

F.No.14/25/2012-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi

DATE: 10/10/2014

NOTIFICATION
(Final Findings)

Subject: Final Findings in the Anti-Dumping investigation concerning imports of Clear Float Glass originating in or exported from Pakistan, Saudi Arabia and UAE.

F.No.14/25/2012-DGAD:- Whereas having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred to as the AD Rules or the Rules), the Designated Authority (hereinafter referred to as the Authority) received a written application under the Rules from M/s Gold Plus Glass Industry Ltd., M/s HNG Float Glass Ltd. and M/s Saint-Gobain Glass India Ltd., (hereinafter also referred to as petitioners or applicants) alleging dumping of Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive) (hereinafter referred to as the subject goods) originating in or exported from Pakistan, Saudi Arabia and UAE (hereinafter referred to as the subject countries).

2. Whereas the Authority on the basis of sufficient evidence submitted by the applicants on behalf of the domestic industry, issued a public notice dated 11th April, 2013, published in the Gazette of India, Extraordinary, initiating anti-dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries, in accordance with the Rule 6(1) of the Rules, to determine the existence, degree and effect of alleged dumping and to consider recommendation of the anti-dumping duty.

A. PROCEDURE

3. The following procedure has been followed with regard to this investigation:
 - i. The Authority notified the Embassies of the subject countries in India about the receipt of application alleging dumping of the subject goods originating in or exported from the subject countries before proceeding to initiate the investigation in accordance with sub-Rule 5(5) of the Anti-dumping Rules.
 - ii. The Authority issued a public notice dated 11th April, 2013, published in the Gazette of India, Extraordinary, initiating anti dumping investigation concerning imports of the subject goods, originating in or exported from the subject countries.
 - iii. The Authority forwarded a letter along with copy of the public notice to all the known exporters and other interested parties and the industry associations (whose details were made available by the domestic industry) and gave them opportunity to make

their views known in writing within the prescribed time limits in accordance with the Rule 6(2) of the anti-dumping Rules.

- iv. The Authority provided a copy of the non-confidential version of the application to the known exporters of the subject countries in accordance with Rule 6(3) of the Anti-dumping Rules. A copy of the application was also made available other interested parties, upon request.
- v. Copies of the letter and the exporter questionnaires sent to the exporters/producers in the subject countries were also sent to the embassies of the subject countries in India along with a list of known exporters / producers with a request to advise the known exporters/producers from the subject country as also other exporters/producers from the subject countries to respond to the questionnaires within the prescribed time limits.
- vi. The Authority sent exporter's questionnaire to elicit relevant information to the following known exporters in the subject countries in accordance with Rule 6(4) of the Antidumping Rules:
 - a. Khawaja Group Glass, Pakistan
 - b. Ghani Glass Ltd, Pakistan
 - c. Emirates Float Glass LLC, UAE
 - d. Gulf Glass Industries, UAE
 - e. Saudi Guardian International Float Glass Co. Ltd, Saudi Arabia
 - f. Obeikan Glass Company, Saudi Arabia
- vii. Response to the questionnaire was filed by the following:
 - a. Obeikan Glass Company, Saudi Arabia,
 - b. M/s Arabian United Float Glass Company, Saudi Arabia,
 - c. M/s Emirates Float Glass LLC, UAE, and
 - d. M/s Ghani Glass Limited, Pakistan.
- viii. In addition to the above, M/s Tariq Glass Industries Ltd, Pakistan, filed injury submissions and comments on the petition but not the questionnaire response and the Ministry of Commerce and Industry, Kingdom of Saudi Arabia wrote a letter to the Authority expressing that it reserves its right as an interested party in this investigation.
- ix. Importer's questionnaires were sent to the following known importers/users of subject goods in India calling for necessary information in accordance with Rule 6(4) of the Anti-dumping Rules:
 - 1 Atlantic Trading – Mumbai
 - 2 Kanch Ghar – Mumbai
 - 3 Fishfa Glass – Mumbai
 - 4 Samarth Industries – Mumbai
 - 5 Prashanth Trading – Mumbai
 - 6 Asmi Traders – Mumbai
 - 7 Rajat Glass Traders – Karad
 - 8 Chandan Glass Traders – Pune
 - 9 Kochhar Glass Traders – Bhopal

10	Ganeriwala Brothers Pvt Ltd – Kolkata
11	Sure Safe Group/ Ganeriwala Glass Traders- Kolkata
12	M S Glass Traders- Kolkata
13	Glaze Architecture Pvt Ltd- Kolkata
14	Glaze Infrastructure P Ltd.- Kolkata
15	Saraf Glass P Ltd- Kolkata
16	GSC, Noida
17	Shiv Shakti, Roorkee
18	Ridhi Sidhi, Jaipur
19	Banaras Glass, Lucknow (Globe India)
20	T. L. Verma, Chandigarh
21	Jagdamba Glass, Delhi
22	Sheesh Mahal Tuff, Rohtak
23	Nutan Glass Hs(P) ltd, Bangalore
24	Mahaveer Glass Hs, Bangalore
25	Karnataka Metal Company, Bangalore
26	Impact Safety Glass (P) Ltd, Bangalore
27	Southern Auto Products (P) Ltd, Bangalore
28	Tough Glass India, Bangalore
29	Yesho Float Glass (P) Ltd, Hyderabad
30	Bhandari Glass Co, Hyderabad
31	Prakash Glass, Hyderabad
32	Mahaveer Glass,Chennai/Navakar/Mahaveer Mirror, Vishakhapatnam
33	Uma Industries, Bangalore
34	Jai Mirror Industries, Chennai

- x. Only Samarth Industries, Mumbai, filed the Importer's Questionnaire response.
- xi. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by the interested parties.
- xii. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to arrange details of imports of the subject goods for the period of investigation and preceding three years and the same was obtained and relied upon.
- xiii. The non-injurious price (NIP) has been worked out based on the information furnished by the domestic industry on its cost of production and cost to make and sell the subject goods in India and in the light of the guidelines outlined in Annexure III to the AD Rules. The NIP has been computed so as to ascertain whether anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the Domestic Industry.
- xiv. On the spot verification of the information provided by the petitioners as well as the producers/exporters of the subject countries were conducted to the extent considered relevant by the Authority.
- xv. In accordance with Rule 6(6) of the AD Rules, the Authority also provided opportunity to all the interested parties to present their views orally in an Oral

Hearing held on 18th June, 2014. Parties which participated in the Oral Hearing were requested to file written submissions of the views expressed orally.

- xvi. Investigation was carried out for the period of investigation (POI) starting from 1st October, 2011 to 31st December, 2012. The examination of trends, in the context of injury analysis, covered the period from April 2009-March 2010, April 2010-March 2011, April 2011-March 2012 and the POI.
- xvii. The original date for completion of the investigation was up to 10.04.2014. However, at the request of the Authority, this date was extended by the Ministry of Finance up to 10.10.2014.
- xviii. A Disclosure Statement containing the essential facts in this investigation which would have formed the basis of the Final Findings was issued to the interested parties on 24.09.2014. The post Disclosure Statement submissions received from the domestic industry and the opposing interested parties have been considered, to the extent found relevant, in this Final Findings Notification.
- xix. The submissions made by the interested parties considered relevant by the Authority have been addressed in this Final Findings Notification.
- xx. ***in this Final Findings Notification represents information furnished by the interested parties on confidential basis, and so considered by the Authority under the Rules.
- xxi. The exchange rate adopted for the POI is 1 US \$ =Rs 53.10

B. Product Under Consideration and Like Article

- 4. The product under consideration (PUC) for the purpose of present investigation was defined as “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000, originating in or exported from Pakistan, Saudi Arabia and UAE.
- 5. Clear Float Glass is used in construction, refrigeration, mirror, solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface etc., the applications of the product have been increasing for different purposes.
- 6. Float Glass is classified under Chapter Heading 70 “Glass and glassware”. However, the subject goods are also being imported under tariff sub-headings 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020. However, the customs classification is indicative only and in no way binding on the scope of this investigation.

Submissions made by producers/exporters/importers/other interested parties

- 7. The submissions made by the producers/exporters/importers/other interested parties, regarding the product under consideration and like articles, during the course of the investigation and considered relevant by the Authority are as follows:

- i. Clear float Glass, which is used for decorative, industrial or automotive processes, should be excluded from the scope of product under consideration as the same was not included in the previous investigations concerning China and Indonesia.
- ii. Reflective glass, light green glass, green glass and transition glass should be excluded from the scope of the product under consideration.
- iii. The Authority should follow the same product under consideration as followed in the past cases and should exclude products which are not part of that product under consideration in terms of past practice of the Authority.

Views of the Domestic Industry

8. The product under consideration (PUC) for the purpose of present investigation is “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000.
9. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface etc., the applications of the product have been increasing for different purposes.
10. Float Glass is classified under Chapter Heading 70 “Glass and glassware”. However, the subject goods are also being imported under tariff headings 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020. It is also submitted that the custom classification is indicative only and in no way binding upon the product scope of the Customs Tariff Act, 1975.
11. There is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The applicants have claimed that the subject goods, which are being dumped into India, are identical to the goods produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject goods and the product under consideration manufactured by the applicants. The two are technically and commercially substitutable and hence should be treated as ‘like article’ under the Rules.
12. In the context of the exclusion of products such as reflective glass, light green glass, green glass and transition glass, the contention is baseless as these variants of float glass are not even a part of the Product under Consideration defined in the initiation notification. Therefore, the request for exclusion of these types does not require to be addressed as a part of these proceedings.
13. As regards the exclusion of clear float used for decorative, industrial or automotive processes purportedly on the ground that these types were not included in the previous investigations as per the “past practice” of the Designated Authority, it is submitted that the entire approach as well as the basis is self-serving, misleading, baseless and hence devoid of any merit. The responding parties have not cited any legal or logical basis in support of their claim that “past practice” should be the basis for exclusion. In the

absence of any legal or logical ground, this claim does not deserve any comment. Nevertheless, the Designated Authority may appreciate that the Product under Consideration is defined by the Designated Authority specifically for each investigation depending upon the circumstances prevailing in the context of that particular investigation. There is absolutely no occasion to draw any parallels from past cases merely because some of the applicants in the present investigations happen to be common with the previous investigations.

14. It is further submitted that Domestic Industry is producing complete range of product under consideration, i.e., “Clear Float Glass from 4mm to 12mm thickness (both inclusive). In view thereof, no request of exclusion can be entertained by the Authority.

