

**F.NO. 14/12/2008-DGAD**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Directorate General of Anti-Dumping & Allied Duties**  
**Udyog Bhavan, New Delhi**

**NOTIFICATION**

**Dated the 31st December, 2009**

**Final Findings**

**Sub: Anti-Dumping Investigation involving import of all kinds of plastic processing or injection moulding machines, also known as injection presses, having clamping force not less than 40 tonnes and not more than 1000 tonnes originating in or exported from China PR.**

**F.NO. 14/12/2008-DGAD:-** Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

1. WHEREAS M/s L&T Demag Plastic Machinery Company Ltd, Chennai, Tamil Nadu, (hereinafter referred to as the applicant) has filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Act, and the Rules, alleging dumping of all kinds of plastic processing or injection moulding machines, also known as injection presses, having clamping force not less than 40 tonnes, used for processing or moulding of plastic materials (hereinafter referred to as the subject goods), originating in or exported from the China PR (hereinafter referred to as subject country) and requested for initiation of an investigation for levy of anti- dumping duties on the subject goods.

2. AND WHEREAS, the Authority on the basis of sufficient evidence submitted by the applicant issued a public notice dated 8<sup>th</sup> July 2008, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of the subject goods, originating in or exported from the subject country, in accordance with the sub-Rule 5(5) of the Rules, to determine the existence, degree and effect of the alleged dumping and to recommend the

amount of anti-dumping duty, which, if levied would be adequate to remove the injury to the domestic industry.

3. AND WHEREAS, the Designated Authority having regard to the Act and the Rules investigated and recommended imposition of provisional Anti Dumping Duties on imports of all kinds of plastic processing or injection moulding machines, also known as injection presses, excluding Plastic Processing Machines having clamping force less than 40 tonnes and those more than 1000 tonnes used for processing or moulding of plastic materials falling under subheading 8477.10 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in or exported from China PR, vide Preliminary Findings of even number dated 10<sup>th</sup> February, 2009 and Provisional Anti Dumping Duties were imposed on the subject goods vide Customs Notification No 47/2009-Customs dated 12<sup>th</sup> May 2009.

#### **A. Procedure**

4. Procedure described below has been followed with regard to this investigation after issuance of the public notice notifying the initiation of the above investigation by the Authority.

- a) The Embassy of the subject country in New Delhi was informed about the initiation of the investigations in accordance with Rule 6(2);
- b) The Designated Authority sent copies of initiation notification dated 8th July 2008 to the embassy of the subject country in India, known exporters from the subject country, known importers and other interested parties, and the domestic industry, as per the information available with it. Parties to this investigation were requested to file questionnaire responses and make their views known in writing within prescribed time limit. Copies of the letter, petition and questionnaire sent to the exporters were also sent to the Embassy of the subject country along with a list of known exporters/producers with a request to advise the exporters/producers from the subject country to respond to the questionnaire within the prescribed time;
- c) Copy of the non-confidential version of the petition filed by the domestic industry was made available to the known exporters and the Embassy of the subject country in accordance with Rules 6(3) supra;
- d) Questionnaires were sent to the known exporters from subject country in accordance with the rule 6(4) to elicit relevant information. Responses to exporter's questionnaire have been received from the following exporters of the subject goods from the subject country:

- i. Guangzhou Borch Machinery Co. Ltd.
  - ii. Zhejiang Sound Machinery Manufacture Co. Ltd.
  - iii. Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter).
  - iv. Ningbo Liguang Machinery Co. Ltd.
  - v. Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.
  - vi. Hangzhou Tederic Machinery Co. Ltd.
  - vii. Ningbo Haitian Plastic Machinery Group
  - viii. Haitian Heavywork Machinery Co. Ltd.
  - ix. Ningbo Haitian Huayuan Machinery Co. Ltd.
  - x. Wenzhou Smargon Import & Export Co. Ltd.
- e) Questionnaires were sent to the known importers and consumers of the subject goods in India calling for necessary information in accordance with Rule 6(4). Responses to the Importer's questionnaire have been received from The All India Plastic Manufacturers' Association, Mumbai and from the following importers of the subject goods In India:
- i. Salzer Electronics Ltd.
  - ii. Riya Moulders
  - iii. CJ Polytech Pvt. Ltd.
  - iv. Tech Plastic Industries
  - v. Sakkthi Polymers
  - vi. Tooling Temple
  - vii. Victory Engineering Works
  - viii. Primex Home Appliances
  - ix. Moldwell Products
  - x. Electronica Machine Tools
- f) Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of subject goods for the past three years, including the period of investigations;
- g) A Market Economy Treatment (MET) questionnaire was forwarded to all the known exporters and Embassy of China PR. While for the purpose of initiation of investigation the normal value in China PR was considered based on the constructed cost of production of the subject goods in China PR, the Authority informed known exporters that it proposes to examine the claim of the applicant in the light of para 7 and para 8 of Annexure I of Anti Dumping Rules, as amended. The exporters/producers of the subject goods from China PR were therefore requested to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 to enable

the Authority to consider whether market economy treatment be granted to the cooperative exporters/producers;

- h) The confidentiality claims of various interested parties in respect of the data submitted by them have been examined. The information, which is by nature confidential or which has been provided on a confidential basis by the interested parties, along with non-confidential summary thereof, has been treated as confidential. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);
- i) The Authority notified preliminary findings vide notification of even No. dated 10<sup>th</sup> February, 2009 and requested the interested parties to make their views known in writing within 'Forty Days' from the date of its publication;
- j) The Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 6th May, 2009. All parties presenting views were requested to file written submissions of their views expressed. The parties were advised to collect copies of the views expressed by the opposing parties and offer rebuttals, if any;
- k) The written submissions and rejoinders received from interested parties to the extent considered relevant have been considered in this Final Findings;
- l) Arguments made by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for sake of brevity. However, the arguments raised by the interested parties subsequently have been appropriately dealt in this Final Findings;
- m) The Non-injurious Price based on the cost to make and sell the subject goods in India based on the information furnished by the domestic industry on the basis of Generally Accepted Accounting Principles (GAAP) was worked out so as to ascertain whether Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to Domestic Industry;
- n) The Authority conducted on the spot verification of information furnished by the following Chinese producers and exporters;
  - a. Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter).

- b. Ningbo Liguang Machinery Co. Ltd.
  - c. Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.
  - d. Ningbo Haitian Huayuan Machinery Co. Ltd.
- o) Exporters questionnaire response was also submitted by M/s Toshiba Machines Co Ltd, Japan and Toshiba Machine (Shanghai) Co Ltd, China PR much after the stipulated time and was not accepted due to the same reason. However the views expressed by them as interested party have been taken in to consideration in this Final Findings;
- p) In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties vide a disclosure statement issued on 11<sup>th</sup> December 2009 and comments received on the same have also been duly considered in this Final Findings ;
- q) The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the preliminary findings and discussed in the disclosure statement and those raised in response to the disclosure statement are discussed and examined in the relevant paragraphs of this findings to the extent relevant as per rules and have a bearing upon the case.
- r) The investigation covered the period from 1st January, 2007 to 31st December, 2007(12 months). The injury analysis covered the three preceding years 2006-2007, 2005-2006, 2004-05 and the POI;
- s) \*\*\* in this Final Findings represents information furnished by the interested parties on confidential basis and so considered by the Authority under the Rules.

## **B. Product under Consideration and Like Article**

5. The anti-dumping investigations was initiated concerning imports of all kinds of plastic *processing or injection moulding machines, also known as injection presses*, having clamping force not less than 40 tonnes, used for processing or moulding of plastic materials. The subject machines are used for producing various plastic articles using an injection moulding process and consist of an injection unit, which melts the polymer and injects it into the mould and a clamping unit, which holds the mould, opens, closes and ejects the finished product. Plastic processing machines are used by user-segments such as automotive, communications, entertainment electronics, electrical, packaging,

etc., in processing plastic to make bumpers, water bottles, medicine bottles, bottle caps, household items, writing instruments, plastic screws and so on.

6. The clamping force is a critical parameter in the operation of the plastic processing machines (PPM). The plastic processing machines are produced based on the required clamping force. PPM holds the moulds in which the components are shaped. Presses are rated by tonnage, which expresses the amount of clamping force that the machine can generate. This pressure keeps the mould closed during the injection process. Tonnage can vary from less than 5 tons to 6000 tons, with the higher figures used in comparatively few manufacturing operations.

7. Plastic processing machinery is classified under Chapter 84 of the Customs Tariff Act, 1975 under subheading 8477.10 under subheading 8477.1000 under the Indian Trade Classification (Based on Harmonized Commodity Description and Coding system).

### **B.1. Views of Interested Parties after Preliminary Findings**

8. After the Preliminary Findings, the following views have been expressed by the interested parties:

#### **B.1.1 Views of Domestic Industry**

9. The domestic industry, with regard to the PUC, submitted that there is no known difference between the products manufactured by them and the subject goods imported from the subject country, which can have any impact on price, usage, quality etc. The applicant also claims that the technology and primary production process employed by them and the foreign producers are comparable; however, every producer fine-tunes its production process based on available facilities and necessities.

#### **B.1.2 Other interested parties**

10. At preliminary Findings stage, no argument has been received from any interested party on the scope of product under consideration or like article. However, the submissions were raised post-preliminary findings and public hearing by various interested parties.

#### **B.1.3 Views of Exporters**

11. M/s Dua Associates on behalf of Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter); Ningbo Liguang

Machinery Co. Ltd.; and Ningbo Haixing Plastic Machinery Mfg. Co. Ltd. made the following submissions subsequent to preliminary findings:

- The scope of the product under consideration in the present investigation is too wide to allow for a fair assessment of alleged injury to the domestic industry and the domestic industry product cannot be considered as like article for the purposes of this investigation.
- All the machines stated to have been produced by domestic industry are not of same clamping force as those of the exporter and hence these cannot be like articles.
- L&T Demag is a Joint Venture company between L&T and Germany based Demag Plastics Group, Europe's leading maker of injection molding machines. Further, now Demag is bought by the Japanese company Sumitomo and the petitioner is listed as production and subsidiary company. The machines produced by the Petitioner which is subsidiary of the German/Japan based companies, also belong to the relatively high-quality ones as the machines produced in these countries.
- The machines exported from China are basic and standard machines with simple functions and low-maintenance. These machines are different from the high-quality injection machines produced by Japan and Germany. This difference between Chinese machines and machines from Japan and Germany creates differences in prices.
- It is incorrect that the two are required to be treated as alike and as one product for the purpose of defining the 'product under consideration'.
- The petitioner has admitted in the petition that plastic processing machines differ significantly in terms of associated costs and prices depending upon the clamping force required.
- Petitioner has admitted in the Petition that the production of the product under consideration requires a number of raw materials and bought out components which vary with each machine and that no standard raw material is consumed in production of different types of the product under consideration. The petitioner has gone on to admit that the product is produced as per the customer's requirement and specifications.
- The Petitioner itself does not consider the "product under consideration" as capable of composite consideration and has willfully defined an overbroad category for purposes of the investigation.
- The product under consideration has been improperly defined at best and in fact in the interests of justice, the investigation should be terminated and if at all the matter examined afresh with a stricter definition of the product under consideration.
- The product under consideration covers machines which have vastly different physical characteristics and which cannot be compared with machines produced by the domestic industry. The machines which are exported to India from China are basic and standard machines with simple functions and low-maintenance. 80% of the plastic goods in the world the consumers need are produced by the basic machines. These machines

- are different from the high-quality injection machines produced by Japan and Germany. This difference between Chinese machines and machines from Japan and Germany creates differences in prices.
- Even judged on clamping force which is sole criteria relied upon by the Petitioner, the domestic industry's product cannot be considered as like article. It is submitted that as stated by the Petitioner itself in the Petition presses are rated by tonnage which expresses the amount of clamping force that the machine can generate and tonnage can vary from less than 5 tons to 6000 tons. Perusal of the Preliminary Findings reveals that the majority of the machines stated to have been produced by domestic industry are not of same clamping force as those of the exporter and hence these cannot be like articles even by the Petitioner's own case.

12. Subsequent to preliminary findings, M/s A & D Associates, on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd., made the following submissions:

- i. The drawings/ photos, etc. given in respect of the initial finding are for Hydro-mechanical horizontal injection moulding machine. Hence only similar machines coming in from China should be compared. These should not include the following:
  - i. Vertical injection molding machines
  - ii. Servo Motor controlled injection molding machines
  - iii. All electric injection molding machines
  - iv. Two color/ two material injection molding machines
  - v. Two platen injection moulding machines
- ii. The Applicant's machine & Chinese machine cannot substitute each other and hence they are not like articles.
- iii. The imported machine is having less weight compared to the machine manufactured by L&T. If we calculate the impact of price by comparing the two like products, the subject goods of 150 tonnage imported from China PR would have been cheaper on account of less use of steel to the tune of 1200 Kgs.
- iv. The criteria of comparison as clamping tonnage is not sufficient and following specifications of the machines also should be considered:
  - i. Distance between tie-bars
  - ii. The maximum mold thickness
  - iii. The clamp stroke
  - iv. The injection shot weight.
- v. The specification of the machine of 150 Tonnes produced by L & T and imported from China are not identical. In order to have fair comparison of the two machines, 150 tonnage machine of the applicant has to be compared with 200 Tonnage of machine imported

from China. In their submissions, M/s A & D Associates have provided the copies of Brochures of M/s L&T Demag and M/s Haitian Plastic Machinery in support of the claim.

- vi. The Cost and Price of any Plastic Processing Machines (PPM) depends not only upon the Clamping Force but also on the associate features of the PPM of a particular clamping force.
- vii. The preliminary findings had confirmed that the applicant's machines produce water bottles and medicine bottles and the Chinese machines are not capable of producing the same and in that regard not like articles.
- viii. The machines produced by the Indian manufacturers are highly qualitative than the Chinese products and in that respect not like articles.

13. M/S APJ-SLG, Law Offices on behalf of Ningbo Haitian Plastic Machinery Group, Haitian Heavywork Machinery Co. Ltd. and Ningbo Haitian Huayuan Machinery Co. Ltd. made the following submissions:

- i) The PUC is stated to be all kinds of PPM having clamping force not less than 40 tonnes by the applicants. The same is misleading as the Designated Authority itself has restricted the scope of the PUC to less than 1000 tonnes.
- ii) The applicants have admitted that PPMs are used by various segments of the industry. This proves that such segments base their decisions on tonnage on the basis of end applications. This clearly goes to show that the products are not inter-se substitutable.
- iii) Technical details are supposed to be provided by the applicants and not by the interested parties.
- iv) The Designated Authority failed to appreciate that no duties could have been recommended on PPMs having clamping force above 800 tons as they are not being manufactured by the applicants. This is apparent from the normal value calculations which has been done based on data of Domestic Industry.
- v) Different PPMs having certain clamping force cannot be substituted inter-se as the end user selects particular clamping force based on his end application. The mixed reference to clamping force and tonnage is misleading as they are not the same.

