure submissions made by the other interested parties and notes that some of the comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings. Issues raised in the disclosure statement which have already been examined have not been considered now. The issues raised for the first time in the post-disclosure comments/submissions by the interested parties and considered relevant by the Authority are examined below.
121. Submissions on the incorrect names of the interested parties have been duly incorporated in the final finding.
122. As regards the contention of no information of production of all types of goods on domestic industry's website and the inclusion of goods based on the capability to produce, the Authority notes that the product under consideration is produced largely based on order. There may be products which the domestic industry can produce but did not produce only because of the absence of orders. The product under consideration comes in wide range of different sizes, laser power, bed size etc. It may be possible that the domestic industry would have produced machine similar to the imported product with some minor differences in product characteristics. The interested parties have not shown that some party has placed an order on the domestic industry and the domestic industry regretted supply against the same claiming technical incapability. In a situation where a product is produced and sold in a large number of types/forms/varieties, the Authority does not consider that the domestic industry should have produced and supplied each type/form/variety of the product. The Authority is of the view that the domestic industry should have the capacity and capability

to produce such a goods. In fact, the Authority has routinely determined injury margin where the Authority found that all forms of the products produced by the domestic industry were not imported into the country, and similarly, all forms of the products were not produced and supplied by the domestic industry. The Authority in fact has notified its methodology for determination of the injury margin in such cases by specifying that the injury margin in such cases shall be determined by considering a near similar product type and making adjustments for the differences in characteristics. Therefore, merely only on the basis of non-production of particular product type during the POI, exclusion cannot be granted, particularly in a case like the present which involves capital goods. Based on the facts of the case and the nature of the product involved, what is required to be considered is if the domestic industry is capable of producing the required product.

123. As regards the contention on the form and duration of duty, the same have been duly considered based on the facts of the case. The Authority has in past recommended anti-dumping duty for a period less than 5 years having regard to facts & circumstances of those cases. The domestic industry in the present case has been in existence for a long time. There are large number of producers in the market. The share of imported product in the domestic market is high. The facts of the case justify recommendation of duty for 5 years in order to allow fully recovery of the Indian industry.
124. It has been contended that the fact that the domestic industry can produce machine having laser power of 20000W has been disclosed for the first time in the disclosure statement. Pursuant to the written submissions filed by the other interested parties wherein it was said that the domestic industry cannot provide machines with laser power of 20000 Watt, the domestic industry had in its rejoinder submissions provided evidence of its capacity to produce the machine with the desired laser power. The fact has been disclosed to all the parties in the disclosure statement and comments were invited. However, the interested parties have not provided any evidence to dispute it.
125. As regards to the request for determination of normal value based on records kept by Gweike Tech Co. Ltd., the Authority notes that the respondent has not filed market economy questionnaire response to rebut the presumptions as mentioned in para 8 of Annexure- I and under these circumstances. Therefore, the contention cannot be accepted.
126. As regards the date of submission of the support letters, the support letters were received before the initiation of the investigation and their names have been considered in the initiation notification itself. It has also been contended that the information regarding the production and sales of the other supporters were not disclosed to the interested parties. The Authority has disclosed the names of the participating producers in the initiation notification itself and the trend of their domestic sales in the disclosure statement.
127. It has been contended that the Authority should examine performance of other producers as well and not for the other producers which have supported the application. Based on the WTO decisions and the Rules, a 25% share in total Indian production can be considered a

"major proportion" in the case of a fragmented industry. The applicant in the present case satisfies the requirement of standing in terms of anti-dumping rules. The Authority may also examine the trend of performance of supporters as well. However, the supporters in the present investigation have provided information only with respect to capacity, production and sales. It is seen that even the supporters are operating with significant idle capacities.