Examination of the Authority

15. The product under consideration for the purpose of present investigation is “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000 (hereinafter referred to as the “subject goods”).
16. Clear Float Glass is used in construction, refrigeration, mirror and solar energy industries etc. The product is a superior quality of glass. Due to its inherent strength, high optical clarity, distortion free smooth surface, etc., the applications of the product have been increasing for different purposes and classified under Chapter Heading 70 “Glass and glassware”. The classification at the 8-digit level is 70051090 even though the same are being classified and imported under various sub-headings like 7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019 and 7020 etc. The custom classification is indicative only and in no way binding upon the product scope of the Customs Tariff Act, 1975.
17. With regard to like article, Rule 2(d) of the Anti-dumping Rules provides as under:

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation."
18. The Authority notes that there is no known difference in product under consideration produced by the Indian industry and exported from subject countries. Product under consideration produced by the Indian industry and imported from subject countries are comparable in terms of characteristics such as physical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The subject goods produced by the domestic industry are like article to the product under consideration imported from subject countries within the scope and meaning of Rule 2(d) of anti-dumping Rules.
19. The various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to the scope of PUC and domestic like article and considered relevant by the Authority are examined and addressed as follows:
 - i. As regards the submission that the reflective glass, light green glass, green glass and transition glass should be specifically excluded from the purview of the product under consideration, the Authority notes that the PUC has been defined in

the present investigation as “Clear Float Glass” and as such does not include the said products.

- ii. As regards the submission that Clear float Glass, which is used for decorative, industrial or automotive processes, should be excluded from the scope of product under consideration, the Authority notes that clear float glass meant for decorative, industrial or automotive processes does not make it different from another clear float glass of 4mm to 12mm as long as both are technically and commercially substitutable within the purview of Anti-dumping Rules.
20. After considering the information on record, the Authority has determined that there is no known difference in the subject goods produced by the domestic industry and that imported from the subject countries. The subject goods produced by the domestic industry and the subject goods imported from subject countries are comparable in terms of characteristics such as physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, distribution and market & tariff classification of the goods. The consumers are using the two interchangeably. Therefore, the Authority confirms the product under consideration as “Clear Float Glass of nominal thicknesses ranging from 4mm to 12mm (both inclusive)”, the nominal thickness being as per BIS14900:2000.

C. Domestic Industry and Standing

Submissions made by producers/exporters/importers/other interested parties

21. It is contended by certain interested parties that the Domestic Industry does not have the standing in terms of Rule 2(b) as the two other major domestic producer M/s Asahi India Glass Limited and Gujarat Guardian Ltd cannot be considered as supporters without providing any data in support. The Designated Authority must terminate the present investigation in the absence of lack of information provided by the other domestic producers who constitute a significant proportion of the total domestic production.

Views of the Domestic Industry

22. The applicants with or without the support from other two domestic producers, namely, M/s Asahi India Glass Limited (AIS) and Gujarat Guardian Ltd. (GGL), account for more than 50% of the total Indian production. Further, the applicants have neither imported the subject goods from the subject countries nor are they related to any importer of the subject goods. Therefore, the applicants satisfy the requirements of ‘standing’ under Rule 5 of the AD Rules and also constitute ‘Domestic Industry’ in terms of Rule 2(b) of the AD Rules.

Examination of the Authority

23. Rule 2(b) of the AD Rules defines domestic industry as under: -

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

24. The Application has been jointly filed by M/s Gold Plus Glass Industry Ltd., M/s HNG Float Glass Ltd. and M/s Saint-Gobain Glass India Ltd. There are two other producers, namely M/s Asahi India Glass Limited (AIS) and Gujarat Guardian Ltd. (GGL) who have supported the petition. The Authority notes that the petitioners account for more than 50% of the total Indian production and, therefore, production by the petitioners constitutes a major proportion in total production of the like product produced in India. It is further noted that none of the petitioners has imported the product under consideration nor are they related to an importer or exporter of the product under consideration. Therefore, the petitioners constitute 'Domestic Industry' in terms of Rule 2(b) of the AD Rules. Since the application is filed by applicants accounting for more than 50% of the total domestic production, it satisfies the requirements of 'standing' under Rule 5 of the AD Rules.

D. Confidentiality

Submissions made by producers/exporters/importers/other interested parties

25. Various submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

- i. The petition suffers from excessive confidentiality. The petition provides absolutely no information with respect to petitioner's policy regarding its distribution channels, commission/discount policy, credit terms, normal value calculation, purchase policy, sales policy, inventory etc.
- ii. The domestic industry has claimed and has been allowed excessive confidentiality in the sense that they have not made available their annual report in the public file.
- iii. The applicant domestic producers have claimed confidentiality on the costing information. It is submitted that the following information submitted as part of costing information can easily be provided in indexed form so as to indicate a trend along with the petition.
- iv. Petitioner has not disclosed many material information relating to methodology used to refine the import data.

Submissions made by the domestic industry

26. Various submissions made by the domestic industry with regard to confidentiality and considered relevant by the Authority are as follows:

- i. Petitioner has claimed confidentiality on information provided by them as allowed in rule 7 of the AD rules and a meaningful summary of such information were also provided. The claims of interested parties that the petitioner has claimed excessive confidentiality are baseless.
- ii. On the other hand, excessive confidentiality has been claimed by the exporters in as much as the non-confidential versions of the questionnaire response were not the exact replica of the confidential version filed by the exporters as required under the Rules and the instructions on the issue.

iii. Basic information as to when the commercial operations of the exporters started has also not been provided.

Examination by the Authority

27. Various submissions made by the interested parties during the course of the present investigation with regard to confidentiality and considered relevant by the Authority are examined and addressed as follows:

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

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

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

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalized or summary form, it may disregard such information.

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

E. Miscellaneous Submissions

Submissions made by producers/exporters/importers/other interested parties

28. The miscellaneous submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation and considered relevant by the Authority are as follows:

i. The application filed by the Domestic Industry is not in the form and manner prescribed by the Authority.

ii. The petition is deficient and, therefore, the investigation needs to be terminated.

- iii. Moreover, there are several inaccuracies in the petition. Importers need not file questionnaire response in order to be treated as a cooperating importer. Non-filing or incomplete filing of response does not dilute the right of an interested party to make submissions.
- iv. It is submitted that there are vital differences between the petition based on which the present investigation is initiated and the non confidential version of the petition supplied to the interested parties after incorporating the information for the 3 months suo-moto extended in the POI by the Authority.
- v. The domestic industry has not provided any details of average selling price of indigenous product anywhere in Proforma IVB.
- vi. It is to be noted that sheet glass, which is a commercial substitute of clear float glass, is also a similarly low priced import which may be considered to be another cause of injury, if any, to the applicant domestic producers. The presence and immediate availability of a commercial substitute for float glass could be reason as to why the domestic float glass producers may be suffering injury.
- vii. It is relevant that during the POI, the exchange rate for USD that has been adopted by domestic industry is Rs 53.10. However, the prevailing rate of USD, as per the RBI, is currently Rs 61.90. It is also predicted that Rupee will not appreciate once again and may get depreciated further. This means that imports into India currently are priced significantly higher than what they used to be during the POI. It is also submitted that the applicant domestic producers arrived at a price undercutting of 15-25% considering the exchange rate of Rs 53.10. However, if the prevailing exchange rate is considered, which would present the most accurate picture, the level of price undercutting and price underselling would be eliminated.
- viii. The Domestic Industry has not followed the Rule 7 while providing non-confidential version of the application.
- ix. Support letters are not for complete period of investigation.
- x. Certifications provided by Domestic Industry are not correct and even not covering the complete period of investigation.
- xi. The time period in this case had expired on 10th April 2014. Both the dates, i.e., 5th June 2014 or 12th May 2014 fall beyond the expiry of one year period on 10th April 2014. After the expiry of one year period, one cannot revive a dead investigation.

Views of the Domestic Industry

29. The miscellaneous submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority are as follows:
 - i. Producers/exporters from Saudi Arabia and UAE enjoy undue advantage in costing because of dual pricing of natural gas and other utilities. Therefore, the true price of natural gas should be reflected while calculating the cost of production.
 - ii. Certificates are not signed as per the prescribed guidelines. Moreover, complete

addresses of plant and corporate office were also not provided by the exporters in response to the questionnaire sent by the Authority.

- iii. The information provided in the petition is correct and shows no discrepancy as claimed by the interested parties. Further, the domestic industry has followed all the procedures prescribed in the Rules.
- iv. Domestic Industry has provided complete details of selling price in the Proforma IV A and in the injury analysis. Therefore, mere non reproduction of the information at one place cannot be said as violation of any rule, particularly when the domestic industry has provided price undercutting separately while giving injury analysis.
- v. The domestic industry has provided complete raw data to the Authority and explained the segregation methodology in detail. Thereafter, the domestic industry has only provided the data relevant for the investigation in the petition. It is also important to note that all the interested parties have made mere submissions and failed to present any evidence to show that the same is incorrect.
- vi. It is submitted that the Sheet glass and Clear Float glass are technically and commercially different and therefore, cannot be termed as like product in any manner whatsoever. More importantly, none of the interested parties has placed any evidence to prove otherwise. Therefore, it is requested that Authority should completely reject the argument of substitutability raised by the interested parties.
- vii. The methodology suggested by the interested parties that the Authority should use current exchange and determine price undercutting is wrong and contrary to the established practice of the DGAD. Moreover, the said methodology is also not sustainable either logically or legally. Therefore, same should be rejected.
- viii. The contention of the interested parties about the extension of time is wrong. In our view, the Ministry of Finance is fully empowered to extend the period even after the expiry of the period. Moreover, it is an administrative procedural issue.

Examination by Authority

30. Various miscellaneous issues raised by the interested parties during the course of the present investigation and considered relevant by the Authority are examined herein below:
 - a. As regards the argument of the opposing interested parties that the petition is deficient and, therefore, the investigation needs to be terminated, the Authority notes that the present investigation was initiated on the basis of prima facie evidence furnished by the domestic industry showing dumping, injury and causal link and justifying initiation of the investigation in accordance with the Act and Rules. The Authority has also called for additional information wherever required and verified the information furnished by the domestic industry.
 - b. With regard to the argument on certificates and support letter, it is noted that the same are complete and correct for the period of investigation.
 - c. As regards the argument of using current exchange rate for determining price undercutting, the Authority noted that the same is not practically possible and it would

not be appropriate to analyze as effect of exchange rate in isolation when other factors are also variable in nature. Moreover, the same is logically and legally incorrect proposition to adopt.

- d. As regards the issue of substitutability of the Sheet Glass and Clear Float Glass, it is noted that the same cannot be termed as like article in terms of Rule 2(d). Therefore, the same cannot be said to substitute.

NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

F. Normal Value, Export Price and Dumping Margin

31. The submissions concerning normal value, export price and dumping margin made by the producers/exporters/importers/other opposing interested parties during the course of the investigation and considered relevant by the Authority are as follows:
 - i. The applicant domestic producers have sought to have an investigation initiated against the subject goods but have adduced no evidence in support of the same, which has been accepted by the DGAD. In this connection, it is submitted that no investigation is tenable without the fulfillment of the basic evidentiary standards and, therefore, the present investigation must be terminated immediately.
 - ii. The two conditions specified in the relevant provisions do not include “non-availability” of data relating to domestic selling prices as a ground for construction of normal value. The basis stated in the application for resorting to constructed normal value is thus erroneous.
 - iii. In all the investigations involving Saudi Arabia, the domestic industry has made a claim that a ‘particular market situation’ is prevailing in Saudi Arabia due to the low prices of natural gas. The Authority has rejected such claims in all the investigations. The respondents also submit that there are certain commodities in which some countries have a geographical advantage, and merely possessing such an advantage does not mean that there exists a “particular market situation” in an anti-dumping investigation.
 - iv. Obeikan Glass Company commenced commercial production on 1st July, 2011. The POI in the subject investigation is October, 2011 to December, 2012. The respondent is thus facing antidumping action soon after starting its commercial production. During this period, the cost structure of the respondent was high on account of the huge start-up costs and low capacity utilization.
 - v. The estimate of inland freight provided by applicant domestic producers is also not supported by any evidence. The applicant domestic producers have arbitrarily arrived at a set of figures to express its estimation of inland freight. The application did not contain any evidence as to how the figure cited as inland freight was arrived at and what the relevant calculations are.
 - vi. The normal value and export price arrived at by petitioners in the petition cannot be accepted as correct since petitioners have not made available any evidence to support their computations.

- vii. The Designated Authority has also not followed the prescribed procedure with regard to Normal Value in terms of Para 7 of Annexure I of the Anti-dumping Rules.
 - viii. The adjustments made by the applicants with respect to the export price are abnormally high and unsupported by any evidence. Therefore, the Authority should use correct adjustments while computing the export price.
 - ix. Total quantum of imports from subject countries is very less and constitutes only around 6% of the demand in India.
 - x. All the imports from Pakistan are coming via road transport. Hence, the expenditure on ocean freight is not applicable for imports from Pakistan.
 - xi. The adjustment made for marine insurance in the petition is not acceptable for this reason.
 - xii. Antidumping duty, if any, should be imposed on reference price basis.
32. The submissions made by the domestic industry concerning normal value, export price and dumping margin and considered relevant by the Authority are as follows:
- a. The producers in Saudi Arabia and UAE enjoy undue advantage with respect to energy pricing, essentially on account of government intervention. The energy cost which is substantial part of the cost for the subject goods cannot be accepted on its face value on account of differential pricing policy followed in these countries. Moreover, this is not reflective of fair market price of utility cost in Saudi Arabia and UAE. The Authority is requested to take into account the market price of the utility cost while computing the cost of production for the purpose of determining normal value in Saudi Arabia and UAE.
 - b. M/s Obeikan Glass Company has specifically withheld information from the Authority in relation to supply of raw material and utilities. Even the costing heads have not been provided in Appendix 8, which gives rise to a suspicion that they are attempting to hide something or to mislead the Authority.
 - c. M/s Obeikan Glass Company has provided wrong and misleading information about the commencement of their operations. From their commercial presentation, it is clear that they have started their operations in April, 2011, whereas they are showing date of July 1, 2011. The same should be checked and if found correct the exporter should be rejected for providing false data.
 - d. The request of Obeikan for accepting start-up cost adjustments needs to be rejected as the same is not part of non-confidential version of the response and most importantly because they have started their commercial operation prior to the period of investigation. According to the law and available jurisprudence, only when a firm starts commercial operation during the period of investigation, the start-up adjustments can be allowed. It is beyond any doubt that the M/s Obeikan has started operations much prior to the investigation.
 - e. The exporter has also misled the Authority by not disclosing the fact that there are significant differences in the export sales and domestic sales, regarding packing, freight, delivery terms and payment terms while charting differences in export and

domestic sales. Further, they have also not provided any details about service support they are providing in domestic market.

- f. In view of the fractured information provided by the M/s Obeikan Glass Company, Domestic Industry requests the Authority to reject their normal value for the purpose of this investigation.
- g. The Domestic Industry has provided all the evidences required during the investigation wherever required. Therefore, the contention of the interested parties that no information was provided is wrong and needs to be rejected.
- h. Without prejudice to the factual inconsistency by Obeikan in its claims, it is submitted that the claims of start-up cost adjustment are not available to the said exporter also on the ground that they had admittedly started the commercial production much prior to the period of investigation. Kind attention is invited to Paragraph 3(ii) of Annexure I of the Anti-dumping Rules which reads as under:

“(ii) unless already reflected in allocation of costs referred to in clause (1) and sub-clause (i) above, the designated authority, will also make appropriate adjustments for those non-recurring items of cost which benefits further and/or current production, or for circumstances in which costs during the period of investigation are affected by startup operation.”

- i. It may be seen from the above that the said rule empowers the Designated Authority to make appropriate adjustments only if costs during the period of investigation are affected by startup operation. In other words, such adjustments under this clause are permitted only and only if the start-up operation has taken place during the Period of Investigation and has affected the costs of that period.
- j. It may also be noted that the Obeikan was setup sometime in 2010 and the commercial production started in February 2011, as is evident from the website of the exporter-producer. Since it is an admitted fact that the startup operation did not take place during the POI, the question of making any adjustment on account of startup operation simply does not arise. In view thereof, the exporter cannot seek this adjustment as the exporter did not start his operations in the period of investigation.
- k. Adjustments under paragraph 3 (ii) of Annexure I on account of start-up of expenses claimed by the M/s Obeikan should be rejected as it is a undisputed fact that that M/s Obeikan was an established industry as they were setup in the year 2010 and started commenced commercial production in February 2011 i.e., much prior to the period of investigation of October 2011-December 2012. Assuming but not accepting that they started their commercial production in July 2011, still it is much prior to the period of investigation and hence, not eligible for any adjustment in terms of the provisions cited above.
- l. The issue of handling start-up costs has been very eloquently described in the US law (Section 773(f)(1)(C)(ii) of the Act) which throws considerable light on the methodology of computing the start-up costs. From the said section, the following would become obvious:

- i. That the US law specifically mandates that the Authority ought to identify the start of the start-up period as well as the end of the start-up period [See 773(f)(1)(C)(ii) (4)(i)].
- ii. That there are specific guidelines and understanding which have to be applied for determining the end of the start-up period [See 773(f)(1)(C)(ii) (2)]. These laws are based on sound economic principles and ought to be applied in India even if there are no specific guidelines in India.
- iii. That the US law specifically provides that a producer's projections of future volume or cost will be accorded no weight [See 19CFR 35.407 (d)(3)(ii)]. It is submitted that there is no precedence of computing the costs of an exporter on hypothetical and arbitrary projections. It has been the consistent practice of the Authority to take into account only the actual costs as far as the exporters are concerned. There are no reasons for deviation from this practice and the plain position of law.
- iv. That the US law provides that the production levels during the POI have to be limited due to technical factors associated with initial phase of commercial production.
- m. It is further submitted that world-wide start-up costs is adjusted by amortizing the difference between actual costs and the costs of production calculated for startup costs over a reasonable period of time. The calculation of reasonable period can be decided on case to case basis. In the instant case, this period is typically 15-20 years which coincides with the expected life of the furnace.
- n. In view of the above, it is clear that for the purpose of allowing adjustment on account of start-up costs, it would be necessary that:
 - i. The effect of start-up costs should be within the period of investigation.
 - ii. It should be demonstrated that the production levels during the POI were limited due to technical factors associated with initial phase of commercial production.
 - iii. Details of the startup cost have to be provided by the exporter to even claim them as an adjustment.
 - iv. The claim of adjustment has to be based on evidence, data, information or substantiation to justify such an adjustment.
 - v. Details with evidence have to be provided for identifying the end of the startup period.
 - vi. Details have to be provided on amortization of start-up cost over a reasonable period of time subsequent to the startup period over the life of the product or machinery.
- o. Domestic Industry in their submissions has also stated that as per the non-confidential version of the response and the website of Obeikan, the plant is not a new plant as admittedly the same was setup prior to the period of investigation. Further, none of the above necessary conditions and requirements have been fulfilled so as to allow the

claim of start-up cost adjustment. The Domestic Industry further submitted that the non-confidential version of Appendix-8 does not even reveal the elements of costing which gives rise to suspicion that they are attempting to hide something or to mislead the Authority. ...It is submitted that no exporter can be allowed to keep even the elements of costs confidential that too without assigning any reasons. They have further submitted that the fact that the exporter's request for adjustment on account of the so-called start-up costs was cleverly and mischievously concealed in the non-confidential version of their response as well as in other correspondence. It was for the first time in the written submissions (not even during the hearing) that the claim of the exporter with regard to "start-up cost" came on board.

- p. In view of the above, any claim for adjustment of normal value on account of startup cost has to be necessarily disallowed.
- q. Without prejudice to the aforesaid, if the exporter has submitted any additional information / evidence during the verification visit, the same may be supplied to the Domestic Industry for its comments. This is also without prejudice to the contention that new information cannot be taken during the verification visit or after the public hearing is over. The Authority may refer to the case of CR Coils wherein a detailed report by a public sector enterprise regarding the technical capability of the Domestic Industry was rejected on the sole ground that the same was filed after the public hearing.
- r. The request of the exporter for granting reference price duty cannot be accepted. It is submitted that the reference price based duty does not take into account the price and cost volatility of the subject goods. In such a scenario, duty based on reference price will not be able to provide sufficient and effective protection to the domestic industry against dumped imports from the subject country.

Examination by Authority

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

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

34. The Authority sent questionnaires to the known exporters from the subject countries advising them to provide information in the form and manner prescribed. However,

barring the following producers and exporters, none of the other producer/exporter from subject countries has cooperated in this investigation by filing their Questionnaires' responses.

- (i) M/s Obeikan Glass Company, Saudi Arabia.
- (ii) M/s Arabian United Float Glass Co., Saudi Arabia.
- (iii) M/s Emirates Float Glass LLC, Abu Dhabi, UAE.
- (iv) M/s Ghani Glass Company, Pakistan.