14. Mr. M.N. Jha on behalf of M/s Guangzhou Borch Machinery Co. Ltd., China P.R. ("Borch") made the following submissions after the preliminary findings:

- i) Applicant does not manufacture beyond 600 T injection molding machines. Hence, Hon'ble Authority may please restrict Investigations only for Injection Molding Machines upto 350T or 600 T. The notification has been issued covering entire HS code which also includes lot of other plastic processing machines which are neither manufactured nor even with minor assembly by applicant and have not been studied in the initial findings by the DA.
- ii) The clamping force is an important parameter but is not the only parameter, while comparing the injection molding machines to arrive at the meaningful & definite conclusions. One of the most important parameters which is used by customers to compare competitors is "Distance between Tie bars". Other parameters like platen dimensions, weight of the machine, plasticizing capacity, shot volume, injection rate & so on, have also to be taken into consideration. Hence comparing every imported machine only on the basis of clamping tonnage with those manufactured by applicant will not be a comparison of like article.

#### **B.1.4. Views of Importers**

15. M/s Chandra Wadhwa & Co. representing M/s Electronica Machine Tools Ltd., Pune made submissions similar to those made by M/s A & D Associates on preliminary findings and post public hearings. Hence, the same are not repeated here.

16. M/s Electronica Machine Tools Ltd., Pune made the following submissions:

- a) The investigation and preliminary findings are not for all kinds of Plastic Processing Machines, but only for 3 Platen, Single Colour, Hydraulic, using Variable Displacement Pump, Horizontal Type Injection Moulding machines in the range of 40 tons to 1000 tons covered under Customs tariff item 8477 10 00.
- b) Anti-dumping duty cannot be made effective on the following types of machines:
  - (a) Injection Blow Moulding Machines
  - (b) Vertical Injection Moulding Machines
  - (c) Two Platen Injection Moulding Machines
  - (d) All Electric Injection Moulding Machines
  - (e) Servo Motor Controlled Injection Moulding Machines
  - (f) Two Colour – Two material Injection Moulding Machines

### **B.1.5. Views of user industry**

17. The user industries made the following submissions:

- Applicant does not manufacture beyond 600 T injection-molding machines. They only assemble machines from 600 T.
- They do not manufacture the machines which are required by plastic industries in general at affordable prices.
- The local Injection moulding manufacturers are limited both in technology and volume to cater our present and future needs of injection moulding machines.
- The local machines are more expensive. For China machines, service and spares cost for the post warranty period are also very reasonable.
- The machines from China is more economical and adopting the requirements of plastic processing industry in India at this stage
- Such machines with good life are available from China at affordable price.
- The small plastic processors will be grossly affected by the anti-dumping duty.
- The operations by small plastic processors do not require such high end features in the machine which are given by the applicant.
- Domestic manufacturers do not offer technology which saves running cost of machines.
- The Competition with foreign goods will be possible if plastic manufacturers get better machines with new technology. The machines of local manufacturers are far more expensive.
- Indian companies are selling Injection Moulding Machines at higher prices which make it impossible for Small Scale units like us to afford machines.
- The machines from China are with good life, affordable price and better in Technology & Efficiency.
- The machines from China are more economical and adopted to the requirements of plastic processing industry in India.
- Faster delivery of Chinese machines helps encashing into business opportunities.
- The anti-dumping duty will be imposed on entire HS code which also include lot of other plastic processing machines, which are not manufactured by the applicant. Therefore applying anti-dumping duty on all types of Injection Moulding Machines are not correct.
- With the imposition of anti-dumping duty, the consequence will be closing down of companies and numerous employees losing their jobs.

### **B.1.6. Views of other interested parties**

**M/s Toshiba Machine Co. Ltd., Japan**

- The Machines manufactured and supplied by M/s Toshiba from China PR are only Electric Plastic Processing Machines, which are far more superior to Hydraulic Plastic Processing Machines being manufactured by Petitioner.
- The technology and production processes of Toshiba Machine's machinery are totally different and not comparable to domestic manufacturers like M/s L & T Demag or for that matter any other Chinese Manufacturers.

**M/s Malabar Chamber of Commerce & M/s Fortune Elastomers Pvt. Ltd.**

- Most of the machinery used in the manufacture of plastic foot-ware are to be imported, as they are not manufactured in India, e.g., Rotary injection moulding machine, Multicolour injection machinery.
- If Anti-dumping duty is imposed on these machines, the very existence of the plastic foot-ware manufacturing industry will be at stake.

**M/s All India Federation of Plastic Industries**

- The subject machinery is used by all the plastic processors for the manufacture of various plastic articles, including footwear. The footwear industry cannot bear the burden of the duty and shall be ruined.
- The synthetic and leather footwear industry always needed the consideration of duties on capital equipment imports as it is used for the production of footwear which is used by poor. India is one of the largest producer and consumer of synthetic footwear because of low buying power and the low income group segment.
- The specially designed footwear injection moulding machines are mostly used by small industry. Some of the machines are listed below:
  - i. PVCIFPRIEVA a sole injection moulding machine.
  - ii. Full PVC footwear injection moulding machine
  - iii. Full EVA footwear injection moulding machine
  - iv. One, two or three colour PVC strap injection moulding machine
  - v. One, two or three colour TPR or PVC sole injection moulding machine
  - vi. PVC direct injection soling machine
  - vii. Injection moulding machine to produce half soles, heels and heel tips.
- The imports of components and footwear will become much cheaper and this will lead to more imports of synthetic components and footwear from China.

- Footwear injection machines are not being manufactured in India, so the small industry is heavily dependent on the imports of such machines from china.

**B.2. The domestic industry has rebutted the post Preliminary Finding submissions of interested parties as under:**

- i) The scope of product under consideration in the present case is all kinds of plastic processing machines, also known as injection presses or injection molding machines, having clamping force not less than 40 tonnes used for processing or molding of plastic materials.
- ii) Blow molding machines and rotary multi-molding machines for footwear making are not injection molding machines and are covered under different customs classifications and are clearly different products.
- iii) With regard to various types of machines listed by All India Federation of Plastic Industries, it is submitted that the Federation itself has stated that these are “specially designed footwear injection molding machines”.Further, these machines fall under customs classification 8453.
- iv) The petitioner can supply PPM with electrical driving systems and is fully competent to produce and supply plastic processing machines with electric injection/driving unit. Since the company was a joint venture company till March, 2009, the JV partner had these machines in their product profile and therefore L&T Demag was not allowed to produce these machines in India. The requirements in this category, which is extremely limited in the Country, were being met through production by Demag and supply by L&T Demag.
- v) Electrical machines are nothing by injection molding machines and are clearly within the scope of product under consideration.
- vi) PPM with hydraulic drive and PPM with electric drive is nothing but a PPM. The interested parties have themselves agreed that the essential product properties of the two machines are similar.
- vii) As far as scope of the product under consideration is concerned, the Authority is required to consider the following characteristic relating to the product and thereafter come to a conclusion whether the two types constitute one product.

- ✓ physical & chemical/mechanical characteristics,

- ✓ product specifications,
  - ✓ manufacturing process & technology,
  - ✓ functions & uses,
  - ✓ pricing,
  - ✓ distribution & marketing and
  - ✓ tariff classification, etc.
- viii) Two products being compared must be considered as “one”, if they are comparable in terms of these product properties. Further, the mere fact that one or more of these parameters differ does not imply that the two products become dislike products.
- ix) The injection presses can be employed either in horizontal or vertical positions. The machines are designed to suit the customers requirements. L&T can produce PPM with vertical injection units. However, these machines have now become outdated and not being offered in the market at present.
- x) If the particular type sought to be excluded is an injection moulding plastic processing machine, then the product type should be included within the scope of the product under consideration, in case the domestic industry is producing and supplying the same.

### **B.3. Comments on the Disclosure Statement with regard to PUC**

#### **B.3.1. Domestic Industry**

18. The domestic industry opposed the proposed exclusion of the following types of injection moulding machines in the disclosure statement:

- a. Vertical injection molding machines
- b. Servo Motor controlled injection molding machine
- c. All electric injection molding machines
- d. Two color/ two material injection molding machines
- e. Two platen injection moulding machine

19. The grounds on which exclusion of the above types has been claimed by the domestic industry has been dealt with while examining this issue.

#### **B.3.2. Importers**

##### **M/s Chandra Wadhwa & Co**

20. As regards the observation of the Authority that the Chinese exporters have failed to quantify with substantial evidence, the difference in the design parameters, at any stage of investigation, like Distance between tie-bars,

maximum mold thickness, clamp stroke and injection shot weight, M/s Chandra Wadhwa has submitted that the technical comparison and its impact on price and usage has been made alongwith pamphlets and brochures.

### **B.3.3. Exporters**

#### **M/s A & D Associates on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd.**

21. M/s A & D Associates have made the similar submission as made by M/s Chandra Wadhwa & Co. They further stated that the machines coming from the country under investigation are of simple technologies and low cost machines.

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

22. Post- disclosure M/s APJ-SLG on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd. requested for details of the computation of dumping margin to enable the exporters to offer their comments. In this regard, the Authority notes that M/s A&D Associates have already submitted comments on behalf of the same exporters and the same have been examined in this findings.

23. The Authority notes that the issues raised by the interested parties are in respect of the different types of PPM. The Authority notes that the basic manufacturing process and functioning of the imported machines are similar to those produced by the domestic industry. Therefore, the Authority concludes that plastic processing machines produced by the domestic industry has been treated as Like Article to that exported from the subject countries within the meaning of Rule 2(d) with certain exclusions.

24. The Authority has examined the requests for specific exclusion of a few types of injection moulding machines by different interested parties in the disclosure statement. The post disclosure submissions of domestic industry and other interested parties have been examined, to the extent relevant. The domestic industry has submitted invoices and detailed explanation requesting for non-exclusion of the types proposed to be excluded. The position relating to the exclusions proposed in the disclosure vis-a-vis the post-disclosure submissions of interested parties is as follows.

- i) **Blow Moulding Machines** - The Authority notes that the Blow moulding machines are classified under separate Customs Tariff Classification i.e., 847730 and admittedly not injection moulding machines. In their post disclosure comments, the domestic industry

has not contested the proposed exclusion of Blow Moulding Machines. Further, none of the interested parties have disputed the exclusion of this type of machine. Therefore, the exclusion of Blow Moulding Machines, as proposed in disclosure statement, has been recommended in this findings.

- ii) **Vertical injection molding machines** - The Authority noted in the disclosure statement that neither the Domestic Industry has produced nor the responding exporters have exported to India, this type of the PUC during the POI. Further, it was also noted that the applicant while submitting the imports data had not considered imports of vertical injection moulding machines within the purview of imports of subject goods.

The domestic industry in their comments to the disclosure statement has claimed that they have produced this type of machines and its proposed exclusion from the scope of measures will put the domestic industry to the disadvantage. The Authority notes that no evidence has been placed on record by the domestic industry establishing that they have produced and supplied this type of machines during the POI or prior to POI. Therefore, the Authority recommends the exclusion of this type of machine from scope of anti-dumping measures on the following grounds:

- a. The applicant while submitting the imports data had not considered imports of vertical injection moulding machines within the purview of imports of subject goods.
- b. No evidence has been placed on record by the domestic industry establishing that they have produced and supplied this type of machines during the POI or prior to POI.

- iii) **All electric injection molding machines** - The Authority noted in the disclosure statement that neither the Domestic Industry has produced nor the responding exporters have exported 'All electric injection moulding machines' to India during the POI. It was further noted in the disclosure statement that the domestic industry has themselves claimed that the requirement in this category, which is extremely limited in the country, were being met through production by Demag, Germany and supplied by L&T Demag till March 2009.

In their post disclosure comments, the domestic industry has claimed that be it hydraulic or electric does neither change the function of the machine nor does it give rise to a different product. They further stated that the exclusion of electric machines would result in all machines including hydraulic machines being dumped into India under

the grab of electric machines as basically hydraulic machines also do need electric power.

In this regard, the Authority notes that in all-electric injection moulding machine, the mechanical movements such as for injection, mould closing, mould opening, ejection, screw drive, etc. are controlled by independent servo motors which allow parallel movements and repeatable controls for more precision and higher response. Due to this, the cycle time is significantly shortened as there is no delay in operation switchover. Further, due to various parallel movements driven by independent servo motors, the control requirements are very high in case of all-electric injection moulding machines necessitating digital controls. On the other hand, in a Hydraulic injection moulding machine, the mechanical movements of the machine are activated using hydraulic cylinders, which are controlled by an oil controlled valve. The oil is supplied from a central pump, which feeds the complete system. In hydraulic machines, the control requirements are lower due to relatively simpler functioning of hydraulic components. Hence, the Authority concludes that All- electric injection moulding machine and Hydraulic injection moulding machines are two different types of injection moulding machines. The domestic industry has placed no evidence on record to establish that they have produced and supplied this type of machines during the POI or prior to POI. Therefore, the Authority recommends the exclusion of this type of machine from scope of anti-dumping measures on the following grounds:

- a. The All- electric injection moulding machine and Hydraulic injection moulding machines are two different types of injection moulding machines.
  - b. The domestic industry has placed no evidence on record to establish that they have produced and supplied this type of machines during the POI or prior to POI.
  - c. The domestic industry has been meeting the requirements for these types of Machines in the country through production by Demag, Germany till March 2009.
- iv) **Servo Motor controlled/ driven injection molding machine** - The Authority noted in the disclosure statement that neither the Domestic Industry has produced nor the responding exporters have exported to India Servo Motor controlled injection moulding machine during the POI. In their post disclosure comments, the domestic industry stated that Hydraulic Pumps are with different variants. It can be either variable displacement type or Servo controlled pump type and there could be some more variants as well. They further stated that all

machines fitted with servo controlled pumps are basically hydraulic injection moulding machines and are no different from normal injection moulding machine and mere change in version of pump does not result in the different type of machine. Further, the domestic industry also provided evidence of production and supply of Servo Motor controlled injection moulding machine during the POI. In this regard, the Authority notes that since the domestic industry has produced evidence of production and supply of Servo Motor controlled/ driven injection molding machine during the period of investigation, the Authority does not recommend the exclusion of Servo Motor controlled/ driven injection molding machine from the scope of anti-dumping measures.

- v) **Two color/ two material injection molding machines-** The Authority noted in the disclosure statement that neither the Domestic Industry has produced, nor the responding exporters have exported 'Two color/ two material injection molding machines' to India during the POI. It was further noted in the disclosure statement that the exclusion has also been claimed by other interested parties in respect of multicolor and mutlimould machines used by footwear manufacturers, Rotary injection moulding machine, multicolour injection machinery, sole injection moulding machine, etc. Further, the interested parties have also claimed the exclusion in respect of the specially designed footwear injection moulding machines, such as sole injection moulding machine, footwear injection moulding machine, Injection moulding machine to produce half soles, heels and heel tips, etc.

The domestic industry submitted in their letter dated 5th November 2009 that Rotary moulding machines are multimould or multicolour machines. They further stated that Multi mould machines used in footwear manufacturing may be classified under a separate Customs Tariff Classification i.e., 8453. Therefore, the Authority proposed in the disclosure statement that multimould or mutlicolour machines used in footwear manufacturing are classified under a separate Customs Tariff Classification, i.e., 8453 and admittedly not injection moulding machines.