128. As regards the comments on methodology considered for suppression/depression, the Authority notes that considering the large number of the PCNs involved, it will be highly misleading if the comparison is made on an average basis. The analysis of transaction wise PCN wise data shows that the import price is below the selling price of the domestic industry. The fact that the domestic industry has suffered financial losses and the import price is below the selling price of the domestic industry itself shows that the imports are suppressing or depressing the domestic prices.
129. As regards the argument on normal value calculation for the PCNs which are not manufactured by the domestic industry it is noted that the Authority has taken due diligence in computing the normal value nearest PCN manufactured by the domestic industry with due adjustments, wherever necessary.
130. As regards the PCN wise comparison, the Authority has undertaken the comparison as per the consistent practice. Where the domestic industry has supplied the exact PCN, the same has been considered for the present determination. However, in cases where the import quantities include some of the PCNs, which have not been produced by the domestic industry during the period of investigation, the non-injurious price or normal value for these PCNs have been computed based on the closest PCN with due adjustment.
131. It has been contended that there is a demand and supply gap in the country, and the same will worsen after imposition of anti-dumping duty. It is also seen that as against the demand, the capacity with the domestic industry, other Indian producers, imports from other countries and non-dumped imports from the subject countries will be able to cater the entire demand. The domestic industry has also submitted that the capacities can be increased to some extent immediately, and to a significant extent in a short run. The Authority notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices. Even after the imposition of anti-dumping duty, the imports are not restricted in the country.
132. It has been contended that the anti-dumping duty should not be imposed as the consumers are in MSME sector. The Authority, however, notes that the argument has been raised by a Chinese exporter/ Indian trader. The consumers have not raised any such arguments, nor any consumers' association has come forward with any such plea. At the same time, it is

noted that the domestic producers in the product under consideration are MSMEs. Further, as far as buyers are concerned, even if they are MSME, the product under consideration is a capital good and therefore the cost would be absorbed over long life of the product.

L. INDIAN INDUSTRY'S INTEREST AND OTHER ISSUES

L.1 Submission made by other interested parties

133. The submissions made by the other interested party on the imposition of the duty being against public interest are as follows:
- i. Users who have imported Chinese machines would not have to import again until the machine requires replacement due to complete depreciation. Hence, existing users will not be affected by imposition of anti-dumping duty in the near future. The absence of participation from users should be understood in this context.
 - ii. The petitioner's quantification of the impact of anti-dumping duty should be rejected. The petitioner considered an anti-dumping duty of 30% when dumping margin and injury margin claimed is 180-190% and 90-100% respectively which would even conservatively lead to an anti-dumping duty of 60%. The biggest proportion of users of subject goods is MSME who would be most affected as opposed to large industrial user considered by petitioner.
 - iii. An anti-dumping duty of 30%-60% will have an impact of 13%-27% for laser cutting machine and 6%-13% for laser marking machine and laser welding machine. The increased cost of the product under consideration will impact the profits of users. This will force small scale users to give up business plans leading to wide-scale impact on the economy. The competitiveness of the user industry will be severely affected. Importers and end-users employ 2000 and 5000 people directly respectively. The anti-dumping duty will impact the employment generated.
 - iv. The imposition of anti-dumping duty will worsen the demand-supply gap and be detrimental to the government's Make in India objective.
 - v. The demonstration made in Annexure 2.4 is unreliable, as the revenue figures on which the calculations are made are unsubstantiated and rationale is unexplained. Considering the multiple end uses of the laser machines, the assessment has to be undertaken based on the specific user industry. The Authority is requested to refer to the user questionnaire filed in the investigation.
 - vi. The entire laser machine market is projected to grow in the following years and the domestic industry under the pre-text of 'levelling the playing field' is attempting to capture the Indian market. The domestic industry is unable to compete with the industry standards and Chinese, Japanese, and German laser machines are deemed superior globally. They are therefore resorting to alternative measures in order to gain a price advantage. The domestic industry offers no benefit to end consumers and is seeking to undercut the competitive landscape. The imposition of anti-dumping duty is against public interest.
 - vii. Even if anti-dumping duty is imposed and the subject imports cease, the petitioner may not be able to achieve scale of production because they lack technical expertise and know-how.

- viii. The domestic industry's claim that the increase in cost owing to anti-dumping duty would be spread across the AUL period of 15 years is contradictory. The domestic industry not only states that the consumers are extremely price sensitive but also claims that the imposition of duties will not have an overall effect to the consumer. If the end consumer is not price-sensitive, then the reason why the user industry prefers imports is owing to the fact that it has qualitatively superior PUC.
- ix. The product ranges from lakhs to crores, as the product is capital intensive. If the anti-dumping duty is imposed of 60%, it will be expensive for the users/importers to import the PUC. The impact of anti-dumping duties would be high.
- x. No complaints have been raised by the users or importer industry with regards to after-sales service and the supply of spare parts. Further various importers are in different parts of the country which are in a better position to meet the after-sales support and requirements of the user's industry. The after sales service of the petitioner is meaningless as the machines are supported by the petitioner suffer from poor quality/performance standards.
- xi. The impact will likely to strengthen the oligopolistic tendencies of domestic producers, which can be detrimental to importers and the user industry.
- xii. The imposition of duties will reduce importers and users' which are already low margins, leading to a severe impact on the demand for the PUC in the market.
- xiii. The imports of the PUC from third countries are otherwise also very expensive and will not be affordable for small-scale users.
- xiv. The interest of single producers cannot be equal to the interest of the public at large. Where there is only one domestic industry and various importers have participated, their claim of adverse impact of anti-dumping duty must be considered.