35. Since the above mentioned companies have filed the questionnaire response, the Authority has determined individual dumping margin in respect of these companies. The general methodology adopted for determination of Normal Value for them was that it was first seen whether the domestic sales of the subject goods by the responding exporters in their home markets were representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and whether the ordinary course of trade test was satisfied as per the data provided by the respondents. In other cases, i.e., where the domestic sales of the subject goods by the responding exporters in their home markets were not representative and viable for permitting determination of Normal Values on the basis of domestic selling prices and where the ordinary course of trade test was not satisfied, the costs of production including SG&A expenses claimed by the respective exporters have been accepted after verification and after adding 5% towards profit, the normal value has been determined.
36. In the absence of cooperation from the other producers/exporters in the subject countries, the Authority has determine the normal value, on the basis of facts available in terms of Rule 6 (8) of AD Rules read with Article 6.8 of the Agreement.
37. Accordingly, the Authority has determined the normal value, export price and dumping margin in respect of producers/exporters of the subject countries as follows:

Normal Value in case of M/s Obeikan Glass Company, Saudi Arabia

38. The questionnaire response was perused and it was found that the respondent has provided domestic sales price details of the subject goods in Appendix 1 and 3B of their response. It was noted that the weighted average domestic selling price so determined was less than the weighted average domestic cost of production and the loss making domestic sales transactions were more than 20% of the total domestic sales. Therefore, the Authority has proceeded to determine the Normal value based on the profitable domestic sales in terms of the provisions of Annexure I of the AD Rules.
39. As regards the claim of the exporter for adjustment in the cost on account of the start-up costs, the Authority observes that the law indeed provides for such adjustments in terms of paragraph 3 of Annexure I to the Anti-dumping Rules subject to the conditions mentioned therein. The relevant portion of the said paragraph is reproduced below:
- “(ii) unless already reflected in allocation of costs referred to in clause (1) and sub-clause (i) above, the designated authority, will also make appropriate adjustments for those non-recurring items of cost which benefits further and/or current production, or for circumstances in which costs during the period of investigation are affected by startup operation.”*
40. It is noted that the said provision does not elaborate as to the exact meaning of the term

“start-up costs” nor does it give any guidance on the circumstances under which such adjustments are to be allowed. There is also no methodology prescribed for making such adjustments. However, the Domestic Industry has drawn the attention of the Authority to the provisions of the US laws and practices on the issue in great detail. While the US laws are not binding on the Authority in any manner whatsoever, the Authority is of the view that the economic rationale and the methodology of the said provisions do not lose their importance. From a careful analysis of the aforesaid provisions, it appears that the start-up costs are intricately related to the difficulties which the industry may have to face in the initial phase of their operations. Certainly, these difficulties have to be related to the technical issues and not the slowness of operations for any other reasons. Secondly, it needs to be clearly identified as to what are the starting point and the end-point of the start-up period.

41. The Authority also notes the objection of the Domestic Industry that the exporter had not indicated that their intent to claim adjustment on account of the start-up costs in the non-confidential version of the exporter’s questionnaire response. The Domestic Industry has also vehemently raised the issue that the exporter has not given such information until the stage of the post-hearing written submissions.
42. Keeping the above in mind, the Authority notes that though the exporter has a right to claim the adjustment on account of such pre-commercial operations costs which may be having an effect on the costs during the period of investigation, yet at the same time, the Authority is of the view that any adjustment in the actual cost has to be based on actual figures and information. It is seen that based on actual figures and information, the claim of the exporter does not meet the criteria and tests for treating such costs as “start-up” costs and, therefore, the Authority has decided not to consider adjustment on account of start-up cost.
43. The exporter has claimed adjustments on account of (a) Rebates (b) Inland freight and (c) Credit cost and bank charges. It was explained during verification visit that there is no difference in the packing cost incurred for domestic sales and export sales and, therefore, the exporter has not claimed any adjustments in this regard. The adjustments claimed by the exporter have been accepted after verification. Accordingly, the Normal value at ex-factory level of US\$ ***per MT has been determined.

Export price in case of M/s Obeikan Glass Company, Saudi Arabia

44. The Authority notes from the Appendix 2 of M/s Obeikan that it had exported directly to India ***MT of the subject goods valued at SR *** to unrelated parties. OGC had claimed the adjustments on account of (i) Inland and Overseas freight, (ii) Overseas insurance (iii) Credit expenses, (iv) port handling and customs broker fee, (d) bank charges. It was explained during verification visit that there is no difference in the packing cost incurred for domestic sales and export sales and therefore the exporter has not claimed any adjustments in this regard. The Authority had verified the exports to India and the adjustments claimed by OGC and determined the net export price at US\$ ***per MT.

Normal value in case of M/s Arabian United Float Glass Co., Saudi Arabia

45. The questionnaire response was perused and it was found that the respondent has provided selling price details of the subject goods in relevant Appendices of their

response. The Authority has verified the details furnished by the exporter to the extent considered necessary. The Authority notes that the exporter has allocated the manufacturing costs between PUC and non-PUC as per their consistent practice. During the verification, the Authority was not provided any documentary evidence in support of their claim. Further, the Authority is not in a position to appreciate that the cost of production of the product could be allocated on the basis of sales quantity rather than the production quantity. The Authority has, therefore, revised the cost allocation and reworked the cost of production/sales. At the reworked cost of sales, the domestic sales made by the exporter did not pass the ordinary course of trade. The Authority has, therefore, constructed the normal value based on the revised cost of production and after adding profit at 5% of cost of sales. The Normal value for the exporter so determined works out to US\$ ***per MT.

Export price in case of M/s Arabian United Float Glass Co., Saudi Arabia

46. During the POI, the company has exported ***MT of the subject goods to India at an average invoice price of US\$ ***per Mt. The exporter has claimed adjustments on account of Ocean Freight, Inland freight and handling charges, Insurance (in case of CIF). The data were verified to the extent considered necessary and based on such verified data the net export price has been determined at US\$ ***per Mt.

Normal value in the case of other producers and exporters from Saudi Arabia

47. The normal value for other producers/exporters in Saudi Arabia has been determined on the basis of facts available in terms of 6(8) of the Antidumping Rules and the same works out to US\$ ***per MT.

Export price in case of other producers and exporters from Saudi Arabia

48. In view of the non cooperation of other exporters from Saudi Arabia in this investigation, the export price for other exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The net export price so determined works out to US\$ ***per MT.

Normal Value in case of M/s Emirates Float Glass LLC, Abu Dhabi, UAE

49. The questionnaire response was perused and it was found that the respondent has provided domestic sales price details of the subject goods in relevant Appendixes of their response. It was noted that the weighted average domestic selling price so determined was less than the weighted average domestic cost of production and it was also noted that the loss making transactions were more than 20% of the total sales. Therefore, the Authority has proceeded to determine the normal value based on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The adjustments claimed by the exporter have been verified and accepted to the extent found correct. The Normal value of the exporter so determined works out to US\$ ***per MT.

Export price in case of M/s Emirates Float Glass LLC, Abu Dhabi, UAE

50. During the POI, M/s Arabian Emirates has sold ***MT of the subject goods in the Indian market at an average price of US\$ ***per Mt. The exporter has claimed adjustment on account of inland freight, overseas freight, clearance & handling charges, overseas insurance and credit cost, and the same have been accepted after verification. Thus, the

export price for the exporter has been determined at US\$ ***per MT.

Normal value in case of other producers and exporters from UAE

51. The normal value for other producers/exporters in UAE has been determined on the basis of facts available in terms of 6(8) of the Antidumping Rules and the same works out to US\$ ***per MT.

Export price in case of other producers and exporters from UAE

52. In view of the non cooperation of other exporters from UAE in this investigation, the export price for other exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The net export price so determined works out to US\$ ***per MT.

Normal Value in case of M/s Ghani Glass Limited, Pakistan

53. The questionnaire response was perused and it was found that the respondent has provided domestic sales price details of the subject goods in relevant Appendixes of their response. It was noted that the weighted average domestic selling price so determined was less than the weighted average domestic cost of production and it was also noted that the loss making transactions were more than 20% of the total sales. Therefore, the Authority has proceeded to determine the normal value based on the profitable sales in terms of the provisions of Annexure I of the AD Rules. The adjustments claimed by the exporter have been accepted. The Normal value of the exporter so determined works out to US\$ ***per MT.

Export Price in case of M/s Ghani Glass Limited, Pakistan

54. During the POI, M/s Ghani Glass Company has sold ***MT of the subject goods in the Indian market at an average price of US\$ ***per Mt. The exporter has claimed adjustment on account of inland freight, overseas freight, clearance & handling charges and bank charges and the same have been accepted. Thus, the export price for the exporter has been determined at US\$ ***per MT.

Normal Value in case of other producers and exporters from Pakistan

55. The normal value for other producers/exporters in Pakistan has been determined on the basis of facts available in terms of Rule 6(8) of the Antidumping Rules and the same works out to US\$ ***per MT.

Export price in case of other producers and exporters from Pakistan

56. In view of the non cooperation of other exporters from Pakistan in this investigation, the export price for other exporters has been determined on the basis of best facts available in terms of Rule 6(8) of the Antidumping Rules. The net export price so determined works out to US\$ ***per MT.

Dumping Margin

57. Considering the normal values and export prices for the subject goods as determined above, the dumping margin for the subject goods as a whole has been determined as

follows. It is seen that the dumping margin for the subject goods is more than de-minimis and significant.

Dumping Margin Table

Country	Exporter/Producer	Normal Value	Net Export Price	Dumping Margin		
		(US\$/MT)	(US\$/MT)	US\$/MT	%	Range
Saudi Arabia	Obeikan Glass Company, Saudi Arabia	***	***	***	***	20-30
Saudi Arabia	Arabian United Float Glass Co, Saudi Arabia	***	***	***	***	55-65
Saudi Arabia	Non Cooperative producers/exporters	***	***	***	***	85-95
UAE	Emirates Float Glass LLC, UAE	***	***	***	***	25-35
UAE	Non Cooperative producers/exporters	***	***	***	***	40-50
Pakistan	Ghani Glass Limited, Pakistan	***	***	***	***	25-35
Pakistan	Non Cooperative producers/exporters	***	***	***	***	50-60

G. INJURY ASSESSMENT AND EXAMINATION OF INJURY AND CAUSAL LINK

Submissions made by the producers/exporters/importers/other interested parties

58. The following are the injury related submissions made by the producers/exporters/importers/other interested parties during the course of the present investigation and considered relevant by the Authority:
- i. DGAD is required to examine the data of not only the petitioner company but also other domestic producers in the market. There are 5 producers in the market, as was stated by the petitioner. That being the case, DGAD should direct petitioners to submit information about the other producers or require other domestic producers to provide necessary information for the purposes of evaluating injury.
 - ii. Import prices have increased during the injury period and, therefore, the claim of the petitioners that the dumped imports are affecting profitability and their inability to increase the selling price has no merit. There is no volume effect as well.
 - iii. It is submitted that the applicant domestic producers have not fulfilled the requirement with respect to Article 3.4 which mandates that 'actual and potential' decline in various factors be examined and established for a positive finding of injury.