In this regard, the Authority noted in the disclosure statement that the moulding machines used in footwear manufacturing sector are classified under the Customs Code 8453 whereas the product under consideration is classified under the Customs subheading 8477 1000. Post disclosure, the domestic industry has provided the evidence that they had supplied multi mould machines in the prior POI period. However, no comments have been received from any of the interested parties on the proposed exclusion of moulding machines used in

footwear manufacturing sector, which are classified under the Customs Code 8453.

In view of the above, the Authority notes that the recommendation of anti-dumping measures on imports of Multicolor/ mutlimould machinery for making footwear, Rotary injection moulding machinery for making footwear and footwear sole/strap/heel injection moulding machine classified under the Customs Tariff Classification No. 8453 is not warranted.

- vi) **Two platen injection moulding machine** - The Authority noted in the disclosure statement that neither the Domestic Industry has produced nor the responding exporters have exported 'Two platen injection moulding machine' to India during the POI.

In their post disclosure comments, the domestic industry has claimed that all injection moulding machines have 3 platens in clamp unit but it is also possible to supply machine with two platen clamp unit. The change in the clamping unit construction (2 platen or 3 platen) does not in any way change the function of injection moulding machine and is not a different type of machine. They further stated that in both the types, the overall configuration of injection moulding machines does not change with different types of platens.

In this regard, the Authority notes that the number of platens ( 2 platens or 3 platens) in the clamping unit of injection moulding machine is merely a physical parameter in one of the sub-assemblies (Clamping unit) of the injection moulding machine and therefore existence of 2 or 3 platens in the clamping unit does not result in different types of injection moulding machine. Therefore, the Authority does not recommend the exclusion of injection moulding machines on the basis of number of platens in clamping unit.

25. It has been claimed that Chinese machines are not comparable to the machines produced by the domestic industry due to export of basic and standard machines with simple functions and low- maintenance to India from China. It has also been stated that the Applicant's machine & Chinese machine cannot substitute each other and hence they are not like articles. It has been further claimed that the criteria of comparison as clamping tonnage is not sufficient and the following specification of machines also should be considered:

- a. Distance between tie-bars
- b. The maximum mold thickness
- c. The clamp stroke
- d. The injection shot weight.
- e. Weight of the machine

26. The Authority notes that the exporters seeking exclusion of Plastic Processing Machines imported from the subject country have failed to substantiate their claim that like articles is not being produced in India. Further, the argument of the basic and standard machine with simple function of machines imported into India from China PR is not supported by argument of a user of Chinese machines that machines from China PR are with good life, affordable price and better in Technology & Efficiency.

27. The interested parties have further claimed that the machine of lower tonnage shall be compared with the higher tonnage of machine imported from the Subject country in view of the other parameters mentioned at para 25 above.

28. In this regard, the Authority notes that the parameters like Distance between tie-bars, maximum mold thickness, clamp stroke and injection shot weight are merely design parameters and therefore does not make the two products different. The Authority, however, notes that the Chinese exporters have failed to quantify with substantial evidence, the difference in such parameters at any stage of investigation. As regards the lesser weight of imported machine, the Authority is of the view that in a machine like Plastic Processing Machinery, weight cannot be a pricing parameter since buyers pay for desired technology and features and not for the weight.

29. In their post disclosure comments, M/s Chandra Wadhwa & Co. representing M/s Electronica Machine Tools and M/s A&D Associates on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd. submitted that the technical comparison and its impact on price and usage has been made in post Preliminary Findings submissions. The Authority has revisited the post PF submission of the concerned parties and notes that the Chinese exporters have failed to quantify with substantial evidence, the difference in the parameters like Distance between tie-bars, maximum mold thickness, clamp stroke, injection shot weight, etc.

30. Regarding the submissions that product scope is too wide and limiting the scope of products to machines of clamping forces imported during POI, the Authority notes that the Plastic Processing Machines can be made in the same facility irrespective of their clamping force, though higher clamping force machine would require higher technical different skills and know-how. It has also been argued that the product under consideration should be restricted to the machines of clamping forces manufactured by the domestic industry, as there cannot be an injury to machines of those clamping forces not produced by the domestic industry. The Authority has examined the issue and notes that the imports have been made for the PPM up to 2800 Tons clamping force. The domestic industry has however produced the plastic processing machine upto 800 Tons Clamping Force during the POI. Further, basing on the detailed examination, the Authority

notes that the Domestic Industry has offered the PUC up to and including 1000 tonne of clamping force in their product brochure and supplied PUC of this tonnage in the pre-POI period as well.

31. The Authority, in view of the fact that the domestic industry is yet to offer and manufacture plastic processing machines beyond 1000 tons clamping force, restricts the scope of product under consideration as under:

***“The product under consideration in this investigation is all kinds of plastic processing or injection moulding machines, also known as injection presses, having clamping force not less than 40 tonnes and not more than 1000 tonnes, used for processing or moulding of plastic materials.”***

### **C. Domestic Industry and Standing**

32. The application has been filed by M/s L & T Demag Plastic Machinery Ltd., Chennai, and the applicant is one of the major producers of the subject goods in India. The Authority notes that other major producers of the subject goods in India are Ferromatic Milacron and Windsor India.

#### **C.1. Views of Interested Parties after Preliminary Findings**

33. Subsequent to the preliminary findings, the following interested parties made the submissions on the standing of domestic industry:

##### **C.1.1 Domestic Industry**

- It is denied that there are 27 producers of the subject goods and domestic industry does not account for “a major proportion in total eligible Indian production”. None of the relevant documents has been provided to the domestic industry for its comments on this issue. In the best knowledge of domestic industry there are only four producers of the subject goods in the country.
- No authorization has been given by Electronica Machines to represent on their behalf. Such being the case, the submissions are without legal authorization and deserve to be ignored.
- No imports have been made by the domestic industry from the subject country and deny any such allegation. Further, relationship with Chinese producers who have not exported the product to India cannot disqualify the petitioner under Rule 2(b).

##### **C.1.2 Importers & Users**

Shri R.M. Vora, Consultant, C-204, Vaibhav Industrial Premises, Saki Vihar Road, Andheri (E), Mumbai – 400 072

- The anti-dumping duty application filed by L&T Demag is totally uncalled for Plastic Industry.
- The figures and data collected by Reliance Industry shows that L&T Demag manufactures very much less than 25% of the total machines produced in India.
- Thus as per the Anti-dumping application guidelines, their application does not become valid and hence close for outright rejection by the Learned Authority of Ministry of Commerce & Industry.

M/s Chandra Wadhwa & Co., Cost Accountants on behalf of M/s Electronica

- The applicant has imported two injection moulding machines from M/s Demag Plastic Machinery (Ningbo) Co. Ltd., China PR. Hence, the duty levied on the subject goods which are based on incorrect and insufficient information shall be withdrawn.
- The claim of support by any domestic producers such as Feromatic Milacron and Windsor should not be entertained at this stage.
- The petitioner is claiming that there are only 4 manufacturers who are producing machines with clamping force more than 40 tonnes in country despite of the fact that there are 27 manufacturers as per records of All India Plastics Manufacturers' Association.
- The total production of machines with clamping force more than 40 tonnes is 1819 units during POI in the country against 900 units claimed by the Petitioner.
- L&T switchgear unit at Ahmedabad had bought eight Chinese moulding machines during Period of Investigation.

### **C.1.3 Exporters**

M/s Dua Associates for Ningbo Liguang Machinery Co. Ltd., China PR; Ningbo Haixing Plastic Machinery Manufacture Co. Ltd, China PR; Zhejiang Golden Eagle Co. Ltd. (Exporter) & Zhejiang Golden Eagle Plastics Machinery Co. Ltd. (Producer).

- The petitioner does not satisfy the criteria for being 'domestic industry' as set out in Rule 2(b) of the Anti-Dumping Rules. The present investigation should be terminated on this ground alone.

- The petitioner is neither the sole domestic producer engaged in the manufacture of the like article nor does the Petitioner's output of the said article constitute a major proportion of the total domestic production of that article.
- The petitioner has itself imported the alleged dumped article as can be seen from the petition.
- Demag Plastic Group engineering expertise is based on a global production network with four production facilities for injection molding machines in Germany (Schwaig and Weihe), China (Ningbo) and India (Chennai). Hence the Petitioner is related to exporter of the product.
- Rule 2(b) of the Anti Dumping Rules (such producers may be deemed not to form part of the domestic industry when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof) are broad enough to cover the related exporters and importers in relation to all countries producing/exporting the article.
- Petitioner has admitted that its parent company has operations in China, which is the subject country in the present investigation. In view of the extensive Chinese operations, the Petitioner's bald averment reiterated at the Hearing that no exports were made by these companies needs to be thoroughly examined by the Authority.
- In the absence of a definite enquiry into the domestic producers producing constituting the Indian industry for the like article, the Petition cannot be said to satisfy any of the standing requirements under Rule 5(3) of the Rules and it is humbly submitted that the present investigation ought not to have been initiated and should be forthwith terminated.

Madhurendra Nath Jha for Guangzhou Borch Machinery Co. Ltd., China P.R.

- Both Ferromatic and Windsor do not support the 50% requirement of the domestic industry.
- Windsor at this late stage cannot claim a domestic industry status. This was to be settled at the time of initiation.
- Petitioner accounts for 20% of the domestic production in POI.
- As per the Reliance judgment, domestic industry cannot claim that domestic industry need not be Indian Industry for the purposes of Standing and Injury.
- Demag India cannot claim relief as it also exported the concerned goods during POI and L&T Demag itself imported two units.
- Petitioner failed in its duty to check and report accurately.

- L&T Demag Chennai holds 41% of domestic production seems to be erroneous. There is lack of data substantiating it.
- There are 27 units in the organized sector producing 1918 units. We enclose a list. The petitioner scarcely accounts for 20% of the domestic production in the POI.
- Petitioner's submissions that domestic industry need not be Indian industry for purposes of standing and injury determination are inconsistent with the express directions of the Hon'ble Supreme Court in the 'Reliance' Judgement.
- DA has been misled by erroneous information and the petition does not have enough evidence to be considered as a domestic industry.
- The DA should have considered the data of the other domestic producers before initiating the investigation or at least before issuing the provisional findings.

APJ-SLG for China PPM Association, Ningbo Haitan Plastic Machinery Ltd, Ningbo Haitan Heavy Machinery Co. Ltd., Ningbo Haitan Plastic machinery Group Co Ltd.

- Pre-conditions of Rule 2(b) and rule 5 are not satisfied regarding the filing of petition by the domestic industry and full evidence to be provided.
- The Authority should proceed with the investigation only after firming the actual number of producers of the machines in the country.
- The Designated Authority have no jurisdiction to initiate the present investigations as the relevant information regarding the total domestic production, self imports, relationship etc. was either not provided by the applicant or material information about applicants relationship with producers in China and self imports were suppressed from the Authority.
- In support of their claim on Standing the applicant has still argued that there are only 4 producers in India, where as evidence has been placed on record that there are more producers of the PUC in the country.
- The total production of PPM in India is 2432 sets and applicant represented only 16.1% of the total production in the country. The application is therefore not maintainable under the Rules.
- No effort was made by the Authority to ascertain the exact number of producers PPM in the country.
- The applicant has imported the subject goods from a related party in China and Authority should have made efforts to ascertain this fact.
- The invoice under which applicant imported product under consideration from its related entity was also placed before the Designated Authority during the hearing. In other words, the applicant while filing the

application consciously mislead the authority to get the status of Domestic Industry as defined.

- The questions in the application relating to relationship have been tampered with while filling the application and therefore the initiation of investigation itself has become bad in law.
- The Designated Authority did not resort to procedure of “polling” to ascertain total production in India. The Designated Authority seeks information from the concerned Government Department or Ministry. The same process for undisclosed reason was not followed in the facts and circumstances of the present case.
- There are in fact 27 producers of PPM in India hence the conclusions reached on Domestic Industry and standing are flawed.
- The mandatory examination of degree of support for or opposition was not undertaken prior to initiation of the present investigations.
- View of suppression of information about relationship with exporters and suppression of information about self imports from subject country (while answering question No. 7 under Part-II of the application), the Designated Authority was prevented from carrying out examination of second part of Rule 2 (b). Suppression of material information must be viewed seriously and has a direct bearing on the maintainability of the present proceedings.

A & D Associates for Ningbo Haitan Plastic Machinery Ltd, Ningbo Haitan Heavy Machinery Co. Ltd., Ningbo Haitan Plastic machinery Group Co Ltd.

- The petitioner has imported two injection molding machines from China from M/s Demag Plastic Machinery and therefore does not qualify to be domestic industry.
- There are more than four manufacturers of the subject goods in India as wrongly stated by the petitioner.
- The petitioner imports 75% of components from China at cheaper price and declared them to have imported from other sources, thereby making the costing by the Authority defective.
- The claim of support by any domestic producers such as Feromatic Milacron and Windsor should not be entertained at this stage.
- The Authority should withdraw the provisional duties forthwith as the same is based on incorrect and insufficient information.

M/s China Plastic Machine Industry Association

- M/s China Plastic Machine Industry Association argued that L&T Demag had imported two subject machines from its related company in China PR.

## **C.2. Post Disclosure Comments of Interested Parties**

34. Post disclosure, M/s A&D Associates on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd. and M/s M/s Chandra Wadhwa & Co., Cost Accountants on behalf of M/s Electronica Machine Tools offered the following comments on disclosure statement:

- M/s L&T Demag had imported two injection Moulding Machines from Demag Plastic Machinery & Co. Ltd., China during the period of investigation of 160 tonnes & 250 tonnes as per the Chinese Customs documents.
- There are 27 major producers in the country in the record of The All India Plastic Manufacturers' Association, who have produced 1918 machines with clamping force more than 40 tonnes during POI.
- Out of three companies, namely, M/s Goyani Machines Pvt. Ltd., M/s Polymechplast Machines Ltd. and M/s Rupali Plastic Pvt. Ltd., two are producing 111 machines. The figures received from various manufacturers may kindly be re-looked.
- Shri M.N. Jha on behalf of M/s Guangzhou Borch Machinery Co. Ltd., China PR submitted that there is no legal basis to take less than 38% of domestic production as 'major proportion' and injury cannot be determined on the basis less than 38% of domestic production data as per law.

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

35. The Authority notes that mere relationship with the producer of subject goods in China PR does not disqualify the applicant to form part of domestic industry under Rule 2(b), unless such producer has exported the subject goods into India.

36. As regards the argument of imports of two numbers of subject machines by the applicant from subject country, the Authority notes from the documents placed on record that the applicant has imported only certain parts and components of subject machines from subject country. Copy of Bill of Entry and Commercial invoice of Demag China provided by the applicant shows that the imported product has been reported under Customs Classification 8477 9000 (i.e., parts of machinery for working rubber or plastics, or for the manufacture of products from these materials), which is different from the ITC (HS) Code dedicated for the PUC. Further, the value of parts and components imported from Demag, China constitutes not more than \*\*\*% of the total cost of the machine. Hence, disqualification of the domestic industry in terms of Rule 2(b) does not arise on this ground.