K.2. Submission made by the domestic industry.

134. The submissions made by the domestic industry on the imposition of the duty being against public interest are as follows:
- i. Imposition of anti-dumping duty is in the interest of producers, consumers and public at large. The capacity would get expanded when fair competition is restored in India. Additionally, imposition of anti-dumping duty would also ensure that even third country imports can compete fairly in the Indian market.
 - ii. The lack of users' opposition shows that the user's industry does not expect any adverse impact on account of imposition of anti-dumping duty. Further, the quantification of the impact of anti-dumping duty shows that the impact is insignificant.
 - iii. Procuring from the domestic industry is in the interest of the users. Post-sales assistance and the supply of spares parts is essential for smooth functioning of the machine. Being established in India, the domestic industry would provide timely service to the user's industry.
 - iv. The Indian industry consists only of MSMEs, which is competing against unfairly priced imports from large Chinese entities. Some cooperating producers/exporters are subsidiaries of major European corporations. Both the domestic industry and the other Indian producers have been experiencing continuous losses. Sustaining these loss-

making operations is not feasible for the Indian industry in the long term. Without government support, these companies may be forced to shut down soon.

- v. Technology of the subject goods has application in other critical sectors such as medicine and defence. The domestic industry is involved in engaging in research on the use of such technology in these sectors. Therefore, it is in the best interest of the country that the domestic industry continues in developing technology for these sectors.
- vi. Fair competition in the Indian market will not be reduced by imposition of the anti-dumping duty. Anti-dumping duty is a redressal of unfair price discrimination by the producers in other countries, which is injurious to the industry in India. Therefore, anti-dumping duty is not a protection to the industry, but rather a means of price correction.
- vii. The objective of the imposition of the anti-dumping duty is to establish a level playing field, by removing any trade distortion by the producers in the subject country and allowing the Indian industry an opportunity for fair competition.
- viii. The subject goods are produced by several countries other than China PR. The restoration of fair competition will also help producers from third countries to compete with Chinese imports on an equal footing in the Indian market. This further assures that the downstream industry will not face any shortage of the subject goods on account of the imposition of the duties.
- ix. Indian industry is perfectly capable of competing with producers in the third country markets on market principle. The Indian industry has the potential to become globally renowned and share the same status as that of European, Korean, and Japanese producers. The Indian industry is not suffering from injury from third country imports.
- x. The imposition of anti-dumping duty on the subject imports would result into fair market competition, Indian producers would be able to compete on market terms with Chinese imports, recovery from loss and earning adequate returns with growing demand will act as an incentive to expand their production capacity and expansion of production capacity will bridge the demand supply gap and facilitate the goal of 'Make in India'.
- xi. Only the domestic industry has quantified the impact of anti-dumping duty and none of the importers have quantified the same which was a requirement under economic interest questionnaire.
- xii. Even entities with a turnover as high as Rs.250 crores are considered MSMEs. The domestic industry has taken a reasonable average of Rs.50 crores and quantified the impact accordingly.
- xiii. Calculation of the impact of the anti-dumping duty on the revenue of the user industry gives a correct metric of the economic impact. The impact should be calculated on a static measure and hence, revenue would be more appropriate as opposed to net profit which is dynamic and dependent on several factors.
- xiv. The Authority must reject the quantification of anti-dumping duty belatedly filed by the imports as they failed to provide in the economic interest questionnaire. Even if such has been filed, the same must be rejected as they failed to circulate non-confidential version of the same to the domestic industry.
- xv. The imposition of anti-dumping duty would restore the fair competition in the Indian market which will help the Indian Industry to increase their domestic sales, revenue and

- returns. This would also encourage the Indian producers to scale up the production and the Indian industry can come out of MSME sectors.
- xvi. Chinese producers have acquired the Indian market by resorting to unfair dumping. Existence of fair market practices in the Indian market would lead to Indian industry acquiring market.