- iv. It is submitted that even though the market share of imports from subject countries has slightly increased in the POI as compared to base year, there is no volume injury.
- v. The production of the domestic industry has significantly improved and the domestic industry has expanded its plant capacity over the period in a very significant manner. Thus, there is no adverse impact on this factor because of alleged dumped imports. It is also not out of place to mention here that the Indian capacity is significantly higher than the domestic demand for the product.
- vi. Negligible imports from subject countries do not cause any injury to the Domestic Industry.
- vii. There has been a marked improvement in production, production capacity, sales, employment, productivity (per day as well as per employee), etc. Thus, injury claimed by domestic industry holds no merit.
- viii. The CIF prices of imports from Saudi Arabia have undergone a consistent increase throughout the period of injury as well as the POI. The CIF price per MT underwent an increase from Rs 10790 in 2009-10 to Rs 11457 in 2010-11 and Rs 12773 in 2011-12. During the POI, it increased further to Rs 14942 which is an absolute increase of 38% from the CIF price per MT in 2009-10.
- ix. When the applicants command a market share of 93%, it is absurd to consider that import volumes from Saudi Arabia which forms less than 5% of the total demand are capable of causing injury to the Applicants.
- x. The increase in prices and the subsequent decrease in profits indicate that there is no link between the injury, if any, that the applicant domestic producers may be suffering.
- xi. One applicant domestic producer, M/s HNG Float Glass Limited has submitted information before the Competition Commission of India against M/s Saint Gobain Glass India Ltd (SGGIL) putting forth a slew of allegations against SGGIL including abuse of dominant position, aggressive and unfair pricing strategy, anti-competitive and abusive marketing strategies, in addition to alleging that the weakening of its competitors were the above factors.
- xii. HNG Float Glass Ltd has also specifically stated that the Saint Gobain Glass India Ltd was responsible for the reduction of prices of clear float glass in the marketplace.
- xiii. Internal competition between applicant Domestic Producers is a crucial factor to be taken into account while analyzing injury. The Respondent submits that the authority is required to grant this factor due importance while making any determinations with regard to injury.

xiv. In addition to above, the following factors clearly demonstrate absence of causal link between alleged dumping from subject countries and injury caused to the domestic industry:

- a) The imports from subject countries remained at very miniscule levels vis-à-vis demand for the subject goods in India during the injury period ruling out any volume effect of imports from subject countries on the domestic industry;
- b) The landed price and selling price of the domestic industry showed increasing trend ruling out any price effects on the domestic industry. In fact, there is an inverse relation between landed price of imports and selling price of the domestic industry;
- c) The most important aspect which disproves the entire argument of the petitioner with regard to causal relationship between alleged dumping and injury is that the profitability of the domestic industry showed tremendous improvements and recovery over the previous years during the POI. This should not have been the case in case of a causal relationship between the alleged dumping and injury. Thus, there is an inverse relation between alleged dumping and injury in the present case;
- d) It can be fairly ascertained that other factors were causing injury to the domestic industry in the previous years except base year. It is not demonstrated by the petitioner that such other factors were inexistent during the POI and the injury claimed by them are solely due to alleged dumping from subject countries;
- e) Segregation of injury for other reasons and alleged dumping is inevitable as the domestic industry was making losses during the previous years except base year on account of other reasons and it is not demonstrated that such other reasons were inexistent during the POI.
- f) Under the above factual circumstances, when only miniscule volume of subject goods reached India from subject countries during the injury period, when the landed price of such imports showed a continuous increases, when both volume and price parameters of injury concerning domestic industry showed improvements at a time when the petitioner alleged dumping of subject goods from subject countries, it can be fairly concluded that the situation shows absence of causal link between the alleged dumping and alleged injury.

xv. The real cause for the alleged injury to the petitioner is not dumping of subject goods but rather due to other reasons such as the internal competition with other domestic producers.

xvi. There is no price effect on domestic prices due to alleged dumped imports.

Views of the Domestic Industry

59. The following are the injury related submissions made by the domestic industry during the course of the present investigation and considered relevant by the Authority:
- i. Imports of the product under consideration have shown significant increase over the years with a significant increase in POI;
 - ii. Imports have increased in relation to production and consumption in India;
 - iii. Market share of the subject countries in demand is significant. Market share of the domestic industry has decreased in the POI as compared to the base year. The same is due to significant imports from the subject countries;
 - iv. With reduction in the prices by the foreign producers, the only choice available to the Indian producers is to either realign their prices with the changes in the import prices or to lose orders and hence the market share;
 - v. Domestic industry prices reflect the effect of the prices that are being offered by the importers in the domestic market;
 - vi. Imported goods have been undercutting the prices of the domestic industry. Price undercutting in respect of the product under consideration is quite significant.
 - vii. Inventories with the domestic industry increased in the POI as compared with the base year.
 - viii. Performance of the domestic industry has steeply deteriorated in terms of profits, return on investments and cash profits to a very significant extent. Moreover, no conclusions can be seen from the profitability of GGL (multi-product company) from its balance sheet as the GGL is multi-product company and the product under investigation is one part of that product group.
 - ix. The decline in profitability of the domestic industry was due to significant increase in the import volume at non-remunerative prices from the subject countries.
 - x. The increase in selling price was lower than the increase in cost of production and thus the dumped imports are creating price suppression effect on the domestic industry.
 - xi. As regards the submissions of interested parties that low quantum of imports and their impact of domestic industry, it is submitted that the imports from all the subject countries is above threshold limit of 3% and, therefore, it would be wrong to say that imports are miniscule. Moreover, the landed value is way below the cost and selling price of the domestic industry to cause injury. The Authority may like to appreciate that none of the exporters has claimed that they are not dumping the subject goods. Therefore, the Domestic Industry requested the Authority to kindly reject all the claims made by the responding interested parties.
 - xii. The domestic industry has suffered material injury in connection with dumping of subject goods from subject countries. Further, the domestic industry is threatened with continued injury, should the present condition continue.
 - xiii. It is submitted that the interested parties had mischievously cited only the allegation

part of the investigation and intentionally chosen to withhold the findings of the commission. It is a matter of record that the CCI held that not only SGGIL is not abusing its dominant position; it is in fact not even a dominant player. The relevant portion of finding is reproduced below for the ready reference of the Authority:

“Para 64

In the result, the Commission is of opinion that no case of contravention of the provisions of “Section 4 of the Act is made out against the opposite party and concurs with the findings of the DG in this regard.”

- xiv. In view of the above, it may be seen that the reference to the CCI investigations by the exporters is only with the objective of creating confusion and has not merit. This is without prejudice to our basic contention that a complaint by a co-applicant in fact proves that there is no collusive behavior within the industry and that there are healthy conditions of competition amongst them. We also want to draw the kind attention to the Authority to the earlier decision of the Competition Commission, where the Commission very categorically said that the glass industry is facing serious competition from the imported goods.

Examination by the Authority

60. As regards the submissions of some of the interested parties that the Designated Authority is required to examine the data of not only the petitioner company but also other domestic producers in the market, the Authority notes that the petitioner companies constitutes domestic industry under the rules and, therefore, there is no need to examine the data of the supporting companies. moreover, the other two domestic producers do not fall under the category of domestic industry in terms of Rule 2(b) as discussed in detail under the respective paragraphs.
61. The Authority has computed the non-injurious price in accordance with Annexure III to the Anti-dumping Rules and the established practices of the DGAD.
62. With regard to the analysis relating to injury to the Domestic Industry, Article 3.1 of the WTO Agreement and Annexure-II of the AD Rules provide for an objective examination of both, (a) the volume of dumped imports and the effect of the dumped imports on prices, in the domestic market, for the like products; and (b) the consequent impact of these imports on domestic producers of such products. With regard to the volume effect of the dumped imports, the Authority is required to examine whether there has been a significant increase in dumped imports, either in absolute term or relative to production or consumption in India. With regard to the price effect of the dumped imports, the Authority is required to examine whether there has been significant price undercutting by the dumped imports as compared to the price of the like product in India, or whether the effect of such imports is otherwise to depress the prices to a significant degree, or prevent price increases, which would have otherwise occurred to a significant degree.
63. Further, Annexure II to the Anti Dumping Rules provides that in case of imports of a product from more than one country are being simultaneously subjected to anti dumping investigations, the Designated Authority will cumulatively assess the effect of such imports in case it determines that: -
- i) The margin of dumping established in relation to the imports from each country is

more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the imports of the like article or where the export of the individual countries is less than three percent, the imports cumulatively account for more than seven percent of the imports of the like article, and;

- ii) Cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles.

64. The Authority notes that it is appropriate in this investigation to cumulatively assess the effects of imports of the subject goods from the subject countries on the domestically produced like article in the light of conditions of competition between the imported article and the like domestic article and also the volume and the dumping margin of the imports from these countries is more than de-minimis levels

65. As regards the impact of the dumped imports on the domestic industry, Para (iv) of Annexure-II of the AD Rules states as follows:

“The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the Industry, including natural and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of margin of dumping actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.”

66. For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as production, capacity utilization, sales quantum, stock, profitability, net sales realization, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the Rules supra.

67. The injury analysis made hereunder addresses various submissions made by the interested parties during the course of the present investigation and considered relevant by the Authority.

Volume Effect of Dumped Imports

Import Volume and Market Share

68. 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. For the purpose of injury analysis, the Authority has relied on the import data procured from the DGCI&S. The volume of imports of the subject good from the subject countries have been analyzed as under:

Particulars	Units	2009-10	2010-11	2011-12	POI (15 months)	POI (Annual ized)
Subject Countries	MT	24996	19744	17088	88799	71039
Saudi Arabia	MT	5771	1324	7954	56820	45456
Pakistan	MT	5320	373	-	2898	2319
UAE	MT	13905	18047	9134	29081	23264
Other Countries	MT	15971	14504	15157	19770	15816
Total Imports Volume	MT	40966	34248	32245	108569	86855
Domestic Industry sales	MT	269380	418154	494621	611120	488896
Sales of other domestic producers	MT	245270	171052	241300	336641	269313
Total domestic sales	MT	514650	589206	735921	947761	758209
Total demand	MT	555616	623454	768166	1056330	845064
Market share in Imports						
Subject Countries	%	61	58	53	82	82
Other Countries	%	39	42	47	18	18
Market share in demand						
Subject Countries	%	4.50	3.17	2.22	8.41	8.41
Other Countries	%	2.87	2.33	1.97	1.87	1.87
Domestic Industry	%	48.48	67.07	64.39	57.85	57.85
Other Domestic Producers	%	44.14	27.44	31.41	31.87	31.87
Total Domestic Sales	%	92.63	94.51	95.80	89.72	89.72

69. The Authority notes from the above data that the imports from Pakistan are less than the de minimis level in POI. The Authority further notes that the import data provided by DGCI&S does not include the imports made from Pakistan through Wagah Customs port. The Authority further notes that there are two known exporters from Pakistan and one of them has responded to the questionnaire. The Authority also notes from the data provided by the co-operative exporter that the volume of imports from Pakistan is more than the de minimis level. The Authority has, therefore, considered Pakistan as one of the subject countries and accordingly made the injury analysis.
70. It is noted from the above table that imports of the subject goods from subject countries have increased in absolute terms in the POI as compared to the base year, i.e., 2009-10.
71. The market share of imports from subject countries in relation to the overall imports has also gone up significantly from the base year as compared to the POI. The increase is significant. Similarly, the market share of imports from subject countries in the total demand has also increased by almost two times during the same period. It is also seen that the market share has also gone up in relation to the production of the Domestic Industry in the country from the base year to the POI. Thus, it is seen that the volumes from subject countries have increased significantly in absolute terms as well as in relation to the domestic production, imports and the overall demand in the country. As regards the submission of the interested parties that the imports from specific countries are too small as compared to the total demand in the country, the Authority notes that the imports from all the subject countries is above de minimis level.