37. It has been reiterated by M/s Chandra Wadhwa & Co. and M/s A&D Associates in their post disclosure comments that applicant has imported two

nos. of subject machines from subject country during POI.. The Authority notes from the Copy of China Customs Invoice enclosed with the submissions of M/s Chandra Wadhwa & Co. that the Customs classification code appearing therein is 8477101090, which doesn't appear in the Customs Chapter Heading 8477, under the Indian Trade Classification (Based on Harmonized Commodity Description and Coding system). The Authority therefore observes, basing upon the copy of bill of entry furnished by M/s L&T Demag wherein the goods imported have been classified under Customs Classification 8477 9000, that the goods imported by M/s L&T Demag from Demag, China are parts and components and does not get covered under the PUC.

38. It was argued that there are 27 producer companies of PPM in India. Authority sought the complete details of such 27 companies claimed along with their production, imports, annual reports, etc. to examine the standing of the domestic industry. In reply, M/s Chandra Wadhwa & Co. provided a list of 21 companies including L&T Demag with their addresses and units produced during POI.

39. Authority addressed separate letters to all 20 companies/domestic producers other than L & T Demag to provide their production details and the details of subject goods imported by them during the POI.

40. Out of 20 such companies, only 13 responded to the Authority's letter. The information claimed and received for POI has been summarized in the table given below:

Sr. No.	Name of the Producer	Data provided for the period	Production of No. of Machines claimed	No. of Machines produced	No. of Machines imported
1	Naps Machines & Tools	2007-08	***	***	***
2	Sahkar Industries, Baroda – Supporter	2007-08	***	***	***
3	Polymechplast Machines Ltd.	POI	***	***	***
4	Rupali Plastics Pvt. Ltd., Howah	POI	***	***	***
5	Flu-Tech, Ahmedabad	POI	***	***	***
6	Bombay Hydraulic India	2007-08	***	***	***

7	Electronica Machine Tools Ltd.	POI	***	***	***
8	Ferromatic Milacron – Supporter	POI	***	***	***
9	Windsor India – Supporter	2007-08	***	***	***
10	Aakar Ehgg. & Manufacturers Co. Ltd.		***	***	***
11	Vishwakarma Hydraulics Machines (India)		***	***	***
12	Patel Plast	2007-08	***	***	***
13	Payal Industries		***	***	***
14	Others		***	***	***
	Total		1100	859	64

41. The Authority notes that out of the claimed 27 manufacturers of the subject goods, only 11 have admitted with their production data that they are the producers of the subject goods. Authority further notes that out of such 11 producers, three have imported the subject goods from subject countries. One of such three producers who imported the subject goods, M/s Electronica Machine Tools Ltd. has also filed the response to the importer's questionnaire. The Authority therefore proposes not to consider those three producers as part of domestic industry for standing purpose. The total Indian production of plastic processing machines considered for standing purpose therefore works out to 1064 machines including 393 machines produced by M/s L&T Demag. Accordingly, the production of M/s L&T Demag constitutes 37% of the total production of the like article by the domestic industry during the POI.

42. As regards the post disclosure submissions that the production of M/s Goyani Machines Pvt. Ltd., M/s Polymechplast Machines Ltd. and M/s Rupali Plastic Pvt. Ltd., shall be re-looked by the Authority for examining the standing, the Authority notes that the domestic production for standing purposes have been considered based upon the details of production of subject goods as provided by the domestic producers themselves. The domestic producers who have imported the subject goods during POI have not been considered for standing purposes.

43. After preliminary findings, M/s Ferromatic Milacron India Ltd.; M/s Windsor Machines Ltd and M/s Sakhar Industries, Baroda have supported the application of M/s L&T Demag for imposition of anti-dumping duties. However, they did not supply the information for injury analysis. The production of M/s L& T Demag along with the supporters constitutes more than 50% of the total production of subject goods by the domestic industry.

44. After taking into account the production of all the known producers of the subject goods in the Country, the Authority is of the opinion that the applicant commands a major proportion of the production of the subject goods in India and holds that for the purpose of this investigation the applicant M/s L & T Demag Plastic Machinery Ltd., Chennai commands the standing in terms of Rule 5(3) and constitutes the domestic industry in terms of Rule 2(b).

45. As regards the submission of imports of machines by L&T switchgear division, the applicant has placed the relevant papers on record showing that the switchgear division of L&T had imported from Taiwan.

#### **D. De Minimis Limits**

46. As per the import data received by the Authority from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and other secondary sources, as well as the data furnished by the cooperating exporters from the subject country, the imports of the subject goods from the subject country are above the de minimis level.

#### **E. Confidentiality**

47. The Authority has examined the confidentiality claims of the interested parties. In this findings, the data of the domestic industry concerning volumes of capacity, production and sales and imports data have not been kept confidential. The data of domestic industry in respect of customers, cost, prices and the data that would give competitive advantage to their competitors have been kept confidential.

48. Post Preliminary Findings, M/s APJ-SLG, Advocates representing M/s China PPM Association, Ningbo Haitan Plastic Machinery Ltd, Ningbo Haitan Heavy Machinery Co. Ltd., Ningbo Haitan Plastic machinery Group Co Ltd. submitted that they have been prevented from making appropriate submissions in view of excessive confidentiality claimed by the domestic industry. They further submitted that no proper indexation has been done to permit a reasonable understanding of the substance of the information submitted by domestic industry in confidence. It was further stated that the Designated Authority is under an obligation to reveal the methodology of computation of normal value at the country level as no confidentiality can be claimed on the conclusions and findings reached by the Designated Authority based on joint information of all the exporters. Designated Authority has not provided access to essential public documents and a complete non-confidential version of the responses and submissions filed during the investigations. Further, Mr. M.N. Jha on behalf of M/s Borch Machinery claimed that excessive confidentiality has been granted by the Designated Authority.

49. The Authority after examining the claims observed that the methodology of computation of Normal Value has been disclosed in the Preliminary Findings. As regards the other information, the same has not been considered as confidential unless the responding party has given sufficient justification for keeping the information as confidential.

## **F. Other Submissions and Issues Raised**

50. The Authority has examined the post preliminary findings submissions of the interested parties, other than those examined at relevant sections of this findings, as under:

### **F.1 Domestic Industry**

- There is unauthorized participation and untimely submissions by many parties without following prescribed proforma.
- Electronica should be termed as a trader as it has reduced its production and started resorting to imports to a greater extent.
- Petitioner is not aware of any authorization having been given by Electronica Machines to represent on their behalf. Such being the case, the submissions were without legal authorization and deserve to be ignored.

### **F.2 Other interested parties**

- M/S APJ-SLG, law offices on behalf of M/s Haitian heavy work machinery Co.Ltd China, Ningbo Haitian Huyan machinery Co.ltd china and Ningbo Haitian plastic machinery group ,China submitted that the authorized representative is constrained to file limited rejoinder submissions based on the submissions of the applicant industry as the information/data sought vide letter dated 22.09.08 have not been provided by the authority.
- The conclusions and prayers of the applicant is based on faulty premise, misleading and suppressed data and information. It is a fit case for terminating the investigation. The Authority should withdraw the provisional duties forthwith as the same is based on incorrect and insufficient information.

- Initiation Notification is not in line with the Trade Notice of the DGAD since the Authority has taken into account a period of investigation which is more than six months old.
- The preliminary findings in the present case are issued contrary to the mandatory requirements of Section 9B(1)(b)(iii) and Rule 12. The Designated Authority has not recorded any findings to the effect that the present case in terms of Rule 12 was an appropriate case where it was necessary to resort to preliminary findings recommending provisional duties to prevent injury being caused during the investigation. No material has also been placed on record to justify appropriateness of invoking Rule 12 in the present case.
- In the absence of any material on record to reach such mandatory determination that those measures were necessary to prevent injury being caused during the investigation the recommendations are contrary to Section 9B(1)(b)(iii), Rule 12, read with Rule 20 and Article 7.1(iii) of WTO Agreement on Anti-dumping.
- There are procedural irregularities in the proceedings. The preliminary findings have been passed without grant of hearing prior to issue of preliminary findings.
- The Designated Authority has unfairly prevented the interested parties from making an effective response by not providing most of the documents that have been relied upon to reach the findings.
- There is no proper public file in terms of earlier directions of this Hon'ble Tribunal.
- Authority's act to consider L & T Demag Plastic Machinery Company Limited as the only domestic industry has simply encouraged an international monopoly. Demag Germany who is controlling the Domestic petitioner has its manufacturing facility in China also. Since they have identified the Indian Market for L & T Demag Plastic Machinery Company Limited, Demag China might not have exported the subject goods in to India. This was their deliberate marketing policy to keep all other manufacturers out of the market.
- There are about 20000 units in India in Injection Molding Machine business employing at least 300,000 + families, who prefer more of cost effective solutions in injection molding machines today as their buyer insist upon low cost of production in increased volume business.

- If the findings are implemented the most affected mass will be the processors in SME category, which this Government would like to promote with vengeance to arrest the sliding of growth.
- M/s All India Plastics Manufacturer's Association and others raised issues relating to standing of domestic industry, product under consideration, like article, normal value, public interest, etc., which has been appropriately dealt with in this Disclosure Statement.
- M/s All India Plastics Manufacturer's Association also submitted that the initiation notification have not been circulated to all the interested parties.

F.3. Post disclosure statement, M/s Toshiba Machine Co. Ltd., Japan has reiterated their earlier submissions that their exporter's questionnaire response should not have been rejected due to belated submission.

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

51. The submissions dated 22.09.2009 of M/s APJ-SLG to the initiation notification have been appropriately dealt with in the Preliminary Findings.

52. The Authority notes that the submissions and responses have been accepted only from the legal representatives of the interested parties.

53. The Authority has carried out an objective examination of alleged dumping and consequent injury to the domestic industry at preliminary stage and the preliminary findings were recorded based on the sufficiently detailed information and in accordance with the anti-dumping rules and established procedures. As regards choosing the POI, which expires nearly eight months before the initiation of the investigation, the Authority notes that though it is desirable to have a POI as recent as possible, there is no legal requirement to not to consider the time gap of more than 6 months between POI and initiation of investigation.

54. The Authority made available to all interested parties the public file containing non-confidential version of evidence submitted by various interested parties for inspection, upon request as per Rule 6(7);

55. As regards the impact of anti-dumping duty on the availability of imported product in India to user industry, the Authority notes that the purpose of anti-dumping duties, in general, is to eliminate injury caused to the Domestic Industry by the unfair trade practices of dumping so as to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country. Imposition of anti-dumping measures would not restrict imports from the

subject country in any way, and, therefore, would not affect the availability of the products to the consumers. Nor would imposition of anti dumping duty result in prices increasing beyond what has been considered reasonable & fair, given that the quantum of anti dumping duty is being restricted to the extent of injury.

56. As regards non-circulation of initiation notification to all interested parties, the Authority notes that the initiation notification has been sent to all the known interested parties, including Chinese producers, Indian importers/consumers and other Indian domestic manufacturers based on known names and addresses made available by the applicant domestic industry. This is the consistent practice of DGAD. In any case, Gazette notification was issued and the same was also hosted on the website of the Department of Commerce, Ministry of Commerce & Industry, Govt. of India for information of any other interested parties. Therefore, the notice of initiation was within the knowledge of all parties. It has been mentioned in the Initiation Notification that any other interested party may also make its submissions, relevant to the investigation, in the prescribed form and manner within the set out time limit.

57. With regard to post disclosure contention of M/s Toshiba Machines regarding their belated submission of responses, the Authority notes that the concerned Producer and Exporter has failed to submit the questionnaire responses within the prescribed time limit under Rule 6(4) of the Rules and was not accepted due to the same reason. However the views expressed by them as interested party have been taken in to consideration in this Final Findings.

## **G. Determination of Dumping Margin**

### **G.1 Examination of Market economy claims**

58. The Authority, notes that in the past China PR has been treated as a non-market economy country in the anti-dumping investigations by other WTO Members. Therefore, in terms of Para 8 (2) of the Annexure-I to the Anti-dumping Rules, China PR has been treated as a non-market economy country subject to rebuttal of the above presumption by the exporting country or individual exporters in terms of the above Rules.

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

- a) The decisions of concerned firms in China PR regarding prices, costs and inputs, including raw materials, cost of technology and labour, output, sales and investment are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b) The production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c) Such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms; and,
- d) The exchange rate conversions are carried out at the market rate.

60. The Authority notes that following producers and exporters of the subject goods from the subject country have submitted market economy questionnaire responses along with their questionnaire responses consequent upon the initiation notice issued by the Authority and rebutted the non-market economy presumption. The questionnaire responses and the Market economy responses of such responding producers and exporters as listed below have been examined for determination of dumping margin:

- a) Guangzhou Borch Machinery Co. Ltd., China PR
- b) Zhejiang Sound Machinery Manufacture Co. Ltd.
- c) Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter).
- d) Ningbo Liguang Machinery Co. Ltd.
- e) Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.
- f) Hangzhou Tederic Machinery Co. Ltd.

61. The Authority has taken cognizance that the exporters have submitted substantive evidence in their responses along with the relevant facts with which they want to rebut the presumptions as mentioned in Para 8 of Annexure 1 of the Rules and Non Market Economy questionnaire sent to them regarding grant of market economy status to their company. The exporter-wise examination of market economy status is discussed in the following paragraphs.

62. The Authority notes that following producers and exporters of the subject goods from the subject country have submitted their questionnaire responses only and market economy questionnaire responses have not been submitted to rebutt the non-market economy presumption.

- a. Ningbo Haitian Plastic Machinery Group
- b. Haitian Heavywork Machinery Co. Ltd.

- c. Ningbo Haitian Huayuan Machinery Co. Ltd.
- d. Wenzhou Smargon Import & Export Co. Ltd.

The Authority therefore holds that the above Chinese producers/ exporters are, in any case, not eligible for market economy status.

63. The market economy claim of Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter) was verified during the exporter's verification. The Authority notes that:

- a. M/s Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter) are the part of Zhejiang Golden Eagle Group with the ultimate control of holding company, M/s Zhejiang Dinghai Textile Machinery General Factory. There are twenty companies under the Zhejiang Golden Eagle Group including the responding exporter. The response has not been filed by the Group. The holding company, M/s Zhejiang Dinghai Textile Machinery General Factory is stated to be a collectively owned enterprise owned by the peasants of villages. The Regulation of the People's Republic of China on village enterprise under collective ownership provides that the village enterprise under collective ownership is a part of the socialist economy under the public ownership in China. The State applies the principles of vigorous support, rational planning, correct guidance and effective administration with regard to the village enterprise under collective ownership. The State protects legal rights of village enterprises under collective ownership, forbids any organization or individual to infringe upon its effect, helps to develop modernization with technical way and management method and helps for economic co-operation.
- b. It has been further observed that M/s Zhejiang Dinghai Textile Machinery General Factory and M/s Zhejiang Golden Eagle Group Co. Ltd. which is the subsidiary of M/s Zhejiang Dinghai Textile Machinery General Factory get a number of Govt. subsidies.
- c. The company has not provided any evidence to rebut the observation made in the Preliminary Finding that the raw material prices in respect of steel and steel generated components does not reflect the international market prices.