K.3. Examination of the Authority

135. The Authority notes that the purpose of anti-dumping duty, in general is to eliminate injury caused to the domestic industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Ensuring a level playing field for the subject goods in India is even more important considering the structure of the Indian industry. While the domestic industry is the largest company among the Indian industry, still they are an MSME. Apart from the domestic industry, all other producers of the subject goods fall within the MSME sector. If the production and sales of the subject goods become unviable to them, they will be forced to shut down operations. Further, The Authority notes that the imposition of the anti-dumping measures would not restrict imports from the subject country in any way, and therefore, would not affect the availability of the product to the consumers.
136. The Authority issued gazette notification inviting views from all the interested parties, including the importers, the consumers, and the other interested parties. The Authority also prescribed a questionnaire for the users to provide the relevant information with regard to the present investigation, including possible effect of the anti-dumping duty on their operations. The Authority sought information on, *inter-alia*, interchangeability of the product supplied by the various suppliers from different countries, ability to switch sources, the effect of the anti-dumping duty on the consumers, the factors that are likely to accelerate or delay the adjustment to the new situation caused by the imposition of the anti-dumping duty.
137. The Authority had prescribed an Economic Interest Questionnaire which was sent to all interested parties to this investigation. The domestic industry has provided information sought in the Economic Interest Questionnaire. The domestic industry has also provided a quantification of the potential impact of the duty. It is to be noted that two producers/exporters from the subject country have responded to the Economic Interest Questionnaire namely, HSG Laser Co., Ltd and Jinan Hongshi Laser Technology Co., Ltd. However, exporters have not quantified the impact of the imposition of anti-dumping duty on end users. During the course of the investigation, steps were taken to examine whether the imposition of the anti-dumping duties will be against the public interest. For this, the Authority has considered information on record and interests of various parties, including the domestic industry, importers, and users of the product.
138. None of the users, OEMs or user associations have opposed to the present investigation. Nor these parties have claimed that there shall be an adverse effect of the proposed anti-dumping duty on the public at large, or even their operations. After the issuance of the

disclosure statement, some representations were received requesting for non-imposition of anti-dumping of the representation are very similar in content and no data on the possible impact has been provided. As already noted above, none of the importers or consumers have provided any verifiable information to demonstrate the effect of the anti-dumping duty on the consumers. In this regard, the Authority re-iterates that imposition of the antidumping measures would not restrict the imports from the subject country in any way and, would not affect the availability of the product to the consumer.

139. It is noted that the product is under free category and, therefore, can be freely imported from the various countries. The imposition of the anti-dumping measures would not restrict the imports from China in any way, and, therefore, would not affect the availability of the product to the consumers. The imposition of anti-dumping duties, therefore, would neither affect the availability of the product to the consumers nor create monopoly.
140. It has been contended that there is a demand and supply gap in the country, and the same will worsen after imposition of anti-dumping duty. It is also seen that as against the demand, the capacity with the domestic industry, other Indian producers, imports from other countries and non-dumped imports from the subject countries will be able to cater the entire demand. The domestic industry has also submitted that the capacities can be increased to some extent immediately, and to a significant extent in a short run. The Authority notes that the demand-supply gap in the country does not bar the domestic industry from seeking redressal from dumped imports. As held by the CESTAT in the matter of DSM Idemitsu Limited vs. Designated Authority, demand-supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices. Even after the imposition of anti-dumping duty, the imports are not restricted in the country.
141. The Authority notes all other producers including the domestic industry of the subject goods in India belong to the MSME sector. Thus, imposition of duties would only help the Indian producers to stay viable and competitive.
142. It is noted that the interested parties have not demonstrated how the prices of the subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted quantified information establishing that the impact of the proposed antidumping duty on the user industry would be miniscule. The domestic industry has submitted that the cost of the product under consideration in the final product is very minimal and will have almost no effect on the end-users. The domestic industry has quantified an impact of 0.0003% on the turnover of the downstream industry. The interested parties opposed the quantification provided by the domestic industry but has not provided any verifiable information to quantify the impact.