Price Effect of Imports

72. With regard to the effect of the dumped imports on prices, the Designated 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 products in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. The impact of dumped imports on the prices of the domestic industry has been examined with reference to the price undercutting, price suppression and price depression, if any.

Evolution of Prices over the Period

73. In the injury period, the average CIF prices of the imports originated in subject countries has been as under:

Subject Countries	Import price (CIF)	
	US\$/MT	Rs./MT
2009-10	241	11627
2010-11	296	13645
2011-12	273	13128
October 11 to December 12 (POI)	232	12300

74. It is seen from the above table that the CIF import price of subject goods has increased until the year 2010-11 in US\$ terms but decreased thereafter. However, the Authority notes that import prices in US \$ terms have considerably declined in the POI when compared to any preceding year. The Authority is required to examine the data for the entire injury investigation period and not only a comparison of the POI and the base year. It is noted that the decrease in prices as compared to the immediately preceding two years is significant particularly when the costs have gone up during the corresponding period. Detailed analysis has been done in the latter part of the injury analysis.

Price Undercutting

75. In order to determine whether the imports are undercutting the prices of the domestic industry in the market, the Authority has compared landed price of imports with net sales realization of the domestic industry.

Subject countries	Unit	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	12952	15201	14625	13688
Net Sales Realization	Rs./MT	***	***	***	***
Net Sales Realization	Index	100	102	108	121
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	Range %	25-35	5-15	15-25	40-50

Saudi Arabia	Unit	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	10118	13048	12690	13325
Net Sales Realization	Rs./MT	***	***	***	***
Net Sales Realization	Index	100	102	108	121
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	Range %	55-65	20-30	35-45	40-50

Pakistan	Unit	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	13118	15622	-	14187
Net Sales Realization	Rs./MT	***	***	***	***
Net Sales Realization	Index	100	102	108	121
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	Range %	20-30	0-10	-	35-45

UAE	Unit	2009-10	2010-11	2011-12	POI
Landed price of imports	Rs./MT	14065	15350	16309	14348
Net Sales Realization	Rs./MT	***	***	***	***
Net Sales Realization	Index	100	102	108	121
Price Undercutting	Rs./MT	***	***	***	***
Price Undercutting (%)	%	***	***	***	***
Price Undercutting (%)	Range %	10-20	5-15	5-15	30-40

76. The Authority notes that the landed values of the subject goods were much below the selling price of the domestic industry showing significant price undercutting being caused by the dumped imports from the subject countries in the POI.

Price Underselling

77. The Authority has also examined price underselling suffered by the domestic industry on account of dumped imports from the subject countries, as follows:

Particulars	Unit	Saudi Arabia	Pakistan	UAE	Subject Countries
Volume of imports	MT	56820	2898	29081	88799
Landed price of imports	Rs./MT	13325	14405	14348	13688
Non Injurious Price	Rs./MT	***	***	***	***
Price Underselling	Rs./MT	***	***	***	***
Price Underselling	%	***	***	***	***
Price Underselling (%)	Range	90-100	70-80	70-80	80-90

78. It is noted from the above table that the domestic industry has suffered significant price underselling on account of imports of the subject goods from the subject countries.

Price Suppression and Depression

79. In order to determine whether the dumped imports are suppressing or depressing the domestic prices and whether the effect of such imports is to suppress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree, the Authority considered the changes in the costs and prices over the injury period. Table below shows the factual position:

Particulars	Unit	2009-10	2010-11	2011-12	POI
Landed Value of Imports	Rs./MT	12952	15201	14625	13688
Index	Indexed	100	117	113	106
Cost of Sales	Rs./MT	***	***	***	***
Trend	Indexed	100	107	119	125
Selling Price	Rs./MT	***	***	***	***
Trend	Indexed	100	102	108	121

80. It is seen that the selling prices of the subject goods in the domestic market has not increased in comparison to increase in the cost.

81. It is also noted from the table above that the cost of sales has shown an increasing trend throughout the injury investigation period. While the cost of sales has gone up by 25% in the POI as compared to the base year, the selling price has gone up by 21% only. This position is reflected in the falling profitability of the Domestic Industry over the injury investigation period. It is also noted that the landed value has registered increase by 6% in the POI as compared to the base year and the same is not commensurate with the increase in the cost of sales of the domestic industry over the same period. Overall, it is noted that cost of sales have increased significantly during the injury period. Further, the selling price of the subject goods has not increased in proportion to the increase in the cost of sales during the same period. Accordingly, it is apparent that the dumped imports of subject goods from subject countries have suppressed the domestic industry prices.

H. Economic Parameters of the Domestic Industry

82. Annexure II to the Anti-dumping Rules requires that the determination of injury shall involve an objective examination of the consequent impact of these imports on domestic producers of such products. With regard to consequent impact of these imports on domestic producers of such products, the Anti-dumping Rules further provide that the examination of the impact of the dumped imports on the domestic industry should include an objective and unbiased evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments or utilization of capacity; factors affecting domestic prices, the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

83. The various injury parameters relating to the domestic industry are discussed herein below:

- a. Market share:** The effect of the dumped imports on the domestic sales and the market share of the domestic industry have been examined below. As mentioned earlier, imports of the subject goods from subject countries have increased in absolute terms in the POI as compared to the base year, i.e., 2009-2010. The imports have gone up from 24996 MT in the base year of 2009-2010 to 88799 MT during the POI and 71039 MT in POI annualized, which is an increase of more than 180% (annualized).

Particulars	2009-10	2010-11	2011-12	POI	POI (Annualized)
Domestic Industry sales (MT)	269380	418154	494621	611120	488896
Sales of other domestic producers (MT)	245270	171052	241300	336641	269313
Total domestic sales	514650	589206	735921	947761	758209
Imports from subject countries (MT)	24996	19744	17088	88799	71039
Imports from other countries (MT)	15971	14504	15157	19770	15816
Total Imports (MT)	40966	34248	32245	108569	86855
Total demand (MT)	555616	623454	768166	1056330	845064
Trend	100	112	138	190	152
Market share of Domestic Sales in demand	93%	95%	96%	90%	90%
Percentage of Share of imports from Subject countries in demand	4%	3%	2%	8%	8%

- b. Profitability:** It can be seen from the table below that the overall losses of the Domestic Industry have increased significantly over the injury investigation period. Same trend is seen with respect to the profitability per unit.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Cost of sales	Rs./MT	***	***	***	***	***
Trend	Index	100	107	119	125	125
Selling price	Rs./MT	***	***	***	***	***
Trend	Index	100	102	108	121	121
Profit/Loss	Rs./MT	***	***	***	***	***
Trend of Losses	Index	-100	-184	-299	-204	-204
Profit/Loss	Rs. Lacs	***	***	***	***	***
Trend	Index	-100	-286	-549	-462	-370
PBIT	Rs. Lacs	***	***	***	***	***
Trend	Index	100	-70	-472	-102	-82

- c. Return on Investment:** The return on investment has seen similar trend as that of profitability as can be seen from the table below and it is noted that the ROI has become negative from 2010-11 to the POI in comparison to the base year.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Return on Investment	%	***	***	***	***	***
Trend	Index	100	-64	-364	-73	-58

d. Cash Flow: The fact that the even the cash flow for the Domestic Industry has become negative during the POI indicates that the dumped imports and the falling performance of the Domestic Industry has had an adverse impact on the cash flow position. It is noted from the table below that the costs of sales have increased in the POI as compared to the base year i.e., 2009-10. Since the increase in sales price is not commensurate with the increase in the cost of sales, the profits of the domestic industry have declined significantly in the POI as compared to the base year. Moreover, the Domestic Industry has suffered losses in the injury investigation period. Similarly, Domestic Industry has incurred cash losses during the injury investigation period though marginal cash profits were made during the base year.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Cash Profit/Loss	Rs. Lacs	***	***	***	***	***
Trend	Indexed	100	-4	-267	-47	-37

e. Production and Capacity Utilization: It can be seen that the production of the Domestic Industry has increased which is largely due to the increase in production capacity which has increased by more than 50% keeping in view the increasing demand in the country. The capacity utilization of the Domestic Industry has remained in the same band despite the fact that the demand during the POI has increased substantially. It is, however, noted that there are significant idle capacities lying with the Domestic Industry to cater to the increasing demand and, therefore, the Domestic Industry has suffered injury on account of significant idle capacities.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Capacity	MT	678300	861900	1027960	1285480	1028384
Total Production	MT	540617	693443	821298	1065839	852671
Production – PUC (4mm-12mm)	MT	323025	458942	522964	639371	511497
Capacity Utilization	%	80	80	80	83	83
Sales volume						
Domestic	MT	269380	418154	494621	611120	488896
Exports	MT	14495	15521	16269	20635	16508
Total Sales	MT	283875	433675	510890	631755	505404

f. Sales Volumes: It is seen from the above table that the sales volume of the Domestic Industry has also gone up throughout the injury investigation period. The sales have gone up which reflects the increasing market size. However, the Authority notes that even though the Domestic Industry has been able to increase its sales volume, it has nevertheless suffered on the price front leading to cash losses.

g. Inventories: The data relating to inventory of the subject goods is shown in the following table. It is noted from the table given below that the average stock during POI has increased significantly as compared to the base year. The increasing trend can be seen in the POI even when compared to the immediately preceding year. It is observed that the inventories have increased in the POI as compared to the immediate preceding year also.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Average Stock	MT	***	***	***	***	***
Trend	Index	100	140	137	144	144

h. Employment and Wages: The position with regard to employment and wages is as follows. It is seen that employment level has declined marginally during the POI and the wages per employee have increased in the POI.