64. In view of the above facts, it is not possible to rule out significant interference by the State concerning critical business decisions in Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter). Therefore, the Authority has not granted market economy treatment to the concerned producer and exporter.

65. The market economy claim of Ningbo Liguang Machinery Co. Ltd. was verified during the exporter's verification. The Authority notes that:

- a. The company was established on November 6, 1998. It is observed that till the end of 1999, the company was able to produce and sell substantial quantities of plastic processing machines with rented equipments at a very nominal rent. Further, It was explained that the House property and machines/equipments were purchased through auction on 17<sup>th</sup> November, 2000. The auction document provided during on the spot verification revealed that Ningbo Liguang Machinery Co. Ltd. had bid for the house property and Zhejiang Ruian Gaoqian Factory had bid for the machines/ equipments. This establishes that M/s Zhejiang Ruian Gaoqian Factory who paid for the machinery equipments had a substantial interest in the Ningbo Liguang Machinery Co. Ltd. This fact and the legal status of M/s Zhejiang Ruian Gaoqian Factory was not disclosed in the exporter's response of M/s Ningbo Liguang Machinery Co. Ltd.
- b. Authority noted during the verification that M/s Ningbo Liguang Machinery Co. Ltd. is a part of a Group. There are four companies under the Group of companies controlled by Mr. Zhu Bo, including the responding exporter. All these four companies are directly or indirectly involved with the product concerned. The response has not been filed by the Group failing which it would not be possible to know the market economy legal status of all the companies operating under the group.
- c. One of the export transactions to India has been carried out through a company namely M/s Enbo Machinery Co. Ltd. in Hong Kong. This fact was not disclosed in the exporter's response filed by the company. Further, from the name, this company appears to be affiliated to M/s Ningbo Liguang Enbo Machinery Co. Ltd, a related company of M/s Ningbo Liguang Machinery Co. Ltd. However, it was explained by the company officials that M/s Enbo Machinery Co. Ltd., Hong Kong is not affiliated to M/s Ningbo Liguang Machinery Co. Ltd. or M/s Ningbo Liguang Enbo Machinery Co. Ltd. and is a different company incorporated in Hong Kong. This aspect could not be verified in absence of the response from the Group of companies controlled by Mr. Zhu Bo.
- d. The company could not rebut the observation made in the Preliminary Finding that the raw material prices in respect of steel and steel generated components does not reflect the international market prices. On the other hand, in a presentation before the investigation team, the company admitted that they are buying cast iron for the machines at substantially lower prices than the prices available to Demag, Germany.

66. In view of the above facts, it is not possible to rule out significant interference by State concerning critical business decisions in Ningbo Liguang Machinery Co. Ltd. Therefore, the Authority has not granted market economy treatment to the concerned producer/exporter.

67. The market economy claim of Ningbo Haixing Plastic Machinery Mfg. Co. Ltd. was verified during the exporter verification. The Authority notes that:

- a. The company was established on November 24, 1999 with an amount of RMB \*\*\* invested in the plant and machinery and plant building rented from M/s Yin Xian Lace Factory at RMB \*\*\* per annum. During the year 2000, the company has built up capacity of 200 machines and it is seen that the company earned sales revenue of RMB \*\*\* and operating profit of RMB \*\*\* from sale of 107 machines during year 2000. The company could not clarify during verification and also in reply to the verification report that how the capacity to produce 200 machines can be built up with a minuscule investment of RMB \*\*\* in plant and machinery. Further, the company has continuously added its capacity since inception in 1999. The company could not provide the sources of funds at different points of time for financing the above yearly capital additions. The only information provided are of short term loans for one year or less from banks. The short term loans are usually used for financing the short term working capital requirements and not for long term investments.
- b. M/s Ningbo Haixing Plastic Machinery Mfg. Co. is related to M/s Ningbo Haihuangxing Machinery Manufacturing Co. Ltd. as the legal representative of both the companies is the same person. M/s Ningbo Haihuangxing was incorporated on 17th November 2003 with the business scope to devise, manufacturing and processing plastic machinery. The business license of Ningbo Haihuangxing has mentioned the shareholder name as Mr. Datai Shen, a Taiwanese National and enterprise type as Limited liability Company with investments from the individuals from Taiwan, Hongkong and Macao.
- c. The shareholder of Ningbo Haihuangxing is regularly increasing its capital and majority of the amount received is going to Ningbo Haixing. Ningbo Haixing has not paid any interest on the amount received from Ningbo Haihuangxing. Neither Ningbo Haihuangxing has booked the accrued interest income in its books of accounts nor Ningbo Haixing has shown the accrued interest expenses.
- d. As per the Business license, the investments are from Taiwan, Hongkong and Macao. Since, lending money is not the part of business scope of Ningbo Haihuangxing, it appears that the amount is coming from unknown sources in Taiwan, Hongkong and Macao for investment in the Ningbo Haixing.

- e. Being a related company, the legal status of M/s Ningbo Haihuanxing Plastic Machinery Co. Ltd. have an impact on the legal status of the Ningbo Haixing, the responding exporter. However, in absence of response to exporter's questionnaire and MET questionnaire of Ningbo Haihuanxing, the legal status of the same could not be verified.
- f. The company could not rebut the observations made in the Preliminary Finding that the raw material prices in respect of steel and steel generated components does not reflect the international market price.

68. In view of the above facts, it is not possible to rule out significant interference by State concerning critical business decisions in M/s Ningbo Haixing Plastic Machinery Mfg. Co. Therefore, the Authority has not granted market economy treatment to the concerned producer/exporter.

69. In response to the Authority's letter, M/s Zhejiang Sound Machinery Manufacture Co. Ltd. had not confirmed their readiness for verification of the data submitted by them including their claim for market economy treatment. Under such circumstances when a company has not allowed verification of the records on which basis the market economy treatment has been claimed, it would not be feasible to grant market economy status to M/s Zhejiang Sound Machinery Manufacture Co. Ltd. Therefore, the Authority has not granted market economy treatment to the concerned producer/ exporter.

70. Shri M.N. Jha, representative for M/s Guangzhou Borch Machinery Co. Ltd., China PR submitted that M/s Guangzhou Borch Machinery Co. Ltd has no ownership, equity interest, control relationship with the governmental authorities. Hence, it is purely a private company. The company is not subjected to any direct quantitative or other restriction to produce, to sell or to export the product concerned. There is no local/regional authority and state involvement in setting prices and quantities. The company's accounting system follows the "Accounting Standards for Business Enterprises" and "Accounting Systems for Business Enterprises". There are no legislative enactments or other formal measures by the government that centralize or decentralize control of the export activities of the company.

71. The Authority has not granted market economy treatment in the Preliminary Findings as the exporters have not established with verifiable evidence that "prices of major inputs substantially reflect market values". It was further observed in the Preliminary Findings that in a situation where the raw material prices are significantly lower than the prevailing market rates in the international market, not only a vital condition for market economy treatment is not satisfied but also costs may be underestimated. The Authority had therefore taken a view in the preliminary findings that even if one of the critical parameters of market economy treatment is not satisfied it would not be feasible to grant market economy status to the responding companies.

72. The Authority notes that M/s Guangzhou Borch Machinery Co. Ltd., China PR and Hangzhou Tederic Machinery Co. Ltd. have not provided any evidence whatsoever demonstrating that the prices of major inputs consumed by them substantially reflect market values.

73. The Authority also observed that M/s Hangzhou Tederic Machinery Co. Ltd. and M/s M/s Guangzhou Borch Machinery Co. Ltd., have at least two other related companies. The response has not been filed by the Group failing which it would not be possible to examine the market economy legal status of all the companies operating under the group.

74. In view of this, the Authority has not granted market economy treatment to M/s Guangzhou Borch Machinery Co. Ltd. and M/s Hangzhou Tederic Machinery Co. Ltd.

75. No post-disclosure comments have been received from the interested parties on the non-market economy treatment proposed in the disclosure statement for all Chinese exporters.

## **G.2. Views of interested parties on Normal Value, export price and dumping margin**

76. After the preliminary findings, the following submissions have been received with respect to determination of Normal Value; export price and dumping margin;

- a. The normal value cannot be constructed in the manner done taking into account domestic price of all the major inputs for the lowest cost machines within a given clamping force, on account of the tremendous differences between machines as acknowledged by the petitioner himself.
- b. The authority has erred in using the methodology of comparing the net export price of imported machines with next higher clamping force with the normal constructed value based on the machines produced by the domestic industries.
- c. Normal value has in any case been incorrectly constructed. Since the clamping force of domestic industry's machines clearly is different from the clamping force of machines of exporter, the calculation of normal value is wholly incorrect and unreliable and cannot be used to determine the dumping margin.

- d. While calculating the normal value, dumping margin, etc the Authority should take in to account the imports of the used machines which is quite substantial.
- e. Due to Supreme Court's orders the DA is bound to issue single country Normal Value.
- f. The comparison methodology as claimed by the domestic industry should be discarded and both normal value and export price be compared with next higher level for like to like article comparison.
- g. It has not been explained what this 'lowest cost machine within a given clamping force' means. It is also not clear whether the cost for the higher clamping forces have been computed pro-rata based on the lowest clamping force machine.
- h. The domestic industry ( L & T Demag) does not manufacture all the 17 types of machines with different clamping forces. Then on what basis, the cost has been constructed for all these machines, has not been explained.
- i. The Authority has claimed the \*\*\*% as reasonable margin of profit arrive at the Normal Value and claimed it as confidential. It is not clear how such an assumption can be confidential information.
- j. Why Demag Germany, China's selling price in China shall not be considered as Normal Value in China. The domestic industry has its sister concern Demag Germany (China), which is not a state owned company in China, we suppose they must be working in a market economy conditions in China.
- k. To arrive at the ex-factory export price no deduction is required for VAT as is the case for domestic sales. The VAT paid on inputs, which has gone into the finished products, could not be recovered in case of export sales.
- l. It is not amenable how the authority could deviate from the established practice of computing dumping margin by comparing individual normal value with corresponding export price to a new and inappropriate method of comparing total normal value with total export price to different machines having widely varied normal values and export prices.
- m. Dumping margin needs to be computed by apple to apple comparison. Computation of dumping margin by adding normal value of 40MT PPM with that of 800MT PPM and comparing the sum with the sum of export prices of the two machines is erroneous, misleading and contrary to the Anti-dumping Rules.

- n. The Authority in the present case in the preliminary findings has taken an average normal value based on clamping force (Tons) for all the cooperating producers. No normal value has been worked for certain PPMs viz. PPMs with clamping force of 90, 120, 220, 260, 280, 320, 330, 480, 580, 680, 720, 1000, 1080, 1300, 1400, 1600, 1800, 2800. The basis and methodology of arriving at normal value is flawed both in the application and the preliminary findings. Since the applicant was not manufacturing PPMs with higher clamping force, the raw material prices for such machines was not at all available and hence the determination of normal value for such machines is flawed. Further, in this context, we would like to submit that for a product like PPM the components used, technical specifications, brand perception, etc. are different for different manufacturers. Under the circumstances, it would not be appropriate to take raw material prices of one producer for PPMs with lower clamping force as the nature of raw material used itself is not same. Pricing is dependent upon a number of variables besides the clamping force and end use. Even assuming but not accepting that the present interpretation of the Designated Authority of the Supreme Court's decision in Reliance Industries Vs. Designated Authority is correct, the decision does not envisage a single normal value for products which are inherently dissimilar as they are not inter-se substitutable.
- o. The Authority has not followed the mandatory procedure of paragraph 7 for non-market economy country. The Designated Authority is under an obligation under para 7 to put the parties to the investigation on notice without unreasonable delay about the selection of the third country market economy or surrogate country. The exporter was not put to any notice as to which third country out of the three suggested by the Domestic Industry would be chosen as third country market economy country through the initiation notice clearly records that the authority may adopt an appropriate third country for the purpose of paragraph 7 and shall notify the interested parties.

**G.3. Post Disclosure Comments of Interested Parties**

77. Subsequent to the Disclosure Statement, M/s APJ-SLG on behalf of M/s Ningbo Huayuan Machinery Co. Ltd., M/s Ningbo Plastic Machinery Group and M/s Haitian Heavywork Machinery Co. Ltd. requested for details of computation of dumping margin.

78. Shri M.N. Jha on behalf of M/s Guangzhou Borch Machinery Co. Ltd., China PR submitted that since Borch has not been verified by the Authority, the Borch data and claims must be accepted by the Hon'ble Authority. In respect of constructed normal value, Borch's costs are about 10% lower than the other exporters verified and thus Borch claims this adjustment in its constructed normal value.

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

79. In terms of Para 8 (2) of the annexure of anti-dumping of AD rules, China PR has been treated as a non-market economy country subject to rebuttal of the same by the exporting country or individual exporters in terms of the above Rules. The cooperating exporters/producers of the subject goods from People's Republic of China are required to furnish necessary information/sufficient evidence as mentioned in sub-paragraph (3) of paragraph 8 in response to the Market Economy Treatment questionnaire to enable the Designated Authority to consider their claim for market economy treatment. Demag (China) is not a cooperating exporter from China in the present investigation and therefore cannot be treated as a company working in a market economy conditions in China.

80. The used imported machines and new machines produced are not technically and commercially substitutable from the point of view of price, performance, and life span.

81. The Authority notes that the subject goods include a large number of different types and sizes, which vary in associated costs and prices. The different type does not establish that they are dislike products. The same only implies that while arriving at margin of dumping, comparison should be made on comparable basis between the export price and normal value. Principles of fair comparison demand the comparison to be made between like products after make due allowance for any differences that affect price comparability. The Authority has done comparison on conservative basis considering the lower clamping force tonnage of domestic industry in those situations where an identical clamping force machine is not available. Due to non-availability of international price for various inputs required for machines of different clamping forces, the domestic prices of the major inputs for those machines, where the minimum amount of inputs have been used, is considered for determining the tonnage- wise normal values for like articles.

82. The other issues raised by interested parties on dumping margin determination have been examined as under:

- i) The final result would be the same by using total normal value and total export price or by using weighted average normal value and weighted average export price due to common denominator. The Authority however proposes to use weighted average normal value and weighted average export price in the final findings.
- ii) The Authority has taken care of the orders of Hon'ble Supreme Court's orders in Reliance case while determining the Normal Value.
- iii) The VAT paid on inputs, which has gone into the finished products, is not recovered in case of export sales. However, the VAT is not considered as a part of normal value. Hence, to have a fair comparison of normal value and export price, the non-recoverable VAT is deducted from export price.
- iv) The meaning of 'lowest cost machine within a given champing force' has been well explained at Para 21 above.
- v) In the Preliminary Findings, a reasonable profit margin of 5% was considered to determine the normal value.