M. CONCLUSION & RECOMMENDATION

143. After examining the submission made by the interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:

- a. Laser cutting, welding or marking machines are machines which have laser source as the base product and performs the function of emitting laser required for cutting, welding, marking or any other operations. Mere fact that the machine may perform the function of welding, cutting, or marking does not render these as different products. Different kinds of laser machines are nothing but one product which essentially perform the function of emitting laser light in a controlled manner.
- b. The product under consideration comes in a wide range of different sizes, laser power, bed size etc. Different categories/types are developed to meet specific end-user requirements. Since it is a capital good and customer made product, the design of the industrial laser machines is as per the end use requirements. It may be possible that the domestic industry would have produced machine similar to the imported product with some minor differences in product characteristics. In a situation where a product is produced and sold in a large number of types/forms/varieties, the Authority does not consider that the domestic industry should have produced and supplied each of them. Therefore, the Authority has considered if the domestic industry has the technical capacity to provide such products.
- c. Components have been excluded from the scope of the product under consideration. However, if all the components are transacted in such a manner that it merely requires assembly operation in India, such transaction would amount to transaction in CKD condition and shall be within the ambit of the product under consideration.
- d. There are around 8 producers of the product under consideration in India and the industry is a MSME fragmented industry. Some of the MSMEs have a turnover of Rs 10 Cr or less.
- e. The application was filed by M/s. Sahajanand laser Technology Limited. Lastronics Technology Private Limited, Proteck Machinery Pvt Ltd. and Messers Cutting System India Private Limited had supported the investigation. The applicant together with supporters account for 50-60% of the total domestic production of the like article in India.
- f. The volume of imports made by the applicant is insignificant (0.26% in relation to total imports into India and 0.24% in relation to total demand in India and 3.5% of its total domestic sales). The imports made by the applicant are not in such volumes so as to disentitle them from being treated as an eligible domestic industry.
- g. Large number of exporters from China PR have participated. 9 Chinese group of companies consisting of 20 exporters have participated and filed questionnaire response. None of the responses have been rejected. The Authority has not undertaken sampling and determined dumping margin based on their response.
- h. Considering the normal value and export price for the subject goods, the dumping margin for the subject goods from the subject country has been determined, and the margins are significantly positive. No reason has been provided by the exporters for such a significant degree of dumping.
- i. Even the lowest dumping margin determined in case of co-operating producers is in the range of 30-40%. Further, the dumping margin is as high as 100%.

- j. The examination of the imports of the subject goods shows that the volume of dumped imports from China has significantly increased in the period of investigation. The imports have increased in both absolute terms and in relation to production and consumption.
- k. The examination of the price of the imports of the subject goods further shows that imports are priced below the selling price of the domestic industry. The dumped imports are undercutting the prices of the domestic industry by 40-50%.
- l. The imports are below the cost of sales of the domestic industry. The low-priced imports have caused price depression on the domestic industry prices as they have forced the domestic industry to reduce its prices.
- m. The examination of the economic parameters of the domestic industry show that production and sales are significantly lower as compared to the capacity and demand in India. While the market share of the domestic industry has declined over the injury period, the market share of the subject country has increased and is more than 80% of the total demand.
- n. The domestic industry has been suffering from losses throughout the injury period and in the period of investigation. The loss per unit suffered is highest in the period of investigation.
- o. Considering the volume of dumped imports and the degree of the demand being catered by them, the imports from China are the price setters in the domestic market. The domestic industry is forced to reduce its price and has suffered losses. Therefore, the dumped imports have impacted the prices of the domestic industry.
- p. The Authority has examined the submissions made by the other parties on any other factors which could have caused injury to the domestic industry. No other factor appears to have caused injury to the domestic industry. The Authority concludes that material injury suffered by the domestic industry has been caused by the dumped imports from the subject country.
- q. None of the consumer of the product in India has participated in the present investigation. While importer traders have participated and filed questionnaire response, no user questionnaire response was filed. The Authority notes that the absence of the user participation shows the lack of adverse impact of anti-dumping duty.
- r. As against the demand in India, capacity with the domestic industry, other Indian producers and imports from non-dumped imports from the subject countries will be able to cater the entire demand. Demand and supply gap does not justify dumping. The foreign producers can always meet the Indian demand by selling the product at un-dumped prices.
- s. Interested parties have not demonstrated how the prices of the subject goods have adversely impacted the consumers. On the other hand, the domestic industry has submitted quantified information establishing that the impact of the proposed antidumping duty on the user industry would be miniscule.
- t. The Authority had prescribed an Economic Interest Questionnaire which was sent to all interested parties to this investigation. Two producers/ exporters from the subject country and the domestic industry have responded to the Economic Interest Questionnaire. No Economic Interest Questionnaire response has been filed by any customer. The domestic industry has also provided a quantification of the potential impact of the duty.