Particulars	2009-10	2010-11	2011-12	POI (15 months)	POI (Annualized)
Employees (Nos.)	***	***	***	***	***
Trend	100	104	120	117	117
Wages per employee (Rs)	***	***	***	***	***
Trend	100	140	145	217	173

i. Productivity: It can be seen from the table below that productivity in terms of production per employee has increased in the POI as compared to the base year. Despite increase in productivity, the performance of the Domestic Industry has deteriorated in the POI. Accordingly, productivity is not a factor that can be attributed to injury.

Particulars	2009-10	2010-11	2011-12	POI	POI (Annualized)
Production (MT)	323025	458942	522964	639371	511497
Employees (Nos.)	***	***	***	***	***
Production (MT)/employee	***	***	***	***	***
Trend	100	137	134	169	135

j. Magnitude of Dumping: Magnitude of dumping is an indicator of the extent to which the dumped imports can cause injury to the domestic industry shows that the dumping margin determined against the subject countries are above de minimis and

significant. The Authority has determined that the dumping margin of the cooperating exporters which is significantly high.

- k. Ability to raise Capital Investment:** The future investment in the sector is marred by the presence of dumped imports from the subject countries. The sharp decline in profitability, return on investment along with reduced cash flow indicates that the ability of the **domestic** industry to raise capital investments for the sector is jeopardized due to dumped imports from the subject countries.

- l. Factors affecting domestic prices:** Considering the import prices from subject countries, change in the cost structure, competition in the domestic market, factors other than dumped imports that might be affecting the prices of the domestic industry in the domestic market show that the landed value of imported material from subject countries are significantly below the selling price and non-injurious price of the domestic industry causing significant price undercutting and underselling in the Indian market. The imports of the product under consideration from countries other than subject countries are not injuring the domestic industry as the prices offered by these countries are significantly higher. Demand for the product is showing an increase and, therefore, could not have been a factor responsible for price depression and suppression faced by the domestic industry. It is thus evident that the dumped goods from subject countries are responsible for the depressed and suppressed prices of the domestic industry.

- m. Growth:** There was positive growth of the domestic industry in terms of sales and production in the POI as compared to the base year. However, same has declined in the POI as compared to just preceding year, i.e., 2011-12. Profits, cash profit as well as ROI declined significantly in the POI as compared to the base year despite significant increase in demand. The domestic industry has contended that with increase in capacity, the domestic industry had expected robust growth in profits, comfortable cash flow and increase in return on investments. However, the domestic industry was not able to achieve the same due to the presence of the dumped imports from the subject countries.

I. Conclusion on Material Injury

84. An examination of the various parameters of injury along with the volume and price effects of imports clearly reveals that material injury has been caused to the Domestic Industry during the period of investigation. There is an increase in the volume of imports of subject goods from the subject countries during the injury investigation period in absolute terms as well as in relation to the total imports, domestic production and total demand in the country. With regard to price effect on account of imports of subject goods from subject countries, it is noted that imports of the subject goods from subject countries are significantly undercutting the prices of domestic industry. Further, the domestic industry has suffered price suppression on account of imports of product under consideration from subject countries as sales price of subject goods has not increased in proportion to increase in cost of production of subject goods during the injury period. Comparison of the landed values with the non-injurious prices of the Domestic Industry also reveals significant price underselling. In view of the above, it is concluded that even

though the performance of the domestic industry has marginally improved in respect of production, capacity utilization and domestic sales, the performance has deteriorated in respect of profit, cash flow, return on investment and inventories. The decline in profits, return on investment and cash flows is quite significant and material. Thus, the Authority concludes that the domestic industry has suffered material injury during the period of investigation.

J. Other Known Factors & Causal Link

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

(a) Volume and prices of imports from third countries

86. Imports of the product under consideration from countries other than subject countries are at higher prices. It is seen from the table below that the import prices from other countries were much higher than the import price from subject countries. The Authority further notes that while the volume of imports from other countries has shown declining trend in the POI (annualized) as compared to the base year, the volume of imports from subject countries has shown a rising trend.

Particulars	Unit	2009-10	2010-11	2011-12	POI	POI (Annualized)
Import Volume						
Subject Countries	MT	24996	19744	17088	88799	71039
Other Countries	MT	15971	14504	15157	19770	15816
Total Imports	MT	40966	34248	32245	108569	86855
Share of Import from Subject Countries	%	61	58	53	82	82
Share of Import from other Countries	%	39	42	47	18	18
Import Price (CIF Value per MT)						
Subject Countries	Rs/MT	11627	13645	13128	12300	12300
Other Countries	Rs/MT	19710	19766	23264	20641	20641

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

87. There has been a constant rise in demand of the product concerned throughout the injury period. Therefore, decline in demand is not a possible reason of injury to the Domestic Industry.

(c) Developments in technology:

88. Technology for production of the product concerned has not undergone any change. Thus, development in technology is also not a factor causing injury to the domestic injury.

(d) Trade restrictive practices of and competition between the foreign and domestic producers

89. There is no trade restrictive practice, which could have contributed to the injury to the Domestic Industry as the raw materials as well as the subject goods are freely importable in the country. As regards the issue raised by certain interested parties regarding investigation by the Competition Commission of India (CCI), the Authority is of the view that filing of complaint by one of the constituents of the Domestic Industry against another cannot, by itself, have any bearing on the anti-dumping investigations. Moreover, in the facts of this particular case, it is seen that the CCI in its Order dated 24.10.2013, has come to the conclusion that neither SGGIL is a dominant player in the market nor has it abused its position in any manner. Under the circumstances, the Authority is of the view that the contention of the interested parties in this regard is irrelevant and without any merit.

(e) Export performance of the domestic industry

90. The exports of the domestic industry constitute an insignificant share in their total sales. In any case, the injury analysis has been done by the Authority taking into consideration their domestic operations only. Therefore, performance in the export market has not affected the present injury analysis.

(f) Productivity of the Domestic Industry

91. It is noted that the productivity of the domestic industry in terms of production per employee as well as production per day has increased over the period.

92. It is thus noted that listed known other factors do not show that the domestic industry could have suffered injury on account of them. None of the interested parties has also provided any evidence to suggest that the material injury caused to the Domestic Industry is attributable to other known factors. On the other hand, the following parameters show that injury to the domestic industry has been caused by dumped imports:

a. The imports of subject goods from subject countries were significantly undercutting the prices of the domestic industry in the market. Resultantly, the domestic industry was not able to increase its prices commensurate with the increasing costs. Further, there is significant price underselling.

b. The pressure on the domestic prices of the domestic industry led to significant loss of profitability and return on investment during the POI. The reduction in the prices coupled with the increasing costs has materially injured the financial performance of the Domestic Industry.

c. Performance of the Domestic Industry was also affected adversely in terms of poor cash flow and rising inventories.

93. It is, therefore, concluded by the Authority that the domestic industry suffered material injury due to dumped imports from subject countries.

K. Magnitude of Injury Margin

Injury Margin

94. The non-injurious price of the subject goods produced by the Domestic Industry determined has been compared with the landed value of the exports from the subject countries for determination of injury margin during the POI. The injury margin determined are as under:-

Saudi Arabia	Unit	Obeikan Glass Company	Arabian United Float Glass Co	Non-Co-operative producers/exporters
Non Injurious Price	Rs./MT	***	***	***
Landed Price	Rs./MT	***	***	***
Injury Margin	Rs./MT	***	***	***
Injury Margin	%	***	***	***
Injury Margin	Range	50-60	55-65	80-90
UAE		Emirates Float Glass LLC	Non-Co-operative producers/exporters	
Non Injurious Price	Rs./MT	***	***	
Landed Price	Rs./MT	***	***	
Injury Margin	Rs./MT	***	***	
Injury Margin	%	***	***	
Injury Margin	Range	35-45	55-65	
Pakistan		Ghani Glass Limited	Non-Co-operative producers/exporters	
Non Injurious Price	Rs./MT	***	***	
Landed Price	Rs./MT	***	***	
Injury Margin	Rs./MT	***	***	
Injury Margin	%	***	***	
Injury Margin	Range	50-60	80-90	

95. The level of dumping margins and injury margins, as determined are, considered significant.

L. INDIAN INDUSTRY'S INTEREST & OTHER ISSUES:

96. 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/territory in any way, and, therefore, would not affect the availability of the product to the consumers.

97. It is recognized that the imposition of anti-dumping duties might affect the price levels of the product manufactured using the subject goods and consequently might have some influence on relative competitiveness of this product. However, fair competition in the Indian market will not be reduced by the anti-dumping measures, particularly if the levy of the anti-dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti-dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline in the performance of the domestic industry and help maintain availability of wider choice to the consumers of the subject goods.

M. POST DISCLOSURE STATEMENT SUBMISSIONS BY THE INTERESTED PARTIES

M.1 Post Disclosure Statement submissions by the opposing Interested Parties

98. Following are in brief the post Disclosure Statement submissions made by the opposing interested parties:

- i) The Respondent had provided all the evidence pertaining the claim for start-up cost adjustment. Para 3(ii) to Annexure 1 under the AD Rules does not provide that startup operation has to take place during the POI. There is no need that commercial production should start during the POI. Cost during the period of investigation can be affected by start-up issues even if commercial production was started before the period of investigation. The Respondent also faced the technical issues during the period of investigation. Further, the DGAD has allowed the adjustment for startup costs in the previous anti-dumping investigations in similar situations and the US law also provides start-up cost adjustments. Therefore, the Respondent requests the authority to provide for adjustment on account of start-up phase as per AD Rules and the WTO Anti-Dumping Agreement.
- ii) The Authority has not considered the submission that the time period for completion of investigation has expired.
- iii) The product scope should exclude processed glass meant for decorative, industrial or automotive purposes.
- iv) The imports of sheet glass be considered as a relevant factor in determining the reasons for the alleged injury suffered by the Applicant.

- v) The Authority initiated the present anti-dumping investigation without even verifying the accuracy of data submitted by the Applicant. DGCIS data was neither provided to respondents nor kept in the public file so that interested parties could access it to analyze and make meaningful comments on the same. There are numerous inconsistencies across various crucial parameters as per the data given in the petition filed by the Applicant and the Disclosure Statement issued by the Authority.
- vi) The current exchange rate should be used.
- vii) Annexure-III to AD Rules mandates that those assets which are not used in manufacture of the PUC should not be considered by the authority for determination of net fixed assets. Therefore, the respondents request the authority to re-compute the non-injurious price by ignoring the surplus land.
- viii) Our earlier submissions clearly demonstrated that the applicant domestic industry failed to establish a case of material injury on account of alleged dumping from subject countries and the investigation is liable to be terminated. However, without prejudice to the above position, it is prayed that in an event any anti-dumping duty is sought to be imposed, it has to be levied based on the reference price basis. Reference form of duty is desirable and adequate considering the fact that import prices recorded significant fluctuations since POI and that too in Indian Rupees only.
- ix) In case of Emirates Float Glass LLC, UAE, the Authority may consider sales to non affiliated parties only for the purpose of determination of Normal Value.
- x) There is an inverse relation between core parameters relating to price and volume of imports of subject goods into India and a corresponding effect on the volume and price parameters of the domestic industry. Thus, there is no causal link between alleged dumping of subject goods from subject countries into India and alleged injury to the domestic industry.
- xi) The landed value for the imports from Pakistan computation should be revised taking into account the applicable rate of basic customs duty.