83. The Authority indicated, in the Initiation Notification, that the Authority may notify an appropriate third country, in the due course, for the purpose of determination of normal value in China PR in terms of the above provision. However, none of the interested parties, including the applicant, have placed any material fact before the Authority to select an appropriate market economy third country for the above purpose. The domestic industry has submitted that they have made efforts to collect information on price and cost data of the subject goods in market economy third countries but no publicly available information could be collected in this regard. It has also been argued that for determination of normal value based on third country cost and prices the Authority would require complete and exhaustive data on domestic sales or third country export sales, as well as cost of production and cooperation of such producers in third country, which the applicant is unable to obtain. The responding Chinese companies have made no claim with regard to an appropriate market economy third country. Therefore, the domestic industry has submitted that India should be treated as an appropriate surrogate country for China in this matter and the normal value should be determined accordingly.

84. The Authority would determine individual normal value for each cooperating producer/ exporter in accordance with Section 9A of Customs Tariff Act, 1975 amended from time to time. However, individual normal value can only be determined in case of responding exporters from China if they are able to rebut the NME presumption to the satisfaction of the Authority. Since in the instant investigation, none of the responding exporters from the Subject country could rebut the NME presumption to the satisfaction of the Authority, the

Authority has determined normal value as per Para 7 of Annexure 1 of the anti-dumping Rules.

85. In this connection Para 7 of Annexure I of the Anti-dumping Rules provides that:

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

86. In view of different product types and no claim with regard to an appropriate market economy third country by the responding exporters from China PR, the Authority proposes to determine the normal value on any other reasonable basis, in terms of second proviso of Para 7 of Annexure 1 to the Rules. Thus, the Authority has constructed the normal value by taking into account cost of production in India. As discussed in the foregoing paragraphs, Due to non-availability of international prices for various inputs required for machines of different clamping forces, the domestic prices of the major inputs for those machines, where the minimum amount of inputs have been used, is considered for determining the tonnage-wise normal values for like articles. These input costs have been duly adjusted for the applicable customs duty to reflect international raw material prices. The consumption norms, conversion cost, and SGA expenses of the domestic industry have been adopted for determination of the normal value. After adding a reasonable profit margin of 5% constructed normal value works out as under:

PPM's Clamping Force (Tons)	Constructed Normal Value (CNV) (Rs. In lacs)	CNV @ Exchange Rate @ Rs. 41.357 /US\$ (USD)
60	***	***
85	***	***

100	***	***
125	***	***
150	***	***
160	***	***
180	***	***
200	***	***
250	***	***
275	***	***
325	***	***
350	***	***
450	***	***
500	***	***
550	***	***
650	***	***
800	***	***

87. As regards the post disclosure comments of M/s APJ-SLG for providing the details of computation of dumping margin, the Authority notes that the details of export price have already been provided to the respective responding exporters in the disclosure statement. The methodology of determination of constructed normal value was suitably disclosed in the disclosure statement along with the percentage of dumping margin arrived at.

88. As regards the post disclosure comments of Shri M.N. Jha, the Authority notes that the export price arrived at with adjustments was disclosed to M/s Guangzhou Borch Machinery Co. Ltd., China PR alongwith methodology adopted for determination of the same. The methodology of determination of constructed normal value was also suitably disclosed in the disclosure statement along with the percentage of dumping margin arrived at.

#### **G.5. Export Price**

##### **a) Guangzhou Borch Machinery Co. Ltd., China PR**

89. Guangzhou Borch Machinery Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India through local commission agents and through an agent in India. The sales to Indian customers are in CIF terms. The exporter has claimed adjustments towards inland freight, ocean freight and insurance to India, Commission and

credit expenses to arrive at ex-factory export price. However, it is noticed that no adjustment towards the bank charges and VAT paid and refund obtained has been made though the exporter is required to pay VAT @17% of the invoice value and is entitled for a refund of a part of the VAT paid on exports. Such adjustments have therefore been made based on the invoice value. The Authority has determined the export price of the above exporter as follows:

**Producer/ Exporter: Guangzhou Borch Machinery Co. Ltd., China PR**

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price (USD/No.)
80	***	***	***	***	***
120	***	***	***	***	***
150	***	***	***	***	***
200	***	***	***	***	***
260	***	***	***	***	***
320	***	***	***	***	***

b) **Zhejiang Sound Machinery Manufacture Co. Ltd, China PR**

90. M/s Zhejiang Sound Machinery Manufacture Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India directly. The sales to Indian customers are in CIF terms except a single transaction of \*\*\* machines. The exporter has claimed adjustments towards inland freight, ocean freight and insurance to India, credit expenses, bank charges and non-refundable VAT to arrive at ex-factory export price. The Authority has determined the export price of the above exporter as follows:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price (USD/No.)
90	***	***	***	***	***
130	***	***	***	***	***
160	***	***	***	***	***
220	***	***	***	***	***
280	***	***	***	***	***
330	***	***	***	***	***
380	***	***	***	***	***
480	***	***	***	***	***
580	***	***	***	***	***
680	***	***	***	***	***

c) **Zhejiang Golden Eagle Plastic Machinery Ltd. (Producer) & Zhejiang Golden Eagle Co. Ltd. (Exporter).**

91. M/s Zhejiang Golden Eagle Co. Ltd., China PR has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The subject goods have been produced by M/s Zhejiang Golden Eagle Plastic Machinery Ltd. who is a subsidiary of the exporter, M/s Zhejiang Golden Eagle Ltd. The exporter has reported the direct sales of the subject machines to Indian customers.

92. The sales to Indian customers are in CIF, CFR as well as on FOB terms. The exporter has claimed adjustments towards overseas freight and insurance, credit expenses, and non-refundable VAT to arrive at ex-factory export price. The exporter's verification revealed that the exporter allows credit and incurs bank charges and expenses towards differential packing on export sales to India. Accordingly, the adjustments on account of credit and bank charges have been carried out based on the letter of credit and bank advice. The Bank Interest rate as \*\*\*% in China PR has been considered. As regards packing expenses, based on the evidence available on record, it is noted that for exports, the Chinese exporters use wooden pallets, which are not used for domestic sales. Accordingly, the adjustment on account of cost of wooden pallets used for export packing expenses has been carried out. The Authority has determined the export price of the above exporter as follows:

Amount in USD

	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price (USD/No.)
60	***	***	***	***	***
80	***	***	***	***	***
100	***	***	***	***	***
120	***	***	***	***	***
130	***	***	***	***	***
150	***	***	***	***	***
180	***	***	***	***	***
220	***	***	***	***	***
250	***	***	***	***	***
280	***	***	***	***	***
360	***	***	***	***	***
400	***	***	***	***	***
450	***	***	***	***	***
530	***	***	***	***	***
720	***	***	***	***	***
1080	***	***	***	***	***

d) **Ningbo Liguang Machinery Co. Ltd.**

93. M/s Ningbo Liguang Machinery Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India directly on FOB terms. However, during the verification, it is seen that exports have also been made to India on CIF basis. Further, one of the export transactions to India was made through an unrelated company in Hong Kong, M/s Enbo Machinery Company Ltd. Since no response has been received from the Hong Kong Company, an adjustment of \*\*\*% of Invoice value has been made on account of SGA expenses of Hong Kong Trader. The exporter has claimed adjustments towards inland freight and non-refundable VAT to arrive at ex-factory export price. The company has not claimed the adjustments on account

of bank charges and packing expenses. The bank charges have been adjusted based on the bank advice and as regards packing expenses, it is noted that for exports, the Chinese exporters use wooden pallets, which are not used for domestic sales. Accordingly, the adjustment on account of cost of wooden pallets used for export packing expenses has been carried out. The Authority has determined the net export price of the above exporter for machines of different clamping forces after carrying out the necessary adjustments as under:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value (USD)	Total adjustments	Net Export Value	Net Export Price USD/No.
90	***	***	***	***	***
130	***	***	***	***	***
170	***	***	***	***	***
700	***	***	***	***	***

e) **Hangzhou Tederic Machinery Co. Ltd.**

94. M/s Hangzhou Tederic Machinery Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India directly. The sales to Indian customers are both in CIF and FOB terms. The exporter has claimed adjustments towards inland freight, ocean freight and insurance to India, and handling charges to arrive at ex-factory export price. However, it is noticed that no adjustment towards the bank charges and VAT paid and refund obtained has been made though the exporter is required to pay VAT @17% of the invoice value and is entitled for a refund a part of the VAT paid on export. Such adjustments have been made based on the invoice value on facts available basis as per the response filed by other producers/exporters. The Authority has determined the net export price of the above exporter for machines of different clamping forces after carrying out the necessary adjustments as under:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
100	***	***	***	***	***
150	***	***	***	***	***
188	***	***	***	***	***
230	***	***	***	***	***
400	***	***	***	***	***
850	***	***	***	***	***

f) **Ningbo Haitian Plastic Machinery Group**

95. M/s Ningbo Haitian Plastic Machinery Group has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India through commission agents. The sales to Indian customers are mainly in CIF terms. The exporter has claimed adjustments towards inland freight, ocean freight, insurance, credit, export packing, bank charges and non-refundable VAT paid to arrive at ex-factory export price. The Authority has determined the export price of the above exporter based on the adjustments claimed as follows:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
58	***	***	***	***	***
86	***	***	***	***	***
200	***	***	***	***	***
530	***	***	***	***	***
600	***	***	***	***	***
700	***	***	***	***	***
800	***	***	***	***	***

1300	***	***	***	***	***
1400	***	***	***	***	***
1600	***	***	***	***	***
1800	***	***	***	***	***
2800	***	***	***	***	***

g) **Haitian Heavywork Machinery Co. Ltd.**

96. M/s Haitian Heavywork Machinery Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India through commission agents. The sales to Indian customers are in CIF terms. The exporter has claimed adjustments towards inland freight, ocean freight, insurance, credit, export packing, bank charges and non-refundable VAT paid to arrive at ex-factory export price. The Authority has determined the export price of the above exporter based on the adjustments claimed as follows:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
86	***	***	***	***	***
120	***	***	***	***	***
160	***	***	***	***	***

h) **Ningbo Haitian Huayuan Machinery Co. Ltd.**

97. M/s Ningbo Haitian Plastic Machinery Group has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India through commission agents. The sales to Indian customers are mainly in CIF terms. The exporter has claimed adjustments towards commission, inland transportation & handling, overseas transportation & insurance, credit, bank charges and packing expenses to arrive at ex-factory export price. As regards VAT adjustment, it was clarified that the company is located in Export Processing

Zone and therefore, they are exempted from VAT. Hence the question of non-refundable VAT does not arise. This was verified from the copy of regulation furnished by the company in this regard. The Authority has determined the net export price of the above exporter for machines of different clamping forces in USD/Machine after carrying out the necessary adjustments as under:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
58	***	***	***	***	***
60	***	***	***	***	***
86	***	***	***	***	***
90	***	***	***	***	***
120	***	***	***	***	***
160	***	***	***	***	***
200	***	***	***	***	***
250	***	***	***	***	***
280	***	***	***	***	***
300	***	***	***	***	***
320	***	***	***	***	***
360	***	***	***	***	***
380	***	***	***	***	***
450	***	***	***	***	***
470	***	***	***	***	***
530	***	***	***	***	***
650	***	***	***	***	***
700	***	***	***	***	***
800	***	***	***	***	***

1000	***	***	***	***	***
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i) **Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.**

98. M/s Ningbo Haixing Plastic Machinery Mfg. Co. Ltd. has reported export of \*\*\* numbers of the subject machines of different tonnages to India during the POI. The exporter has submitted that the machines have been sold to customers in India directly. The sales to Indian customers are in FOB terms. The exporter has claimed adjustments towards inland freight, bank charges and non-refundable VAT to arrive at ex-factory export price. The exporter's verification revealed that the exporter allows credit and expenses towards differential packing on export sales to India. Accordingly, the adjustments on account of credit and packing expenses have been carried out. The Bank Interest rate as \*\*\*% in China PR has been considered. As regards packing expenses, based on the evidence available on record, it is noted that for exports, the Chinese exporters use wooden pallets, which are not used for domestic sales. Accordingly, the adjustment on account of cost of wooden pallets used for export packing expenses has been carried out. The Authority has determined the net export price of the above exporter for machines of different clamping forces in USD/Machine after carrying out the necessary adjustments as under:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
58	***	***	***	***	***
88	***	***	***	***	***
128	***	***	***	***	***
168	***	***	***	***	***
218	***	***	***	***	***
268	***	***	***	***	***
308	***	***	***	***	***
368	***	***	***	***	***

j) **Wenzhou Smargon Import & Export Co. Ltd.**

99. M/s Wenzhou Smargon Import & Export Co. Ltd. has reported export of \*\*\* number of the subject machines of 150 tons clamping force to India during the POI. The exporter has submitted that the machines have been sold to customers in India directly. The sales to Indian customers are in CIF terms. The exporter has claimed adjustments towards inland freight, ocean freight, other levies, credit and export packing. However, it is noticed that no adjustment towards the bank charges and VAT paid and refund obtained has been made though the exporter is required to pay VAT @17% of the invoice value and is entitled for a refund a part of the VAT paid on export. Such adjustments have been made based on the invoice value on facts available basis as per the response filed by other producers/exporters. The Authority has determined the export price of the above exporter as follows:

Amount in USD

Clamping Force (Tons)	Qty Nos.	Gross Invoice Value	Total adjustments	Net Export Value	Net Export Price USD/No.
150	***	***	***	***	***

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

100. For the purpose of determination of dumping margin the ex-works normal value and export prices so determined have been compared at the same level of trade and dumping margin has been determined for the exporters from the subject country. Since the product under consideration includes the subject machines of different clamping forces, the Authority has made clamping force-wise comparison for determination of dumping margin. The Authority notes that the machines of different clamping forces vary in associated costs and prices. The different types/ sizes however do not establish that they are dislike products. While arriving at margin of dumping, comparison has been made on comparable basis between the export price and normal value. Principles of fair comparison demand the comparison to be made between like products after making due allowance for any differences that affect price comparability. The Authority has done comparison on conservative basis considering the lower clamping force tonnage of domestic industry in those situations where an identical clamping force machine is not available. The Authority, however, in view of the fact that the domestic industry is yet to manufacture plastic processing machines beyond 800 tons, have considered PPM's of clamping forces ranging between 40 tons to 800 tons for determination of dumping margin. Accordingly, the Authority has determined the exporter wise dumping margins as follows:

Amount USD/No.