- u. The Authority considers that the impact of anti-dumping duty on the eventual end consumers will be insignificant.
 - v. Considering the nature of the industry and degree of the injury suffered due to dumped imports, the Authority considers that anti-dumping duty for a period of 5 years is necessary.
144. The Authority notes that investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers, and other interested parties to provide positive information on the aspect of dumping, injury, causal link, and impact of recommended measures. Having initiated and conducted the investigation into dumping, injury, and causal link in terms of provisions laid down under the Anti-Dumping Rules and having quantified the impact of imposition of ADD, the Authority is in view that imposition of anti-dumping duty is required to offset the dumping and injury. The Authority considers it necessary and recommends imposition of an anti-dumping duty on imports of subject goods from the subject country.
145. Considering the product under consideration is capital goods, the assessment and collection of anti-dumping duty should be based on value of the goods rather than on any other criterion such as weight or number etc. The Authority therefore considers that it would be appropriate to recommend anti-dumping duty as a percentage of the CIF value of the import price of the subject goods.
146. In view of the above, the Authority, in terms of provisions contained in Rule 17(1)(b) read with Rule 4(d) of the Rules, recommend imposition of anti-dumping duty equal to the lesser of margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. The Authority accordingly recommends imposition of anti-dumping duty on the imports of subject goods originating in or exported from China PR for a period of five years from the date of notification to be issued in this regard by the Central Government, as a percentage of the CIF price of the goods, as indicated in Col. 7 of the duty table given below.
147. The landed value of imports for this purpose shall be assessable value as determined by the Customs under the Customs Act, 1962 and applicable level of custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Custom Tariff Act, 1975.

Duty Table

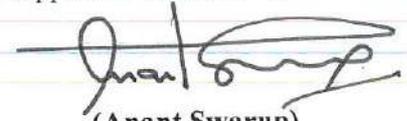
| SN | Sub Heading or Tariff Item | Description of Goods | Country of origin | Country of Export | Producer | Duty as % of CIF |
|----|----------------------------|----------------------|-------------------|-------------------|------------------------|------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | 84561 | Industrial Laser | China PR | Any | GD Han's Yueming Laser | 22.78% |

| | | | | | | |
|----|--|--|-------------------------|--------------------------------|--|---------|
| | 100, 84569 090, 84622 920, 84798 1999, 85152 190, 85158 090 and 90132 000 | Machines, in fully assembled, SKD or CKD form, used for cutting, marking, or welding operations* | | country including China PR | Group Co., Ltd. Han's Laser Smart Equipment Group Co., Ltd. Han's Laser Technology Industry Group Co., Ltd. Han's MP Laser Technology Co., Ltd. Suzhou Songu Intelligent Equipment Co., Ltd. | |
| 2 | -do- | -do- | China PR | Any country including China PR | Jiangsu Yawei Machine- Tool Co., Ltd. Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd. | 40.05% |
| 3 | -do- | -do- | China PR | Any country including China PR | TRUMPF (China) Co., Ltd. Jiangsu Jinfangyuan CNC Machine Co., Ltd. | Nil |
| 4 | -do- | -do- | China PR | Any country including China PR | HSG Laser Co., Ltd Jinan Hongshi Laser Technology Co., Ltd | 20.82% |
| 5 | -do- | -do- | China PR | Any country including China PR | Bystronic (Tianjin) Laser Ltd Bystronic Laser AG Bystronic (Shenzhen) Laser Technology Co., Ltd | 27.86% |
| 6 | -do- | -do- | China PR | Any country including China PR | Jinan Bodor CNC Machine Co., Ltd | 77.80% |
| 7 | -do- | -do- | China PR | Any country including China PR | Jinan Oree Laser Technology Co. Ltd Shandong Oree Laser Technology Co. Ltd | 80.65% |
| 8 | -do- | -do- | China PR | Any country including China PR | Gweike Tech Co., Ltd | 81.52% |
| 10 | -do- | -do- | China PR | Any country including China PR | Any, other than SN 1 to 8 | 135.98% |
| 11 | -do- | -do- | Any other than China PR | China PR | Any | 135.98% |

* the scope of the product includes Laser Cutting Machines (LCM), Laser Marking Machines (LMM), and Laser Welding machines (LWM)

N. FURTHER PROCEDURE

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



**(Anant Swarup)
Designated Authority**