M.2 Post Disclosure Statement submissions by the Domestic Industry

99. Following are in brief the post Disclosure Statement submissions made by the domestic industry:
- i) Normal value ought to be rejected for Saudi Arabia and UAE because cost of the natural gas used in the production of clear float glass is not reflective of the market driven price because of the existence of a particular market situation.
 - ii) The exporter Obeikan has merely cited the legal provisions but has not provided any submissions or evidence whatsoever in support of their claim seeking startup cost adjustments. The exporter does not qualify to even seek

such an adjustment as it did not start its operations during the period of investigation.

M.3 Examination by the Authority

100. The Authority notes that most of the post disclosure statement submissions made by the opposing interested parties are repetitive in nature and have already been dealt with in the Disclosure Statement and are again addressed in this Final Findings Notification under the appropriate headings. Nonetheless, the Authority has addressed these issues to the extent considered relevant as under:
- i) The imports from subject countries are not miniscule as claimed by the opposing interested party. As already analysed by the Authority elsewhere in this Final Findings, the volume of imports from the subject countries during the POI was not only more than the de-minimis level but also significantly higher than the volume reported in the base year.
 - ii) With regard to the contention of the opposing interested parties that the profitability of the domestic industry improved in the POI as compared to the previous years, the Authority notes that the domestic industry has increased its capacity in 2010-11 and therefore their cost of production was high in 2010-11 and 2011-12. After the stabilisation of the production in the POI, the loss in the POI as compared to the previous year has decreased. The Authority further notes that in spite of increased production and sales during the POI as compared to the base year, the domestic industry's performance has declined in the POI. The Authority further notes that none of the opposing interested parties has brought to the notice of the Authority the other reasons for the injury suffered by domestic industry with supporting evidence. The Authority after examining other known factors that could have caused injury to the domestic industry has come to the conclusion that the injury suffered by the domestic industry is due to dumped imports.
 - iii) As regards the contention of the opposing interested parties that there is no price effect, the Authority notes that there is significant price undercutting and price underselling during the POI.
 - iv) The computation of the landed value for the imports from Pakistan has been revised by taking into account the applicable rate of basic customs duty at 6% w.e.f. 1.1.2012 instead of 10% considered earlier.
 - v) With regard to the request of Emirates Float Glass LLC, UAE to disregard the domestic sales made to affiliated parties for determination of normal value, the Authority notes that the domestic sales made to the affiliated parties are at arm's length basis and the prices were comparable with the prices of sales made to non-affiliated parties. The Authority has, therefore, considered the profit making domestic sales made to both affiliated and non-affiliated parties.
 - vi) As regards the request of opposing interested parties for imposition of antidumping duty if any on Reference Price basis in Indian rupee since there has been significant depreciation of Indian rupee vis-a-vis US\$ after the Period of Investigation, the Authority after considering the factual matrix of

the case recommends fixed form of duty in US\$.

- vii) The Authority notes that the NIP determined for the domestic industry is after excluding the 'surplus land' in terms of the principles outlined in Annexure-III to the Antidumping Rules.
- viii) As regards the mismatch in the data provided by the petitioner in the petition and the one considered in the disclosure statement, the Authority notes that the data submitted by the petitioner in their petition has been considered after due verification. Further, the Authority notes that while the petitioner has submitted the petition based on the import data sourced from info drive, the Authority has considered the import data collected from DGCI&S.
- ix) As regards the contention of one of the opposing interested parties that imports of sheet glass could be considered as relevant reason for the injury to the domestic industry, the Authority notes that the contention of the party is not supported by any evidence and therefore rejected.
- x) As regards the contention of M/s Obeikan Glass Co, Saudi Arabia (Obeikan) that current exchange rate should be considered as a relevant factor in determining whether or not the domestic industry is suffering injury the Authority holds that in the fresh antidumping investigation it has to determine whether the domestic industry has suffered injury on account of dumped imports based on the data of POI and 3 years prior to POI and not on the post-POI and, therefore, the argument of Obeikan is rejected.
- xi) As regards the request of Obeikan for considering adjustment for start up expenses while determining cost of production/sales during POI, the Authority has examined the issue and found no merit due to the following:
 - a. The Authority notes that Obeikan had set up a new float glass plant in 2011. The Company started producing float glass from April, 2011 and declared commercial production on 1st July, 2011. The Company had achieved a capacity utilisation of about ***% in POI. The Company has not projected any capacity utilisation in the first/second year of operation in the project report. In the absence of such projection, the Authority holds that the capacity utilisation achieved by Obeikan is reasonable and, therefore, it could be reasonably considered that the production had stabilised.
 - b. The Authority further notes that Obeikan had projected the capacity utilisation of ***% in the third year of operations in its Project Report and as against this it, had achieved a capacity utilisation of about ***% in 2013. This shows that the production of the company had stabilised during the POI itself and, therefore, it is reasonable to assume that it was not affected by start up operations.
 - c. The Authority notes that in the recent case of Plain Gypsum Plaster Boards originating in or exported from China PR, Indonesia, UAE, etc, cited by Obeikan, the concerned producer/exporter had achieved a capacity utilisation of ***% as against***% projected in the Project Report. Since the capacity utilisation achieved by the concerned exporter was almost ***% of the projected capacity, the Authority had considered the adjustment on account of start up cost in that case.

- d. The Authority holds that any new company requires time to market its product and, therefore, in the initial period of operation, it is one of the constraints for achieving optimum capacity utilisation. In this connection, the Authority notes that Obeikan started its operations in April, 2011 and the inventories at the end of POI were high as compared to the inventories at the end of 2013 when Obeikan claims that it had achieved optimum level of capacity utilisation. This shows that Obeikan could have increased its production during 2013 when the market had picked up. The Authority, therefore, holds that the contention of Obeikan that its production in POI was affected due to start up operations and it got stabilised only during 2013 is not correct.
- e. The Authority further holds that the reasons for production loss, particularly the non-availability of constant power, relying on DG sets, irregular voltage supply, etc., during POI furnished by Obeikan cannot be considered as due to start up operations as they could be considered as managerial issues.
- f. M/s Obeikan has requested the Authority to consider the production level that they had achieved in 2013 as the optimum level of production, i.e., the production level achieved at the time of 30 months of commercial operation. The Authority holds that the contention of Obeikan that its production was not normal during the POI and it got stabilised only during 2013, i.e., during 19th to 30th month of operation is devoid of merit.

N. Conclusion

101. After examining the submissions made by the opposing interested parties and the domestic industry and issues raised therein; and considering the facts available on record, the Authority concludes that the product under consideration has been exported to India from the subject countries below its associated normal value, thus, resulting in dumping of the product. The domestic industry has suffered material injury in respect of the subject goods. The material injury has been caused by the dumped imports from the subject countries.

O. Recommendations

102. The Authority notes that the investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspects of dumping, injury and the causal link. Having initiated and conducted investigation into dumping, injury and the causal link thereof in terms of the AD Rules and having established positive dumping margins as well as material injury to the domestic industry caused by such dumped imports, the Authority is of the view that imposition of definitive anti dumping duty is required to offset dumping and consequent injury. Therefore, the Authority considers it necessary to recommend imposition of definitive anti-dumping duty on imports of the subject goods from the subject countries in the form and manner described hereunder.
103. 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 the margin of dumping and the margin of injury, so as to remove the injury to the domestic industry. Accordingly, definitive antidumping duty as per amount specified in the table below is recommended to be imposed from the date of the Notification to be issued by the Central Government, on all imports of the subject goods originating in or exported from Saudi Arabia, United Arab Emirates and Pakistan.

Duty Table

S No	Sub-heading	Description of Goods *	Country of origin	Country of exports	Producer	Exporter	Amount	Unit of measurement	Currency
1	7003, 7004, 7005, 7009, 7013, 7015, 7016, 7018, 7019, 7020	Clear Float Glass of nominal thicknesses ranging from 4 mm to 12 mm (both inclusive), the nominal thickness being as per BIS14900:2000	Saudi Arabia	Saudi Arabia	Obeikan Glass Company, Saudi Arabia	Obeikan Glass Company, Saudi Arabia	58.22	MT	US\$
2	-do-	-do-	Saudi Arabia	Saudi Arabia	Arabian United Float Glass Co, Saudi Arabia	Arabian United Float Glass Co, Saudi Arabia	134.92	MT	US\$
3	-do-	-do-	Saudi Arabia	Saudi Arabia	Any other than at Sl. No 1 and 2 above	Any other than at Sl. No 1 and 2 above	165.07	MT	US\$
4	-do-	-do-	Saudi Arabia	Any country, other than subject countries	Any	Any	165.07	MT	US\$
5	-do-	-do-	Any country, other than subject countries	Saudi Arabia	Any	Any	165.07	MT	US\$
6	-do-	-do-	United Arab Emirates (UAE)	United Arab Emirates (UAE)	Emirates Float Glass LLC, UAE	Emirates Float Glass LLC, UAE	79.00	MT	US\$
7	-do-	-do-	United Arab Emirates (UAE)	United Arab Emirates (UAE)	Any other than at Sl. No 6 above	Any other than at Sl. No 6 above	111.15	MT	US\$
8	-do-	-do-	United Arab Emirates (UAE)	Any country, other than subject countries	Any	Any	111.15	MT	US\$

S No	Sub-heading	Description of Goods *	Country of origin	Country of exports	Producer	Exporter	Amount	Unit of measurement	Currency
9	-do-	-do-	Any country, other than subject countries	United Arab Emirates (UAE)	Any	Any	111.15	MT	US\$
10	-do-	-do-	Pakistan	Pakistan	Ghani Glass Limited, Pakistan	Ghani Glass Limited, Pakistan	82.34	MT	US\$
11	-do-	-do-	Pakistan	Pakistan	Any other than at Sl. No 10 above	Any other than at Sl. No 10 above	123.61	MT	US\$
12	-do-	-do-	Pakistan	Any country, other than subject countries	Any	Any	123.61	MT	US\$
13	-do-	-do-	Any country, other than subject countries	Pakistan	Any	Any	123.61	MT	US\$

Note:* Reflective glass and Tinted glass including green glass and transition glass are not included in the “Description of Goods” in the Duty Table above.

104. Landed value of imports for the purpose of this Notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.
105. An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

(J K Dadoo)
Designated Authority