Producer	Exporter	Normal Value	Export Price	Dumping Margin	DM %
Guangzhou Borch Machinery Co. Ltd	Guangzhou Borch Machinery Co. Ltd	***	***	***	71%
Zhejiang Sound Machinery Manufacture Co. Ltd.	Zhejiang Sound Machinery Manufacture Co. Ltd.	***	***	***	155%
Zhejiang Golden Eagle Plastic Machinery Ltd.	Zhejiang Golden Eagle Co. Ltd.	***	***	***	150%
Ningbo Liguang Machinery Co. Ltd.	Ningbo Liguang Machinery Co. Ltd.	***	***	***	89%
Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.	Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.	***	***	***	117%
Hangzhou Tederic Machinery Co. Ltd.	Hangzhou Tederic Machinery Co. Ltd.	***	***	***	75%
Ningbo Haitian Plastic Machinery Group	Ningbo Haitian Plastic Machinery Group	***	***	***	93%
Haitian Heavywork Machinery Co. Ltd.	Haitian Heavywork Machinery Co. Ltd.	***	***	***	146%
Ningbo Haitian Huayuan Machinery Co. Ltd.	Ningbo Haitian Huayuan Machinery Co. Ltd.	***	***	***	91%
M/s Wenzhou Smargon Plastic Machinery Co. Ltd.	M/s Wenzhou Smargon Import & Export Co. Ltd.	***	***	***	218%
Any other exporter		***	***	***	218%

## H. INJURY DETERMINATION

### H.1 Views of domestic industry

101. After preliminary findings, the domestic industry made the following submissions:

- Even when the demand is increasing in the domestic market, the production of the domestic industry showed a declining trend. Further, a similar trend is seen in capacity utilization and sales of the domestic industry.
- There is a significant increase in the volume of the dumped imports from the subject country.
- Profits of domestic industry were increasing till 2006-07. However, profits and consequently return on investment & cash flow declined significantly in the investigation period.
- Imports are undercutting the prices of the domestic industry in the market. Consequently, the domestic industry was forced to offer sub-optimal prices. At the same time, its profitability has also declined. As a result of significant decline in profits, return on investment and cash profits have also declined over the period.
- The market for the subject goods has seen significant growth at the cost of domestic industry.

## **H.2 Views of Exporters & Importers**

102. M/s APJ-SLG and M/s A&D Associates on behalf of M/s Ningbo Haitian Plastic Machinery Group, M/s Haitian Heavywork Machinery Co. Ltd. and M/s Ningbo Haitian Huayuan Machinery Co. Ltd. have made the following submissions after the preliminary findings on injury to domestic industry:

- a. Profit or loss of the applicant has nothing to do with the volume of imports.
- b. The total production of the applicants has increased over the injury period and therefore this cannot be a factor of injury.
- c. The methodology adopted to arrive at capacity utilization is not at all clear from the NCV version of the application.
- d. The application indicates 100% as price undercutting. With this kind of NCV data no meaningful comments can be offered.
- e. Grossly understated import volumes- In their response to the public hearing the applicant accepts that lot of used machineries have been imported in India. This virtually means the average value calculated by the Designated Authority also includes the cost of such machines thereby lowering the average cost of machines imported from China.

103. M/s Dua Associates representing M/s. Zhejiang Sound Machinery Manufacturing Co. Ltd., Ningbo Liguang Machinery Co. Ltd., China PR; Ningbo

Haixing Plastic Machinery Manufacture Co. Ltd, China PR; Zhejiang Golden Eagle Co. Ltd. (Exporter) & Zhejiang Golden Eagle Plastics Machinery Co. Ltd. (Producer) made the following submissions on injury after the preliminary findings:

- a. Non attribution analysis cannot be limited to the few examples listed in para (v) of Annexure II of the Anti Dumping Rules. These factors are not exhaustive and there may be other factors, which need to be considered by the Hon'ble Authority.
- b. Injury if any caused to the Petitioner is on account of competition within the domestic market and not due to any dumping due to imports from China.
- c. There is no causal link between the injury suffered by the domestic industry, if any, and dumping, if any, of product under consideration from China.

104. Post preliminary findings, Shri M.N. Jha on behalf of M/s Guangzhou Borch made the following submissions:

- i) The product mix may be different in different years. Hence the comparison of these parameters in numbers cannot give a proper indication of injury.
- ii) The injury data provided in the application and considered in the provisional findings are in numbers and such considerations are erroneous. The injury parameters of capacity, production, sales, stock, market share etc. in numbers are not appropriate for injury analysis in such cases.
- iii) The whole injury analysis done is misconceived and requires a complete revisit.
- iv) Comparison of absolute numbers cannot give a proper interpretation. The absolute number of production in two years may remain the same but qualitative aspects of the products may be different.
- v) The demand for the subject goods in India by type is different. The domestic industry is not manufacturing all such types. The demand is much higher than the capacity of the domestic industry.
- vi) There is no price depression or price suppression.
- vii) The provisional injury margins are incorrect, inflated and distorted also as they are based both on incomplete domestic data and also on incorrect provisional PUC without the required adjustments for differences in physical characteristics.
- viii) There is no causal link between the constructed dumping margin and the alleged injury for the following reasons:
  - a) landed value decreased due to decrease in customs tariffs in India during the injury period and appreciation

of the Rupee during the POI and not due to decrease in export price from China.

- b) The imports from China are not really the like articles to the manufacture products of the domestic industry as above.

105. M/s Chandra Wadhwa & Company representing M/s Electronica Machine Tools, Pune submitted that the actual volumes of import of the subject goods into India are much higher than what is stated by the petitioner.

106. Post disclosure statement, Shri M.N. Jha on behalf of M/s Guangzhou Borch Machinery Co. Ltd., China PR has merely reiterated their submissions made at post preliminary finding stage.

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

107. The Authority has determined the injury to domestic industry and causal link between the dumped imports and injury, taking into account all relevant facts in accordance with Rule 11 of Anti-Dumping Rules.

108. The Authority notes that the injury analysis has been appropriately carried out in number terms with regard to the injury parameters such as capacity, production, sales, stock, market share etc.

109. Having examined the degree and extent of dumping from China the Authority has examined the injury caused to the domestic industry, if any, and the causal link between the dumped imports and injury so suffered by the domestic industry. The Authority holds that the applicant Company, i.e., M/s L&T Demag Plastic Machinery Limited, Chennai constitutes a major proportion of Indian production of the subject goods during the period of investigation under Rule 2(b) of Anti-dumping Rules. Therefore, for the purpose of injury determination the applicant company has been held to constitute the domestic industry within the meaning of the Rules.

110. In the spirit of Supreme Court Judgment in Reliance Industries Vs Designated Authority matter, all the known producers of the subject goods have been requested to file their cost and injury information for the purpose of injury determination and determination of non-injurious price for the domestic industry as a whole. However, only one other domestic producer, M/s Windsor Machines filed some information. Therefore, for the purpose of this investigation, the cost and injury information of the applicant domestic producer, constituting the domestic industry as defined in Rule 2(b), and M/s Windsor Machines, to the extent considered relevant by the Authority, have been examined.

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

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

### **H.3.1. Volume Effects of Dumped Imports**

#### **a) Import volumes and share of subject countries:**

113. With regard to the volume of the dumped imports, the Authority is required to consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in India.

114. The Authority has examined the volume of imports of the subject goods from the subject country and other countries based on the transaction-wise import data provided by DGCI&S.

Quantity in Nos

Period	2004-05	2005-06	2006-07	POI
Country	Quantity	Quantity	Quantity	Quantity
China PR	191	255	644	949
Trend	100	134	337	497
Others	332	283	294	406
Trend	100	85	89	122
Total	523	538	938	1355
Trend	100	103	179	259

Share of subject country	36.52%	47.40%	68.66%	70.04%
Trend	100	130	188	192

115. The above data indicates that total imports and imports of the subject goods from the subject country have increased substantially during the injury period. The share of imports from the subject country has increased from 37% in the base year to about 70% of the total imports during the POI.

**b) Actual and potential effect on production and capacity utilization:**

116. The volume of domestic production and effects of dumped imports on the domestic operation of the domestic industry have been examined in terms of total production, capacity utilization and domestic sales of the domestic industry.

Production, Sales and Demand	Unit	2004-05	2005-06	2006-07	POI
Installed Capacity of DI	Nos.	600	600	600	600
Trend	Index	100	100	100	100
Production (DI)	Nos.	370	437	536	393
Trend	Index	100	118	145	106
Capacity Utilization	%	61.67%	72.83%	89.33%	65.50%
Trend	Index	100	118	145	106
Domestic Sales	Nos.	306	366	466	334
Trend	Index	100	120	152	109
Sales of other domestic Producers	Nos.	551	541	622	689
Trend	Index	100	98	113	125
Imports	Nos.	523	538	938	1355
Trend	Index	100	103	179	259
Total Demand	Nos.	1380	1445	2026	2378
Trend	Index	100	105	147	172

117. The Authority notes that the production, sales and capacity utilization of the domestic industry, which was increasing till 2006-07 declined significantly in period of investigation. While domestic demand has increased by about 72% compared to the base year, the sale of the domestic industry during the

corresponding period increased by only 9% whereas the imports have increased by 159%. In absolute numbers, the demand has increased by 998 units and imports have gone up by 758 units. The subject country therefore contributed 76% of the total increase in demand.

**c) Actual and potential effect on market share:**

118. Effects of the dumped imports on the domestic sales and market shares have been examined as follows:

Share in Demand	Unit	2004-05	2005-06	2006-07	POI
Subject country	%	13.84%	17.65%	31.79%	39.91%
Trend	Index	100	128	230	288
Other countries	%	24.06%	19.58%	14.51%	17.07%
Trend	Index	100	81	60	71
Domestic Industry	%	22.17%	25.33%	23.00%	14.05%
Trend	Index	100	114	104	63
Other domestic producers	%	39.93%	37.44%	30.70%	28.97%
Trend	Index	100	94	77	73

119. While the demand of the subject goods in the domestic market has increased by about 72%, the share of the domestic industry in the total demand has declined by 37% compared to the base year. The share of the imports from subject country has increased from a 14% share to about 40% of the total demand, indicating that such imports have significantly impacted the domestic industry's sales volumes and market shares. Other domestic producers have also lost considerable market share.

**H.3.2. Price Effect of the Dumped imports on the Domestic Industry**

120. With regard to the effect of the dumped imports on prices, the Authority is required to consider whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree.

**a. Price undercutting and underselling effects**

121. Price undercutting has been determined by comparing the weighted average landed value of dumped imports from the subject country over the entire period of investigation with the weighted average net sales realization of the

domestic industry for each machine clamping force tonnage. For this purpose landed value of imports has been calculated by adding 1% handling charge and applicable customs duty to the value reported in the DGCI&S data of import prices from the subject country. Price undercutting has also been separately determined based on the export data reported by the responding exporters from China PR.

122. In order to determine the net sales realization of the domestic industry, any rebates, discounts, commissions, etc. offered by the domestic industry and the central excise duty paid have been deducted from the total sales realization.

123. For the purpose of price underselling determination the weighted average landed price of imports from subject country has been compared with the Non-injurious selling price of the domestic industry determined for the POI.

**Price undercutting ( based on export data of responding exporters)**

(Rs./Machine)

PPM with Clamping Force	Net price Domestic	Selling –	Landed Value (China PR)	Price undercutting (Rs./No)	Price undercutting (%)
60T	***		***	***	55-65
85T	***		***	***	60-70
100T	***		***	***	50-60
125T	***		***	***	60-70
150T	***		***	***	55-65
160T	***		***	***	60-70
180T	***		***	***	55-65
200T	***		***	***	50-60
250T	***		***	***	45-55
275T	***		***	***	35-45
325T	***		***	***	45-55
350T	***		***	***	45-55

450T	***	***	***	40-50
500T	***	***	***	30-40
550T	***	***	***	50-60
650T	***	***	***	40-50
800T	***	***	***	40-50
Average for product under consideration	***	***	***	50-60

**Price undercutting (based on export data reported by DGCI&S)**

(Rs./Machine)

PPM with Clamping Force	Net Selling price – Domestic (Rs./No.)	Landed Value (China PR)	Price undercutting (Rs./No)	Price undercutting (%)
60T	***	***	***	40-50
85T	***	***	***	60-70
100T	***	***	***	45-55
125T	***	***	***	65-75
150T	***	***	***	50-60
160T	***	***	***	60-70
180T	***	***	***	65-75
200T	***	***	***	35-45
250T	***	***	***	45-55
275T	***	***	***	50-60
325T	***	***	***	40-50
350T	***	***	***	55-65
450T	***	***	***	50-60

500T	***	***	***	55-65
550T	***	***	***	60-70
650T	***	***	***	60-70
800T	***	***	***	35-45
Average for product under consideration	***	***	***	50-60

**Price underselling ( based on export data of responding exporters)**

(Rs./Machine)

PPM with Clamping Force	Non-injurious price (Rs./ No.)	Landed Value (China PR)	Price underselling (Rs./No)	Price underselling (%)
60T	***	***	***	50-60
85T	***	***	***	60-70
100T	***	***	***	50-60
125T	***	***	***	60-70
150T	***	***	***	50-60
160T	***	***	***	60-70
180T	***	***	***	55-65
200T	***	***	***	55-65
250T	***	***	***	50-60
275T	***	***	***	45-55
325T	***	***	***	45-55
350T	***	***	***	45-55
450T	***	***	***	50-60

500T	***	***	***	45-55
550T	***	***	***	55-65
650T	***	***	***	45-55
800T	***	***	***	50-60
Average for product under consideration	***	***	***	50-60

**Price underselling ( based on export data reported by DGCIS)**

(Rs./Machine)

PPM with Clamping Force	Non-injurious price (Rs./ No.)	Landed Value (China PR)	Price underselling (Rs./No)	Price underselling (%)
60T	***	***	***	40-50
85T	***	***	***	60-70
100T	***	***	***	45-55
125T	***	***	***	60-70
150T	***	***	***	50-60
160T	***	***	***	60-70
180T	***	***	***	60-70
200T	***	***	***	40-50
250T	***	***	***	50-60
275T	***	***	***	60-70
325T	***	***	***	40-50
350T	***	***	***	60-70
450T	***	***	***	55-65

500T	***	***	***	60-70
550T	***	***	***	60-70
650T	***	***	***	60-70
800T	***	***	***	45-55
Average for product under consideration	***	***	***	50-60

124. The above data shows that the landed value of the dumped imports is significantly below the net sales realization of the domestic industry and has significant price undercutting effect for PPM's of all tonnage of clamping forces. The landed value is also significantly below the non-injurious price resulting in significant price underselling effect on the domestic industry.

**b. Price suppression and depression effects of the dumped imports:**

125. Price depression exists when the industry's prices are lower than the level of the previous period. Price suppression occurs when dumping prevents price increases that would otherwise take place due to increase in costs.

Particulars	Unit	2004-05	2005-06	2006-07	POI
Cost of Sales	Rs. Lacs	***	***	***	***
Trend	Index	100	118	148	132
Selling Price	Rs. Lacs	***	***	***	***
Trend	Index	100	116	151	116

126. From the above table, it is evident that price suppression is there as the domestic industry is not able to increase its prices in proportion with the increase in cost.

127. The above analysis shows that the dumped imports have adverse volume and price effect on the domestic industry in terms of increase in volume of dumped imports both in absolute and relative terms, and by suppressing the prices of the domestic market while eroding its market share.

**H.3.3. Examination of other injury factors**

128. After examining volume and price effect in the previous section, the Authority has examined the other mandatory injury parameters as follows:

**a) Profits/Loss and Return on investments**

129. Profits earned by the domestic industry from the sales of the subject goods in the domestic market were as follows: -

Particulars	Unit	2004-05	2005-06	2006-07	POI
Domestic Cost of Sales	Rs. Lacs	***	***	***	***
Trend	Index	100	118	148	132
Domestic Sales Value	Rs. Lacs	***	***	***	***
Trend	Index	100	116	151	116
Profit/ Loss before Tax	Rs. Lacs	***	***	***	***
Trend	Index	100	82	188	-113
Interest	Rs. Lacs	***	***	***	***
Profit/ Loss before Tax & Interest	Rs. Lacs	***	***	***	***
Trend	Index	100	101	221	-31
Capital Employed for domestic sales	Rs. Lacs	***	***	***	***
Return on capital employed	%	***	***	***	***
Trend	Index	100	75	126	-19

130. The above data shows that the domestic sales realization of the domestic industry has not increased in line with the increase in cost of production. The profitability of the domestic industry has declined over the injury investigation period and resulted in net loss on the domestic sales in the POI. The return on the Capital Employed for domestic sales of the domestic industry has declined significantly during the POI as compared to the base year and during the POI the domestic industry had a negative return from the subject goods.

**b) Cash Profit**

131. Cash profits of the domestic industry over the injury period have been as under:

Particulars	Unit	2004-05	2005-06	2006-07	POI
Profit/ Loss before Tax	Rs. Lacs	***	***	***	***
Depreciation on Domestic Sales	Rs. Lacs	***	***	***	***
Cash profit for domestic sales	Rs. Lacs	***	***	***	***
Trend	Index	100	96	185	-68

132. It is seen from the above that the cash profits of the domestic industry has significantly deteriorated over the injury period resulting in cash losses in the POI.

### c) Employment and Wages

133. Number of employees and wages paid indicates that employment has increased. The wages have also increased compared to the base year.

Particulars	Unit	2004-05	2005-06	2006-07	POI
Employment	Nos.	***	***	***	***
Trend	Index	100	103	121	136
Wages	Rs. Lacs	***	***	***	***
Trend	Index	100	117	152	171
Average wages per employee	Rs.	***	***	***	***
Trend	Index	100	114	126	126

### d) Inventories

134. Inventory holding of the domestic industry has gone up over the injury period as shown in the following table:

Particulars	Unit	2004-05	2005-06	2006-07	POI
Opening stock	Rs. Lacs	***	***	***	***
Closing stock	Rs. Lacs	***	***	***	***

Average stock	Rs. Lacs	***	***	***	***
Trend	Index	100	125	168	212

**e) Productivity**

135. The productivity of the domestic industry has been examined with reference to production per day and per employee as follows:

Productivity	Unit	2004-	2005-	2006-	POI
Total Production	Nos.	370	437	536	393
Trend	Indexed	100	118	145	106
Production Per day (considering 330 working days)	Nos.				
		1.12	1.32	1.62	1.19
Trend	Indexed	100	118	145	106
No of Employees	Nos	***	***	***	***
Trend	Indexed	100	103	121	136
Productivity per employee	Nos.	***	***	***	***
Trend	Indexed	100	115	120	78

The above data shows that the productivity of the domestic industry, that was improving till 2006-07, declined in the period of investigation.

**(f) Growth**

136. The domestic industry has shown positive growth in terms of absolute volume of production and sales of the domestic industry over the injury period. However, the growth is lower than the growth in domestic demand leading to negative growth of market share of domestic industry. The growth is negative when examined in terms of profitability, productivity and market share. The domestic industry has shown adverse growth in almost all injury parameters during POI when compared to 2006-07.

**g) Ability to raise fresh Investment**

137. The Authority notes that there is a healthy growth in domestic demand for the subject goods but still the domestic industry could not make fresh capital

investments for expansion due to significant growth in dumped imports from subject country.

#### **h) Magnitude of Dumping**

138. The dumping margin determined for the subject country and the applicant exporters is not only above de minimis level but significant.

#### **i) Factors affecting prices**

139. The examination of trend in the volume of dumped imports and prices from the subject country and the domestic prices indicate that the dumped imports through volume and price effects have affected the prices of the domestic industry. The cost of sales has increased during POI as compared to the base year whereas the selling price has not increased in proportion to the cost of sales, making a suppressing effect on prices of domestic industry. The undercutting of selling price by imports continued throughout injury period.

#### **H.4. Conclusion on injury**

140. The demand of goods in terms of numbers has increased from 1380 in base year to 2378 in POI, i.e., increase by 72%. The domestic sales have increased marginally by 9% during the same period. The Authority notes that the domestic industry could not take advantage of increase in demand in the market due to presence of imports from subject country. The cost of sales increased by 32% whereas sales value increased only by 16%. Consequently, the profit (PBIT) declined from 100(index) in base year to (-) 31 (index) in POI and the return on investment declined from 100 (index) in base year to (-) 19 in POI. Hence, as compared to base year, the financial performance of domestic industry declined significantly in POI, though domestic industry was in position to increase sales both in value and volume terms.

141. The Authority has noted that on production and sales, the domestic industry has been able to show improvement in performance. However, examination of the imports of the product and performance of domestic industry clearly shows that the imports of the product under consideration have increased in absolute terms and as also in relation to production and consumption in India. The imports are significantly undercutting the prices of the domestic industry in the market and the effect of the dumped imports was to suppress the prices of the domestic industry in the market. The price underselling is significant. The prices have not increased in proportion to the increase in the cost of production.

142. It is thus concluded that performance of the domestic industry deteriorated from the base year in terms of market share, profits, cash profits & return on investments. The price undercutting and price underselling is significant. Imports

are adversely affecting the domestic prices. Even though performance of the domestic industry improved in terms of production, sales, capacity utilization, the Authority considers that these positive improvements were off-set by negative developments in market share, profits and return on investments. Further, the increase in domestic production was not in commensuration with the increase in domestic demand. The Authority notes that the profits and return on capital employed, which should have improved as a result of increase in production and sales, have instead declined significantly.

143. The Authority, based on the above analysis, concludes that the domestic industry has suffered material injury.

***I. Causal link and other factors***

144. Having examined the existence of material injury and volume and price effects of dumped imports on the prices of the domestic industry, in terms of its price undercutting, price underselling and price suppression, and depression effects, other indicative parameters listed under the Indian Rules and Agreement on Anti Dumping have been examined to see whether these any other factor, other than the dumped imports could have contributed to injury to the domestic industry. Accordingly, the following parameters have been examined:

***i) Volume and prices of imports from other sources***

DGCIS data shows that the subject goods are being imported from other countries not under investigation. However, the volume of import from the subject country is about 70% of total imports. Therefore, imports from all other sources are lower than the imports from subject country and prices are higher than the import prices from the subject country. Therefore, the imports from other countries do not affect the prices in the domestic market;

***ii) Contraction in demand and / or change in pattern of consumption***

Demand for the subject goods shows a healthy growth during the entire injury investigation period and therefore, the injury to the domestic industry has nothing to do with the lack of demand in the country. The data on consumption and demand does not show any significant change in the pattern of consumption of the product.

***iii) Trade restrictive practices of and competition between the foreign and domestic producers***

The goods are freely importable. The applicant is the one of the major producer of the subject goods and account for significant domestic production and sales.

No other evidence of conditions of competition or trade restrictive practices has been brought to the knowledge of the Authority by any interested party.

***iv) Development in technology***

There is no allegation of significant changes in technology, which could have caused injury to the domestic industry.

***v) Export performance of the domestic industry***

The Authority notes that the export sale of the domestic industry is significant. However, for the purpose of injury analysis the domestic sales only has been considered and injury, if any, caused due to the export performance of the domestic industry has not been attributed to the dumped imports.

Exports	Unit	2004-05	2005-06	2006-07	POI
Export sales	Nos.	***	***	***	***
Trend	Indexed	100	110	106	84

***vi) Productivity of the Domestic Industry***

Productivity of the domestic industry has declined in the period of investigation due to surge in dumped imports from subject country.

145. The above non-attribution analysis shows that no other known factors, other than the dumped imports, appear to have affected the domestic industry.

***I.1 Factors establishing causal link***

146. Analysis of the performance of the domestic industry over the injury period shows that the performance of the domestic industry has materially deteriorated due to dumped imports from the subject country. Therefore, the causal links between dumped imports and the injury to the domestic industry is established on the following grounds:

a. The volume of dumped import from the subject country has sharply increased at significantly lower prices during the injury investigation period, resulting in significant price undercutting and underselling. As a direct consequence, the domestic industry could not increase its prices in line with increase in the cost of production resulting in financial losses.

b. Increase in import volumes and suppression of domestic prices adversely affected the profits, cash flow and return on investments of the company.

c. Significant positive price undercutting resulted in increase in market share of imports from the subject country. As a direct consequence, market share of the domestic industry has declined. The domestic industry appears to have responded to decline in import prices by suppressing its prices and suffered financial losses.

147. Therefore, the Authority concludes that the domestic industry has suffered material injury and the injury to the domestic industry has been caused by the volume and price effects of dumped imports from the subject country.

**J. Magnitude of Injury and injury margin**

148. The non-injurious prices for PPM of different clamping force produced by the domestic industry as determined by the Authority has been compared with the landed value of the exports from the subject country for determination of injury margin. Both dumping margin and injury margin have been determined considering the exports of PPM's upto 800 tons from the subject country. The weighted average landed price of the exporters from the subject country and their injury margins have been worked out as follows:

Producer	Exporter	Injury Margin
Guangzhou Borch Machinery Co. Ltd	Guangzhou Borch Machinery Co. Ltd	75-85
Zhejiang Sound Machinery Manufacture Co. Ltd.	Zhejiang Sound Machinery Manufacture Co. Ltd.	190-200
Zhejiang Golden Eagle Plastic Machinery Ltd.	Zhejiang Golden Eagle Co. Ltd.	150-160
Ningbo Liguang Machinery Co. Ltd.	Ningbo Liguang Machinery Co. Ltd.	140-150
Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.	Ningbo Haixing Plastic Machinery Mfg. Co. Ltd.	150-160
Hangzhou Tederic Machinery Co. Ltd.	Hangzhou Tederic Machinery Co. Ltd.	100-110
Ningbo Haitian Plastic Machinery Group	Ningbo Haitian Plastic Machinery Group	90-100
Haitian Heavywork Machinery Co. Ltd.	Haitian Heavywork Machinery Co. Ltd.	170-180
Ningbo Haitian Huayuan Machinery Co. Ltd.	Ningbo Haitian Huayuan Machinery Co. Ltd.	100-110
M/s Smargon Plastic Machinery Co. Ltd.	M/s Smargon Import & Export Co. Ltd.	240-250
Any other exporter		240-250

## **K. Conclusions**

149. After examining the issues raised and submissions made by the interested parties and facts made available before the Authority, as recorded in this finding, the Authority concludes that:

- i) The subject goods have entered the Indian market from the subject country at prices less than their normal values in the domestic market of the exporting country;
- ii) The dumping margins of the subject goods imported from the subject country are substantial and above de minimis;
- iii) The domestic industry has suffered material injury and the injury has been caused to the domestic industry, both by volume and price effect of dumped imports of the subject goods originating in or exported from the subject country.

## **L. Indian industry's interest & other issues**

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

## **M. Recommendations**

151. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the exporters, importers and other interested parties to provide positive information on various aspects of dumping, injury and causal links. Having initiated and conducted investigation into dumping, injury and causal links between dumping and injury to the domestic industry, in terms of the Rules laid down, and having established positive dumping margin against the subject country, and having concluded that the domestic industry suffered material injury due to such dumped imports, the Authority is of the opinion that imposition of definitive measure is required to prevent injury to the domestic industry.

152. Therefore, Authority considers it necessary and recommends imposition of definite anti-dumping duty on imports of subject goods, from the subject country, in the form and manner described hereunder.

153. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of definitive anti-dumping duty equal to the lesser of margin of dumping and margin of injury, so as to remove the injury to the domestic industry. The Authority further notes that there is a significant differentiation of the product in terms of its capacity and prices. Therefore, anti-dumping duty in terms of reference price or fixed duty would not be appropriate in this case. Therefore, the Authority recommends imposition of anti-dumping measure as an ad valorem duty, to be worked out as a percentage of the CIF value of imports of the subject goods from the subject country. Accordingly, antidumping duty equal to the amount arrived at by applying the percentage indicated in Col 9 of the duty table annexed herewith is recommended to be imposed from the date of imposition of the provisional duty notified by the Central Government on imports of all types of Plastic Processing Machines having clamping force not less than 40 tons and those not more than 1000 MT excluding the following types:

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

**Duty Table**

Sl. No	Tariff Item	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	% of CIF Value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	8477.1000	Plastic Processing or Injection Moulding Machines	Clamping force equal to or more than 40 Tons and equal to or less than 1000 tons (*)	China PR	China PR	M/s Guanzhou Borch Machinery Co. Ltd	M/s Guanzhou Borch Machinery Co. Ltd	60%
2.	-Do-	-Do-	-Do-	China PR	China PR	M/s Zhejiang Sound Machinery Manufacture Co. Ltd.	M/s Zhejiang Sound Machinery Manufacture Co. Ltd.	135%
3.	-Do-	-Do-	-Do-	China PR	China PR	M/s Zhejiang Golden Eagle Plastics Machinery Co. Ltd.	M/s Zhejiang Golden Eagle Co. Ltd.	126%
4.	-Do-	-Do-	-Do-	China PR	China PR	M/s Ningbo Liguang Machinery Co. Ltd.	M/s Ningbo Liguang Machinery Co. Ltd.	81%
5.	-Do-	-Do-	-Do-	China PR	China PR	M/s Ningbo Haixing Plastics Machinery Mfg. Co. Ltd.	M/s Ningbo Haixing Plastics Machinery Mfg. Co. Ltd.	100%
6.	-Do-	-Do-	-Do-	China PR	China PR	M/s Hangzhou Tederic Machinery Co. Ltd.	M/s Hangzhou Tederic Machinery Co. Ltd.	68%
7.	-Do-	-Do-	-Do-	China PR	China PR	Ningbo Haitian Plastic Machinery Group	Ningbo Haitian Plastic Machinery Group	79%
8.	-Do-	-Do-	-Do-	China PR	China PR	Haitian Heavywork Machinery Co. Ltd.	Haitian Heavywork Machinery Co. Ltd.	105%
9.	-Do-	-Do-	-Do-	China PR	China PR	Ningbo Haitian Huayuan Machinery Co. Ltd.	Ningbo Haitian Huayuan Machinery Co. Ltd.	76%
10.	-Do-	-Do-	-Do-	China PR	China PR	M/s Smargon Plastic Machinery Co. Ltd.	M/s Wenzhou Smargon Import & Export Co. Ltd.	174%
11.	-Do-	-Do-	-Do-	China PR	China PR	Any combination of producer and exporter other than at Sr. No. 1 to 10 above.		174%
12.	-Do-	-Do-	-Do-	China PR	Any country other than China PR	Any	Any	174%
13.	-Do-	-Do-	-Do-	76 Any country other than China PR	China PR	Any	Any	174%

(\*) The subject goods (PUC) will have the following exclusions from the scope of the anti-dumping measures as recommended in the duty table above:

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

154. Subject to the above, the Authority confirms the preliminary findings dated 10<sup>th</sup> February, 2009.

155. An appeal against the findings after its acceptance by the Central Government shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff Rules, 1995.

**(R. Gopalan)**  
**Designated Authority**